



# LAWS AND REGULATIONS

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

PERU

Communicated by the Government of Peru

NOTE BY THE SECRETARY-GENERAL – 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.

E/NL.1978/60

LEGISLATIVE DECREE No. 22095

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

The Revolutionary Government has enacted the following Legislative Decree:

THE REVOLUTIONARY GOVERNMENT

CONSIDERING:

That the illicit production of drugs, their consumption, internal and external sale by various social groups, and the chewing of coca leaf, constitute a serious social problem which it is necessary to overcome by taking effective measures under an integrated plan of action;

That the legal provisions in force for the suppression of the illicit traffic in dependence-producing drugs have not proved sufficient to prevent this unlawful activity, either at the internal level or in its international ramifications;

That drug addiction as a whole constitutes a serious public health problem, a danger to the family and one of the main causes of physical and mental deterioration of the human being;

That for the implementation of the policy relating to the specific objective for the health sector provided for in the Government's "Tupac Amaru" Plan, intensified action, in conformity with the State's continuing campaign to improve moral standards, is required for the suppression of the illicit traffic in drugs and the prevention of their abuse, while further regulations, controls and penalties must be applied to such other activities as directly or indirectly encourage the said traffic, in order to combat and eradicate it and at the same time to achieve the rehabilitation of drug-addicts;

That the above-mentioned activities must also be directed towards the implementation of the international agreements in force, especially the agreement that intended to secure the gradual eradication of coca cultivation, except for industrial, medical and scientific uses;

In accordance with article 5 of Legislative Decree 17063;

Exercising the powers vested in it; and

With the approval of the Council of Ministers;

Has enacted the following Legislative Decree:

#### CHAPTER I

##### GENERAL

Article 1. The objects of this Legislative Decree are suppression of the illicit traffic in dependence-producing drugs; prevention of their abuse; physical, mental and social rehabilitation of drug addicts; and reduction of cultivation of the coca plant.

Article 2. In order to achieve the objects set out in the preceding article, regulations shall be enacted for the prevention and punishment of the illicit drug traffic; education and health measures shall be prescribed to prevent drug abuse; provision shall be made for the establishment of centres for the treatment and rehabilitation of drug addicts; and a scheme shall be adopted for the gradual reduction of cultivation of the coca plant, limiting it to strictly scientific and industrial uses consistent with the change in consumption habits.

Article 3. The policies aimed at achieving these objects shall be established by an Interdepartmental Committee for Drug Control, consisting of the Minister of the Interior, who shall be Chairman, and the Ministers for Food and Agriculture, Industry, Trade, Tourism and Integration, Education, and Health, and a member of the Supreme Court of Justice of the Republic, appointed by the Plenary Court.

Article 4. The Ministry of Education, in consultation with the Ministry of Health, shall take into account, in all teachers' training programmes, the various aspects of drug abuse connected with the problem of the physical and mental health of the student.

Similarly, it shall arrange information and guidance programmes for students and for organized groups of the community.

Article 5. The curricula of the various higher education courses shall include matters relating to the problem of drug abuse.

Article 6. The Ministry of Education, in consultation with the Executive Office for Drug Control, shall take the necessary measures to solve any problems relating to drug abuse among students, which may arise at State-operated and other educational institutions.

Article 7. The Ministry of Health, in consultation with the Ministry of Education, shall organize research programmes, epidemiological, medical and scientific studies and technical training on the problem of drug addiction.

Article 8. The activities of private educational institutions relating to the drug problem shall be co-ordinated with the Health and Education Departments, which shall provide the necessary information and advice.

Article 9. The National Information System, in consultation with the Ministries of Health and Education, shall disseminate and regulate public information for the prevention of drug abuse.

CHAPTER II

ESTIMATES

Article 10. The Ministry of Health shall make annual estimates of drugs required for medical and scientific use. These estimates shall specify:

- (a) The annual amount required for medical and scientific use;
- (b) The part of the above amount which will be used:
  - (1) For making other drugs;
  - (2) For making preparations with one or more ingredients which present little or no danger of abuse, because the drug cannot be isolated by simple means or in amounts that present a danger to public health; and
  - (3) For producing derivatives which do not produce dependence;
- (c) The estimated requirements of opium poppy and other plants subject to control, for possible cultivation by the State;
- (d) The stock of drugs at 31 December of the year preceding the year to which the estimates relate;
- (e) The amounts of drugs required for addition to the reserves, which constitute the special stocks; and
- (f) The amounts of the various drugs required for export purposes.

Supplementary estimates may also be made when circumstances so require.

Article 11. The State organizations authorized to export or import drugs shall require the corresponding sanitary permit issued by the Ministry of Health.

