

August 28, 2015

RE: Credit Rating for Peruvian Sovereign Bonds (“Bonos Soberanos”)

**Executive Summary:**

This letter is in response to your request for ratings from Egan-Jones Ratings Co. (“Egan-Jones”) on the Peruvian Sovereign Bonds (the “Bonds” or “Bonos Soberanos”) listed below and described more completely in Appendix I. The Bonds were issued between 2004 and 2014 by the Republic of Peru’s (“Peru”). The Bonds are currently paying but other bonds of Peru are not, as described more completely in “Willingness to Pay” section below. Our concern is that while Peru currently has the ability to pay the Bonds, it has been lacking in its willingness to pay and at least in Egan-Jones’ opinion, a willingness to act in an even-handed manner with its creditors. In addition, since the governing law of the Bonds is Peruvian law and any legal proceeding between holders of the Bonds (“Bondholders”) and the issuer, Peru, will be adjudicated in Peruvian courts, there is significant uncertainty regarding the ability of Bondholders to adequately enforce their rights to payment if Peru elects not to pay the Bonds in accordance with their stated terms.

Based on our view of the information described below, and subject to the qualifications listed below, we are assigning a rating of “BB-” to the Bonds with a developing watch<sup>1</sup>. *Note, Egan-Jones is not an NRSRO (as defined by the Securities and Exchange Commission of the U.S.) for the purposes of sovereign and municipal issuers.*

**Rating Rationale:**

Assigning an appropriate rating to the Bonds rests on several factors:

- the underlying credit quality of Peru,
- Peru’s willingness to pay,
- Peru’s willingness to act in an even-handed manner with creditors, and
- the governing law and jurisdiction of the Bonds.

**Credit Quality of Peru:**

As indicated in Appendix I, the Bonds were issued by Peru, the credit quality of which we view as fairly high. Peru’s macroeconomic data come from the Multiannual Macroeconomic Framework 2014-2016 published by Peru’s Ministry of Economy and Finance in 2013 (See Appendix VI). Peru’s credit ratios are in the top range of the

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<sup>1</sup> According to Egan-Jones methodology, Egan-Jones derives its “watch” assignments from the differences between current and projected ratings. The absence of a projected rating is denoted by a “developing” watch.

rating table, which indicates its strong credit quality.

Peru ratios	2011	2012	2013	2014	2015f
Total Debt/GDP (%) <sup>2</sup>	21.3	19.7	18.5	17.5	16.7
Interest Expense/ Taxes (%)	7.5	6.6	6.1	5.8	5.3
Nominal GDP Growth (%)		8.0	7.6	8.8	8.4

Indicative Credit Ratios	AA	A	BBB	BB	B	CCC
Total Debt/ GDP (%)	45	55	75	85	95	145
Interest Expense/ Taxes (%)	7	9	12	15	22	26
Nominal GDP Growth (%)	4	3	2	1	-1	-5

**Willingness to Pay and Act in Even-Handed Manner; Governing Law & Jurisdiction of the Bonds:**

While Peru has a relatively strong ability to pay, its willingness to pay is lacking. More specifically, Peruvian Land Reform Bonds (the “Land Reform Bonds”) were issued between 1969 and 1982 under the Republic of Peru’s (“Peru”) New Agrarian Reform Decree Law No. 17716 (See Appendix III). The Land Reform Bonds were issued to compensate, albeit at a discount, landholders who had been expropriated as part of Peru's agrarian reform policy. The bonds were denominated in Soles Oro, Peru's currency at the time, which has since been replaced first by the Inti in 1985 and then by the Nuevo Sol in 1991. The Land Reform Bonds remain unpaid and are experiencing current and ongoing default. Successive Peruvian governments have made efforts to avoid this obligation. Although in January 2014, the Ministry of Economy and Finance (“MEF”) issued the valuation formulas through Supreme Decrees 017-2014-EF and 019-2014-EF in order to update outstanding principal value of the Land Reform Bonds, the MEF’s formulas appear to eliminate nearly the entire amount owed under the Land Reform Bonds.<sup>3</sup> Moreover, the MEF mentioned that it has to balance Peru’s fiscal

<sup>2</sup> Note: Total debt excludes any debt owed with respect to the Bonds as Peru does not report such debt.

<sup>3</sup> For example, Peru issued a 1,000,000 Soles Oro Class A Bond (Serial Number 12997) on August 24, 1970 with a 6% stated interest rate and 20 year maturity. Under the traditional CPI methodology used throughout Peru, the amount owed under this Bond would be 16,041,031 Nuevo Soles as of April 30, 2015. However, under the MEF’s formulas, the amount owed under this Bond would only be 26,662 Nuevo Soles as of April 30, 2015 (approximately 0.17% of the amount owed under the CPI

ability and financial sustainability with the obligation to pay the Land Reform Bonds. (See Article 17 in Appendix IV.) The Guidelines also set out a “mandatory” procedure for bondholder claims. To initiate that administrative procedure, however, any bondholder that is a party to ongoing judicial proceedings seeking payment of the value of the Land Reform Bonds must first “abandon” with prejudice those proceedings and any rights to participate in any other legal proceedings in the future. Peru has restructured its sovereign debt several times in the past. But it has never asked creditors to waive their procedural rights just to reconcile the amount due. (See the first Additional Provisions in Appendix IV.)

In addition, Supreme Decree 017-2014-EF established a payment priority for holders of the Land Reform Bonds as follows: *first*, natural persons who are the original bondholders (or heirs) and are 65 years old or older; *second*, natural persons who are the original bondholders (or heirs) and are younger than 65 years old; *third*, natural persons who are not the original bondholders and are 65 years old or older; *fourth*, natural persons who are not the original bondholders and are younger than 65 years old; *fifth*, legal entities that are original bondholders; *sixth*, legal entities that are not original bondholders and who have acquired the Land Reform Bonds as payment obligations; and *seventh*, legal entities that are not original bondholders and acquired the debt for speculative purposes (see Appendix IV, Article 19). Such procedures do not treat all holders of Land Reform Bonds fairly and equitably.

The laws of Peru also apply to currently performing Bonos Soberanos issued by Peru and the MEF’s valuation formulas and payment priority rules were issued in accordance with the instructions of the Peruvian Constitutional Tribunal (the highest Constitutional Court in Peru). Therefore, it is entirely possible that the Supreme Decrees may serve as a precedent for Peruvian courts, applying the governing law of Peru, to (i) rule that Bondholders are not entitled to the full amount of interest and principal due on the Bonds, and (ii) subordinate the rights of certain Bondholders (e.g. financial institutions that purchased the bonds on the secondary market) to other creditors of Peru based on their status as a natural person or entity and as an original or secondary purchaser. The precedent being set at the highest levels of both the executive and judicial branches of the Peruvian government with respect to the Land Reform Bonds negatively impacts our view of the Bonos Soberanos and potentially other sovereign debt issued under Peruvian law.

**Nota Bene:**

According to EJR rating methodology, “Character - the integrity of management or in the case of sovereigns, leadership, structure, and policy” - is the first of the five key assessment criteria to evaluate credit quality. The creditors’ rights of Bonos Soberanos

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methodology).

are potentially truncated by the instructions of the Peruvian Constitutional Tribunal and the Supreme Decrees. We view the Peruvian government's poor character of fulfilling its obligations with respect to the Land Reform Bonds as a significant credit weakness, which drives our credit rating on the Bonos Soberanos rated herein.

**Conclusion:**

After considering the underlying credit quality of Peruvian government, the willingness to pay by the Peruvian government, its refusal to deal in an even-handed manner with its creditors and the lack of certainty regarding the ability of Bondholders to enforce their rights in Peruvian courts, our decision was to assign the ratings listed in the Executive Summary. Attached in the Appendices is additional information. We conclude that Peru has the ability but lacks the willingness to honor this and perhaps other debts in the future.

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**Listing of Appendices:**

- I. Peruvian Sovereign Bonds**
- II. Peruvian Land Reform Bonds**
- III. New Agrarian Reform Decree Law No. 17716**
- IV. SUPREME DECREE N° 017-2014-EF**
- V. Briefing by Agrarian Bondholders' Association to the Constitutional Tribunal**
- VI. Peru's Multiannual Macroeconomic Framework 2014-2016**

## Appendix I

### Peruvian Sovereign Bonds

<b>SOVEREIGN BONDS</b>	<b>Identifier</b>	<b>Ticker</b>	<b>Issue Date</b>	<b>Maturity Date</b>
Peru Government Bond	ED4248776	PERUGB	4/14/2004	4/14/2016
Peru Government Bond	ED4979255	PERUGB	6/8/2004	6/8/2016
Peru Government Bond	ED5393639	PERUGB	7/13/2004	7/13/2019
Peru Government Bond	ED6454448	PERUGB	10/13/2004	10/13/2024
Peru Government Bond	ED8027770	PERUGB	1/31/2005	1/31/2035
Peru Government Bond	EF0130734	PERUGB	7/8/2005	8/12/2017
Peru Government Bond	EF0252694	PERUGB	7/18/2005	8/12/2020
Peru Government Bond	EF3972553	PERUGB	5/3/2006	8/12/2026
Peru Government Bond	EF9307051	PERUGB	11/28/2006	8/12/2046
Peru Government Bond	EG6650006	PERUGB	7/26/2007	8/12/2037
Peru Government Bond	EH3330816	PERUGB	4/24/2008	8/12/2031
Peru Government Bond	EI1294947	PERUGB	1/27/2010	2/12/2042
Peru Government Bond	EJ2547119	PERUGB	6/22/2012	9/12/2023
Peru Government Bond	EJ6082030	PERUGB	1/4/2013	1/4/2026
Peru Government Bond	EJ7536562	PERUGB	7/10/2013	2/12/2018
Peru Government Bond	EJ7536760	PERUGB	7/10/2013	2/12/2029
Peru Government Bond	EK6432471	PERUGB	5/30/2014	5/30/2034
Peru Government Bond	EK3807386	PERUGB	7/9/2014	2/12/2055
Peru Government Bond	EK4508967	PERUGB	7/31/2014	2/12/2054
Peru Government Bond	EK4554466	PERUGB	8/15/2014	2/12/2040
Peru Government Bond	EK4554342	PERUGB	8/22/2014	2/12/2030
Peru Government Bond	EK5799607	PERUGB	11/7/2014	8/12/2024

## **Appendix II – Peruvian Land Reform Bonds**



CLASE "B"  
N° 023632  
SERIE 4a.



TITULO PRINCIPAL  
S/o. 1'000.000.00  
25 AÑOS

# Bonos de la Deuda Agraria

LEY N° 17716

EMISION DE S/o. 2,101'000.000.00 - 5% ANUAL AL REBATIR  
AUTORIZADA POR DECRETO SUPREMO N° 129-71-EF.

EL ESTADO RECONOCE

DEBER A: ... COMPANIA AGRICOLA LOS TADQUITOS S.A.

UN MILLON DE SOLES ORO.

Pagaderos en 25 armadas anuales a partir de la fecha de su colocación y contra entrega de los correspondientes cupones de amortización e intereses, numerados del 1 al 25, anexos a este título y en los términos y condiciones siguientes:

- 1) El valor nominal del Bono está determinado por el monto de sus cupones de amortización.
- 2) Son nominativos e intransferibles hasta el año de su amortización, tendrán la garantía del Estado sin reserva alguna y sin perjuicio de la afectación en garantía de todos los bienes y rentas de la Reforma Agraria.
- 3) Este Bono y sus intereses están exonerados de todo impuesto.
- 4) Serán aceptados al 100% de su valor por la Banca de Fomento Estatal cuando ellos sirvan para financiar hasta el 50% (cincoenta por ciento) del valor de una empresa industrial de acuerdo con lo dispuesto por el Art. 151° del Decreto-Ley N° 17716.

CANCELADO

FIRMA DEL BENEFICIARIO

*[Signature]*  
Ministro de Agricultura

*[Signature]*  
Director General de Reforma Agraria y A. R.

*[Signature]*  
Director General de Crédito Público

LIMA, 7 FEB 1972

LOCALIDAD Y FECHA DE COLOCACION

O. 1861-71 Imp. M. de E. y F.

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTICUATROVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 40.000,00 2.000,00  
VALOR NOMINAL DE ESTE CUPON 42.000,00  
FECHA DE VENCIMIENTO 7 FEB 1997  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTICUATROVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 40.000,00 2.000,00  
VALOR NOMINAL DE ESTE CUPON 44.000,00  
FECHA DE VENCIMIENTO 7 FEB 1996  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTITREYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 120.000,00 6.000,00  
VALOR NOMINAL DE ESTE CUPON 126.000,00  
FECHA DE VENCIMIENTO 7 FEB 1995  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 40.000,00 2.000,00  
VALOR NOMINAL DE ESTE CUPON 42.000,00  
FECHA DE VENCIMIENTO 7 FEB 1994  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 200.000,00 10.000,00  
VALOR NOMINAL DE ESTE CUPON 50.000,00  
FECHA DE VENCIMIENTO 7 FEB 1993  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 240.000,00 12.000,00  
VALOR NOMINAL DE ESTE CUPON 52.000,00  
FECHA DE VENCIMIENTO 7 FEB 1992  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
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Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 40.000,00 2.000,00  
VALOR NOMINAL DE ESTE CUPON 42.000,00  
FECHA DE VENCIMIENTO 7 FEB 1991  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 320.000,00 16.000,00  
VALOR NOMINAL DE ESTE CUPON 56.000,00  
FECHA DE VENCIMIENTO 7 FEB 1990  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 360.000,00 18.000,00  
VALOR NOMINAL DE ESTE CUPON 58.000,00  
FECHA DE VENCIMIENTO 7 FEB 1989  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 400.000,00 20.000,00  
VALOR NOMINAL DE ESTE CUPON 60.000,00  
FECHA DE VENCIMIENTO 7 FEB 1988  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 440.000,00 22.000,00  
VALOR NOMINAL DE ESTE CUPON 62.000,00  
FECHA DE VENCIMIENTO 7 FEB 1987  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 480.000,00 24.000,00  
VALOR NOMINAL DE ESTE CUPON 64.000,00  
FECHA DE VENCIMIENTO 7 FEB 1986  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 520.000,00 26.000,00  
VALOR NOMINAL DE ESTE CUPON 66.000,00  
FECHA DE VENCIMIENTO 7 FEB 1985  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 560.000,00 28.000,00  
VALOR NOMINAL DE ESTE CUPON 68.000,00  
FECHA DE VENCIMIENTO 7 FEB 1984  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 600.000,00 30.000,00  
VALOR NOMINAL DE ESTE CUPON 70.000,00  
FECHA DE VENCIMIENTO 7 FEB 1983  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

Cupón de Amortización e Intereses  
**República Peruana N° 023632**  
CLASE "B" BONOS DE LA DEUDA AGRARIA SERIE 4a.  
Ley N° 17716, D. S. 129-71-EF. S/o. S/o.  
VEINTIDUEYVA AMORTIZACION 1/25 DE 1'000.000,00 40.000,00  
5% DE INTERES ANUAL SOBRE 640.000,00 32.000,00  
VALOR NOMINAL DE ESTE CUPON 72.000,00  
FECHA DE VENCIMIENTO 7 FEB 1982  
*[Signatures]*  
Ministro de Agricultura Director General de Reforma Agraria y A. R. Director General de Crédito Público

CLASE "A"  
Nº 012997  
SERIE 3a.



TITULO PRINCIPAL  
S/o. 1'000,000.00  
20 AÑOS

# Bonos de la Deuda Agraria

LEY Nº 17716

EMISION DE S/o. 2,500,000,000.00 — 6 % ANUAL AL REBATIR  
AUTORIZADA POR DECRETO SUPREMO Nº 189-70-EF.

EL ESTADO RECONOCE

SOCIEDAD PUMALCA VVA. DE PIEDRA S. A.

DEBER A:

UN MILLON DE SOLES ORO.

Pagaderos en 20 armadas anuales a partir de la fecha de su colocación y contra entrega de los correspondientes cupones de amortización e intereses, numerados del 1 al 20, anexas a este título y en los términos y condiciones siguientes:

- 1) El valor nominal del Bono está determinado por el monto de sus cupones de amortización.
- 2) Son nominativos e intransferibles hasta el año de su amortización, teniendo la garantía del Estado su reserva alguna y sin perjuicio de la afectación en garantía de todos los bienes y raíces de la Reforma Agraria.
- 3) Este Bono y sus intereses están exonerados de todo impuesto.
- 4) Serán aceptados al 100% de su valor por la Banca de Fomento Estatal cuando ellos sirvan para financiar hasta el 20% (concedido por cuantía) del valor de una empresa industrial, de acuerdo con la disposición por el Art. 181 del Decreto Ley Nº 17716.

CANCELADO

FIRMA DEL BENEFICIARIO

*[Signature]*  
Ministro de Agricultura  
Director General de Reforma Agraria y A. R.

LIMA, 24 ABO 1970

LOCALIDAD Y FECHA DE COLOCACION

O. 15-18 - Imp. M. de E. y P.

Cupon de Amortización e Intereses  
**República Peruana Nº 012997**  
CLASE "A" BONOS DE LA DEUDA AGRARIA SERIE 3a.  
Ley Nº 17716, D. S. 189-70-EF. 8/6 5/6  
VENTENA AMORTIZACION 1/20 DE 1,000,000.00 50,000.00  
6 % DE INTERES ANUAL SOBRE 50,000.00 3,000.00  
VALOR NOMINAL DE ESTE CUPON 53,000.00  
FECHA DE VENCIMIENTO 24 ABO 1980

Cupon de Amortización e Intereses  
**República Peruana Nº 012997**  
CLASE "A" BONOS DE LA DEUDA AGRARIA SERIE 3a.  
Ley Nº 17716, D. S. 189-70-EF. 8/6 5/6  
DIECINUEVA AMORTIZACION 1/20 DE 1,000,000.00 50,000.00  
6 % DE INTERES ANUAL SOBRE 50,000.00 3,000.00  
VALOR NOMINAL DE ESTE CUPON 56,000.00  
FECHA DE VENCIMIENTO 24 ABO 1980

Cupon de Amortización e Intereses  
**República Peruana Nº 012997**  
CLASE "A" BONOS DE LA DEUDA AGRARIA SERIE 3a.  
Ley Nº 17716, D. S. 189-70-EF. 8/6 5/6  
DIECINUEVA AMORTIZACION 1/20 DE 1,000,000.00 50,000.00  
6 % DE INTERES ANUAL SOBRE 50,000.00 3,000.00  
VALOR NOMINAL DE ESTE CUPON 53,000.00  
FECHA DE VENCIMIENTO 24 ABO 1980

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Páguese a la orden de "Los Tronquitos Sociedad de Responsabilidad Limitada", la suma de un millón de soles oro (S/.1'000,000.00), importe del presente Título Valor, conforme a lo ordenado por resolución de diecinueve de Julio último, en los seguidos por la Dirección General de Reforma Agraria y Asentamiento Rural, con Compañía Agrícola Los Tronquitos S.A., sobre expropiación.- Ica, 1º de Agosto de 1,978.

*Valencia*  
CESAR A. OLANO OBLITAS  
JUEZ DE TIERRAS DE ICA



*Valencia*  
JOSE S. GUILLO PALCIA  
SECRETARIO JUDICIAL  
JUEGO DE TIERRAS DE ICA

PÁGUESE A LA ORDEN DE : EMILIO ALFREDO ELIAS VARGAS Y MARIA ISABEL ELIAS VARGAS DE WAIS.  
IDENTIFICADOS CON : I.E. N°21491010 y D.N.I. N°08239301 respectivamente.  
POR LA CANTIDAD DE : UN MILLON DE SOLES ORO (S/.1'000,000.00)  
LUGAR Y FECHA : Ica, 26 de Octubre del 2,000.

DR. VIGNO MARCE VALDIVIA LEMA  
Juez Suplente del 2ºo. Juzgado  
Civil de Ica

EMILIO ALFREDO ELIAS VARGAS  
Receptor/Jefe del 2ºo. Juzgado  
Civil de Ica

PÁGUESE A LA ORDEN DE: EMILIO ALFREDO ELIAS VARGAS, JAVIER ELIAS VARGAS Y MARIA ISABEL ELIAS VARGAS DE WAIS.  
IDENTIFICADA CON D.N.I.: 21491010, 07776285 Y 08239301.  
LA CANTIDAD DE UN MILLON DE SOLES ORO (S/. 1'000,000.00)  
LUGAR Y FECHA: ICA, 15 DE DICIEMBRE DEL 2005.

*Luis A. Gutiérrez Remón*  
Luis A. Gutiérrez Remón  
JUEZ 2ºo. Juzgado Civil de Ica

*Flore Solvelón Lagos*  
Fra. Flor Solvelón Lagos  
SECRETARIA JUDICIAL  
2ºo. Juzgado Civil de Ica

*Páguese a la orden de Maria Isabel Elias Vargas de Wais - DNI - 08239307 de Javier Elias Vargas S/N 07776285 Lima, 26 de Diciembre del 2005*

*Isabel Elias de Wais*

CERTIFICO: QUE LAS FIRMAS QUE ANTECEDEN CORRESPONDEN A DONA MARIA ISABEL ELIAS VARGAS DE WAIS, IDENTIFICADA CON DNI No. 08239301; AL SEÑOR EMILIO ALFREDO ELIAS VARGAS, IDENTIFICADO CON DNI No. 21491010; Y AL SEÑOR JAVIER CARLOS ELIAS BERNARD, IDENTIFICADO CON DNI No. 1028524, QUIEN PROCEDE EN REPRESENTACION DE JAVIER ELIAS VARGAS. SEGUN PODER INSCRITO EN LA PARTIDA No. 11944915 DEL REGISTRO DE MANDATOS Y PODERES DE LIMA; FIRMAS QUE LEGALIZO EN LIMA, A LOS 31 DIAS DEL MES DE ENERO DE 2007.



*Ricardo Fernandini Barreda*  
Ricardo Fernandini Barreda  
Notario de Lima

COMPANIA AGRICOLA LOS TRONQUITOS S.A.

COMPANIA AGRICOLA LOS TRONQUITOS S.A.

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# **Appendix III – New Agrarian Reform Decree Law No. 17716**

**NEW AGRARIAN REFORM  
DECREE LAW NO. 17716**

WHEREAS, it is the fundamental objective of the Revolutionary Government of the Armed Force to provide to the less favored sectors of the population better standards of living that are compatible with the dignity of human beings, through the transformation of the country's economic, social and cultural structures;

WHEREAS, the structure of the agrarian legislation has deep imbalances that create extreme conditions of social injustice in the countryside;

WHEREAS, all sectors of the population have claimed the transformation of the country's agrarian structure;

WHEREAS, besides being an instrument to achieve social justice in the countryside, the Agrarian Reform must decisively contribute to building a broad market and providing the capital funds required for a quick industrialization of the country;

WHEREAS, it is urgently necessary to carry out an authentic Agrarian Reform to address the unanimous interests of the Peruvian people, the Fundamental Objectives of the Revolution and the needs of Peru's comprehensive development;

Exercising the authority that has been conferred upon it; and

With the approving vote of the Council of Ministers;

Has issued the following Decree-Law:

**AGRARIAN REFORM LAW  
SECTION I  
Basic Principles**

**Article 1.-** The Agrarian Reform is a comprehensive process and an instrument to achieve the transformation of the country's agrarian structure, with the aim of substituting the large estates and smallholdings for a fair system of ownership, holding and utilization of the land, which will contribute to the Nation's social and economic development, through the creation of an agrarian legislation that will guarantee social justice in the countryside and increase the production and productivity of the farming and livestock sector, increasing and securing the income of farmers so that the land will be, for the man who works it, the basis of his economic stability, the foundations of his wellbeing and the guaranty of his dignity and freedom.

**Article 2.-** The Agrarian Reform Law, as an instrument of transformation, will form part of the national development policy and will be closely related to the State's planning actions in other fields that are essential to the promotion of the country's rural populations such as the organization of an effective Rural School, generalized technical assistance, credit mechanisms, farming and livestock investigation, development of natural resources, urban development policy, industrial development, the expansion of the national health system and state marketing mechanisms, among others.

**Article 3.-** In harmony with the above-mentioned purposes, the Agrarian Reform legislation must:

- a) Regulate the ownership right of land so that it will be used in harmony with social interests and establish the limitations to which rural property is subject;
- b) Disseminate and consolidate the small and medium-size property directly worked by its owners;
- c) Ensure the protection of ownership right of rural communities over their lands and award them the areas that may be required to cover the needs of their population;
- d) Encourage the organization of cooperatives and regulate the land exploitation community systems;
- e) Ensure the adequate conservation, use and recovery of natural resources;
- f) Regulate agrarian contracts and eliminate indirect forms of exploitation so that the land will belong to whoever works it;
- g) Regulate the rural labor and social security system, taking into account the particular characteristics of farming work and abolish every relationship which, by fact or law, links the concession to use land to the rendering of personal services;
- h) Promote the development of farming and cattle raising with the aim of increasing production and productivity and ensuring the marketing thereof; and achieving a fair distribution of income in the farming and livestock sector;
- i) Regulate rural credit to make it available to farmers; and
- j) Establish the farming and livestock insurance to cover the risks of draught, frosts, and other calamities.

**Article 4.-** The State undertakes the obligation to promote funding for the Agrarian Reform and promotion plans for farming and livestock and will include on an annual basis in the Functional Budget of the Republic the necessary accounting items to cover the obligations it undertakes in compliance with this Law.

**Article 5.-** For purposes of the Agrarian Reform Law, the expropriation of privately owned rural properties is hereby declared of public use and social interest under the conditions expressly set forth in this Law.

Unless expressly stated otherwise, the term “agricultural”, as well as other related terms used herein, includes livestock but excludes the direct exploitation of natural forests.

**Article 6.-** Rural properties, regardless of whoever the owner is, their location within the national territory, or form of acquisition, whether by purchase-sale, public auction, or otherwise, are subject to the Legislation on Agrarian Reform.

## **SECTION II**

### **Land for the Agrarian Reform**

**Article 7.-** The land listed below will be used for purposes of the Agrarian Reform:

- a) Abandoned land and land that reverts to public domain, as well as untilled land;
- b) Rural property of the State and of legal entities of internal public law;
- c) Land expropriated in accordance with this Law;
- d) Land included in private land division, duly qualified;
- e) Land fitted out for agricultural purposes by the direct action of the State, or through projects financed with Public Funds; and

- f) Land resulting from donations, legacies or other similar situations, in favor of the Agrarian Reform.

**Article 8.-** Land abandoned by its owners is included in the public domain. The abandonment of rural property occurs when its owner has left it uncultivated during three consecutive years. The term for abandonment to apply is interrupted when the owner, or another party on his behalf, performs acts of possession over the property during two consecutive years.

Acts of possession are only understood to be those consisting of the economic exploitation of the soil through crop fields or plantations, livestock breeding in accordance with the capacity of the pastures conducted by the owner or another person on the owner's behalf. Marking with boundary stones, fences or wood cuttings, the construction of buildings or other similar acts do not constitute in themselves proof of economic exploitation but are considered to be supplementary thereto.

Without prejudice to the provisions contained in the foregoing paragraphs, the uncultivated portions of the property whose existence and maintenance in such state is necessary for economic exploitation, better use or defense of the exploited property, will also be considered possessed. Such portions, in the aggregate, cannot exceed the economically exploited area.

When possessory acts comprise only part of the property, the private domain over the remaining portions that are not considered possessed in accordance with this Article will be considered extinguished.

Land that has been cultivated or exploited during more than one year by farmers who do not have a contractual relationship with the owner, without the latter having filed the respective legal action, will also be considered abandoned.

**Article 9.-** The State may administratively declare the abandonment of all or part of a rural property without it being necessary to be located within the Agrarian Reform Zone, in accordance with the procedure to be established in the Regulations, and will order the annulment of the respective entries in the Public Registry Offices.

An action claiming nullity of a Resolution declaring abandonment can only be filed within 3 months following the publication thereof in the official gazette of the Capital of the Republic and must be accompanied by the literal copy of the title to the property and the receipts evidencing the payment of real property tax and real estate income tax. If such documents are not submitted the Judge will categorically reject the claim, under liability. The burden of proof will be borne by the claimant.

**SECTION III**  
**Limitations on Rural Property**  
**CHAPTER I**  
**Earmarking**

**Article 10.-** For purposes of this Law, earmarking consists of the limitation on the rural property right imposed for Agrarian Reform purposes, on an express and individualized basis, over all or part of a property for its expropriation by the State in order to be subsequently awarded to duly qualified farmers in accordance with this Law.



**Article 11.-** Any individual or legal entity that acquires one or more property after the enactment of this Law, may only maintain under its domain, including the property or properties it may previously own, an area on the Coast, Highland or Andean Foothills that does not exceed the limit not subject to earmarking for each case. A person who under any form exceeds the above situation must let go of the excess within the term of one year counted from the action that caused it. If it does not do so voluntarily, the excess will be expropriated, and the wrongdoer will be subject to a fine equivalent to twenty-five percent (25%) of the expropriation price per each year of default.

## **CHAPTER II**

### **Rural Property Owned by the State and by Legal Entities of Internal Public Law**

**Article 12.-** Rural properties privately owned by the State, regardless of the administrative authority or public service to which they are ascribed, shall be fully allocated to the Agrarian Reform. The properties or the portion thereof that are used by the entities or public services to directly fulfill their own purposes without obtaining any income therefrom will be excepted, while this situation prevails.

**Article 13.-** The regime for earmarking rural property owned by parties governed by internal public law, will be the one established by this Law for private property as far as payment is concerned. The entire area will be earmarked only with the exception of the surface that is directly managed and exclusively used for teaching, agriculture and livestock promotion and investigation at the superior level; however, the entire area will be earmarked if the land is deficiently exploited.

**Article 14. -** The surface of rural property granted for hydrocarbon exploration or exploitation and other mining activities, including areas reserved by the State, are liable of being earmarked when, in the opinion of the General Bureau of the Agrarian Reform and Rural Settlement, such surface may be used for agriculture and livestock exploitation, provided this does not interfere with the development of the above-mentioned businesses.

Earmarking will be resolved by a Supreme Decree at the request of the General Bureau of Agrarian Reform and Rural Settlement.

## **CHAPTER III**

### **Rural Property Subject to Private Law**

**Article 15.-** For purposes of complying with Article 34 of the Constitution of the State, it is considered that rural property is not used in harmony with social interest in any of the following cases:

- a) Abandonment or deficient exploitation of the land, as well as mismanagement and deterioration of natural resources.
- b) Engaging in anti-social or feudal practices in the exploitation of the land;
- c) Unfair or illegal conditions in labor relations;
- d) Concentration of land in such a way that it constitutes an obstacle for the dissemination of small and medium-sized property and determines the unfair or unjust dependence of the population with respect to the owner; and
- e) Dwarf holding or fragmentation of the property which determines the misuse or destruction of natural resources, as well as low yield of production factors.

**Article 16.-** Idle and deficiently exploited land will be fully earmarked. Idle land will be understood to be land which, despite being suitable for farming, has not been exploited in an organized fashion; and deficiently exploited, will be land in which natural resources are misused, determining the destruction thereof, or if the yield of the predominant crop in the property is less than eighty percent (80%) of the average yield of the zone. The Regulations will determine the minimum conditions to be met so that land will not be considered idle or deficiently exploited, proof of which will be the owner's responsibility.

**Article 17.-** All the area of properties or the part thereof that is exploited by tenants, small leaseholders, sub-lessees and other non-owner farmers, who manage areas that exceed three times the family farm unit determined for each Zone will be fully earmarked.

When the area managed by tenants is not enough to award to all the tenants of the property areas equivalent to the family farm unit, the area of the property and of other properties of the same owner directly managed will be earmarked as necessary, although the minimum not subject to earmarking may be reduced.

**Article 18.-** For purposes of the application of this Law, tenants are understood to be colonists, *yanaconas*, *aparceros* (sharecroppers), *arrenderos* (sublessees), *allegados* (relatives), *mejoreros* (improvers), *precarios* (precarious), *huacchileros* and other similar forms of direct exploitation of the land, related to the provision of personal services with or without a salary.

**Article 19.-** The entire area or part of the properties exploited by lessees or other farmers non-owners which exceed by three times the family farm unit will be earmarked, such farmers having a preemptive right to be awarded the area efficiently exploited that does not exceed the minimum area not subject to earmarking, provided they meet the requirements established to be awardees of the Agrarian Reform and the rights of the farmers referred to in Article 17 are not affected.

**Article 20.-** When any of the situations considered in Articles 16, 17 and 19 with direct forms of exploitation occur in a property, the areas to be earmarked will be determined in successive order applying first the provisions of said Articles and, over the remaining balance, the provisions regarding the minimum area not subject to earmarking.

It is understood that a property is directly managed or exploited if:

- a) The owner personally works the land with the help of his family, this work being his basic activity, when the area he possesses does not exceed three times the family farm unit;
- b) If the owner personally directs the farming enterprise on a habitual basis, and is responsible for the financial management thereof and the enterprise registered in his name for labor and tax law purposes. If the property belongs to a legal entity, it is understood that the personal direction and responsibility for financial management must be carried out by one of the partners. It is presumed as a matter of law that a person cannot manage more than one property.

**Article 21.-** The total area of rural property belonging to condominiums on the date of declaration of the Agrarian Reform Zone will be earmarked, unless the state of non-division originated on a universal basis within three years before the declaration of Zone, in which case whatever each joint owner is proportionally entitled to will be taken into account for the accumulation of properties.

**Article 22.-** Joint Stock Companies and Limited Partnerships may not own rural properties. A term of six months counted from the publication of this Law is granted for their conversion into partnerships or to transfer the rural properties owned by them, after the expiration of which the property or properties belonging to the Company may be expropriated, imposing a fine of not more than fifty percent (50%) of the price of the earmarked land.

All actions performed in compliance with the provisions set forth in the foregoing paragraph are exempt for every type of taxes and duties.

**Article 23.-** The Ministry of Agriculture and Fishery will keep a special Register of Companies that own rural land under any form as well as a Register of Partners. Any transfer of participating interest must be advised to it fifteen days before it takes place. All infringers will be imposed a fine that will not exceed the nominal value of the participating interests being transferred.

If from the comparison made by the Ministry of Agriculture and Fishery it appears that one person exercises control over two or more legal entities that own farming land, the rural land of such legal entities will be considered as a single property owned by such individual for earmarking purposes.

It is understood that control is exercised over one or more legal entities for purposes of this Article, when one person on its own account or relatives up to the fourth degree of consanguinity and second degree of affinity, holds the ownership or legal administration of forty percent (40%) or more of the participating interests.

**Article 24.-** For earmarking purposes all cropland or natural pastures located in regions of the Coast, Highlands and Andean Foothills, owned by a single individual or legal entity will be considered as a single property. Also considered as a single property is land belonging to joint property owned by husband and wife and the assets of each spouse, even if they are separate estates.

**Article 25.-** Not subject to earmarking for purposes of the Agrarian Reform are national parks and forests, forest reserves and archeological zones declared as such by Law.

**Article 26.-** The General Bureau of the Agrarian Reform and Rural Settlement will determine the Region corresponding to each earmarked property. Claims that may be filed will be resolved by the Agrarian Court within a maximum term of ninety days, which determination will be final and not subject to appeal.

**Article 27.-** For purposes of this Law:

- a) Irrigated cropland is land where at least one harvest can be obtained per year, irrigating it either by gravity, pumping, etc.
- b) Dry cropland, is land which is directly and exclusively fed with rainwater to address the needs of the crops. The labor land referred to in this item as being in rest period will be considered dry cropland;
- c) Land covered with natural pastures is that with wild, herbaceous vegetation and shrubs, which sprouts can be used to feed cattle in economic exploitation. Land with farming possibilities devoid of crops are not considered natural pastures even if they are covered with wild vegetation.

- Land with cultivated pastures will be considered within the general system of cropland; and
- d) Forest land, covered with tree species, that is not fit for permanent farming or livestock exploitation.

**Article 28.-** Farming properties on the coast that have been directly managed will be earmarked in the area that exceeds one hundred and fifty hectares of cropland under irrigation. The area that cannot be earmarked can be extended up to two hundred hectares if the owner shows that it complies with all the following conditions:

- a) The property has irrigation infrastructure works necessary for the total area not earmarked;
- b) More than two-thirds of the company's operating cost is represented by farming campaign expenses, overhead and any other expenses that do not constitute capitalization, originates from own equity or private credit sources;
- c) The compensation paid as salaries and wages, individually, exceeds more than ten percent (10%) of the minimum amounts fixed by the labor legislation, provided permanent and temporary workers are provided indispensable health, housing and education and family services, established in the current legislation;
- d) Real property tax and real property income tax, water royalties and social security contribution payments are up-to-date; and
- e) The stable workers of the company are paid a share of not less than ten percent (10%) of the gross annual profits.

**Article 29.-** Livestock properties on the Coastal region that are directly managed will be earmarked in the surface that exceeds one thousand five hundred hectares of land covered by natural pastures. The area that cannot be earmarked may be extended up to three times if the owner shows compliance with the first four conditions and up to four times if it complies with all the conditions below:

- a) Existence of necessary fences for a rational rotation of grazing fields;
- b) The extraction percentage in the two years prior to earmarking was at least seventeen percent (17%) over the annual average livestock capital;
- c) The compensation paid as salaries and wages, individually, exceeds by more than ten percent (10%) the minimum living retribution fixed by the labor legislation; and workers are provided indispensable health, housing and education and family services, established in the current legislation;
- d) Real property tax and real property income tax, and social security contribution payments are up-to-date; and
- e) The stable workers of the company are paid a share of not less than ten percent (10%) of the gross annual profits.

**Article 30.-** The area that cannot be earmarked for irrigation land directly managed the regions of the Highlands and Andean Foothills is the following:

Provinces of Islay, La Unión, Caravelí, Condesuyos, Camaná, Castilla, Caylloma and Arequipa: fifteen hectares;

Provinces of Lima, Carabaya and Sandia: thirty hectares;

Provinces of Canta, Chancay, Huarochirí, Yauyos, Cajatambo, San Ramón, Lampa, Chucuito, Corongo, Mariscal Luzuriaga, Mariscal Nieto, General Sanchez Cerro, Tarata, Tayacajaa, Nazca, Ica, Palpa, Pisco, Pallasca and Cañete: thirty-five hectares;

Provinces of La Convención, Acobamga, Santa, Sihuas, Oxapampa, Angaraes, Chinca, Pomabamba, Tacna, Huari, Raimondi, Huaylas, Bolognesi, Paruro, Urubamba, Anta, Calca, Quispicanchis, Huancavelica, Tarma, Paucartambo, Pachitea, Carhuaz, Casma, Yungay, Huaraz, Acomayo, Canchis, Canas, Cuzco, Huancayo, Concepción, Leoncio Prado, Lamas, Mariscal Cáceres, Moyobamba, Rioja, and San Martín: forty hectares;

Provinces of Cutervo, Cajabamba, Contuma, Aija, Recuay, Junín, Pasco, La Mar, Huanuco, Trujillo, Jauja, Huanta, Marañón, Chiclayo, Yauli, Daniel Alcides Carrión, Espinar and Huamán: forty-five hectares;

Provinces of Cutervo, Cajabamba, Contumazá, Andahuaylas, Abancay, Chachapoyas, Lambayeque, Bongará, Luya, Pataz, Bolívar, Chota, Jaén, Santa Cruz, Morropon, Huancabamba, Ambo, Ferreñafe, Hualgayoc, San Miguel, Cangallo, Ayabaca, Bagua, Rodríguez de Mendoza, Huamachuco, Huallaga, Mariscal Cáceres, Grau, Antabamba, 2 de Mayo, San Ignacio: fifty hectares; and

Provinces of Otuzco, Santiago de Chuco, Víctor Fajardo, Cotabambas, Lucanas and Parinacochas: forty-five hectares.

**Article 31.-** The area of land that cannot be earmarked referred to in the foregoing Article can be extended twice if the owner shows compliance with the first three conditions and up to three times if it complies with all the conditions below:

- a) For cropland under irrigation, the property has irrigation infrastructure works necessary for the total area not earmarked; or  
For dry cropland, the cultivated surface in the last three years has not been less than seventy-five percent (75%) of the area open to cultivation;
- b) The compensation paid as salaries and wages, individually, exceeds more than ten percent (10%) of the minimum living amounts fixed by the labor legislation, provided permanent and temporary workers are provided indispensable health, housing and education and family services, established in the current legislation;
- c) Real property tax and real property income tax, water royalties and social security contribution payments and water royalties are up-to-date; and
- d) The stable workers of the company are paid a share of not less than ten percent (10%) of the gross annual profits.

**Article 32.-** For purposes of the application of the limit that cannot be earmarked one hectare of cropland under irrigation is equal to two hectares of dry cropland.

**Article 33.-** The limit of area that cannot be earmarked for natural grazing land, directly managed, located in the regions of the Highlands and Andean Foothills, is the necessary area to withhold a load of five thousand heads of sheep during shearing season or the equivalent thereof in other species; to this end, one head of sheep is represented by an animal with a live weight of thirty-five kilograms and an annual yield of five pounds of wool.

**Article 34.-** - The area that cannot be earmarked referred to in the foregoing Article may be extended up to three times if the owner shows compliance with the first four conditions and up to four times if it complies with all the conditions below:

- a) Existence of necessary fences for a rational rotation of grazing fields;
- b) The extraction percentage in the two years prior to earmarking was at least seventeen percent (17%) over the annual average livestock capital, in exploitation of sheep and bovine cattle, respectively;
- c) The compensation paid as salaries and wages, individually, exceeds by more than ten percent (10%) the minimum living wage fixed by the labor legislation; and workers are provided indispensable health, housing and education and family services, established in the current legislation;
- d) Real property tax and real property income tax, and social security contribution payments are up-to-date; and
- e) The stable workers of the company are paid a share of not less than ten percent (10%) of the gross annual profits.

**Article 35.-** Any petition to be made by owners of farming and livestock properties under the foregoing Articles will be addressed provided it does not affect the needs of the people and communities contemplated in Article 211 of the Constitution, which must be previously considered.

**Article 36.-** When the owner has one or more properties located on the Coastal region and another property located in the Highlands and/or Andean Foothills, the minimum area that cannot be earmarked will be established at the place where the main buildings or facilities are located.

**Article 37.-** In the case of properties whose main crop is allocated to supply a given industrial plant and it is formed by the land of a single economic unit, the entire economic complex will be earmarked; that is, the land and the processing plants and industrial facilities for primary transformation, even if they are located outside the property or belong to other owners.

In these cases, the General Bureau of the Agrarian Reform and Rural Settlement will expropriate the businesses and will assume all assets and liabilities of the companies.

**Article 38.-** The General Bureau of Agrarian Reform and Rural Settlement may make an exception, in whole or in part, to the earmarking regime established in the foregoing Article, in order to make those properties that do not have own processing plants subject to the general rules on earmarking, when it considers that that the area thereof used for industrial crops is not indispensable for the economic operation of the industrial plant and provided the owners thereof have not been owners of other land on May 24, 1964.

**Article 39.-** The following will be guaranteed for expropriated agro-industrial businesses:

- a) The intangible nature of the production structure of the affected companies;
- b) The continuity of the equipment and technical and administrative direction and that they will remain in conditions at least equal to those that the affected companies had; and
- c) The adequate share of workers and employees in the new structure of the property, in the percentage of profits of the company to be fixed by the regulations, and in the technical and administrative condition thereof, without affecting the current level of salaries and wages.

**Article 40.-** The State will assume the company's liabilities for social benefits of all workers of the affected companies, the amount of which will be deducted from the indemnity to be paid for expropriation.

The value of the social benefits corresponding to each and every one of the workers of the affected companies will be considered as advanced contribution thereof to the farming partnership of social interest referred to in Article 74 hereof. The workers who do not wish to form part of the referred Partnership will receive the full amount of their social benefits from the State in cash on the date of their resignation.

**Article 41.-** Land not fit for farming or livestock will only be acquired when it is surrounded by useful earmarked land, or if it is adjacent thereto, it is necessary for the conservation of the natural resources of the referred earmarked area, previously applying the provisions of Articles 8 and 9 hereof.

**Article 42.-** The Ministry of Agriculture and Fishery will exclude areas destined for urban growth from earmarking. The said areas will be determined by the relevant agency subject to a prior report to be issued by the General Bureau of Agrarian Reform and Rural Settlement.

When due to reasons of public and social interest or urban and industrial promotion declared by the corresponding resolution, land occupied by tenants in areas declared as urban expansion will be used, such tenants will be indemnified for the following items:

- a) The amount of loss of profit to be fixed by the General Bureau of Agrarian Reform and Rural Settlement, which shall not exceed thirty percent (30%) of the value of the land; and
- b) The value of physical improvement, facilities, unharvested crops, plantations and housing introduced by the tenants which shall be appraised by the referred General Bureau, in accordance with the rules set forth herein.

The entity carrying out the expropriation will pay the tenants the amounts resulting from the application of the above items, deducting them from the expropriation value of the property.

**Article 43.-** For properties located in the Jungle region, the special legislation on this matter will be applied.

#### **SECTION IV Earmarking Procedure**

**Article 44.-** The Agrarian Reform will be enforced by Zones, which shall be determined by a Supreme Decree, subject to a prior report to be issued by the General Bureau of Agrarian Reform and Rural Settlement of the Ministry of Agriculture and Fishery.

**Article 45.-** The minimum area that cannot be earmarked can be reduced or the full earmarking of a property located within or outside the Agrarian Reform Area can be resolved in the following special cases:

- a) When the property was occupied before the enactment of Law 15037 by recognized Rural Communities or by farmers who individually worked areas that do not exceed three times the

family farm or livestock unit and provided in one or the other case, they held for more than five years an area that in the aggregate represents at least one-fourth of the useful area of the property; or

- b) When there are conditions contrary to the labor legislation in the labor relations, thus qualified by the Ministry of Labor.

In those cases referred to in this Article, earmarking will be resolved by a Supreme Decree approved by the Council of Ministers if the property is located outside the Agrarian Reform Zone.

**Article 46.-** The Executive, at the request of the General Bureau of Agrarian Reform and Rural Settlement, will award it free of charge the private properties of the State referred to in Article 12 hereof, without the need of being located in the Agrarian Reform Zone.

In the event they are encumbered or produce income allocated to supporting a private project or service for a social purpose, the General Bureau of Agrarian Reform and Rural Settlement will redeem the existing burden or encumbrance in Agrarian Debt Bonds.

**Article 47.-** The General Bureau of Agrarian Reform and Rural Settlement will determine, in the case of land owned by legal entities governed by internal public law, the areas directly managed that are used for teaching, social assistance, farming and livestock promotion and investigation at the superior level. The remaining area must be transferred to the General Bureau of Agrarian Reform and Rural Settlement by the legal entity that owns the property, within thirty days following the request made by the General Bureau in this sense, without it being necessary for the property to be located in the Agrarian Reform Zone, and will issue the corresponding public deeds of transfer of title.

The valuation and payment of the transferred property, as well as the redemption of burdens or obligations levied on them will be made in accordance with the provisions contained herein.

**Article 48.-** When possessors of property owned by the State or of legal entities governed by internal public law, earmarked for Agrarian Reform purposes, refuse to hand it over to the General Bureau of Agrarian Reform and Rural Settlement, it may judicially request the delivery thereof, under inventory. The Judge will be obliged, under liability, to grant immediate possession without accepting any remedy whatsoever aimed at stalling or stopping it. Public officials or legal representatives of parties governed by internal public law who attempt in any way to frustrate or disregard the earmarking and taking of possession, will be sanctioned with twice the penalty set forth in Article 321 of the Criminal Code.

**Article 49.-** The term of the lease agreements for rural property privately owned by the State or of legal entities governed by internal public law will expire without the right to indemnity once the earmarking thereof for Agrarian Reform purposes has been declared.

**Article 50.-** Once the Agrarian Reform Zone has been declared, the transfer of title of privately owned rural property will conform to the following procedure.

- a) The Zonal Bureau of Agrarian Reform and Rural Settlement will notify the public and the owners that the earmarking procedure of the Zone has started, so that within a term of 60 days, counted from the date of the notice, they may file their affidavits on the rural properties they own, within the territory of the Republic, including therein the data and specifications set forth in the forms prepared for that purpose and submitting the respective title deeds and maps. The



notice will be made through a three-time publication in the newspaper that publishes judicial notices of the capital of the Department where the properties are located, through notices posted at the corresponding Provincial and District Municipal premises and through any other available means of publication;

- b) Once the referred term has elapsed, the title deed and other documents submitted will be studied and the map or maps submitted by each declarant will be verified by conducting the relevant technical studies to quantify and mark the area to be earmarked. If maps have not been submitted, they will be drawn up at the expense of the obliged parties, deducting the cost thereof from the valuation of the earmarked land;
- c) The map of the earmarked land will be revised on site to make the relevant adjustments, where it will be sought that the areas not earmarked of the properties will be buildings and adjacent areas and, in general that such areas will allow the continuation or establishment of economic exploitation units. As far as possible, it will be sought that between the earmarked area and the area remaining in the property of the owner land of similar quality and conditions will be distributed. If as a result of a partial earmarking the possibility of exploiting the rest of the property or a given part thereof becomes seriously difficult, the owner may request that the entire property or the relevant part thereof be earmarked, as the case may be;
- d) When the owner owns other properties located outside the Agrarian Reform Zone, the minimum area that cannot be earmarked will be located therein.  
In the event that due to the application of Article 24, the area to be earmarked exceeds the area of properties of the same owner located in the Zone, the General Bureau of the Agrarian Reform and Rural Settlement can reserve the right to earmark the rest of the Zones, when it deems it relevant;
- e) The map of the earmarked area will be made available to the public and interested parties through notices that will be posted in the property and in the premises of the corresponding Provincial and District Municipality and in the domiciles that the owners have indicated within the location of the Zonal Bureau;
- f) Within a term of 15 days counted from the notice referred to in the foregoing items, the owner may raise observations regarding the Region to which the property belongs or the area to be earmarked, or request the extension of the limit that cannot be earmarked;
- g) The Zonal Bureau of Agrarian Reform and Rural Settlement will issue the corresponding resolution which shall be notified to the interested parties in the manner contemplated in item e). The affected owners shall be entitled, within a period of 10 days counted from the date of the notice, to file an appeal with the General Bureau of Agrarian Reform and Rural Settlement regarding the qualification of property and material errors that the map of the earmarked area may contain. Once the observation has been corrected, the Executive will approve the final map of the earmarked area through a Supreme Decree countersigned by the Ministry of Agriculture and Fishery, which shall be published in the Official Gazette.

**Article 51.-** The owners of earmarked properties are obliged to allow inspections and measurements by the experts of the General Bureau of Agrarian Reform and Rural Settlement, in accordance with the foregoing Article, under warning of use of public force.

Moreover, the owner who fails to submit the affidavit referred to in item a) of the foregoing Article, or if it contains false or inaccurate data, or fails to include any data, will be sanctioned with a penalty of up to fifty percent (50%) of the value of the earmarked land, without prejudice to the relevant criminal action.

The burden of proof over facts that determine the rectification of the earmarked area, qualification of the property, expansion of the limit that cannot be earmarked or any observation of the owner, will be on the owner.

The General Bureau of Agrarian Reform and Rural Settlement and the Agrarian Court, will not accept any observations or remedies from anyone who does not has his right registered with the Real Estate Registry or evidences it reliably through another legal means.

**Article 52.-** Once administrative earmarking proceedings have been exhausted with the publication of the Supreme Decree referred to in item g) of Article 50 hereof, the General Bureau of Agrarian Reform and Rural Settlement will notify the owner so that within a term of 15 days following the notice, it complies with the resolution, under warning of enforcing it through the judiciary.

If there is a pending harvest or livestock, the General Bureau of Agrarian Reform and Rural Settlement may extend the term prudentially until it has been harvested or transferred, respectively.

The same notice will inform the owner of the valuation of the earmarked area and form of payment, as well as of the amount of the indemnity.

**Article 53.-** In the event the owner refuses to comply with the resolution within the term set forth in the foregoing Article, the General Bureau of Agrarian Reform and Rural Settlement will request the respective Land Judge, or in his absence, the First Instance Judge of the Province, the immediate possession of the land, under inventory, and will deposit together with the request, the value of the indemnity to the order of the Judge. Once the requirements set forth in this Article have been met, the judge will be obliged to grant immediate possession, fixing the terms for compliance with the rules established in the second paragraph of the foregoing Article, without prejudice to the corresponding inventory.

Expropriation proceedings for Agrarian Reform purposes will be heard during judicial vacations.

**Article 54.-** Once the possession proceedings have been carried out, the Judge will notify the valuation to the owner, who may observe it within three days, only as regards the increase or reduction in the value of the expropriated property due to improvements or deteriorations that have occurred after the date of the official valuation or the self-appraisal declaration, as the case may be.

The expert's report on which the observation is based will be attached thereto, without which it will be categorically rejected.

