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ENGLISH AND SPANISH ONLY

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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 [...].

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PENALTIES APPLICABLE TO PERSONS INFRINGING THE PROVISIONS GOVERNING
THE ERADICATION AND REPLACEMENT OF COCA CROPS

DECREE LAW No. 22926

THE PRESIDENT OF THE REPUBLIC,

SINCE,

The Revolutionary Government has issued the following Decree Law:

THE REVOLUTIONARY GOVERNMENT,

CONSIDERING:

That when Decree Law 22095 1/ was issued the Directorate-General for Customs was part of the administrative structure of the Industry, Trade, Tourism and Integration Sector, but was subsequently relocated in the Economic Affairs and Finance Sector, and that the latter should therefore be incorporated in the Multisectoral Drugs Control Committee;

That the penalties of confiscation of land and destruction of crops should be extended to persons infringing the provisions regarding coca crop eradication and replacement and also that the upper limit on the fine needs to be removed because of the nature of the offence;

That the economic resources of the organisms responsible for achieving the objectives set out in Decree Law 22095 must be increased to ensure that these are realized as soon as possible;

Using the authority vested in it, and

With the approval of the Council of Ministers,

Has issued the following Decree Law:

Article 1. The Minister for Economic Affairs and Finance shall be a member of the Multisectoral Drugs Control Committee set up by article 3 of Decree Law 22095.

Article 2. The provisions of article 66, paragraph 2, of Decree Law 22095 shall also be deemed to apply to offenders under article 5, subparagraphs (a) and (b), of the said Decree Law.

Any person who fails to comply with the terms fixed by the Ministry for Agriculture and Food under article 36 of Decree Law 22095 shall also be liable to the penalties set out in article 66, paragraphs 2 and 3, of the said Decree Law.

Article 3. Article 37 of Decree Law 22095 shall be amended to read as follows:

1/ Note by the Secretariat: E/NL.1978/60

"Article 37. The Peruvian Civil Guard shall collaborate particularly in the application and supervision of the provisions regarding coca crop reduction and replacement and those relating to the cultivation of prohibited plant species and shall immediately hand over offenders to the Peruvian Investigating Police for legal proceedings."

Article 4. Article 61 of Decree Law 22095 shall be replaced by the following text:

"Article 61. Every conviction shall entail the subsidiary penalties of a fine and incapacitation to work in a profession and in industry and trade. The fine shall be at least equal to 30 times the minimum living wage for the Province of Lima for the most highly paid economic activity. The incapacitation shall last for at least the duration of the conviction plus five years."

Article 5. Article 66 of Decree Law 22095 shall be replaced by the following text:

"Article 66. Drugs, materials, factories, laboratories, stills, tools and equipment used in 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 Agriculture and Food and another representative of the Peruvian Investigating Police, and a record shall be drawn up. Also, the working equipment and other items directly used for illicit coca growing and exploitation shall be confiscated.

"In addition, the lands under cultivation shall be confiscated and handed over to the Directorate-General for Agrarian Reform and Rural Settlement for subsequent allocation to landless peasants; buildings used as factories, stores or retail points shall also be confiscated, as shall vehicles used to distribute or transport the drugs if belonging to the offenders, their accomplices or accessories after the fact or to any persons who, although aware of the offence, did not immediately report it.

"Money used or obtained in the commission of the offence of illicit trafficking under investigation shall also be confiscated and deposited in the Bank of the Nation for transfer to the Public Treasury."

Article 6. - Article 69 of Decree Law 22095 shall be replaced by the following text:

"Article 69. Other property confiscated during the police investigation and court proceedings shall be placed at the disposal of the Executive Office for Drugs Control, which shall allocate it for the official use of public departments in line with priorities set by the Multisectoral Drugs Control Committee. The official service shall be responsible for its use of such property.

"In the event of an acquittal by the court the property shall be returned to its owner and the user shall pay suitable compensation for its use."

Article 7. Article 70 of Decree Law 22095 shall be replaced by the following text:

"Article 70. Property permanently confiscated under a conclusive court decision shall be awarded to the State and registered at the Directorate-General for National Property of the Ministry of Housing and Construction for its continuing use in the public departments referred to in article 69 of this

Decree Law. Any property not used for this purpose shall be sold by public auction and the proceeds deposited with the Bank of the Nation for immediate transfer to the Public Treasury."

Article 8. The confiscated money referred to in the last paragraph of article 66 and arising under article 70 of Decree Law 22095 shall be deposited at the Bank of the Nation for immediate transfer to the Public Treasury for use entirely in implementation of the objectives of the said Decree Law, in line with the programming of the Multisectoral Drugs Control Committee, in co-ordination with the Ministry of Economic Affairs and Finance.

In the event of an acquittal by the court the money confiscated shall be returned.

Article 9. Any provisions contrary to this Decree Law are revoked.

Given at Government House, Lima, on 4 March 1980.