The permit shall specify:

- (a) The international non-proprietary name of the drug, if any;
- (b) The quantity and form in which the substance is to be exported or imported, the name and address of the importer and the exporter in either case; and
- (c) The time within which the import or export is to be effected, which may not exceed 180 days.

Article 12. The sanitary permit referred to in the preceding article shall be called the Official Import, Export or Transit Certificate, according to the operation concerned; it shall be issued in triplicate in accordance with the regulations applicable, and shall expire 180 days after the date of issue.

Article 13. Drug imports and exports shall only be made through the Customs at the port of Callao and at Lima-Callao International Airport, with the exception of coca leaves, which may also be imported or exported through the ports of Salaverry and Matarani.

Article 14. Imports and exports, strictly for scientific, medical and veterinary purposes, of the drugs and medicaments in Schedules I to VI annexed to this Legislative Decree, are a monopoly of the State.

Article 15. In emergency situations, the purchases referred to in the preceding article shall not be subject to the requirement of a public call for tenders.

Article 16. The competent authority in the Health Department shall lay down the conditions under which drugs subject to the State monopoly may be obtained by:

- (a) Laboratories authorized to prepare medicaments containing such drugs;
- (b) Pharmacies and drugstores;
- (c) Hospitals and medical treatment centres;
- (d) Scientific and university institutions;
- (e) Hyperalgesic patients, in quantities exceeding the dosage for 24 hours; and
- (f) Medical practitioners responsible for the diagnosis and disintoxication treatment of drug-dependent persons, and practitioners responsible for veterinary applications.

### CHAPTER III

#### REHABILITATION OF DRUG ADDICTS

Article 17. The State shall take the necessary action for the rehabilitation of drug addicts, which shall include:

- (a) Medical-disintoxication treatment; and
- (b) Physical, mental and social rehabilitation.

Article 18. For the purposes of the preceding article, specialized services shall be established in the health sector for the treatment of drug addiction, in conjunction or co-ordination with services for physical, mental and social rehabilitation.

Article 19. The Government shall arrange for the establishment and operation of State Rehabilitation Centres for Drug-dependent Persons and shall encourage the establishment of private institutions of the same kind, providing social, medical and educational assistance given in dynamic and integrated form under a system of health, hygiene and nutrition applied by specialized staff.

Article 20. Drug addicts shall be placed under treatment, which may be given:

- (a) At home;
- (b) At private establishments; or
- (c) At State Rehabilitation Centres for Drug-dependent Persons.

Article 21. Help for drug addicts at the State Centres may be requested:

- (a) By drug addicts themselves;
- (b) By their relatives; or
- (c) By the judicial authorities.

Article 22. A judge of first instance may, at the request of the State Counsel Department or of an interested party, order the placing under guardianship of a drug addict who is not under investigation on suspicion of having committed an offence, but is exposing his family to the risk of destitution or is a threat to his own safety or that of others, or commits an

offence against morality or decency; having regard to the financial means of the person concerned, the judge may order him to be placed in a State Rehabilitation Centre or a private establishment.

Article 23. The legal measures provided for in the preceding article shall be rescinded by the competent judicial authority when the drug addict is shown to be completely rehabilitated.

Article 24. In the case of a drug addict of full age who is not under investigation on suspicion of having committed an offence, the police authorities shall inform the judge of the civil court, who shall summon him to appear for questioning within 48 hours, failing which he will be brought in by the police.

Once it is established that a person is a drug addict, the judge shall convoke his relatives and order whatever measures he considers appropriate for his rehabilitation.

Article 25. A minor who is found to be under the influence of drugs, but is not under investigation on suspicion of having committed an act considered to be an offence or misdemeanour, shall be placed at the disposal of his parents, his guardians or the persons in charge of him, on their responsibility, within 24 hours, and a report shall be sent to the judge of the juvenile court, who shall order the necessary measures. If no one is in charge of the minor, he shall be placed at the disposal of the judge, within the same time and on the same responsibility.

Article 26. Persons of full age or minors who relapse into drug addiction shall in all cases be placed in a State Rehabilitation Centre for Drug-dependent Persons, by order of the judge of first instance of the civil court or the judge of the juvenile court respectively.

Article 27. The judge of first instance of the civil court or the judge of the juvenile court, as appropriate, may attach the property of a drug addict or his legal representatives to meet the cost of rehabilitation.

Article 28. A person shall be declared a drug addict only after a forensic report has been made at the request of the competent judge; a representative of the State Counsel Department shall be invited to attend the hearing and must be present during the judge's examination of the mental state of the person concerned.

The medical experts shall take into account the nature and quantity of the substances which have produced drug dependence and the clinical history and condition of the accused person.

Article 29. If a drug addict has been prosecuted for the offence of illicit traffic in narcotics, the court may order his confinement in a State Rehabilitation Centre for Drug-dependent Persons, after which he shall be brought before the court for sentencing as appropriate for the offence.