The appraisal will be made by applying the valuation rules of this Law and the Regulations hereunder, as follows:

The Judge will give the parties a term of three days for each one to designate the respective expert, under warning of designating them in contempt of court if they fail to do so. He will also request them to designate a third expert by mutual agreement who will decide in the event of a disagreement, and if they fail to do so, he will be designated by the Judge.

The experts will submit their advisory opinion within the maximum term of fifteen days. The fees of each expert will be paid by the party in charge of appointing him and the fees of the third expert will be paid by both parties.

**Article 55.-** If the experts agreed, the Judge will establish the indemnity. In the event of a disagreement, he will call the third party so that he will issue his opinion with the term set forth in the foregoing Article. Once submitted, the Judge will rule within three days, under responsibility. No appeal may be filed against the ruling fixing the amount of the indemnity and the respective deed will be issued which shall be signed by the interested party within three days after it has been served, or by the Judge in contempt of court.

**Article 56.-** Once the deed of transfer of title has been issued, the Judge will order that the amount of the indemnity be delivered to the expropriated party subject to the presentation of a certificate evidencing the payment of taxes and provided it states that the property is free and clear of every liability and the General Bureau of Agrarian Reform and Rural Settlement has not stated its disagreement with the indemnity fixed, within a term of eight days after the Resolution referred to in the foregoing Article has been served. In the event of a discrepancy, the Judge will order that the amount of the indemnity that was established at the time of filing the expropriation claim or the one fixed by the Agrarian Reform expert be delivered to the expropriated part, the difference remaining for the result of the contradictory action referred to in Article 60 hereof. If the earmarked lands owe taxes, they will be paid by taking the same amount from the part of the price to be paid.

In the event the entire property is earmarked, the Court will not order delivery until the owner evidences payment of the social benefits to its workers.

**Article 57.-** If a property is mortgaged or encumbered in any other way, the Judge will order that the amount of the indemnity be applied to pay the mortgage or liens to the maximum extent and, the balance, if any, will be delivered to the owners, unless the creditor reserves the right to use it for another asset of the debtor. If a claim arises against the farm or an attachment or any other judicial record of lien, the Judge will order the withholding of the consignment to cover the recorded liability. In any case, it will order the payment of all liens or burdens so that title to the property will be transferred to the General Bureau of Agrarian Reform and Rural Settlement free of every liability.

**Article 58.-** Without prejudice to the provisions set forth in the foregoing Article, and if a mortgage or any other right in rem or security have been placed on the expropriated property, the General Bureau of Agrarian Reform and Rural Settlement is authorized to agree with the holder of the right and the owner:

- a) The reduction of the guaranty over the part no acquired; or
- b) The full payment of the lien charged to the indemnity, in which case the creditor must accept the payment of its credit although the term set forth in the contract has not expired; or
- c) The distribution of the amount of the debt plus outstanding interest, between the part of the property to be acquired and the one kept by the owner, in accordance with the value of each one, the General Bureau of Agrarian Reform and Rural Settlement replacing the owner in the corresponding proportion, provided the creditor is a State Bank, in which case they are authorized to maintain as part of its portfolio the credits granted by them.

**Article 59.-** No legal action may obstruct, halt or stop the expropriation procedure. The Judge, under liability, will not accept the participation in the action of the owner or of the occupants of the property or the experts, except as authorized by this Law.

The possessors of the expropriated property, other than the owner, who under a fixed term lease agreement or for having introduced improvements to the premises, or for any other reason, consider

that they are entitled to an amount of the indemnity agreed with the owner, may bring an action, in separate proceedings, with the Judge who is hearing the expropriation.

**Article 60.-** The Resolution putting an end to the earmarking or expropriation proceedings may only be challenged before the court with special jurisdiction, with respect to the amount of the earmarking or of the agreed indemnity, and, exclusively, to be paid to the owner at the highest value it is entitled to, but not for the return or reinstatement of the earmarked land. The respective complaint cannot be registered with the Public Registry Offices. The General Bureau of Agrarian Reform and Rural Settlement may also challenge the final appraisal in the same way. The complaint must be filed within a term of three months following the issuance of the Resolution referred to in Article 57 hereof, and must be accompanied by an official transcript of the deed of transfer, signed by the plaintiff or by the Judge; otherwise, it will be rejected, under responsibility.

**Article 61.-** When businesses are earmarked, the General Bureau of Agrarian Reform and Rural Settlement will submit them to intervention. The measure will be issued and executed through administrative proceedings with the assistance of public forces, if necessary. The intervention can become administration when it is hindered or with administration is necessary.

**Article 62.-** As to everything not contemplated herein, the provisions contained in Law 9125 and amendments thereto will be applicable.

## **SECTION V**

### **Valuation**

**Article 63.-** The value to be fixed as fair price of the land, constructions, facilities and other parts thereof that are expropriated, shall be the official valuation made by the General Bureau of Taxation for the preparation of the Real Estate Register.

While the Real Estate Register is being prepared, the following will be considered as fair price:

- a) For properties directly worked, the value indicated in the self-appraisal made by the owner for purposes of payment of 1988 rural property tax.

The excess or reduction of the value of the expropriated property due to improvements or deterioration occurring after the date of declaration of the self-assessment or of the official valuation corresponding to 1968 for purposes of payment of tax on the value of rural property will be the only one subject to expert appraisal.

In the event the owner has failed to file the declaration, the value fixed in the last transfer of title on a free or onerous basis on which the relevant tax has been paid will be considered for the properties directly managed.

- b) For properties worked by lessees or other farmers who are not owners in areas that exceed three times the family farm unit, by averaging the value resulting from the capitalization at six percent (6%) of the net income on which the real estate income tax was paid during the last three years prior to the date of the valuation.

- c) For purposes of properties worked by tenants or other farmers who are not owners in areas that exceed three times the family farm unit, by averaging the value resulting from the capitalization at nine percent (9%) of the net income on which the real estate income tax was paid during the last three years prior to the date of the valuation.

The General Bureau of Taxation and the Municipalities will provide, within a term of fifteen days after being requested by the General Bureau of Agrarian Reform and Rural Settlement, the information referred to in this Article.

**Article 64.-** The valuation of properties of parties exempt from the real estate tax and/or real estate income tax shall be made as follows:

- a) For properties worked directly, the net average income obtained in the last three years prior to the date of valuation in accordance with the accounting books to be submitted by the owner will be capitalized at six percent (6%) per year.
- b) For properties worked by lessees or other farmers who are not owners in areas that exceed three times the family farm unit, the net average income obtained during the last three years prior to the date of the valuation in accordance with the corresponding contracts and/or accounting books to be submitted by the owner will be capitalized at six percent (6%) per year.
- c) For properties worked by tenants or other farmers who are not owners in areas that exceed three times the family farm unit, the net average income obtained during the last three years prior to the date of the valuation in accordance with the corresponding contracts and/or accounting books to be submitted by the owner will be capitalized at nine percent (9%) per year.

**Article 65.-** Livestock and permanent plantations will be valued separately. The valuation will be made taking into account the average market prices, the production as appropriate, the information appearing on the owner's accounting books and the cost of installation, as the case may be.

When livestock properties are earmarked, the General Bureau of Agrarian Reform and Rural Settlement is authorized to acquire the cattle existing on the property or on the earmarked portion thereof, through purchase-sale, taking into account the fodder capacity of the pastures.

The value of the machinery and the portion of the buildings erected to adapt them to such machinery, which will lose value or suffer major deterioration if separated, rendering them useless, will be the written-off value appearing on the company's books.

## **SECTION VI**

### **Awarding of Land**

**Article 66.-** The awarding of land obtained for the Agrarian Reform will be made in accordance with the rules contained in this Law.

**Article 67.-** Land will be awarded by the General Bureau of Agrarian Reform and Rural Settlement to farmers who do not own any land or who possess an insufficient amount thereof. In compliance with the provisions set forth in Article 211 of the Constitution of the State, the Rural Communities,

Cooperatives and Farming Partnerships of social interest, as the case may be, will enjoy the same preference.

**Article 68.-** Expropriated rural businesses and properties can be temporarily administered before being awarded by Special Committees, which will be formed by the representatives of the Ministry of Agriculture and Fishery, one of whom will preside over it, a Representative of the Farming and Livestock Promotion Bank, one Representative of the Industrial Promotion Bank, two Representatives of the workers of the expropriated property chosen by them as set forth in the Regulations and one representative of each entity whose intervention the Ministry of Agriculture and Fishery deems convenient in each case. The members of the Special Committees will be appointed by a Supreme Resolution.

**Article 69.-** The Special Committees have the specific purpose of temporarily administering the land, cattle and other assets of the farms located in the Agrarian Reform Zones that have been expropriated in accordance with Law No. 15037 and this law, as long as those assets can be awarded to Communities or Rural Communities or other forms of associations to be established in accordance with Article 74 of this Law; and participate in the preparation and implementation of projects for the settlement of the beneficiaries of the earmarked land and for the better use of the expropriated assets.

**Article 70.-** Special Committees will be set up in each case by a Supreme Resolution to be issued by the Ministry of Agriculture and Fishery and will have legal status to perform every type of civil and business transactions required in order to comply with their functions.

**Article 71.-** The powers of the Special Committees are the following:

- a) To administer with the authority assigned by this Law, the land and other assets that have been expropriated for Agrarian Reform purposes, while the process to award them to the Communities or Farming and Livestock Cooperatives to be established in accordance with the Law on the matter lasts.
- b) To administer the special funds that were assigned to it by the State or provided by the member institutions to cover the expenses of the transaction.
- c) To appear in any judicial or administrative proceeding related to instruments or contracts during the exercise of the administration.
- d) To directly sell, under the conditions it deems more convenient, the products, fruits, livestock and other personal property being administered.
- e) To hire the employees and laborers that may be necessary to maintain an efficient exploitation, who shall be subject to the regime governing private servants and laborer's legislation.
- f) To prepare annual balance sheets and Profit and Loss Statements and, at the end of its functions, the corresponding settlement Balance Sheet.

**Article 72.-** The Special Committees will operate during the term established in the respective Supreme Resolution.

**Article 73.-** The Special Committees will immediately assume the functions assigned to the and propose to the Ministry of Agriculture and Fishery, within a term of thirty days following the start of operations, their draft internal regulations for approval by a Ministerial Resolution.

**Article 74.-** The awarding of land, cattle, crops, facilities, equipment and others in the Agrarian Reform Zone, may be made in favor of Farming Partnerships of social interest that will be governed by the basic principles of partnerships. Only individuals who meet the requirements to be beneficiaries of the Agrarian Reform, Cooperatives, and Rural Communities, can be members of Farming Partnerships, either jointly or separately, alone or with the Farming and Livestock Promotion Bank and/or the Industrial Promotion Banks or other public entities related to the Agrarian Reform process, if necessary. In each case, the Ministry of Agriculture and Fishery will approve the incorporation, contribution of partners and bylaws of said partnerships, through a Supreme Resolution, which will suffice to register the partnership in the Book of Civil Partnerships of the corresponding Register of Legal Entities. These Partnerships will be able to administer communal land and other assets exploited together with the awarded land or engage in business to facilitate the sale or industrialization of farming and livestock products.

**Article 75.-** When the land is awarded to Farming Partnerships of social interest, that Partnership will be entitled to the ownership right as a legal entity.

The Regulations will establish the indemnity regime arising from the death and withdrawal of partners who wish to abandon the company, as well as the regime governing reinvestment for distribution of profits.

**Article 76.-** In the case of land that is occupied by tenants and small leaseholders at the time of the earmarking, they will have absolute to be awarded the land they have been working. When there is excessive fractionation or fragmentation of the farming units and the Ministry of Agriculture and Fishery decides to redistribute the plots of land, the excess tenants and small leaseholders will maintain their right to absolute priority over land being awarded in the same Zone or in the settlement projects nearest to it.

In the case of relatives within the third degree of consanguinity or second degree of affinity that manage adjacent properties that are less than the family farm unit, they will be accumulated into family farm units and each unit will be awarded to the relative designated by the interested parties, and if an agreement cannot be reached, the General Bureau of Agrarian Reform and Rural Settlement will resolve.

**Article 77.-** The land will only be awarded to Cooperatives, Rural Communities, Farming Partnerships of social interest and previously qualified individuals, by the General Bureau of Agrarian Reform and Rural Settlement. Land may be awarded to groups of farmers who undertake to set up the respective Cooperative or Farming Partnership of social interest within the term to be established. The form of awarding will be determined by the General Bureau of Agrarian Reform and Rural Settlement based on the sociological characteristics of the groups of farmers, the economy of the Zone, the quality of the land and the type of farming or livestock exploitation established or to be established.

**Article 78.-** When the land is awarded to individuals the awardees will be settled in family farm units.

**Article 79.-** A family farm unit is defined as the surface of land which, directly worked by the farmer and his family members in technical conditions of efficiency, also meets the following requirements:

- a) It absorbs the entire labor force of the family and does not require the use of outside labor, except in certain periods of farming campaign and in a proportion not greater than one-fourth of the family's annual work capacity;
- b) It provides the farmer with a net income which is sufficient to support his family and meet the obligations corresponding to the purchase of the parcel and accumulate a certain savings margin.

Plots awarded as a family farm unit are indivisible.

The area of land to establish a family livestock unit, where applicable, will be fixed by the General Bureau of Agrarian Reform and Rural Settlement, taking into account the provisions of item b) of this Article.

**Article 80.-** The area of the family farm unit will be determined for each Zone by the General Bureau of Agrarian Reform and Rural Settlement, on the basis of the labor force of the family expressed in labor units as well as the economic capacity of each class of land.

**Article 81.-** The land will be awarded in accordance with comprehensive rural settlement plans prepared by General Bureau of Agrarian Reform and Rural Settlement, when it is so justified by the number of awardees established and in all cases of awarding of earmarked land that have reached an appreciable level of productivity.

**Article 82.-** A rural settlement is understood to be the organized establishment of groups of farmers in the farm units considered in this Law, which includes providing to such groups technical and credit facilities during the term required to be able to act on their own means.

**Article 83.-** The land will be awarded through purchase-sale agreements with reservation of title, at the price fixed as a function of the economic capacity of the farm unit being awarded.

The selling price will be paid in 20 annual instalments, counted from the date of the award, the awardee being able to pay off the price in a shorter term. The General Bureau of Agrarian Reform and Rural Settlement is hereby authorized to agree, in special cases, a number of dead years, which in no event may exceed five, and to establish the interest rate that the outstanding balances will accrue.

The selling price of medium property units to individuals will be paid in annual installments which in no event will be less than the amount of the rental the awardee was paying.

Purchase-sale agreements granted by the General Bureau of Agrarian Reform and Rural Settlement may be entered into through private documents with legalized signatures and will suffice to be registered with the Public Registry Offices and the certificates granted by them will have the same validity as the official transcripts of public deeds for every purpose.

**Article 84.-** In order to be admitted as a candidate to be awarded Family Farm Units, the following is required:



- a) To be Peruvian;
- b) Be over 18 years old or have civil capacity;
- c) Be a head of family;
- d) Be a farmer;
- e) Not be a landowner or own a surface smaller than the family farm unit. In the latter case, he will be obliged to sell it to the General Bureau of Agrarian Reform and Rural Settlement, provided it requests it; and
- f) Preferably reside in the property being awarded or in a neighboring place.

**Article 85.-** The awardee will be selected by the General Bureau of Agrarian Reform and Rural Settlement through a draw among those who meet the requirements set forth above.

**Article 86.-** The awardees will contractually undertake to meet the following essential conditions:

- a) Directly work the land;
- b) Have their home in a place compatible with the personal exploitation of land;
- c) Not sell, encumber or transfer in any way their rights over the awarded unit, without authorization from the General Bureau of Agrarian Reform and Rural Settlement, before paying the price thereof;
- d) Contribute personally or economically on a proportional basis to works and services of common interest;
- e) Pay upon maturity the instalments or amortization for the purchase of the awarded unit and comply with the obligations contracted with the institutions authorized by the General Bureau of Agrarian Reform and Rural Settlement;
- f) Belong to a cooperative or partnership of social interest, when the obligation of forming part of it has been established at the time of granting the award; and
- g) Obey the directives of a technical and administrative nature to be issued by the General Bureau of Agrarian Reform and Rural Settlement.

**Article 87.-** Failure to comply with the foregoing contractual obligations will be sufficient grounds for the General Bureau of Agrarian Reform and Rural Settlement to declare the termination of the respective contract.

Termination will also apply when the awardee owes two consecutive annual payments.

The General Bureau of Agrarian Reform and Rural Settlement will declare the termination of the respective contract on the grounds mentioned above and will notify the awardee to vacate the plot. The awardee may resort to the agrarian jurisdiction within 30 business days after he has been served. When termination occurs due to non-payment, the awardee may pay the annuities due within the above-mentioned deadline, and the termination will be annulled.

Once the order to vacate has been issued, the awardee will be entitled to be refunded the amortizations and the price paid for the improvements introduced by him, previously deducting any debts for loans granted by State credit institutions, as well as the rental calculated for the time he has managed the plot.

**Article 88.-** When the awardee of a family farm unit dies without having paid the price thereof, the purchase-sale agreement will expire, taking into account what he would have paid as rental for the time he managed the plot and, in such event the General Bureau of Agrarian Reform and Rural Settlement will award the plot free of charge to the spouse or permanent companion and children under 18, who will be obliged to liquidate the condominium when the last child turns 18 or acquires civil capacity.

**Article 89.-** In the case of farm units smaller than the family unit, the General Bureau of Agrarian Reform and Rural Settlement will authorize their transfer only if it is done to an awardee whose plot is smaller than the family farm unit even before having paid the price thereof.

**Article 90.-** Exceptionally, in cases where there are small leaseholders and the available land is not enough to provide farmers with family farm units, the land will be awarded to groups of landless farmers, even though the total group of land is less than the family farm units that would correspond.

## **SECTION VII**

### **Technical and Financial Assistance**

**Article 91.-** The Agrarian Reform beneficiaries will have preference in receiving technical and financial assistance granted by the State through the Ministry of Agriculture and Fishery and other state and para state agencies, who will be obliged to cooperate in all fields that fall under their jurisdiction. The order of priority will be the following: Cooperatives, Rural Communities, Farming Partnerships of Social Interest, small and medium sized awardees.

**Article 92.-** Once an Agrarian Reform Zone has been declared, the General Bureau of Agrarian Reform and Rural Settlement in coordination with the Sectoral Office of Agrarian Planning and Fishery will prepare the development plan for that Zone, including the investigation, extension, promotion, credit, defense, marketing and others that will necessarily supplement the actions of the change of landholding structure.

**Article 93.-** For purposes of granting loans within Agrarian Reform Zones and areas, the State Banks will observe the following order of priority:

- a) Requests from cooperatives formed by Agrarian Reform Beneficiaries;
- b) Requests from agrarian communities;
- c) Requests from the other Agrarian Reform Beneficiaries;
- d) Requests from small and medium landowners; and
- e) Requests from landowners and lessees not included in the foregoing items.

**Article 94.-** The Ministry of Agriculture and Fishery will allocate every year from its Budget an amount consistent with the magnitude and nature of the projects underway, destined for the establishment and increase of a Trust Fund in the Agriculture and Livestock Promotion Bank, for the granting of loans called "Agrarian Reform Credits". These Credits and the Fund will be managed by a Council formed by representatives of the Ministry of Agriculture and Fishery, one of whom will be an officer of the General Bureau of Agrarian Reform and Rural Settlement, and two of the Bank. The rules on the types of these loans, as regards legal documentation, amounts, deadlines, interest, guarantees and other conditions will be established by the Fund's Council.

**Article 95.-** The Ministry of Agriculture and Fishery, in coordination with the relevant authorities, will foster the training of intermediate technicians and rural leaders, to promote the organization of cooperatives and partnerships of social interest.

**Article 96.-** The State will organize the farming and livestock insurance to cover the risks of draught, frost, and other calamities, guaranteeing to the farmers the amount of the investments made in farming and livestock businesses, when they are lost in whole or in part. To this end, the Ministries of Economy and Finance and Agriculture and Fishery will designate a Committee which, in a term of 180 days following the publication of this Law, will submit the respective proposal.

**Article 97.-** Cooperatives formed by Agrarian Reform beneficiaries or other small sized farmers, farming companies of social interest and rural communities, will have priority to directly export their own production or that of their partners to the domestic markets that pay the best prices, provided the domestic market has been covered.

## **SECTION VIII**

### **Small Farms**

**Article 98.-** As from the date of enactment hereof, it is prohibited to divide a rural property into areas smaller than those established for a family farm unit, which in no event can be less than 3 hectares. Therefore, rural properties with a surface area whose division results in one or more units of less than 3 hectares will be considered indivisible for all legal purposes.

**Article 99.-** With the aim of correcting the extreme division of rural property and the excessive dispersion of plots, small farm integration actions tending to consolidate the family farm units, will be carried out:

- a) By the General Bureau of Agrarian Reform and Rural Settlement either at its own initiative or at the request of the interested smallholders;
- b) By the direct action of smallholders.

**Article 100.-** Regulations to be approved by a Supreme Decree will determine the conditions under which sales, barter and other acts relating to the provisions set forth in the foregoing Article will be able to be made.

**Article 101.-** The Farming and Livestock Promotion Bank of Peru and the Central Mortgage Bank will finance the actions referred to in this Section through long-term loans.

**Article 102.-** With the aim of establishing Farm Units with an adequate area to allow increasing the standard of living of farmers in small farm areas, the General Bureau of Agrarian Reform and Rural Settlement will perform Plot Concentration and Rural Reorganization Areas. Through these actions, it will be endeavored to:

- a) Assign a single plot to each owner or, if this were not possible, in a reduced number of plots, an area equivalent in type of land to that of the plots he was formerly in possession of;
- b) Join, as far as it is consistent with the provisions set forth in the foregoing item, the plots cultivated by the same farmer, even if they belong to different owner;

- c) Increase the area of the small plots whose exploitation is uneconomical and give access to communication accesses to new parcels;
- d) Supplement the foregoing actions with a reduction to the extent possible of the current dispersion of rural population.

**Article 103.-** In the legal actions for division and partition of rural properties, the First Instance Courts will request a report from the General Bureau of Agrarian Reform and Rural Settlement on the surface area of the Family Farm Unit determined for the valley where the rural property being divided and partitioned is located, in observance with the provisions contained in Article 98 hereof.

**Article 104.-** In the event of the death of the owner of a Family Farm Unit, the successor designated in the will will inherit the property, provided he directly works the land. In the absence of a will, the heirs will designate the awardee; if an agreement cannot be reached, the awardee will be elected by the General Bureau of Agrarian Reform and Rural Settlement, among the heirs that meet the legal requirements.

**Article 105.-** The heirs who are not awarded the price will have the right to a credit in the amount of the corresponding hereditary quota.

The Farming and Livestock Promotion Bank of Peru will organize a system that will allow the awardee to obtain funding to comply with the obligations arising from the partition.

**Article 106.-** When there is not a qualified heir to own the farm unit or, otherwise, if they are not willing to work the plot, or fail to appear before the General Bureau of Agrarian Reform and Rural Settlement within a period of one year, the provisions of Article 87 will apply.

**Article 107.-** In those areas where the extreme division of land into areas smaller than the Family Farm Unit has not proliferated, the marginal population will be determined in order to provide it with land in the Rural Settlement and Colonization projects to be undertaken by the State, preferably in areas adjacent or close to the region where the plot concentration is made.

## **SECTION IX**

### **Plotting of Land at Private Initiative**

**Article 108.-** The State will foster the plotting of rural properties at own initiative, provided this is done with the approval and under the control of the General Bureau of Agrarian Reform and Rural Settlement, in accordance with the relevant Regulations.

When sales are made at the prices and within the deadlines set forth in the Section on Awards of this Law, the General Bureau of Agrarian Reform and Rural Settlement will guarantee the payment thereof.

**Article 109.-** The General Bureau of Agrarian Reform and Rural Settlement may postpone or deny approval of the plotting projects that interfere with its own programs.

In zones declared to be under the Agrarian Reform, the plotting of land at own initiative will be made over land that cannot be earmarked.

Once the plotting of land has been approved, the General Bureau of Agrarian Reform and Rural Settlement will oversee compliance therewith, obtaining a copy of the purchase-sale agreements.

**Article 110.-** Rural land cannot be divided into plots that are smaller than the farm and/or livestock unit or larger than the minimum that cannot be earmarked.

At least one-half of the area will be divided into units that do not exceed three times the family farm unit and the rest of the units do not exceed the minimum not subject to earmarking.

**Article 111.-** Property occupied by tenants can be divided into plots only when, in addition to the land they manage, they are transferred the necessary area to complete a surface not less than that of a family farm and/or livestock unit determined for the Zone.

Contracts for the transfer of plots whose surfaces do not exceed three times that of a family farm and/or livestock unit are exempt from the payment of taxes, provided the buyers meet the requirements set forth in Article 84. Likewise, the transfer of plots to farmers who acquire them to set up Farming and Livestock Cooperatives or Farming Partnerships of Social Interest is exempt when their members meet the conditions set forth in the Article mentioned above.

**Article 112.-** Foundations whose bylaws prohibit the sale of rural properties owned by them, are authorized to divide them into plots, with the approval of the General Bureau of Agrarian Reform and Rural Settlement, in direct sale, with the obligation to allocate the proceeds from the sale to purposes for which they were established.

**Article 113.-** The General Bureau of Agrarian Reform and Rural Settlement will earmark rural properties that were divided into plots contrary to the provisions set forth in this Law.

**Article 114.-** Notaries Public will not process, under liability, any preliminary deed related to plotting or partition of rural property that has not been previously authorized by the General Bureau of Agrarian Reform and Rural Settlement. Also, the Public Registry Offices will not register, under liability, any of said documents or contracts when then lack the referred authorization.

## **SECTION X**

### **Rural Communities**

**Article 115.-** For purposes of this Law, as from the enactment hereof Indigenous Communities will be referred to as Rural Communities.

**Article 116.-** The rural ownership system of Rural Communities is subject to the provisions contained in this Law, with the guarantees and limitations determined by the Constitution of the Republic.

**Article 117.-** The State will encourage the modernization of Rural Communities and their organization into Cooperatives. To this end, the General Bureau of Integration of the Indigenous Population of the Ministry of Labor will become, under the name of Bureau of Rural Communities, part of the General Bureau of Agrarian Reform and Rural Settlement. Within this entity, the Bureau of Rural Communities will have the responsibility of restructuring such communities. The basic criteria to implement the modernization of Rural Communities and their organization into cooperatives will be the need to avoid the fragmentation of community land.

**Article 118.-** Land will be awarded to the communities under the express condition that they will not be able to transfer direct title thereto, unless said land is incorporated into cooperatives or farming partnerships of social interest, which can be set up in accordance with the legal rules in force and made up exclusively of communities that directly work the land. Community members may only use the land individually within the systems that are compatible with the organization of the community or cooperative.

**Article 119.-** Community land which, after January 18, 1920, is under the private possession of one or more of its members, will remain under the domain of the community without altering this possession right and cannot be sold or transferred either through a contract or by inheritance. Consequently, upon the user's death, possession will revert to the Community.

Land awarded to the community before the 1920 Constitution will be subject to the earmarking regime established herein for the benefit of the community.

**Article 120.-** The community will recover the possession of the abandoned plots and of those not directly exploited by the community members, after payment of the necessary improvements made therein.

**Article 121.-** All documents of transfer of domain of land belonging to communities made in favor of third parties whose original deed of transfer of said land is subsequent to January 18, 1920, are null and void.

Also, land concessions granted by the State to private parties for irrigation purposes to the detriment of Rural Community Property and similar property are null, and the land must revert to the Community. The reversion will be made subject to prior compensation in accordance with the provisions set forth in this Law on land expropriation.

**Article 122.-** In those cases where the Rural Communities are pursuing a lawsuit with private parties claiming land due to legal events or acts that happened after the 1920 Constitution, the payment of indemnity for expropriation will be subordinated to the results of the corresponding lawsuit.

**Article 123.-** Pending lawsuits or those brought subsequently between Rural Communities or between them and private parties or with the State, or with the entities created by this Law, on better right of ownership or possession of land, will be processed with the Land Judges, in accordance with the following rules:

- 1) Land Judges are responsible for hearing in the first instance disputes on property, possession or land boundaries;
- 2) The complaint must contain the requirements contained in Article 306 of the Code of Civil and simultaneously offer, in writing, the relevant proof.  
The Judge will serve the complaint to the defendant, who must answer it in a ten-day term which cannot be postponed, also offering his proof;
- 3) Once the complaint has been answered if the defendant has been declared in contempt of court, the Judge will personally make an eye inspection of the zone in dispute, gathering data to form an opinion. Once the inspection has been completed he will propose the parties to conciliate their viewpoints. If the agreement is partial the aspects on which the parties agree

will be indicated and a Document and those in dispute will be resolved by the court. Once the parties have ratified the text of the Document, they will sign and the agreements reached will be enforced in execution of judgment, drawing up a separate book when conciliation has only been partial. In this case, the Judge will receive the partial proof of the case in order to examine the proof offered in the complaint and in the answer thereto and those that can be offered within three days following the opening of the probative stage. The term to examine the proof will be fixed by the Judge and will not exceed thirty days, not subject to extension;

- 4) Once the term to provide proof has expired, the records will be presented in a document issued by the Court Clerk, during three days, the parties being able, if they wish, to present the respective allegations within the following seven days. Once this term has expired the records will be requested with subpoena for the issuance of judgment, which shall be issued within a term of not more than thirty days, under responsibility. The judgment can be appealed within a term of three days.
- 5) The Agrarian Court will hear the judgment issued by the Land Judges in the same way as in a summary lawsuit and these cases will have priority over every type of proceedings for the purpose of hearing and ruling thereon. The ruling issued by the Agrarian Court is not subject to appeal for annulment and shall be considered *res judicata*.
- 6) The judgments putting an end to the proceedings will be registered with the Real Property Registry and will be enforced without the possibility of filing any appeal, under responsibility;
- 7) When there is no Land Judge, the Acting Judge to be appointed by the Agrarian Court will act as such.

In all cases not contemplated in this Law the proceedings established for a summary lawsuit will be followed.

**Article 124.-** The organization and operation of Rural Communities will be governed by Special Bylaws which will regulate their economic regime, form of government, common services and other adequate institutions.

**Article 125.-** Communities may assign the use of their land to cooperatives of farming partnerships of social interest formed by members of the same Community, under conditions to be approved by the Ministry of Agriculture and Fishery.

Land acquired by the Communities in accordance with ordinary law will be governed by the provisions contained in this Law.

**Article 126.-** In order to provide land to Communities that do not have sufficient area to cover the needs of their population, the neighboring properties will be earmarked, even if they are located in Zones not declared to be under the Agrarian Reform and the minimum land that cannot be earmarked is reduced. Such land will be awarded to the communities and will be subject to the provisions contained herein.

## **SECTION XI**

### **Agrarian Contracts**

#### **Lease**

**Article 127.-** Once an Agrarian Reform Zone has been declared, it is prohibited to enter into a lease agreement over the rural property located in such Zone, with the exception of those properties

belonging to minors or incompetent individuals while the incompetency or under age situation lasts, or the studies of the minor if they are pursued in professions strictly related to farming and livestock activities and provided they do not exceed a period of six years.

A rural lease agreement in zones not declared as Agrarian Reform will be subject to the limitations and types set forth herein.

It is prohibited to lease plots having an area smaller than the Family Farming Unit.

Awardees are prevented from leasing the awarded land, with the exception set forth in the first paragraph of this Article.

**Article 128.-** The lessee enjoys the right of retraction of the property leased in cases of sale, award as payment, contribution to a partnership or any other legal act involving transfer of title other than succession in favor of heirs, at the price fixed in accordance with the provisions set forth in Articles 63, 64, and 65 hereof, as the case may be.

This retraction has preference in respect of the parties exercising the right of retraction referred to in Article 1450 of the Civil Code, and in order for the lessee to be able to exercise it, it will maintain its right as long as he is not personally notified. As to everything else, the ordinary conditions of retraction will prevail.

**Article 129.-** Provisions obliging to do the following are null:

- a) Receive supplies exclusively from the owner;
- b) Sell the products to the owner of the property or to a given person;
- c) Obtain machinery and other industrial assets belonging to the owner or people he indicates;
- d) Obtain machinery and other assets, clothing or food from a given manufacturer or business;
- e) Establish plantations that will remain for the benefit of the farm without the correlative obligation of reimbursement or growing given crops;
- f) Pay the rental in kind or in advance and for periods shorter than one year; and
- g) Any other clause that intends to oblige the lessee to exclusively do business with the owner.

**Article 130.-** Actions for eviction and notice of dismissal are only admissible in the following cases:

- a) If the lessee has failed to pay the rental of the previous year and 15 days have expired;
- b) Expiration of term of duration fixed by the parties, unless during the entire term of the lease the property has been exclusively used for food crops and is efficiently exploited; and
- c) Assigning or subletting the lease.

**Article 131.-** The rental of rural land cannot exceed the equivalent in cash of ten percent (10%) of the gross annual production of the farm, estimated at the time of entering into the agreement.

**Article 132.-** If the agreed rental exceeds the legal limit, the lessee can require the agrarian jurisdiction to reduce it and receive the applicable reimbursement. This right can only be exercised within the contract term.



**Article 133.-** The payment of “*juanillo*” (payment received by a tenant to transfer the right to lease the property), bonus for transfer, as well as improvements with agreement of non-reimbursement and, in general, every payment other than the rental authorized by law, liable of being considered an additional lease are hereby prohibited.

Anyone who receives commissions, *juanillo*, and another other payment other than the rental for the lease or transfer of rural property, will be sanctioned, without prejudice to returning the amount unduly charged, with ten times the amount received, the first time, and in the event of recurrence, in addition to a fine, he will be sanctioned with not less than 3 months in prison, to be enforced by the Judiciary. The proceeds of the fine will be for the benefit of the accuser. With regard to the contracts in force and those to be entered into in the future, the relevant actions can be exercised up to 6 months following the expiration of the lease.

**Article 134.-** The waiver of the right to ask for a reduction in the rental due to acts of God that occur usually, is not applicable if as a result thereof the crop is reduced by one-third or more. Thus, Article 1503 of the Civil Code is hereby modified.

**Article 135.-** Rural properties cannot be leased for less than 6 years. If the term of the contract expires without the lessor requesting the property or the lessee returning it, it shall be considered extended for an equal term.

**Article 136.-** At the end of the lease agreement, regardless of the cause, the owner will pay the lessee for the necessary and useful improvements. Thus, Article 1539 of the Civil Code is hereby modified.

**Article 137.-** The payment of improvements will constitute the fair payment of the appraisal of the value they have at the end of the lease.

**Article 138.-** The payment for improvements cannot exceed one-third of the rental paid by the lessee during the last 6 years or the time it has enjoyed the farm, if it were less than 6 years. The owner may object to said valuation, within the terms of the law, before the Agrarian Jurisdiction.

**Article 139.-** The right to payment for improvements does not establish a legal mortgage over the farm or authorizes the withholding thereof. If the lessee does not request payment for improvements within 30 days following the end of the lease, it will lose every right to indemnity.

**Article 140.-** If the owner does not immediately pay the indemnity it will pay the legal interest and the Judge will grant it a term of not more than five years to pay the capital.

**Article 141.-** The assignment of the lease and subletting in whole or in part are prohibited. Every agreement to the contrary is null. The assignee or sub-lessee who leases an area smaller than three times the Family Farm Unit, will replace the lessee, without prejudice to the liability the owner may require from the lessee.

**Article 142.-** Lease agreements evidenced by private documents may be registered with the Real Property Registry if the signatures are legalized by a Notary Public or Justice of the Peace and two witnesses or if they are judicially recognized.

**Article 143.-** The rights recognized in this Section cannot be waived and the contractual clauses that contradict or breach them will be considered not included, even those dated before the enactment of Law No. 15037.

## **CHAPTER II**

### **Agro-Industrial Contracts**

**Article 144.-** An agro-industrial contract is understood to be a purchase-sale agreement or participation in the products of the land entered into between farmers and industrial companies using such products as raw material.

**Article 145.-** The Industrial Promotion Bank will give preference to the granting of loans to national industries established or to be established, using raw material mostly produced by Cooperatives, Rural Communities or small or medium farmers who are not members of the industrial company.

**Article 146.-** In the zones where transformation industries of farming products operate, producers will be entitled to verify, either personally or through their Associations or officers of the Ministry of Agriculture and Fishery, every technical operation to which the industry submits its products for classification and purchase.

**Article 147.-** The Ministry of Agriculture and Fishery will organize permanent boards of a mandatory nature with representation of the producers and respective industrialists, at the rate of three delegates per party, and also a representative of the Ministry of Industry and one of the Farming and Livestock Promotion Bank, with the following authority:

- a) Approve the contract forms to be used by the interested parties to supply the products;
- b) Apply the legal provisions on classification of products or agree to the classification criteria thereof in the absence of officially approved technical standards; and
- c) Act as arbitrators in equity to resolve any disputes that may arise on the price of the products, charges for benefits, "*acudes*" (assistance) and other similar systems and time and form of payment.

## **SECTION XII**

### **ENTITIES IN CHARGE OF THE AGRARIAN REFORM**

#### **CHAPTER I**

#### **Administrative Entities**

**Article 148.-** The Ministry of Agriculture and Fishery is in charge of managing the Agrarian Reform and Rural Settlement policy, in keeping with the country's economic and social development plans, proposing the Executive to declare, supported by the applicable studies, Agrarian Reform Zones and approve the plans for the areas to be earmarked for the agrarian reform and their financing, granting title deeds, delegating the duties and powers vested in the Ministry of Agriculture and Fishery to the Director General of Agrarian Reform and Rural Settlement, provided they can be delegated bearing in mind their nature, and discharging all other powers set forth in this Law.

**Article 149.-** The General Bureau of Agrarian Reform and Rural Settlement of the Ministry of Agriculture and Fishery is in charge of taking the steps required to transform the rural land tenure structure in the

case of rural land having formal legal status, only for purposes of earmarking for expropriation, acquiring, expropriating, and allocating rural property in compliance with the Agrarian Reform legislation, without prejudice to the fact that it will keep the corresponding hierarchical subordination as an agency of the Ministry of Agriculture and Fishery.

**Article 150.-** Apart from the duties mentioned above, the General Bureau of Agrarian Reform and Rural Settlement has the following duties: receive, manage, and account for the funds allocated to the General Bureau of Agrarian Reform and Rural Settlement for purposes of the Agrarian Reform; prepare, based on the annual income, the annual investment plan; issue an opinion on rural settlement projects carried out by the State or private entities; appear, exercising its rights, before any court in all kinds of proceedings, regardless of the jurisdiction of the court, and reach settlements or abandon the proceedings; impose the fines referred to in this Law in the event of breach of or non-compliance with the provisions set forth in this Law; comply and enforce compliance with the resolutions issued by the Ministry of Agriculture and Fishery and the Agrarian Court; enter into contracts for the award and purchase of rural property in compliance with the Law, keeping a list of the corresponding awardees and owners, being authorized to delegate these duties to the officials in charge of the Agrarian Reform; and discharge all other duties indicated in the Law.

**Article 151.-** A Committee presided over by the Minister of Agriculture and Fishery and composed of the Director General of Agrarian Reform and Rural Settlement, the Director General of Farming and Livestock Promotion, the Director General of Water and Irrigation, and the Manager of the Farming and Livestock Promotion Bank of Peru will coordinate the relevant actions with the agencies of the Ministry of Agriculture and Fishery within the Agrarian Zones in order for the Agrarian Reform process to be better implemented.

**Article 152.-** The Directors of Agrarian Zones having jurisdiction over areas where Agrarian Reform Zones have been declared or will be declared will be directly responsible for implementing the Agrarian Reform process in their Zone. The Director of the Agrarian Zone will integrate the actions taken by the different Sub-Bureaus to guarantee their coherence and dynamism and will monitor all direct and supplementary effects of the Agrarian Reform process. As regards its line of authority, it will report to the Director General of the Ministry of Agriculture and Fishery through the General Bureau of Agrarian Reform and Rural Settlement.

## **CHAPTER II**

### **Judicial Bodies**

**Article 153.-** The Agrarian Court is hereby created as a judicial body in charge of trying and resolving in the last instance any conflict and dispute originating from the enforcement of laws dealing with the Agrarian Reform process, Water, Untilled Land, the Jungle, and the agrarian law in general.

**Article 154.-** No appeal can be filed against the Resolutions issued by the Agrarian Court in relation to the matters referred to in the foregoing Article, and said Resolutions will be considered matter adjudged.

**Article 155.-** In all cases where a lawsuit is filed with any Judge or Court against the State or any individual or legal entity in relation to the Agrarian Reform process or the agrarian law in general, the

defendant can file a motion to dismiss based on lack of jurisdiction, requiring that the conflict be referred to the competent Agrarian Judge.

**Article 156.-** The Agrarian Court will be composed of five Members who will be elected by the Executive by means of a Supreme Decree, with the approving vote of the Council of Ministers.

**Article 157.-** To be a Member of the Agrarian Court, candidates should have been born in Peru, should be capable of exercising all their rights, should be either a lawyer or an agricultural engineer with no less than fifteen years' professional experience or another person with the same experience in agrarian matters, should be morally solvent, and cannot own rural property, nor can they have any relatives in the second degree of consanguinity or affinity who own land.

**Article 158.-** The Members of the Agrarian Court will be elected for a period of six years, although they can be reelected.

**Article 159.-** The Agrarian Court will be presided over by a Member elected by the remaining Court Members, and said Member will serve as chairman of the Agrarian Court for a term of two years. If the position of Chairman becomes vacant or the Chairman is on leave or sick leave, then he will be replaced by the most senior Agrarian Court Member and if two or more Court members comply with the same requirement, then he will be replaced by the oldest Member.

**Article 160.-** Court Members will be replaced in the same cases referred to in the foregoing Article by the Land Judge of the Department of Lima.

**Article 161.-** In order for the Agrarian Court to operate, at least four of its members should be present and resolutions will be passed by majority of vote. The Chairman has a casting vote.

**Article 162.-** Votes shall be by roll call and all members must cast a ballot, unless a member excuses himself because he has a personal relationship with the matter being dealt with.

**Article 163.-** In each Agrarian Reform Zone and Agrarian Reform Area there will be at least one Land Judge, who will try the conflicts and disputes referred to in Article 153 of this Law in the first instance.

Land Judges will be independent of each other and will have the same hierarchy. As far as administrative and disciplinary matters are concerned, they report to the Agrarian Court.

**Article 164.-** To be appointed Land Judge, candidates should have been born in Peru, should be capable of exercising all their rights, should be a lawyer with no less than three years' professional experience, and cannot own rural property, nor can they have any relatives in the second degree of consanguinity or affinity who own land.

Land Judges will be elected by the President of the Republic at the suggestion of the Agrarian Court.

**Article 165.-** Complaints filed with Land Judges must comply with the requirements set forth in Article 304 of the Code of Civil Procedure and must additionally include all relevant evidence. The Judge will have the complaint submitted to the defendant for the latter to answer the complaint in writing within a non-postponable term of six days, offering his/her evidence. The term available for the submission of evidence will be a non-postponable term of ten days, unless the Judge voluntarily asks for other steps to

prove the controversial issues. The burden of proof will lie with the owner whose land has been expropriated, if applicable.

Upon expiration of the evidence production stage, the Judge will issue a resolution, without any further formalities.

If the Judge fails to comply with the agreed terms, a petition in error can be filed with the Agrarian Court.

**Article 166.-** An appeal can be filed with the Agrarian Court against the resolution issued by the Land Judge, within a term of five days.

**Article 167.-** Appeals will be resolved by the Agrarian Court within a term of eight days counted as from the date they have been received at its office, subject to the prior opinion of its Legal Department or, should it deem it convenient, a report issued by its Technical Department and/or one of the members of the Agrarian Court will additionally be required.

**Article 168.-** All auxiliary staff required by the Land Court and the Agrarian Court will be appointed at the suggestion of the Land Court or Agrarian Court by the Ministry of Agriculture and Fishery.

**Article 169.-** As to matters not expressly contemplated in this Section and in the remaining provisions of this Law, the provisions set forth in the Organizational Law of the Judiciary will be applicable.

**Article 170.-** The Agrarian Court will draw up its Internal Regulations and will manage the budget funds assigned to it.

**SECTION XIII  
AGRARIAN REFORM CAPITAL AND FUNDING  
CHAPTER I**

**Capital of the General Bureau of Agrarian Reform and Rural Settlement**

**Article 171.-** The capital of the General Bureau of Agrarian Reform and Rural Settlement consists of the following property and goods:

- a) Rural property and land earmarked to the General Bureau of Agrarian Reform and Rural Settlement by the State;
- b) Rural property expropriated in compliance with this Law;
- c) Donations, legacies and funds originating from foundations, received from individuals or legal entities, whether national or foreign, for Agrarian Reform purposes;
- d) The goods referred to in Article 172 of this Law (vacant inheritance);
- e) Allowances included in the General Budget of the Republic;
- f) Proceeds derived from fines imposed in accordance with the provisions set forth in this Law;
- g) Interest accrued on its current account deposits.

**Article 172.-** The text of Article 774 of the Civil Code is hereby replaced to read as follows: “Once the inheritance is declared vacant, any rural property, cattle, machinery and facilities comprising the inheritance, will be transferred to the General Bureau of Agrarian Reform and Rural Settlement and the remaining goods will be transferred to the Public Welfare Association in the place where the decedent was domiciled prior to his/her death and in the capital of the Republic if the decedent was domiciled abroad.

## **CHAPTER II The Agrarian Debt**

**Article 173.-** The Executive is hereby authorized to issue, at the request of the Ministry of Agriculture and Fishery, Agrarian Debt Bonds up to the sum of Fifteen Billion Soles Oro (S/.15,000,000.00) (sic).

**Article 174.-** There will be three classes of Agrarian Debt Bonds: Class “A”, Class “B”, and Class “C”. All bonds will have a specific nominal value of one thousand, five thousand, ten thousand, fifty thousand, one hundred thousand, five hundred thousand, and one million soles oro (S/.1,000.00, S/.5,000.00, S/.10,000.00, S/50,000.00; S/.100,000.00, S/.500,000.00 and S/.1,000,000.00).

Class “A” Bonds will accrue interest on the outstanding debit balance at a rate of six percent (6%) per year and will be redeemed through equal annual amortizations in cash and/or shares, as provided for in this Law, within a term of 20 years counted as from their placement date.

Class “B” Bonds will accrue interest on the outstanding debit balance at a rate of five percent (5%) per year and will be redeemed through equal annual amortizations in cash and/or shares, as provided for in this Law, within a term of 25 years counted as from their placement date.

Class “C” Bonds will accrue interest on the outstanding debit balance at a rate of four percent (4%) per year and will be redeemed through equal annual amortizations in cash and/or shares, as provided for in this Law, within a term of 30 years counted as from their placement date.

The Agrarian Debt Bonds, including interest accrued thereon, are tax-exempt.

**Article 175.-** Bonds will be issued in bearer form and cannot be transferred until the year of their amortization. They will be guaranteed by the State without any reserve whatsoever and without prejudice to the fact that they can be pledged in support of all the goods and income of the Agrarian Reform. Bonds will be issued in annual series for each class.

Public company shares issued by the State for purposes of paying for or exchanging Agrarian Reform Bonds will be in bearer form and cannot be transferred during the first 10 years counted as from their issuance.

**Article 176.-** The Farming and Livestock Promotion Bank of Peru will be the irrevocable trustee of the Agrarian Debt Bonds and will have the following powers:

- a) Receive from the Public Treasury the funds required for the Bond amortization process and for the payment of interest accrued thereon;
- b) Serve as payment agent for purposes of the Bond amortization process and for the payment of interest accrued thereon, as the case may be;

- c) Serve as collection agent to collect payments under purchase and sale agreements entered into between the General Bureau of Agrarian Reform and Rural Settlement and the Agrarian Reform awardees;  
The Industrial Promotion Bank will have the following powers:
- d) Receive from the Farming and Livestock Promotion Bank the funds derived from the amortization of the Agrarian Debt Bonds that it may have in its portfolio;
- e) Incorporate, organize, and start up industrial companies to be entrusted with the payment of the Agrarian Debt;
- f) Hand over the industrial companies, once they are already operating, to the representatives of the Agrarian Reform Bond holders, who will exchange their Bonds for shares;
- g) For the purposes referred to in items e) and f), the State will include in its annual budget an amount equivalent to no less than one percent (1%) thereof, which will be delivered to the Industrial Promotion Bank.

**Article 177.-** The Agrarian Debt Bonds and the Industrial Promotion shares will be used to pay the value of expropriated property to the owners of said property, according to law.

The value of expropriated property will be paid as follows:

1.- Land directly managed, in those cases where it has been proved that all the requirements set forth in Articles 28, 29, 31 and 34 of this Law have been fulfilled:

- a) When its value does not exceed One Hundred Thousand Soles Oro (S/.100,000.00), fully in cash; and
- b) When its value exceeds One Hundred Thousand Soles Oro (S/.100,000.00), then One Hundred Thousand Soles Oro will be paid in cash and the balance in Class "A" Bonds.

2.- Leased land and land directly managed, in those cases where it has not been proved that all the requirements set forth in Articles 28, 29, 31 and 34 of this Law have been fulfilled:

- a) When its value does not exceed Fifty Thousand Soles Oro (S/.50,000.00), fully in cash; and
- b) When its value exceeds Fifty Thousand Soles Oro (S/.50,000.00), then Fifty Thousand Soles Oro will be paid in cash and the balance in Class "B" Bonds.

3.- Idle land and land held by tenants, including plantations and facilities included within said land:

- a) When its value does not exceed Twenty-Five Thousand Soles Oro (S/.25,000.00), fully in cash; and
- b) When its value exceeds Twenty-Five Thousand Soles Oro (S/.25,000.00), then Twenty-Five Thousand Soles Oro will be paid in cash and the balance in Class "C" Bonds.

4.- When the amounts to be paid in Agrarian Debt Bonds are expressed in fractions of one thousand soles oro (S/.1,000.00), then they will be paid in cash although they exceed the limits set forth in this Article.

5.- If two or more farms owned by the same owner are expropriated, then the total value of all said farms will be added and the corresponding payment will be made in cash, in the manner described in the first two items.

**Article 178.-** Any cattle bought will be paid in cash.

**Article 179.-** When plantations, facilities, buildings, and farming or industrial equipment which form part of the business are expropriated, then their value will be paid in cash up to an amount not to exceed One Million Soles Oro (S/.1,000,000.00), and the balance will be paid in Class "A" or Class "B" Bonds, depending on whether the farms are directly managed or leased.

**Article 180.-** The annual amortization of Agrarian Debt Bonds and interest payments will be made in cash up to an amount equivalent to 150 minimum monthly living wages in the Province of Lima, and the balance will be paid in company shares, at their market value, held in any company that the Industrial Promotion Bank may wish to deliver for purposes of the payment of the Agrarian Debt Bonds.

**Article 181.-** Class "A", "B" and "C" Agrarian Debt Bonds will be fully accepted, that is, for the full (100%) face value, by State Promotion Banks if they are used to fund up to fifty percent (50%) of the value of a duly qualified industrial company to which the Bondholder or Bondholders contribute the remaining fifty percent (50%) of the value of said company in cash. The company's shares cannot be transferred within a period of 10 years, unless the proceeds of the sale are invested in another duly qualified industrial company.

#### **SECTION XIV** **Anti-Social Labor and Land Exploitation Systems**

**Article 182.-** In view that contracts whereby land use concessions are tied to the provision of services, although the corresponding services are provided for a valuable consideration, have been abolished since the date of promulgation of Law No. 15037, the provision of personal services is fully subject to the labor laws.

**Article 183.-** Regardless of their cause, name and method, obligations existing as from the date referred to in the foregoing Article or arising in the future, related to the provision of personal services in full or partial consideration of the use of land, are null and void.

**Article 184.-** When land being managed or farmed by tenants is expropriated by the General Bureau of Agrarian Reform and Rural Settlement, a given percentage of the indemnity, which will be determined by the Regulations under this Law, will be granted to the tenants which were engaged in the exploitation of the property, depending on the years of service and the conditions under which they provided the service.

Said percentage, which cannot exceed thirty percent (30%) of the indemnity, will be paid to the tenant in cash if he leaves the land that he is managing or otherwise will be applied against the price, as an advance, if the parcel is awarded to the tenant.

**Article 185.-** If the principal fails to comply with the provisions set forth in Articles 182 and 183, he will be ordered to pay an administrative fine equivalent to the wages that he would have normally paid to the tenant for the services provided during a period which may fluctuate between six months and two years. Payment of the fine does not release the principal from the obligation to pay the wages accrued.



**Article 186.-** If any permanent worker of any given property is allowed to use for no valuable consideration whatsoever a plot smaller than one hectare, said worker will not be considered to be the tenant or lessee, provided he receives at least the minimum salary and enjoys the benefits contemplated in the labor legislation. Said plot should be considered as a housing allowance for indemnity purposes.

