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Peruvian President Ollanta Humala Declares Investment Promotion in "National Interest"

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With the aim of reversing economic actors' loss of confidence following the slowdown in economic growth in the first quarter of this year, Peruvian President Ollanta Humala in late May declared investment to be in the national interest and announced seven measures to boost it.

The economy grew 4.8% in the first quarter of 2013, the lowest quarterly growth rate since the end of 2009. In addition, the Banco Central de Reserva (BCR) reported that the Índice de Confianza Empresarial, which measures business confidence, dropped from 67 points to 60 points between January and April.

At a May 25 press conference, Humala explained that the "bump in the road" was in large part the result of a global slowdown that led to a reluctance to invest in the extractive sector, such as mining, following the decline in international prices for gold and copper, Peru's principal exports. To show that the national-interest declaration for private-investment promotion was not merely symbolic, Humala said that "additional measures were taken."

The measures announced by the president include creating a task force to oversee mining-investment projects in energy and infrastructure. The president also announced a supreme decree aimed at reducing bureaucratic hurdles for obtaining approval for environmental impact studies (estudios de impacto ambiental, EIAs). The decree calls for approving EIAs in less than 100 days.

BCR president Julio Velarde had said several days earlier that such hurdles were delaying investment projects. "An Apoyo Consultorio report indicates that projects worth US$10 billion are delayed by red tape, permits, etc.," warned Velarde, adding that the government must give clear signals to business owners to regain their confidence as well as solve the bureaucratic problems that undermine investments.

"A decision of this kind will tend to further relax the environmental filter that the EIAs represent," said José de Echave, former vice minister of environment.

Broader expropriation rules enacted

The approved measures also include promulgation of the "expropriation law," aimed at streamlining the use of land for infrastructure works such as highways and constructing or expanding ports and airports.

Under the 1979 Constitution, the state could expropriate for "social interest" reasons, that is for the benefit of society. Under the neoliberal 1993 Constitution, this possibility was eliminated by limiting reasons for expropriations to national security or public necessity.

Now expropriations can be carried out to benefit private entities, writes political analyst and Parlamento Andino Deputy Alberto Adrianzén in La Primera. "We have gone from promoting
'social interest,' which is the majority, to promoting 'private interest,' which is a minority, defended and supported by the state," said Adrianzén.

Humala also announced a legal norm to accelerate granting Certificados de Inexistencia de Restos Arqueológicos (Certificates of Absence of Archeological Remains). The president said decisions on these certificates were not subject to a time limit and many important projects could not go forward. "Today, a time limit will be set."

"Now, if you want to open a mine, build a housing complex, or cut through a mountain to build a highway, you will no longer get bogged down because there might be archeological artifacts at the chosen sites. Just fill out your request and give it to the Ministerio de Cultura," said political analyst Raúl Wiener, a columnist for La Primera.

The Ministerio de Cultura observer will quickly determine whether you will be given the certificate, and, if it fails to do so, tacit consent exists and applies for this type of project, which means that, if the ministry has not replied to the request in 20 days, it is considered accepted, regardless of the historic or cultural value at stake, said Wiener.

**Business wants more benefits**

The business sector was pleased with the measures announced by Humala but said they did not go far enough. They made this known at a June 5 meeting at the Government Palace called by Humala to hear their concerns and suggestions.

"We entrepreneurs are clear that this initial package of measures is a first step that will contribute to national development, but a second step is necessary," Mario Mongilardi, vice president of the Lima Cámara de Comercio, told the press following the meeting with Humala. The measures the Cámara wants include changes to tax and labor laws.

Luis Salazar, president of the Sociedad Nacional de Industrias (SNI), spoke along the same lines, suggesting that, to energize the sector, labor flexibilization should be generalized and the current 30% income tax (Impuesto a la Renta) reduced at least to 20%.

Salazar defended temporary labor laws for textile workers and special labor laws for agricultural workers, which benefit the business class to the detriment of workers. For 40 years, textile workers have received fewer labor benefits: their contracts are short term, giving them no job security, seniority rights, access to medical coverage and retirement benefits, or the right to organize and bargain collectively.

**Upside for business is downside for workers**

Agreeing to the request from the industrial sector would increase work-force exploitation, said Julio César Bazán, president of the Central Unitaria de Trabajadores (CUT). Without collective bargaining or freedom to unionize, practically all other rights would be up for grabs because business could unilaterally take restrictive measures.

"The business sector's statement after the brutal campaign that it waged to block the state's purchase of [Spanish transnational] Repsol (NotiSur, May 31, 2013), which would have allowed energy-market regulation, seeks to obtain handouts to expand its political power and correct its administrative and economic inefficiency by eliminating labor rights," wrote Mario Huamán Rivera, secretary general of the Confederación General de Trabajadores del Perú (CGTP).
"Preference is being given to the economic sectors that have co-governed in recent years. We have asked [President Humala] to address our issues, and he won't meet with us," said Bazán.

Adrianzén warned that it will now be easier to damage the environment, archeological findings so widely touted abroad, and natural resources, including water, to increase private and state labor-market flexibilization, and to pervert the prior-consultation law.

The last item mentioned by Adrianzén refers to the government's decision in late April to exempt 14 mining projects under exploration along the coast and in the highlands from the Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios—governing legislative or administrative measures that directly affect indigenous peoples (NotiSur, Sept. 30, 2011). The Defensoría del Pueblo says that these projects are in areas inhabited by indigenous peoples.

"It's fine for a government to try to develop investment projects to benefit the country," but "to ignore what the very reality has been showing us in recent years [about 70% of social conflicts are related to social and environmental issues] demonstrates that we are faced with an administration that has lost the necessary social and environmental balance," said de Echave.

Meanwhile, the Ministerio de Economía y Finanzas has announced approval of additional measures to encourage investment and productivity.

For many, the measures taken by Humala are just a louder and clearer indication of his administration's turn toward the right and of the strengthening of the economic bloc in power for decades.

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