Article 30. If a drug addict is a non-resident alien, he shall be deported, provided that he is not suspected of having committed an offence.

#### CHAPTER IV

##### PRODUCTION, SALE AND CONTROL

Article 31. The cultivation of coca and the introduction of coca plantations in new areas of the national territory are strictly prohibited. This prohibition includes renewal and earthing-up of existing plantations.

Article 32. The State shall control the cultivation of all varieties of coca, opium poppy and marijuana. Other species may be brought under the control system by supreme decree.

Article 33. Once the cultivation of coca has been eradicated or replaced on farms owned by private persons or group enterprises, such cultivation may be carried on only by the State, through ENACO, when it is justified for the purposes of industry, export, medical use or scientific research. The cultivation of other plant species subject to control shall be reserved exclusively to the State and carried on solely for the purposes stated above.

Article 34. Farms which are not worked direct by their owners and on which there are coca crops, shall be given priority for expropriation and allocation by the Directorate General of Agrarian Reform and Rural Settlement, and the owners shall be struck off the Register of Producers kept by the National Coca Enterprise.

Article 35. Privately owned farms which are wholly or partly under coca cultivation shall be confiscated by the State and assigned to landless peasants if the owners do not proceed to replace or eradicate this crop within the following time limits:

(a) Farms of over 10 hectares: within two years from the date of entry into force of this Legislative Decree;

(b) Farms of 5 to 10 hectares: within three years from the date of entry into force of this Legislative Decree.

Article 36. The Ministry of Food and Agriculture shall propose annually to the Interdepartmental Committee the areas for eradication and gradual replacement of coca crops, on farms of less than 5 hectares owned by private persons or group enterprises, as appropriate, in accordance with the optimum capacity for use of the soil in question.

Article 37. The Forestry Police of the Civil Guard of Peru shall co-operate especially in the application and enforcement of the rules on the reduction and replacement of coca crops, and the rules on the cultivation of prohibited plant species, and shall place offenders at the disposal of the Peruvian Investigation Police forthwith, for the purposes of the law.

Article 38. In the Rural Settlement Projects approved by the Ministry of Food and Agriculture, priority in the allocation of land shall be given to peasants growing coca leaf who come under the eradication programmes; such peasants shall also be given preference in reforestation contracts awarded by the Ministry.

Article 39. The granting of any form of technical assistance, credit facilities, supplies, tools or machinery to farms wholly or partly under coca cultivation is prohibited, unless it is for the purpose of replacing the coca crop by other crops.

Article 40. The Ministry of Food and Agriculture shall carry out the necessary studies for the replacement of coca by other crops.

Article 41. The State alone, through the National Coca Enterprise (ENACO), shall engage in the internal and external sale of coca leaf.

Article 42. Industrial products or inputs used in the preparation of drugs, as shown on a list approved by Supreme Decree, shall be subject to control.

Article 43. Importers and manufacturers of inputs subject to control shall keep a Special Register of Sales which shall show the amount sold, the full name of the purchaser, his trading and private address, and the place where the goods were delivered, in accordance with the relevant provisions enacted by the Supreme Decree referred to in the preceding article.

Article 44. Pharmaceutical laboratories may prepare medicaments containing drugs only if licensed to do so by the Health Authority, and they must report the amount and nature of the product as and when required by the Regulations.

Such laboratories are prohibited from selling either the drug or preparations thereof direct to the public.

Article 45. Laboratories and pharmaceutical establishments holding stocks of medicaments containing drugs which are declared to be out of use, to have suffered deterioration or to have lost their effectiveness, shall apply at least once a year to the Health Authority to have them classified as rejected remainders to be taken into immediate safekeeping for subsequent destruction, as prescribed by the Regulations. Accidents or thefts shall be reported immediately, both to the Health Authority and to the Peruvian Investigation Police.

Article 46. Sale to the public of drugs listed in the Schedules annexed to this Legislative Decree is prohibited.

Article 47. Medicaments containing drugs listed in Schedule II A of the annex to this Legislative Decree may be sold to the public only at pharmacies and drugstores on a Special Prescription issued exclusively for such medicaments and signed by a registered doctor, in an amount not exceeding the dosage prescribed for 24 hours.

On the request of the person concerned, accompanied by a medical certificate and the corresponding Special Prescription, the Health Authority shall authorize the issue of amounts exceeding the dosage for 24 hours, to be used for the treatment of hyperalgesic patients.

Article 48. Medicaments containing drugs listed in Schedule III of the annex to this Legislative Decree may be sold to the public only at pharmacies and drugstores, on a Special Prescription signed by a registered doctor or dentist.