**Article 187.-** The Labor Ministry is the competent authority to comply and enforce compliance with the provisions set forth in this Section, and must take action at its own initiative or at the request of any interested party.

## **SECTION XV Preferential Rights**

**Article 188.-** The so-called “yanaconas”, “aparceros”, “arrendires”, “allegados”, colonists, “mejoreros”, “precarios”, “huacchilleros” and other tenants and sub-tenants, subject to the prior expropriation of the land by the General Bureau of Agrarian Reform and Rural Settlement in keeping with the provisions set forth in this Law, will become the owners of the plots of land they occupy on a permanent basis, without it being necessary to have their respective zone declared to be an Agrarian Reform Zone, provided said plots of land do not exceed a surface area of 15 hectares on the coast and 30 hectares in the Highlands (Sierra), in the Jungle and in the Andean Foothills (Ceja de Selva).

Those who have several leased plots under exploitation can only resort to the benefits of this Section for a surface area which does not exceed the total surface areas referred to above.

When the surface area held by tenants is not enough in order to have equivalent areas awarded to each of the tenants comprising the family farm unit, then the required area directly managed will be expropriated, even though the minimum area which cannot be expropriated is reduced.

Those who occupy State-owned public land in the Andean Foothills and in the Jungle and are cultivating a minimum area of 5 hectares, and have filed their case file, will become the owners of the plots of land they occupy, subject to a maximum limit of 30 hectares.

**Article 189.-** The General Bureau of Agrarian Reform and Rural Settlement will authorize the contracts signed by tenants classified as beneficiaries of Section XV of this Law with the owner of the relevant property for the direct transfer of the respective plots of land, provided the land surface to be transferred is not smaller than the Family Farm Unit.

**Article 190.-** In the case of plots of land occupied by farmers who are beneficiaries of this Law, the rental payable for the land they occupy can only be calculated until the date the resolution whereby they were classified as tenants was consented to or made enforceable, final and binding in the administrative field. Any amount paid in excess will be applied against the value of the plot of land, as an advance payment, and will be deducted from the amount of the indemnity payable to the landowner for the expropriation of the land.

**Article 191.-** Tenants classified as beneficiaries of this Section, who wish to expedite their plot award process, can deliver as an advance that certain portion of the indemnity which must be paid in cash to the landowner according to law. The corresponding payment can be made at the Local Office of the respective Agrarian Zone or at the Farming and Livestock Promotion Bank of Peru.

## **SECTION XVI**

### **Cultivation of Untilled Land**

**Article 192.-** Untilled land is land which has not been cultivated due to lack or excess of water, including any other non-productive land, except for land covered by forestation or reforestation projects, natural pastureland used for livestock purposes, urban land, and land used for domestic or industrial purposes.

**Article 193.-** All untilled land located in the national territory, regardless of how it was previously acquired, including land owned by Municipalities, State Companies and other persons of domestic public law, except for land which has been the subject matter of ongoing irrigation projects or irrigation projects the authorization of which is still in progress, provided the term of said projects has not expired, are part of the public domain.

**Article 194.-** The Ministry of Agriculture and Fishery can enter into concession, lease or sale agreements for the implementation of irrigation or other projects on untilled land, provided the purpose of the relevant project is in line with the respective development and zoning plans.

**Article 195.-** In irrigation projects implemented with public funds, which include the regularization of the irrigation of other property located within the project area, the refund of costs by the owners of said other property which benefits from the irrigation project, the surface of which exceeds the limit which cannot be earmarked for expropriation, will be made by delivering cultivation land to the General Bureau of Agrarian Reform and Rural Settlement. To this end, said land will be valued at the price it had before the project was implemented, using for such purpose the land appraisal rules contained in this Law. The determination of said value will be an indispensable requirement to start project works.

**Article 196.-** Individuals or legal entities entitled to possess land where irrigation projects are being implemented cannot apply for or withhold for themselves surface areas exceeding the limit which cannot be earmarked for expropriation. For purposes of the parceling and sale of irrigated land, the size of land parcels will not exceed the aforesaid limit which cannot be earmarked for expropriation, nor can it be smaller than the family farm unit.

### **Special Provisions**

**One.-** In those cases where a conflict arises from the enforcement of this Law, whether a conflict with the provisions of the Law or with the provisions of other laws, the conflict will be resolved in keeping with the provisions set forth in Article XXII of the Preliminary Section of the Civil Code.

**Two.-** Contracts, expropriations, and all obligations derived from the enforcement of this Law are exempt, without any exception whatsoever, from the payment of taxes and duties.

**Three.-** Those persons who instigate, foster, promote or carry out invasions or encroach on rural land belonging to the State or to corporations or individuals, or perform any act which disturbs possession, will be excluded from the benefit of being awarded land under the Agrarian Reform process, without prejudice to the restoration of the affected right. Landowners who instigate or promote or perform acts

of disturbance of possession or dispossession of land managed by tenants will be punished with the total expropriation of the rural property where they perform said acts.

Landowners who feign land parceling or divisions through any means whatsoever will also be sanctioned with the full expropriation of their rural property.

The persons included within the scope of this provision will be sanctioned in the manner described in Articles 257 and 282 of the Criminal Code, and the Judge can even double the above-mentioned penalties. In these cases, the benefit of release on bail, bail or conditional release cannot be granted.

**Four.-** The following phrase is eliminated from Article 73 of the Civil Code: “To the owners of adjoining property”.

**Five.-** To pay for the property tax, Agrarian Reform land awardees will use as a basis the amount of the annual accumulated amortizations, as accrued.

**Six.-** The General Bureau of Agrarian Reform and Rural Settlement, in coordination with the General Bureau of Water and Irrigation, will determine, in a single document, the areal extent of the land to be awarded and its corresponding water supply.

**Seven.-** Eviction lawsuits and notices of dismissal related to rural land occupied by tenants, even those which are already in the execution of judgment stage, are hereby suspended, barring eviction lawsuits based on the non-payment of the agreed rental.

In cases of eviction due to lack of payment, the proceeding will be suspended during any stage of the proceeding until before the eviction has taken place, if the tenant pays the unpaid rental by the payment due date, plus court costs, if any.

Rural property occupiers, regardless of the reason why they have occupied the property, can only be evicted in the execution of judgment stage, following the issuance of the judgment in a lawsuit where the corresponding rural property occupier was summoned directly with the complaint. Judges will suspend outstanding eviction orders issued against persons who have not been a party to the lawsuit, even though the judgment has been issued before the promulgation of this Law.

Eviction complaints based on the non-payment of the rental payable for plots of land the area of which does not exceed fifteen hectares on the coast and thirty hectares in the highlands and in the Andean foothills must be filed along with a copy of the “yanaconaje” contract signed in accordance with the provisions set forth in Article 2 of Law No. 10885. If said contract has not been made in writing, then the owner must file the complaint along with the receipt evidencing payment of the respective fine, the receipt evidencing payment of the tax on rural property payable for the last year, and the income estimate prepared by the General Bureau of Agrarian Reform and Rural Settlement, according to the provisions set forth in Article 131 hereof. Without these attachments, the Judge will automatically reject the complaint, it being his sole responsibility. The latter requirement will only be enforceable in those cases where the tenant has been the sub-lessee on the date of promulgation of Law No. 15037. To process a land eviction complaint covering land the area of which exceeds the above-mentioned limits, the plaintiff must categorically prove this fact.

Concerning land plots occupied by farmers who are the beneficiaries of this Law, the rental payable for the plots of land they occupy can only be calculated until the day on which the resolution whereby said farmers were classified as tenants has been consented to or made enforceable, final and binding in the administrative field. Any amount paid in excess will be considered a payment on account of the value of the plot of land and will be deducted from the amount of the indemnity payable to the owner as a result of its expropriation.

**Eight.-** Whoever performs any act, whether individually or in complicity with third parties, which is contrary to agricultural and livestock production to prevent the enforcement of the legal rules governing the Agrarian Reform process, omitting regular farming activities or delaying the harvest season and/or the sale of crops so that crops become rotten, or burns the crops or damages the facilities and plantations comprising the property he owns individually or partnering with companies or orders his workers to perform any of the acts mentioned above, or incites or orders that activities be brought to a halt, blocks roads or performs any similar act, then the relevant act will be considered an act of sabotage which falls within the Military Jurisdiction in accordance with the provisions set forth in paragraph 4 of Article 156 and in paragraph 6 of Article 332 of the Code of Military Justice and will be punished by the Military Court with imprisonment for a term not smaller than one year nor longer than ten years, plus a fine equivalent to the value of the rural property he owns and the shares or participating interests he holds in companies which own or possess rural property. In these cases, the benefit of release on bail or bail is not applicable.

**Nine.-** The land or businesses where any of the acts referred to in the foregoing article are performed will be immediately converted into cooperatives, suspending the payment of the indemnity awaiting the outcome of the corresponding criminal lawsuit.

### **Transitory Provisions**

**One.-** The Cadastre Office of the General Bureau of Water, Irrigation and Cadastre, an entity which reports to the Ministry of Agriculture and Fishery, will form part, as from the date of publication of this Law, of the General Bureau of Agrarian Reform and Rural Settlement, although it will continue being regarded as a multi-sectorial agency in charge of providing specialized services.

**Two.-** The owners of rural property to which the provisions set forth in Section XV of Law No. 15037 have been applied, will transfer, within a term of one year counted as from the date of publication of this Law, additional areas to the awardees of units the area of which is smaller than the family farm unit until completing the area of the family farm unit. In case of non-compliance, the necessary areas will be expropriated, besides applying a fine equivalent to up to fifty percent (50%) of the value of the expropriated area.

**Three.-** Expropriation and other administrative proceedings which have still not been completed will be subject to the provisions set forth in this Law, beginning with the process which is still underway on the date of publication of this Law, except for terms which have started running before said date, to which rules which are more favorable to the interested parties will be applicable.

**Four.-** The term referred to in Article 22 of this Law will come to an end on the date of declaration of the Agrarian Reform Zone, in which case all companies will be considered a single person for purposes of the expropriation.

**Five.-** Lawsuits dealing with the matters referred to in this Law, brought before the publication of this Law, will continue being tried by civil courts according to the procedures in force on the date of service of process.

#### **Final Provision**

Law No. 15037 and other laws and legal rules which are contrary to this Law are hereby repealed.

Therefore: Be this Law published and enforced.

Lima, June 24, 1969.

Peruvian Army Division General **Juan Velasco Alvarado**; Peruvian Army Real Admiral **Alfonso Navarro Romero**, Minister of Navy in charge of the Ministry of War.

Peruvian Air Force Lieutenant General **Rolando Gilardi Rodríguez**; Peruvian Army Brigadier General **Jorge Barandiarán Pagador**.

## **Appendix IV – SUPREME DECREE N° 017-2014-EF**

**Regulations for Procedures leading to the registration, updating and payment through administrative means of the debt derived from Agrarian Debt Bonds issued within the framework of Decree Law N° 17716, The Agrarian Reform Act, in compliance with Resolutions issued by the Constitutional Court.**

**SUPREME DECREE  
N° 017-2014-EF**

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

Within the framework established in the Sole Text of Decree Law N°17716, The Agrarian Reform Act, and modifying, complementary and connected regulations approved through Supreme Decree N° 265-70-AG, the State undertook expropriations of land and other goods for the purpose of agrarian reform, payment for which was made principally through Agrarian Debt Bonds with redemption periods of 20 (twenty), 25 (twenty-five) and 30 (thirty) years;

Law N° 26597 dated April 24, 1996 established rules applicable to the payment of State debt arising from expropriation processes whose aim was agrarian reform and affected rustic land, Article 2 of this Law determining that payment of Agrarian Debt Bonds must be made at their nominal value plus interest established for each issue and type of bond, and in accordance with the legal provisions from which they originate, the readjustment envisaged in the second part of Article 1236 of the Civil Code not being applicable;

Through the sentence given on March 10, 2001, given in the case pursued by the Peruvian College of Engineers (Record N° 022-96-I-TC) the Constitutional Court declared the unconstitutional nature of Articles 1 and 2 of Law N° 26597 as they contravened the guarantee of the right to property, the procedure pre-established in the law, and for infringing the principle of value inherent in property;

Subsequently, in the Constitutional Court Resolution dated July 16, 2013 issued in an appeal presented by the Peruvian College of Engineers, the Constitutional Court ordered the execution of the Constitutional Sentence dated March 10, 2001 which ordered the payment of the agrarian debt bonds plus interest, applying the value criteria or the updated value of the bonds, and specifying the updating methodology which consists of the conversion of the principal unpaid amount of such bonds into American dollars from the date of the first time the coupons for said bonds ceased being paid, plus the rate of interest for bonds issued by the American Treasury;

In addition, the cited Constitutional Court Resolution determined that the Executive should issue a supreme decree regulating procedures for registration, valuation and method of payment and also approve respective procedures for compliance with the orders contained within Constitutional Court Resolutions;

Through the Constitutional Court Resolution dated November 4, 2013 the request for clarification presented by the Attorney for the Ministry of Economy and Finance was upheld as the Ministry has a period of 2 (two) years to take forward procedures for the registration and updating of debt deriving from the Agrarian Debt Bonds, a period that is calculated from the point at which the creditors submit these for processing by the Executive;

Likewise, it was considered appropriate to designate the Central Reserve Bank as the custodial agent for the Agrarian Debt Bonds whose value shall be subject to updating;

In addition, within the framework of the provision under point 176.2 of Article 176 of Law N° 27444, The General

Administrative Procedures Act, the collaboration of qualified technical entities is required in order to undertake investigations that allow the authenticity of the Agrarian Debt Bonds presented by the parties concerned to be verified;

In accordance with the provisions of sub-paragraphs 8) and 17) of Article 118 of the Political Constitution of Peru and of Law N° 27444, The General Administrative Procedures Act;

DECREES:

**Article 1.- Regulation Approval**

The approval of the "Regulations for Procedures leading to the registration, updating and payment through administrative means of the debt derived from Agrarian Debt Bonds issued within the framework of Decree Law N° 17716, The Agrarian Reform Act, in compliance with the Resolutions issued by the Constitutional Court" whose text forms an integral part of this Supreme Decree.

**Article 2.- Custodial Agent**

That the Central Reserve Bank shall act as the custodial agent for the Agrarian Debt Bonds, whose updating is requested through administrative means. To this purpose, it shall sign an inter-institutional collaboration agreement with the Ministry of Economy and Finance in which the terms and conditions shall be established.

**Article 3.- Investigations**

3.1 The Ministry of Economy and Finance shall sign Inter-institutional Collaboration Agreements in order to undertake investigations into the authenticity of Agrarian Debt Bonds, by means of the administrative procedures that are approved through Article 1 of this Supreme Decree.

3.2 The Comptroller General of the Republic, in accordance with the provisions that regulate the National Control System, directly or through competent institutional controlling bodies, shall undertake the controls necessary to verify the legality of actions undertaken by qualified technical entities undertaking the investigations.

**Article 4.- Endorsement**

This Supreme Decree is endorsed by the Minister of Economy and Finance.

Given at Government House, in Lima, on the seventeenth day of the month of January of the year two thousand and fourteen.

OLLANTA HUMALA TASSO  
Constitutional President of the Republic

LUIS MIGUEL CASTILLA RUBIO  
Minister of Economy and Finance

**REGULATIONS FOR PROCEDURES LEADING TO THE REGISTRATION, UPDATING AND PAYMENT THROUGH ADMINISTRATIVE MEANS OF THE DEBT DERIVED FROM AGRARIAN DEBT BONDS ISSUED WITHIN THE FRAMEWORK OF DECREE LAW N° 17716, THE AGRARIAN REFORM ACT, IN COMPLIANCE WITH RESOLUTIONS ISSUED BY THE CONSTITUTIONAL COURT**

**GENERAL PROVISIONS**

**Article 1.- Purpose**

This Regulation has as its purpose the regulation of administrative procedures relating to the registration, updating and determination of the method of payment for debt derived from the Bonds issued within the framework of the Agrarian Reform process, Sole Text, of Decree Law N° 17716, the Agrarian Reform Act, and modifying, complementing and connected regulations

approved through Supreme Decree N° 265-70-AG whose payment, on the date when the Regulation enters into force, is outstanding? This is in order to comply with the provisions of the Constitutional Court through its Resolution dated 07.16.2013 and Clarifying Resolutions dated 08.08.2013 and 11.04.2013, corresponding to Record N° 022-96-I/TC.

#### Article 2.- Scope of application

2.1 The administrative procedures governed by this Regulation are applicable to the holders of Agrarian Debt Bonds granted as part payment in expropriation processes initiated under the Sole Text of Decree Law N° 17716, that they request recognition that they are legitimate holders of the debt securities and also the updating of the debt derived from the cited Bonds and the determination of the method of payment of said updated debt, from the Ministry of Economy and Finance (MEF), through the Directorate General for Debt and Public Treasury (DGETP) and the Finance Directorate or whomsoever acts for the DGETP.

2.2 In the event that ordinary persons, legal entities or undivided estates dispute the ownership of said Bonds, they must first seek recognition of their rights by the Court Authorities.

#### Article 3.- References

3.1. All references within this Regulation to Decree Law N° 17716 is understood as the Sole Text of Decree Law N° 17716, The Agrarian Reform Act, and modifying, complementary and connected regulations approved by Supreme Decree N° 265-70-AG.

3.2 Likewise, all references to Agrarian Debt Bonds are understood as the debt securities issued by the Peruvian State within the framework of Decree Law N° 17716.

#### Article 4.- Qualification of administrative procedures

Administrative procedures established within this Regulation are obligatory ex-ante evaluation and are subject, in the event of a lack of a timely decision, to provisions for negative administrative silence.

#### Article 5.- Competent administrative authority

The DGETP of the MEF is the competent administrative authority to undertake the administrative procedures governed by this Regulation.

### CHAPTER I

#### PROCEDURE FOR THE REGISTRATION OF THE RIGHTFUL HOLDERS OF THE AGRICULTURAL BOND DEBT

##### Article 6. - The Purpose of the Procedure

6.1 This administrative procedure aims to identify and officially register natural persons, legal entities and/or undivided estates that are Rightful Bondholders of the Agricultural Debt and are therefore beneficiaries of the update and payment, and subject to compliance of the provisions in this Regulation.

6.2 The Parties may submit their application within a period that expires five (05) years from the entry into force of this Regulation. Once this period has expired, the Ministry of Economy and Finance (MEF, for the abbreviation in Spanish) and The General Directorate of Debt and Public Treasury (DGETP, for the abbreviation in Spanish) will not admit any claims.

##### Article 7. - Initiation of the Proceeding

The Proceeding is comprised of the following activities:

7.1 The Bondholders of the Agricultural Debt shall submit an Application (Form A) addressed to the Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF) to start the authentication process, attaching proof of delivery to the Escrow Agent appointed by the Ministry of Economy and Finance (MEF) for the Bond referrals. The authentication request must contain the expressed authorization of the applicant to perform an expert handwriting analysis test.

7.2 The designated Escrow Agent shall make the Agricultural Debt Bonds subject to the respective expert Handwriting Analysis test available to the specialized technical institutions as indicated by the Ministry of Economy and Finance (MEF). After completing this, the entity responsible for the expert analysis shall send a written communication of the test results to the Ministry of Economy and Finance (MEF).

7.3 The period required for the completion of the expert handwriting analysis test will not be computable for calculating the maximum processing time of the administrative procedure as stipulated by Law No. 27444.

7.4 In the event that the analysis test verifies the authenticity of the Agricultural Debt Bond, the Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF) will send a written communication to the party to submit Form B to the aforementioned Directorate. If the analysis test cannot verify the authenticity, the Escrow Agent will return it to the party, without prejudice to the initiation of any legal actions that might arise.

7.5 In order to verify the authenticity of the Agricultural Debt Bonds, the party shall submit the Application for Registration (Form B) to the Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF), accompanied by the following documents:

a. If it is for a natural person, a copy of the applicant's ID card or foreign resident registration card must be submitted. If the applicant acts through a Proxy, the Proxy must also submit; i) a copy of the applicant's ID card or foreign resident registration card, ii) the original validity of power issued by the National Superintendent of Public Registries (Sunarp), which is no more than thirty (30) days old and iii) a copy of the Proxy's ID card or foreign resident registration card.

b. If the applicant is a legal entity, the original verbatim copies of the registration record of incorporation issued by the National Superintendent of Public Registries (Sunarp) must be submitted, which are no more than thirty (30) days old and the validity of the power issued by Sunarp, which is no more than thirty (30) days old, which contains therein the appointment of the Proxy.

c. In the event that the laws of intestate succession apply to the applicant, the applicant must present the original registration form issued by the National Superintendent of Public Registries (Sunarp), which is no more than thirty (30) days old, and which contains therein the proof of the entry of heirs, along with a copy of the ID card or Foreign Resident Registration Card of each of the members of the intestate succession. In the event that it is a testate succession, the applicant must present the original registration form issued by the National Superintendent of Public Registries (Sunarp), which is no more than thirty (30) days old, and which contains therein the registration of the will and the transfer of the Bond requested, along with a copy of the ID card or Foreign Resident Registration Card of each of the members of the testate succession.

d. If the applicant is a recipient or transferee, submit a certified true copy of the contract or legal instrument validly evidencing the award or transfer of the Agricultural Debt Bond.

##### Article 8. – Identification of the rightful holder

Based on the review of the supporting documentation submitted, as established in Article 7 of the above, the Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF), shall determine whether the party possesses the requirements of rightful holder of the Agricultural Debt Bonds which is the subject of the request.

##### Article 9. - End of procedure

9.1 The Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF) will issue the respective directorial resolution which will terminate this administrative proceeding and, if applicable, will recognize the party as the rightful holder of the Agricultural Bond Debts, which is the subject of the request and will register the holder in the "Registry of Rightful Holders of Agricultural Debt Bonds."

9.2 The Party may bring administrative resources as specified in Articles 208 and 209 of Law No. 27444, The Law on General Administrative Procedure, against the decision to end the registration procedure, within 15 (fifteen) days of notice of the resolution.



**Article 10. - Registry of Rightful Holders Agricultural Debt Bonds**

10.1 The Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF), has created the "Registry of Rightful Holders of Agricultural Debt Bonds," which will register the Parties that have been recognized as rightful holders of Agricultural Debt Bonds as well as the details of the Bonds they possess.

10.2 The registration of holders who successfully complete the registration stage will be automatic.

**CHAPTER II  
PROCEDURE FOR ADMINISTRATIVE UPDATE OF THE DEBT**

**Article 11. - Purpose of the update**

11.1 This administrative procedure is to determine, in each case, the present value of the debt arising from the Agricultural Debt Bonds, including interest. This present value is determined according to the methodology established by the Constitutional Court in the Order dated 07/16/2013 and the Explanatory Resolutions Dated 08/08/2013 and 11/04/2013, and correspond to Case No. 022-96-I/TC.

11.2 The update procedure is applicable to all the rightful holders that are incorporated in the "Register of Rightful Holders of Agricultural Debt Bonds" referred to in Article 10 of the present Regulation.

**Article 12. - Initiation of the procedure**

This administrative procedure begins with the filing of the application (Form C), addressed to the Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF) by the rightful holder of the Agricultural Debt Bond. If any changes have been made with regards to the information that is attached to Form B, the following additional information must also be submitted:

- a. If it is for a natural person, a copy of your ID card or foreign resident registration card must be submitted. If you are the Proxy, the original validity of the power issued by Sunarp, which is no more than thirty (30) days old, along with a copy of your ID or foreign resident registration card.
- b. If the applicant is a legal entity, the original of the verbatim copy of the registration form of incorporation issued by Sunarp which is no more than thirty (30) days old and the validity of the power issued by Sunarp, which is no more than thirty (30) days old, which designates the Proxy, must be submitted.

**Article 13. - Update Methodology**

Pursuant to the provisions of the Constitutional Court by the Resolution dated 07/16/2013 and the Explanatory Resolutions Dated 08/08/2013 and 11/04/2013, and corresponding to Case No. 022-96-I/TC, in order to determine the actual value of the Agricultural Debt Bonds issued under Decree Law No. 17716, the index of the principal debt owed, in foreign currency, adding a return with the formula developed in Appendix 1, which is an integral part of this Regulation, shall be applied.

**Article 14. - End of the Administrative Update of the Debt**

14.1 The Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF) will issue the respective directorial resolution that will be established in each case, the present value of the debt arising from the Agricultural Debt Bonds, subject to the application.

14.2 The Party may bring administrative resources as specified in Articles 208 and 209 of Law No. 27444, The General Administrative Procedure Act against the directorial resolution to end the administrative update procedure of the debt, within 15 (fifteen) days of notice of the resolution.

**CHAPTER III  
PROCEDURE TO DETERMINE THE FORM OF PAYMENT**

**Article 15. - Purpose for determining the form of payment**

This procedure is intended to determine, together with the rightful holder of the Agricultural Debt Bonds, the payment of the present value of the corresponding debt relating to the Bonds.

**Article 16. - Initiation of the procedure**

This administrative procedure begins with the filing of the Agricultural Debt Bond (Form D) by the rightful holder and addressing it to the Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF). If any changes have been made with regards to the information that is attached to Forms B or C, the following additional information must also be submitted:

- a. If it is for a natural person, a copy of your ID card or foreign resident registration card must be submitted. If you are the Proxy, the original validity of the power issued by Sunarp, which is no more than thirty (30) days old, along with a copy of your ID or foreign resident registration card.
- b. If the applicant is a legal entity, the original of the verbatim copy of the registration form of incorporation issued by Sunarp which is no more than thirty (30) days old and the validity of the power issued by Sunarp, which is no more than thirty (30) days old, which designates the Proxy, must be submitted.

**Article 17. - Alternative payment forms for the Updated Debt**

17.1 The Ministry of Economy and Finance (MEF) taking into account the principles of fiscal balance and financial sustainability as well as the multi-year fiscal rules and macroeconomic framework, shall define the options which the Agricultural Debt Bondholders will be able to choose from, that being one of or a combination of the payment options.

17.2 To this end, the Ministry of Economy and Finance (MEF) must have a minimum amount of rightful Bondholders duly registered and with updated debt in order to maintain proper management of the public finances.

**Article 18. - End of the procedure for determining the form of payment**

18.1 The Department of Finance, or its stand, from the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF) will issue the directorial resolution which will establish how the payment of the present value of the related debt will be made, which will bring an end to the administrative procedure. This directorial resolution shall approve the payment schedule for each case.

18.2 The Party may bring administrative resources as specified in Articles 208 and 209 of Law No. 27444, The General Administrative Procedure Act against the directorial decision that terminates the procedure for determination of the debt payment within 15 (fifteen) days of notice of the resolution.

**Article 19. - Payment Priority**

According to the guidelines established by the Constitutional Court in the Resolution dated 07/16/2013 and the Explanatory Resolutions Dated 08/08/2013 and 11/04/2013, and correspond to Case No. 022-96-I/TC, the priority in the payment of the Updated Debt is as follows:  
Individuals that are original bondholders of agricultural debt or heirs and are 65 (sixty five) years or older.

1. Natural persons who are the original bondholders of the agricultural debt or their heirs and are 65 (sixty five) years or older.
2. Natural persons who are the original bondholders of the agricultural debt or their heirs and are younger than 65 (sixty five) years.
3. Natural persons who are not the original bondholders of the agricultural debt and are 65 (sixty five) years or older.

4. Natural persons who are not the original bondholders of the agricultural debt and are younger than 65 (sixty five) years.
5. Legal entities that are original bondholders of the agricultural debt.
6. Legal entities that are not original bondholders of the agricultural debt and who have acquired such titles as payment of obligations, as established by law
7. Legal entities that are not original bondholders of agricultural debt, and acquired the debt for speculative purposes.

#### FINAL ADDITIONAL PROVISIONS

**First.** - The administrative procedures governed in this Regulation are incompatible with the update, through the courts, corresponding to the debt related to the Agricultural Debt Bonds.

In the event of a judicial order to update the Agricultural Debt in process, without having issued a judgment, the applicant to invoke the provisions of this Regulation, must demonstrate to have previously withdrawn a claim that was initiated in the courts.

**Second.** - The methodology for updating the corresponding Agricultural Debt Bonds, the subject of the request referred to in Chapter II of this Regulation shall be applied in the judicial processes provided that:

1. The judicial process is processed without judgment.
2. There exists the possibility of a judgment with *res judicata*, in which the methodology for the update has not been indicated, leaving the determination of the actualization up to the expert accountant and that said expert accountant has not made a determination and is pending a decision on an appeal contesting the resolution to approve the expertise.

The amounts resulting from the update, via the court, on the value corresponding to the debt of the Agricultural Debt Bonds must be registered and carried out, according to the resolution by the Department in charge of such payment.

**Third.** - The amounts resulting from the update, through the administrative procedure, on the value corresponding to the debt of the Agricultural Debt Bonds, will be registered as internal public debt by the General Directorate of Debt and Public Treasury (DGETP) of the Ministry of Economy and Finance (MEF).

**Fourth.** - The Ministry of Economy and Finance (MEF) has a period of 2 (two) years to carry out the registration procedures and administrative update of the debt arising from the Agricultural Debt Bonds, this period will be calculated from the date upon which the Bondholders submit their request. The administrative decision which will be issued on a case-by-case basis with the termination of the registration and corresponding notification to be issued within a period not exceeding 18 (eighteen) months from the filing of each application. In the same way that, the resolution is issued on a case-by-case basis, the termination of the administrative update procedure shall be issued within a period not exceeding six (6) months from the filing of each application that initiates a procedure.

#### TEMPORARY ADDITIONAL PROVISION

**Exclusive.** - Under the provisions of the framework of the Constitutional Court by Resolution dated 07/16/2013 and the Explanatory Resolutions Dated 08/08/2013 and 11/04/2013, and correspond to Case No. 022-96-I/TC, the executive branch may issue supplementary provisions to implement the method for determining the payment schedule as well as the form of payment. These provisions were approved by Supreme Decree countersigned by the Minister of Economy and Finance (MEF), upon the proposal by the General Directorate of Debt and Public Treasury (DGETP).

#### ANNEX 1

#### METHODOLOGY FOR UPDATING

Pursuant to the decision of the Constitutional Court in a Resolution dated 07/16/2013 and the Explanatory Resolutions Dated 08/08/2013 in the framework corresponding to Case No. 022-96-I/TC, the methodology for determining the present value of the "Agricultural Debt Bonds" is developed using the following expression:

$$V_{hoy} = D_{i,0} \times \prod_{t=1}^{hoy} (1 + i_t)$$

where:

$V_{hoy (today)}$  = Current Value of the Bond Issue "i"  
 $i_t$  = Interest Rate of Return on, fixed rate up to one year on United States Treasury Bonds, in the period  $t$ .

$D_{i,0}$  = Original value of the Bond Issue "i," expressed in U.S. dollars.

So that the Value of the Original Bond, expressed in U.S. dollars is determined according to the following formula:

$$D_{i,0} = \frac{S_{i,0}}{TC \text{ Paridad}_{emisión}}$$

where:

$D_{i,0}$  = Original value of the Bond Issue "i," expressed in U.S. dollars.

$S_{i,0}$  = Original value of the Bond Issue "i," expressed in Soles Oro (Golden Suns)

$TC \text{ Paridad}_{emisión}$  (Rate parity) = Kind of change in parity, and date of issue.

The kind of change in parity will be determined according to the following equation:

$$TC \text{ Paridad}_{emisión} = TC_{emisión} \times \left( \frac{IPC_{emisión}^{Peru}}{IPC_{emisión}^{EEUU}} \right) \times \frac{1}{e}$$

where:

$TC_{emisión}$  (Kind of Change issue) = Official nominal change on the date of issue

$IPC_{emisión}^{Peru}$ , (Consumer Price Index, Peru) = Consumer Price

Index in Peru on the date of issue (Base: 1950 = 100)

$IPC_{emisión}^{E.E.U.U.}$  (Consumer Price Index, USA) = Consumer Price Index in the United States at the date of issue (Base: 1950 = 100)

$e$  = Real Exchange Rate, defined as:

$$e = \text{promedio} \left( \frac{IPC_t^{Peru}}{IPC_t^{EEUU} \times TC_t} \right)$$

throughout the entire analysis period from 1950-1982.

#### FORM A AUTHENTICATION APPLICATION FOR AGRICULTURAL DEBT BONDS

Lima,

To whom it may concern,  
 Department of Finance  
 General Directorate of Debt and Public Treasury  
 Ministry of Economy and Finance

Dear Director

I, ..... (full name), identified with ..... ID/Foreign Residence Card/Taxpayer Identification (choose option) Number ..... Residing at ..... Bondholder of ..... (enter amount) Agricultural Debt Bonds, Decree Law No. 17716, class ..... series ..... in the total amount of ..... (Soles Oro, 'Golden Suns,' or another currency, if applicable), for a period of ..... years, Do hereby request before you the necessary actions in order to authenticate the Bonds referred to.

For this purpose, through this document, I hereby give you my express permission to conducting an expert handwriting analysis test expertise to determine the authenticity of the Bonds that I previously submitted to the National Bank (Banco de la Nación), acting as the Escrow Agent, appointed by the Ministry of Economy and Finance.

I declare to have knowledge that this present request is an Affidavit, and if any of the information I have provided herein is found to be false, I will have committed the offense of submitting a False Statement in an Administrative Procedure, referred to in Article 411 of the Penal Code, with the applicable Article 32.2 of Law 27444, The General Administrative Procedure Act.

Sincerely,

Full name, signature and I fingerprint  
Address:  
Telephone:

Document Attached: Proof of Delivery No. ....

**FORM B**

**IDENTIFICATION OF THE RIGHTFUL HOLDERS OF THE AGRICULTURAL DEBT BONDS LAW No. 17716**

**DIRECTOR OF THE GENERAL DIRECTORATE OF DEBT AND PUBLIC TREASURY:**

**I. APPLICANT INFORMATION**

1. NAME OR COMPANY NAME, specifying the ID number, or Foreign Resident Card. or Taxpayer Identification (RUC, for the abbreviation in Spanish), number (as available)

2. ADDRESS

3. ADDRESS FOR NOTIFICATIONS (Do not fill in if it is the same as indicated in line 2)

4. HOLDER STATUS

(Specify whether it is the: original holder, heir, transferee, or other)

**II. INFORMATION FOR THE PROXY OR THE NATURAL PERSON OR LEGAL ENTITY**

PATERNAL LAST NAME MATERNAL LAST NAME NAMES

ID CARD NUMBER or FOREIGN RESIDENT CARD NUMBER

**III. TYPE OF BONDS**

(Complete)  
CLASS (ES)  
SERIES ()  
AMOUNT (S)  
PERIOD (S)

I declare to have knowledge that this present request is an Affidavit, and if any of the information I have provided herein is found to be false, I will have committed the offense of submitting a False Statement in an Administrative Procedure, referred to in Article 411 of the Penal Code, with the applicable Article 32.2 of Law 27444, The General Administrative Procedure Act.

Lima on the.. of ..... of 20 .....

SIGNATURE OF OWNER OR PROXY

**REQUIREMENTS FOR THE ADMINISTRATIVE PROCEDURE TO IDENTIFY RIGHTFUL BONDHOLDERS OF AGRICULTURAL DEBT (ARTICLE 7.5 OF THE SUPREME DECREE No.)**

Documents attached:

For all applicants:

1. The expert handwriting analysis report to determine the authenticity of the Bond ( )

Additionally, for applicants that are:

Natural persons

2. Copy of ID of applicant  
3. Copy of ID of the Proxy, if applicable  
4. Original validity of power issued by the National Superintendent of Public Registries (SUNARP) that is no more than 30 days old, if applicable.

Legal Entity

1. Original verbatim copy of the registration form Of incorporation issued by Sunarp which is no more than 30 days old  
2. Validity of power issued by the National Superintendent of Public Registries (Sunarp), which is no more than 30 days old and contains the Proxy therein

Intestate Succession:

1. Original record of registration issued by Sunarp which is no more than 30 days old and which contains proof of the registration of the declaration of heirship  
2. Original and copy of ID for each one of the members of the respective succession.

Testate succession:

1. Original record of registration issued by Sunarp, which is no more than 30 days old, which contains the registration of the will therein and indicates where the Bond in question has been transferred  
2. Original and copy of the ID of each of the members of the respective succession.

Recipient or transferee:

1. Whether it is the recipient or the transferee, both shall submit a certified true copy of the contract or legal instrument that validly certifies the allotment or transfer of the Bond.

Note: Mark the box with an "X" in the document attached to the application.

**FORM C**

**ADMINISTRATIVE UPDATE OF THE DEBT LAW NO. 17716**

**DIRECTOR OF THE GENERAL DIRECTORATE OF DEBT AND PUBLIC TREASURY:**

**I. APPLICANT INFORMATION**

1. NAME OR COMPANY NAME, specifying the ID Number, Foreign Resident Card Number, or Taxpayer Identification Number (RUC, for the abbreviation in Spanish), (as available)

2. ADDRESS

3. ADDRESS FOR NOTIFICATIONS (Do not fill in if it is the same as indicated in line 2)

4. STATUS

(Specify the status of original holder, heir, cessionary, or other)

II. INFORMATION OF THE LEGAL REPRESENTATIVE OF THE INDIVIDUAL OR LEGAL ENTITY

SURNAME MOTHER'S MAIDEN NAME NAME

National ID No. or ALIEN IDENTITY CARD No.: ADDRESS

III. INFORMATION IN RELATION TO THE DIRECTORIAL RESOLUTION FOR RECOGNITION OF THE STATUS OF LEGITIMATE HOLDER

Resolution Number

I declare that I am aware that this application has the character of a Sworn Declaration and that, should the information I provide be found to be false, I will have incurred in the offence of False Declaration in an Administrative Procedure, provided for in Article 411 of the Penal Code, the provisions of Article 32.3 of Law 27444 from the Law for General Administrative Procedures being applicable.

Lima.....of .....of 201.....

LEGAL REPRESENTATIVE OF THE COMPANY

REQUIREMENTS FOR THE INSCRIPTION OF ADMINISTRATIVE COMPANIES (ART. 12 OF SUPREME DECREE NO. 2014-MEF)

INCLUDED DOCUMENTS:

In all cases:

1. The expert's report, which confirms the authenticity of the Bond

In addition, in the case of

An Individual

5. A copy of the National ID Card/Alien Identity Card of the applicant

6. A copy of the National ID Card/Alien Identity Card of the representative, if applicable.

7. The original of the current power of attorney issued by the National Superintendence of Public Registries (SUNARP, Superintendencia Nacional de los Registros Publicos), issued within the last 30 days, if applicable.

Legal Entity

3. The original of the true copy of the Evidence of Registration of Constitution, issued by SUNARP within the last 30 days ( )

4. Current power of attorney issued by the National Superintendence of Public Registries (SUNARP), within the last 30 days, which records the power of attorney of the representative.

SIGNATURE OF THE HOLDER OR LEGAL REPRESENTATIVE

FORM D

DETERMINATION OF THE METHOD OF PAYMENT

MR. DIRECTOR OF FINANCE  
GENERAL DIRECTORATE OF DEBT AND THE PUBLIC TREASURY:

I. APPLICANT'S INFORMATION

1. NAME OR COMPANY NAME, specifying the National ID card No., Alien Identity Card, or Tax ID No. (as applicable)

2. ADDRESS

3. ADDRESS FOR NOTIFICATIONS (Do not fill in if this address is the same as the address noted in point 2).

4. STATUS

(Specify the status of original holder, heir, cessionary, or other)

5. INFORMATION OF THE LEGAL REPRESENTATIVE OF THE INDIVIDUAL OR LEGAL ENTITY

SURNAME MAIDEN NAME NAME

National ID No. or ALIEN IDENTITY CARD No.: ADDRESS

6. INFORMATION REGARDING THE BOARD'S RESOLUTION ON THE UPDATING OF THE DEBT

(State number of Board Resolution and Resulting Amount of the Debt)

7. PAYMENT OF INTEREST OPTION

(State preferred option of the available options approved by the MEF)

I declare that I am aware that this application has the character of a Sworn Declaration and that, should the information I provide be found to be false, I will have incurred in the offence of False Declaration in an Administrative Procedure, provided for in Article 411 of the Penal Code, the provisions of Article 32.3 of Law 27444 from the Law for General Administrative Procedures being applicable.

Lima.....of .....of 20.....

SIGNATURE OF THE HOLDER OR LEGAL REPRESENTATIVE

REQUIREMENTS FOR THE INSCRIPTION OF ADMINISTRATIVE COMPANIES (ART. 12 OF SUPREME DECREE NO. 2014-MEF)

1. The expert's report, which confirms the authenticity of the Bond.

In addition, in the case of

An Individual

1. A copy of the National ID Card/Alien Identity Card of the applicant

2. Copy of the National ID card/Alien Identity Card of the representative, if applicable.
3. Original of the current power of attorney issued by the National Superintendence of Public Registries (SUNARP), issued within the last 30 days, if applicable.

Legal Entity

1. The original of the true copy of the Evidence of Registration of Constitution, issued by SUNARP within the last 30 days ( )
2. Current power of attorney issued by the National Superintendence of Public Registries (SUNARP), within the last 30 days, which records the power of attorney of the representative.

SIGNATURE OF THE HOLDER OR LEGAL REPRESENTATIVE

1039798-2

**Authorize the usage of the resources of the Fund for the Promotion of Mountain Irrigation – MI RIEGO in the framework of the Fiftieth Final Complementary Disposition of Law No. 29951 – Public Sector Budget Law for the 2013 Fiscal Year.**

**SUPREME DECREE  
No. 018-2014-EF**

THE PRESIDENT OF THE REPUBLIC:

CONSIDERING THAT:

That, by means of the Fiftieth Final Complementary Disposition of Law No. 29951 Public Sector Budget Law for the 2013 Fiscal Year, the Fund for the Promotion of Mountain Irrigation - MI RIEGO - is created, under the Ministry of Agriculture and Irrigation, whose goal is to reduce the gaps in the provision of the services and infrastructure of the use of hydraulic resources with agricultural purposes which have the greatest impact on the reduction of extreme poverty, located within the country at altitudes higher than 1500 m above sea level, through the financing of Public Investment Projects of the three levels of government, including Pre-investment Studies.

That, the referred to Final Complementary Disposition stipulates through the Supreme Decree confirmed by the Ministry of Economy and Finances and the Minister of Agriculture and Irrigation, by the proposal of the latter, the usage of funds from the MI RIEGO Fund is authorized for the financing of Public Investments Projects declared to be viable by the National System for Public Investment, SNIP (Sistema Nacional de Inversion Publica) and Pre-investment Studies, for the provision of the services and infrastructure referred to in the previous paragraph, in relation to the selected applications, submitted by the three levels of government, which previously have complied with signing an agreement with the Ministry of Agriculture and Irrigation;

That, in articles 4 and 5 of the Supreme Decree No. 002-2013-AG – it approves the Regulations of the Fund for the Promotion of Mountain Irrigation – MI RIEGO, it is established that the MI RIEGO Fund will be under the direction of a Technical Committee, which will have the duties of, among others, approving the selection and prioritization of the Projects and Pre-investment Studies to be financed by the referred to Fund, and as such it should have a Technical Secretariat which is responsible for receiving, recording, analyzing and proposing to the Technical Committee, after submitting a report, the approval of the selected and prioritized Projects and Pre-investment Studies for its attention by the MI RIEGO Fund;

That, my means of Official Letter No. 0197-2014-MINAGRI-DVM-DIAR/DGIH, the Director General of the General Directorate of Hydraulic Infrastructure of the Ministry of Agriculture and Irrigation, makes it known

that in the Ordinary Sessions No. 25 and 26 of the 06<sup>th</sup> and 27<sup>th</sup> of December of 2013, respectively, the Technical Committee of the MI RIEGO Fund has approved the selection and prioritization, among others, of the execution of three (03) Public Investment Projects under the direction of the Executing Unit 006 Sub-Sectorial Irrigation Program – PSI (Programa Sub Sectorial de Irrigacion) and seven (07) Pre-investment Studies under the direction of the Executing Unit 011 Rural Agrarian Production Development Program – AGRORURAL, for up to the sum of TWENTY FIVE MILLION THREE THOUSAND ONE HUNDRED AND SIXTY FOUR AND 17/100 NUEVOS SOLES (S/. 25,003,164.17), to be financed by the referred to Fund, in the framework of the dispositions established in the referred to Regulations;

That, the Sectorial Budget Unit of the Planning and Budget Office of the Ministry of Agriculture and Irrigation, through Report No. 005-2014-MINAGRI-UPRES/OPP, establishes that the amount in relation to the budget of the 2014 Fiscal Year of the selected and prioritized Investment Projects and the Pre-investment Studies by the Technical Committee of the MI RIEGO Fund, as per the investment schedule of Investment in the Public Investment Projects indicated in the preceding paragraph, amount to the sum of a TWENTY TWO MILLION TWO HUNDRED AND EIGHTY ONE THOUSAND ONE HUNDRED AND THIRTY ONE AND 00/100 NUEVOS SOLES (S/. 22,281,131.00); in addition, it indicates that the referred to Public Investment Projects have been declared viable in the framework of the National System of Public Investment – SNIP and the Pre-investment Studies, and that they comply with the requirements contained in the Regulations of the MI RIEGO Fund, approved through Supreme Decree No. 002-2013-AG;

That, through Official Letter NO. 0025-2014-MINAGRI-SG, the General Secretariat of the Ministry of Agriculture and Irrigation, requests that the usage of the resources be approved in favor of Sheet 013 Ministry of Agriculture and Irrigation, in order to finance the execution of the Public Investment Projects and the Pre-investment Studies which are referred to in the preceding paragraphs, using the resources of the MI RIEGO Fund;

That, as a consequence it is necessary to authorize the usage of TWENTY TWO MILLION TWO HUNDRED AND EIGHTY ONE THOUSAND ONE HUNDRED AND THIRTY ONE AND 00/100 NUEVOS SOLES (S/. 22,281,131.00) in favor of the Ministry of Agriculture and Irrigation to be used in the 2014 Fiscal year, and the execution of the Public Investment Projects and the Pre-investment Studies which were approved and prioritized by the Technical Committee of MI RIEGO, in accordance with the provisions of the Supreme Decree No. 002-2013-AG;

That, the resources indicated in the preceding paragraph are added under the framework of Article 42 of the Sole Homologized Text of Law No. 28411, General Law of the National Budget System, approved by Supreme Decree No. 304-2012-EF and in the source of finance “Determined Resources” of the Institutional Budget of the Ministry of Agriculture and Irrigation;

In conformity, with the provisions Fiftieth Final Complementary Disposition of Law No. 29951 Public Sector Budget Law for the 2013 Fiscal Year, and Supreme Decree No. 002-2013-AG;

DECREES:

**Article 1.- Authorization of the usage of the resources of the MI RIEGO Fund in the framework of the Fiftieth Final Complementary Disposition of Law No. 29951 Public Sector Budget Law for the 2013 Fiscal Year.**

Authorize the usage of the resources of the Fund for the Promotion of Mountain Irrigation – MI RIEGO, for up to the sum of TWENTY TWO MILLION TWO HUNDRED AND EIGHTY ONE THOUSAND ONE HUNDRED AND THIRTY ONE AND 00/100 NUEVOS SOLES (S/. 22,281,131.00), in favor of the Ministry of Agriculture and Irrigation, in order to carry out three (03) Public Investment Projects and seven (07) Pre-investment Studies which were approved and prioritized by the MI RIEGO Technical Committee, which are described in the Annex “Financing of Projects and Pre-investment Studies – MI RIEGO” which forms an integral part of this regulation

## **Appendix V – Briefing by Agrarian Bondholders’ Association to the Constitutional Tribunal**

Case N° \_\_\_\_\_

Brief N° \_\_\_\_\_

**Summary:** Requests joinder of Petitioners; requests application of current value principle to the Land Reform Bonds; and proposes an alternative method of valuation and payment.

## **PRESIDENT OF THE CONSTITUTIONAL TRIBUNAL**

The Land Reform Bondholders Association – ABDA, taxpayer I.D. N° 20555644265, domiciled in Paseo de la República N° 3195, office N° 904, San Isidro, Lima, with judicial address at mailbox N° 2092 of the Lima Bar Association, located in the Courthouse, hereby represented by its legal representative Rosario Cuéllar Martínez, pursuant to the Power of Attorney that is attached to this brief as Appendix D respectfully submits and asks that this honorable Tribunal:

On the basis of this Tribunal’s duty to enforce its Decision of March 2001 during these proceedings, ABDA requests:

### **REQUEST FOR RELIEF**

**1<sup>st</sup> Principal Relief.** Allow the joinder of Petitioners to these proceedings.

**2<sup>nd</sup> Principal Relief.** Safeguard the preeminence of the Constitution and the effectiveness of constitutional rights by declaring that the Supreme Decrees N° 017-2014-EF of January 17, 2014 and N° 019-2014-EF of January 21, 2014 are without basis and legal effect.

**3<sup>rd</sup> Principal Relief.** Revise this Tribunal’s Rulings of July 16, August 8 and November 4, 2013, ordering the Ministry of Economy and Finance (“MEF”) to pay the total and updated value of the Land Reform Bonds pursuant to the Consumer Price Index methodology plus the Bonds’ stated interest rates from placement date, compounded annually, plus any applicable late interest, as described herein and as set forth in Appendix A (“CPI Methodology”), through fully liquid Peruvian sovereign bonds (on substantially the same terms as Peru’s recent bond issuances to international markets), within six months of the date of any ruling from this honorable Tribunal.

**Subordinated Relief to the 3<sup>rd</sup> Principal Relief.** Order the MEF to pay the value of the Land Reform Bonds, updated pursuant to the corrected dollarization methodology as described herein and in Appendix B (“Corrected Dollarization Methodology”), plus any applicable late interest, through fully liquid Peruvian sovereign bonds (on substantially the same terms as Peru’s recent bond issuances to international markets) within six months of the date of any ruling from this honorable Tribunal.

**4<sup>th</sup> Principal Relief.** Declare that any Supreme Decrees or similar administrative acts pertaining to the Land Reform Bonds that have been issued in the past or will be issued in the future by the MEF or any other Ministry or governmental entity or agency that assumes competence over this matter, must be optional, and thus all Land Reform Bondholders will retain the constitutional right to obtain payment on the Bonds or any other relief through the judiciary or through direct negotiations with the Government in accordance with well-established principles of current value.

This brief constitutes an effort to put before the Tribunal all the evidence and arguments necessary for it to issue a final decision on this matter. This brief therefore supersedes any brief, petition or request previously filed in these proceedings by ABDA that have not yet been resolved, including ABDA's petitions dated December 9, 2013, March 24, 2014 and August 20, 2014. Accordingly, if the Tribunal is planning on issuing a decision on a previous petition presented by ABDA, this would no longer be necessary. To the extent there is any conflict or inconsistency between this brief and any other ABDA petition, what is stated in this brief prevails.



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## **I. Introduction**

1. On the basis of articles 70 and 139.3 of the Peruvian Constitution, the Land Reform Bondholders Association (“ABDA” or the “Petitioners”) ask this honorable Constitutional Tribunal (this “Tribunal”) to hold that Supreme Decrees N° 017-2014-EF of January 17, 2014, and N° 019-2014-EF of January 21, 2014 (the “Guidelines”), enacted further to this Tribunal’s Ruling of July 16, 2013 (the “Ruling”), breach the current value principle, and therefore provide new and specific instructions to the Ministry of Economy and Finance (the “MEF”) for the updating and payment of the land reform bonds (“Land Reform Bonds” or “Bonds”) as requested herein.

2. In November 2013, in response to a number of petitions filed by interested entities, including ABDA, in connection with the Ruling, this Tribunal made clear that under no circumstances could the land reform debt’s updating methodology result in nominal payment, and reserved its power to control any such methodologies. After closely analyzing the Guidelines, Petitioners now return to this Tribunal – evidence in hand – to show that the Guidelines indeed offer nominal payment, and in some cases no payment at all.

3. By this time there can be no dispute that the holders of the Bonds have a constitutional right to payment of the “current value” of the debt owed to them arising from the State’s expropriation of land. This Tribunal and other courts have held and repeatedly reaffirmed that the current value principle must apply to the Bonds. That principle ensures that an amount paid now be equivalent to the *justiprecio*’s original value, plus the promised interest. This is the price that the Government undertook to pay for making the landowners wait decades to receive full compensation.

