

**Legislative Decree n.º 12/97**

**Of 9 June**

- b) as a result of corruption by any Government employee or agent;
- c) by the alteration or falsification of the dispatch slip or any fiscal documentation presented to the customs;
- d) by a Customs agent or employee, a fiscal official or an official from any institution with jurisdiction over customs fiscal police, an official dispatcher or any person duly capacitated to effect customs dispatch;
- e) having as objective prohibited or conditioned import or export merchandise valued at ecv 1.000.000\$00 or more;
- f) with merchandises that consist, in whole or in part by objects of great historic, cultural or artistic value.

### **Article 38**

#### **( Fraud in the Transport of Suspensive Merchandise )**

Whosoever, in the process of transporting suspensive merchandise subtracts or substitutes them, or, for the same purposes, alters, renders inefficacious or damages the seals, security means or customs identification, or yet, does not follow the preestablished itinerary, to evade fiscalization, shall be punished by imprisonment of three to eighteen months or a fine of ecv 50.000\$00 to 8.000.000\$00.

### **Article 39**

#### **( Fraud to the Customs Fiscal Guarantees )**

1. Punishment by imprisonment of three to eighteen months or fine from ecv 50.000\$00 to 8.000.000\$00 shall be applied if:
  - a) The owner, depository or driver of merchandise apprehended under the provisions of the present diploma, damages, destroys or renders said merchandise unusable, during or subsequent to the apprehension;
  - b) The owner or a co-participant in criminal or contra-ordination processes, foreseen in the present diploma, destroys, damages, alienates or onerates the merchandise considered apprehended as guarantee for payment of pecuniary sanction or tributary fees, even if a co-participant or responsible person is the perpetrator.
2. ....

### **Article 41**

#### **( Refusal to Present Merchandises )**

Whosoever, having been appointed depository of merchandises apprehended under the terms of the present diploma, does not present them in the timeframe specified, shall be punished with imprisonment of one to six months or a fine from ecv 25.000\$00 to 3.000.000\$00.

**Article 42**

**( Breaking Markings or Stamps )**

Whosoever opens, brakes or renders unusable, totally or partially, markings and other signs legally prescribed, affixed by competent employees to identify, secure or maintain inviolable, merchandize subject to fiscalization, or to certify that the same is object of embargo, apprehension or other cautionary providence, shall be punished with three to two years imprisonment or fine from ecv 50.000\$00 to 8.000.000\$00.

**Article 43**

**( Receiving Stolen Goods )**

1. Whosoever dissimulates, receives as a pledge, acquires under any title, detains, conserves, transmits or contributes to transmit or in any form secures for self or for a third party, the possession of merchandise that is the object of customs fiscal infraction(s) with the intention of obtaining for self or for a third party, some patrimonial advantage, shall be punished with imprisonment of from two to three years or a fine from ecv 50.000\$00 to 20.000.000\$00.
2. If the agent makes receiving stolen goods a way of life, or practices it habitually, the penalty shall be three months to six year imprisonment or a fine of ecv 100.000\$00 to 24.000.000\$00.
3. If the agent surrenders the merchandise object of the infraction to the competent authorities before trial and indicates, with truth, the person from whom the merchandise was received, the agent may be exempt from the penalty or the penalty may be freely attenuated, providing none of the circumstances referred in n.º 2 are not proven or that the agent has not already been condemned for the crime of receiving stolen goods, as determined by the present diploma.

**Article 44**

**( Privileged Reception of Stolen Goods )**

If the merchandise received as stolen good is worth less than ecv 30.000\$00, the agent shall be punished with a fine from ecv 25.000\$00 to 250.000\$00.

**Article 45**

**( Criminal Association )**

1. Whosoever promotes, creates, leads, or integrates groups, organizations or associations whose principal or accessory activity is the practice of customs fiscal infractions foreseen in the present diploma, as well as supports, supplies weapons, munitions, crime instruments guards or meeting places, or any support that recruits new elements, shall be punished with imprisonment from eight to twelve years.
2. ....
3. ....



**Article 55**

**( Negligent Acquisition )**

Whosoever acquires or receives, at any title, anything that by its quality or the condition of who offers it, or by the proposed price, leads to the reasonable suspicion that it is a merchandise subject to customs fiscal crime or straying, without ascertaining as to its legitimate origin, shall be punished with a fine of from ecv 25.000\$00 to 1.000.000\$00, whenever a greater sanction is not applicable.

**Article 56**

**( Other Contra-ordinations )**

1. ....
2. Whosoever practices the acts referred in the previous number shall be punished with a fine from ecv 1.000\$00 to 250.000\$00. If the infractions are punishable with a higher fine the latter shall be applied.
3. ....

**Article 70**

**( Fiscalization and Preventive Measures )**

1. ....
2. ....
3. ....
4. ....
5. Because of the special nature of their function, the officials and agents mentioned in number one of the present article are considered to be in permanent duty. For that reason they enjoy yet the following prerogatives:
  - a) Free entry to the seaport warehouses, hangars and airports, ships, airplanes and any other vehicles, as well as in any other enclosure subject to customs fiscalization, duly accompanied in the zones legally considered to security zones;
  - b) Authorization to use and carry arms, independently of license.
  - c) Authority to arrest in flagrant *delitum* both the individuals who insult them in the exercise of their functions such as the delinquents that must be legally captured for acts punishable by the fiscal laws, and present them immediately to the customs' director or to a higher-up, who will turn the arrested delinquent over to the judicial authorities;
6. The dispositions of subparagraphs b) and c) of the previous number are extensive to technical personnel who execute sourarias(?)

7. The officials and agents referred to in number one of the present article have the right to stop any fiscal infraction suspect inside the fiscal zones and to examine said suspects, merchandise and means of transportation that accompany them.

### **Article 71**

#### **( Cautionary Measures Regarding the Means of Proof )**

1. ....
2. ....
3. If there is any resistance on the part of the owner of the establishment, warehouse or enclosure that is not his home, or means of transportation, or when the latter abandons them or does not return to them because he has foreknowledge of the operation under way, a break-in shall take place in the presence of witnesses; in the absence of the owner a depository shall be appointed to take care of the