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## LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF  
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,  
the Secretary-General has the honour to communicate the following legislative texts.*

PERU

Communicated by the Government of Peru

### NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

### DRUG TRAFFICKING CONTROL ACT

LEGISLATIVE DECREE No. 824 OF 23 APRIL 1996

## **Drug Trafficking Control Act**

### **LEGISLATIVE DECREE No. 824**

THE PRESIDENT OF THE REPUBLIC,

WHEREAS:

The Congress of the Republic, in accordance with the provisions of article 104 of the Political Constitution, has delegated to the Executive Branch the power to legislate against drug trafficking, including State institutions and organizations having responsibility for the implementation thereof, for a period of 120 days;

One of the Government's objectives is to strengthen the control of drug abuse, to support the rehabilitation of drug addicts and to replace coca leaf cultivation, to which end it is necessary to establish a commission made up of officials at the highest level responsible for channelling and coordinating national efforts in this area;

In compliance with article 166 of the Political Constitution, it is the task of the national police force to prevent, investigate and combat criminal activities in their many forms, of which illicit drug trafficking, as a crime with multiple repercussions that undermines the cultural, political and economic foundations of society, is one of the most serious;

The armed forces have been participating in drug trafficking control in areas where a state of emergency has been declared and there has been no police presence; consequently, given the existing conditions, the Government considers that the armed forces personnel should fully resume the responsibilities of their specific mission, i.e. national security and defence;

With the aim of re-establishing, fully and gradually, the normal conduct of activities in areas afflicted by terrorism, it is appropriate that the national police force and the other institutions should fulfil their constitutional functions in order to consolidate the strategies laid down with regard to illicit drug trafficking and national pacification;

It is thus necessary to repeal and amend, as applicable, current legislation on drug trafficking, so as to bring it into line with the global strategy established by the Government to eliminate illicit drug trafficking;

With the approval of the Council of Ministers;

Subject to the obligation to give notice to the Congress of the Republic;

Has issued the following Legislative Decree:

## TITLE I

### CONTROL OF DRUG ABUSE

**Article 1.** The control of drug abuse throughout the country is declared to be a matter of national interest. To that end, the Commission to Control Drug Abuse ("*Contradrogas*") is hereby established as a governing body with responsibility for the comprehensive design, coordination and execution of measures to prevent drug abuse.

**Article 2.** The objectives of *Contradrogas* are as follows:

- (a) To prevent drug abuse in Peru. The prevention efforts shall concentrate on education, information and the promotion of a healthy lifestyle through the pursuit of different initiatives to that end;
- (b) To help establish and/or strengthen programmes for drug addict rehabilitation;
- (c) To promote coca leaf crop substitution and to develop awareness of the danger of other types of illicit crops;
- (d) To promote the execution of national awareness and education programmes on the illegality and danger of the use, production and trafficking in and small-scale marketing of the derivatives of coca leaf and other illegal substances;
- (e) To encourage the international community, as represented at home and abroad, to provide resources to fund all aspects of national drugs control efforts.

**Article 3.** *Contradrogas* shall be administered by a board, chaired by a Minister of State designated by the President of the Republic, and composed of four additional members appointed by supreme resolution.

The structure and other functions shall be set out in the board's rules of procedure, which shall be adopted by supreme decree.

**Article 4.** The national police force shall not only discharge its interdiction function but shall also collaborate closely in the fulfilment of the objectives of *Contradrogas*, particularly with reference to coca leaf crop substitution.