4. While the Guidelines purport to establish a methodology for calculating the current value of the Land Reform Bonds, they actually do no such thing. Deconstructing their complex equations reveals that the amount of compensation they propose to pay is a trivial fraction of what is actually due to the bondholders. In fact, instead of paying current value, or anything close to that, the Guidelines offer *less than 0.5%* of the debt’s actual current value, as demonstrated by the expert report that the leading international accounting firm Deloitte has prepared for the purposes of this submission.<sup>1</sup>

5. The devastating effects that the Guidelines have on the value of the debt become apparent when using a real life example. For a 100,000 *Soles Oro* Class A bond, placed on June 12, 1973, with its last coupon clipped on June 12, 1982, and having an outstanding amount of 55,000 *Soles Oro*, the Guidelines offer to pay the preposterously trifling amount of 1,84 *Nuevos Soles* – which is not even enough to

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<sup>1</sup> “Comparative Analysis of Supreme Decrees N° 017-2014-EF and N° 019-2014-EF and Economic Value of Land Expropriated During Peruvian Agrarian Reform,” prepared by Deloitte (the “Deloitte Report”), Charts N° 1 and N° 2.

afford a copy of the *El Peruano* morning newspaper.<sup>2</sup> It is thus clear that, in the guise of providing updated compensation, the Guidelines actually deprive the bondholders of virtually the entire value of their property.

6. The Guidelines' absurdity and unfairness further comes to light when the value of the expropriated land is compared with the amount that results if the total debt is calculated using the Guidelines. Deloitte's conservative approximation of the total value of the land that the Government expropriated is \$42.4 billion.<sup>3</sup> Yet Deloitte also concludes that if the *entire* outstanding land reform debt is calculated using the Guidelines' formula, Peru would only end up paying at most a mere \$24 million to all bondholders combined.<sup>4</sup>

7. Far from adequately calculating that debt's current value, the Guidelines are yet another in a long line of attempts by the Government – spanning more than three decades – to evade the debt by one means or another and thereby expropriate the land without ever paying just compensation. As described in detail below, examples of these previous attempts include (i) the State's outright refusal to pay on the value of the Bonds; (ii) its assertion that merely providing the Bonds constituted full payment; (iii) its earlier scheme to pay a fraction of the Bonds' value through a process established by an emergency decree; and (iv) its claim that the Bonds can be paid at their nominal value.

8. This Tribunal and other Peruvian courts have time and again rejected these Government attempts to deprive bondholders of the compensation they are due. Like these previous tactics, the Guidelines do not offer compensation that reflects the true amount to which the bondholders are entitled and they too should be struck down.

9. The Guidelines proceed from a false premise. In trying to avoid compensating the bondholders, the Government first made unsubstantiated and inaccurate allegations to this Tribunal that Peru could not afford to pay actual current value determined through the otherwise predominantly accepted Consumer Price Index ("CPI") method for updating delinquent debts, and that doing so would have a severe impact on the economy and deprive citizens of needed public services.<sup>5</sup> These allegations were just scare tactics. In fact, the Government has no factual basis for them, and – in any case – they are not true.<sup>6</sup> As demonstrated by the economic report

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<sup>2</sup> This is the case of Ms. Lucila Castro Mendivil, whose land *La Collpa* was expropriated, located in the Llacanorca District, Cajamarca Province. Ms. Castro Mendivil is listed as one of many bondholders in the census prepared by the Peru Engineers' Association as supplemented by ABDA. *See also* Deloitte Report, Table 7.

<sup>3</sup> Deloitte Report, Table 11.

<sup>4</sup> Deloitte Report, Table 8.

<sup>5</sup> Constitutional Tribunal of the Republic of Peru. Decision issued in file N° 022-1996-AA/TC of July 16, 2013, Foundation 25.

<sup>6</sup> "On the Costs and Benefits of Restructuring the Selective Default of the Peruvian Land Debt – Fiscal and macroeconomic implications of honoring the debt associated with the land reform bonds," prepared by Dr. Ismael Benavides, Dr. César Peñaranda and Professor Carlos

prepared by Dr. Ismael Benavides, Dr. César Peñaranda and Professor Carlos Adrianzen, Peru not only can afford to honor its debt to the bondholders, but in doing so, Peru may even benefit from lower interest rates when accessing the international financial markets. Even at true current value, Peru would pay a relatively low price compared to the enormous value of the expropriated land.<sup>7</sup>

10. Even more deplorable than making baseless representations to this Tribunal, when the Tribunal gave the Government the opportunity, through its Ruling, to come up with a mechanism for determining the amounts due by reference to the U.S. dollar instead of the Peruvian CPI, the Government exploited that opportunity by issuing the Guidelines. In violation of this Tribunal's repeated instructions to preserve the "current value" of the Bonds, the Guidelines devised a scheme that was intended to ensure that, in practice, bondholders are never paid the current value of the debt, if anything.

11. The Guidelines' scheme calculates a purported "current value" of the Land Reform debt through equations that are so complex as to be impenetrable to many ordinary bondholders. When carefully scrutinized, however, it emerges that the equations contain obvious algebraic errors and indefensible assumptions, which dramatically reduce the debt's value, as the expert reports prepared by economists Iván Alonso, Ítalo Muñoz and Dr. Alan Heston all show. Hence, while the Guidelines should fulfill the fundamental principles that this Tribunal and other courts have repeatedly endorsed, they are, in fact, an attempt to subvert them.

12. Moreover, the Guidelines set out a bureaucratic, multi-step process that is plainly designed to coerce or at the very least deceive the bondholders into waiving their rights; that may be prolonged indefinitely; and that makes no promise ever to actually pay the bondholders. The Guidelines are also overly burdensome and discriminatory – by affording different standards of treatment to bondholders that are in the same legal position.

13. As part of this scheme, the Guidelines say they are the exclusive means for bondholders to be paid. In other words, the Guidelines purport to extinguish bondholders' fundamental rights to pursue their claims in courts. In addition, the Guidelines are impermissibly retroactive to the detriment of bondholders that already have ongoing judicial proceedings demanding payment of their Bonds because they purport to impose on the judicial process an updating methodology that is incorrect and generates absurd results.

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Adrianzen (the "Benavides Report"), Sections III and IB. *See also* memorandum N° 447-2014-FE/52.04 of October 15, 2014 issued by the Ministry of Economy and Finance in which the Ministry states that it has not made any estimate, calculation or technical study regarding the possible impact that the payment of the Land Reform Bonds might cause to the general budget.

<sup>7</sup> Deloitte Report. *Compare* Table 8 (range of \$12.6M - \$23.9M USD for price Peru will pay under MEF formula) against Table 11 (of \$42,418M value of expropriated land).

14. In short, after expropriating valuable land more than forty years ago and defaulting on its express guarantee to pay the Bonds, the Government is now – once again – attempting to pay *nominal* value through a formula that is indecipherable to most bondholders, depriving bondholders of their right to seek judicial relief from courts in favor of a burdensome and discriminatory process that may take years or more, without even a firm commitment ever to pay all the bondholders.

15. The time has come for this Tribunal to put an end to the Government's persistent attempts to deny, evade or circumvent Peru's obligation to pay the Bonds at current value with the promised interest. The bondholders have been deprived of compensation for decades and the Government has had countless opportunities to pay that compensation. Despite the clear directions of this Tribunal and other Peruvian courts, the Government has offered excuses instead of payment. Decades of avoidance and dissembling have only made the situation worse. Fortunately, Peru now has a sufficiently strong and mature economy that it can afford to do the right thing and honor its commitments. Further postponing the day of reckoning of the Bonds will only ensure that the aggregate debt amount continues to swell, and could eventually reduce Peru's international standing and creditworthiness.<sup>8</sup>

16. Accordingly, the new bench of the Tribunal should declare that the Guidelines breach the current value principle as espoused by this Tribunal in March 2001, and should direct the Government, within six months, to pay the bondholders the current value of the debt, determined by the CPI Methodology set forth in Appendix A, plus the Bonds' stated interest and any applicable late interest, in liquid, internationally traded Peruvian sovereign bonds issued on substantially the same terms as Peru's last international bond issuance. Alternatively, if the Tribunal orders that current value be calculated by U.S. dollar indexation – despite the fact that dollarization does not provide full current value – then at the very least it should order the Government to pay within six months, in liquid, internationally traded sovereign Peruvian bonds issued on substantially the same terms as Peru's last international bond issuance, according to the Corrected Dollarization Methodology described herein and as set forth in Appendix B, plus any applicable late interest.

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<sup>8</sup>

Benavides Report, Section IV.

## II. Standing

17. The Association consists of approximately 342 members that hold Land Reform Bonds and whose assets will be affected by the outcome of these proceedings.<sup>9</sup> Therefore, pursuant to article 54 of the Constitutional Procedural Code and article 92 of the Civil Procedural Code, the Tribunal should allow the Association to join these proceedings.

18. Those provisions of the Constitutional and Civil Procedural Codes permit joinder when a proceeding is likely to affect the intervenor's legitimate interest. Article 54 of the Constitutional Procedural Code establishes that "whoever has a legally relevant interest in the outcome of a process may enter an appearance as a party in a permissive joinder." Also, article 92 of the Civil Procedural Code allows joinder when two or more individuals have "related claims" or "because the ruling to be issued with respect to one may affect the other."<sup>10</sup> According to author Ursula Indacochea Prevost, the expansive language of these provisions have been said to provide "a broad presumption of the intervention of third parties."<sup>11</sup>

19. Although the foregoing provisions by their terms apply to constitutional injunctions and civil complaints, they are also applicable to these constitutional proceedings on the basis of the principles of Supplemental Applicability and Procedural Flexibility. The principle of Supplemental Applicability – contained in article IX of the Preliminary Title of the Constitutional Procedural Code – establishes that when there is a gap in the code, provisions of "Procedural Codes that are related to the disputed matter shall be supplementarily applicable," provided that they do not frustrate the purposes of the constitutional process and that they contribute to their development. The Principle of Procedural Flexibility further requires this Tribunal to "adjust the requirement of formalities" set forth in the Constitutional Procedural Code to "guarantee the preeminence of the Constitution and the force and effect of constitutional rights."<sup>12</sup> Articles 54 and 92 should thus guide this Tribunal's determination on the Association's application for permissive joinder.

20. The text and logic of Articles 54 and 92 compellingly support the Association's joinder in these proceedings. Those Articles provide that intervention is appropriate when a person's legitimate interests are at stake in a proceeding. As Professor Juan Monroy Gálvez has explained, "legitimate interests" refers to those interests "recognized by the legal system as worthy of protection," which is why "they are offered a mechanism to make them effective (recognition of subjective rights) and

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<sup>9</sup> Multiple bondholders, domestic and foreign, whom in one way or another have collaborated in the preparation of this brief, also support the arguments presented herein. In total, and apart from the Association, this petition has been endorsed in writing by over 100 bondholders, which are identified in Appendix C.

<sup>10</sup> Constitutional Procedural Code, article 54 and Civil Procedure Code, article 92.

<sup>11</sup> Indacochea Prevost, Ursula, *Práctica Constitucional Litisconsorcio e intervención de terceros en el proceso de amparo*, Lima: Gaceta Constitucional N° 1, p. 537.

<sup>12</sup> Constitutional Procedural Code, article III.

a mechanism to protect them in the case that they are affected or unknown (as in a legal proceeding).”<sup>13</sup> This Tribunal has similarly explained that permissive joinder allows “the presence of several people as parties, who, due to direct obligations or common interest, are united in a specific position and request the court to make a logical and legally unified decision.”<sup>14</sup>

21. There can be no question that the Association’s members meet that test. The Association has a common interest and, consequently, is united with the Engineers’ Bar Association insofar as it also seeks respect for the right of property and payment of the current value of the Bonds.

22. Moreover, all bondholders would benefit from a logical and legally unified decision. The Tribunal’s decision in this case will affect not only the Engineers’ Bar Association and its members, but also ABDA’s 342 members, the over 100 additional bondholders who have endorsed this application, and indeed all bondholders in light of the *erga omnes* effects that the decisions of this Tribunal have pursuant to article 81 of the Constitution. On this score, this Tribunal has held that “as opposed to decisions rendered in the course of ordinary proceedings, where the judge’s ruling binds the parties involved in those proceedings only,” decisions in constitutional proceedings “often have a wider scope” and “not only bind those whom are parties” to said proceedings.<sup>15</sup>

23. There are practical examples of the *erga omnes* effect of the Tribunal’s decision on all bondholders. In March 2001, this Tribunal declared “articles 1 and 2 and the First Final Provision of Law N° 26597 as well as the Unique Temporary Provision of Law N° 26756” to be unconstitutional (“March 2001 Decision”).<sup>16</sup> That decision struck down a number of legal provisions pertaining to all the bondholders, and thereby permitted bondholders to pursue their claims in Peruvian courts. In the Rulings of July and August 2013, the three signing judges established evaluation guidelines and indicated that these guidelines would be applicable to all lawsuits that were related to updating or collecting the Land Reform Bonds, even to the very legal proceedings that had been commenced in reliance upon the Tribunal’s landmark 2001 Decision.<sup>17</sup> These examples show how the Tribunal’s decisions in cases concerning the Bonds have had and will continue to have a significant effect on all bondholders, including the Association’s members. Thus there can be no question about the fact that the Association has a legitimate interest in these legal proceedings.

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<sup>13</sup> Monroy Gálvez, Juan, *Diccionario Procesal Civil*, Lima: Gaceta Jurídica, 2013, pp. 196, 197.

<sup>14</sup> Constitutional Tribunal of the Republic of Peru. Case N° 961-2004-AA, July 2, 2004, Section 3.

<sup>15</sup> Constitutional Tribunal of the Republic of Peru, Case N° 4119-2005-PA/TC, August 29, 2005, Section 52.

<sup>16</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, March 15, 2001, Dispositive.

<sup>17</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, July 16, 2013, Dispositive N° 2. *See also* Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, August 8 2013, Foundation 10.

24. Moreover, the Association is an appropriate type of organization to intervene on behalf of its members. The Tribunal has articulated three requirements for a private entity to intervene in a proceeding such as this one: (i) having legal status; (ii) having a corporate purpose directly related to the intention of the complaint; and (iii) having a high degree of social representation.<sup>18</sup> The Association meets these requirements. *First*, the Association has valid legal status, as evidenced by the Association’s certificate of incorporation before the Lima public registry.<sup>19</sup> *Second*, article 2 of the Association’s bylaws shows that its purpose is to “obtain from the Peruvian Government the recognition and payment of the debt arising out of Law N° 15037 and Decree Law N° 17716,” which falls squarely within the object of these proceedings. *Finally*, the Association has a high degree of social representation, as evidenced by the certification and a list of its members.<sup>20</sup>

25. The previous bench of the Tribunal nevertheless held that the Association’s September 30, 2013 petition was “improper” because it was not “a party to these proceedings.”<sup>21</sup> Respectfully, that reasoning misses the point. Of course the Association is not *currently* a party to the proceedings. It would not be seeking to intervene if it were. The point is that the Association is entitled to intervene because it has a legitimate interest in these proceedings. Denying the Association’s joinder application would consequently deprive the Association of its due process right to be heard. Thus, regardless of how the Tribunal might have been inclined to decide the Association’s earlier motion to reconsider the Tribunal’s November 4, 2013 holding, the Association’s current motion to join the proceeding should be granted.

26. In any event, since this Tribunal’s November 2013 Ruling, new facts have arisen that further warrant the Association’s intervention in these proceedings. Most significantly, in January 2014, the MEF issued the Guidelines – which expressly purport to bind all bondholders, not just the Engineers’ Bar Association or its members.

27. Moreover, as Section IV.A.3 below explains, the Guidelines have dramatically impacted the value of Land Reform Bonds, decreasing their value almost entirely in direct violation of the right to property. For the members of the Association, this implies a crippling financial loss. The financial impact that this has had on the members of the Association, as well as the fact that any ruling issued in the future will undoubtedly affect the bondholders’ interests, amply justifies the Association’s joinder now.

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<sup>18</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00013-2012-PI/TC, March 20, 2013, Section 6.

<sup>19</sup> Certificated copy of the Association’s incorporation in the Public Registry.

<sup>20</sup> See Appendix D.

<sup>21</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, November 4, 2013, Sections 7-8.



28. Based on the foregoing, the Association requests that this Tribunal accept its joinder to this proceeding, so that it entertains the Association's arguments on the effect that the July 16, 2013 Ruling and the Guidelines have on bondholders' constitutional rights.

### **III. Facts**

29. This section summarizes the facts leading to the current situation with the Land Reform Bonds. Specifically, this section addresses (A) the Land Reform Bonds as compensation for the expropriations that took place beginning in 1969; and (B) the State's attempts to avoid paying the adjusted value of the debt evidenced by the Bonds, including its misrepresentations leading to this Tribunal's Ruling of July 16, 2013, and the Guidelines issued by the MEF in January, 2014.

#### **A. Land Reform Bonds**

30. Beginning in 1969, the Peruvian Government implemented a series of measures aimed at transforming the country's social landscape by addressing the wealth-distribution system, particularly the economic and land ownership system. One such measure was the promulgation of Decree Law N° 17716 – the Land Reform Act – which sought to transform the country's land-tenure structure and replace the *latifundio* and *minifundio* system with redistribution of rural land.<sup>22</sup>

31. The land reform consisted of a series of expropriations of rural parcels. Ownership of these parcels – formerly owned by both individuals and legal entities – initially passed to the State and was subsequently distributed among peasants and small farmers organized in cooperatives and agricultural associations.<sup>23</sup> Those whose property was expropriated were entitled to compensation based on an appraisal conducted by the State and payment of the fair value was required by constitutional mandate.<sup>24</sup>

32. The State promised to pay over time, with interest, by issuing and placing the Land Reform Bonds. Landowners had no choice in the matter, for the law made surrender of land and acceptance of the Bonds mandatory. The State, therefore, not only took the land but effectively compelled the landowners to loan the State the funds with which to pay compensation for the takings.

33. The Government ultimately issued three classes of Land Reform Bonds: (i) Class A, with 6% annual interest over twenty years beginning as of their

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<sup>22</sup> Decree Law N° 17716, Land Reform Act, articles 1, 2 and 3.

<sup>23</sup> *Id.*, Articles 56 and 67.

<sup>24</sup> Political Constitution of Peru 1933, amended by Law N° 15242, published on November 30, 1964, Article 29: "Property is inviolable. No person may be stripped of his property except by court order or for reasons of public utility or in the interest of society, which must be legally established, and only after payment of the fair value. In the case of expropriations for reasons of Land Reform (...), the law may establish that compensation (...) may be paid in the form of bonds, the acceptance of which shall be mandatory (...)."

placement; (ii) Class B, with 5% annual interest over twenty-five years; and (iii) Class C, with 4% annual interest over thirty years.<sup>25</sup> These Bonds stated that they were payable annually in cash until maturity. They represent the State's obligation to pay the fair value of the land, which had the "State's unreserved guarantee" pursuant to article 175 of the Land Reform Act.<sup>26</sup>

34. The Ministry of Agriculture and Irrigation's webpage indicates that between June 1969 and June 1979, more than nine million hectares of land were expropriated, consisting of some 15,826 land lots. According to that source, this benefited approximately 370,000 families.<sup>27</sup> In a 2006 report, Congress noted that the MEF made a "net bond placement" equal to "13.285 billion *Soles Oro*."<sup>28</sup> That report also indicated that "payments were made for 10.763 billion *Soles Oro* of the principal" and that there was an outstanding balance of some 2.521 billion *Soles Oro*.<sup>29</sup>

## B. The State's efforts to avoid its obligations

35. The State has for decades evaded its constitutional obligation to pay fair value for the expropriated land. Through one means or another it has sought to ignore, deny or trivialize that obligation. With each such attempt, intervention of Peruvian courts and of this Tribunal has been necessary to check that unlawful conduct and protect the bondholders' constitutional rights. History thus establishes a pattern of Government mistreatment of the bondholders' rights, followed by successful bondholder petitions for redress.<sup>30</sup>

### 1. Undervaluing and selective default

36. Pursuant to article 29 of the 1933 Constitution, which was valid when the Land Reform Act was enacted, the land reform should have resulted in the payment of fair compensation for the expropriated lands of individuals and companies. Instead, the mechanisms established in the Land Reform Act were openly

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<sup>25</sup> Decree Law N° 17716, Land Reform Act, Article 174.

<sup>26</sup> *Id.*, Articles 173, 174 and 175.

<sup>27</sup> *El proceso de reforma agraria, Objetivos de la reforma agraria*, Ministerio de Agricultura y Riego, available at <http://www.minag.gob.pe/portal/marco-legal/titulaci3n-y-cr3ditos/titulaci3n-agraria-en-el-peru/el-proceso-de-reforma-agraria>; see also Matos Mar, José and J. M. Mejía, *La reforma agraria en el Peru*, Lima: Instituto de Estudios Peruanos, 1980, p. 171.

<sup>28</sup> Opinion issued on Draft Laws N° 578/2001-CR, N° 7440/2002-CR, N° 8988/2003-CR, N° 10599/2003-CR, N° 11459/2004-CR, and N° 11971/2004-CR, which proposes the "Legal Certainty for the Physical and Legal Restructuring of parcels affected by the Land Reform Process and Land Reform Debt Adjustment and Payment Act," p. 13.

<sup>29</sup> *Id.*

<sup>30</sup> Compare, for instance, the content of this Tribunal's March 2001 decision (ordering payment of the Bonds' updated value) against the Letter 091-2010/EF-75.20 of November 17, 2010 issued by the National Bureau of Public Debt indicating that "any proposal to the effect that the land reform bonds be paid at current value is not viable." Emphasis in the original.

abusive, and fair value was not given in exchange for the takings.<sup>31</sup> Available sources on this topic indicate that the Land Reform Act did not set forth a fair method for assessing the value of the land, but that it indicated that the amount of the *justiprecio* would be set, among other ways, on the basis of the sworn declaration of self-valuation (*autoavaluo*), or “on the basis of the land’s economic capabilities” and that the Land Reform General Directorate fixed the *justiprecio* on the basis of the land’s quality using a representative hectare sample for agricultural lands.<sup>32</sup>

37. This initial value assessment from the beginning undercompensated the expropriated landowners. In their publication *Quantitative Aspects of the Land Reform*, Caballero and Alvarez indicate that “the total amount of the expropriations – slightly over 15 billion *Soles Oro* – is pretty low,” as it corresponds to “approximately half of the national budget for agricultural loans in 1977,” and “only 20% more than the national investment in irrigation in 1978.”<sup>33</sup>

38. To make matters worse, during the 1980s, Peru began defaulting on the payment of the Bonds’ coupons. This default has been attributed to the deteriorating economic situation, which resulted in terrible hyperinflation (as described in paragraphs 45 and 46), the winding down of the Agrarian Bank that took place from 1992<sup>34</sup> and the currency switch from *Soles Oro* to *Inti*.<sup>35</sup> Although Peru for a time created some individualized bank accounts and credited those accounts with nominal payments and deposits, it appears that it stopped paying the debt altogether – even on a nominal basis and unadjusted for current value – approximately in 1992.<sup>36</sup>

39. Despite the State’s “unreserved guarantee” in the Land Reform Act to pay the full value of the Bonds, Peru not only stopped paying the land reform debt, it also took steps to avoid paying its current value, even in the face of clear instructions from this Tribunal.

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<sup>31</sup> José María Caballero, *Reforma y Reestructuración Agraria en el Perú*, Publicaciones Cisepa N° 34, Lima, Pontificia Universidad Católica del Perú, 1976, pp. 37 and 38.

<sup>32</sup> José María Caballero and Elena Alvarez, *Aspectos cuantitativos de la reforma agraria 1969-1979*, Instituto De Estudios Peruanos 1980, p. 60.

<sup>33</sup> *Id.*, p. 61.

<sup>34</sup> Decree Law N° 25478, May 8, 1992. The Agrarian Bank was declared (the entity responsible for the amortization and interest of the Bonds) in a state of liquidation. Liquidation was concluded by Resolution 078-2008-EF of September 27, 2008.

<sup>35</sup> On January 11, 1985 Law N° 24064 was published through which the *Inti* was adopted as Peru’s currency.

<sup>36</sup> On the next day of the publication of Decree Law N° 25478, the payments to the creditors of the Agrarian Bank were suspended, including to the bondholders. There is no evidence that the bondholders were included in the list of creditors of the Agrarian Bank or that it was determined which entity of the Peruvian Government should make the payments of the outstanding coupons.

## 2. Law N° 26597

40. Although Article 15 of the Agricultural Sector Investment Promotion Act provided that payment for expropriations should be made at market value, through a series of laws – in particular the enactment of N° 26597 – the Government avoided this obligation and instead attempted to impose the view that the mere fact of physically delivering the Bonds was tantamount to effective payment.<sup>37</sup>

41. In 1996, however, the Engineers' Bar Association asked this Tribunal to declare Law N° 26597 unconstitutional on the basis that it affected the valuation criteria and payment for expropriated lands enshrined in article 70 of the Constitution. The Engineers' Bar Association argued that the land reform expropriations had actually been "seizures," because landowners had received Bonds that were worth far less than the expropriated land, and that due to the "inflation process," the value of the Bonds had been "eroded in relation to the actual value of the expropriated land."<sup>38</sup>

42. At that time, Congress joined forces with the Administration to avoid paying the current value of the debt and defended the validity of the challenged statute. As this Tribunal noted, Congress "denied and opposed" the Engineers' Bar Association's petition, arguing that "the land reform bonds are valid payment and are governed by the nominal payment principle, under which the creditor receives the exact sum of money appearing on the bond, regardless of any changes in its purchasing power."<sup>39</sup>

43. On March 15, 2001, the Tribunal issued a landmark opinion. The Tribunal upheld the Engineers' Bar Association unconstitutionality claim and confirmed the principle that the Land Reform Bonds should be adjusted in accordance with the valuation principle enshrined in article 1236 of the Civil Code and Article 70 of the Constitution.

44. The Tribunal declared article 1 of Law N° 26597 unconstitutional because "the criteria for the valuation and payment of the adjusted value of the expropriated land" responds to "a sense of basic justice, in accordance with article 70 of the Constitution," which that law ignored when it provided for payment of "the face value amount only."<sup>40</sup> The Constitutional Tribunal also found article 2 of Law N° 26597 unconstitutional because it attempted to validate the fair value system presented in the Bonds while treating this value "in an unalterable way that failed to

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<sup>37</sup> Legislative Decree N° 653, Agricultural Sector Investment Promotion Act, Article 15 and Fourth Transitory Provision. *See also* Law N° 26207, article 3, expressly repealing the Fourth Transitory Provision of Legislative Decree N° 653, thus derogating the market value principle. Law N° 26597 then basically provided that the "expropriation processes for purposes of Land Reform" would be implemented in accordance with Law N° 26207, which had already repealed payment of the fair market value principle.

<sup>38</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC of March 15, 2001, Background, paragraph 6.

<sup>39</sup> *Id.*, Background, paragraph 7.

<sup>40</sup> *Id.*, Foundation 1.

take into account the effects of time.”<sup>41</sup> The Tribunal further declared these legal provisions unconstitutional “as they violated the valuation criteria inherent to property.”<sup>42</sup>

45. The “sense of basic justice” to which the Tribunal’s March 2001 Decision referred arose from the effect of hyperinflation on the value of the Bonds during the long payment period the State had imposed. Between 1980 and 1987, Peru’s annual inflation rate never dipped below 50%.<sup>43</sup> Between 1988 and 1990, the economic situation continued to worsen and inflation spiraled out of control, reaching its peak in August 1990, when annual inflation was 12,378%.<sup>44</sup> In that month alone, existing currency lost 75% of its value. This means that at the end of that month, the same amount of money would have the power to buy only 1/4 of the goods and services it could have purchased at the beginning of that month. In other words, prices were more than 100 times higher by August of 1990 than they had been a year earlier; more than 7,000 times higher than they had been the year before that; and more than 30,000 times higher than they had been just three years earlier in August of 1987. For bondholders, the face value of the debt owed to them – as denominated in *Soles Oro* – virtually disappeared.

46. In response to the profound inflation and currency devaluation crisis, the administration changed the currency twice in a span of six years. In 1985, Peru switched from *Sol Oro* – the currency in which the Bonds were issued – to *Inti*.<sup>45</sup> In 1991, the State once again changed the official currency from the *Inti* to the *Nuevo Sol*.<sup>46</sup> As a result, the nominal equivalent of one *Sol de Oro* is now equal to 0.000000001 – one billionth – of a *Nuevo Sol*.<sup>47</sup>

47. Congress eventually recognized the obvious deterioration of the Peruvian currency’s value and the need to arrive at a current value of the land reform debt. In a 2006 report, a Congressional Committee opined that the State had “acknowledged the debt and promised to pay it” by issuing the Land Reform Bonds, but “as the value of the currency deteriorated,” it had become “essential” to apply an

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<sup>41</sup> *Id.*, Foundation 2.

<sup>42</sup> *Id.*, Foundation 7.

<sup>43</sup> Deloitte Report, Annex 3.

<sup>44</sup> Reinhart, Carmen, Savastano, Miguel, *The Realities of Modern Hyperinflation*, p. 21, available at <https://www.imf.org/external/pubs/ft/fandd/2003/06/pdf/reinhard.pdf>.

<sup>45</sup> Law N° 24064, Article 1: “As of February 1, 1985, the *Inti* is hereby established as the unit of currency in Peru (...).” Under this law, one *Inti* was equal to one thousand *Soles Oro*.

<sup>46</sup> Law N° 25295, Article 1: “The ‘*Nuevo Sol*’ is hereby established as the unit of currency in Peru (...).” Under this law, one *Nuevo Sol* is equal to one million *Intis*.

<sup>47</sup> Central Reserve Bank of Peru, table of equivalencies: <http://www.bcrp.gob.pe/billetes-y-monedas/unidades-monetarias/tabla-de-equivalencias.html>.

adjustment factor that “to the extent possible, would allow the value of the confiscated assets to remain constant.”<sup>48</sup>

### 3. Emergency Decree N° 088-2000

48. While the Engineers’ Bar Association unconstitutionality claim was pending, the Administration continued trying to avoid paying the current value of the land reform debt. In 2000, Peru passed Emergency Decree N° 088-2000, recognizing the land reform debt and purporting to implement a mechanism for crediting and paying it, using new bonds issued by the Public Treasury.<sup>49</sup> To adjust the value of the Land Reform Bonds, Emergency Decree N° 088-2000 ordered them converted “to U.S. dollars at the official exchange rate in effect on the issue date,” applying “to the result an annual interest rate of seven point five percent (7.5%) up to the month immediately prior to the date the calculation was made, compounded annually.”<sup>50</sup>

49. Emergency Decree N° 088-2000 was particularly damaging because it provided that payment would be made by swapping the Land Reform Bonds for newly-issued sovereign debt with a maturity of 30 years *but with no interest*. In other words, it converted a compulsory *interest bearing* loan to the State into a compulsory *interest free* loan. Additionally, the Emergency Decree authorized free negotiability of the Bonds only for certain purposes – for instance, to acquire very specific agricultural land (such as fallow lands; or land that was undergoing an irrigation project); or to purchase stock in State-owned agricultural companies.<sup>51</sup>

50. Various bondholders objected to the Emergency Decree N° 088-2000. On February 3, 2004, the Ica Bar Association filed an unconstitutionality claim against several articles of the decree. It was argued, among other things, that the Emergency Decree violated the right to property; and the principle of judicial independence, by unlawfully interfering with proceedings that were pending before Peruvian courts dealing with the payment of compensation for expropriations; and the right to due process, since it attempted retroactively to impose a procedure that did not exist at the time the underlying events occurred.<sup>52</sup>

51. That claim was the basis for this Tribunal to set another historic precedent. On August 2, 2004, the Tribunal upheld the independence of the judiciary and concluded that “the procedure governed by Emergency Decree N° 088-2000”

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<sup>48</sup> Opinion issued on Draft Laws N° 578/2001-CR, N° 7440/2002-CR, N° 8988/2003-CR, N° 10599/2003-CR N° 11459/2004-CR, and N° 11971/2004-CR, which proposes the “Legal Certainty for the Physical and Legal Restructuring of parcels affected by the Land Reform Process and Land Reform Debt Adjustment and Payment Act,” p. 13.

<sup>49</sup> Emergency Decree N° 088-2000, Article 2. Payment System, “Payment of the accredited and recognized debts in accordance with the provisions of this law shall be made with Bonds issued by the Public Treasury up to the amount of the adjusted debts (....)”

<sup>50</sup> *Id.*, Article 5.

<sup>51</sup> *Id.*, Article 2.

<sup>52</sup> Constitutional Tribunal of the Republic of Peru, Case N° 0009-2004-AI/TC, of August 2, 2004, Background, paragraphs 1 and 2.

should be interpreted “as an option that may be freely chosen by creditors as an alternative to the option of going to Court to demand payment of the adjusted amount of the debt, plus applicable interest.”<sup>53</sup> In other words, the Tribunal left open the possibility for Land Reform Bond holders to seek compensation before a competent court. Similarly, with regard to the alleged violation of the principle of equality under the law – petitioners in that case argued that the Emergency Decree N° 088-2000 used an adjustment method “different from that normally provided for creditors”,<sup>54</sup> under the Civil Code – the Tribunal held that there was no such violation so long as Emergency Decree N° 088-2000 was merely an “option” and was not mandatory. As argued below, at a minimum, the Tribunal’s 2004 resolution should serve as persuasive precedent for the Tribunal now as it assesses the Guidelines.

#### 4. The Tribunal’s July 2013 Ruling

52. Due to the Government’s delay in resolving the Land Reform Bond problem, on October 5, 2011, the Engineers’ Bar Association filed a petition seeking enforcement of this Tribunal’s Decision of March 2001, which had declared Law N° 26597 unconstitutional.

53. On July 16, 2013, the Tribunal deemed it necessary to address the request so as to “monitor and ensure definitive compliance with the order” contained in its March 2001 Decision (the “Ruling”), and that is why the Tribunal enacted an enforceability declaration. It reaffirmed its March 2001 Decision that expropriation without payment of fair value, or for which “only the face value was paid,” violated “a basic sense of justice” in accordance with article 70 of the Constitution.

54. In its Ruling, the Tribunal reproachfully summarized the Government’s conduct with respect to the payment of the Land Reform Bonds:

“(…) although the Executive Branch initially showed willingness to honor the debt resulting from the expropriations conducted as part of the Land Reform [...] it later abandoned its efforts and to date the State has failed to establish criteria for the ‘valuation and payment of the adjusted amount of the debt,’ much less paid it. On the contrary, as counsel for the Engineers’ Bar Association has shown, the Executive Branch, in various responses given to persons whose property was expropriated under the Land Reform, and through its government attorneys in claims filed to collect the fair price owed, has consistently denied the need to adjust the amount of the debt, given that there is no court or administrative order to do so, and the

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<sup>53</sup> *Id.*, Foundation 17.

<sup>54</sup> *Id.* Foundation 12.

judgment of this Court ‘cannot apply to events that occurred before the judgment was rendered.’”<sup>55</sup>

55. While the Tribunal’s decision reaffirmed that the Government is obliged to pay the current value of the debt, it also went further and considered several methods for calculating that current value. Among those methods was the one most commonly used to update delinquent Peruvian debts, namely the CPI method. However, the Tribunal held, without citing any supporting evidence, that using the CPI method would yield an amount that would jeopardize Peru’s compliance with other obligations, including the provision of “public services.” In other words, the Tribunal appeared to consider that Peru could not afford to pay the debt if calculated using the CPI method.

56. Accordingly, in an act of purported balancing of the bondholders’ constitutional rights against this asserted threat to the general welfare, the Tribunal endorsed a different method: “calculating the adjusted value of the bonds by indexing the existing obligations to the equivalents in foreign currency” and then “applying the interest rate for United States Treasury Bonds.”<sup>56</sup>

57. The Tribunal thus ordered that “within six months of this Ruling, the Executive Branch shall issue a supreme decree regulating the procedure for the recording, valuation and forms of payment of the land reform bond debt.”<sup>57</sup>

58. Subsequently, on November 4, 2013, after interested persons and organizations – including the Association – filed motions for annulment and clarification of the Ruling, this Tribunal provided that although the MEF had the authority to issue Guidelines, “the process of adjusting the debt” should “under no circumstance” lead to a “result that reflects the practical application of a nominal criteria” and it reserved its jurisdiction to monitor calculation processes leading to a nominal payment.<sup>58</sup>

##### 5. The MEF’s January 2014 Guidelines

59. In January 2014, the MEF issued the Guidelines containing the “Regulations for the Administrative Process of Recording, Adjusting and Paying the Land Reform Bond Debt.”

60. The Guidelines set out a “mandatory” procedure for bondholder claims.<sup>59</sup> To initiate that administrative procedure, however, any bondholder that is a

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<sup>55</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, of July 16, 2013, Foundation 18.

<sup>56</sup> *Id.*, Foundation 24.

<sup>57</sup> *Id.*, Dispositive sections 2 and 3.

<sup>58</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-P1/TC, 4 November 2013, Foundations 7, 10, 12 and 14.

<sup>59</sup> Supreme Decree N° 17-2014-EF, article 4.



party to ongoing judicial proceedings seeking payment of the value of the Bonds must first “abandon” those proceedings and any rights to participate in any other legal proceedings in the future.<sup>60</sup> Sovereign debt restructuring is not uncommon, and Peru has – as a matter of fact – restructured its sovereign debt several times in the past. But it has never asked creditors to waive their procedural rights just to reconcile the amount due.

61. This is followed by a complex, bureaucratic and uncertain administrative process. That process could take up to seven years before the bondholders receive any value: five years for bondholders to file their “applications” to be “officially identified and registered” as the Bonds’ legitimate holders, followed by a two-year process to hear each individual claim.<sup>61</sup> This two-year period is comprised of eighteen months for the MEF to “register” the application; and six months to finalize the “administrative updating.”<sup>62</sup>

62. The Guidelines provide that no payment of any kind can occur until an unspecified “minimum” quantity of claims has been submitted.<sup>63</sup> More generally, the Guidelines say nothing about the form of compensation bondholders might ultimately receive, leaving it unclear if the Government ever will pay in cash or will simply issue another bond with below market terms and long maturity. In fact, article 17.1 merely indicates that the MEF, “taking into account principles of fiscal balance and financial sustainability,” as well as “fiscal rules” and the “multi-annual macroeconomic framework,” shall “define the options that the bondholders may choose from” for the purposes of collecting.<sup>64</sup>

63. The Guidelines also contain provisions stating how the Government proposes to calculate the debt due to each bondholder. It describes these calculations by a series of complex equations. The equations are not easy for a lay person to understand. They purport to convert a nominal amount of *Soles Oro* into U.S. dollars using what they call a “parity exchange rate.” However, instead of using a well-established international reference for such a parity exchange rate, the Guidelines calculate that rate with another complex equation that is unusual and unfounded.<sup>65</sup>

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<sup>60</sup> *Id.*, Final Supplemental Provision N° 1.

<sup>61</sup> *Id.*, Articles 6.1 and 6.2.

<sup>62</sup> *Id.* Fourth Supplemental Final Provision. *Ver tambien*, Emergency Decree N° 88-2000, for instance, did not impose these burdensome and complex administrative procedures. That was, in fact, a very straightforward regulation. Although article 10 of Decree 88-2000 provided that acceptance of new bonds meant the “abandonment” of ongoing judicial proceedings, nothing therein barred bondholders from pursuing their claims before the judiciary.

<sup>63</sup> *Id.*, Article 17.2.

<sup>64</sup> *Id.*, Article 17.1.

<sup>65</sup> “*An Analysis of the Formulas for Calculating the Redemption Value of Land Reform Bonds in Peru*,” prepared by Dr. Iván Alonso and Dr. Ítalo Muñoz (the “Alonso Report”), p. 6 (noting that they “know of no economic theory or reputable author supporting a formulation similar to the MEF formula.”). *See also* “*The Appropriate Parity Exchange Rate to be Used in Valuing*

64. That equation is also mathematically wrong. As Dr. Ivan Alonso and Dr. Italo Muñoz explain in their report submitted along with this brief, the Guidelines’ yield the absurd result that as Peruvian currency *weakens* against the dollar, each *Sol* is worth *more* and therefore *fewer* dollars are required to achieve parity. This makes no sense. This basic error in the equation thus turns the purpose of using a parity exchange rate on its head.

65. The Guidelines then apply to this incorrectly restated principal amount not the interest rate stated in the Bonds, but an interest rate for U.S. Treasury bills (also known as T-bills) of just one-year duration. The one-year U.S. Treasury bills have interest rates that are not only considerably *lower* than the interest rates specified in the Land Reform Bonds, but also rates that are considerably lower than U.S. Treasury bonds of durations closer to those of the Land Reform Bonds, as the following chart shows:

Bond	Issuance	CUSIP	Issue Date	Yield	Rate
U.S. Treasury	30 years	912810RD2	15/01/2014	3.899%	3.750%
U.S. T-bills	1 year	912796FG9	13/11/2014	0.140%	0.142%

66. The information from the table above comes from the U.S. Treasury Department’s webpage.<sup>66</sup> It shows the dramatic difference between the interest rate of a 1-year T-bill and a 30-year Treasury bond. There can be no doubt that they are fundamentally different securities. So, instead of applying a 4%, 5% or 6% interest rate, or an interest rate of a 20- or 30-year U.S. Treasury bond, the Guidelines offer bondholders interest rates that are currently less than 0.15%. Dr. Alonso and Dr. Muñoz actually test the outcome of using such different rates and conclude that doing so “has a significant effect on the updated value of the bonds.”<sup>67</sup> Table 3 of their report shows the dramatic difference in compound value for a \$1,000 Treasury bond.

67. As Dr. Alonso and Dr. Muñoz explain in their report, it makes no economic sense to use a short-term interest rate with respect to a long-term bond such as the Land Reform Bonds.<sup>68</sup> Also, the Guidelines stop paying interest altogether as of 2013, and make the mistake of converting back to *Sol* at the average foreign exchange rate of 2013, instead of the exchange rate in effect at the time of actual payment – which, pursuant to the Guidelines, may occur many years from now.<sup>69</sup>

68. As addressed below, the Guidelines also discriminate among bondholders, classifying them in: (i) those over 65 years of age; (ii) individuals over legal entities; (iii) the original bondholders over the assignees. The Guidelines provide that persons over the age of 65 who are *original* bondholders are entitled to collect

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*Land Reform Bonds in Peru*,” prepared by Dr. Alan Heston (the “Heston Report”), Table 1, Estimates of Annual Parity Exchange Rates, Based on ICP Benchmark Comparisons.

<sup>66</sup> See Annex 22.

<sup>67</sup> Alonso Report, p. 10.

<sup>68</sup> *Id.*, Section II.

<sup>69</sup> Alonso and Munoz Expert Report, p. 12.

before other individuals who are older than 65 but are *not* original bondholders. The Guidelines then provide the same priority for people under 65 years of age, and thereafter, give preference to legal entities that are holders of the land reform debt, followed by legal entities that have acquired the bonds as part of the payment of obligations provided for under law, and finally, legal entities that acquired the obligations for “speculative ends.” The Guidelines do not explain why these classes were established, how any individual bondholder will be classified under them or precisely what use will be made of the classifications in paying bondholders. The fact is, no Bond has priority over any other. To the contrary, all the Bonds received the same guarantee and are equal in entitling the owner – whoever that may be – to payment of the debt.

69. Perhaps even more importantly, the Guidelines make the procedures and the updating methodology established therein the only avenue for bondholders to collect the value of their Bonds. They provide no explanation as to why bondholders should be deprived of their fundamental right to present their claims in court, before judges who can consider the facts and apply the law impartially. They consequently deprive bondholders of their right to access the judicial system and have their day in court.

#### **IV. Argument**

70. The Constitutional Tribunal should closely scrutinize whether the Guidelines fulfill the requirements of the March 2001 Decision, and instruct the MEF to withdraw the Guidelines or to issue new Guidelines because the current Guidelines (A) do not offer bondholders the amount to which they are entitled; (B) deprive bondholders of their right to vindicate their claims in court; (C) impose on bondholders an unduly burdensome procedure; and (D) impermissibly discriminate among bondholders.

##### **A. The Guidelines do not fulfill the Tribunal’s mandate, or the State’s constitutional obligation, to pay the Bonds’ current value plus interest**

71. There can be no dispute that the bondholders are entitled to the current value of the debt plus interest.

72. The current value principle is firmly established in Peruvian law and in the instructions established in the March 2001 Decision. The principle is encapsulated in Article 1236 of the Civil Code, which provides that when “the value of an obligation is to be repaid, it shall be calculated to reflect the value it has at the time of payment, except as otherwise provided by the law or a contract.”<sup>70</sup>

73. This Tribunal and other courts have consistently held that this principle applies to the Land Reform Bonds. For example, the Tribunal’s seminal March 2001 Decision confirmed the mandatory application of the current value principle, and said

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<sup>70</sup> Civil Code, Article 1236.

it was “inherent to property.”<sup>71</sup> The Constitutional and Social Law Chamber of the Supreme Court of Justice has likewise held that payment of the Bonds must be based on the “current value principle, under which said bonds represent the value for which they were originally issued.”<sup>72</sup> The same Chamber of the Supreme Court has further stressed that this was necessary because inflation should not “harm creditors and benefit debtors.”<sup>73</sup>

74. Most critically for purposes of the current application, the mandate that the Tribunal gave to the MEF in July 2013 specifically called upon the MEF to prepare decrees that would provide a mechanism to pay current value, and in November 2013, warned that “in no circumstance” could the updating mechanism result in a “nominal payment,” going so far as to “reserve its competence” to control any methodologies that may produce such a result.<sup>74</sup>

75. The application of the current value principle to the Bonds also has a special constitutional dimension because the Bonds represent a debt that arose decades ago from the State’s expropriation of land. Article 70 of the Constitution enshrines the “inviolable” right not to be deprived “of one’s property except, exclusively, for reasons of national security or public necessity, declared by the law,” and further establishes that an expropriation can occur “only after receiving cash payment of the fair price, including compensation for any damages.”<sup>75</sup> The Inter-American Court of Human Rights – whose decisions on human rights issues are binding on Peruvian courts pursuant to the 4<sup>th</sup> Transitory and Final Provisions of the Constitution – has also held that the duty to make “prompt, effective and adequate” compensation after a taking constitutes a general principle of law.<sup>76</sup>

76. Despite the fact that, as this Tribunal has held, the right to property “is closely related to personal freedom, as an expression of the economic freedom to

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<sup>71</sup> Constitutional Tribunal of the Republic of Peru, Case N° 0022-1996-AA/TC, of March 15, 2001. Foundation 7.

<sup>72</sup> Cassation N° 1002-2005, of July 12, 2006, Whereas Clause 15. *See also* Cassation N° 1958-2009, of January 26, 2006, Whereas Clause 3 (reaffirming the current value principle and even referring to this Tribunal’s March 2001 Decision in the sense that nominal payment would constitute an abuse of a right which the Constitution proscribes).

<sup>73</sup> Cassation N° 110-2006, of March 6, 2007, Whereas Clause 6.

<sup>74</sup> Constitutional Tribunal of the Republic of Peru, Case N° 0022-1996-AA/TC, of July 16, 2013, Foundation 28 (indicating that the updating mechanism “must result in the amount of the current value of the bonds, plus interest.”). *See also* Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, November 4, 2013, Foundation 8 (reserving its competence to ensure that the Guidelines comply with the current value principle).

<sup>75</sup> Political Constitution of Peru of 1993, Article 70; Constitution of Peru of 1979, Article 125; Constitution of Peru of 1933, Article 29. The right to property has also been recognized by supranational treaties, such as the Universal Declaration of Human Rights and the American Convention on Human Rights.

<sup>76</sup> Inter-American Court of Human Rights. *Salvador Chiriboga v. Ecuador*, Preliminary Objection and Merits, Judgment of May 6, 2008, Series C, N° 179, paragraph 96.

which all persons are entitled in a social democratic State under the rule of law,”<sup>77</sup> the bondholders were forced by the State to accept long-term debt that was vulnerable to the kind of savage inflation against which the current value principle protects.

77. So there can be no question that current value is owed. In the Guidelines, however, the MEF has grossly distorted *how* current value is to be calculated. As will be explained below, the right way to determine current value is not overly complicated: take the principal amount of the debt at placement and apply the CPI to it; then add to that updated principal amount the interest, calculated at the rate the State promised to pay in the bonds, ranging from 4% to 6% per year. That produces current value plus the compensation for being deprived of the use of the money for so long. While there are some additional considerations when it comes to calculating the current value of bonds from which some of the coupons have been removed, that is the basic method.<sup>78</sup>

78. There is nothing unusual or extraordinary about this CPI method. It is used all the time in Peru when it comes to updating debts. Courts have routinely endorsed this method of updating. They have done so with respect to Land Reform Bonds as well as in many other contexts. In short, there can be no question that the CPI method produces current value.

79. Unfortunately, the MEF did not follow this straightforward method. Instead, it used a dollarization approach. The method used by the MEF in the Guidelines entails converting the debt denominated in *Soles Oros* into U.S. dollars using a so-called parity exchange rate derived from a formula the MEF *invented* for this purpose. The converted amount is then inflated to supposedly current value by using the interest rate of a U.S. Treasury bill, and then converted back to *Nuevos Soles* at the average 2013 nominal exchange rate. The dollarization approach is not commonly used in Peru for purposes of updating, perhaps because it is unnecessarily complicated and requires currency conversion as well as applying an inflation rate of some kind. However, as will be demonstrated below, even if there might be some validity in theory to a method that updates a debt by inflating a reference currency rather than inflating Peru’s own currency, the dollarization method the MEF used in the Guidelines is logically, mathematically and equitably indefensible.

80. The evidence that Petitioners present here proves that the MEF’s approach provides nothing even close to current value. Deloitte has calculated the value of two hypothetical bonds under the conventional CPI approach and under the MEF’s Guidelines. That calculation shows that under the conventional CPI approach, the amount due on a 5,000 *Soles Oro* Class A bond, with all of its coupons still in place, is 29,544.13 *Nuevos Soles*. Given that the CPI approach is the most widely used way of determining current value, this amount of 29,544.13 *Nuevos Soles* is at the very least a fair estimate of the current value of that bond. But under the MEF’s

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<sup>77</sup> Constitutional Tribunal of the Republic of Peru, Case N° 05614-2007-PA/TC, of March 20, 2009, Foundation 4.

<sup>78</sup> See Appendix A. See also Section IV.A.1.c below.

Guidelines, that bond would be worth a paltry 71.67 *Nuevos Soles*,<sup>79</sup> about enough to buy a lunch, a t-shirt or a couple of movie tickets.

81. That is obviously a miniscule fraction – less than 0.25% – of current value. It is basically a way of saying the debt is worthless. Indeed, as Deloitte has also demonstrated, if the MEF’s formula is applied to the entirety of the remaining outstanding debt on the Land Reform Bonds, the total amount the State would owe in satisfaction of *all* the Bonds is (depending on certain assumptions) between \$12.6 million and \$23.9 million.<sup>80</sup> Deloitte’s maximum estimate of \$23.9 million assumes that all outstanding Land Reform Bonds are unclipped and issued in 1969, both of which are unrealistic assumptions. If, instead, a great number of outstanding Land Reform Bonds consist of clipped Bonds and were issued throughout the 1970’s, the total amount owed by the State will actually be much less than \$23.9 million and potentially much less than \$12.6 million. In light of the fact that the State expropriated 7,877,925 hectares of land, which today is worth (by very conservative estimates) \$42.4 billion, it is simply inconceivable to suggest that the genuine current value of the remaining debt is so small.<sup>81</sup>

82. The remainder of this section will demonstrate (1) that the Guidelines fail to satisfy the mandate to pay current value because they do not use the CPI method or provide adequate compensatory interest, and (2) that the Guidelines fail to satisfy the mandate because – even if dollarization could in theory be a way of determining current value – the particular dollarization approach the Guidelines prescribe is hopelessly flawed and cannot even come close to current value.

1. The Guidelines do not provide current value because they do not use the CPI method

83. The appropriate method to determine current value is by updating principal based on the CPI, and then adding interest at the rates the Bonds promised. That is the most reliable method, and the only one that honors the State’s original promise to pay fair compensation for the expropriations. Because the Guidelines do not use this CPI method, they cannot fulfill the State’s obligation to provide current value.

84. As noted by Dr. Benavides, Dr. Peñaranda and Professor Adrianzen, apart from “failing to honor the Land Reform Debt for several decades, the Government has attempted to further expropriate bondholders through and absurd valuation methodology contained in two Supreme Decrees that were issued in January 2014.”<sup>82</sup>

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<sup>79</sup> Deloitte Report, Table 4.

<sup>80</sup> *Id.*, Table 8.

<sup>81</sup> *Id.*, Tables 11 and 12.

<sup>82</sup> Benavides Report, p. 15.

85. In this section, Petitioners show (a) that CPI is the correct method for calculating the current value of the Bonds; (b) interest should be added to the updated principal; (c) in calculating CPI on Bonds with some coupons clipped, the remaining principal should be determined as of the original placement date; (d) the fact that some aspects of the MEF's approach are based on instructions in this Tribunal's fragmented July 2013 Decision is no bar to an adequate majority of this Tribunal revising those instructions based on a more complete and accurate factual record.