Article 49. A Special Prescription for a medicament containing any of the drugs listed in Schedules II A and III must be legibly written out by hand by the medical practitioner, with the amounts expressed in words, and must give the full name and address of the patient and of the attending doctor, with his professional registration number, and the diagnosis; such a Special Prescription shall be valid for not more than three days.

Article 50. Special Prescriptions shall be issued in triplicate. The original and one copy shall be given by the medical practitioner to the person concerned, to be used to obtain the medicament at a pharmacy or drugstore. The other copy shall be kept by the medical practitioner for two years, for checking by the Health Authority.

Article 51. Establishments authorized to sell to the public medicaments containing drugs listed in Schedules II A and III, shall issue them only on production of the original and one copy of the Special Prescription; they shall keep a Register of Consumption, Sales and Stocks, together with files in which they shall keep, duly numbered and in chronological order, consignment notes and copies of the Special Prescriptions filled, showing the identity of the purchaser.

Article 52. Medicaments containing drugs listed in Schedules II B and IV annexed to this Legislative Decree shall be issued to the public by pharmacies and drugstores on an ordinary medical prescription.

Article 53. Medicaments containing drugs listed in Schedules II B and IV annexed to this Legislative Decree may be acquired direct only by practitioners responsible for administering them.

#### CHAPTER V

##### THE OFFENCE OF ILLICIT TRAFFIC IN DRUGS AND THE PENALTIES APPLICABLE

Article 54. The offence of illicit traffic in drugs is automatically subject to prosecution and may be reported by citizens; it falls within the jurisdiction of the ordinary courts.

Article 55. Persons who promote, organize, finance or direct bands or groups engaged in illicit traffic in drugs between Peru and other countries shall be sentenced to hard labour.

Other members of such bands or groups shall be sentenced to rigorous imprisonment for not less than 15 years.

Article 56. A sentence of rigorous imprisonment for not less than 15 years shall be imposed on:

(a) Persons who promote, organize, finance, direct or belong to bands or groups of persons, for the purpose of engaging in illicit traffic in drugs in Peru;

(b) Officials, public workers or members of the Police Forces who are responsible for supervision, enforcement, investigation, judgement or custody, and fraudulently procure the impunity or escape of the perpetrators, accomplices or abettors of acts referred to in this Legislative Decree as constituting the offence of illicit traffic in drugs; and

(c) Persons who in any way supply capital, goods, machinery, implements, supplies, or means of transport for the purpose of committing the offences referred to in this chapter.

Article 57. A sentence of rigorous imprisonment for not less than 10 years shall be imposed on:

(a) Those who administer drugs to persons who are legally incompetent or under 18 years of age, or instigate or encourage the consumption of drugs by such persons;

(b) Those who administer drugs to other persons by force or deceit;

(c) Those who use minors to commit offences punishable under this Legislative Decree;

(d) Those who sell drugs at educational, welfare or social rehabilitation centres;

(e) Those who manufacture, without authorization, any kind of drug listed in Schedules I and II A; and

(f) Those who illicitly sell drugs listed in Schedules I and II A.

Article 58. A sentence of imprisonment for not less than two years and not more than 15 years shall be imposed on:



(a) Persons who cultivate or keep opium poppy, marijuana, coca or any other species of plant for the purpose of obtaining drugs, or wittingly sell them to persons who manufacture drugs illicitly;

(b) Persons who instigate the consumption of drugs by demonstrating their use or giving them away for purposes of illicit traffic;

(c) Persons who, having access to any drug by reason of their occupation or employment, take or dispose of it without authorization;

(d) Persons who illicitly distribute drugs in small quantities, direct to individual consumers;

(e) Persons who are in possession of drugs without authorization, except in doses for their own immediate consumption. This exemption shall require a forensic medical report; and

(f) Persons who administer drugs without medical reasons.

Article 59. A sentence of imprisonment for four to 15 years shall be imposed on any doctor or dentist who, without justification, prescribes or administers medicaments containing drugs listed in Schedules I and II A annexed to this Legislative Decree.

Article 60. A sentence of imprisonment for not less than two years and not more than five years shall be imposed on:

(a) Farmers and the legal representatives of Group Production Enterprises, who cultivate coca leaf without being registered in the appropriate Register of Producers or who, being registered, cultivate areas larger than those registered or authorized;

(b) Persons who give coca leaves in full or partial payment for personal services;

(c) Owners, lessees, managers, superintendents or persons in any way responsible, who allow drugs to be distributed or consumed on the premises or farm of which they are in charge; and

(d) Persons who sell coca leaves in unauthorized areas or in authorized areas without a licence from ENACO.

Article 61. Every conviction shall entail the additional penalties of a fine and disqualification from exercising a profession or engaging in industry or trade. The fine shall be not less than 30 times the minimum basic wage in the Province of Lima for the most highly paid economic activity, and not more than six months' gross income of the convicted person. The disqualification shall apply throughout the period of the sentence, plus a minimum of five years after its completion.