Divisional General, PA, FRANCISCO MORALES BERMUDEZ CERRUTTI, President of the Republic;

Divisional General, PA, PEDRO RICHTER PRADA, Chairman of the Council of Ministers and Minister of War;

Lieutenant-General, PAF, LUIS ARIAS GRAZIANI, Minister of Aviation;

Vice-Admiral, PN, JUAN EGUSQUIZA BABILONIA, Minister of the Navy;

Ambassador ARTURO GARCIA Y GARCIA, Minister for Foreign Affairs;

Dr. JAVIER SILVA RUETE, Minister of Economic Affairs and Finance;

Divisional General, PA, JOSE GUABLOCHE RODRIGUEZ, Minister of Education;

Vice-Admiral, PN, JORGE DU BOIS GERVASI, Minister of Industry, Trade, Tourism and Integration;

Divisional General, PA, RENE BALAREZO VALLEBUONA, Minister of Energy and Mines;

Divisional General, PA, JOSE SORIANO MORGAN, Minister of Transport and Communications;

Lieutenant-General, PAF, EDUARDO RIVASPLATA HURTADO, Minister of Health;

Lieutenant-General, PAF, JAVIER ELIAS VARGAS, Minister of Labour;

Brigadier-General, PA, CESAR ROSAS CRESTO, Minister of Housing and Construction;

Rear Admiral, PN, JORGE VILLALOBOS URQUIAGA, Minister of Fisheries;

Brigadier-General, PA, FERNANDO VELIT SABATTINI, Minister of the Interior;

Brigadier-General, PA, CARLOS GAMARRA PEREZ EGAÑA, Minister of Agriculture and Food.

THEREFORE:

I order that it be published and implemented.

Lima, 4 March 1980.

Divisional General, PA, FRANCISCO MORALES BERMUDEZ CERRUTTI

Divisional General, PA, PEDRO RICHTER PRADA

Lieutenant-General, PAF, LUIS ARIAS GRAZIANI

Vice-Admiral, PN, JUAN EGUSQUIZA BABILONIA

Brigadier-General, PA, FERNANDO VELIT SABATINI

E/NL.1980/89

EMERGENCY ACTION FOR THE CONTROL OF COCA CROP IN THE DEPARTMENTS OF
HUANUCO, LORETO, SAN MARTIN AND THE PROVINCE OF CORONEL PORTILLO

DECREE LAW NO. 22927

THE PRESIDENT OF THE REPUBLIC

SINCE:

The Revolutionary Government has issued the following Decree Law:

THE REVOLUTIONARY GOVERNMENT,

CONSIDERING:

That Peru has signed the Single Convention on Narcotic Drugs, 1961, and undertaken to control coca growing and to eradicate illicit plantations;

That the comprehensive regulation of drugs control was approved by Decree Law 22095, ¹/which sets out strict rules for eradicating or replacing coca growing in accordance with the area and nature of soils and makes it compulsory for those in charge of estates to register in the Register of the National Coca Enterprise (ENACO) within 90 days from the entry into force of the said Decree Law;

That notwithstanding the provisions set out, illicit coca growing has increased in various parts of the country on land formerly used either for industrial purposes or for cereal crop growing, to the detriment of the physical, mental and spiritual health of children and young people, so that the State must as a priority take emergency action for progressively eradicating such growing;

That since the coca production in the Departments of Huánuco and San Martín and the Province of Coronel Portillo of the Department of Loreto is mainly used for illicit purposes although the nature of the land and the matching infrastructure make the land suitable for cereal cultivation and/or industrial use, the emergency action referred to must be started in that zone;

¹/ Note by the Secretariat: E/NL.1978/60.

In compliance with the request of the Multisectoral Drugs Control Committee;

Using the powers vested in it; and

With the approval of the Council of Ministers,

has issued the following Decree Law:

Article 1. A state of emergency is declared in the Departments of Huánuco, and San Martín, and the Province of Coronel Portillo of the Department of Loreto, solely for the purposes of coca crop control, immediate destruction of illicit crops and simultaneous confiscation of the land and for the arrest and prosecution of the perpetrators of the offence of illicit drug trafficking. This state of emergency can be extended to another region of the country by a Supreme Decree countersigned by the Minister of the Interior.

Article 2. The Ministry of the Interior shall be responsible for planning, organizing and carrying out operations to achieve the purposes specified in article 1 and shall accordingly co-ordinate with the judicial authorities and the Ministry of Agriculture and Food, and request the support of the armed forces and any other public sector bodies, as required.

Article 3. The term "illicit crops" shall be deemed to denote the following:

- (a) Crops not registered in accordance with the first transitional provision of Decree Law 22095 and the supplementary Decree Law 22203;
- (b) Crops larger than registered or authorized;
- (c) Crops comprising plants or new plantings in breach of article 31 of Decree Law 22095, and
- (d) Crops which should have been replaced or eradicated within two years from 21 February 1980 in accordance with article 35, sub-paragraph (a), of Decree Law 22095.