- a. *CPI is the correct method for calculating the current value of the Land Reform Bonds and is used almost without exception in Peru*

86. There can be no serious dispute that CPI is the most reliable method for updating the principal amount of an old debt. It is conceptually sound, far more so than dollarization. And it is a near unanimous practice of Peruvian courts and government bodies. Were it not for the Government's inaccurate assertions about Peru's inability to pay the bondholders based on CPI – which will be addressed below – the Tribunal would most likely have once again endorsed the CPI method in its July 2013 Decision.

87. In concept, the CPI method is perfectly suited to updating an old debt to current value. The current value principle requires that the original value of the debt be brought current in a way that avoids the pernicious effects of Peruvian inflation, so as to ensure that the amount due today has purchasing power equivalent to the amount due when the debt was originally created.

88. The CPI method accomplishes precisely this purpose, and hence produces the most accurate indication of current value. The CPI is a measure of variation in the purchasing power of money over time. It is usually established by state organs that compile, verify and publish statistics, or otherwise by central banks. Essentially, it is a weighted numerical figure that measures the increase or decrease in prices of goods and services consumed by the average family unit for a given period, in comparison to the previous period.<sup>83</sup> This index is calculated on the basis of the prices of a set of products, known as the family market basket, determined by constant surveys of the products regularly purchased by a number of consumers, and the variation in the prices of each one, compared to the previous sample.<sup>84</sup> This percentage may be positive, indicating that prices increased; or negative, indicating that prices decreased.

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<sup>83</sup> *Diccionario de Términos Económicos y Financieros “la Caixa”* [“La Caixa” Dictionary of Economic and Financial Terms], available at [https://portal.lacaixa.es/docs/diccionario/I\\_es.html](https://portal.lacaixa.es/docs/diccionario/I_es.html) \1 “INDICE-DE-PRECIOS-AL-CONSUMO-%28IPC%29. See also Downes, John and Goodman, Jordan Elliot, “*Dictionary of Finance and Investment Terms*,” *Séptima Edición*, A.B. Barron’s Financial Guide pp. 137-138.

<sup>84</sup> Constitutional Tribunal of the Republic of Peru. Case N° 0022-1996-AA/TC, of July 16, 2013, Foundation 23.

89. To put it another way, the purpose of the CPI is to measure how the prices of the market basket of consumer goods and services in a given region change over time.<sup>85</sup> In other words, it is itself a measure of inflation.

90. This basic description of CPI demonstrates how it is precisely calibrated to producing current value. That is why CPI is almost always used to update all kinds of debts. Peru's National Institute of Statistics ("INEI"), for instance, has a *Frequently Asked Questions* section in its webpage that indicates that "apart from being a statistical indicator that allows the monitoring of the evolution of prices, CPI has multiple practical applications." One of these applications, the INEI explains, is "adjusting and/or updating the monetary values, on the basis a given currency's loss of its purchasing power through time because of inflation."<sup>86</sup> That is exactly what the current value principle aims to achieve.

91. On the other hand, dollarization can never be as precisely attuned to determining current value as the CPI method because it converts the original *Soles Oro* debt to U.S. dollars using an exchange rate at some initial date. Consequently, dollar indexation measures only the price progression of the U.S. over time. It has no actual connection to how prices have developed in Peru. U.S. inflation was, of course, dramatically lower than Peruvian inflation over the relevant period. So the dollar indexation will necessarily – and significantly – understate the true amount necessary to give the bondholders today the same purchasing power in Peruvian currency that they should have had decades ago.

92. Assuming that a dollarization approach is appropriate, switching from one currency to another should be made on the basis of a parity exchange rate. That much is true. However, this requires a series of complex steps – including having to evaluate purchasing power not just in Peru, but in both Peru and the U.S., and figure out the relationship between them. As will be shown later, there could be multiple ways of determining a parity exchange rate, each of which entails one or another set of calculations and data evaluations. The process thus becomes unduly convoluted, uncertain and potentially erroneous. There is no legitimate reason why bondholders should be subjected to such an imprecise and roundabout way of determining current value when a precise and direct way – the CPI method – is readily available.

93. Because the CPI method is in fact the most reliable tool for determining current value, Peruvian courts and government authorities use CPI to calculate current value almost without exception. To cite just one of many examples, in March 2012, the Supreme Court of Justice upheld the validity of a current value calculation in an appraisal report made on the basis of "the Consumer Price Index (Monthly Wholesale Average at a National Level)," in a case concerning compensation for expropriation of 5,300 hectares of rural lands located in Huánuco

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<sup>85</sup> *Id.*

<sup>86</sup> INEI, Frequently Asked Questions section, available at <http://www.inei.gob.pe/preguntas-frecuentes/>.



property of the Augusto Durand Estate.<sup>87</sup> Peruvian trial courts also routinely follow the lead of this Tribunal and the Supreme Court in using CPI.<sup>88</sup>

94. In November 2006, Congress' Agricultural Commission acknowledged the central role CPI has played in court cases. The Commission noted that CPI is the "official factor applied by the State to update national accounts," and that "judges in Peru shall render judgments ordering experts to adjust the value of certificates of indebtedness based on said index." The Commission further observed that "the Constitutional Tribunal and the Supreme Court of Justice have *uniformly ruled* on the application of current value principle for adjusting the Land Reform Bond debt, *based on the Consumer Price Index.*"<sup>89</sup> The Commission pointed out that the Ministry of Agriculture also "applies the CPI to adjust Debts in the process of being contested in relation to the Land Reform expropriations."<sup>90</sup> That opinion summed up: "no government or private agency has *ever questioned* the validity" of the CPI for such purposes.<sup>91</sup>

95. The CPI method as the appropriate way of calculating current value of a debt was not only never questioned, but repeatedly confirmed. For instance, in May 2011, Congress' Land Reform Committee evaluated several bills for "land reform debt adjustment and payment."<sup>92</sup> One of those bills, the Land Reform Bond Debt Swap Bill, stated that for the purposes of "adjusting the amount of the Land Reform Bonds, it was going to use Lima's Consumer Price Index, as determined by the INEI." Failing this, the Committee stated, it would use the index published by the "Central Reserve Bank of Peru."<sup>93</sup>

96. The Executive has also endorsed the use of CPI for calculating the current value of the Land Reform Debt. For instance, former General Director of the

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<sup>87</sup> Resolution of March 13, 2012 in Case N° 4385-2010-HUANUCO, Foundation 4. *See also* Appraisal Report N° 456-2-2008 prepared by Economist Carlos Adolfo Venegas Lizama on July 6, 2008, p 7.

<sup>88</sup> 9<sup>th</sup> Civil Court of Lima, Exp. 34632-1997-Civil. *See also* Resolution N° 66 issued by the 23<sup>rd</sup> Lima Civil Court on November 6, 1997 in case N° 13433-25, Whereas Clause Eleven. *See also* Resolution N° 99 issued on June 14, 2007 by the Second Civil Chamber of the Superior Court of La Libertad in the case followed by *Dirección General de Reforma Agraria* against *Negociación Azucarera Laredo Ltda. S.A.* in case N° 625-07, Foundation 7. *See also* Constitutional Tribunal of the Republic of Peru, Case No. 0041-2004-AI/TC, of November 11, 2004, Foundation 53.

<sup>89</sup> Opinion issued on the following Bills: N° 456/2006-CR, N° 3272/2008-CR and N° 3293/2008-CR proposing "measures for the payment of Land Reform bonds," p. 13.

<sup>90</sup> Opinion issued on the following Bills: N° 578/2001-CR, N° 7440/2002-CR, N° 8988/2003-CR, N° 10599/2003-CR, N° 11459/2004-CR and N° 11971/2004-CR, proposing the "Legal Certainty for the Physical and Legal Restructuring of parcels affected by the Land Reform Process and Land Reform Debt Adjustment and Payment Act," p. 14.

<sup>91</sup> *Id.* (emphasis added).

<sup>92</sup> Opinion issued on the following Bills: N° 456/2006-CR, N° 3272/2008-CR and N° 3293/2008-CR, proposing "measures for the payment of Land Reform bonds," p. 1.

<sup>93</sup> *Id.*, p. 18.

Ministry of Agriculture's Legal Affairs Office, Juan Pédola Montero, stated that the Ministry's Legal Affairs Office (in issuing its opinion on Bill N° 456/2006-CR) recommended using the adjusted CPI calculated by the National Institute of Statistics and Informatics.<sup>94</sup> Likewise, on November 23, 2006, the Director of the Strategy and Policy Office also supported the idea of using the price indexes to adjust the value of the debt.<sup>95</sup> Consistent with this position, in March 2005, the head of INEI, Farid Matuk, argued before a congressional working group dealing with land reform bills that the updating of the Land Reform Debt should be made using the CPI methodology, as was the case with the land reform debts in Nicaragua and Yugoslavia.<sup>96</sup>

97. In fact, Petitioners have been able to identify only a single case that did not use CPI. However, in that case, the court did not rely on dollarization. Instead, it awarded the current value of the expropriated land itself, plus damages.<sup>97</sup> If applied to all bondholders, this would likely produce a far greater debt than the CPI method does. This long-standing, widespread practical application of CPI confirms that it is the superior and only reliable method for determining the current value of the principal amount due on the Bonds.

98. In short, no other updating methodology can really accomplish the same goal, at least with the same ease and accuracy. The Guidelines were, therefore, mistaken in not using CPI as the method for updating the principal to current value.

b. *Bondholders are entitled to compensatory interest in addition to current value updating*

99. The law is clear that compensatory interest must be paid in addition to the updated principal. The MEF's Guidelines do not even properly update the principal to current value, and come nowhere close to providing the current value plus compensatory interest to which bondholders are entitled.

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<sup>94</sup> Report N° 1328-2006-AG-OGAJ, December 20, 2006, p. 2.

<sup>95</sup> Technical Report N° 071-2006-AG-OGPA/OEP, November 23, 2006, Section II.3.

<sup>96</sup> Expreso, *INEI: Land Reform Debt Should be recalculated using CPI*, March 1, 2005.

<sup>97</sup> In March 2001, the Constitutional and Social Chamber of the Supreme Court of Justice upheld a claim filed by "Velarde Escardó y Compañía," a limited liability company, against the Ministry of Housing and Construction seeking the reversion of the lands that were part of *Fundo Maranga*, expropriated through Supreme Decree N° 032-71-VI. See claim filed by Velarde Escardó y Cía, a limited liability Company, on February 26, 1992 against the Ministry of Housing and Construction before the 1st Contentious-Administrative Court in Case N° 665-98. The Supreme Court affirmed the 1st Contentious-Administrative Court's decision ordering Peru to pay, "as compensation, [...] an amount reflecting the present market value of the expropriated lands, without prejudice to having to return the lands at issue." Notably, the Court also ordered the payment of "compensatory and late interest, according to the interest rate set forth by the Peruvian Central Bank." See Ruling N° 1 issued on January 6, 1999 by the 1<sup>st</sup> Contentious-Administrative Court in Case N° 665-98 and Resolution issued on March 6, 2001 by the Supreme Court in Case N° 1514-99.

100. The Supreme Court has drawn a clear line differentiating the concepts of updating, on one hand, and applying interest, on the other, noting that “*the adjustment of the fair price should not be confused (...) with the default interest due.*”<sup>98</sup> Although that case concerned the updating of *justiprecio*, the value of an actual land lot – as opposed to the value of the bonds – the principle set forth by the Supreme Court is equally applicable here because the Bonds reflect the *justiprecio* of the expropriations. It noted that “the main purpose of updating the compensation amount is to maintain the land’s objective value” and to “avoid the depreciation of the amount of the expropriation decision, up until the moment when payment is made.”<sup>99</sup> The Supreme Court distinguished that correcting has nothing to do with interest, which is a “compensation for the rent or benefits that the land could have generated” during that time.<sup>100</sup> Updating, therefore, in no way displaces the application of interest.<sup>101</sup>

101. The Supreme Court’s reasoning on this point is absolutely sound and coherent. Indexing the debt’s value and applying the correct interest rate address different issues. While indexing cures the effects of inflation, interest makes the individual whole for the time spent without his money.

102. In the case of the Land Reform Bonds, this rationale is especially apt because of the *pacta sunt servanda* principle that is established in article 1361 of the Civil Code. Bondholders were forced to accept bonds that embodied the contractual promise that they would at least receive interest of 6%, 5% or 4% of the principal.<sup>102</sup> Even if there had been *no* inflation in Peru since bond issuance, each bondholder would still be entitled to the interest he was promised. However, that promise was, and remains, broken. Therefore, to make bondholders whole, interest must also be paid.

103. As the Supreme Court has noted, not only is the Bonds’ interest “compensatory in nature” as it derives from the passage of time, it is also equivalent to the “bonds’ return” in accordance with article 1248 of the Civil Code.<sup>103</sup> As mentioned previously, Class A Bonds have a rate of 6%; the Class B Bonds’ rate is 5%; and the Class C Bonds’ rate is 4%.<sup>104</sup> To ignore the Bonds’ stated interest – namely their rate of return – or to use a different one, would therefore also breach article 1248 of the Civil Code. Consequently, the Supreme Court has held that “the payment of interest at the *legal* interest rate” was not appropriate because the Land

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<sup>98</sup> Cassation N° 4550-06, Transitory Civil Division of the Supreme Court, Whereas Clause 3.

<sup>99</sup> *Id.*, Whereas Clause 7.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*, Whereas Clause 8.

<sup>102</sup> Land Reform Act, article 174.

<sup>103</sup> Civil Code, article 1248. *See also* Cassation N° 2755-2001, Constitutional and Social Law Division of the Supreme Court of Justice, paragraph 12.

<sup>104</sup> Land Reform Act, article 174.

Reform Bonds “state their corresponding interest rate” as per article 174 of the Land Reform Act.<sup>105</sup>

104. Interest should be computed on a compounded basis. Courts do so regularly when determining what amount the State owes in payment of Land Reform Bonds. For example, on August 7, 2014, a Lima Civil Court ordered the payment of 3,386,522.76 *Nuevos Soles* after updating the Bonds’ face value using the CPI method and applying the Bonds’ interest on a compound basis for a given number of years.<sup>106</sup>

105. The MEF itself has acknowledged that interest should be compounded. While the Guidelines do not include meaningful compensatory interest in addition to updating of principal, they use an interest rate derived from U.S. Treasury bills (presumably to eliminate U.S. inflation during the relevant period). The Guidelines apply this interest rate on a *compound* basis.<sup>107</sup> In particular, the Guidelines’ formula is:

$$V_{hoy} = D_{i,0} \times \prod_{t=1}^{hoy} (1 + i_t) \times TC_{hoy}$$

In this formula, the  $\prod$  symbol means compounded.

106. Consequently, the Guidelines’ failure to provide bondholders with the promised compensatory interest on the Bonds, on a compounded basis, deprives bondholders of receiving compensation for the time value of the money that was due to them. Additionally, and to the extent applicable under Peruvian law, many bondholders ought to receive even greater payment in the form of late interest for defaulting – in this case, an extremely long and unjustified delay – on the payment of the obligation, pursuant to article 1246 of the Civil Code.

c. *The MEF Guidelines also deprive bondholders of current value in the way they update the principal of bonds with clipped coupons*

107. Considering that the current value principle seeks to safeguard the value of a debt from the pernicious effects of inflation over time, it follows that for bonds with clipped coupons, the principal amount of the debt must be determined as of the date the debt arose (or, as a proxy for that, when the Bond was placed) – not the date of the oldest unclipped coupon.

108. Yet the Guidelines incorrectly update the debt from the date of the oldest unclipped coupon. In doing so, they pick up on the Tribunal’s unexplained

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<sup>105</sup> Cassation No. 3860-2001, Constitutional and Social Law Division of the Supreme Court of Justice, Paragraph 5.

<sup>106</sup> File 34632-1997-Civil, Ruling of August 7, 2014.

<sup>107</sup> Supreme Decree N° 019-2014-EF issued on January 22, 2014, Annex 1.

statement that updating should be from the last unclipped coupon.<sup>108</sup> However, using the date of the oldest unclipped coupon is not only conceptually incorrect, but would also permit the State to benefit unfairly from the payment mechanism it imposed on the landholders at the time of the expropriations.

109. While this issue is technical, it also has significant practical implications. Using the date of placement preserves the remaining portion still due on the original debt. In contrast, using the date of the oldest unclipped coupon wipes out nearly all value for a great many bondholders. Hence to the extent that the Guidelines, and this Tribunal's Ruling, indicate using the date of the oldest unclipped coupon to determine the principal, they are wrong and should be corrected.

110. *First*, determining the principal amount as of the date of placement is conceptually correct. The debt to be updated is the amount promised as compensation for the land that the State expropriated. That debt arose upon expropriation. At that point, the landowners suffered the loss of their land, and, consequently, their right to compensation in a specific amount was created.

111. The main purpose of the application of the current value principle is to preserve the real value of that original debt over time in an inflationary environment. Even if the State paid a portion of that debt, for which the State should be credited, it should not be relieved of having to pay the real value of the balance still due.

112. In contrast, using the date of the oldest clipped coupon as the basis for updating would result in an incorrect updating of the debt. It would update a nominal amount of debt still due at some arbitrary date and would not have any bearing on the real value of the original debt. In this way it does not provide compensation for the land taken. It only provides compensation for defaulted payment on a Bond. That would be tantamount to saying that providing the Bonds was itself payment and adequate compensation for taking the land. But the Constitutional Tribunal decisively rejected that argument more than a decade ago, when it denied the Government's argument that it had fully paid for the land merely by handing over the Bonds.<sup>109</sup> That failed argument cannot be resuscitated now, either by the MEF in the Guidelines or even by the Tribunal in exercising its enforcement jurisdiction (as the next section will explain).

113. Drs. Alonso and Muñoz explain the rationale requiring valuation at the issuance date:

“The debt being valued arose on the date of issuance of the bond. If conversion into dollars is to be the method for updating the value of that debt, then in principle conversion should take place at the date of issuance.

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<sup>108</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, of 16 July 2013, Foundation 25.

<sup>109</sup> Constitutional Tribunal of the Republic of Peru, Case N° 022-96-I/TC, March 15, 2001.

Otherwise, *the debt being valued is actually a different debt.*

The only difference between clipped and unclipped bonds is that some of the original principal of the clipped bonds has presumably been paid. The question then arises about how to offset those presumed payments against the original principal. The MEF formula implicitly assumes that all coupon payments were made in a currency that was not affected by inflation or devaluation. *This makes no economic sense.* The correct approach is to determine the original value of the bond on the date of issuance and then to deduct the dollar value of each coupon payment calculated as of the date of each such payment.”<sup>110</sup>

114. In its report, Deloitte corroborates Drs. Alonso’s and Muñoz’s opinion, and confirms that “[a]bsent a methodology which considers . . . the value of the outstanding principal updated from the date of issuance, Bondholders will only be credited with nominal value for each detached Coupon and the outstanding principal and will be exposed to the economic impact of the severe hyperinflation Peru experienced after the Bonds were issued.”<sup>111</sup> Deloitte adds:

“Such economic exposure significantly reduces the value of the compensation received by Bondholders and because Peru’s inflation rate following the issuance of the Bonds always exceeded the Bond stated interest rate it is *impossible for any Bondholder to receive an amount of compensation equal to the then present value of the debt owed to such Bondholder* by the Peruvian State with respect to the applicable land expropriation.”<sup>112</sup>

115. *Second*, updating the debt based on the date of oldest unclipped coupon would also produce arbitrary results. Assume for example that the State placed two identical bonds on the same day, each for 5,000 *Soles Oro*, to compensate for taking two identical parcels of land right next to each other. Assume also that over the ensuing years the State paid no coupons on one of them, while it paid 50% of the coupons on the other. Even under the MEF’s hopelessly flawed approach, the fully intact bond would at least be worth only 71.67 *Nuevos Soles*. In concept, the clipped bond – which over time has gradually had half of its coupons redeemed – should be worth at least half of the unclipped bond. However, because of the MEF’s assumption that the updating of the original principal starts only after all those coupons have been redeemed, under the MEF’s approach the clipped bond is worth less than 0.01 *Nuevos*

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<sup>110</sup> Expert report prepared by Dr. Ivan Alonso and Dr. Italo Munoz, p. 14 (emphasis added).

<sup>111</sup> Deloitte Report, Section 2.3, Chapter 1.

<sup>112</sup> *Id.*

*Soles*. In other words, instead of being worth more than half of the unclipped bond, according to the MEF, it is completely worthless and equivalent to no payment whatsoever.<sup>113</sup>

116. That result makes no economic sense and defies any concept of equity and fairness. In this example, the land parcels were identical. The original debt due on them should have the exact same current value. The amount still due on the original debt represented by the second bond must be reduced by the payments that the State has already made, but that fact must not change the current value of what remains of that original debt.

117. The reason for this arbitrary result is not hard to discern. By using the date of an unclipped coupon, the MEF proposes to start updating years after the debt originated. During those years, between placement and the time the State stopped paying coupons on any given bond, Peru suffered the hyperinflation that the current value principle should protect against. So under the MEF method, by the time the updating starts, the bonds have already been decimated by hyperinflation, with much of their value having already been wiped out. This shows why the Guidelines issued by the MEF violate the current value principle: it subjects the unpaid portion of the original debt to hyperinflation, which is the very result that the current value principle is supposed to prevent.

118. *Third*, using the date of the oldest unclipped coupon would also unjustly permit the State to benefit from its own wrongdoing to the detriment of the bondholders. The State imposed on the bondholders a drawn out process by which they would be paid slowly over decades. However, despite its express guarantee to honor the Land Reform Bonds, enshrined in article 175 of the Land Reform Act, the State then stopped paying the Bonds and during that time the value of the Bonds declined precipitously.

119. By using the unclipped coupon date as a benchmark for determining the principal amount due, the State benefits from the long delay in payment and the dramatic decline in the value of the currency in which the Bonds were issued. But that result should not be allowed because, as the Supreme Court already held, inflation should not “harm creditors and benefit debtors.”<sup>114</sup> Such a result would also infringe the legal maxim that no one can benefit from his own wrong – *commodum ex injuria sua nemo habere debet* – which in August 2009 this honorable Tribunal held constituted a “general principle of law.”<sup>115</sup>

120. In short, the State should not take advantage of its default or inflation to the detriment of the bondholders. Otherwise, this Tribunal would be saying that after the State has made bondholders wait decades to collect the debt, it now can

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<sup>113</sup> *Id.*, Charts I and II, Tables 4 and 5.

<sup>114</sup> Cassation N° 110-2006, of March 6, 2007, Whereas Clause 6.

<sup>115</sup> Constitutional Tribunal of the Republic of Peru, Decision issued in file N° 2262-2007-PA/TC of August 11, 2009, Foundation 7.

avoid paying the true value of the land. The current value principle, inherent to property, must prohibit this result.

- d. *Despite its prior invitation to the Government to use dollar indexation, this Tribunal should now direct payment according to CPI*

121. The Tribunal's indication to the Government to devise a dollar indexation valuation does not prevent the Tribunal from now directing payment according to the CPI Methodology.

122. In its Ruling, the Tribunal was obviously trying to put an end to an historic pattern of injustice by enforcing the 2001 Decision. That is why the Tribunal ordered the MEF to come up with a formula effectively reflecting current value of the Bonds, and went so far as to expressly reserve its competence to control the updating operations that the MEF devised and to prevent a result tantamount to nominal payment. There is no doubt that the Tribunal had the objective of preserving the criteria established in the March 2001 Decision. Neither the Tribunal nor any other authority has the legal competence to reverse or contradict the March 2001 Decision, as has been explained in previous cases.<sup>116</sup>

123. Instead, the Tribunal appears to have been misled into thinking that Peru is incapable of honoring this debt if calculated by CPI – and on that basis it ordered the MEF to devise a dollarization-based methodology. But this is incorrect. Consequently, there is currently no impediment to revisiting the July 2013 Ruling, along with reviewing the Guidelines, and to ordering the application of CPI to ensure the payment of current value.

- i. Lack of evidence for findings

124. The Tribunal permitted the MEF to devise an updating method based on dollarization after concluding that Peru would not be able to afford paying the debt if it were calculated using the CPI. As explained in more detail in this Section, this premise, however, was not only unproven, but it is also incorrect. Using the review function that the Tribunal reserved for itself in the November 2013 Ruling, now the Tribunal has a unique opportunity to evaluate the issue in light of a more complete and accurate record.

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<sup>116</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00791-2014-PA/TC, of July 15, 2014, Conclusion 16. (“The enforcement phase of a final judgment cannot become a forum for a new proceedings to modify or annul the effects of that judgment, precisely because this would distort its purpose, which is to ensure compliance with what was decided in a final, conclusive and definitive judgment that is *res judicata*. During the enforcement phase, both the judges and the Constitutional Tribunal have the special obligation to protect and enforce what was decided in the final judgment, and under no circumstances may they attenuate, modify or increase the effects of the decision, or incorporate new claims or valuations that were not part of the dispute at issue in the original proceeding in which the final judgment was rendered, much less rule based on their own subjective criteria.”)



125. When this Tribunal favored an adjustment methodology on the basis of the U.S. dollar, it based its decision on the assumption that using the CPI would cause a “severe impact” on the nation’s economy. The Tribunal said it was compelled to follow what it described as a “balancing judgment” between the obligation to “pay the land reform debt” and the obligation to “promote general welfare.”<sup>117</sup> In other words, the Tribunal expressly compromised the bondholders’ constitutional rights to property and to be paid at current value because of the Government’s misrepresentations that honoring those rights would seriously harm the Peruvian economy.

126. Those misrepresentations were, however, totally unsupported, without any evidentiary foundation, and inaccurate. In file N° 0022-1996-AA/TC there is no evidence at all showing how paying the land reform debt at CPI current value would have a “severe impact” on the economy, create a budgetary imbalance, or paralyze any public service. That is why the Constitutional Tribunal justices who signed the Ruling cited no evidence of the alleged severe impact, nor did they demonstrate that “the other valuation methods described would have serious impacts on the Budget of the Republic, to the point of making the payment of the debt itself impracticable.”<sup>118</sup> Given the Constitutional obligation for Court decisions to be motivated and reasoned,<sup>119</sup> it would have been reasonable to have had some evidence supporting this central claim.

127. Yet in a July 17, 2013, television interview conducted by journalist Jaime de Althaus Guarderas, the President of the Tribunal was asked whether the Constitutional Tribunal “had made any calculation of how much will represent the [Land Reform debt].” He answered that “it is not for [the tribunal] to make that calculation.”<sup>120</sup>

128. While it is understandable that the Tribunal itself may not have been in a position to make such a calculation, new facts have demonstrated that not even the MEF made such a calculation demonstrating this alleged “severe impact.” In October 2014, according to the Law on Transparency and Access to Public Information, the MEF was asked to disclose “any estimation, calculations, technical studies or other documents,” prepared either by the MEF or by any third party “related to the potential impact that payment of the land reform bonds may have on the public budget.”<sup>121</sup> In response the MEF responded:

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<sup>117</sup> Constitutional Tribunal of the Republic of Peru, Case N° 0022-1996-AA/TC, of July 16, 2013, Foundation 25.

<sup>118</sup> *Id.*

<sup>119</sup> Constitutional Tribunal of the Republic of Peru, Case N° 0006-2010-PHC/TC, of August 3 2010, Foundation 3 (holding that “the requirement that judicial resolutions be motivated and reasoned is a principle that is inherent to the jurisdictional function and is, at the same time, an individual constitutional right”). *See also* Cassation N° 876-2004-Junin, Third Transitory Civil Chamber of the Supreme Court, Whereas Clause 2.

<sup>120</sup> Interview made on July 17, 2013 by Jaime de Althaus Guarderas to the President of the Tribunal, *available at* <https://www.youtube.com/watch?v=E0zp1o376zg>.

<sup>121</sup> Memorandum N° 447-2014-EF/52.04 of October 15, 2014.

“The Ministry of Economy and Finance has not prepared those estimations, calculations or technical studies that are being requested.”<sup>122</sup>

129. The fact is, Peru would not suffer any kind of severe negative impact by honoring its obligations to the bondholders. The attached opinion of three eminent economists – Dr. Benavides, Dr. César Peñaranda, and Professor Carlos Adrianzén – demonstrates that Peru can pay its debt, even calculated using the appropriate CPI method for determining current value.

130. Starting from the most reliable official data available – the 2006 Congressional Committee report – Dr. Benavides, Dr. César Peñaranda, and Professor Carlos Adrianzén estimate the total amount of the debt to be approximately 15 billion *Nuevos Soles*. Indeed, a November 2006 memorandum prepared by the Agricultural Commission of Congress, and reviewed and updated for this proceeding, demonstrates that the total current value of the debt – using CPI updating, and adding interest at the promised rates – is approximately 15.251 billion *Nuevos Soles* (or about U.S.\$5.1 billion at current exchange rates).<sup>123</sup>

131. Peru can pay this amount without the dire consequences the Government alleged. To do so, the Government would probably want to pay the debt by issuing new bonds of the kind that trade freely in international markets. The Government could thus pay the bondholders in these new, freely transferable bonds.<sup>124</sup>

132. As explained in the expert report prepared by recognized economists – including Dr. Benavides, a former Minister of Economy and Finance – issuing new bonds would certainly not imperil Peru’s economy. To the contrary, restructuring the Land Reform Debt “by issuing sovereign debt” in the aforementioned amount “would increase the ratio of debt to GDP by only 2.3% from a very low 18%,<sup>125</sup> and would create a fiscal impact of only 0.7% of the general current budget.”<sup>126</sup> Peru regularly issues such bonds, and could easily afford to pay the relatively modest annual

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<sup>122</sup> *Id.*

<sup>123</sup> Benavides Report, p. 12.

<sup>124</sup> To demonstrate the viability of this type of restructuring, in May 2014, Argentina – whose economy notably is not as strong as Peru’s – issued up to \$6.1 billion in Treasury bonds and notes to compensate the Spanish firm Repsol for nationalizing the oil company YPF. Reuters, *Argentina emite 6.150 mln dlr en bonos para compensar a española Repsol por YPF*, May 8, 2014, available at <http://ar.reuters.com/article/topNews/idARL2N0NU0GH20140508>.

<sup>125</sup> As has been reported, Peru has one of the world’s lowest debt to GDP ratios. See Peru21, *Perú entre los países con menor deuda pública sobre PBI*, April 29, 2013, available at <http://peru21.pe/economia/peru-entre-paises-menor-deuda-publica-sobre-pbi-2128667>. For a comparison of global debt to GDP ratios, with specific mention to the 2010-2014 periods, see World Bank’s – Central Government Debt as a Total (% of GDP), available at <http://data.worldbank.org/indicator/GC.DOD.TOTL.GD.ZS/countries>.

<sup>126</sup> Benavides Report, p. 3.

amounts due on the new bonds, without sacrificing the economy or needed public services.

133. The motion that Peru is in a position to issue new bonds to honor the Land Reform Debt, thus attenuating the impact that this may have in the current year's budget, has been supported by this Tribunal in its Ruling. Indeed, the Tribunal held that:

“Another legitimate option or alternative would be that the state or the government, issue new and freely transferable bonds, and with an interest rate equal to that which is currently being used by the Peruvian state in its issuances. Considering the high credibility that sovereign debt instruments have achieved, in such a way that the payment in bonds, and not in cash, (*sic.*), does not affect the fisc, nor the right of bondholders, and serve as an instrument of economic recovery.”<sup>127</sup>

134. In fact, paying the Land Reform Debt could benefit Peru's economy. In the opinion of Dr. Benavides, Dr. Peñaranda and Professor Adrianzen, resolving the debt could further improve Peru's credit rating and thereby reduce Peru's cost of borrowing. As they explain, “recent empirical evidence suggests that the reduction of the cost of issuing new sovereign debt – expected over the medium term – could approach 3 percentage points.” They demonstrate that, “just getting closer to Chile (the foreseeable 3 percentage point drop at 30 years) would reduce the present value of the Peruvian external debt by nearly U.S.\$18 billion, which would more than compensate for the fiscal effort.”<sup>128</sup>

135. Furthermore, the economic report of the aforementioned economists indicates that curing the selective default “would create a better level of confidence among foreign and domestic investors, helping to attract capital investment in a number of ways,” and could also help “improve the climate of legal security in the country, which is one of the most important elements in creating confidence for investors.” All of the above, in the opinion of Dr. Benavides, Dr. Peñaranda, and Prof. Adrianzen, “would have a very positive impact on Peru's overall reputation in the market.”<sup>129</sup>

136. All in all, the truth is that long overdue payment on the Land Reform Bonds at their true current value would not cause the severe impact that the Government alleged. To the contrary, it would reflect positively on Peru as a country that honors its debts. There is thus no basis at all on which to compromise the bondholders' rights to be compensated.

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<sup>127</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, July 16 2013, Foundation 29.

<sup>128</sup> Benavides Report, p. 20.

<sup>129</sup> *Id.*, p. 18.

ii. The Ruling is not binding on the Tribunal

137. Even putting aside the fact that the Tribunal was constrained by the inaccurate information that had been provided to it, in this case the Ruling was not issued with enough votes to be valid as the enforcement order it purports to be. Pursuant to article 5 of Law N° 28301 (Organic Law of the Constitutional Tribunal) a “majority” of votes is necessary to issue an enforcement act, namely *four out of the six* Justices that were serving at the moment. But the Ruling was issued with *three* instead of *four* votes.

138. The absence of the necessary majority can be better explained by looking at the Justices’ individual opinions: (i) three Justices (Urviola, Eto and Alvarez) voted in favor of using a dollarization approach; (ii) one Justice (Mesía) voted in favor of using CPI; while (iii) two Justices (Calle and Vergara) voted for the dismissal of the claim. There was, therefore, no majority. The Justices should have continued deliberating until reaching a majority of four votes.<sup>130</sup> Instead, the Tribunal made use of a mechanism (a casting vote) that can only be used when there is an actual tie at three votes, pursuant to article 10A of the Normative Regulation of the Constitutional Tribunal.<sup>131</sup> The Ruling is therefore formally invalid even as an enforcement ruling, and should be reviewed by the entirety of the bench.

139. Although there is no doubt that the Ruling was intended to be an enforcement ruling, it is also clear that – in any case – the Tribunal could not have intended to reverse, revise or manipulate the March 2001 Decision, as this would require no less than *five* favorable votes.<sup>132</sup> The Ruling, however, only has *three* votes in favor. It is evident that through the Ruling, the Constitutional Tribunal made a number of considerations and remarks on various types of valuation methods; supposedly analyzed their impact on Peru’s budget; decided to use a method that converts to U.S. dollars on the basis of a “parity exchange rate”; indicated that the MEF should apply the interest rate of the U.S. Treasury bonds; and indicated the valuation date of bonds with clipped coupons. To the extent that those aspects of the Ruling modify or manipulate the March 2001 Decision, the Ruling also lacks the necessary votes to that effect.

140. Therefore, the Tribunal is not shackled by the Ruling and is free to revisit it now. To the contrary, because of the misinformation that had been provided to the Tribunal as well as the way in which aspects of the Ruling deprive the bondholders of the amounts to which they are legally entitled, the Tribunal should revisit and revise the Ruling as explained herein.

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<sup>130</sup> Constitutional Tribunal’s Normative Regulation approved by Administrative Resolution N° 095-2004-P-TC, article 46.

<sup>131</sup> *Id.*, article 10-A. *See also* Constitutional Tribunal of the Republic of Peru, Case N° 0228-2009-AA/TC, April 4, 2011, Executive Summary, p. 1 (indicating that the President of the Constitutional Tribunal has the casting vote when there is a tie, meaning, the same number of votes between various positions during deliberation held by the full bench).

<sup>132</sup> Law N° 28301 – Constitutional Tribunal Organic Law, article 5 – quorum.

2. Subordinately, even if dollar indexation were appropriate, the Guidelines are nevertheless impermissible because the method they prescribe provides only nominal value

141. This Tribunal's reservation of its jurisdiction to ensure that MEF's formula does not result in nominal payment was prescient, because that is just what the MEF's dollarization approach actually offers. As Deloitte demonstrates by calculating the amounts due under two hypothetical bonds, those payments would be less than 0.5% of current value. This is tantamount to nominal value – and in the opinion of Dr. Benavides, Dr. Peñaranda and Prof. Adrianzen, equivalent to an additional expropriation.<sup>133</sup>

142. In this section Petitioners show why the MEF's dollarization approach in particular is so flawed and could not be permitted even if dollarization was a theoretically sound method for updating the Bonds. In particular, Petitioners will show that the Guidelines contain value-depressing errors and incorrect assumptions that need to be addressed, namely: (i) incorrectly calculating the so-called parity exchange rate, which includes a clear algebraic error in the formula issued by the MEF; (ii) incorrectly using the interest rate of the 1-year U.S. T-bill; and (iii) incorrectly ordering conversion back to *Nuevos Soles* at the average 2013 exchange rate and stopping interest accrual at that date. These flaws are in addition to problems in the Guidelines already identified above, including incorrectly updating the value of bonds with clipped coupons as of the date of the oldest unclipped coupon, and failing to offer meaningful compensatory interest.

143. As noted above, the correction and adequate application of each and every one of the previous elements are what Petitioners refer to as the “Corrected Dollarization Methodology,” which is described in detail in Appendix B. For all purposes related to this brief, whenever the term “Corrected Dollarization Methodology” is used, this honorable Tribunal should understand that Petitioners mean the economic calculations contained in said Appendix B, plus any applicable late interest.

- a. *The Guidelines incorrectly calculate the parity exchange rate, and their formula contains an obvious algebraic mistake*

144. As noted in Section III, the Ruling directed the government to use the “*tipo de cambio de paridad*” to convert the value of the land reform debt into U.S. dollars for dollar indexation. In the words of this Constitutional Tribunal, the purpose of this instruction was to shield the currency from the effects of inflation.<sup>134</sup> However, as shown here, the MEF's calculation of a parity exchange rate is wrong

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<sup>133</sup> Benavides Report, p. 18.

<sup>134</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-96-PI/TC of July 16, 2013, Foundation 24 (emphasis added).

both in concept and in execution, and it consequently produces absurd results that are at odds with the very purpose of using a parity exchange rate.

i. The approach to establishing a parity rate is wrong

145. As the attached report of Dr. Alan Heston shows, the Guidelines use the wrong conceptual approach to establishing a parity exchange rate.

146. In particular, the Guidelines fix the parity exchange rate by calculations based solely on relative inflation rates and historical nominal exchange rates. They do not actually take into consideration relative price data that should be the basis for a parity exchange rate.

147. As Dr. Heston explains, there is a vastly superior alternative, which draws on an internationally recognized method for calculating parity exchange rates, and which does take into consideration relative price data. In particular, since 1970 the International Comparison Program (“ICP”) of the United Nations and the World Bank has performed detailed international price comparisons at approximately 5-year intervals to make calculations of purchasing power parity.<sup>135</sup> Peru “began participation in 1980 and has taken part in all subsequent rounds.”<sup>136</sup>

148. Dr. Heston has provided the “best estimates” of the parity exchange rate between Peru and the United States for each of the years 1968 through 1999 based on ICP benchmark comparison.<sup>137</sup> That is the correct way to calculate a so-called parity exchange rate. His results are reported in Table 1 of his Expert Report, and show that a parity rate calculated on the basis of the aforementioned pricing data is very different from the one calculated on the basis of the Guidelines.<sup>138</sup> Those estimates are more reliable than the Supreme Decree’s equations, which are not grounded in any relative purchasing power data. He concludes by saying that the parity exchange rates presented in his report “provide the best estimates of the parity exchange rates for converting the value of land reform bonds denominated in Peruvian *Soles* into U.S. dollars.” In contrast, he adds “I do not believe that the methodology set forth in the Supreme Decree is appropriate to estimate such parity exchange rate.”<sup>139</sup>

149. Dr. Heston’s report is entitled to great weight. He is considered a leading world expert on international economic comparisons and purchasing power parity. He is a professor emeritus in the Department of Economics at the University of Pennsylvania, and before that, was an Assistant Professor at Yale University. Dr. Heston co-directs the University of Pennsylvania’s Center for International Comparisons (CIC), and he took part in the ICP’s benchmark comparisons and, by

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<sup>135</sup> Heston Expert Report, pp. 5-6.

<sup>136</sup> *Id.*, p. 6.

<sup>137</sup> *Id.*, pp. 6-7.

<sup>138</sup> *Id.*, Table 1, p. 8.

<sup>139</sup> *Id.*, p. 9.

1985, expanded the number of countries in the database. He subsequently further expanded these comparisons to produce what became known as the Penn World Table. For that work, Dr. Heston was in 1998 recognized as an American Economic Association Distinguished Fellow.

ii. The formula is incorrect

150. Instead of using internationally accepted and scientifically valid price comparisons like the eminent Dr. Heston did, the MEF Guidelines contain complex formulas to establish parity exchange rates. Not only do the Guidelines provide no justification for these concocted formulas, but they are demonstrably incorrect even from a basic algebraic point of view.

151. In their expert report, Dr. Ivan Alonso and Italo Muñoz explain that “[a] basic test to confirm that any formula in economics or any other discipline is correct is that both sides of the equation must be expressed in the same units.”<sup>140</sup> Otherwise, they indicate “they are not measuring the same thing.” In the opinion of Dr. Alonso and Dr. Muñoz the “MEF parity formula fails this elementary test, as can be seen by checking the units on each side.”<sup>141</sup>

152. This is the MEF’s parity rate formula:

$$TC \text{ Paridad}_{emisión} = TC_{emisión} \times \left( \frac{IPC_{emisión}^{Perú}}{IPC_{emisión}^{EEUU}} \right) \times \frac{1}{\text{promedio} \left( \frac{IPC_t^{Peru}}{IPC_t^{EEUU} \times TC_t} \right)}$$

153. This formula can be reduced to its constituent units as follows:

$$\frac{\text{Soles}}{\text{Dollar}} = \frac{\text{Soles}}{\text{Dollar}} \times \frac{\text{Pure number}}{\text{Pure number}} \times \frac{1}{\frac{\text{Pure number}}{\text{Pure number} \times \frac{\text{Soles}}{\text{Dollar}}}}$$

154. To simplify, Dr. Alonso and Dr. Muñoz then insert the number 1 in place of each “pure number”:

$$\frac{\text{Soles}}{\text{Dollar}} = \frac{\text{Soles}}{\text{Dollar}} \times \frac{1}{1} \times \frac{1}{\frac{1}{1 \times \frac{\text{Soles}}{\text{Dollar}}}}$$

155. Then, as they explain, “the pure numbers on the right-hand side cancel out and the fraction appearing in the denominator at the bottom of the rightmost term is inverted,”<sup>142</sup> leaving:

<sup>140</sup> Alonso and Muñoz Expert Report, pp. 3-4.

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*, p. 4.

$$\frac{\text{Soles}}{\text{Dollar}} = \frac{\text{Soles}}{\text{Dollar}} \times \frac{1}{\frac{\text{Dollar}}{\text{Soles}}}$$

or:

$$\frac{\text{Soles}}{\text{Dollars}} = \frac{\text{Soles}}{\text{Dollars}} \times \frac{\text{Soles}}{\text{Dollars}}$$

156. As Dr. Alonso and Dr. Muñoz explain, “[t]hus we have an exchange rate on the left-hand side and a squared exchange rate on the right-hand side.”<sup>143</sup> In other words, the error is evident. The unit *Soles/Dollar* cannot be equal to *Soles/Dollar x Soles/Dollar*. That is, *Soles/Dollar* is not equal to  $(\text{Soles/Dollar})^2$ .

157. In their opinion, “this cannot be right,” as it would be “the same as comparing one meter, which is a measure of length, with one square meter, which is a measure of area.” They conclude by saying that “[o]n purely mathematical grounds, the MEF formula is untenable.”<sup>144</sup>

158. Dr. Alonso and Dr. Muñoz also explain that the Government’s formula “has no economic rationale.”<sup>145</sup> Citing Economists Paul Krugman and Maurice Obstfeld, they first explain that “[a] typical textbook statement of relative [purchasing power parity] is that the percentage change in the exchange rate between two currencies over some time period equals the difference between the percentage changes in national price levels.”<sup>146</sup> This means that the increase in the parity rate is:

$$\frac{TC \text{ Paridad}_{emisión}}{TC \text{ Paridad}_{año base}} = \frac{IPC_{emisión}^{Peru}}{IPC_{emisión}^{US}}$$

159. Rearranging those terms, as explained by Dr. Alonso and Dr. Muñoz, the equation can be expressed as:

$$TC \text{ Paridad}_{emisión} = TC \text{ Paridad}_{año base} \times \left( \frac{IPC_{emisión}^{Peru}}{IPC_{emisión}^{EEUU}} \right)$$

160. Inexplicably, however, “the MEF ‘parity exchange rate’ formula “adds the term  $1/e$  and changes the term  $TC \text{ Paridad}_{año base}$  to  $TC \text{ Paridad}_{emisión}$ .” Although the MEF’s formula thus bears “some similarity” to a relative purchasing power parity calculation or “PPP,” it is no such thing because “relative PPP

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<sup>143</sup> *Id.*

<sup>144</sup> *Id.*, pp. 4-5.

<sup>145</sup> *Id.*, Section I.B.

<sup>146</sup> *Id.*, p. 6.



calculation would start from an exchange rate, *TC Paridad*<sub>año base</sub> that had previously been determined to be a parity rate.”<sup>147</sup>

161. As they explain, “[t]here is no indication, and no reason to assume, that either *TC<sub>emisión</sub>* (the prevailing exchange rate in any given year in which bonds were issued) or *I/e* (an approximation of the average real exchange rate) is a parity rate.” In other words, the Guidelines use a base year conversion rate between soles and dollars that is a nominal exchange, *not* a parity exchange rate as the Tribunal had directed.

162. Also, they explain that “[e]ven if one of *TC<sub>emisión</sub>* or *I/e* were a parity rate, including both of these terms would be unnecessary. As has been shown in the previous subsection, either *TC<sub>emisión</sub>* or *I/e* is redundant.”<sup>148</sup> In other words, the Guidelines multiply by an exchange rate not once but twice. This calculation just makes no sense.

163. Dr. Alonso and Muñoz indicate that they “see no economic rationale for these changes” and “know of no economic theory or reputable author supporting a formulation similar to the MEF formula.”<sup>149</sup>

iii. The MEF’s parity exchange rate formula was based on faulty assumptions and thus produces absurd results

164. In very simple terms, Dr. Alonso and Dr. Muñoz explain why the MEF’s formula “produces results that are the opposite of what the Tribunal intended, which was to mitigate the effects of hyper-inflation on the value of the bonds.”<sup>150</sup> As will be explained here, they note that “rather than mitigating the effects of hyper-inflation, the MEF formula actually magnifies those effects.”<sup>151</sup>

165. They start out by indicating that “using the MEF exchange” would be “grossly misleading, due to the economic and mathematical issues discussed above.” Table 1 of their report, pasted below, compares the parity exchange rates for 1969-1981 according to the MEF formula with the official exchange rates.<sup>152</sup>

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<sup>147</sup> *Id.*, p. 7.

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*, pp. 6-7.

<sup>150</sup> Alonso and Muñoz Expert Report, p. 9.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*, p. 7.

Table 1  
Alternative Exchange Rates, 1969-1981  
(Soles Oro per US\$)

Year	MEF Parity Rate <sup>a</sup>	Official Rate <sup>a,b</sup>
1969	1,028.67	38.70
1970	1,029.04	38.70
1971	1,072.85	38.70
1972	1,082.24	38.70
1973	1,132.50	38.70
1974	1,201.12	38.70
1975	1,619.57	45.00
1976	3,412.08	68.71
1977	7,690.89	124.77
1978	19,059.24	194.09
1979	36,774.00	254.50
1980	70,485.71	341.31
1981	165,197.64	504.58

<sup>a</sup> End-of-year rates.

<sup>b</sup> Source: Banco Central de Reserva del Perú.

166. The difference between the two exchange rates is dramatic, and demonstrates the absurdity of the MEF's parity rate. For instance, between 1969 and 1974, the MEF's parity rate is never lower than 26 times the official rate. That gap grows exponentially with time. By 1981, the MEF's parity rate is approximately 327 times the official rate.

167. On this score, Dr. Alonso and Dr. Muñoz point out the obvious fact that "Table 1 shows that the MEF formula exceeds the official rate in every single year by a huge margin." They show how "unrealistic the MEF's parity rate calculation is," and indicate that "in 1981 the difference between the official exchange rate and the open market rate, which was 509.80, was only about 1%, while the rate that derives from applying the MEF formula was more than 300 times higher."<sup>153</sup>

168. The "MEF parity exchange rate is not just vastly higher than the official exchange, but over time it grows exponentially compared to the official exchange rate." In the words of Dr. Alonso and Dr. Muñoz:

"This exponential growth reflects the algebraic error mentioned earlier. The MEF formula begins with the nominal exchange rate, which increases directly with hyperinflation, and then multiplies by the ratio of Peru's inflation relative to U.S. inflation, which also increases directly with

<sup>153</sup>

*Id.*, p. 8.

hyper-inflation, since U.S. inflation was negligible relative to Peru's. In this way the MEF formula effectively multiplies the effect of hyper-inflation by more hyper-inflation."<sup>154</sup>

169. While Drs. Alonso's and Muñoz's criticisms are based on comparing the MEF calculated parity exchange rate and the official exchange rate, they become even more compelling when comparing the MEF's purported parity exchange rate with the true parity exchange rates that Dr. Heston calculated. That comparison is shown in the following table:

Alternative exchange rates, 1969-1981  
(Soles Oro per USD)

Year	MEF parity rate <sup>a</sup>	Official rate <sup>a,b</sup>	Parity rate Dr. Alan Heston <sup>c</sup>
1969	1,028.67	38.70	14.00
1970	1,029.04	38.70	15.00
1971	1,072.85	38.70	15.50
1972	1,082.24	38.70	16.30
1973	1,132.50	38.70	16.80
1974	1,201.12	38.70	17.50
1975	1,619.57	45.00	20.60
1976	3,412.08	68.71	25.30
1977	7,690.89	124.77	32.60
1978	19,059.24	194.09	48.30
1979	36,774.00	254.50	71.20
1980	70,485.71	341.31	108.10
1981	165,197.64	504.58	172.90

<sup>a</sup> End of year exchange rates.

<sup>b</sup> Source: *Peru Central Bank of Reserve*

<sup>c</sup> Source: ER-4. Expert report by Dr. Alan Heston.

170. While it is inexplicable that the MEF Guidelines produce a 1981 exchange rate that is 327 times the official rate, it is even more astonishing that this MEF rate is 955 times an actual, well established, and internationally respected parity exchange rate.

171. Obviously, multiplying hyper-inflation by more hyper-inflation is an absurd approach, and it produces absurd results. The point of using a parity exchange rate in the first place was presumably that it would be *lower* than the nominal exchange rate – just as Dr. Heston's analysis proves.<sup>155</sup> That, in turn, should provide bondholders with *more* dollars during the notional conversion from *Soles Oro* to dollars. If the MEF had considered actual pricing information in its analysis it would have seen that fact.

<sup>154</sup> *Id.*, pp. 8-9.

<sup>155</sup> Heston Expert Report, Table 1.

172. But the MEF's Guidelines produce the opposite result. As explained by Dr. Alonso and Dr. Muñoz, the MEF turns a parity exchange rate that was intended to protect value from hyperinflation into an instrument that "rapidly shrinks [the value of the bonds] to almost nothing at an exponential rate during Peru's hyper-inflationary period."<sup>156</sup> The equation is wrong, and cannot serve as a basis for further Government action.

b. *The Guidelines ignore the Tribunal's instructions to use the interest rate of the U.S. Treasury Bonds*

173. The Ruling instructed the Government to use the interest rate of the "U.S. Treasury Bonds."<sup>157</sup> The Guidelines, however, did not do that. Instead, it used the rate of the U.S. Treasury *bills*.

174. There are material differences between U.S. Treasury bonds and T-bills. In essence, they are two discrete species of the same genre. According to U.S. Department of the Treasury, "Treasury bonds pay a fixed rate of interest every six months until they mature. They are issued for a term of 30 years."<sup>158</sup> In contrast, Treasury bills (or notes) are fixed rent instruments with maturity of no more than a year. They are the classic example of a short-term instrument that, accordingly, has a very low interest rate. The U.S. Treasury Bond's interest rate is invariably and materially higher. This fundamental difference between T-bonds and T-bills is so well established that it is part of the basic terminology of finance.<sup>159</sup> Consequently, there is no such thing as a "U.S. Treasury Bond" with a 1-year maturity, as the Guidelines incorrectly presume.

175. The MEF appears to have picked up on this mistake. The first Guideline (January 18, 2014) refers to "fixed term, 1-year U.S. Treasury *Bonds*, in period *t*," but this makes no sense because there are no Treasury bonds with a 1-year maturity. In its second Guideline (January 22, 2014), however, the MEF revised the language to say "fixed term, 1-year *titles* of the U.S. Treasury, in period *t*."<sup>160</sup> The MEF's revision is telling: clearly the MEF is not using the interest rate of the U.S. Treasury bonds as this Tribunal expressly instructed. The MEF thus clearly and intentionally defied the instructions provided by the Constitutional Tribunal.