Article 62. The benefit provided for in article 102 of the Penal Code does not apply to accomplices in the offence of illicit traffic in drugs.

Article 63. Aliens who have served their sentence shall be deported from Peru and not permitted to return.

Article 64. Provisional liberty, conditional release, commutation, conditional sentence or remission shall not be granted to persons who are being prosecuted or have been sentenced, as the case may be, for the offence of illicit traffic in drugs.

Article 65. A person convicted abroad for a similar offence shall be treated as a recidivist.

## CHAPTER VI

### CONFISCATIONS AND SEIZURES

Article 66. Drugs, supplies, factories, laboratories, stills, implements and other equipment used for the illicit production and manufacture of drugs shall be confiscated.

Crops shall be destroyed in the presence of the examining judge, a representative of the Ministry of Food and Agriculture and a representative of the Peruvian Investigation Police, and a record of the proceedings shall be made.

Cultivated land shall be confiscated and assigned to the Directorate General of Agrarian Reform and Rural Settlement for subsequent allocation to landless peasants; buildings used as factories, stores or sales premises shall also be confiscated, as well as vehicles used to distribute or carry drugs, if they belong to those who committed the offence or to their accomplices or abettors, or to persons who knew of the offence, but did not report it immediately.

Money used or obtained in committing an illicit traffic offence subject to prosecution shall also be confiscated and shall be deposited at the National Bank, to be paid into the Public Treasury.

Article 67. Drugs which have been confiscated shall be stored in special premises, in the custody of the Ministry of the Interior, which shall be responsible for them.

Article 68. Confiscated drugs which are not saleable shall be destroyed publicly in the presence of a Commission headed by the Minister of the Interior and comprising a representative of the Supreme Court, the Chief of the Peruvian Investigation Police and a public notary, who shall make a record of the proceedings. The drugs shall be analysed and weighed immediately before destruction by one qualified chemist from the Peruvian Investigation Police and one from the Ministry of Health, both of whom, and the notary, shall be designated in rotation.

Article 69. Other property confiscated or seized shall be administered or used for official purposes by public departments, pending a sentence ordering its definitive confiscation or an acquittal ordering it to be returned to the owner, in which case equitable compensation shall be paid for its use.

Article 70. Goods which have been definitively seized or confiscated shall be assigned to the State and allocated for use to whatever public bodies may be chosen. Goods which cannot be so used shall be sold at public auction and the proceeds shall be paid into the Public Treasury.

## CHAPTER VII

### SPECIAL RULES OF PROCEDURE

Article 71. In investigations of the offence to which this Legislative Decree relates, the Peruvian Investigation Police may adopt the following measures:

(a) Place traffickers, accomplices or abettors in preventive detention for a period of not more than 15 days, with the knowledge of the examining judge;

(b) Enter or raid and search places reported to be stores, factories or centres for the clandestine sale of drugs;

(c) Inspect laboratories, pharmacies and drugstores, with the participation of an official of the Ministry of Health;

(d) Restrict or prevent the entry into, transit through, or exit from Peru, of persons engaged or suspected of being engaged in illicit traffic; and

(e) Transfer persons implicated in the offence from one place to another, with the knowledge of the examining judge, when this is necessary for the success of the investigation. Habeas corpus shall not be granted in regard to the measures enumerated above or others connected with the investigation.

Article 72. If the Peruvian Investigation Police finds persons under 18 years of age involved in illicit traffic, it shall place them at the disposal of the judge of the juvenile court within 24 hours.

Article 73. The Peruvian Investigation Police, on initiating inquiries into the illicit traffic in drugs, may request the examining judge to order appropriate precautionary measures relating to the movable or immovable property of the person under investigation, even before the warrant for the investigation is issued.

Article 74. An order for release granted by the examining judge in accordance with article 83 of the Code of Criminal Procedure, may be appealed against by the State Counsel and/or the Attorney General of the Republic. The release order shall not take effect until it has been approved by the Correctional Court.

#### CHAPTER VIII

##### ADMINISTRATIVE OFFENCES

Article 75. Persons who contravene the provisions of articles 43 to 45 and articles 47 to 53 of this Legislative Decree shall be liable to a fine of not less than twice and not more than twenty times the minimum basic wage in the Province of Lima for the most highly paid economic activity, and to closure of the establishment, where appropriate.

Recidivists shall be regarded as having committed the illicit drug traffic offence listed in article 57 (e), without prejudice to the corresponding fine.

Article 76. The legal representatives or agents of juridical persons committing any of these offences shall be jointly liable with such persons for payment of any fine imposed.