Article 4. The functions of each operation shall be assumed by those concerned in it, with a view to functional independence, as follows:

- (a) Technical staff of the Ministry of Agriculture and Food and representatives of ENACO shall identify the areas of illicit growing;
- (b) The police shall proceed with the immediate destruction of the crops, arrest and charging of offenders and confiscation of the property;
- (c) The Special Examining Judge referred to in article 5 hereof shall investigate and order any necessary security measures; and
- (d) The representative of the Peruvian Public Prosecutor responsible for proceedings relating to illicit drugs trafficking shall supervise and control investigations and shall appear in person at the corresponding court proceedings in conformity with article 81 of Decree Law 22095.

Article 5. The Supreme Court of Justice of the Republic shall appoint the number of special examining judges at the request of the Ministry of the Interior and they shall have the powers set out in the Penal Procedures Code, the powers set out in Decree Law 22095 and the special powers relating to the application of this type of procedure.

The special judges shall hear only cases coming under the application of the present Decree Law and may appoint prosecuting agents in any areas where there is no representative of the Office of the Public Prosecutor.

The special judges may also assume jurisdiction in any part of the national territory declared an emergency zone.

Article 6. The examination shall be deemed to be concluded when the judge has accumulated sufficient information under article 72 of the Penal Procedures Code, but shall in no case exceed 30 days, at the judge's responsibility.

When the case comes before the competent Correctional Court, it shall be heard in a period of 30 days, in accordance with the provisions of the Penal Procedures Code. The court's decision shall be non-appealable.

Article 7. Cases begun during the state of emergency shall continue to be heard in accordance with the present Decree Law until the state of emergency is ended by an agreed resolution or by an executive resolution.

Article 8. Crop land confiscated shall be transferred to the Directorate-General for Agrarian Reform and Rural Settlement for immediate award to landless peasants. The other properties confiscated shall be placed at the disposal of the Directorate-General for National Property of the Ministry of Housing and Construction for immediate sale at public auction, the proceeds to be deposited in the Bank of the Nation for transfer to the Public Treasury.

In the event of an acquittal the defendant shall be paid the amount of the highest bid at the auction or the estimated value of the land, as the case may be.

Article 9. The owners of estates infringing article 36 of Decree Law 22095 and situated in the emergency area referred to in article 8 shall eradicate and replace existing coca plantations within one year from the time of entry into force of this Decree Law. At the end of the year the offenders shall be liable to the relevant penalties.

Article 10. A Special Fund of not less than 500 million soles shall be set up in the Agrarian Bank using the resources indicated in article 8 of Decree Law 22926, 2/ for the granting of agricultural and/or livestock loans exclusively in favour of new holders or awardees so as to induce them to sow different species of plants or breed livestock on land from which coca has been eradicated.

Article 11. The Ministries of Agriculture and Food, of Health, of Education, of Transport and Communication and any others required by the Multisectoral Drugs Control Committee shall implement special development plans for the area mentioned in article 1, which will above all promote the use of labour, broaden the agricultural frontier and help to make products readily accessible to centres of consumption.

Financing of the works shall be co-ordinated by the Executive Office for Drugs Control.

Article 12. The costs of applying this Decree Law shall be defrayed immediately from existing funds held by the Bank of the Nation in conformity with Decree Law 22095 and any others arising from implementation of the international treaties.

Article 13. Any provisions contrary to this Decree Law are suspended.

Given at Government House in Lima, on 4 March 1980.

Divisional General, PA, FRANCISCO MORALES BERMUDEZ CERRUTTI, President of the Republic;

Divisional General, PA, PEDRO RICHTER PRADA, Chairman of the Council of Ministers and Minister of War;

Lieutenant-General, PAF, LUIS ARIAS GRAZIANI, Minister of Aviation;

Vice-Admiral, PN, JUAN EGUSQUIZA BABILONIA, Minister of the Navy;

Ambassador ARTURO GARCIA Y GARCIA, Minister for Foreign Affairs;

Dr. JAVIER SILVA RUETE, Minister of Economic Affairs and Finance;

Divisional General, PA, JOSE GUABLOCHE RODRIGUEZ, Minister of Education;

Vice-Admiral, PN, JORGE DU BOIS GERVASI, Minister of Industry, Trade, Tourism and Integration;

Divisional General, PA, RENE BALAREZO VALLEBUONA, Minister of Energy and Mines;

Divisional General, PA, JOSE SORIANO MORGAN, Minister of Transport and Communications;

Lieutenant-General, PAF, EDUARDO RIVASPLATA HURTADO, Minister of Health;

Lieutenant-General, PAF, JAVIER ELIAS VARGAS, Minister of Labour;

Brigadier-General, PA, CESAR ROSAS CRESTO, Minister of Housing and Construction;

Rear-Admiral, PN, JORGE VILLALOBOS URQUIAGA, Minister of Fisheries;

Brigadier-General, PA, FERNANDO VELIT SABATTINI, Minister of the Interior;

Brigadier-General, PA, CARLOS GAMARRA PEREZ EGANA, Minister of Agriculture and Food.

THEREFORE:

I order that it be published and implemented.

Lima, 4 March 1980.

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