

No. 1255

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Peru and has the honor to inform the Ministry that as evidence of bilateral cooperation between the Government of the Republic of Peru and the United States Government, the United States Congress has approved legislation, specifically Section 1033 of the 1998 National Defense Authorization Act (Public Law 105-85), hereinafter called "the Law," which permits the Department of Defense of the United States to provide additional support for counter-drug activities of Peru. Furthermore, the Embassy of the United States has the honor to propose that this note, together with the Ministry's reply, shall constitute an annex to the 1996 Operating Agreement for the Project for Control of Narcotics, as amended by Section 1022 of the 2008 National Defense Authorization Act (Public Law 109-364), to provide equipment and material for counter-narcotics purposes.

The 2004 National Defense Authorization Act (Public Law 108-136) significantly expanded the scope of "the Law" aid to a more general purpose counter-narcotics assistance program in which Peru was included. Section 1022 of the 2008 National Defense Authorization Act extended Peru's authority to receive aid through 2009. Under "the Law," the Congress of the United States authorizes the Secretary of Defense to provide counter-narcotics support to the Peruvian Armed Forces and Peruvian National Police in order to assist them with the acquisition of equipment to actively

support counter-narcotics activities. "The Law" also requires the Secretary of Defense to certify annually, in writing, to the Congress of United States, that this Department of Defense support conforms with the requirements of "the Law."

Therefore, the Embassy of the United States of America has the honor to propose that our Governments agree that the following provisions apply with regard to any equipment and materiel transferred by the Government of the United States of America to the Government of Peru for counter-narcotics activities during fiscal year 2009 pursuant to "the Law" which states:

A. The equipment and materiel provided by the United States to support the Government of Peru's counter-narcotics effort will be used only by officials and employees of the Government of Peru who have undergone background investigations by the Government of Peru, and who have been approved by the Government of Peru to perform counter-narcotics activities;

B. None of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States Government to receive the equipment or materiel;

C. The equipment and materiel will be used for the purposes intended by the United States Government as coordinated with the Government of Peru;

D. The Government of Peru, through the Peruvian Armed Forces and the Peruvian National Police, and the United States Government, will

implement, by mutual agreement, a system that provides an accounting and inventory of the equipment and materiel provided as support;

E. The Government of Peru, through its ministries and agencies, will grant the United States Government access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment and materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under Section 505(a) (3) of the Foreign Assistance Act of 1961 (22 U.S.C.2314 (a) (3));

F. The Government of Peru will secure the equipment and materiel provided at the same level of preservation and security that the United States Government would provide with respect to such equipment and materiel; and,

G. The Government of Peru will permit requested observation and review by United States Government personnel of the use of the equipment and materiel provided as support for its entire lifecycle under terms and conditions similar to the terms and conditions set forth to such observation and review under Section 505(a) (3) of the Foreign Assistance Act of 1961 (22 U.S.C.2314 (a) (3)).

If the Government of Peru agrees with the conditions set forth above, the Embassy of the United States of America proposes that this note, together with the Ministry's reply stating that the foregoing is acceptable to the Government of Peru, shall constitute an agreement between the two Governments, effective upon the date of the Ministry's reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Relations assurance of its highest consideration.



Embassy of the United States of America,  
Lima, October 1, 2008.



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**Translation**

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Note RE (SME-DCD) No. 6-3/352

The Ministry of Foreign Relations, Undersecretary for Multilateral Affairs, has the honor to write the Embassy of the United State of America in response to the October 1, 2008 Note No. 1255, regarding bilateral cooperation in the war on drugs according to the United States Department of Defense Counter-Drug Assistance Program. The text of the Note reads as follows:

[The Spanish translation of Embassy note No. 1255 of Oct 1, 2008, agrees in all substantive respects with the original English text.]

In this regard, the Minister of Foreign Relations, Undersecretary for Multilateral Affairs, after having conducted the appropriate internal reviews, has the honor of informing the Embassy that it finds the terms proposed in the Embassy's above-cited Note acceptable to assist the Peruvian Government's anti-drug trafficking efforts, recognizing that said terms are subject to the national laws in force. Also, the observation and review referred to in provision "G" will be carried in close collaboration with the Peruvian Armed Forces and Peruvian National Police, based on the Operations Manual that will be created and approved in a joint effort.

[Complimentary close]

Lima, December 03, 2008

[Initialed]

[Ministry stamp]

Embassy of the United States of America,  
Lima, Peru.