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<sup>156</sup> *Id.*, p. 10.

<sup>157</sup> Constitutional Tribunal of the Republic of Peru, Case N° 022-96-ITC of July 16, 2013, Foundation 25.

<sup>158</sup> Webpage of the U.S. Department of Treasury, *available at*: [http://www.treasurydirect.gov/indiv/products/prod\\_tbonds\\_glance.htm](http://www.treasurydirect.gov/indiv/products/prod_tbonds_glance.htm).

<sup>159</sup> Downes, John y Goodman, Jordan Elliot, "Dictionary of Finance and Investment Terms", 6<sup>th</sup> Ed. 2010, Barron's, pp. 745-46.

<sup>160</sup> Supreme Decree 019-2014-MEF issued on January 22, 2014. Annex 1 "it = nominal annual interest rate of the *securities* of the U.S. Treasury, fixed term, one year, in year *t*." (emphasis added).

176. But there are also *economic* and *equitable* reasons to reject the MEF's decision to use a short-term interest rate. From an economic point of view, Dr. Alonso and Dr. Muñoz opine that it is "inappropriate" to use the interest 1-year U.S. Treasury notes. This assumes that "bondholders would have invested the original dollar value of their bonds in one-year Treasuries and continually reinvested the full principal value plus accrued interest in similar one-year instruments until the Land Reform Bonds were redeemed."<sup>161</sup> But this assumption is "inconsistent" with the original terms of the Land Reform Bonds, which "were issued with stated maturities of 20, 25 or 30 years."<sup>162</sup> In their opinion, the "appropriate" interest rates are "those that more closely reflect the original stated maturity of the bonds. The U.S. Treasury has, in fact, been issuing 20-year bonds since at least 1962 and 30-year bonds since at least 1977."<sup>163</sup> Obviously, "the choice of a short-term versus a long-term interest rate has a significant effect on the updated value of the bonds."<sup>164</sup>

177. Finally, it would also be fundamentally unfair to the bondholders not to use a long-term rate. The landowners were effectively compelled to make a long-term and risky loan to Peru, during which time they would not have the use of the money they were forced to loan to the State – or of course use of the land that had been taken from them. Any investor making such a loan would naturally expect to receive an interest rate commensurate with those facts, including that the loan was of a long duration, with slow repayment, and considerable risk. In contrast, by using the T-bill rate, the Guidelines offer to pay interest of only what is often considered to be the U.S. short-term, risk-free rate. It is unfair to have forced the bondholder to make long-term, risky loans but to give them interest only of short-term, risk-free loans.

c. *The Guidelines' reconversion at average exchange rate of 2013, without further updating or interest, frustrates the current value principle*

178. The Guidelines also cheat bondholders by directing that the inadequately "updated" dollar value be converted back to *Nuevos Soles* at the "2013 average nominal exchange rate"<sup>165</sup> with no further updating or interest of any kind. This aspect of the Guidelines also contravenes the current value principle.

179. Pursuant to article 1236 of the Civil Code, a defaulted debt's current value should be calculated on the "day of payment."<sup>166</sup> This is a pivotal component of the *current* value principle. The reason article 1236 of the Civil Code provides that the debt's value should be determined on the "date of payment" is simple. That is

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<sup>161</sup> Alonso and Munoz Expert Report, p. 10.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*, p. 11.

<sup>165</sup> Supreme Decree 017-2014-MEF Annex 1.

<sup>166</sup> Civil Code, article 1236.

when the debt becomes discharged.<sup>167</sup> Until then, the debt remains unpaid, and further updating is required.

180. Despite this clear principle of law, the Guidelines propose to lock in an amount at average 2013 exchange rates, but then not actually to pay this amount for an indeterminate time that could be seven years or even longer.<sup>168</sup>

181. As noted by Dr. Alonso and Dr. Muñoz, the MEF's formula should ensure that on the date of payment, "bondholders receive an amount in soles that is equal to the original dollar value of the bonds plus accrued interest." To that effect, they explain that "exchange rate used for converting back into soles should be the rate at which the same amount of dollars can be obtained in the Peruvian bank market at the time of payment."<sup>169</sup> Moreover, the updating "should be extended up until the actual date of redemption."<sup>170</sup>

182. Consequently, the Guidelines compel the bondholders once again to make a loan to the State – this time from the end of 2013 until actual payment and with no interest whatsoever. Thus, the value the state proposes to pay manifestly cannot be the amount to which bondholders are legally entitled.

d. *These flaws expose the Guidelines' true purpose to deprive bondholders of the Bonds' current value*

183. Each of the foregoing flaws in the Guidelines' approach – along with the additional flaws (explained above) in how they treat bonds with clipped coupons and in not providing meaningful compensatory interest in addition to updating the unpaid principal – individually deprive the bondholders of some aspects of current value. Considering those flaws, together, however, indicates the true purpose of the Guidelines: to purposefully, systematically and significantly reduce the Bonds' value, in violation of the current value principle.

184. There is no other way to explain how the MEF – with its economists and other professionals – could produce a parity exchange rate that had nothing to do with pricing parity and that even undermined the very purpose of using a parity rate; could confuse a T-bill with a Treasury bond; or could decide to cease even the most inadequate updating and interest in 2013 rather than at time of payment. The combination of such otherwise inexplicable factors, conspicuously demonstrates that the MEF's true intention was to never pay current value, despite the Tribunal's direction to do so. These recent Guidelines are just the latest elements of the pattern of the judiciary and this Tribunal ordering payment of current value and the Government subverting those orders.

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<sup>167</sup> Civil Code, article 1220.

<sup>168</sup> The U.S.\$/*Nuevo Sol* rate was significantly *lower* in December 2013 than in March 2015.

<sup>169</sup> Alonso and Munoz Expert Report, p. 12.

<sup>170</sup> *Id.*

185. But enough is enough. The Government should not be given further opportunities to devise schemes based on dollar indexation or any method other than CPI plus compensatory interest. After all these years, it should now be evident that a clear and direct order is the only way in which the bondholders will finally receive justice.

#### **B. The Rulings violate the right to effective judicial protection**

186. This Tribunal must also protect the bondholders' right to pursue the payment of their bonds before the judiciary, allowing the courts to make independent determinations on the amount owed to each bondholder, based on each particular case. Anything else would violate the constitutional right to an effective judicial protection and the principle of non-interference.

187. *First*, the right to access the judiciary is an essential component of effective judicial protection. In the words of the Tribunal, it “guarantees the access to an independent, impartial, and competent court of justice for purposes of (...) determining their rights and obligations.”<sup>171</sup>

188. The Tribunal's August 2013 Ruling, however, violates this right by providing that “from now on, the claim to collect said debt can only be made through the aforementioned [administrative] procedure and not before a judicial one.”<sup>172</sup> In violation of even its own precedent under Emergency Decree N° 088-2000, the MEF took advantage of the Tribunal's instruction and issued Guidelines that effectively make the bondholders follow the unfair, lengthy and administrative procedure set forth therein, *expressly excluding* trial courts. This requirement prevents bondholders who have not yet commenced judicial proceedings from updating and collecting their bonds through the judiciary, and thereby clearly violates the principle that “no one can be averted from accessing courts previously established by law.”<sup>173</sup>

189. *Second*, characterizing the Guidelines' updating methodology as mandatory for trial courts – meaning that those courts are now forced to abide by the substance of the Guidelines in its decisions – interferes with the principle of independence of the judicial function. The Tribunal and the MEF are basically telling the courts what to do and how to do it, even when a court might have already ordered a valuation expert to calculate the value of the Bonds and the expert has already done so.

190. This is not permitted under Peruvian law. Article 139(2) of the Constitution prohibits any authority from “interfere[ing] with the exercise of jurisdictional authority's functions”; “leav[ing] without effect decisions with *res*

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<sup>171</sup> Constitutional Tribunal of the Republic of Peru, Case N° 010-2001-AI/TC, from August 26, 20013. Foundation 10.

<sup>172</sup> Constitutional Tribunal of the Republic of Peru, Case N° 00022-1996-PI/TC, August 8, 2013, Foundation 16.

<sup>173</sup> Constitution, article 139(2). *See also* American Convention on Human Rights, article 8.1.

*judicata* effect”; “modify[ing] decisions”; and “delay[ing] the enforcement [of jurisdictional decisions].”<sup>174</sup>

191. At a minimum, making the Guidelines’ formula mandatory to ongoing judicial proceedings would delay the enforcement of decisions in cases where experts have, for instance, already calculated the value of a bond using the CPI methodology. In such a hypothetical case, a bondholder will have to wait for the valuation expert to analyze the Guidelines, hopefully figure out all that is wrong with them, but then render a report offering to pay a trivial amount of *Nuevos Soles* to the bondholder who has already spent years or decades in court. This is, to say the least, manifestly unfair – and certainly not what this Tribunal could have intended.

192. *Third*, making the Guidelines mandatory also means that the courts are now forced to apply a mathematically incorrect formula that produces absurd results – as the expert report of Drs. Alonso and Muñoz demonstrates.

193. From a practical point of view this will put all courts, and all bondholders, in an impossible situation. As soon as courts figure out the absurdity of the Guidelines’ formulas, and how wrong and unfair they are, the courts will be forced to misapply them. Claims and appeals will flourish and permeate through the judicial system. Presumably this Tribunal too will be flooded with countless petitions and claims asking it to review the Guidelines.

194. These problems could all be avoided, however, by at least simply holding that the Guidelines are optional rather than mandatory.

195. Taking the proposed approach would be consistent with this Tribunal’s holding in an earlier case. It is certainly not the first time that the State is attempting to force the bondholders to accept an unreasonable updating method created by the MEF. When the Executive issued Emergency Decree N° 088-2000, this Tribunal defended the bondholders’ independent right to file legal collection actions. In its August 2, 2004 judgment, this Tribunal held that the bondholders had the option of “going to court to demand payment of the adjusted amount of the debt, plus applicable interest. (...)” The Tribunal held that updating the Bonds’ value through the administrative proceedings proposed in Emergency Decree N° 088-2000 would be valid only insofar as it did not exclude “the option to go to court to obtain a decision regarding the performance of the obligation” and that said decree merely constituted “an alternative” method that the bondholder could “freely accept or reject.”<sup>175</sup>

196. The Constitutional Tribunal must reach the same conclusion in this case. Both cases involve the same subject matter, and the facts are similar enough to conclude that, although the MEF may propose an updating method, that method cannot be mandatory and the bondholders must retain the right to take the matter to courts.

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<sup>174</sup> Constitution, article 139(2).

<sup>175</sup> Constitutional Tribunal of the Republic of Peru. Case No. 0009-2004-AI/TC from August 2, 2004. Foundation 7.



197. *Finally*, depriving bondholders of their right to initiate judicial proceedings now in pursuit of the current value of their Bonds generates a profoundly unjust result: those bondholders who actually trusted the government and waited decades for it to come up with a coherent and fair plan to pay current value – bondholders who presumably did not have the resources to spend years in court – are now barred from doing so and are hopelessly stuck with a formula that offers to pay less than 0.5% of the debt. As some of the cases cited above indicate, litigious bondholders actually collected the value of their bonds, which is something that non-litigious bondholders are now deprived of on the basis of the Guidelines. This is not only a clear violation of the right to access to justice, but also has a clear discriminatory effect, which bolsters the discrimination argument presented below. There is, simply put, no reason why some bondholders should have a better chance to collect than others.

198. Accordingly, this Tribunal should at the very least protect the effectiveness of the bondholders' due process rights by making absolutely clear that no Supreme Decree or similar administrative act – past or future – may interfere with the ability of bondholders to seek independent remedies before the Peruvian courts.

**C. The Guidelines impose an administrative proceeding that is unduly burdensome**

199. Furthermore, this Tribunal must invalidate the Guidelines because the administrative procedures contained therein are unduly burdensome and complicated – without there being any explanation on the part of the MEF as to why these administrative processes were chosen.

200. *First*, imposing a mandatory requirement on all bondholders to participate in a registration procedure is unreasonably burdensome for the bondholders who have spent years litigating this matter, and whose ownership of the Bonds has already been confirmed by court judgments.<sup>176</sup> This violates basic principles of due process and would lead to an unjust result. Making bondholders go through another “recognition” process would violate due process simply because they would have to try their case all over again. This is fundamentally unfair. This would also violate the principle of judicial independence because the Executive would be ignoring final or pending judicial decisions on this score, in violation of the *res judicata* principle.

201. *Second*, there is no clarity as to when the bondholders would ultimately collect the updated amounts. Although the Guidelines establish a procedure for registering the legitimate holders of the Land Reform Bonds – creating a five-year period for bondholders to submit their registration application,<sup>177</sup> and 18 months to approve or reject bondholders' registration applications – the order of priority

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<sup>176</sup> Supreme Decree N° 017-2014-EF, article 4.

<sup>177</sup> *Id.*, Article 6.2.

established by those very same Guidelines raises the question of *when* – if ever – the bondholders that are not at the top of that order will eventually collect their money.

202. For example, it is not clear what would happen if a legal entity (which, let's suppose, acquired the Bonds as payment of legal obligations) submitted its application for registration on January 1, 2015, and obtained an administrative decision recognizing it as the legitimate bondholder 18 months later. Let us further suppose that one month after that (month 19), an *individual* files his application for registration. In this case, it is not clear whether the legal entity would have to wait until the completion of the procedures for the individual's registration for updating and for payment of the debt to all individuals who hold bonds before moving on to the updating process. It is also unclear, for instance, what would happen if the recognition of a group of individuals is denied, and they file contentious-administrative actions against said decision. Must the legal entity wait until those claims are finally resolved before being able to move forward with its own updating process? These are simple questions that show the unacceptably ambiguous way in which the Guidelines have been written.

203. *Third*, even for those bondholders who follow the procedure established therein, the Guidelines are plagued with obstacles. There are at least four instances in which the administrative procedure could be suspended indefinitely, meaning the debt would not be collected for decades.

204. The first obvious stumbling block is the so-called “expert handwriting analysis.”<sup>178</sup> For instance, the Guidelines are confusing with regard to what remedies are available in the event said expert analysis declares that the bondholder is not the legitimate owner of the Bonds. It is also unclear what the purpose of the expert analysis is and what signature or handwriting will be analyzed. The Guidelines only state, very generally, that the Bonds will be “returned” to the individual if their ownership cannot be verified. There is also no clarity on the nature of that expert report, which leaves open the question of what claims may be filed against it, or what procedure should be used to challenge it.

205. A third obstacle is that the time it takes to conclude the handwriting analysis, pursuant to the Guidelines, is not “taken into account for calculating the maximum term of the administrative proceeding” set forth in Law N° 27444 – General Administrative Procedure Law. Without imposing any deadline on the handwriting expert to make a determination, these procedures could be delayed indefinitely without any sort of protection for the bondholder.

206. Another obstacle is that there are at least three additional instances where the Government may cause the administrative procedure to be suspended indefinitely and give way to contentious-administrative proceedings. These are: (i) upon the completion of the registration process for the bondholders;<sup>179</sup> (ii) upon the

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<sup>178</sup> *Id.*, Article 7.

<sup>179</sup> *Id.*, Article 9.

completion of the administrative update of the debt;<sup>180</sup> and (iii) upon the completion of the proceeding to determine the form of payment.<sup>181</sup> At each of these points, the Government could issue an administrative decision with which the bondholders disagree, and the result would be a number of long and complicated contentious-administrative proceedings that could take years.

207. Lastly, there is no clarity with regard to the so-called “payment options” of the debt’s updated value. The Guidelines simply mention that the MEF, “bearing in mind the principles of fiscal equilibrium and financial sustainability” and “fiscal rules and the multi-year macroeconomic framework,” will define the “options among which the Land Reform Bondholders may select one or a combination of options for payment.”<sup>182</sup>

208. But the MEF does not explain what options for payment would be available, or how the nebulous “principles” of “fiscal equilibrium” or “financial sustainability” will be defined, much less how they will impact the availability of the so-called “payment options.” The MEF also fails to indicate which “fiscal rules” are relevant, or how the so-called “multi-year economic framework” fits into the equation. Further, although the MEF specifies that it “must have a minimum number of legitimate Land Reform Bond bondholders duly registered with their debt updated” in order to proceed with the so-called “payment options,” the MEF clearly does not explain what that minimum number is, nor what criteria it will use to determine such number. With so much discretion, one could presume that if the MEF decides that there are other budget priorities, it could simply choose to not pay certain bondholders. Such wide discretion and lack of clarity cannot be permitted by this Constitutional Tribunal.

#### **D. The Guidelines are unconstitutional because they are discriminatory**

209. In its November 2013 Ruling, this Tribunal made clear that the order of payment set forth in the Ruling “only appl[ies] for cash payments, and not for other forms of payments” such as “the issuance of new bonds.”<sup>183</sup> If the government committed promptly to pay all bondholders at current value – calculated as explained herein – through the issuance of new bonds, any discrimination argument would be moot, as it is clear that such order of payment is not applicable.

210. However, to the extent that the Government contemplates paying in cash pursuant to the Guidelines’ substantive and procedural provisions, the Guidelines violate the equal protection principle by discriminating against bondholders who are in the same situation. This distinction does not seek to further a constitutionally

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<sup>180</sup> *Id.*, Article 14.

<sup>181</sup> *Id.*, Article 18.

<sup>182</sup> *Id.*, Article 17.

<sup>183</sup> Constitutional Tribunal of the Republic of Peru. Case N° 00022-1996-PI/TC. November 4, 2013. Section 8.

protected interest and is irrational; there is also a lack of proportionality between the Guidelines and the ends they seek to attain.

211. The right to equal protection of the law is enshrined in article 2(2) of the Constitution.<sup>184</sup> Under Peruvian law, the notion of equal protection under the law has two components. First, it is a principle that governs the conduct of the State, and works as a limitation to the abuse of power; second, it is also a fundamental individual right. As this Tribunal has held, “*it is a core element of the democratically-based constitutional system.*”<sup>185</sup> As a right, it is premised on the universally accepted notion that individuals deserve equal treatment in like circumstances.<sup>186</sup> Equality, therefore, evolves into the subjective right to obtain equal treatment and avoid privileges and arbitrary inequalities.<sup>187</sup> The Constitutional Tribunal has held that there exists discriminatory treatment when an individual is denied access to a benefit or privilege that others enjoy, without a reasonable and objective justification for the difference in treatment.<sup>188</sup>

212. There is simply no basis to discriminate, for instance, between original and secondary bondholders, or between natural and juridical entities. This could result in absurd and even economically dangerous situations. If original Bonds were given to legal entities that were landowners, there is no reason why they should wait longer to collect. The same is also true for those who acquired the Bonds from original bondholders. If the Land Reform Bonds were created as freely transferable instruments, it would be unfair to punish those who acquired them. This could have calamitous consequences for Peru’s vibrant economy – where the bonds’ secondary market is crucial. The right to equal protection enshrined in article 2(2) of the Constitution proscribes this, and thus the Guidelines should be corrected by the Tribunal.

## **V. Substantiation of These Proceedings**

213. Petitioners request that this Tribunal adjust the procedural requirements set forth in the Constitutional Procedural Code to encourage the MEF to respond to the arguments and the evidence contained herein. Should the MEF answer, Petitioners further request an opportunity to reply to the MEF’s arguments within a reasonable time to be determined by this Tribunal.

214. On the basis of articles II and III of the Constitutional Procedural Code, this Tribunal has the power, and the duty, to “adjust the requirements” contained therein to “guarantee the preeminence of the Constitution and the effectiveness of the

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<sup>184</sup> Peru’s Political Constitution 1993, article 2(2).

<sup>185</sup> Constitutional Tribunal of the Republic of Peru. Case N° 0261-2003-PI/TC of March 26, 2003. Conclusion 3.1 (emphasis added).

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

constitutional rights.”<sup>189</sup> The constitutional rights that need to be protected in this case are the right to property and due process, among others.

215. This Tribunal should make all efforts to fully understand the economic, financial and legal arguments presented here. It may assist the Tribunal in developing the necessary tools to fairly and efficiently resolve this conflict to foster a high-level debate on this matter. Even at this advanced stage, this case is replete with important legal and economic issues. A cursory fiscal analysis of those questions is unlikely to yield a rigorous legal and economic decision.

216. Fortunately, this Tribunal now has a unique opportunity to evaluate the evidence presented. This may include scheduling an oral hearing and calling the experts to explain their reports, evaluating their opinions and examining the validity of the legal arguments from each side.

217. The Petitioners look forward to a serious debate on the issues presented here. Therefore, Petitioners ask this Tribunal to invite the MEF to answer to these arguments within three months starting on the date on which this brief is filed, and to give the Association an opportunity to respond to any such arguments.

## **VI. Conclusion**

218. Petitioners have demonstrated that the MEF’s Guidelines breach the right to property as they offer to pay an amount that is so low that it can be equated to no payment at all. Despite the MEF’s attempts to camouflage it with complicated formulas, what the Guidelines propose is the embodiment of nominal payment, which the Tribunal has rejected time and time again.

219. Given the evidence showing the Guidelines’ absurd and unfair results, the Tribunal should once again safeguard all bondholders’ constitutional rights to property, due process and access to the judiciary. Peru’s achievement of a strong and stable economy makes it capable of at long last honoring the land reform debt, and doing so would actually reassure investors everywhere that Peru will stand behind its commitments and thereby benefit the economy. The new bench of the Constitutional Tribunal has thus a unique opportunity to once and for all put an end to this longstanding pattern of broken promises and injustice, and to ensure that Peru finally closes the chapter on a regrettable part of its past.

### **THEREFORE:**

Petitioners request the Constitutional Tribunal to process this request.

**FIRST ADDITIONAL REQUEST:** ABDA expressly declares that the lawyers that signed this petition, Domingo Garcia Belaunde, Humberto Medrano Cornejo, José Tam, Luis Bedoya Escurra, and Mario Seoane Linares, are accredited as the Association’s attorneys and, consequently,

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Constitutional Procedural Code, articles II and III of Preliminary Title.

they are authorized to represent and defend the Association with all the attributes conferred by Law.

In this same vein, according to article 80 of the Civil Procedure Code, ABDA grants them general faculties of representation and therefore ratifies the judicial address provided in the introduction of this brief. ABDA also declares that it knows the scope and effects of the representation that it has granted them.

**SECOND ADDITIONAL REQUEST:** Petitioner is attaching sufficient copies of this brief and its correspondent exhibits so that the MEF can be notified.

**THIRD ADDITIONAL REQUEST:** Petitioner requests that this brief is reviewed by the entire bench of the Tribunal.

**FOURTH ADDITIONAL REQUEST:** Petitioner authorizes the following people to carry out the necessary proceedings: Luis Pachas Peña, Wilfredo Chumpitazi Negrón, Jessica Ramos Cano.

**FIFTH ADDITIONAL REQUEST:** Petitioners request the Tribunal to transmit this brief to the MEF, and to invite or instruct the MEF to respond to it. In case the MEF responds, Petitioners request an opportunity to reply.

Lima, March 16, 2015

## **Appendix VI – Peru’s Multiannual Macroeconomic Framework 2014-2016**



**REPUBLIC OF PERU**

**MINISTRY OF ECONOMY AND FINANCE**

**Multiannual Macroeconomic  
Framework 2014-2016**

**ABRIDGED VERSION FROM THE ORIGINAL SPANISH EDITION  
APPROVED BY COUNCIL OF MINISTERS IN  
SESSION OF MAY 22TH, 2013**



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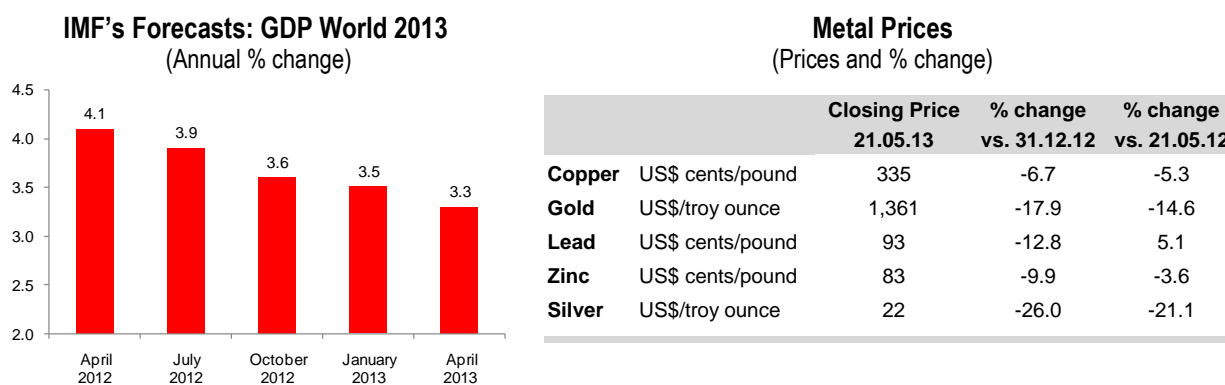
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## 1 EXECUTIVE SUMMARY AND FORECASTS

Peru can grow to its potential level (between 6.0% - 6.5% per year) during 2013-2016 and remain as one of the most dynamic countries in the world, as long as the global economy recovers gradually, important private investment projects materialize, and confidence of economic agents remains high. Maintaining a 6% growth rate, amid a sluggish recovery in advanced economies and falling commodity prices, requires significant efforts to promote and facilitate private investment and increase productivity and competitiveness. Peru's per capita GDP still ranks among the lowest in the region, and without a sustained high growth, it will not be possible to reduce poverty at a significant pace and achieve the desired social inclusion. On the fiscal policy side, after reaching a fiscal surplus in structural terms in 2012, it will be important to increase expenditures in accordance with permanent revenues in the next years, in a context in which export prices remain historically high but with a downward trend. The forecasts of this Multiannual Macroeconomic Framework (MMF) are consistent with a fiscal surplus of around 0.6% of GDP during 2013-2016. On the tax revenue side, to gradually meet the Government's objectives it is important to raise the tax burden, and a major effort from SUNAT will be required. To the extent that this increase in permanent tax revenues is achieved, public spending will expand articulated and focused on the priority areas of the current administration (social spending, infrastructure, security and internal order).

### Global economic outlook

For 2013, the outlook for global economic growth and metal prices has been revised down. In recent months there have been adjustments in the forecasts of global economic growth for 2013. On one side, the Euro zone faces its second year of recession, which will be more severe than anticipated by policymakers a few months ago. In the U.S., despite some positive signs, the labor market is still weak, because the lower unemployment rate is mainly attributed to a fall in the labor force that between January and April 2013 has lost 273,000 people. In April, the unemployment rate fell to 7.5%, the lowest since December 2008, mainly explained by the lowest labor participation rate<sup>1</sup> since May 1979. Meanwhile, China's economic dynamism has also been lower than expected, and for example, JP Morgan has cut its growth forecast for this year from 7.8% to 7.6%. Along with a slowdown in the global economy, there has been a significant drop in commodity prices, and so far this year, the international prices of most of our major export metals has fallen more than 10%.



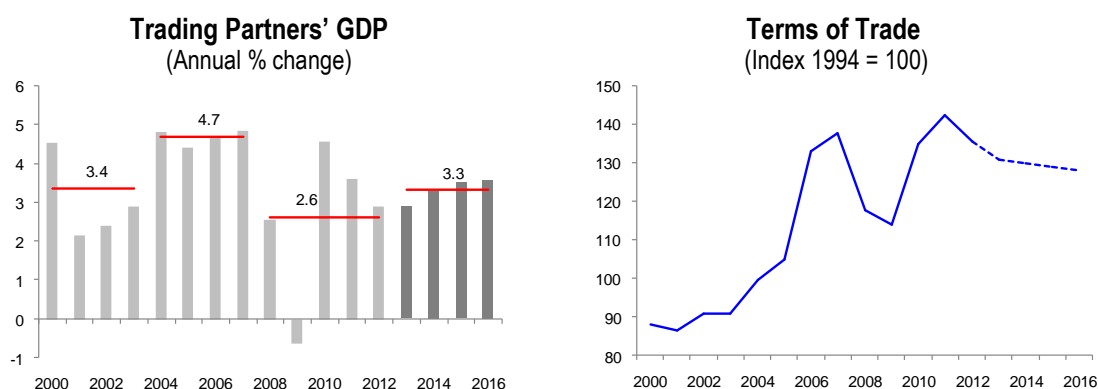
Source: IMF, Bloomberg.

During the years 2014-2016, the global economy is expected to recover gradually, with an average annual growth of 4.0%. Advanced economies will gradually close its negative output gaps and will grow around 2.2% per year (above the 2000-2011 average of 1.8%). Meanwhile, emerging economies are expected to grow at an annual average rate of 5.7%, below the 2000-2011 average (6.3%). In this context, the growth of Peru's trading partners will be around 3.5%, in line with the 2000-2011 average (3.4%) and similar to the expected growth in the previous MMF.

**Export prices will decline faster than expected in the previous MMF although they remain at historically high levels. High commodity price volatility is expected, and there is a risk of larger than anticipated falls.** In 2013 the global copper market will record a supply surplus (after 3 consecutive years of deficit) and the average price will be around cUS\$ 330 per pound. By 2014 the copper's price will be US\$ 320 per pound (less than cUS\$ 340 per pound of the previous MMF), and in the next years the increase in the world supply will cause a drop in

<sup>1</sup> Civilian labor force / Civilian noninstitutional population.

prices, reaching cUS\$ 300 in 2016 or a lower amount. Regarding gold, in 2013 the average price will be US\$ 1,475 per troy ounce and in 2014 it will fall to US\$ 1,450 per troy ounce (less than US\$ 1,650 per troy ounce of the previous MMF). In 2015-2016, in line with the lower uncertainty and the recovery of the global economy, the price of gold could fall up to US\$ 1,400 per ounce in 2016. Given the current prices, there is a risk that prices of metals in the coming years could be even below the levels expected in the baseline scenario.



Source: MEF.

**Even though the baseline scenario assumes a recovery in the global economy, significant risks still prevail.** In the U.S. and Japan, the lack of a fiscal consolidation plan could damage the economic recovery; and in the Euro zone, the recession could extend beyond 2013. Meanwhile, China could grow consistently below 8.0% per year, which would affect metal prices.

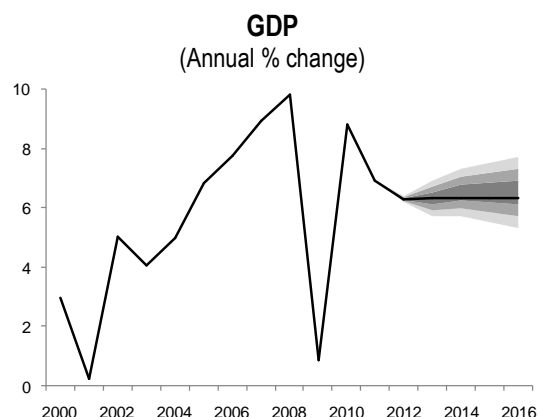
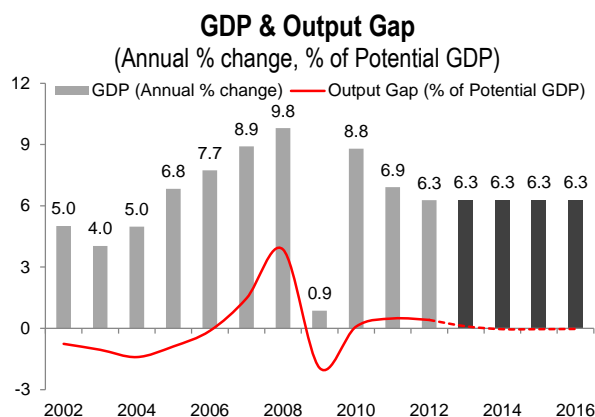
### Peruvian economic outlook

**In the first quarter of 2013, GDP grew 4.8% with respect to the same quarter last year, and 6.0% on a seasonally adjusted annualized rate.** The lower annual growth is mainly explained by a calendar effect, in 2013Q1 there were 4 days less than in the same period of last year (2012 was a leap year and Easter week of 2013 was recorded in March). If this calendar effect had not been recorded, the economic expansion in 2013Q1 would have been around 6.4%<sup>2</sup>.

**In 2013, the Peruvian economy will grow between 6.0% - 6.3% due to buoyant domestic demand that will offset the weakness in the external sector.** Domestic demand could grow more than 7.0% and will continue to expand above GDP rates, thanks to the strong growth in private (10.0%) and public (20.0%) investment, as well as the high increase of private and public consumption. Current and advanced indicators of economic activity show that the growth of the Peruvian economy has now stabilized around its long-run sustainable level.

**For the 2014-2016 annual GDP growth would be between 6.0% - 6.5%.** These forecasts are in line with the potential growth and a closed output gap. This favorable outlook assumes global economic recovery, low financing costs, high expectations, and favorable investment climate that allow a growth rate of 10% in private investment, as well as the commissioning of a number of mining projects that will double copper production by 2016. In the coming years, the expected projects to begin operations are the following: Las Bambas, Cerro Verde expansion, Toromocho and Constancia, plus the Antamina expansion and the new Antapaccay mine, will allow the copper production in 2016 to double (compared to the 2011 levels). These new projects will offset the fall in commodity prices and increase exports to nearly US\$ 60 billion in 2016 (almost 30% compared to 2012), gradually reducing the current account deficit.

<sup>2</sup> To estimate the calendar effect, we performed the analysis of the seasonal component of GDP. If in February and March 2013 is considered the seasonal component of February and March 2012 (months in which there were no fewer working days), the average growth of the months February and March 2013 would have been 6.4% (instead of 4.1% observed).



Source: BCRP, MEF.

In 2016, GDP will reach about US\$ 285 billion (5.3 times more than in 2000) and per capita GDP will reach around US\$ 9 000 at current prices, or US\$ 14 000 in PPP (purchasing power parity). Although Peru will lead the economic growth of the region, its per capita GDP will still rank below other neighboring countries. Just in 2005 Peru regained its 1975 per capita GDP level in constant dollars, and in recent years it has reduced the gap with other countries in the region. To rank among the best places in the region, it is necessary to maintain the growth rate above 6% for the next 15 years at least. Sustaining this growth rate for a long period and amid a context of lower international metal prices will require significant efforts to increase the country's productivity and competitiveness through: i) substantial improvement of human capital, ii) reduction of the infrastructure gap through Public-Private Partnerships; iii) administrative simplification to encourage investment and facilitate business formalization and development, iv) promotion of science, technology and innovation, v) production diversification based on a value-added strategy that promotes quality, new tools for productive development, free competition and internationalization, vi) further financial deepening and capital market development, and vii) the proper design and implementation of actions for environmental sustainability. Without a sustained high growth, it will not be possible to reduce poverty at a significant pace and achieve the desired social inclusion.

**LATAM: GDP per capita**  
(Current US\$)

Country	2000	2012	2016	% change 2016 vs. 2012
Chile	5,065	15,410	19,789	28.4
Uruguay	6,914	14,614	17,534	20.0
Brazil	3,694	12,079	14,631	21.1
Argentina	7,917	11,576	12,626	9.1
Mexico	6,858	10,247	12,393	20.9
Venezuela	4,869	12,956	11,345	-12.4
Colombia	2,480	7,855	9,486	20.8
<b>Peru</b>	<b>2,054</b>	<b>6,626</b>	<b>9,045</b>	<b>36.5</b>

**LATAM: GDP per capita**  
(PPP \$)

Country	2000	2012	2016	% change 2016 vs. 2012
Chile	9,730	18,419	23,091	25.4
Argentina	9,418	18,112	21,088	16.4
Uruguay	8,149	15,911	19,782	24.3
Mexico	10,875	15,312	18,130	18.4
Venezuela	8,584	13,616	14,806	8.7
Brazil	7,077	11,875	14,474	21.9
<b>Peru</b>	<b>4,917</b>	<b>10,840</b>	<b>14,065</b>	<b>29.7</b>
Colombia	5,855	10,792	13,199	22.3

Source: IMF, MEF.

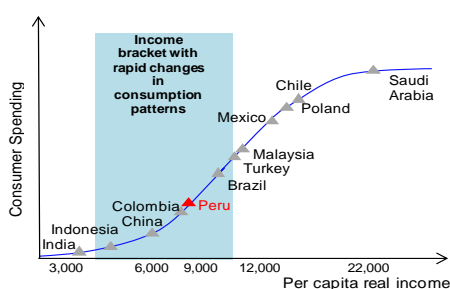
**The MMF contains an analysis of substantial variations in economic assumptions<sup>3</sup>.** In the event of a 20% fall in the terms of trade compared to 2012 (versus a fall of 6% in the baseline scenario) and a substantial increase in international interest rates, it is estimated an slowdown of the GDP growth rate to 4.0% (similar to the average from 1950 to 2012), rather than the 6.3% GDP growth projected for the baseline scenario; however Peru will continue to lead growth in the region. On the other hand, in a scenario where there is not any severe deterioration of the international environment but expectations of private agents decreases and private investment only grows 5% annually (half the base scenario), and considering the indirect effects on employment, income, consumption, the Peruvian economy will grow about 4.0% instead of the 6.0%-6.5% projected in the baseline scenario. Therefore, it is important to maintain a favorable climate and a highly dynamic private investment

<sup>3</sup> We included four alternative scenarios: i) Correction of terms of trade and international interest rate in average levels during 2000-2010, ii) Increased capital flows, iii) Impairment of private sector expectations, and iv) El Niño Phenomenon with similar magnitude to 1997-1998.

## Consumption

In 2014-2016, private consumption will continue expanding at a growth rate of 5.5% driven by the increase in the middle class, a favorable “demographic window” and the lower underemployment. A HSBC study<sup>4</sup> describes a “threshold effect” as the significant changes in consumption patterns when there are increases in the people’s per capita income (in terms constant US\$ of 2005 at PPP) from a very low income (less than US\$ 3,000 a year) to a middle income (between US\$ 9,000-US \$ 15,000 a year). For 2013, it is expected that Peru will reach a per capita income of US\$ 10,000. On the same wavelength, Morgan Stanley<sup>5</sup> stated that when households have an important increase in their expenditures, moving from Socioeconomic Level E (low income) to Socioeconomic Level C (middle income), they increase their total expenditure 2.2 times and their education expenditures 4 times. Furthermore, economic growth will be also driven by the “demographic window”, when an important number of people will become part of the labor force around 2020. Peru, between 2010-2020 will reach a working-age-population growth rate of 1.5%, above its regional peers.

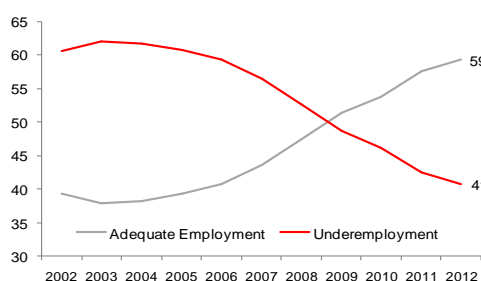
**World: Households Per capita Real Income and Consumption Expenditure, 2011**  
(US\$ constant 2005 PPP)



**World: Increase in Working Age Population**  
(Annual % change, average 2010-2020)



**Metropolitan Lima: Employment**  
(Adequate employment and underemployment as % total employment)



Source: INEI, World Bank, United Nations.

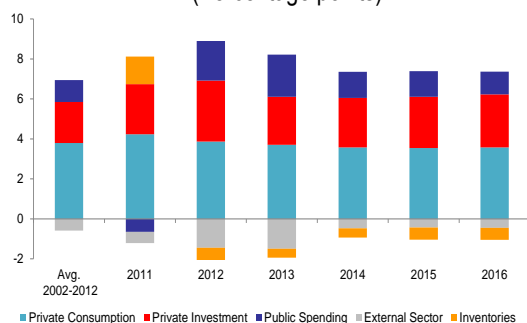
## Investment

Private investment could grow around 10% between 2013 to 2016, as long as expectations remain high and major investment announcements are executed. This growth rate will be more moderate than the observed in the last decade (12.8%) and will explain about 40% of GDP growth. Furthermore, the total investment will reach around 31% of GDP by 2016.

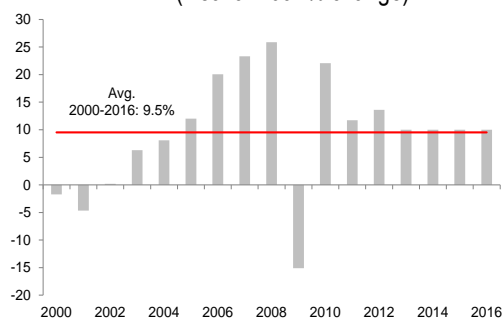
<sup>4</sup> HSBC Global Research, “Consumer in 2050: The rise of the EM Middle Class”. Octubre 2012. El estudio de HSBC utiliza US\$ reales constantes 2000 para el ingreso per cápita, en este documento se utiliza US\$ constantes 2005 PPP del Banco Mundial.

<sup>5</sup> Morgan Stanley Research Latin America, “Equity Strategy: The Consumer still rules”. Marzo 2013.

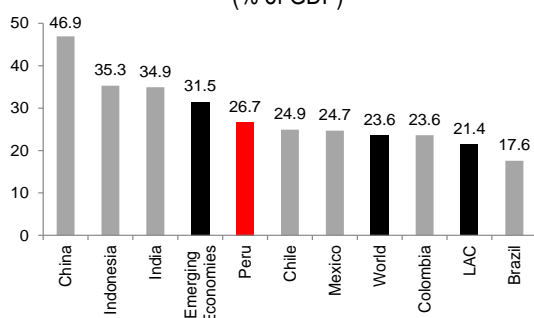
**Contribution to GDP by the expenditure side**  
(Percentage points)



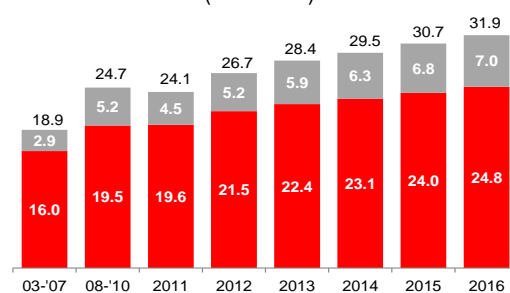
**Private Investment**  
(Real annual % change)



**Total Investment 2012**  
(% of GDP)



**Peru: Private & Public Investment**  
(% of GDP)



Source: IMF, BCRP, MEF.

**The dynamics of private investment for 2013-2016 will be driven by the mining sector and infrastructure projects with Public Private Partnerships.** Mining investments include Las Bambas, Cerro Verde expansion, Toromocho, Constancia and Marcona expansion. The investments, mainly involved in the copper sector, will allow to double the production by 2016. Also, decentralized investment in transport will relieve "bottlenecks" and improve competitiveness. On ports, it is important to mention the upgrade of the North Pier and the mineral piers in Lima, the expansion of Paita's port and Matarani Port, the General San Martin Port Terminal and the Yurimaguas Port. On highways, Road Network No 4 (Pativilca-Puerto Salaverry), Del Sol Highway (Trujillo-Sullana), Longitudinal de la Sierra Highway, and IIRSA Centro Tranche 2; also, the second line, for the Lima Metro, will be constructed. On airports, the construction of Chinchero International Airport in Cusco is expected. The investments in the power sector include power generation (hydroelectric plants of Quitaracsa, Cheves, Cerro del Aguila, and power plants Chilca, Ilo, Eten) and transmission lines (Machu Picchu - Tintaya, Cajamarca Norte - Caclic, among others).

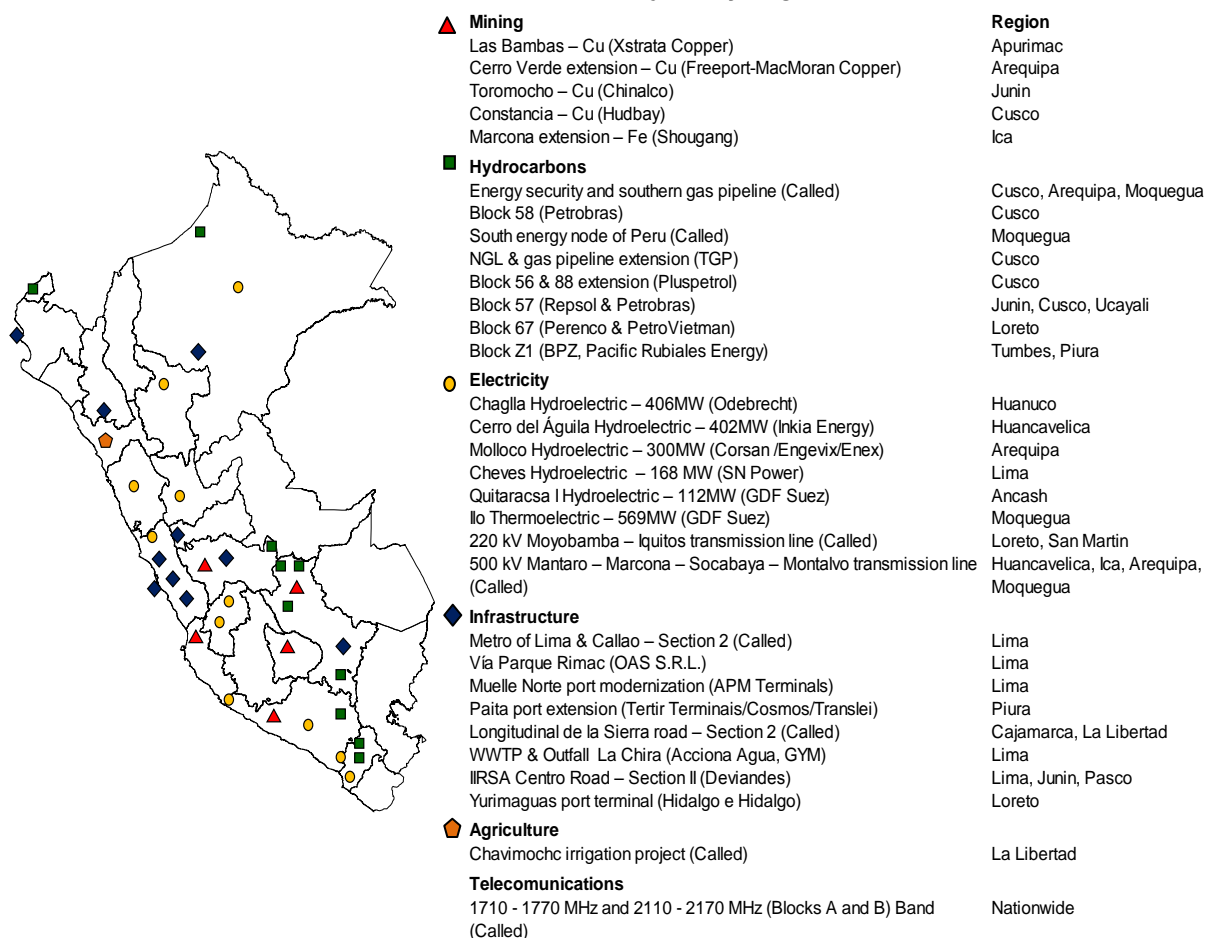
**Domestic Demand and GDP**  
(Annual percentage change)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
1. Domestic Demand	7,0	7,1	7,4	7,4	6,4	6,4	6,4	6,4
a. Private Consumption	5,5	6,4	5,8	5,6	5,5	5,5	5,5	5,5
b. Public Consumption	6,6	4,8	10,6	10,5	4,0	4,0	4,2	4,0
c. Private Investment	11,6	11,7	13,6	10,0	10,0	10,0	10,0	10,0
d. Public Investment	13,1	-17,8	20,9	20,1	13,5	13,5	10,5	12,5
2. Exports <sup>1</sup>	6,5	8,8	4,8	2,0	9,0	9,5	9,4	9,3
3. Imports <sup>1</sup>	9,7	9,8	10,4	8,1	8,6	8,7	8,7	8,7
<b>1. GDP</b>	<b>6,4</b>	<b>6,9</b>	<b>6,3</b>	<b>6,3</b>	<b>6,3</b>	<b>6,3</b>	<b>6,3</b>	<b>6,3</b>
Memo:								
Public Spending	8,4	-4,2	14,1	14,0	7,6	7,8	6,8	7,4

1/ Goods and non-financial services

Source: Central Reserve Bank of Peru, Bureau of National Statistics. Forecast MEF

## Main Investment Projects by Region

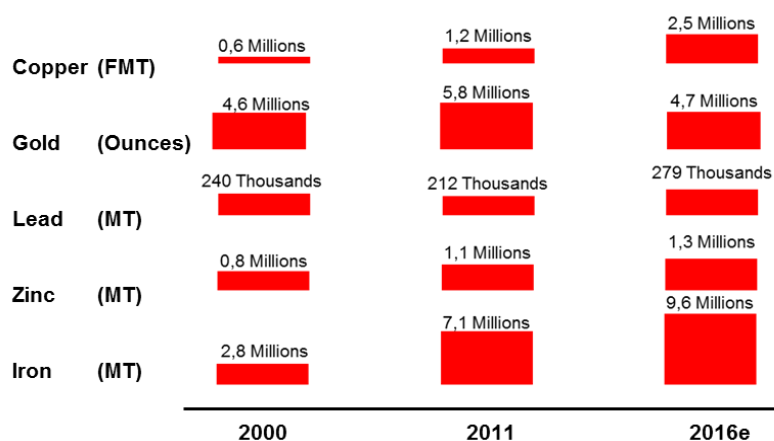


Source: BCRP, MINEM, MTC, PROINVERSION, OSINERGMIN, Apoyo Consultoría.

## GDP by Sectors

For 2014-2016, it is expected that the primary sector will grow around 6.0% due to an average growth rate of 10% of the mining sector. This forecast is based on the start-up of major investments, especially in the copper sector. In the coming years, as mentioned before the expected projects coming into operation are the following: Las Bambas, Cerro Verde expansion, Toromocho, and Constancia, plus the Antamina expansion and the new Antapaccay mine, will increase copper production to about 2.5 million metric tonnes by the end of 2016 and it will double the levels produced in 2011. Also, it is expected a significant increase in iron production due to a higher production by Marcona extension. However, gold production in 2016 will fall around 17% compared to 2011 mainly due to natural depletion of deposits such as Yanacocha. On the other hand, for 2014-2016, the **agricultural sector** is expected to grow an average of 4.2% sustained by the expansion of the agricultural frontier due to Chavimochic-3rd stage and Olmos. The **fishing sector** will grow at an average rate of 4.0%, due to the gradual recovery of the anchovy capture levels. In the **hydrocarbon sector**, it is projected an increased in the natural gas and liquid hydrocarbons production. And the primary manufacturing sector is expected to grow at an average rate of 3.5%.

### Mining Production (By metal)



Source: MEM, MEF Forecast.

### Estimated Copper Production to 2016<sup>1</sup> (Thousands of MT)

Projects	Start Date (e)	2011	2012	2013	2014	2015	2016
<b>A. Extension</b>							
Antamina	12Q4			120	175	175	175
Cerro Verde	16Q2						175
<b>B. New</b>							
Antapaccay	12Q4			100	160	160	160
Toromocho	14Q3				180	275	275
Constancia	15Q2					50	80
Las Bambas	15Q1					245	310
Extensions and New Projects Production				220	515	905	1 175
<b>Total Production</b>		<b>1 235</b>	<b>1 299</b>	<b>1 519</b>	<b>1 814</b>	<b>2 204</b>	<b>2 474</b>
<b>Acum. % change</b>			<b>5,2</b>	<b>23,0</b>	<b>46,9</b>	<b>78,5</b>	<b>100,3</b>

Source: BCRP, MINEM, MEF Forecast.

**For 2014-2016, the non-primary sector is expected to grow 6.4% on average, driven by a strong domestic market and a better global economic outlook.** The construction sector will grow 9.1% on average, driven by the opening of new shopping centers (which will total 100), housing and infrastructure construction, and hotel investment. The service sector will grow driven by the strength of private consumption, the increase in tourism (reaching 3.6 million international tourists), the bigger investment in construction and mining, and the entry of new participants in the financial market. One of the most important items would be the business services for mining and construction, standing out the rental of machinery and equipment, engineering services, among others. The commercial sector will continue growing supported by the higher purchasing power of the population, the dynamic credit with better conditions (given the increased competition) and the expansion of the retail sector in all regions of the country. Similarly, the nonprimary manufacturing sector will regain dynamism due to a better situation in the advanced economies, the strength of the domestic market, and the opening of new markets. The dynamism of the domestic market would be sustained by the growth of consumer goods such as food and beverages, cleaning products and toiletries, while the more robust external demand will drive the production of chemicals, agriculture, textile-clothing and plastics. The signed free trade agreements will provide growth opportunities in new markets, highlighting the Asian market, for our agribusiness, chemical and metalworking products.



