



Organization of American States

17th St. & Constitution Avenue N.W.  
Washington, D.C. 20006  
United States of America

P. 202.458.3000  
[www.oas.org](http://www.oas.org)

INTER-AMERICAN DRUG ABUSE

CONTROL COMMISSION

**CICAD**

Secretariat for Multidimensional Security

---

**GUIDE TO BASIC ELEMENTS TO BE CONSIDERED IN THE IMPLEMENTATION OF MECHANISMS THAT WILL ENABLE COMPETENT AUTHORITIES TO EVALUATE ESTIMATES OF NEEDS FOR CONTROLLED SUBSTANCES SUBMITTED BY USER BUSINESSES**

The working group was conformed by: Bolivia, Costa Rica, El Salvador, United States, Guatemala, Trinidad and Tobago, Venezuela and a delegate from UNODC/PRELAC.

There is no obligation to implement this document by the member states, being at the discretion of each country to use this or another control of legitimate needs (or licit requirements) of controlled substances.

**BACKGROUND:**

Objective No 2 of the CONTROL MEASURES of the Hemispheric Plan of Action on drugs 2011-2015 of CICAD, states that control measures must be adopted or strengthened in order to prevent the diversion of controlled chemical substances toward illicit activities. Among the actions to consider are: review of existing legislation and control measures and to promote, when appropriate, the production of estimates of legitimate needs for controlled chemical substances.

In that context, the topic of evaluating legitimate national needs for controlled chemical substances was debated during the meetings of the Group of Experts for the review and updating of the “Model Regulations of CICAD for the Control of Chemical Substances Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances” held in Costa Rica in 2010, and in Peru and Ecuador in 2011.

**TASK**

CICAD gave the Group instructions to examine the concept of legitimate national needs for controlled chemical substances in accordance with the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, and the feasibility of producing estimates of those needs.

The Group considers that it is in fact feasible to produce these estimates based on the information provided by businesses to competent authorities when submitting a request for a license to handle controlled substances, and also based on the evaluation of the supporting technical elements by the authorities, something that is already being done in many of the member States.

**JUSTIFICATION:**

Some countries in the continent currently have legal limitations or restrictions on working with estimates by businesses that would in turn serve as the basis to produce national estimates of controlled chemical substances. However, it is considered possible and imperative to implement mechanisms that would allow countries to prevent the accumulation of controlled substances and their potential diversion toward illicit ends, as established in Article 12, paragraph 8(b)(iv), of the 1988 Convention.

Therefore, the members of the group consider that:

1. It is essential for member States that, at the time of granting licenses to businesses operating in the country that will handle controlled chemical substances, these companies provide competent authorities estimates regarding the production, manufacture, preparation, transformation, storage, importation, exportation, purchase and sale, transportation and any other type of national or international transaction involving those substances.
2. These estimates or licit requirements provided by businesses must be based on actual data supported by the volume of their licit operations.
3. Estimates or licit requirements shall be subject to any verification mechanism deemed pertinent by competent authorities in the country.
4. These estimates or licit requirements, by individual business, will enable the country to determine the legal needs for controlled substances and to take action in the event that unusual variations are detected.

## CONCLUSION

Taking into account that, in several countries in the continent, competent authorities have already implemented mechanisms to estimate the needs for controlled substances by user businesses, and that these mechanisms have helped prevent their diversion toward illicit channels, this working group considers that the implementation of this type of mechanism is recommended, and, therefore, the attached document contains a guide which provides some general guidelines for their implementation.

### 1. Objective:

To provide competent authorities some basic guidelines to take into account in order to estimate the licit needs of businesses engaged in any activity that involves controlled chemical substances, in order to avoid the accumulation of these substances and prevent their diversion toward illicit ends.

### 2. Legal bases:

2.1. Article 12 of the 1988 Convention.

2.2. Specific national legislation applicable to the area of controlled substances (include).

3. Aspects to be considered when evaluating estimates of needs of businesses that handle controlled substances.

3.1. Evaluation of estimated needs of business registering for the first time.

At the time of registration the following elements must be evaluated:

- a) That the applicant has valid and current operation permits from health, environmental and other authorities that are required for the activity in which the controlled chemical substances are to be used.
- b) Marketing study or other means to measure similar standards submitted by the business of the industrial sector in which the activity is to take place, according to its size and business field.

- c) Whether the business is going to operate only in the domestic market or if it is also going to engage in exports, and, in that case, take into account the expected target market.
- d) Installed capacity for storage, production and/or use of the substances whether in the general process or in specific segments of that process.
- e) Background of the management and legal representatives of the business.

### 3.2. Evaluation of the needs of a business renewing a license.

At the time that a business applies for the renewal of license, competent authorities must evaluate:

- a) Statistics reflecting the production, importation, purchase and sale, distribution or use of the substances during the preceding period, as well as initial stock and pertinent security stock or other method determined by the authorities. This information shall be gathered and analyzed by the competent entity based on the regular reports generated by the business with regard to the movement of controlled substances, losses, reductions, and others, and cross-referencing the information with data on importation, local acquisition or production of chemical substances.
- b) Record of the business regarding compliance with applicable legislation.
- c) In instances where licit higher quotas than the ones in the preceding period are requested, the competent authority must evaluate and determine whether the increase is technically justified.
- d) If an individual or enterprise requests a permit to handle substances that it did not previously use, the evaluation of the needs should proceed as indicated in paragraph 3.1.

### 3.3. Evaluation of increases in estimates

Taking into account that certain commercial or industrial activities are subject to variations that are difficult to predict, an applicant that already has a license or registration, may request an increase in the list of substances or initial estimates. In this case, the competent authority shall evaluate the elements indicated in paragraphs 3(1) and 3(2), as the case may be, in order to determine whether the increase requested is technically appropriate or not.

### 3.4. Reduction or denial of estimates

In those instances in which the competent authority determines that the estimate submitted by the business has no technical basis or is excessive for the demands of the market, and, as a result, assigns lower quotas than those requested or denies authorization of the estimate, the competent authority must inform the business, in writing, of the grounds on which the decision was based. The applicant may appeal the decision in accordance to the provisions of the domestic legislation.