## TITLE II

### FUNCTIONS OF THE NATIONAL POLICE FORCE

**Article 5.** Through its specialized organs, the national police force shall be responsible for preventing, investigating and combating the crime of illicit drug trafficking, in its different manifestations, to which end and within this sphere:

- (a) It shall assume control of the airports and the river or lake ports in operation in the coca-growing areas of the country;
- (b) It shall undertake, in coordination with the authorities of the Ministry of Transport, Communications, Housing and Construction, the destruction or disabling of clandestine landing strips;

(c) The authorities responsible for the administration and supervision of airports in the coca-growing areas shall keep a daily record in which the following information shall be entered:

- (1) Registration number and characteristics of each aircraft, and reason for the flight, inwards or outwards;
- (2) Name of the pilot, crew members and passengers, if any;
- (3) Cargo transported, indicating weight, characteristics and content, as well as the name and address of the sender and the consignee;
- (4) Mention of whether valuables (money, jewels, etc.) are being carried, indicating their origin, amount and denomination, as well as the name of the person carrying them, and the consignee, if any.

This report shall be an official document and be signed by the competent authority, the pilot of the aircraft and the civilian or police officers involved, who shall assume joint responsibility for the content and accuracy of the information therein;

(d) Commercial aviation companies which operate in the coca-growing areas of the country shall be required to register with the appropriate police authorities. If they fail to comply within the time laid down, their operating licence shall be revoked and they shall be liable to the monetary penalties specified in the Regulations;

(e) Commercial river or lake transport companies which operate in the coca-growing areas of the country shall be required to register with the appropriate police authorities. If they fail to comply within the time laid down, their operating licence shall be revoked and they shall be liable to the monetary penalties specified in the Regulations.

**Article 6.** The Ministry of Interior shall request the different sectors, agencies and public institutions to provide the assistance requested by the national police force in order to ensure full compliance with the provisions of the present Legislative Decree, and they shall be required, under their responsibility, to provide such assistance.

**Article 7.** The Peruvian air force, in the performance of its function, shall be empowered to intercept national and foreign aircraft in the airspace above the coca-growing areas, for the purpose of establishing their identification, flight details and final destination. If the crew of the intercepted aircraft refuses to give the information required or to comply with the instructions of the aviation authorities, it shall be subject to the relevant interdictory measures, and the aircraft may even be forced down. If, as the result of such intervention, the commission of acts constituting the crime of illicit drug trafficking is noted, the national police force and the State Prosecution Service shall be notified immediately, for the purposes of the law.

**Article 8.** In fulfilment of its constitutional mission to safeguard national defence and sovereignty, the Peruvian navy may, within the 200-mile limit of territorial waters, in the ports along the country's coastline and in river and lake ports in the coca-growing areas of the country, intercept national or foreign vessels for the purpose of establishing their identity and final destination. If the intervention reveals evidence of illicit drug trafficking, this fact shall be reported immediately to the national police force and the State Prosecution Service, for the purposes of the law.

**Article 9.** In order to ensure the due application of the measures designed to control illicit drug trafficking in all its forms, the national police force shall bring its rules and work procedures into line with the relevant directives issued by the Ministry of the Interior.

**Article 10.** Articles 1, 2 and 3 of Decree Law No. 25626 are hereby amended as follows:

“Article 1. To ensure the due application of the strategies designed to achieve national pacification, all agencies involved in combating the crimes of treason and terrorism, as appropriate, shall bring their rules and work procedures into line with the directives issued by the Internal Front Operations Command (COFI), referred to in article 6 of Legislative Decree No. 440, as amended by article 26 of Legislative Decree No. 743, the National Defence System Act.”

“Article 2. In the areas where a state of emergency is declared, the military and police commands shall be responsible for the due application of the strategies to combat the crimes of treason and terrorism, and the actions of the other agencies operating in those areas shall accordingly, on pain of criminal liability, be brought into line with the directives issued by the said commands, within their spheres of jurisdiction, in compliance with the orders of the COFI.”

“Article 3. Any regulations and directives issued by the different agencies involved in combating the crimes of treason and terrorism, as applicable, shall, within a period of ten (10) days, be coordinated, made consistent and brought into line with the directives issued by the COFI, pursuant to article 1 of the present Decree Law.”