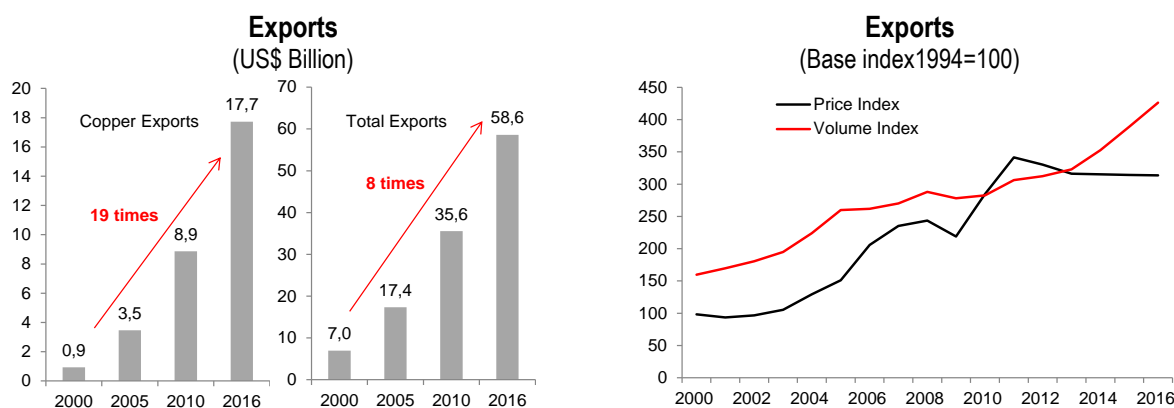
### GDP by Sectors (Annual percentage change)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
Agriculture and Livestock	4,3	3,8	5,1	5,0	4,1	4,2	4,2	4,2
Fishing	3,5	29,7	-11,0	-1,7	5,0	3,5	4,0	4,2
Mining and Fuel	4,1	-0,2	2,2	4,7	9,0	11,7	9,1	9,9
Metals	3,1	-3,6	2,1	3,5	9,2	12,7	9,5	10,4
Fuel	10,5	18,1	2,3	10,6	8,3	7,7	7,8	7,9
Manufacturing	5,9	5,6	1,3	3,4	5,2	5,4	5,4	5,4
Based on raw materials	2,9	12,3	-6,5	2,5	3,5	3,5	3,5	3,5
Non-primary	6,6	4,4	2,8	3,5	5,5	5,8	5,8	5,7
Electricity and Water	5,8	7,4	5,2	6,5	6,4	6,4	6,4	6,4
Construction	10,5	3,4	15,2	11,0	9,2	9,0	9,0	9,1
Commerce	7,0	8,8	6,7	6,3	6,0	6,0	6,0	6,0
Services	6,6	8,6	7,4	6,7	6,3	6,2	6,2	6,2
<b>GROSS VALUE ADDED</b>	<b>6,4</b>	<b>6,9</b>	<b>6,2</b>	<b>6,2</b>	<b>6,3</b>	<b>6,4</b>	<b>6,3</b>	6,3
Taxes on Products and Import Duties	6,5	7,2	6,6	6,8	6,2	6,0	6,0	6,1
<b>GROSS DOMESTIC PRODUCT</b>	<b>6,4</b>	<b>6,9</b>	<b>6,3</b>	<b>6,3</b>	<b>6,3</b>	<b>6,3</b>	<b>6,3</b>	6,3
<b>Primary sectors</b>	<b>3,9</b>	<b>4,4</b>	<b>1,7</b>	<b>4,4</b>	<b>5,6</b>	<b>6,5</b>	<b>5,9</b>	<b>6,0</b>
<b>Non - primary sectors</b>	<b>6,9</b>	<b>7,4</b>	<b>7,1</b>	<b>6,5</b>	<b>6,4</b>	<b>6,3</b>	<b>6,4</b>	<b>6,4</b>

Source: Central Reserve Bank of Peru, Bureau of National Statistics. Forecast MEF.

### External Sector

For 2014-2016, the exports growth rate projection remains robust (mainly due to higher copper sales volumes) totaling US\$ 59 billion for 2016 (almost 30% more than in 2012). By 2016 exports will grow 28% compared to 2012, supported by higher mining sales. Copper sales will increase in 69% mainly due to higher export volumes (100%), offsetting the 17%<sup>6</sup> decline of the price of copper.



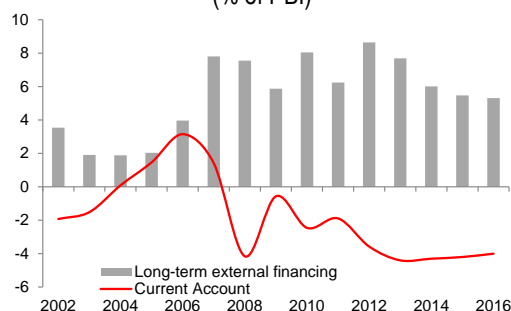
Source: BCRP, MEF.

For the period 2014-2016, imports growth rate projection has been revised down, mainly because of lower prices. Imports are expected to grow 9.0% on average (previous MMF: 12.0%) due to higher volumes that will grow 8.5% on average. This estimated volume growth rate has remained from the previous MMF, while the price growth rate fell to 0.4% (previous MMF: 3.2%). During this period, capital and consumer goods imports will be the most dynamic, 13.5% and 11.8%. By 2016, imports will reach US\$ 57 billion, 39% higher than 2012 and 8 times bigger than 2000.

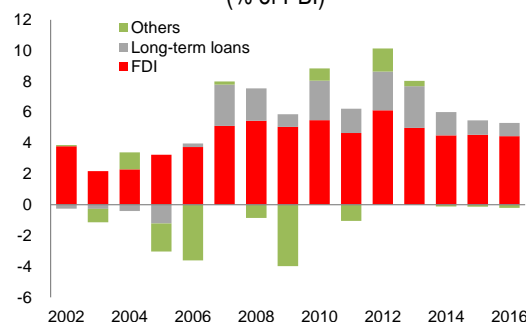
<sup>6</sup>(1+Value % Change) = (1+ Price % Change)\*(1+Quantity % Change).

**For 2014-2016, the current account will record an average deficit of 4.2% of GDP that will go down gradually and will be fully financed by long-term capital.** the current account deficit will be financed by the surplus in the financial account, in particular due to the higher inflows of long-term capital in the form of Foreign Direct Investment (FDI) that will account 4.5% of GDP. For 2014-2016, it is expected a moderation of the local companies debt issuing abroad, which would also moderate the growth of the financial account to an average of 5.4% of GDP compared to 10.1 % of GDP in 2012. However, if an international environment of low interest rates persists, the risk of financial account will increase because local firms will have incentives to continue their debt issuing abroad. Finally, the fall in export prices does not deteriorate all components of the current account. On one side, the trade balance surplus will be lower, generating a higher current account deficit, but on the other side, the profits of mining companies will be also lower so that there will be lower investment income, mitigating the previous effect of a further deterioration of the current account.

**Current Account and Long-term External Financing<sup>1</sup>**  
(% of PBI)



**Financial Account**  
(% of PBI)



1/ Long-term External Financing is the sum of Foreign Direct Investment (FDI) and long-term loans.  
Source: BCRP, MEF.

## Public Finances

As mentioned in the Fiscal Policy Statement and Fiscal Commitment of this MMF, the main fiscal policy guidelines of the Ministry of Economy and Finance are:

1. After achieving a structural fiscal surplus in 2012, the goal is to maintaining a sustainable path of expenditures consistent with structural or permanent revenues, in a context of commodity exports prices still historically high but with a declining trend. Beginning in 2014, the goal is to gradually reduce the structural fiscal deficit over the medium term<sup>7</sup>.
2. A fiscal surplus of around 0.6% of GDP during the 2013-2016 period
3. Avoiding an excessive procyclical fiscal stance.
4. Keeping a sustainable level of public debt.
5. Increasing permanent fiscal revenues.
6. Enhancing absorption capacity of the public sector to efficiently invest the public resources.

### Why is it important to maintain a small fiscal surplus?

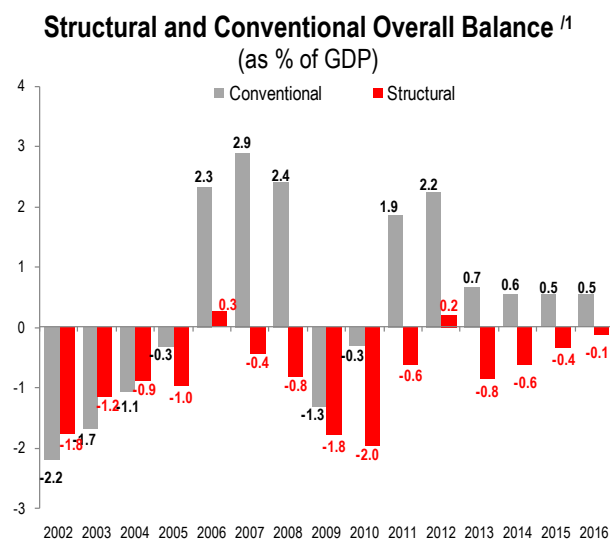
- A lower level of public savings would increase the external savings dependence or current account deficit above the expected levels on this MMF (4.2% percent of GDP on average for the 2013-2016 period). This could be a potential source of vulnerability in a scenario of sharp reversal of capital inflows (sudden stops).
- With a global scenario as uncertain and volatile as the one is expected, it is essential to have enough fiscal space to face the effects of a temporary or permanent decline on commodity exports prices scenario.
- While the appreciation of the local currency responds to improvements in economic fundamentals, lower fiscal surpluses could accelerate the pace of appreciation, affecting the competitiveness of labor-intensive tradable sectors and non-tradable sectors.
- The ability to face the consequences of possible natural disasters (earthquakes, tsunamis, etc.) and other contingencies must be preserved.

<sup>7</sup> If permanent revenues do not increase through broadening the tax base and reducing high levels of evasion and avoidance, projected structural deficit could be greater.

**Summary of Fiscal Accounts – Non Financial Public Sector**  
(Millions of Nuevos Soles, Percentage of GDP and real percent change)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. GENERAL GOVERNMENT REVENUES</b>	68 108	102 490	114 155	121 048	131 815	145 243	160 386	145 815
Percentage of GDP	19,6	21,1	21,7	21,4	21,4	21,8	22,2	21,8
Real percent change	9,6	12,8	7,5	3,7	6,8	8,0	8,3	7,7
<b>TAX BURDEN</b>								
Million of Nuevos Soles	50 146	75 591	84 147	88 649	97 259	109 134	121 474	109 289
Percentage of GDP	14,4	15,5	16,0	15,7	15,8	16,3	16,8	16,3
<b>II. GENERAL GOVERNMENT NON-FINANCIAL EXPENDITURE</b>	60 535	87 864	97 983	110 894	121 685	134 250	148 925	134 953
Percentage of GDP	17,5	18,1	18,6	19,6	19,7	20,1	20,6	20,2
Real percent change	7,5	2,0	7,6	10,7	7,6	8,2	8,8	8,2
<b>2.1. CURRENT EXPENDITURE</b>	45 817	63 369	68 841	77 684	82 847	88 912	96 310	89 356
Percentage of GDP	13,6	13,0	13,1	13,7	13,4	13,3	13,3	13,4
<b>2.2. CAPITAL EXPENDITURE</b>	14 717	24 495	29 142	33 210	38 839	45 338	52 615	45 597
Percentage of GDP	4,0	5,0	5,5	5,9	6,3	6,8	7,3	6,8
<b>III. NON FINANCIAL PUBLIC ENTERPRISES PRIMARY BALAN</b>	337	146	1 127	-960	-1 047	-1 542	-1 549	-1 379
Percentage of GDP	0,1	0,0	0,2	-0,2	-0,2	-0,2	-0,2	-0,2
<b>IV. PRIMARY BALANCE (I - II + III)</b>	7 910	14 773	17 299	9 194	9 083	9 451	9 912	9 482
Percentage of GDP	2,1	3,0	3,3	1,6	1,5	1,4	1,4	1,4
<b>V. INTEREST PAYMENTS</b>	5 245	5 696	5 547	5 394	5 688	5 810	5 946	5 815
Percentage of GDP	1,7	1,2	1,1	1,0	0,9	0,9	0,8	0,9
<b>VI. OVERALL BALANCE (IV-V)</b>	2 665	9 077	11 752	3 800	3 395	3 641	3 966	3 668
Percentage of GDP	0,5	1,9	2,2	0,7	0,6	0,5	0,5	0,5

Source: BCRP, MEF, MEF calculations.



<sup>1/</sup> The structural overall balance is calculated using a moving average of the last 15 years as the medium term price filter for mining and hydrocarbon commodity exports prices  
Source: MEF.

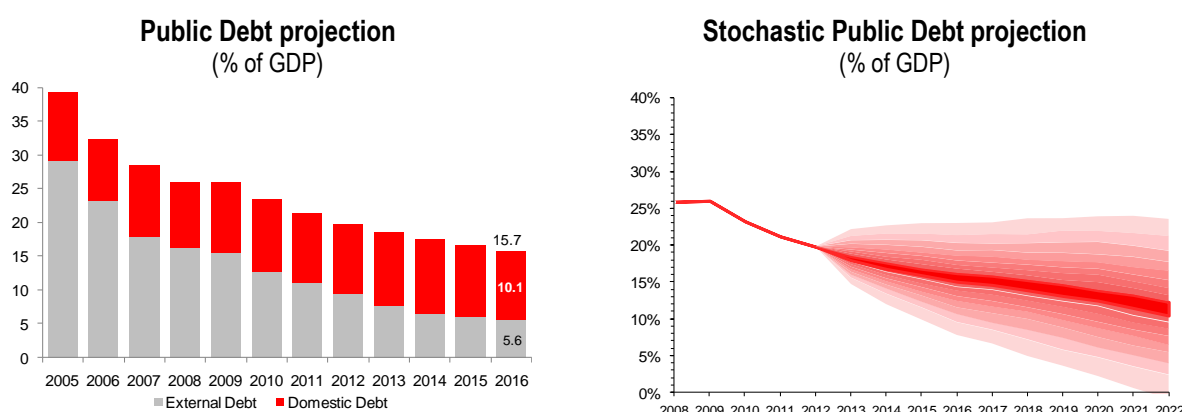
**The projected fiscal surplus for 2013 was revised down from 1.1% of GDP to 0.7% of GDP.** The lower projected fiscal surplus for 2013 is mainly due to lower tax revenues caused by the decline of international metal prices. However, the nominal level of the non-financial expenditures of the General Government for 2013 remains unchanged with respect to the previous MMF, in order to avoid erratic patterns and dissociate it from the high volatility of resource revenue.

**Between 2014-2016, General Government revenue will grow 7.7% annually on average in real terms and will reach 22.2% of GDP on 2016.** By 2016, the goal is to achieve a tax burden of 18% of GDP. However, with a global scenario with lower commodity prices than those previously considered, this will require an important effort from SUNAT to broaden the tax base and reduce the high levels of tax evasion and avoidance. It is important to

mention that the measures, taken in 2012, to improve management, supervision and control by SUNAT, along with other tax measures, have had an impact of approximately 0.3% of GDP on tax revenues. The 2013 and 2014 projections assume that the current management, supervision and control improvements of SUNAT mitigate the decline in export prices and generate additional resources for at least half a point of GDP annually in the next years.

**Between 2014-2016, the General Government's non-financial expenditure will grow 8.2% annually on average in real terms, above the 2002-2012 historical average (7.5%)** This scenario is consistent with current fiscal rules<sup>8</sup>. Regarding the new wage policy, Central Government's expenditures on wages and salaries will grow 7.3% on average over the 2014-2016 period, and will represent 4.2% of GDP (similar to the level of 2006). By 2016, expenditures ceilings have been slightly reduced, consistent with the projected path of structural revenues. Thus, in 2016 non-financial expenditure of the General Government can reach S/.149 billion (cumulative real growth of 50% since 2011) or 20.6% of GDP (2.5 percentage points of GDP higher than 2011). The predictable expansion of public spending requires an increase of the tax burden, to achieve this goal SUNAT must undertake a significant effort to broaden the tax base and to reduce tax evasion and avoidance levels. If this increase in permanent revenue does not materialize, the projected spending levels will not be feasible. Also, this effort from SUNAT to increase the tax burden will imply that fiscal accounts will become less dependent on commodity price fluctuations, because the tax base expansion would focus mainly on the non-tradable sector of the economy. There is a risk of higher spending at subnational level if fiscal rules are not met, especially in 2014 when regional and municipal election year is programmed.

**Downward trend of public debt to GDP ratio will continue, reaching around 15.7% of GDP by 2016.** Public debt policy is consistent with the objective to continue deepening and developing the foreign and domestic debt markets across the maturity spectrum of the yield curve. Also, by 2016, the share of Government debt denominated in local currency will increase, continuing with the de-dollarization trend of public debt.



Source: MEF-BCRP, MEF calculations.

**Significant efforts in different sectors and government levels are required to ensure higher quality of public spending, so greater fiscal resources effectively translate into substantial improvements of equal opportunities for the poor and excluded.** In a context of economic growth and higher fiscal revenues, non-financial expenditure of the General Government will have more than tripled, increasing from S/. 34 billion in 2000 to S/. 111 billion at the end of 2013. Although certain aggregate indicators have improved, significant gaps still remain in the poorest and excluded areas of the country, particularly in the provision of high quality public goods and services. The weak link and association between public budget allocation decisions and achieving results, evidences the need for a general public administration reform and, particularly, to the public budget system. In this regard, the Ministry of Economy and Finance aims to nearly 100% of the programmable budget (excluding pension, financial and administrative expenses) to be formulated based under a Performance Budgeting strategy before the end of this government, and that the National Budget System contributes to the efficiency and effectiveness of public spending through the link between budget program funding and the results to be achieved, using performance information systematically.

<sup>8</sup> a) Rule on Central Government's consumption expenditure: Legal cap of 4% for the real annual growth rate of expenditures on wages & salaries, pensions and goods & services.  
 b) The last three years average primary balance of each Regional and Local Government must not be negative.

## Main Macroeconomic Indicators

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>TRADING PARTNERS GDP</b>								
World (Real percentage change)	3.7	4.0	3.2	3.2	3.8	4.0	4.2	4.0
United States (Real percentage change)	1.7	1.8	2.2	1.7	2.6	3.0	3.0	2.9
Euro Zone (Real percentage change)	1.0	1.4	-0.6	-0.5	0.8	1.2	1.4	1.1
Japan (Real percentage change)	0.8	-0.6	2.0	1.2	1.2	1.2	1.2	1.2
China (Real percentage change)	10.3	9.3	7.8	8.0	8.0	8.0	8.0	8.0
Trading Partners (Real percentage change)	3.4	3.6	2.9	2.9	3.3	3.5	3.6	3.5
<b>COMMODITIES PRICES</b>								
Gold (\$/oz.tr.)	831	1,570	1,669	1,475	1,450	1,425	1,400	1,425
Copper (¢\$/lb.)	248	400	361	330	320	310	300	310
Lead (¢\$/lb.)	71	109	94	95	95	95	95	95
Zinc (¢\$/lb.)	84	100	89	86	86	86	86	86
Oil (\$/bar.)	66	95	94	95	95	98	100	98
<b>PRICES</b>								
Prices (Cumulative percentage change) <sup>1</sup>	2.8	4.7	2.6	2.0	2.0	2.0	2.0	2.0
Exchange Rate end of period (Nuevos Soles per dollar) <sup>2</sup>	3.10	2.75	2.63	2.53	2.50	2.50	2.50	2.50
Terms of Trade (Percentage change)	4.7	5.4	-4.9	-3.3	-0.7	-0.9	-0.7	-0.8
Export Price Index (Percentage change)	12.9	20.0	-3.3	-4.0	-0.4	-0.3	-0.3	-0.3
Import Price Index (Percentage change)	7.9	13.8	1.7	-0.7	0.3	0.6	0.4	0.4
<b>GROSS DOMESTIC PRODUCT</b>								
Gross Domestic Product (Billion of nuevos soles)	341	487	526	566	616	668	723	669
Gross Domestic Product (Real percentage change)	6.4	6.9	6.3	6.0 - 6.3	6.0 - 6.5	6.0 - 6.5	6.0 - 6.5	6.0 - 6.5
Domestic Demand (Real percentage change)	7.0	7.1	7.4	7.4	6.4	6.4	6.4	6.4
Private Consumption (Real percentage change)	5.5	6.4	5.8	5.6	5.5	5.5	5.5	5.5
Public Consumption (Real percentage change)	6.6	4.8	10.6	10.5	4.0	4.0	4.2	4.0
Private Investment (Real percentage change)	11.6	11.7	13.6	10.0	10.0	10.0	10.0	10.0
Public Investment (Real percentage change)	13.1	-17.8	20.9	20.1	13.5	13.5	10.5	12.5
Private Investment (Percentage of GDP)	17.7	19.6	21.5	22.4	23.1	24.0	24.8	24.0
Public Investment (Percentage of GDP)	3.9	4.5	5.2	5.9	6.3	6.8	7.0	6.7
<b>EXTERNAL SECTOR</b>								
Current Account Balance (Percentage of GDP)	-0.9	-1.9	-3.6	-4.4	-4.3	-4.2	-4.0	-4.2
Trade Balance (US\$ Million)	5,099	9,302	4,527	644	708	1,179	1,492	1,126
Exports (US\$ Million)	25,851	46,268	45,639	44,720	48,630	53,533	58,581	53,581
Imports (US\$ Million)	20,752	36,967	41,113	44,076	47,922	52,355	57,089	52,455
Long-term External Financing (Percentage of GDP)	5.2	6.2	8.6	8.3	7.7	6.0	5.5	5.3
<b>NON-FINANCIAL PUBLIC SECTOR</b>								
Tax burden (Percentage of GDP)	14.4	15.5	16.0	15.7	15.8	16.3	16.8	16.3
Current Revenue of GG (Percentage of GDP)	19.4	21.0	21.6	21.3	21.3	21.7	22.1	21.7
Primary Balance (Percentage of GDP)	2.1	3.0	3.3	1.6	1.5	1.4	1.4	1.4
Overall Balance (Percentage of GDP)	0.5	1.9	2.2	0.7	0.6	0.5	0.5	0.5
Structural Overall Balance (Percentage of GDP) <sup>3</sup>	-0.9	-0.6	0.2	-0.8	-0.6	-0.4	-0.1	-0.4
<b>PUBLIC DEBT STOCK</b>								
Foreign (Percentage of GDP)	22.0	11.0	9.5	7.7	6.6	6.1	5.6	6.1
Domestic (Percentage of GDP)	10.0	10.3	10.2	10.7	10.9	10.6	10.1	10.5
Total (Percentage of GDP)	32.1	21.3	19.7	18.5	17.5	16.7	15.7	16.7

1/ Consistent with CRBP's target range.

2/ 2013-2015, taken from the Monthly Survey on Macroeconomic Expectations: April 2013. BCRP. For 2016 we assume the same value of 2015.

3/ The structural overall balance is calculated using a moving average of the last 15 years as the medium term price filter for mining and hydrocarbon commodity exports prices.

Source: INEI, BCRP, MEF.

## 2 ECONOMIC POLICY GUIDELINES

**1. Greater social inclusion: poverty reduction, inequality decrease, access to equal opportunities, greater presence and effectiveness of the state in rural areas of the country.** In a context of macroeconomic stability, sustained economic growth of recent years has been the main driver of poverty reduction (a fall from 58.7% in 2004 to 25.8% in 2012), mainly from areas and sectors articulated to the dynamics of the economy, but staying behind important segments of the population. In this context, the National Strategy for Development and Social Inclusion "Include to Grow" (Supreme Decree 008-2013-MIDIS) was approved, which is a management tool that seeks to regulate and guide the coordinated interventions of the three levels of government about development and social inclusion to priority outcomes, recognizing the current skills and processes. The main challenges of inclusive growth are as follows: i) to reduce rural poverty, which is twice the national average, ii) to reduce chronic malnutrition, which amounts to one-third of rural children, iii) to promote early childhood development and kindergarten attendance in rural areas, iv) to promote the integral development of children and adolescents, reducing gaps in access and quality of the education system, anemia, child labor and teenage pregnancy rates, v) to improve the quality of public education, increasing coverage in early childhood education and articulate it with the following levels of education to improve educational performance and close gaps in rural and intercultural bilingual education; vii) reduce gaps in access to drinkable water, sanitation, roads and electricity in the country's poorest districts, viii) articulate development and social inclusion policies and programs to promoting productive development and employability policies and programs, and ix) promote the protection and welfare of the elderly. Consequently, growth with social inclusion implies using the bigger permanent fiscal revenues that come from the sustained economic growth, into an expansion of social spending on cost-effective interventions more articulated and better focalized in favor of the poorest. The greater social inclusion and the reduction of social conflicts will result in a better investment climate and sustainable growth.

**2. Growth with Stability.** The major economic policy guidelines remain the same, guaranteeing a prudent and responsible management of macroeconomic accounts. To ensure macroeconomic stability is a priority goal because it allows: i) to achieve higher sustainable growth rates, a central element to continue generating employment and to reduce poverty, ii) to create the necessary spaces to implement fiscal policies that mitigate adverse conjunctural events; iii) to attract substantial private investment flows, and iv) to hold the investment grade and improve our credit rating so that new debt issues (public and private) have a lower cost. The objective of ensuring macroeconomic stability is a prerequisite for achieving sustainably the objectives already mentioned above.

**3. Improving the productivity and competitiveness of the economy.** Although Peru will lead the economic growth in the region, its per capita GDP will rank below other neighboring countries. Just in 2005, Peru regained its 1975 per capita GDP level in constant dollars, and in recent years it has reduced the gap with other countries in the region. By 2016, it is expected that per capita GDP amounts about US\$ 14,000 in PPP (purchasing power parity), below the levels of most countries in the region. To rank among the best places in the region, it is necessary to maintain the growth rate above 6% for the next 15 years at least. Sustaining this growth rate for a long period and amid a context of lower international metal prices will require significant efforts to increase the country's productivity and competitiveness through: i) substantial improvement of human capital, ii) reduction of the infrastructure gap through Public-Private Partnerships; iii) administrative simplification to encourage investment and facilitate business formalization and development, iv) promotion of science, technology and innovation, v) production diversification based on a value-added strategy that promotes quality, new tools for productive development, free competition and internationalization, vi) further financial deepening and capital market development, and vii) the proper design and implementation of actions for environmental sustainability.

**4. Increasing permanent fiscal revenues.** The Government is implementing measures to broaden permanently the tax base through: i) attacking high tax evasion (about 35% in the VAT and more than 50% in Income Tax), ii) reducing smuggling (about 3% of imports), iii) promoting formalization, supervision and control (especially freelancers), iv) putting emphasis on electronic transactions, which not only facilitate tax compliance, but also generate more and better timely information, v) increasing efforts to recover tax debts, vi) boosting the implementation of monitoring and control systems based on risk analysis, vii) rationalizing tax exemptions and benefits, and viii) seeking the optimization of Municipal Taxes (as property tax, alcabala tax<sup>9</sup> and vehicle property tax) in order to strengthen the management of local governments without affecting the fairness of the tax system.

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<sup>9</sup> Tax levied on real state transfers.

**5. Improving the quality of public expenditure through the Performance Budgeting strategy.** In a context of economic growth and higher fiscal revenues, non-financial expenditure of the General Government will have more than tripled, increasing from S/. 34 billion in 2000 to S/. 111 billion at the end of 2013.

Although certain aggregate indicators have improved, significant gaps still remain in the poorest and excluded areas of the country, particularly in the provision of high quality public goods and services. Among the main factors behind the disparity between public spending increases and results, it can be highlighted: i) absence of a focus on results, ii) lack of clarity in public entities about which is the product that must be delivered to the citizens in order to achieve their priority objectives in the framework of public policies and functions, iii) there are many actors with heterogeneous capabilities and points of views, iv) control activities are prioritized over guidance and counseling activities, v) limited information and low analysis on the performance of public interventions, vi) predominance of inertial criteria in budget allocation, and vii) weak planning and clarity on priorities.

The weak link and association between public budget allocation decisions and achieving results, evidences the need for a general public administration reform and, particularly, to the public budget system. In this regard, the Ministry of Economy and Finance aims to nearly 100% of the programmable budget (excluding pension, financial and administrative expenses) to be formulated based under a Performance Budgeting strategy before the end of this government, and that the National Budget System contributes to the efficiency and effectiveness of public spending through the link between budget program funding and the results to be achieved, using performance information systematically. To implement this objective, it is necessary to advance in the following aspects: i) deepening the methodology of Performance Budgeting , through the mechanism of Budget Programs, ii) gradual extension of the public budget programmatic coverage, iii) generation and use of performance information for a more effective and efficient allocation of public resources, iv) developing a culture of accountability that gives feedback to the current management, v) introduction of multi-year expenditure programming view, and vi) improving coordination between current and capital spending, and vii) strengthening the territorial articulation.

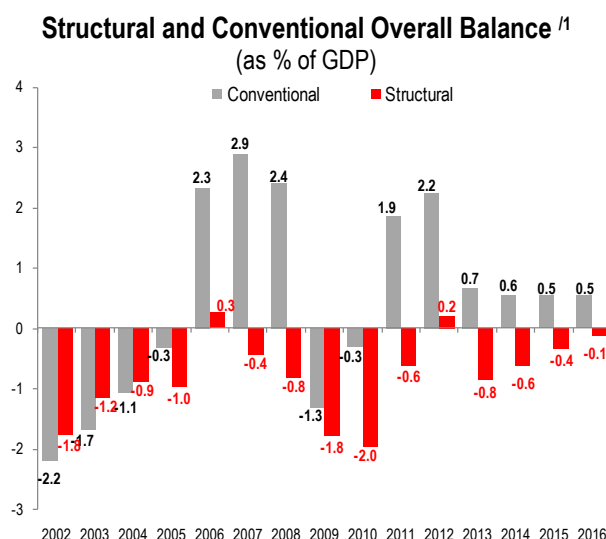
Finally, it is important to mention the current administration aims to: i) the modernization of the management of public enterprises through the improvement of corporate governance and a probable participation of private capital, ii) greater transparency in public procurement processes, and iii) the generation of a unique set of forms in the public sector, which includes not only the remunerative aspect but also the pension for a better management of Treasury resources, taking into consideration that almost 40% of the budget goes to these two items.

### 3 FISCAL POLICY STATEMENT

The main guidelines of Fiscal Policy of the Ministry of Economy and Finances are:

**1. After achieving a structural fiscal surplus in 2012, the Government seeks to maintain a sustainable path of public expenditures consistent with the levels of structural or permanent income, in a context of high export prices but with a downward trend.** The distinction between structural and transitory components that explain the evolution of public finances is an important tool for the analysis of fiscal policy. The Structural Balance Indicator is used to compute the Public Sector Overall Balance excluding the effects of commodities prices fluctuations or the economic cycle. Commodities prices are highly volatile and are subject to sudden fluctuations, for example they can drop by 50% (from maximum to minimum level) with even sharper declines in metal prices. Between April 10th and April 16th, the international price of gold fell 12.4%, and between April 10th and April 23th the price of copper fell 9.8%, their lowest level since 2011. Public expenditure must not be volatile because it is costly in terms of efficiency and management capacity at the sector policy level; therefore, public finances must be isolated from the high degree of revenue volatility that comes from our main commodities exports. A group of commodity-exporting countries such as Chile and Norway use some kind of structural fiscal rule, while countries like Canada and Australia use a structural balance indicator as an analytical tool.

According to the baseline scenario of this Multiannual Macroeconomic Framework, the average copper price will gradually decrease to cUS\$ 300 per pound; nevertheless that level will be almost 50% higher than the 2000-2011 average price. In summary, it is an important tool for the design of fiscal policy analyzing the fiscal position in structural terms.



<sup>1/</sup> The structural overall balance is calculated using a moving average of the last 15 years as the medium term price filter for mining and hydrocarbon commodity exports prices  
Source: MEF.

**2. The projections of this Multiannual Macroeconomic Framework are consistent with an average fiscal surplus of around 0.6% of GDP for the 2013-2016 period.**

- A lower level of public savings would increase the external savings dependence or current account deficit above the expected levels on this MMF (4.2% percent of GDP on average for the 2013-2016 period). This could be a potential source of vulnerability in a scenario of a sharp reversal of capital inflows (sudden stops).
- With a global scenario as uncertain and volatile as the one is expected, it is essential to have enough fiscal space to face the effects of a temporary or permanent decline on commodity exports prices scenario.
- While the appreciation of the local currency responds to improvements in economic fundamentals, lower fiscal surpluses could accelerate the pace of appreciation, affecting the competitiveness of labor-intensive tradable sectors and non-tradable sectors.
- The ability to face the consequences of possible natural disasters (earthquakes, tsunamis, etc.) and other contingencies must be preserved.



**3. Avoiding a strong procyclical fiscal stance.** The economy will grow around its potential level so the Government seeks to avoid a too procyclical fiscal stance. In that sense discretionary fiscal policy as a countercyclical tool will be reserved only for cases when significant deviations of the GDP from its long term potential level were anticipated, as a consequence of a sharp deterioration in the global economy or a severe natural disaster. A prerequisite to implement countercyclical fiscal policy is saving transitory income during periods of high prices for commodities exports.

**4. Keeping a sustainable level of public debt.** While the public debt to GDP ratio declined from 46.0% in 2000 to 19.7% in 2012, it still ranks above other commodity-exporting countries such as Chile (11.2%) and Russia (10.9%).

**5. Increasing permanent fiscal revenues.** Even though the tax burden has increased from 12.3% in 2000 to 16.0% of GDP in 2012, it still remains below other countries levels such as Chile (17.6%) or Uruguay (19.4%). Thereby the Government is implementing measures to broaden permanently the tax base through: i) attacking high tax evasion (about 35% in the VAT and more than 50% in Income Tax ), ii) reducing smuggling (about 3% of imports), iii) promoting formalization, supervision and control (especially freelancers), iv) putting emphasis on electronic transactions, which not only facilitate tax compliance, but also generate more and better timely information, v) increasing efforts to recover tax debts, vi) boosting the implementation of monitoring and control systems based on risk analysis, vii) rationalizing tax exemptions and benefits, and viii) seeking the optimization of Municipal Taxes (as property tax, property transfer tax “alcabala”, and vehicle property tax) in order to strengthen the management of local governments without affecting the fairness of the tax system.

**6. Enhancing the absorption capacity of the public sector to invest public resources efficiently.** The authorities must continue improving the current public investment system in all phases (planning and prioritization, operation and maintenance, and monitoring and evaluation). It requires an extensive public investment strategy that identifies infrastructure needs and capacity constraints by sectors and territories, establishing priorities, quantifying financing needs for construction and operation, and creating opportunities for Public-Private Partnerships in the medium term. In this way, it will be avoided having a fragmented public investment, with little connection with sectors and territories and low economic and social returns

#### **4 TAX POLICY STATEMENT**

The main goal for the coming years is to continue strengthening the national tax system, based on the principles of adequacy, neutrality, efficiency, equity and simplicity, in order to obtain the fiscal resources needed to mainly finance social inclusion programs.

For that purpose the Government will be permanently evaluating the effect of the changes made to the taxes that are part of the national tax system and their contribution to public revenues. Such taxes are mainly the Income Tax, the Value Added Tax and the Excise Tax.

Also the policy of rationalization of existing tax exemptions and benefits will continue, not only because they generate distortions to the economy, but also represent a source of tax expenditure of 1.91% of GDP in 2013. Therefore, a new strategy to ration tax exemptions and other preferential treatments will be implemented, seeking not only to remove the existing ones, but mainly to prevent the proliferation of new ones.

##### **Perspectives for 2014-2016**

- In the case of Income Tax, the Government will continue evaluating new regulations to reduce tax benefits, especially those that affect the subscribed contracts with the State, and other measures to strengthen the tax basis, provide greater neutrality and fairness, and combat avoidance schemes.
- On the side of the Value Added Tax (VAT), the legislation will be revised to identify legal gaps or lack of clarity that prevent the proper application of the tax. The Government will seek to make the VAT more neutral, eliminating distortions caused by the exemptions that have no impact on welfare or removing those exemptions that encourage tax evasion or tax offenses. Also, rationing and improving the payment system will continue in order to ensure tax compliance
- In the Excise Tax case, the Government will seek to link the burden of the tax to the negative externality generated by the consumption of goods levied, without affecting the tax burden objectives and macroeconomic stability.
- With regard to municipal taxation, some legal changes will be proposed aiming to optimize the property tax, the property transfer tax (alcabala) and the vehicle property tax, to allow the strengthening of the local government management without affecting the fairness of the tax system. It will also seek to give more revenues to municipalities to improve their management capacities and make the tax burdens more equitably.

### BOX 5.1: PROMOTION AND STREAMLINING OF INVESTMENT

In recent weeks, in order to prioritize and expedite the implementation of public and private investment, a series of measures have been adopted including reducing time limits for the issuance of certificates, authorizations and procedures. The main measures are detailed below:

i) Supreme Decree No. 054-2013-PCM, published on May 16, 2013 which approves special provisions for implementing administrative procedures for authorization and / or certification for investment projects, mainly related to the issuance of the Certificate of Absence of Archaeological Remains (CIRA), the water use authorizations and rights over public properties. These include: a) in the case of CIRA, the accuracy regarding the requirements to apply for it, setting a deadline of 10 working days for the approval of an Archaeological Monitoring Plan by the Directorate of Archaeology or Regional Directorates of Culture and in case of existing infrastructure, not having to deal with CIRA (only submission of the Archeological Monitoring Plan); b) on water use authorizations, 15 working days for the corresponding water authority to pronounce itself, and c) on rights over public properties, 15 working days for the National Superintendence of Public Properties to deliver the property.

ii) Law No. 30025 issued on May 22, 2013, law that facilitates the acquisition, expropriation and possession of real state for infrastructure and declares the acquisition or expropriation of real estate affected for the execution of various works of infrastructures as public necessity. This law streamlines direct negotiation procedures and expropriation for infrastructure, stating:

- Appraised value: recognizes concepts such as damage and loss of earnings, in order to reduce conflicts and lawsuits.
- Coercive Executor: its function is to make the owner vacate the property, after the fair price compensation has been canceled and the deadline for vacation has been met.
- Authorizes the private investor to manage and complete the acquisition in concession or public-private partnerships. Then, the government will reimburse the investor.

Furthermore, the Law declares the execution of 69 large infrastructure projects of national interest as public necessity.

iii) The promotion and streamlining of investment is declared as national interest. Because of this, the Ministry of Economy and Finance together with PROINVERSION will create a specialized team in order to track investments. Their functions will be:

- To track the investment execution plans, in order to facilitate and streamline the execution of these projects.
- To identify problems and impediments that affect the execution of such programs, and propose solutions.
- To propose measures in order to strengthen the institutional capacities that would affect the timely and efficient execution of these projects.

iv) Special provisions have been elaborated in order to execute administrative procedures in environmental topics, standing out: i) the approval of reference terms for projects with common characteristics (20 working days), ii) less “red tape” and less time for the approval of environmental impact studies by the Ministry of Energy and Mines and other competent authorities, iii) prohibit entities to pronounce themselves on issues that are not within their competence, and iv) prevent non-binding opinions to delay such approvals.

## Declaration of Public Priority Infrastructure by law N° 30025

### Road

- 1) Highway of Sol (Trujillo - Chiclayo - Piura - Sullana).
- 2) Road sections multimodal axis Northern Amazon of "Plan de acción para la integración de infraestructura regional sudamericana - IIRSA".
- 3) Section N° 1 South Interoceanic Highway Corridor, Peru Brasil (San Juan de Marcona - Urcos).
- 4) Section N° 2 South Interoceanic Highway Corridor, Peru Brasil (Urcos - Inambari).
- 5) Section N° 4 South Interoceanic Highway Corridor, Peru Brasil (Inambari - Azangaro).
- 6) Section N° 5 South Interoceanic Highway Corridor, Peru Brasil (Ilo - Puno - Juliaca, Matarani - Juliaca - Azangaro).
- 7) IIRSA Centro Section N° 2 (Bridge Ricardo Palma - La Oroya - Huancayo y La Oroya - Cerro de Pasco).
- 8) Road section Nuevo Mocupe - Cayalti - Oyotun - Puente Las Delicias.
- 9) Road section Chancay / Variante Pasamayo - Hualar - Acos.
- 10) Red Vial N° 4: Section Pativilca - Santa - Trujillo & Puerto Salaverry - Empalme PN1N.
- 11) Red Vial N° 5: Section Ancon - Huacho - Pativilca, North Pan-American Highway.
- 12) Red Vial N° 6: Section: Puente Pucusana - Cerro Azul - Ica, South Pan-American Highway
- 13) Longitudinal highway of the Highlands: Chiple - Cutervo - Cochabamba - Chota - Bambamarca - Hualgayoc - Yanacocha, Cajabamba - Sausacocho, Huamachuco - Shorey - Santiago de Chuco - Pallasca - Cabana - Tauca, Huallanca - Caraz, Huallanca - La Union - Huanuco, Izcuchaca - Mayocc - Huanta Ayacucho - Andahuaylas - Abancay.
- 14) Road Huancavelica - Santa Inés - Castrovirreyna - Pampano & Santa Inés - Rumichaca.
- 15) Road Imperial - Pampas - Mayocc.
- 16) Road Huancavelica - Lircay.
- 17) Longitudinal road of the Jungle "Puente Integración - San Ignacio - Perico, Juanjui - Campanilla - Pizana - Tocache - Von Humboldt - Puerto Bermudez - Villa Rica - Puente Reither - Satipo - Mazamari - Puerto Ocopa".
- 18) Road Cusco - Quillabamba.
- 19) Road Trujillo - Shiran - Shorey.
- 20) Road Quinua - San Francisco.
- 21) Road Cajamarca - Celendin - Balzas, Soritor - La Calzada.
- 22) Road Pimentel - Chiclayo.
- 23) Road Lima - Canta - Huayllay - Vicco - Emp. PE-3N (Shelby).
- 24) Evitamiento Highway - Chimbote.
- 25) Road Chongoyape - Cochabamba.
- 26) Road La Tina - La Tina - Cachaquito.
- 27) Road Quilca - Matarani - Ilo.
- 28) Road Cañete - Lunahuana, Roncha - Chupaca - Puente Pilcomayo.
- 29) Road Tarata - Mazocruz - Ilave.
- 30) Road Huamachuco - Bridge Pallar - Abra Naranjillo.
- 31) Evitamiento Highway of Urcos.
- 32) Road Imata - Oscollo - Negromayo - San Genaro - Descanso - Sicuani y Negro Mayo - Ocoruro - Pallpata - Yauri.
- 33) Road Las Vegas - Tarma.
- 34) Road Rio Seco - El Ahorcado - Sayan.
- 35) Road Mala - Calango - La Capilla.
- 36) Linea Amarilla.
- 37) Southern Highway Project.
- 38) Project Vías Nuevas of the city of Lima.
- 39) Regional Road Arequipa La Joya - Region Arequipa.
- 40) Construction of Via Trunk Interconectora between district of Miraflores, Alto Selva Alegre, Yanahuara, Cayma & Cerro Colorado of province of Arequipa.
- 41) Integrated Transport System SIT - Arequipa.
- 42) Rehabilitation and paving of Highway National Route N° PE-18 Section Oyon - Yanahuanca - Ambo.

### Airport

- 43) Airport "Capitan FAP Pedro Canga Rodriguez", located in Zarumilla, Tumbes.
- 44) Airport "Capitan FAP Guillermo Concha Iberico", located in Castilla, Piura.
- 45) International Airport "Capitan FAP Victor Montes", located in Pariñas, province of Talara, Piura.
- 46) Airport "Capitan FAP José Abelardo Quiñones Gonzalez", located in Chiclayo, Lambayeque.
- 47) Airport "Capitan FAP Carlos Martinez Pinillos", located in Huanchaco, province of Trujillo, La Libertad.
- 48) Airport "Mayor General FAP Armando Revoredo Iglesias", located in Baños del Inca, Cajamarca.
- 49) Airport "Comandante FAP German Arias Graziani", located in Anta, province of Carhuaz, Ancash.
- 50) International Airport "Coronel FAP Francisco Secada Vignetta", located in Iquitos, district of San Juan, province of Maynas, Loreto.
- 51) Airport "Cadete FAP Guillermo del Castillo Paredes", located in Tarapoto, San Martin.
- 52) Airport "Capitan FAP David Abensur Rengifo", located in Pucallpa, district of Yarinacocha, province of Coronel Portillo, Ucayali.
- 53) International Airport of Pisco, located in district of San Andrés, province of Pisco, Ica.
- 54) International Airport "Inca Manco Capac", located in district of Juliaca, province of San Roman, Puno.
- 55) International Airport "Alfredo Rodriguez Ballon" de Arequipa, located in district of Cerro Colorado, province of Arequipa, Arequipa.
- 56) Airport "Coronel FAP Alfredo Mendivil Duarte", located in district of Ayacucho, province of Huamanga, Ayacucho.
- 57) International Airport "Padre Aldamiz" de Puerto Maldonado, province of Tambopata, Madre de Dios.
- 58) International Airport "Coronel FAP Carlos Ciriani Santa Rosa", located in district of Tacna, province of Tacna, Tacna.
- 59) Aerodrome of Puerto Mayo - Pichari.

### Railway

- 60) Electric public transport of Lima and Callao, Line 1 & 2.

### Port

- 61) Port Terminals of Paita.
- 62) Port Terminals of San Martin.

### Tourism

- 63) Gondolas System of Kuélap.

### Border

- 64) Relocation, construction and equipping of border crossing in Iñapari (Peru-Brasil), located in district of Iñapari, province of Tahuamanu, Madre de Dios.
- 65) Border Crossing Desaguadero (Peru-Bolivia).
- 66) Construction and equipment of border complex in Tilali - Puerto Acosta.
- 67) Construction and equipment of border complex in El Alamor.
- 68) Construction and equipment of border complex in Saramiriza-Loja.

### Others

- 69) Fishing complex La Puntilla.

Source: Newspaper "El Peruano", on May 22, 2013

## **Box 5.2: PUBLIC-PRIVATE PARTNERSHIPS: ALTERNATIVE TO REDUCE INFRASTRUCTURE GAPS**

Over the last decade, Peru has been one of the fastest growing economies in the world. In the last 10 years, the average growth of our economy reached 6.5%, the highest average in 60 years, and per capita income doubled to US\$ 10,719 per year (PPP).

In order to sustain the dynamism of the economic growth, to improve the quality of life of population and to reach social inclusion amongst all Peruvians, the development of infrastructure and quality public services is mandatory. According to the World Economic Forum Global Competitiveness Report 2012-2013, Peru ranks 111 (out of 144 countries) on infrastructure quality, which shows that the progress made so far is not enough, and there is a huge effort to undertake.

Private-Public Partnerships (PPPs) are an excellent tool that can help to reduce such gaps, allowing the private sector to work together with the Government in order to create, improve, operate and maintain the public infrastructure and public services. In this sense, PPPs are an alternative to the traditional infrastructure provision, because these allow incorporating skills, resources and swiftness of the private sector activities to the provision of public services. This will mean more and better provision of public services to the population in less time and through more efficient management models.

In order to take advantage of these benefits, the Peruvian Government encourages PPPs by providing a favorable environment for their development, and promoting efficient, transparent and competitive processes that attract the more qualified companies in order to guarantee high quality service provision.

As a result of this consistent policy, Peru has been recognized by several international institutions as one of the countries with better environment for PPP sustainable development in Latin America and the Caribbean. According to a study by The Economist Intelligence Unit, in 2012, Peru occupies the 3rd place in the region, excelling due to the suitability of its institutional and regulatory frameworks, as well as for its climate of macroeconomic stability.

### **Measures to boost PPPs**

Despite the fact that since the late nineties to date, the Peruvian Government has given in concession infrastructure projects for an amount of US\$15 billion, mainly in transport, energy and telecommunications sectors, the authorities have identified the need to implement measures to enable the streamlining of processes and encouraging the participation of private investment in new sectors that allow a faster reduction of the infrastructure gap in the country.

In that sense, in order to expedite the process of developing pre-investment studies of prioritized PPP projects to reduce the infrastructure gap, the creation of a Special Committee on Public Investment Projects has been ordered. This committee aims: i) to develop priority Public Investment Projects (PIP), and coordinate with the DGPI-MEF assessment and declaration on the viability of these projects, ii) to propose to the Board of PROINVERSION the PIPs that can be incorporated into the process of promotion under PPPs and iii) to declare prioritized cofinanced private initiatives as matter of public interest, previously managing their viability with the DGPI-MEF.

Also, in order for the private sector to help identify relevant and priority infrastructure projects that will reduce the infrastructure gap, the Regulations on Priority Co-financed Private Initiatives was issued, which will allow private investors to submit proposals for projects co-financed by State. If the project was relevant to the State, the investor shall be allowed to develop studies using a simplified methodology by SNIP (single level of studies and project-specific minimum content). Once the project is viable, it is declared of interest for the State. In case third parties are interested in the development of this project, a contest is held to decide who runs it. Otherwise, it is given to the project proposer.

## Project Portfolio and strengthening PROINVERSION

PROINVERSION is responsible for the structuring and development of a project portfolio with high economic and social impact. Proof of this is that between 2013 and 2014 this agency estimates a portfolio of 28 infrastructure projects and priority public services (two have already been awarded in the first quarter), representing an investment of US\$ 13.6 billions approximately, the most ambitious package in the history of Public-Private Partnerships in the country. The composition of this portfolio by sector is as follows:

- 10 projects in electricity and hydrocarbons. Investment: US\$6.1 billion.
- 7 projects on air, land and river transport. Investment: US\$5.6 billion.
- 3 projects in sanitation. Investment: US\$ 545 million.
- 2 projects in telecommunications. Investment: US\$715 million.
- 1 project in agriculture. Investment US\$597 million.
- 5 projects in other sectors.

To successfully develop this project package, PROINVERSION has been making intense promotional activities in major markets, having generated a strong interest among investors from different countries.

### PROINVERSION Project Portfolio 2013-2014<sup>1/</sup>

N°	Project	Estimated Investment (US\$ Million)	Sector
1	Line 2 and branch line of the Basic Network of the Metro of Lima and Callao	4,500	Railroad
2	Energy security and southern gas pipeline	2,431	Hydrocarbons
3	South energy node of Peru	1,200	Hydrocarbons
4	Molloco Hydroelectric	700	Electricity
5	Chavimochic irrigation project	597	Agriculture
6	220 kV Moyobamba -Iquitos Transmission Line and associated sub stations	434	Electricity
7	1710 – 1770 MHz and 2110 – 2170 MHz (Blocks A and B) Band Nationwide	400	Telecommunication
8	Main works and conduction of drinkable water supply for Lima	400	Sanitation
9	Mantaro-Marcona- Socabaya-Montalvo 500 Kv Transmission Line and associated sub stations	380	Electricity
10	New international airport of Chinchero - Cusco	356	Airport
11	National optical fiber backbone network	315	Telecommunication
12	Supply System of LPG for Lima and Callao	260	Hydrocarbons
13	Supply system of LNG for domestic market	250	Hydrocarbons
14	Longitudinal de la Sierra (Section 4)	250	Land Transport
15	Mass use of natural gas nationwide	205	Hydrocarbons
16	Machupicchu - Quencora - Onocora - Tintaya 220 Kv Transmission Line and associated sub stations	181	Electricity
17	Longitudinal de la Sierra (Section 2)	175	Land Transport
18	Longitudinal de la Sierra (Section 5)	127	Land Transport
19	General San Martin port terminal	101	Port
20	Energy supply to Iquitos city	100	Electricity
21	Water sanitation works for southern beach districts of Lima	100	Sanitation
22	Amazon waterways	74	Port
23	Chillon River water supply	45	Sanitation
24	Kuelap Cable car	11	Turismo
25	Huayday Ambara Mining Prospect	---	Mining
26	Concession of Remaining Michiquillay Project	---	Mining
27	Management of the Instituto Nacional de Salud del Niño – San Borja	---	Health
28	Management of the Great National Theater	---	Culture
<b>TOTAL</b>		<b>13,592</b>	

Source: PROINVERSIÓN.

1/ The estimated investment does not include VAT.

