

MINISTRY
OF HEALTHSECRETARIAT OF STATE
FOR HEALTHNATIONAL DRUG PLAN
SECRETARIAT OF MANAGEMENT**PUBLIC CONSULTATION: LEGAL FRAMEWORK FOR THE DISPOSAL OF
VESSELS CONFISCATED FOR ILLEGAL DRUG TRAFFICKING**

PURPOSE OF THE CONSULTATION: A request for information has been received from an interested party regarding the public auction procedure for a vessel included in the Fund of Assets Seized for Illicit Drug Trafficking and Other Related Crimes. Questions have been raised regarding the application of Law 14/2014 of July 24 on Maritime Navigation (LNM) with respect to prior notifications, the vessel's flag, and its technical classification based on length.

ISSUES RAISED:

1.- Submission of the prior notifications required by the Maritime Navigation Act to ensure that a forced sale of vessels is carried out in accordance with the law and their inclusion in the auction documentation.

Chapter III of Title IX of Law 14/2014 on Maritime Navigation (LNM) regulates the forced sale of civilian vessels encumbered with private liens to protect ordinary maritime traffic and the vessel's creditors. However, the vessel subject to disposal was originally acquired by the State through judicial forfeiture and a final judgment issued by the criminal courts, pursuant to Article 374 of the Criminal Code and Law 17/2003 of May 29, which regulates the Fund for Assets Forfeited Due to Illicit Drug Trafficking and Other Related Crimes.

Criminal forfeiture is an act of state authority that results in a *de novo* (new) acquisition, extinguishing the offender's ownership for reasons of public order. The notices under Article 481 of the LNM are provided so that holders of mortgages and real rights on civilian vessels may appear and collect from the auction proceeds. In the case of forfeitures due to drug trafficking, the right of third parties acting in good faith to make a claim has already been addressed through the appropriate procedural channels and time limits for appearing in the criminal case itself before the court. Since the property has already been forfeited by a final judgment and incorporated into the Fund for Forfeited Assets, ownership has been extinguished in the criminal court proceedings, making it inapplicable and unnecessary to duplicate the LNM notifications at this stage of asset realization.

2.-Specify whether the aforementioned vessel flies the Spanish flag on a temporary or permanent basis and include this information in the auction documentation.

The legal scope attributed to the MMSI must be corrected. The Maritime Mobile Service Identity (MMSI) is a technical and radio telecommunications code of the International Telecommunication Union (ITU) necessary for the safety of life at sea (DSC/AIS systems). The fact that it begins with the MID "225" (the range assigned to Spain) is solely due to the fact that the General Directorate of the Merchant Marine,

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In coordination with the Ministry of Defense, the unit was equipped with such radio equipment to ensure safe navigation while performing military service.

The MMSI does not, in and of itself, confer ordinary civilian registration nor does it imply a “temporary flag authorization” regulated by commercial law. The vessel flies the Spanish Institutional Flag (War Flag) not by virtue of a Merchant Marine registration, but because of its status as a vessel assigned to National Defense. Once it ceases to be part of National Defense, it will lose its Spanish Institutional Flag.

3.-Certify the hull length (Lh) in accordance with the applicable technical standard, in order to determine whether this is a recreational craft or a recreational vessel under the law, with the resulting consequences, and include this in the auction documentation.

The length of this vessel is as defined in the expert appraisal documentation: approx. 28.9 m. Because it exceeds the 24-meter length established in Royal Decree 804/2014, of September 19, which establishes the legal regime and safety and pollution prevention standards for recreational vessels carrying up to twelve passengers, the vessel is classified as a recreational vessel and is subject to the regulations governing large vessels or yachts.

The “Tambo” (A-82), which is being registered as a recreational vessel in accordance with the regulations established by Royal Decree 804/2014, must comply with the SOLAS/MARPOL standards regarding the safety of life at sea and environmental standards at sea.

However, should further questions arise regarding this matter, any interested party may schedule a site visit during which they may conduct the inspections and measurements they deem appropriate.

Should you require any further clarification regarding this matter, this Delegation remains at your disposal.

Best regards.

**HEAD OF THE AUCTION SERVICES DIVISION, DEPUTY
DIRECTORATE GENERAL OF MANAGEMENT**

Signed electronically: Irene de Celis Cantera

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