**Article 11.** Article 2 of Law No. 26332 is hereby amended as follows:

“Article 2. Crops of plants of the genus *Papaver papaverum somniferum* (poppy) and *Cannabis sativa* (marijuana) shall be destroyed *in situ* by the national police force, using any method that does not damage the environment, under the control and direct responsibility of the provincial prosecutor, and a record thereof shall be duly drawn up.

“The cultivated land, equipment, movable and immovable property and any other property in direct use employed in the commission of the offence shall be seized.

“In the course of the police investigation and criminal proceedings, the property referred to in the previous paragraph shall be immediately made available to the Executive Drugs Control Office, which shall assign them, for their use or administration, in coordination with the Minister of Agriculture or the body serving in place thereof, to the public agencies or public or private institutions engaged in scientific research or social development activities.

“Property referred to in the present article that has been confiscated by virtue of a final judicial verdict shall be handed over to the Executive Drugs Control Office for auction.”

**Article 12.** Articles 1 and 2 of Decree Law No. 25427 are hereby amended as follows:

“Article 1. Any officer of the Peruvian national police force, regardless of rank, who is appointed to serve in the coca-growing areas of the country shall make a sworn declaration of property and income at the beginning and end of his appointment, and shall be liable to the corresponding penalties in the event of any fraudulent alteration or omission in the information provided by him.”

“Article 2. The Office of Moral Standards of the Peruvian national police force shall periodically assess any changes that may occur in the assets of officers who have made declarations, and of their close relatives, as well as any external signs of wealth. If there is evidence of unlawful enrichment, the appropriate police authority shall transmit the relevant information to the State Prosecution Service, for it to take steps in accordance with its powers.”

**Article 13.** Article 21 (b) of Legislative Decree No. 744 is hereby amended as follows:

“(b) The Office of Institutional Moral Standards and Discipline shall report to the Inspector-General and have the following tasks:

- To monitor and evaluate aspects of morality and discipline among personnel of the national police force, at all organizational levels, and to propose corrective measures;
- To receive and investigate expeditiously any complaints of corruption made against police personnel serving in the coca-growing areas, specifically in connection with illicit drug trafficking. If there is any evidence of criminal liability on the part of an officer who has been the subject of a complaint, irrespective of any administrative sanctions that may apply, the facts shall be reported immediately to the State Prosecution Service, for it to take steps in accordance with its powers.”

For the performance of the functions indicated in the preceding paragraphs, offices of institutional moral standards and discipline shall be established in the regional, front and main divisions of the national police force, constituting the national police monitoring system.

**Article 14.** The Ministry of the Interior is hereby empowered to impose additional measures, by decision of the sectoral chief, in order to ensure that the mission assigned to the Office of Institutional Moral Standards and Discipline of the national police force is duly carried out.

**Article 15.** A state of emergency is hereby declared at all airports and all river and lake ports in the coca-growing areas throughout the country.

**Article 16.** The national police force is hereby empowered, in coordination with the Ministry of Transport, Communications, Housing and Construction, to take over security at the airports and ports mentioned in article 15 of the present Legislative Decree, for the purpose of investigating illicit drug trafficking offences.

**Article 17.** Writs of *habeas corpus* shall not be admissible in favour of persons involved in illicit drug trafficking offences during preventive custody in the course of police investigations where the representative of the State Prosecution Service has participated and the case has been reported to the competent judicial authority.

**Article 18.** The Ministry of the Interior and the Ministry of Defence shall impose additional measures for the appropriate and timely relief of the armed forces in the coca-growing areas, so that the national police force may assume responsibility for the control of illicit drug trafficking, without prejudice to the provisions of articles 7 and 8 of the present Legislative Decree.

### **TITLE III**

#### **EXCEPTIONAL PROCEDURAL AND PENITENTIARY BENEFITS**

**Article 19.** Any person who has participated or been involved in the commission of the crime of illicit drug trafficking as provided for and penalized in Section II, Chapter III, Title XII, of Book Two of the Penal Code, and any amendments or additions thereto, shall be eligible for the benefits established exceptionally by the present Legislative Decree.