#### CHAPTER IX

##### ADMINISTRATIVE ORGANS

Article 77. The duties of the Interdepartmental Committee for Drug Control referred to in article 3 of this Legislative Decree shall be:

(a) To approve the policies proposed by the Executive Office or establish those it deems appropriate;

(b) To issue any additional rules required for better enforcement of the law, especially those for determining the areas for gradual reduction of the cultivation and sale of coca;

(c) To order the action to be taken by the Executive Office and recommend any action necessary for interdepartmental controls;

(d) To propose measures for achieving the objects of the law; and

(e) To designate the body to represent Peru at international events connected with its special field.

Article 78. An Executive Office for Drug Control is hereby established within the Ministry of the Interior as a co-ordinating body under the direct and exclusive authority of the Ministry of the Interior.

Article 79. The Executive Office, on the basis of the policies approved by the Committee and the provisions of this Legislative Decree, shall be responsible for:

(a) Planning, regulating, co-ordinating and controlling the activities required at the national level to achieve the objects of this Legislative Decree;

(b) Communicating the decisions of the Interdepartmental Committee to the administrative departments, for execution and enforcement;

(c) Supervising programmed activities;

(d) Receiving, registering and allocating property and technical or financial resources donated for use in achieving the objects of this Legislative Decree, and arranging for the use of property which has been confiscated or seized;

(e) Promoting international co-operation to combat the illicit traffic in drugs and drug abuse; and

(f) Maintaining relations with international organizations and organizations with which agreements have been signed and/or similar entities.

Article 80. The Executive Office for Drug Control shall be staffed by one official from each administrative department whose participation is necessary for the implementation of this Legislative Decree; the officials shall be appointed by decision of the Ministry concerned and seconded to the Ministry of the Interior.

In view of the function of supervision and control assigned to the Executive Office, staff members of bodies responsible for the prevention and punishment of the offence of illicit traffic in drugs shall be barred from employment by that Office.

Article 81. The Attorney General of the Republic appointed by the State Judicial Defence Council, and the Prosecuting Counsel of the High Court of Lima appointed by the plenary Court, shall also be members of the Executive Office. These officers of the law have special authority to supervise and check police and administrative investigations carried out in Lima and Callao in connexion with illicit drug traffic offences and are responsible for reporting any irregularities that come to their notice.

Article 82. In the provinces, the special function of supervising and checking police and administrative investigations shall be carried out by District Attorneys and State Counsel appointed by the competent High Courts of Justice.

Article 83. According to the Basic Law on the Peruvian Investigation Police - Legislative Decree 18071 - the function of this force is to investigate and report offences. Consequently, police, civil and military authorities which learn of any criminal or administrative offence covered by this Legislative Decree are responsible for reporting it within the time allowed for the distance, to the nearest post of the Peruvian Investigation Police, which shall immediately make an investigation and place the offenders at the disposal of the competent authority.

Article 84. Criminal acts punishable under this Legislative Decree which are committed in parts of the country where there is no station or post of the Peruvian Investigation Police, shall be investigated and reported by the Civil Guard, always provided that they are not connected with offences already under investigation by the Peruvian Investigation Police.

Article 85. The public and private sectors are required to provide all kinds of information, technical co-operation and facilities requested by the administrative organizations established by this Legislative Decree or requested by the police forces in the performance of their duties.

#### ADDITIONAL PROVISIONS

Article 86. The inclusion of a new substance or the removal of any of the substances listed in the annexed schedules may be effected by a Supreme Decision signed by the Minister of Health.

Article 87. All matters relating to offences and sentences or judicial proceedings, which are not covered by this Legislative Decree, shall be governed by the rules of the Penal Code or the Code of Criminal Procedure, as appropriate.

Article 88. Within 90 days from the entry into force of this Legislative Decree, the National Coca Enterprise shall be transferred from the Department of Industry, Trade, Tourism and Integration to the Department of Food and Agriculture; the transfer shall include the staff, assets and liabilities of the Enterprise.

#### DEFINITION OF TERMS

Article 89. For the purposes of this Legislative Decree:

- (1) "Opium poppy" means the plant of the genus *Papaver*;
- (2) "Administer" means the act of applying, injecting or giving a drug or causing it to be taken;
- (3) "Hallucinogens", "psychoactive drugs" or "psychodysleptic drugs" mean natural or synthetic substances which produce distortions of time or space, kaleidoscopic visions, hallucinations and split personality, and can produce dependence;
- (4) "Coca bush" means the plant of the genus *Erythroxylon* and species and varieties thereof;
- (5) "Cannabis" or "marijuana" means *Cannabis sativa* L, a dioecious plant containing psychoactive principles;

(6) "Cocaine" means alkaloids extracted from the leaves of the coca bush or prepared by synthesis from ecgonine, and all forms and derivatives thereof capable of producing dependence;