## 6 STATISTIC TABLES

**Table 1**  
**MAIN MACROECONOMIC INDICATORS**

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>EXCHANGE RATE AND PRICES</b>								
Inflation <sup>1</sup>								
Cumulative (Percentage change)	2,8	4,7	2,6	2,0	2,0	2,0	2,0	2,0
Average (Percentage change)	2,6	3,4	3,7	2,2	2,0	2,0	2,0	2,0
Exchange rate								
End of Period (Nuevos Soles per dollar) <sup>2</sup>	3,10	2,75	2,63	2,53	2,48	2,50	2,50	2,5
<b>PRODUCTION</b>								
Gross Domestic Product (Billion of Nuevos Soles)	341	487	526	566	616	668	723	669
Gross Domestic Product (Real percentage change)	6,4	6,9	6,3	6,0 - 6,3	6,0 - 6,5	6,0 - 6,5	6,0 - 6,5	6,0 - 6,5
Domestic Demand (Real percentage change)	7,0	7,1	7,4	7,4	6,4	6,4	6,4	6,4
Gross Fixed Investment (Percentage of GDP)	21,6	24,1	26,7	28,4	29,5	30,7	31,9	30,7
Private Investment (Percentage of GDP)	17,7	19,6	21,5	22,4	23,1	24,0	24,8	24,0
<b>EXTERNAL SECTOR</b>								
Current Account Balance (Percentage of GDP)	-0,9	-1,9	-3,6	-4,4	-4,3	-4,2	-4,0	-4,2
Trade Balance (\$ Million)	5 099	9 302	4 527	644	708	1 179	1 492	1 126
Exports (\$ Million)	25 851	46 268	45 639	44 720	48 630	53 533	58 581	53 581
Imports (\$ Million)	20 752	36 967	41 113	44 076	47 922	52 355	57 089	52 455
<b>NON-FINANCIAL PUBLIC SECTOR</b>								
Tax burden (Percentage of GDP)	14,4	15,5	16,0	15,7	15,8	16,3	16,8	16,3
Current Revenue of GG (Percentage of GDP)	19,4	21,0	21,6	21,3	21,3	21,7	22,1	21,7
Primary Balance (Percentage of GDP)	2,1	3,0	3,3	1,6	1,5	1,4	1,4	1,4
Overall Balance (Percentage of GDP)	0,5	1,9	2,2	0,7	0,6	0,5	0,5	0,5
Structural Overall Balance (Percentage of GDP) <sup>3</sup>	-0,9	-0,6	0,2	-0,8	-0,6	-0,4	-0,1	-0,4
<b>PUBLIC DEBT STOCK</b>								
Foreign (Percentage of GDP)	22,0	11,0	9,5	7,7	6,6	6,1	5,6	6,1
Domestic (Percentage of GDP)	10,0	10,3	10,2	10,7	10,9	10,6	10,1	10,5
Total (Percentage of GDP)	32,1	21,3	19,7	18,5	17,5	16,7	15,7	16,7

1/ Consistent with CRBP's target range.

2/ 2013-2015, taken from the Monthly Survey on Macroeconomic Expectations: April 2013. BCRP. For 2016 we assume the same value of 2015

3/ Structural MA 15, which uses the moving average of the last fifteen years as estimated long-term level of real export prices of metals and fuel.

Source: INEI, BCRP, MEF.

**Table 2**  
**SAVINGS-INVESTMENT**  
(Percentage of GDP)

	<b>Avg. 2002-2012</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Avg. 2014-2016</b>
<b>Domestic savings</b>	<b>20.9</b>	<b>23.6</b>	<b>23.3</b>	<b>23.8</b>	<b>24.5</b>	<b>25.4</b>	<b>26.2</b>	<b>25.4</b>
Public sector	4.6	7.2	7.8	6.8	7.3	7.9	8.3	7.8
Private sector	16.4	16.4	15.6	17.0	17.3	17.6	17.9	17.6
<b>External savings</b>	<b>0.9</b>	<b>1.9</b>	<b>3.6</b>	<b>4.4</b>	<b>4.3</b>	<b>4.2</b>	<b>4.0</b>	<b>4.2</b>
<b>Investment</b>	<b>21.9</b>	<b>25.5</b>	<b>26.9</b>	<b>28.2</b>	<b>28.9</b>	<b>29.6</b>	<b>30.2</b>	<b>29.6</b>
Public sector	3.9	4.5	5.2	5.9	6.3	6.8	7.0	6.7
Private sector <sup>1</sup>	18.0	20.9	21.7	22.3	22.6	22.9	23.2	22.9

1/ Includes change of inventories. Source: BCRP, MEF.

**Table 3**  
**GROSS DOMESTIC PRODUCT**  
(Annual percentage change)

	<b>Avg. 2002-2012</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Avg. 2014-2016</b>
Agriculture and Livestock	4.3	3.8	5.1	5.0	4.1	4.2	4.2	4.2
Fishing	3.5	29.7	-11.0	-1.7	5.0	3.5	4.0	4.2
Mining and Fuel	4.1	-0.2	2.2	4.7	9.0	11.7	9.1	9.9
Metals	3.1	-3.6	2.1	3.5	9.2	12.7	9.5	10.4
Fuel	10.5	18.1	2.3	10.6	8.3	7.7	7.8	7.9
Manufacturing	5.9	5.6	1.3	3.4	5.2	5.4	5.4	5.4
Based on raw materials	2.9	12.3	-6.5	2.5	3.5	3.5	3.5	3.5
Non-primary	6.6	4.4	2.8	3.5	5.5	5.8	5.8	5.7
Electricity and Water	5.8	7.4	5.2	6.5	6.4	6.4	6.4	6.4
Construction	10.5	3.4	15.2	11.0	9.2	9.0	9.0	9.1
Commerce	7.0	8.8	6.7	6.3	6.0	6.0	6.0	6.0
Services	6.6	8.6	7.4	6.7	6.3	6.2	6.2	6.2
<b>GROSS VALUE ADDED</b>	<b>6.4</b>	<b>6.9</b>	<b>6.2</b>	<b>6.2</b>	<b>6.3</b>	<b>6.4</b>	<b>6.3</b>	<b>6.3</b>
Taxes on Products and Import Duties	6.5	7.2	6.6	6.8	6.2	6.0	6.0	6.1
<b>GROSS DOMESTIC PRODUCT</b>	<b>6.4</b>	<b>6.9</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>
<b>Primary sectors</b>	<b>3.9</b>	<b>4.4</b>	<b>1.7</b>	<b>4.4</b>	<b>5.6</b>	<b>6.5</b>	<b>5.9</b>	<b>6.0</b>
<b>Non - primary sectors</b>	<b>6.9</b>	<b>7.4</b>	<b>7.1</b>	<b>6.5</b>	<b>6.4</b>	<b>6.3</b>	<b>6.4</b>	<b>6.4</b>

Source: INEI, BCRP, MEF.



**Table 4**  
**GLOBAL DEMAND AND SUPPLY**  
(Annual percentage change)

	<b>Avg. 2002-2012</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Avg. 2014-2016</b>
<b>I. Global Demand</b>	<b>6.9</b>	<b>7.4</b>	<b>7.0</b>	<b>6.6</b>	<b>6.8</b>	<b>6.8</b>	<b>6.8</b>	<b>6.8</b>
1. Domestic Demand	7.0	7.1	7.4	7.4	6.4	6.4	6.4	6.4
a. Private Consumption	5.5	6.4	5.8	5.6	5.5	5.5	5.5	5.5
b. Public Consumption	6.6	4.8	10.6	10.5	4.0	4.0	4.2	4.0
c. Gross Domestic Investr	12.3	10.0	10.0	10.3	9.3	9.0	8.6	9.0
Gross Fixed Investment	11.8	5.1	14.9	11.9	10.7	10.7	10.1	10.5
i. Private	11.6	11.7	13.6	10.0	10.0	10.0	10.0	10.0
ii. Public	13.1	-17.8	20.9	20.1	13.5	13.5	10.5	12.5
2. Exports <sup>1</sup>	6.5	8.8	4.8	2.0	9.0	9.5	9.4	9.3
<b>II. Global Supply</b>	<b>6.9</b>	<b>7.4</b>	<b>7.0</b>	<b>6.6</b>	<b>6.8</b>	<b>6.8</b>	<b>6.8</b>	<b>6.8</b>
<b>1. GDP</b>	<b>6.4</b>	<b>6.9</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>	<b>6.3</b>
2. Imports <sup>1</sup>	9.7	9.8	10.4	8.1	8.6	8.7	8.7	8.7
Memo:								
Public Spending	8.4	-4.2	14.1	14.0	7.6	7.8	6.8	7.4

<sup>1/</sup> Goods and non-financial services  
Source: INEI, BCRP, MEF.

**Table 5**  
**GLOBAL DEMAND AND SUPPLY**  
(Percentage of GDP)

	<b>Prom. 2002-2012</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Prom. 2014-2016</b>
<b>I. Global Demand</b>	<b>121.2</b>	<b>124.8</b>	<b>124.5</b>	<b>123.5</b>	<b>123.4</b>	<b>123.9</b>	<b>124.2</b>	<b>123.8</b>
1. Domestic Demand	96.7	96.1	99.0	101.0	100.7	100.7	100.8	100.7
a. Private Consumption	65.0	60.8	61.7	61.9	61.1	60.7	60.3	60.7
b. Public Consumption	9.9	9.8	10.4	10.9	10.6	10.4	10.2	10.4
c. Gross Domestic Investment	21.9	25.5	26.9	28.2	28.9	29.6	30.2	29.6
Gross Fixed Investment	21.6	24.1	26.7	28.4	29.5	30.7	31.9	30.7
i. Private	17.7	19.6	21.5	22.4	23.1	24.0	24.8	24.0
ii. Public	3.9	4.5	5.2	5.9	6.3	6.8	7.0	6.7
2. Exports <sup>1</sup>	24.5	28.7	25.9	22.9	22.7	23.1	23.4	23.1
<b>II. Global Supply</b>	<b>121.2</b>	<b>124.8</b>	<b>124.5</b>	<b>123.5</b>	<b>123.4</b>	<b>123.9</b>	<b>124.2</b>	<b>123.8</b>
<b>1. GDP</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>
2. Imports <sup>1</sup>	21.2	24.8	24.5	23.5	23.4	23.9	24.2	23.8

<sup>1/</sup> Goods and non-financial services  
Source: INEI, BCRP, MEF.

**Table 6**  
**BALANCE OF PAYMENTS**  
(US\$ Million)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. CURRENT ACCOUNT BALANCE</b>	<b>-1,513</b>	<b>-3,341</b>	<b>-7,136</b>	<b>-9,850</b>	<b>-10,604</b>	<b>-10,958</b>	<b>-11,440</b>	<b>-11,001</b>
<b>1. Trade balance</b>	<b>5,099</b>	<b>9,302</b>	<b>4,527</b>	<b>644</b>	<b>708</b>	<b>1,179</b>	<b>1,492</b>	<b>1,126</b>
a. Exports	25,851	46,268	45,639	44,720	48,630	53,533	58,581	53,581
b. Imports	-20,752	-36,967	-41,113	-44,076	-47,922	-52,355	-57,089	-52,455
<b>2. Services</b>	<b>-1,396</b>	<b>-2,132</b>	<b>-2,258</b>	<b>-2,070</b>	<b>-2,207</b>	<b>-2,395</b>	<b>-2,565</b>	<b>-2,389</b>
<b>3. Investment income</b>	<b>-7,531</b>	<b>-13,710</b>	<b>-12,701</b>	<b>-12,000</b>	<b>-12,985</b>	<b>-13,971</b>	<b>-14,978</b>	<b>-13,978</b>
<b>4. Current transfers</b>	<b>2,316</b>	<b>3,200</b>	<b>3,296</b>	<b>3,576</b>	<b>3,880</b>	<b>4,230</b>	<b>4,610</b>	<b>4,240</b>
<b>II. FINANCIAL ACCOUNT</b>	<b>6,164</b>	<b>9,161</b>	<b>20,244</b>	<b>17,972</b>	<b>14,424</b>	<b>14,032</b>	<b>14,534</b>	<b>14,330</b>
1. Private Sector	6,030	9,620	16,349	18,811	14,340	13,748	14,217	14,101
2. Public Sector	195	848	1,667	-839	84	284	318	229
3. Short-term capital	-61	-1,307	2,228	0	0	0	0	0
<b>III. EXCEPTIONAL FINANCING</b>	<b>42</b>	<b>33</b>	<b>19</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>IV. FLOW NET RESERVES OF CRBP</b>	<b>4,786</b>	<b>4,724</b>	<b>14,827</b>	<b>11,400</b>	<b>5,000</b>	<b>4,500</b>	<b>4,500</b>	<b>4,667</b>
<b>V. NET ERRORS AND OMISSIONS</b>	<b>93</b>	<b>-1,129</b>	<b>1,700</b>	<b>3,278</b>	<b>1,181</b>	<b>1,426</b>	<b>1,406</b>	<b>1,338</b>

Source: INEI, BCRP, MEF.

**Table 7**  
**BALANCE OF PAYMENTS**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. CURRENT ACCOUNT BALANCE</b>	<b>-0.9</b>	<b>-1.9</b>	<b>-3.6</b>	<b>-4.4</b>	<b>-4.3</b>	<b>-4.2</b>	<b>-4.0</b>	<b>-4.2</b>
<b>1. Trade balance</b>	<b>4.5</b>	<b>5.3</b>	<b>2.3</b>	<b>0.3</b>	<b>0.3</b>	<b>0.4</b>	<b>0.5</b>	<b>0.4</b>
a. Exports	21.7	26.2	22.9	20.1	19.9	20.4	20.6	20.3
b. Imports	-17.2	-20.9	-20.6	-19.8	-19.6	-19.9	-20.1	-19.9
<b>2. Services</b>	<b>-1.2</b>	<b>-1.2</b>	<b>-1.1</b>	<b>-0.9</b>	<b>-0.9</b>	<b>-0.9</b>	<b>-0.9</b>	<b>-0.9</b>
<b>3. Investment income</b>	<b>-6.2</b>	<b>-7.8</b>	<b>-6.4</b>	<b>-5.4</b>	<b>-5.3</b>	<b>-5.3</b>	<b>-5.3</b>	<b>-5.3</b>
<b>4. Current transfers</b>	<b>2.1</b>	<b>1.8</b>	<b>1.7</b>	<b>1.6</b>	<b>1.6</b>	<b>1.6</b>	<b>1.6</b>	<b>1.6</b>
<b>II. FINANCIAL ACCOUNT</b>	<b>4.5</b>	<b>5.2</b>	<b>10.1</b>	<b>8.1</b>	<b>5.9</b>	<b>5.3</b>	<b>5.1</b>	<b>5.4</b>
1. Private Sector	4.5	5.4	8.2	8.4	5.9	5.2	5.0	5.4
2. Public Sector	0.1	0.5	0.8	-0.4	0.0	0.1	0.1	0.1
3. Short-term capital	-0.1	-0.7	1.1	0.0	0.0	0.0	0.0	0.0
<b>III. EXCEPTIONAL FINANCING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>IV. FLOW NET RESERVES OF CRBP</b>	<b>3.7</b>	<b>2.7</b>	<b>7.4</b>	<b>5.1</b>	<b>2.0</b>	<b>1.7</b>	<b>1.6</b>	<b>1.8</b>
<b>V. NET ERRORS AND OMISSIONS</b>	<b>0.1</b>	<b>-0.6</b>	<b>0.9</b>	<b>1.5</b>	<b>0.5</b>	<b>0.5</b>	<b>0.5</b>	<b>0.5</b>

Source: INEI, BCRP, MEF.

**Table 8**  
**SUMMARY OF FISCAL ACCOUNTS – NON FINANCIAL PUBLIC SECTOR**  
(Million of Nuevos Soles, Percentage of GDP and real percent change)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. GENERAL GOVERNMENT REVENUES</b>	68 108	102 490	114 155	121 048	131 815	145 243	160 386	145 815
Percentage of GDP	<b>19,6</b>	<b>21,1</b>	<b>21,7</b>	<b>21,4</b>	<b>21,4</b>	<b>21,8</b>	<b>22,2</b>	<b>21,8</b>
Real percent change	9,6	12,8	7,5	3,7	6,8	8,0	8,3	7,7
<b>TAX BURDEN</b>								
Million of Nuevos Soles	50 146	75 591	84 147	88 649	97 259	109 134	121 474	109 289
Percentage of GDP	<b>14,4</b>	<b>15,5</b>	<b>16,0</b>	<b>15,7</b>	<b>15,8</b>	<b>16,3</b>	<b>16,8</b>	<b>16,3</b>
<b>II. GENERAL GOVERNMENT NON-FINANCIAL EXPENDITURE</b>	60 535	87 864	97 983	110 894	121 685	134 250	148 925	134 953
Percentage of GDP	<b>17,5</b>	<b>18,1</b>	<b>18,6</b>	<b>19,6</b>	<b>19,7</b>	<b>20,1</b>	<b>20,6</b>	<b>20,2</b>
Real percent change	7,5	2,0	7,6	10,7	7,6	8,2	8,8	8,2
<b>2.1. CURRENT EXPENDITURE</b>	45 817	63 369	68 841	77 684	82 847	88 912	96 310	89 356
Percentage of GDP	<b>13,6</b>	<b>13,0</b>	<b>13,1</b>	<b>13,7</b>	<b>13,4</b>	<b>13,3</b>	<b>13,3</b>	<b>13,4</b>
<b>2.2. CAPITAL EXPENDITURE</b>	14 717	24 495	29 142	33 210	38 839	45 338	52 615	45 597
Percentage of GDP	<b>4,0</b>	<b>5,0</b>	<b>5,5</b>	<b>5,9</b>	<b>6,3</b>	<b>6,8</b>	<b>7,3</b>	<b>6,8</b>
<b>III. NON FINANCIAL PUBLIC ENTERPRISES PRIMARY BALAN</b>	337	146	1 127	-960	-1 047	-1 542	-1 549	-1 379
Percentage of GDP	<b>0,1</b>	<b>0,0</b>	<b>0,2</b>	<b>-0,2</b>	<b>-0,2</b>	<b>-0,2</b>	<b>-0,2</b>	<b>-0,2</b>
<b>IV. PRIMARY BALANCE (I - II + III )</b>	7 910	14 773	17 299	9 194	9 083	9 451	9 912	9 482
Percentage of GDP	<b>2,1</b>	<b>3,0</b>	<b>3,3</b>	<b>1,6</b>	<b>1,5</b>	<b>1,4</b>	<b>1,4</b>	<b>1,4</b>
<b>V. INTEREST PAYMENTS</b>	5 245	5 696	5 547	5 394	5 688	5 810	5 946	5 815
Percentage of GDP	<b>1,7</b>	<b>1,2</b>	<b>1,1</b>	<b>1,0</b>	<b>0,9</b>	<b>0,9</b>	<b>0,8</b>	<b>0,9</b>
<b>VI. OVERALL BALANCE (IV-V)</b>	2 665	9 077	11 752	3 800	3 395	3 641	3 966	3 668
Percentage of GDP	<b>0,5</b>	<b>1,9</b>	<b>2,2</b>	<b>0,7</b>	<b>0,6</b>	<b>0,5</b>	<b>0,5</b>	<b>0,5</b>

Source: MEF, BCRP.

**Table 9**  
**NON-FINANCIAL PUBLIC SECTOR OPERATIONS**  
(Million of Nuevos Soles)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. CURRENT ACCOUNT SAVINGS WITHOUT INTERESTS</b>	<b>23,194</b>	<b>40,176</b>	<b>46,986</b>	<b>43,877</b>	<b>50,561</b>	<b>58,380</b>	<b>66,132</b>	<b>58,358</b>
1. Central Government	15,849	28,670	33,403	31,858	36,642	43,460	49,404	43,169
a. Current Revenue	58,178	88,315	97,424	102,748	112,149	125,180	138,525	125,285
b. Current Expenditure	42,329	59,644	64,021	70,890	75,506	81,720	89,121	82,116
2. Rest of the NFPS	7,345	11,506	13,584	12,020	13,918	14,920	16,728	15,189
a. Public Enterprises	1,314	1,289	2,034	1,208	1,977	2,446	2,465	2,296
b. Rest of the General Government	6,031	10,217	11,549	10,812	11,941	12,474	14,262	12,893
<b>II. CAPITAL BALANCE</b>	<b>-15,284</b>	<b>-25,403</b>	<b>-29,687</b>	<b>-34,684</b>	<b>-41,478</b>	<b>-48,929</b>	<b>-56,219</b>	<b>-48,875</b>
1. General Government	-14,307	-24,261	-28,780	-32,516	-38,454	-44,941	-52,205	-45,200
a. Capital Revenue	410	235	362	695	385	397	409	397
b. Capital Expenditure	14,717	24,495	29,142	33,210	38,839	45,338	52,615	45,597
2. Public Enterprises	-977	-1,143	-908	-2,168	-3,024	-3,988	-4,014	-3,676
<b>III. PRIMARY BALANCE (I+II)</b>	<b>7,910</b>	<b>14,773</b>	<b>17,299</b>	<b>9,194</b>	<b>9,083</b>	<b>9,451</b>	<b>9,912</b>	<b>9,482</b>
<b>IV. INTEREST PAYMENTS</b>	<b>5,245</b>	<b>5,696</b>	<b>5,547</b>	<b>5,394</b>	<b>5,688</b>	<b>5,810</b>	<b>5,946</b>	<b>5,815</b>
1. Foreign Debt	1,700	2,859	2,794	3,058	3,630	3,931	4,089	3,883
2. Domestic Debt	3,545	2,837	2,753	2,335	2,058	1,879	1,858	1,932
<i>(US\$ Millions)</i>	\$1,135	\$1,030	\$1,044	\$919	\$816	\$739	\$731	\$762
<b>V. OVERALL BALANCE (III-IV)</b>	<b>2,665</b>	<b>9,077</b>	<b>11,752</b>	<b>3,800</b>	<b>3,395</b>	<b>3,641</b>	<b>3,966</b>	<b>3,668</b>
1. Foreign financing	-667	765	-1,274	-8,163	-3,053	122	-389	-1,107
<i>(US\$ Millions)</i>	-246	278	-483	-3,213	-1,211	48	-153	-439
Disbursement <sup>1</sup>	\$2,201	\$990	\$948	\$1,085	\$1,630	\$1,462	\$1,480	\$1,524
Amortization	\$2,460	\$832	\$1,175	\$4,302	\$2,845	\$1,415	\$1,633	\$1,964
Others <sup>2</sup>	\$ 13	\$ 120	-\$ 257	\$ 5	\$ 5	\$ 1	\$ 0	\$ 2
2. Domestic financing	-2,349	-9,979	-10,505	4,100	-609	-3,873	-3,598	-2,693
Domestic Amortization	2,503	1,297	1,301	1,766	1,325	3,229	2,521	2,358
Others	154	-8,682	-9,204	5,866	716	-644	-1,076	-335
3. Private Investment Promotion Process	352	137	27	263	266	110	20	132
<i>(US\$ Millions)</i>	\$ 108	\$ 50	\$ 10	\$ 104	\$ 106	\$ 43	\$ 8	\$ 52
<b>Note:</b>								
<b>Current account savings (I-IV)</b>	<b>17,949</b>	<b>34,480</b>	<b>41,439</b>	<b>38,484</b>	<b>44,873</b>	<b>52,571</b>	<b>60,185</b>	<b>52,543</b>

1/ Includes extraordinary financing.

2/ Includes short term financing and deposits variation of the National Pension Bureau.

Source: MEF, BCRP.

**Table 10**  
**NON-FINANCIAL PUBLIC SECTOR OPERATIONS**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. CURRENT ACCOUNT SAVINGS WITHOUT INTERESTS</b>	<b>6.2</b>	<b>8.3</b>	<b>8.9</b>	<b>7.7</b>	<b>8.2</b>	<b>8.7</b>	<b>9.1</b>	<b>8.7</b>
1. Central Government	4.2	5.9	6.3	5.6	5.9	6.5	6.8	6.4
a. Current Revenue	16.7	18.2	18.5	18.1	18.2	18.8	19.2	18.7
b. Current Expenditure	12.5	12.3	12.2	12.5	12.3	12.2	12.3	12.3
2. Rest of the NFPS non-financial	<b>2.0</b>	<b>2.4</b>	<b>2.6</b>	<b>2.1</b>	<b>2.3</b>	<b>2.2</b>	<b>2.3</b>	<b>2.3</b>
a. Public Enterprises	0.4	0.3	0.4	0.2	0.3	0.4	0.3	0.3
b. Rest of the General Government	1.6	2.1	2.2	1.9	1.9	1.9	2.0	1.9
<b>II. CAPITAL BALANCE</b>	<b>-4.1</b>	<b>-5.2</b>	<b>-5.6</b>	<b>-6.1</b>	<b>-6.7</b>	<b>-7.3</b>	<b>-7.8</b>	<b>-7.3</b>
1. General Government	-3.8	-5.0	-5.5	-5.7	-6.2	-6.7	-7.2	-6.7
a. Capital Revenue	0.1	0.0	0.1	0.1	0.1	0.1	0.1	0.1
b. Capital Expenditure	4.0	5.0	5.5	5.9	6.3	6.8	7.3	6.8
2. Public Enterprises	<b>-0.3</b>	<b>-0.2</b>	<b>-0.2</b>	<b>-0.4</b>	<b>-0.5</b>	<b>-0.6</b>	<b>-0.6</b>	<b>-0.5</b>
<b>III. PRIMARY BALANCE (I+II)</b>	<b>2.1</b>	<b>3.0</b>	<b>3.3</b>	<b>1.6</b>	<b>1.5</b>	<b>1.4</b>	<b>1.4</b>	<b>1.4</b>
<b>IV. INTEREST PAYMENTS</b>	<b>1.7</b>	<b>1.2</b>	<b>1.1</b>	<b>1.0</b>	<b>0.9</b>	<b>0.9</b>	<b>0.8</b>	<b>0.9</b>
1. Foreign Debt	0.5	0.6	0.5	0.5	0.6	0.6	0.6	0.6
2. Domestic Debt	1.2	0.6	0.5	0.4	0.3	0.3	0.3	0.3
<b>V. OVERALL BALANCE (III-IV)</b>	<b>0.5</b>	<b>1.9</b>	<b>2.2</b>	<b>0.7</b>	<b>0.6</b>	<b>0.5</b>	<b>0.5</b>	<b>0.5</b>
1. Foreign financing	-0.1	0.2	-0.2	-1.4	-0.5	0.0	-0.1	-0.2
Disbursement <sup>1</sup>	2.4	0.6	0.5	0.5	0.7	0.6	0.5	0.6
Amortization	2.5	0.5	0.6	1.9	1.2	0.5	0.6	0.8
Others <sup>2</sup>	0.0	0.1	-0.1	0.0	0.0	0.0	0.0	0.0
2. Domestic financing	-0.5	-2.1	-2.0	0.7	-0.1	-0.6	-0.5	-0.4
Domestic Amortization	0.8	0.3	0.2	0.3	0.2	0.5	0.3	0.3
Others	0.3	-1.8	-1.7	1.0	0.1	-0.1	-0.1	0.0
3. Private Investment Promotion Process	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Note:</b>								
<b>Current account savings (I-IV)</b>	<b>4.6</b>	<b>7.1</b>	<b>7.9</b>	<b>6.8</b>	<b>7.3</b>	<b>7.9</b>	<b>8.3</b>	<b>7.8</b>

1/ Includes extraordinary financing.

2/ Includes short term financing and deposits variation of the National Pension Bureau.

Source: MEF, BCRP.

**Table 11**  
**CENTRAL GOVERNMENT CURRENT REVENUES**  
(Million of Nuevos Soles)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. TAX REVENUE</b>	<b>50,146</b>	<b>75,591</b>	<b>84,147</b>	<b>88,649</b>	<b>97,259</b>	<b>109,134</b>	<b>121,474</b>	<b>109,289</b>
1. Income tax	19,696	33,628	37,278	38,554	42,786	49,556	55,529	49,290
a. Advanced payments	17,051	29,363	32,499	35,757	39,782	46,308	52,018	46,036
- Personal Income Tax	4,862	7,931	9,070	9,899	11,134	13,156	14,672	12,987
- Corporate Income Tax	12,190	21,432	23,429	25,859	28,649	33,152	37,346	33,049
b. Clearing	2,645	4,265	4,779	2,797	3,003	3,247	3,511	3,254
2. Import tax	2,189	1,380	1,529	1,617	1,732	1,885	2,051	1,889
3. Value - added tax	26,284	40,424	44,042	47,192	51,087	55,772	61,759	56,206
a. Domestic	14,627	22,029	24,543	26,746	29,094	32,047	36,118	32,420
b. Imports	11,656	18,395	19,499	20,446	21,993	23,725	25,641	23,786
4. Excise tax	4,317	4,718	4,918	5,452	5,853	6,289	6,755	6,299
a. Fuels	2,490	2,231	2,149	2,483	2,642	2,817	3,002	2,820
b. Others	1,827	2,487	2,769	2,969	3,211	3,472	3,753	3,479
5. Other tax revenue	3,733	5,148	6,967	7,404	8,294	9,256	10,115	9,221
6. Tax refund	-6,074	-9,708	-10,586	-11,570	-12,492	-13,623	-14,735	-13,617
<b>II. NON-TAX REVENUE</b>	<b>8,032</b>	<b>12,724</b>	<b>13,276</b>	<b>14,100</b>	<b>14,889</b>	<b>16,047</b>	<b>17,052</b>	<b>15,996</b>
<b>III. TOTAL (I + II)</b>	<b>58,178</b>	<b>88,315</b>	<b>97,424</b>	<b>102,748</b>	<b>112,149</b>	<b>125,180</b>	<b>138,525</b>	<b>125,285</b>

Source: BCRP, MEF.

**Table 12**  
**CENTRAL GOVERNMENT CURRENT REVENUES**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. TAX REVENUE</b>	<b>14.4</b>	<b>15.5</b>	<b>16.0</b>	<b>15.7</b>	<b>15.8</b>	<b>16.3</b>	<b>16.8</b>	<b>16.3</b>
1. Income tax	5.4	6.9	7.1	6.8	6.9	7.4	7.7	7.3
a. Advanced payments	4.7	6.0	6.2	6.3	6.5	6.9	7.2	6.9
- Personal Income Tax	1.4	1.6	1.7	1.7	1.8	2.0	2.0	1.9
- Corporate Income Tax	3.3	4.4	4.5	4.6	4.6	5.0	5.2	4.9
b. Clearing	0.7	0.9	0.9	0.5	0.5	0.5	0.5	0.5
2. Import tax	0.8	0.3	0.3	0.3	0.3	0.3	0.3	0.3
3. Value - added tax	7.5	8.3	8.4	8.3	8.3	8.4	8.5	8.4
a. Domestic	4.2	4.5	4.7	4.7	4.7	4.8	5.0	4.8
b. Imports	3.3	3.8	3.7	3.6	3.6	3.6	3.5	3.6
4. Excise tax	1.4	1.0	0.9	1.0	0.9	0.9	0.9	0.9
a. Fuels	0.8	0.5	0.4	0.4	0.4	0.4	0.4	0.4
b. Others	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
5. Other tax revenue	1.1	1.1	1.3	1.3	1.3	1.4	1.4	1.4
6. Tax refund	-1.7	-2.0	-2.0	-2.0	-2.0	-2.0	-2.0	-2.0
<b>II. NON-TAX REVENUE</b>	<b>2.3</b>	<b>2.6</b>	<b>2.5</b>	<b>2.5</b>	<b>2.4</b>	<b>2.4</b>	<b>2.4</b>	<b>2.4</b>
<b>III. TOTAL (I + II)</b>	<b>16.7</b>	<b>18.2</b>	<b>18.5</b>	<b>18.1</b>	<b>18.2</b>	<b>18.8</b>	<b>19.2</b>	<b>18.7</b>

Source: BCRP, MEF.

**Table 13**  
**CENTRAL GOVERNMENT CURRENT REVENUE**  
(Million of Nuevos Soles)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>NON-FINANCIAL EXPENDITURE</b>	<b>52,645</b>	<b>78,866</b>	<b>85,531</b>	<b>95,060</b>	<b>103,792</b>	<b>116,587</b>	<b>130,120</b>	<b>116,833</b>
<b>I. CURRENT EXPENDITURE</b>	<b>42,329</b>	<b>59,644</b>	<b>64,021</b>	<b>70,890</b>	<b>75,506</b>	<b>81,720</b>	<b>89,121</b>	<b>82,116</b>
1. Wages and salaries	13,514	17,644	19,898	23,367	25,562	27,973	30,619	28,051
2. Goods and services	11,643	17,051	19,800	21,911	22,605	23,355	24,095	23,352
3. Transfers	17,172	24,949	24,323	25,612	27,339	30,393	34,407	30,713
<b>II. CAPITAL EXPENDITURE</b>	<b>10,316</b>	<b>19,222</b>	<b>21,510</b>	<b>24,170</b>	<b>28,286</b>	<b>34,867</b>	<b>40,998</b>	<b>34,717</b>
1. Gross capital formation	7,700	13,918	14,759	16,980	20,678	26,369	31,910	26,319
2. Others	2,616	5,304	6,751	7,189	7,608	8,498	9,088	8,398

Source: BCRP, MEF.

**Table 14**  
**CENTRAL GOVERNMENT CURRENT REVENUE**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>NON-FINANCIAL EXPENDITURE</b>	<b>15.2</b>	<b>16.2</b>	<b>16.3</b>	<b>16.8</b>	<b>16.8</b>	<b>17.5</b>	<b>18.0</b>	<b>17.4</b>
<b>I. CURRENT EXPENDITURE</b>	<b>12.5</b>	<b>12.3</b>	<b>12.2</b>	<b>12.5</b>	<b>12.3</b>	<b>12.2</b>	<b>12.3</b>	<b>12.3</b>
1. Wages and salaries	4.1	3.6	3.8	4.1	4.1	4.2	4.2	4.2
2. Goods and services	3.4	3.5	3.8	3.9	3.7	3.5	3.3	3.5
3. Transfers	5.0	5.1	4.6	4.5	4.4	4.6	4.8	4.6
<b>II. CAPITAL EXPENDITURE</b>	<b>2.8</b>	<b>4.0</b>	<b>4.1</b>	<b>4.3</b>	<b>4.6</b>	<b>5.2</b>	<b>5.7</b>	<b>5.2</b>
1. Gross capital formation	2.1	2.9	2.8	3.0	3.4	3.9	4.4	3.9
2. Others	0.6	1.1	1.3	1.3	1.2	1.3	1.3	1.3

Source: BCRP, MEF.

**Table 15**  
**GENERAL GOVERNMENT NON-FINANCIAL EXPENDITURE**  
(Million of Nuevos Soles)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>NON-FINANCIAL EXPENDITURE</b>	<b>60,535</b>	<b>87,864</b>	<b>97,983</b>	<b>110,894</b>	<b>121,685</b>	<b>134,250</b>	<b>148,925</b>	<b>134,953</b>
<b>I. CURRENT EXPENDITURE</b>	<b>45,817</b>	<b>63,369</b>	<b>68,841</b>	<b>77,684</b>	<b>82,847</b>	<b>88,912</b>	<b>96,310</b>	<b>89,356</b>
1. Wages and salaries	17,373	22,858	25,276	29,741	32,162	34,876	37,995	35,011
2. Goods and services	16,350	23,950	28,491	31,274	32,535	33,754	34,913	33,734
3. Transfers	12,095	16,561	15,074	16,669	18,149	20,282	23,402	20,611
<b>II. CAPITAL EXPENDITURE</b>	<b>14,717</b>	<b>24,495</b>	<b>29,142</b>	<b>33,210</b>	<b>38,839</b>	<b>45,338</b>	<b>52,615</b>	<b>45,597</b>
1. Gross capital formation	13,702	22,925	27,430	30,643	35,107	41,315	48,316	41,579
2. Others	1,016	1,571	1,712	2,567	3,731	4,023	4,298	4,018

Source: BCRP, MEF.

**Table 16**  
**GENERAL GOVERNMENT NON-FINANCIAL EXPENDITURE**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>NON-FINANCIAL EXPENDITURE</b>	<b>17.5</b>	<b>18.1</b>	<b>18.6</b>	<b>19.6</b>	<b>19.7</b>	<b>20.1</b>	<b>20.6</b>	<b>20.2</b>
<b>I. CURRENT EXPENDITURE</b>	<b>13.6</b>	<b>13.0</b>	<b>13.1</b>	<b>13.7</b>	<b>13.4</b>	<b>13.3</b>	<b>13.3</b>	<b>13.4</b>
1. Wages and salaries	5.2	4.7	4.8	5.3	5.2	5.2	5.3	5.2
2. Goods and services	4.7	4.9	5.4	5.5	5.3	5.1	4.8	5.1
3. Transfers	3.7	3.4	2.9	2.9	2.9	3.0	3.2	3.1
<b>II. CAPITAL EXPENDITURE</b>	<b>4.0</b>	<b>5.0</b>	<b>5.5</b>	<b>5.9</b>	<b>6.3</b>	<b>6.8</b>	<b>7.3</b>	<b>6.8</b>
1. Gross capital formation	3.7	4.7	5.2	5.4	5.7	6.2	6.7	6.2
2. Others	0.3	0.3	0.3	0.5	0.6	0.6	0.6	0.6

Source: BCRP, MEF.



**Table 17**  
**GENERAL GOVERNMENT OPERATIONS**  
(Million of Nuevos Soles)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>1. CURRENT REVENUE</b>	<b>67,697</b>	<b>102,256</b>	<b>113,793</b>	<b>120,353</b>	<b>131,430</b>	<b>144,846</b>	<b>159,977</b>	<b>145,418</b>
a. Tax Revenue	51,274	77,308	86,174	90,867	99,717	111,689	124,341	111,916
b. Contributions and others <sup>1</sup>	16,424	24,947	27,618	29,487	31,713	33,157	35,636	33,502
<b>2. NON-FINANCIAL EXPENDITURE</b>	<b>60,535</b>	<b>87,864</b>	<b>97,983</b>	<b>110,894</b>	<b>121,685</b>	<b>134,250</b>	<b>148,925</b>	<b>134,953</b>
a. Current expenditure	45,817	63,369	68,841	77,684	82,847	88,912	96,310	89,356
b. Capital expenditure	14,717	24,495	29,142	33,210	38,839	45,338	52,615	45,597
<b>3. CAPITAL REVENUE</b>	<b>410</b>	<b>235</b>	<b>362</b>	<b>695</b>	<b>385</b>	<b>397</b>	<b>409</b>	<b>397</b>
<b>4. PRIMARY BALANCE (1-2+3)</b>	<b>7,573</b>	<b>14,626</b>	<b>16,172</b>	<b>10,154</b>	<b>10,130</b>	<b>10,993</b>	<b>11,461</b>	<b>10,861</b>
<b>5. INTEREST PAYMENTS</b>	<b>5,145</b>	<b>5,588</b>	<b>5,441</b>	<b>5,253</b>	<b>5,518</b>	<b>5,560</b>	<b>5,625</b>	<b>5,568</b>
<b>6. OVERALL BALANCE (4-5)</b>	<b>2,428</b>	<b>9,039</b>	<b>10,731</b>	<b>4,901</b>	<b>4,612</b>	<b>5,434</b>	<b>5,836</b>	<b>5,294</b>
<b>7. NET FINANCING</b>	<b>-2,428</b>	<b>-9,039</b>	<b>-10,731</b>	<b>-4,901</b>	<b>-4,612</b>	<b>-5,434</b>	<b>-5,836</b>	<b>-5,294</b>
a. Foreign	-439	509	-397	-8,746	-6,807	-3,216	-3,540	-4,521
b. Domestic <sup>2</sup>	-1,987	-9,524	-10,331	3,845	2,195	-2,217	-2,296	-773

1/ Others includes non-tax revenue of the Central Government, non-tax revenue of the Rest of the General Government.

2/ Includes privatization resources

Source: BCRP, MEF.

**Table 18**  
**GENERAL GOVERNMENT OPERATIONS**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>1. CURRENT REVENUE</b>	<b>19.4</b>	<b>21.0</b>	<b>21.6</b>	<b>21.3</b>	<b>21.3</b>	<b>21.7</b>	<b>22.1</b>	<b>21.7</b>
a. Tax Revenue	14.7	15.9	16.4	16.0	16.2	16.7	17.2	16.7
b. Contributions and others <sup>1</sup>	4.7	5.1	5.2	5.2	5.1	5.0	4.9	5.0
<b>2. NON-FINANCIAL EXPENDITURE</b>	<b>17.5</b>	<b>18.1</b>	<b>18.6</b>	<b>19.6</b>	<b>19.7</b>	<b>20.1</b>	<b>20.6</b>	<b>20.2</b>
a. Current expenditure	13.6	13.0	13.1	13.7	13.4	13.3	13.3	13.4
b. Capital expenditure	4.0	5.0	5.5	5.9	6.3	6.8	7.3	6.8
<b>3. CAPITAL REVENUE</b>	<b>0.1</b>	<b>0.0</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>
<b>4. PRIMARY BALANCE (1-2+3)</b>	<b>2.0</b>	<b>3.0</b>	<b>3.1</b>	<b>1.8</b>	<b>1.6</b>	<b>1.6</b>	<b>1.6</b>	<b>1.6</b>
<b>5. INTEREST PAYMENTS</b>	<b>1.6</b>	<b>1.1</b>	<b>1.0</b>	<b>0.9</b>	<b>0.9</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>
<b>6. OVERALL BALANCE (4-5)</b>	<b>0.4</b>	<b>1.9</b>	<b>2.0</b>	<b>0.9</b>	<b>0.7</b>	<b>0.8</b>	<b>0.8</b>	<b>0.8</b>
<b>7. NET FINANCING</b>	<b>-0.4</b>	<b>-1.9</b>	<b>-2.0</b>	<b>-0.9</b>	<b>-0.7</b>	<b>-0.8</b>	<b>-0.8</b>	<b>-0.8</b>
a. Foreign	0.0	0.1	-0.1	-1.5	-1.1	-0.5	-0.5	-0.7
b. Domestic <sup>2</sup>	-0.4	-2.0	-2.0	0.7	0.4	-0.3	-0.3	-0.1

1/ Others includes non-tax revenue of the Central Government, non-tax revenue of the Rest of the General Government.

2/ Includes privatization resources.

Source: BCRP, MEF.

**Table 19**  
**FINANCIAL REQUIREMENTS OF THE NON-FINANCIAL PUBLIC SECTOR**  
(US\$ Million)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. USES</b>	<b>2,292</b>	<b>-1,993</b>	<b>-2,788</b>	<b>3,501</b>	<b>2,024</b>	<b>1,252</b>	<b>1,065</b>	<b>1,447</b>
1. Amortization	3,257	1,302	1,668	4,997	3,370	2,685	2,625	2,894
2. Overall balance	-965	-3,296	-4,456	-1,496	-1,347	-1,433	-1,561	-1,447
<b>II. SOURCES</b>	<b>2,292</b>	<b>-1,993</b>	<b>-2,788</b>	<b>3,501</b>	<b>2,024</b>	<b>1,252</b>	<b>1,065</b>	<b>1,447</b>
1. External	2,243	1,024	967	1,089	1,634	1,463	1,481	1,526
2. Domestic <sup>1/</sup>	49	-3,017	-3,755	2,412	390	-210	-416	-79

<sup>1/</sup> Includes savings or dissavings of the Treasury.  
Source: BCRP, MEF, National Pension Bureau (ONP).

**Table 20**  
**FINANCIAL REQUIREMENTS OF THE NON-FINANCIAL PUBLIC SECTOR**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. USES</b>	<b>2.9</b>	<b>-1.1</b>	<b>-1.4</b>	<b>1.6</b>	<b>0.8</b>	<b>0.5</b>	<b>0.4</b>	<b>0.6</b>
1. Amortization	3.3	0.7	0.8	2.2	1.4	1.0	0.9	1.1
2. Overall balance	-0.4	-1.9	-2.2	-0.7	-0.6	-0.5	-0.5	-0.5
<b>II. SOURCES</b>	<b>2.9</b>	<b>-1.1</b>	<b>-1.4</b>	<b>1.6</b>	<b>0.8</b>	<b>0.5</b>	<b>0.4</b>	<b>0.6</b>
1. External	2.4	0.6	0.5	0.5	0.7	0.6	0.5	0.6
2. Domestic <sup>1/</sup>	0.4	-1.7	-1.9	1.1	0.2	-0.1	-0.1	0.0

<sup>1/</sup> Includes savings or dissavings of the Treasury.  
Source: BCRP, MEF, National Pension Bureau (ONP).

**Table 21**  
**PUBLIC DEBT STOCK**  
(Million of Nuevos Soles)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. EXTERNAL PUBLIC DEBT</b>	<b>65,135</b>	<b>53,514</b>	<b>49,900</b>	<b>43,782</b>	<b>40,529</b>	<b>41,051</b>	<b>40,561</b>	<b>40,714</b>
1. International Organizations	23,937	21,227	19,369	14,722	12,695	11,760	10,521	12,424
2. Paris Club	16,202	7,119	6,189	4,883	5,071	5,540	5,913	5,352
3. International Banks and Bonds	23,787	25,071	24,263	24,101	22,712	23,712	24,099	23,656
4. Others	1,209	97	79	76	52	40	29	49
<b>II. DOMESTIC PUBLIC DEBT</b>	<b>34,503</b>	<b>50,341</b>	<b>53,925</b>	<b>60,794</b>	<b>67,475</b>	<b>70,542</b>	<b>73,084</b>	<b>67,974</b>
1. Bank Loans and Treasury Bonds <sup>1/</sup>	30,104	42,469	45,116	52,794	60,035	63,042	66,084	60,489
2. Short Term	4,399	7,872	8,809	8,000	7,440	7,500	7,000	7,485
<b>III. PUBLIC DEBT</b>	<b>99,638</b>	<b>103,856</b>	<b>103,825</b>	<b>104,576</b>	<b>108,005</b>	<b>111,594</b>	<b>113,645</b>	<b>109,455</b>

1/. Includes bonds issued by Lima Metropolitan Municipality.  
Source: BCRP, MEF.

**Table 22**  
**PUBLIC DEBT STOCK**  
(Percentage of GDP)

	Avg. 2002-2012	2011	2012	2013	2014	2015	2016	Avg. 2014-2016
<b>I. EXTERNAL PUBLIC DEBT</b>	<b>22.0</b>	<b>11.0</b>	<b>9.5</b>	<b>7.7</b>	<b>6.6</b>	<b>6.1</b>	<b>5.6</b>	<b>6.1</b>
1. International Organizations	7.9	4.4	3.7	2.6	2.1	1.8	1.5	1.8
2. Paris Club	6.1	1.5	1.2	0.9	0.8	0.8	0.8	0.8
3. International Banks and Bonds	7.5	5.2	4.6	4.3	3.7	3.6	3.3	3.5
4. Others	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>II. DOMESTIC PUBLIC DEBT</b>	<b>10.0</b>	<b>10.3</b>	<b>10.2</b>	<b>10.7</b>	<b>10.9</b>	<b>10.6</b>	<b>10.1</b>	<b>10.5</b>
1. Bank Loans and Treasury Bonds <sup>1/</sup>	8.8	8.7	8.6	9.3	9.7	9.4	9.1	9.4
2. Short Term	1.2	1.6	1.7	1.4	1.2	1.1	1.0	1.1
<b>III. PUBLIC DEBT</b>	<b>32.1</b>	<b>21.3</b>	<b>19.7</b>	<b>18.5</b>	<b>17.5</b>	<b>16.7</b>	<b>15.7</b>	<b>16.7</b>

1/. Includes bonds issued by Lima Metropolitan Municipality.  
Source: BCRP, MEF.

**Table 23**  
**PUBLIC DEBT SERVICE FORECASTS**  
(US\$ Million, Percentage of GDP)

	Service (US\$ Millions)		Servicio (% of GDP)	
	Amortization	Interest	Amortization	Interest
<b>2012</b>	1,668	2,103	0.8	1.1
<b>2013</b>	4,997	2,123	2.2	1.0
<b>2014</b>	3,370	2,256	1.4	0.9
<b>2015</b>	2,685	2,286	1.0	0.9
<b>2016</b>	2,625	2,340	0.9	0.8
<b>2017</b>	2,069	2,386	0.7	0.8
<b>2018</b>	1,321	2,272	0.4	0.7
<b>2019</b>	2,173	2,259	0.6	0.6
<b>2020</b>	4,779	2,184	1.2	0.6
<b>2021</b>	1,397	1,853	0.3	0.4
<b>2022</b>	1,076	1,816	0.2	0.4
<b>2023</b>	2,498	1,787	0.5	0.4

Source: BCRP, MEF

## CENTRAL RESERVE BANK OF PERU

PRESIDENCY

### OFICIO No. 048-2013-BCRP

Lima, May 9, 2013

Mr.  
Luis Miguel Castilla Rubio  
Minister of Economy and Finance  
City

Dear Mr. Castilla:

I am pleased to address you to convey the technical opinion of the Central Bank on the 2014-2016 Multiannual Macroeconomic Framework (MMF) and its compatibility with our projections of balance of payments, international reserves, as well as monetary policy, in compliance with the Law on Fiscal Responsibility and Transparency (LRTF).

Recent developments in the international economy point to a scenario in which we expect a slow recovery of global growth. The latest data show a slowdown in the Chinese economy, a gradual recovery in the U.S. and still a recession in the Euro zone. In this environment, the central banks of the developed economies have intensified their monetary policies, which favor capital flows to emerging economies.

In this context, it has also been observed a decreasing trend in the prices of metals, due in part to lower global growth prospects. Therefore, we expect a reduction of the terms of trade for 2013-2016 of about 5 percent, similar to that contained in the Framework, which still involve high export prices when compared with historical averages.

This environment of uncertainty concerning the international scenario requires prudent management of macroeconomic instruments, in particular fiscal policy which, we agree, must generate sufficient spaces to articulate appropriate responses to address adverse contingencies.

The economic growth forecast for 2013-2016 of the MMF (6.3 percent annually) is similar to Central Bank's forecast, which assumes that a friendly business climate for private investment will remain constant, encouraging an adequate investment rate. In this sense, in order to maintain high economic growth, it is required economic reforms to help increase the competitiveness of the economy.

# CENTRAL RESERVE BANK OF PERU

PRESIDENCY

## Fiscal Policy

The Multiannual Macroeconomic Framework envisages a fiscal surplus reduction from a level of 2.2 percent of Gross Domestic Product (GDP) recorded in 2012, to 0.7 percent of GDP in 2013, that level would be reduced to 0.6 percent of GDP in 2014 and 0.5 percent of GDP in 2015 and 2016. This level of public savings is lower than the projected overall surplus of 1.3 percent of GDP on average for the 2013-2015 in the last Multiannual Macroeconomic Framework 2013-2015 (May 2012).

The reduction in the anticipated public savings is due to primarily a downward adjustment in expected tax revenues as a result of lower export prices. In this MMF the Central Government's tax burden reaches 16.3 percent of GDP in 2015 and 16.8 percent in 2016.

Regarding taxation, the tax policy statement included in the MMF contains measures such as the redesign of the Excise Tax to link it more to externalities caused by the levied products, the modification of property tax and property transfer tax (*alcabala*) to increase the collection capacity at the local level, and the possibility of reducing some tax benefits. In this regard, we agree on the need to strengthen tax enforcement activities and fight tax evasion and smuggling by SUNAT.

With respect to public spending, the MMF projects to maintain for 2013, the nominal level foreseen in last year's document, equivalent to 19.6 percent of GDP, which implies a real growth rate of 10.7 percent, after having grown 7.6 percent in 2012. For the 2014-2016 period, the MMF projects an average annual real growth rate of 8.2, therefore by 2016 public spending would increase to 20.6 percent of GDP, 0.4 percent of GDP higher than the expected in the 2013-2015 MMF.

In structural terms the projections of the MMF implies the targeting of structural overall balance in the medium term. This is consistent with the general principle of the Fiscal and Responsibility Law and with a downward trend in the public debt to GDP ratio. Organizing fiscal policy around structural indicators has the advantage of allowing the current automatic stabilizers to operate in the fiscal system, resulting in the lower volatility of economic activity.

## Balance of payments and international reserves

The MMF projects a current account deficit of the balance of payments of 4.4 percent for 2013 which is stabilized at 4 percent of GDP by the end of the projection horizon. This deficit is a consequence of the fall in terms of trade and the expansion of domestic demand, which is growing faster than GDP, explained in part by the growth of public spending outlined before. Our forecast of the current account of the balance of payments also contemplates a gradual reduction of the current account deficit in the coming years. The expected improvement in the external position reflects the beginning of operations of new mining projects.

## CENTRAL RESERVE BANK OF PERU

PRESIDENCY

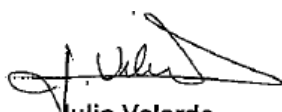
These current account deficits would be largely financed with medium and long term capital flows, which would maintain a high level of international reserves during the forecast, ensuring an appropriate level of international liquidity that could be used to address any adverse contingency that could affect the international environment.

### **Monetary Policy**

It is expected that in the 2013-2015 horizon, inflation remains within the central bank's target range. In the forecast horizon, our baseline scenario foresees no major inflationary pressures associated with increases in commodity prices, while inflation expectations of economic agents are anchored within the target range.

In this context of low inflation and economic growth similar to its potential, the effective combination of monetary and fiscal policy should help to maintain growth, avoid pressures on inflation and discourage capital inflows, which may have negative effects on the allocation of resources and financial system stability

Kind regards,



**Julio Velarde**  
**Presidente**