##### **(a) Exemption from punishment**

An offender, whether or not under police investigation or on trial for illicit drug trafficking, may be exempted from punishment in the following cases:

1. If he furnishes timely and truthful information that makes it possible to identify and arrest the leaders or heads of organizations engaged in illicit drug trafficking, nationally or internationally, or in illicit arms trafficking or money-laundering activities connected with drug trafficking;
2. If the information furnished makes it possible to seize drugs, controlled chemical inputs, money, raw materials, infrastructures, or other facilities used to obtain illicit drugs, which reliably establish the operation of an organization engaged in illicit drug trafficking. Such information must also make it possible to identify the leaders or heads of the criminal organization and to dismantle it.

##### **(b) Remission of punishment**

A prisoner serving a sentence imposed by a final and enforceable judgement for the crime of illicit drug trafficking as provided for and penalized in article 296 of the Penal Code, or for money-laundering or illegal arms-trafficking offences, shall be eligible, for the benefit of remission of punishment, for the remainder of the sentence to be served, if the conditions set out in subparagraphs 1 and 2 of section (a) above are satisfied.

##### **(c) Pardon**

First-time offenders sentenced for the crime of illicit drug trafficking provided for in articles 298, 300, 301 and 302 of the Penal Code who have served one third of their custodial sentence shall be eligible for the benefit of a once-only pardon.

For the purposes of the provisions of sections (a) and (b) of the present article, the "leaders", "chiefs" or "heads" of "firms", "cartels" and "organizations" engaged in illicit drug trafficking, nationally or internationally, or in money laundering, illegal arms trafficking or illegal marketing of controlled chemical inputs, shall be considered to mean persons recorded or identified as such by the national police force, the State Prosecution Service or related specialized intelligence agencies.

**Article 20.** The information mentioned in sections (a) and (b) of the previous article shall be furnished voluntarily to the police authority in secret, with the compulsory attendance of a representative of the State Prosecution Service, or to the trial judge. In the case covered by section (b), the information shall be furnished to the criminal court that handed down the verdict. The following security measures shall be adopted in all cases:

- The identity of the petitioner shall be kept secret;
- He shall be given a code name to be used during the proceedings established under the present Legislative Decree;
- While the exemption and remission procedures are in progress, and in order to protect the physical integrity and life of the petitioners, they shall be transferred to special custodial centres designated for that purpose by the Ministry of Justice, in coordination with the Ministry of the Interior;
- They shall be given a fictitious identity.

**Article 21.** The benefits set out in article 19 of the present Legislative Decree shall not be available to leaders, chiefs or heads of the gangs or organizations known as “firms” or “cartels” engaged in illicit drug trafficking, or to individuals who have availed themselves of the benefits under Law No. 26320. Nor shall they extend to public officials or servants having responsibility for the prevention, investigation or adjudication of, or the enforcement of penalties for, such crimes.

**Article 22.** The truthfulness, timeliness and effectiveness of the information furnished by the persons mentioned in article 19 of the present Legislative Decree shall be established with the compulsory attendance of a representative of the State Prosecution Service.

**Article 23.** Not until the truthfulness of the information furnished by the offender has been proven, at the initiative of the State Prosecution Service, or at the request of one of the parties, shall the benefit of exemption, remission or pardon, as applicable, be granted, in accordance with the procedures set out below:

(a) In cases covered by section (a) of article 19 of the present Legislative Decree, the provincial criminal prosecutor shall formulate a criminal charge arising from the information furnished, and shall request, on an interlocutory basis, that the offender, whether or not he is involved in this criminal suit, be regarded as a witness, being identified by a code name, in order to protect the true identity of the petitioner, and the criminal court judge shall issue his report to the competent criminal court, which shall rule within 15 days following the prosecution’s statement.