(7) "Trading" means the act of storing, keeping, offering, issuing, selling, distributing, dispatching, transporting, importing, exporting, sending in transit or engaging in any other illicit activities relating to drugs;

(8) "Cultivation" means the act of sowing, planting, harvesting and/or gathering plants containing controlled substances;

(9) "Dependence", "drug addiction" or "drug dependence" means the state of periodic or chronic intoxication caused by repeated consumption of a drug, or the mental or sometimes physical state caused by the interaction between a living organism and a drug, characterized by:

- An uncontrollable urge to take the drug continually or periodically and to obtain it by any means whatever;
- A tendency progressively to increase the amount of the drug taken;
- A mental or psychological and sometimes physical state induced by the effect of the drug.

(10) "Physical dependence" means the state in which the organism adapts itself to the drug and, if administration of the drug is suspended or its action is altered by administering a specific antagonist, a withdrawn syndrome is induced;

(11) "Psychological dependence" means the state of satisfaction and the uncontrollable psychological urge which leads to taking a drug periodically or continually;

(12) "Individual dosage" or "small quantity" means the amount of a drug that a person may ingest daily by any means;

(13) "Drug" means any natural or synthetic substance which, on being administered to the organism, alters the state of mind, perception or behaviour, causing physical or psychological changes, and is liable to produce dependence; this term covers the substances listed in the annexed schedules; for the purpose of the criminal law, only Schedules I and II A are to be taken into account;

(14) "Drug addict" or "drug-dependent person" means any person dependent on drugs or any person who constantly abuses them;

(15) "Manufacture" means the act of preparing, manufacturing, making up, converting or processing any controlled substance, whether by extraction of substances of natural origin or by chemical synthesis;

(16) "Control" means action by the State to control, in accordance with medical and scientific needs, the cultivation, manufacture, sale and possession of drugs, with the object of preserving health;

(17) "Instigation" means any action to incite, provoke or induce, promote, favour or facilitate the consumption of drugs;

(18) "Medicament" means preparations containing drugs used for therapeutic purposes;

(19) "Opium" means spontaneously coagulated latex obtained from capsules of the plant of the genus *Papaver*;

(20) "Rehabilitation" means action taken to readapt persons addicted to drugs to the physical, mental and social environment;

(21) "Withdrawal syndrome" means all the symptoms consisting in intense physical disturbances caused in the organism by interrupting the administration of a drug;

(22) "Illicit traffic" means any fraudulent act or omission characterized as such in this Legislative Decree;

(23) "Abuse" means the act of taking drugs for purposes other than those of medicine or scientific research.

#### TRANSITIONAL PROVISIONS

First. Farmers who, on the date of entry into force of this Legislative Decree, are engaged in the cultivation of coca, are required to have themselves entered on the ENACO Register of Producers within 90 days reckoned from the entry into force of this Legislative Decree. Failure to do so shall render them guilty of the offence punishable under article 60 (a).

Second. Until the National Coca Enterprise (ENACO) has the means to perform the functions assigned to it by this Legislative Decree, it shall control and regulate the harvesting, drying and transport of coca for distribution, so as to ensure that the crop is not diverted for illicit purposes. It shall also determine each year the farmers who shall be required to sell the whole of their crop to ENACO, in accordance with the regulations established by the Interdepartmental Committee for Drug Control.

In areas where the sale of coca leaves is not prohibited, ENACO shall issue licences authorizing this activity to qualified natural or juridical persons.

Third. Until the State has the necessary infrastructure to operate its monopoly of the drugs listed in the schedules referred to in article 14 of this Legislative Decree, the private sector shall import, under control, the drugs included in Schedules III and IV B. The State shall, by Supreme Decree, gradually take over responsibility for these drugs.

Fourth. Medicaments containing drugs listed in Schedule III shall not come under the State monopoly and may be sold to the public on an ordinary medical prescription until the competent bodies acquire the most suitable infrastructure, which shall be determined by Supreme Decree.

Fifth. The competent administrative departments are hereby authorized to make the necessary arrangements to adapt their departmental objectives to the rules laid down in this Legislative Decree.

Sixth. Until the State has the special hospital facilities contemplated in chapter III and until they are endowed, the competent authority shall make full provision for the compulsory treatment of drug addicts who have the necessary financial resources in establishments which provide specialized medical care.

The Ministry of Health shall, through the Prime Minister, notify the judiciary of the opening date and place of operation of each new State Rehabilitation Centre for drug addicts.

Seventh. Owners of farms covered by article 35 of this Legislative Decree who provide convincing evidence that it is impossible, for agricultural and economic reasons, to replace their coca crops within the time-limits prescribed by law, shall, as an exception and once only, be granted an additional period not exceeding the prescribed period, by a Supreme Decision approved by the Minister of Food and Agriculture.