Once the person’s legal status as a witness has been confirmed, the relevant jurisdictional authorities shall be officially notified with a view to their dismissing the criminal proceedings for illicit drug trafficking pending against the applicant;

(b) In the cases covered by section (b) of article 19 of the present Legislative Decree, the criminal court receiving the information furnished by the petitioner shall refer the matter to the appropriate provincial criminal prosecutor, and the proceedings referred to in the previous section shall be conducted;

(c) In cases covered by section (c) of article 19 of the present Legislative Decree, the prison authority shall certify that one third of the sentence imposed has been served and the prisoner has a record of good behaviour as a first-time offender.

**Article 24.** Any person or persons taking advantage of the benefits under the present Legislative Decree shall, before being released from prison or set at liberty, sign, using a code name, a document having the force of a sworn statement, undertaking not to become involved in the commission of further crimes of illicit drug trafficking. Should such person or persons re-commit such unlawful criminal acts, they shall not be eligible for any subsequent penitentiary benefit and shall forfeit the benefits already acquired.



**Article 25.** Applications for exemption from or remission of punishment for illicit drug trafficking shall be dealt with within a maximum period of three months, from the date on which the application is received, under the responsibility of the appropriate authorities. The aforesaid period may be extended for one additional period.

**Article 26.** If the offender's application is not favourably received for lack of proof, the statements and evidence provided shall be regarded as non-existent and may not be used against him.

**Article 27.** The authorities which finally rule on the benefits granted to persons prosecuted or tried for illicit drug trafficking shall, under their responsibility, transmit the information confidentially to the National Drug Control Office (DINANDRO) of the national police force and to the relevant department of public prosecution, so that the appropriate steps may be taken.

#### **TITLE IV**

#### **SPECIAL POLICE INVESTIGATION TECHNIQUES**

**Article 28.** In order to make it possible for the necessary evidence to be obtained for a criminal charge to be brought, *inter alia*, the representative of the State Prosecution Service may authorize the specialized agencies engaged in the control of illicit drug trafficking to employ "controlled delivery" and "undercover agent" techniques, and shall supervise their conduct and order their conclusion once the proposed objectives have been fulfilled.

If the aforementioned techniques are necessary during the trial, the relevant authorization shall be given by the corresponding judicial authority. The implementation of such techniques internationally shall be subject to the provisions contained in the conventions signed by Peru.

**Article 29.** For the purposes of the present Legislative Decree:

(a) "Controlled delivery" means a special technique, duly planned by the police authority and authorized with appropriate confidentiality by the State Prosecution Service, whereby a confirmed or presumed shipment of drugs is kept under secret surveillance and control for a period of time, with the aim of determining the circumstances, destination, persons directly and indirectly involved, and links with criminal associations;

(b) "Undercover agent" means a special technique, planned by the police authority and authorized with appropriate confidentiality by the State Prosecution Service or the jurisdictional organ, whereby a specialized agent, concealing his identity, infiltrates an organization engaged in illicit drug trafficking, with the aim of identifying its structure, leaders and members, resources, *modus operandi* and links with illegal associations.

**Article 30.** The competent criminal court or judge shall declare inadmissible the appearance, as witnesses, of national police force personnel involved in operations, investigations or the making of the relevant statements in connection with illicit drug trafficking, or of personnel involved in the techniques set out in article 28 of the present Legislative Decree, if they relate to proceedings in which the State Prosecution Service has participated, and such proceedings shall retain their evidentiary quality.

## **TITLE V**

### **FINAL AND SUPPLEMENTARY PROVISIONS**

**Article 31.** Decree Law No. 25426<sup>1</sup> and Law No. 26247 are hereby repealed, and any provisions at variance with the present Legislative Decree shall be repealed or amended, as applicable.

**Article 32.** The Ministry of Economic Affairs and Finance is hereby authorized to make the budgetary transfers for the entry into operation of *Contradrogas*.

**Article 33.** During the fiscal year in which it is established and brought into operation, *Contradrogas* shall be exempted from the budgetary restrictions set out in the public-sector Annual Budget Act, and in any supplementary or special laws, in order to provide for its staffing, goods and service requirements, as well as the allocation of premises for its institutional headquarters.

**Article 34.** The present Legislative Decree shall become effective on the day after it is published in the Official Gazette "*El Peruano*".

#### **ACCORDINGLY:**

I order that it be published and enforced, with notice given to the Congress of the Republic.

Issued at Government House, Lima, on the twenty-third day of April, nineteen hundred and ninety-six.

**ALBERTO FUJIMORI FUJIMORI**  
Constitutional President of the Republic

**ALBERTO PANDOLFI ARBULU**  
President of the Council of Ministers

**CARLOS HERMOZA MOYA**  
Minister of Justice

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<sup>1</sup> E/NL.1992/42.

## STATEMENT OF GROUNDS

The harmful effects of drug trafficking and ensuing corruption, in their various forms, require the State to intensify the control of drug production and use throughout the country.

The Commission to Control Drug Abuse (*Contradrogas*) is thus being established to prevent drug abuse, assist the creation and/or strengthening of programmes for drug addict rehabilitation, promote coca leaf crop substitution, promote the execution of national education and awareness programmes on the damaging effects of drug abuse, and encourage the international community, as represented at home and abroad, to provide resources for that purpose.

*Contradrogas* will be headed by a Minister of State appointed by the President of the Republic.

The national police force will take back responsibility for the control of illicit drug trafficking from the armed forces.

The activities of the armed forces are thus in line with the provisions of article 165 of the Political Constitution of Peru.

The national police force will not only assume responsibility for interdiction measures but will also employ specialists to collaborate with *Contradrogas* in the attainment of its objectives, particularly as regards coca leaf crop substitution.

It is also advisable for the Peruvian air force to continue to safeguard aerial sovereignty within the country, by intercepting suspicious national and foreign aircraft overflying the coca-growing areas.

In accordance with the provisions of article 2, section 24 (f), of the Political Constitution of Peru, the police authorities may place any person presumed to be involved in illicit drug trafficking in preventive custody for up to 15 days. However, cases arise in practice where, despite their being part of the State Prosecution Service, the lawyers defending individuals under investigation resort to *habeas corpus* to protect the rights of their clients, which:

- Disrupts the jurisdictional work of many judges, who have to give priority attention to such claims; and
- Hinders the police investigations. These *habeas corpus* actions are usually declared unfounded, but this delaying tactic always goes unpunished.

The State Prosecution Service is not just the guardian of legality, citizens' rights and public interests, but also prosecutes crimes. Thus, when a prosecutor intervenes in a police investigation into illicit drug trafficking, his participation lends to the statements of those involved the appearance of legality and full evidentiary value; actions of this kind that merely seek to hinder police work and judicial efforts must not be permitted.

In order to effectively and efficiently monitor the personal wealth of national police force personnel appointed to serve in coca-growing areas of the country, and also to protect the individual and institutional image, it is useful for such personnel to be required to make a sworn declaration of their property and income at the beginning and end of their appointment.

Cultivation of the drug *Cannabis sativa*, commonly known as "marijuana", is on the increase as a result of the Government's interdiction efforts in regard to illicit drug trafficking in the coca-growing areas, which has led to drug seizures by the national police.

Owing to the expanse of plantations, in virtually inaccessible areas, of the drug *Cannabis sativa* and of other drugs whose cultivation is increasing, in addition to the difficulties connected with their transport and warehousing, as well as their rapid shrinkage or loss of weight, problems are arising in the administrative sphere and even in regard to criminal liability, with major differences being established in seizure, storage and incineration records.

One very effective way to control this drug is the *in situ* destruction of crops by the police authorities, compulsorily attended by a representative of the State Prosecution Service, thereby avoiding unnecessary transport and storage costs.