Eighth. In the case of farms situated in areas not authorized by Supreme Decree No. 254-64-DGS of 11 December 1964, the time-limits for the eradication and replacement of coca crops referred to in article 35, shall be one year for farms of over 10 hectares and two years for farms of five to ten hectares.

In the case of the farms referred to in article 36, the eradication or replacement of coca crops shall be given priority in areas not authorized by the above-mentioned Supreme Decree.

Ninth. The application of this Legislative Decree shall not give rise to applications for additional funds from the General Budget of the Republic for 1978.

#### FINAL CLAUSE

Law 11005, Legislative Decree 19505 and all provisions in conflict with this Legislative Decree are hereby repealed.

Done at Government House, Lima, this twenty-first day of February one thousand nine hundred and seventy-eight.

Major-General of the Peruvian Army FRANCISCO MORALES BERMUDEZ CERRUTTI, President of the Republic.



ANNEX

LIST OF DRUGS SUBJECT TO CONTROL

SCHEDULE I

A

1. CANNABIS
2. Concentrate of poppy straw
3. Various plant extracts open to abuse
4. HEROIN
5. OXYCODONE \*

B

1. DET
2. DMHP
3. DMT
4. (+) - LYSERGIDE
5. MESCALINE
6. PARAHEXYL
7. PSILOCINE, PSILOTSIN
8. PSILOCYBINE
9. STP, DOM
10. TETRAHYDROCANNABINOLS

SCHEDULE II

A

1. COCAINE
2. DEXTROMORAMIDE
3. FENTANYL
4. METHADONE
5. MORPHINE
6. OPIUM
7. PETHIDINE, MEPERIDIN

B

1. CODEINE
2. DIHYDROCODEINE
3. HYDROCODONE
4. ETHYLMORPHINE
5. PHOLCODINE
6. PROPIRAM
7. DIFENOXIN
8. DIPHENOXYLATE

Schedule II also includes any isomers, esters or ethers of the substances listed and any salts of such isomers, esters or ethers.

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\* The International Nonproprietary Names (INN) selected by the World Health Organization (WHO) are underlined. Other nonproprietary or trivial names (not underlined) are given only when WHO has not yet selected any INN, or given in addition to the INN as an aid for reference.

SCHEDULE III

A

1. AMPHETAMINE
2. DEXAMPHETAMINE
3. METHYLPHENIDATE
4. PHENCYCLIDINE
5. PHENMETRAZINE
6. METHAMPHETAMINE

B

1. AMOBARBITAL
2. CYCLOBARBITAL
3. GLUTETHIMIDE
4. PENTOBARBITAL
5. SECOBARBITAL

C

1. AMFEPRAMONE, DIETHYLPROPION
2. BARBITAL
3. ETHCHLORVYNOL
4. ETHINAMATE
5. MEPROBAMATE
6. METHAQUALONE
7. METHYLPHENOBARBITAL
8. METHYPRYLON
9. PHENOBARBITAL
10. PIPRADROL
11. LEFETAMINE SPA

SCHEDULE IV

A

Preparations of:

1. CODEINE
2. DIHYDROCODEINE
3. HYDROCODONE
4. ETHYLMORPHINE
5. PHOLCODINE  
in mixtures containing not more than 100 milligrams of the drug  
per dosage unit
6. PROPIRAM: preparations containing not more than 100 milligrams  
per dosage unit with methylcellulose
7. COCAINE: preparations containing not more than 0.1 per cent  
per dosage unit
8. DIFENOXIN: preparations containing not more than 0.5 milligrams  
per dosage unit
9. DIPHENOXYLATE: preparations containing not more than 2.5 milligrams  
per dosage unit

SCHEDULE IV (continued)

A

10. Pulvis ipecacuanhae et opii compositus: mixture of 10 per cent powdered opium and 10 per cent powdered ipecacuanhae root with other ingredients containing no narcotic drug
11. Mixtures of preparations listed in this schedule or mixtures with another substance containing no narcotic drug

B

1. CHLORDIAZEPOXIDE
2. DIAZEPAM
3. OXAZEPAM
4. PENTAZOCINE
5. TILIDINE
6. FENPROPorex
7. MEFENOREX
8. PENTERMINE
9. AMITRIPTYLINE
10. IMIPRAMINE
11. TRIHXYPHENIDYL

and medicaments containing these drugs or chemical derivatives thereof and preparations of such chemical derivatives.

SCHEDULE V

1. ETORPHINE

SCHEDULE VI

1. NALORPHINE
2. LEVALLORPHAN
3. NALOXONE
4. CYCLAZOCINE
5. DIPRENORPHINE
6. APOMORPHINE