A monitoring body, the *Oficina de Moralización Institucional y Disciplina*, set up within the organizational structure of the national police force, is to be responsible for investigating complaints relating to illicit drug trafficking made against police personnel serving in the country's coca-growing areas, and for proposing appropriate corrective measures, which necessitates amendment of article 21 (b) of Legislative Decree No. 744.

In view of the fact that the national police force, through its specialized organs, has been given responsibility for the prevention, investigation and control of illicit drug trafficking, in all its forms, it is appropriate to provide that the national police should also be responsible for control and security at airports and at river or lake ports located in the coca-growing areas of the country.

The key objectives of the police strategy should focus on intelligence operations against the "chiefs", "heads" and "cartels" and the activities of the National Drug Control Office (DINANDRO) to prevent the movement of inputs to the coca-growing areas. Any persons who cooperate in the investigation of these illicit criminal acts should therefore be granted procedural and penitentiary benefits. The doctrinal, legal and historical grounds for the incorporation of legal concepts such as exemption, remission and pardon in relation to illicit drug trafficking include the following:

(a) They constitute a strategy that involves and uses members of drug trafficking organizations and encourages the decisive participation of the public;

(b) These judicial practices have been and are still recognized and applied in many legislations, the trend being towards uniformity of conceptual treatment with reference to illicit drug trafficking;

(c) The essential purposes of punishment are to admonish and caution as well as to rehabilitate offenders, and criminal activity would be reduced through the above-mentioned judicial practices;

(d) Illicit drug trafficking is a phenomenon which takes many forms and has various roots and complex ramifications, requiring the Government to possess an effective legal tool within a political and socio-economic framework consistent with the principles of a State governed by the rule of law;

(e) This approach would make it possible to obtain effective and legitimate information to help dismantle the organizations engaged in illicit drug trafficking and at the same time neutralize and prevent the links with terrorism, for which it provides economic support;

(f) It will lead to a weakening of the mutual trust between drug traffickers at the different stages of the criminal process and undermine organizational unity.

This situation will speed up procedural formalities, avoiding dilatory and bureaucratic, formalistic and tedious proceedings, improving crime detection and providing for the application of rigorous punishment, with clear savings in human and material resources.

The intelligence-gathering techniques of "controlled delivery" and "undercover agent" operations have been developed and applied with great success in various countries. In Peru they have been used in very isolated cases, indicating that the approach and standards used by the competent authorities are not uniform owing to the lack of adequate legal support, a situation that prevents the increased utilization and strengthening of these techniques by specialized police units, since their use could mean that their members are prosecuted, with the adverse consequences which that entails.

"Controlled delivery" is carried out primarily with the direct participation of the representatives of the State Prosecution Service and specialized police units in countries having a compatible legal framework. A shipment of drugs from one country to another is kept under secret surveillance with the aim of detecting organizations, financiers, carriers and corrupt officials, as well as crimes connected with illicit drug trafficking (arms smuggling, terrorism, counterfeiting, etc.). Arrests are coordinated and are made when the drug reaches the country of destination or when the circumstances so require.

The "undercover agent" technique is generally employed by selected and trained police officers who, concealing their identity, infiltrate the organization in a planned manner in order to identify its structure, links and *modus operandi*. Such officers carry out their operations for a long or short period and, in some cases, take part with the members of the organization in specific acts that may be necessary for them to "remain" within the organization, and their work ends when orders are given to raid the organization.

It has also been noted that, in illicit drug trafficking cases, as previously observed in terrorism cases, the accused and their lawyers often put forward, as witnesses, members of the Peruvian national police who were involved in their capture or in the preparation of their statements, in order solely and exclusively to delay the proceedings, or in other cases, to intimidate members of the Peruvian national police or their relatives, a situation that is aggravated when such officers appear without proper legal consultation by reason of "controlled delivery" or "undercover agent" operations. The present Legislative Decree declares their appearance to be inadmissible provided that the State Prosecution Service has participated in the proceedings.

All these considerations make it necessary to take appropriate steps to achieve more effective control of illicit drug trafficking and use.