

>> Peru, seven measures to promote investments From polarization to tense calm?

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During the last elections it was already clear that Peru is living a great social and political division. This division opposes citizens from two different groups, “right-wing” and “left-wing”, according to the candidate they support: Ollanta Humala or Keiko Fujimori, daughter of the former President Fujimori who is serving sentence for crimes during his Government.

During the last weeks this social division has moved now to the social partners leading both groups; the Government and the business sector. The reasons are found on the attempt of purchase Repsol’s assets by the state’s oil company (Petroperu) and the proclamation of the new law of “Children and Adolescents healthy nutrition” by the Republic’s President.

Maybe the answer to the state’s initiatives given by the business sector has not been the best one since it was focused on a supposed turn by the Government (“chavista” turn), what clearly seems quite unlikely.

What it is also true is that behind this speech there is a legitimate concern about the state’s inefficiency facing the urgent need of implementing several investment projects that are now stopped, in addition to the disruptive impact of laws and regulations poorly planned.

Last May 24th, in order to face this situation of “loss of confidence”¹, the President convened a press conference with the most important economic media and set seven different measures which declared to be of “national interest”² aiming to boost investments.

The measures to boost investments established by the President have been very welcomed by the business sector; and according to Luis Miguel Castilla, Minister of Economy, together with other measures will unblock more than US\$15,000 million³.

TEAM OF SPECIALISTS

The first measure to be taken is the creation of a team of specialists to monitor, one by one, the main and current State’s investments which are the ones that “will guarantee that our economy continues the path that has been following during the last years”⁴.

Minister of Economy, Luis Miguel Castilla, has mentioned two different teams⁵: a team of specialists monitoring all investments regarding infrastructures as well as extractive projects; and a second team “consisting on more than 30 people from the private sector but with experience in the State” which will be in charge of the normative aspects and the improvement on the efficiency of the process to meet goals and unblock procedures.

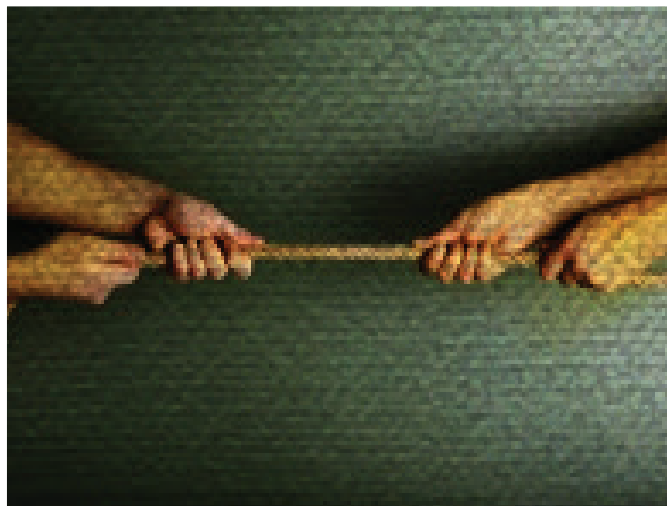
¹ Source: Ipsos Perú “La pérdida de confianza” (The loss of confidence) May 2013. http://www.ipsos-apoyo.com.pe/sites/default/files/opinion_data/Opinion_Data_mayo_2013.pdf

² Conversation held this afternoon by President Ollanta Humala Tasso and specialized journalists in economy issues. May, Friday 24th 2013. Web of the Government of Peru. <http://www.presidencia.gob.pe/dialogo-sostenido-esta-tarde-por-el-presidente-de-larepublica-ollanta-humala-tasso-con-periodistas-especializados-en-temas-economicos>

³ MEF (Ministry of Economy and Finances) says that a total of US\$500 million investments will be unblock. <http://www.andina.com.pe/Espanol/noticia-mef-estima-se-destrabaran-inversiones-unos-15-mil-millones-ampliacion-460133.aspx>

⁴ Conversation held this afternoon by President Ollanta Humala Tasso and specialized journalists in economy issues (...) See reference number 4.

⁵ Investments by US\$ 15,000 million will be unblocked. Diario de Gestion (Peruvian journal). Tuesday 28th May, 2013. <http://m.gestion.pe/movil/noticia/2067117>



It is surprising that an announcement on economy issues, more technical and specialized, was made by the President in the absence of the Minister of Economy—who was in a roadshow of the association in Peru in the Middle East—. Anyway, even before he was back from his trip, while in Dubai, Castilla supported the President and took the lead reinforcing the message by saying that these measures will unblock by US\$ 15,000 million investments⁶.

For President Ollanta these issues are of high interest since economy policies guarantee the resources for Social Programs—which have gained high popularity amongst citizens—.

Now, we can only wait for the team of specialists to be presented to society, or at least to know who will be part of these teams and how the priority of the projects will be listed, as well as the management process analyzed in the public sector.

EXPROPRIATIONS LAW

The second measure announced by the President and which has been already implemented, is the Expropriations Law, which aims to speed up the use of plots for infrastructure works specially in transportation and communication (roads, ports and airports). In this sense, according to the President, “the Law makes the difference between expropriation and the payment of the plot’s appraisal.

Looking back to when this Law started to be planned we see that the 30025 Law “which facilitates the acquisition, expropriation and possession of real state goods assigned to infrastructure works and declares the public need of the acquisition and expropriation of real state goods affected for the realization of infrastructure works”⁷, was introduced by the Government in the Congress in December 14th last year, under the bill 018328⁸. Five months were needed for the law to be passed after being questioned by the opposition.

Manuel Merino de Lama (AP-FA parliamentary group), President of the Housing Commission, supported this initiative and highlighted the importance of law for development on road infrastructures in several sectors of the country since they represent works of public need and interest.

Other legislators from the nationalist group Gana Perú (NGP) like Sergio Tejada, Teófilo Gamarra, Roberto Angulo, Cristóbal Llatas, Leonidas Huayama, Julia Teves, Josué Gutiérrez, Justiniano Apaza, Jhon Reynaga, Rubén Coa, Hernán de la Torre and Johnny Cárdenas shared the same idea; as well as Juan Carlos Eguren from the Alianza por el Gran Cambio (APGC) group and Mesías Guevara from the Acción Popular - Frente Amplio (AP-FA) parliamentary group⁹.

Congressmen Yehude Simon (APGC), Alberto Beingolea (APGC), Luis Iberico (APGC), Gustavo Rondón—from the Solidaridad Nacional (SN) parliamentary group— and Rogelio Canches (NGP), also supported the bill and asked the “Vía Parque Rimac”¹⁰ project to be included.

Members of the Congress from the “fujimorista” group Fuerza Popular (FP), Martha Chávez, Julio Rosas, Cecilia Chacón, Octavio Salazar and Leyla Chihuán, as well as Carlos Bruce (from the group Concertación Parlamentaria (CP) and Virgilio Acuña (SN) were against the bill considering that it acts against private property¹¹.

We must also bear in mind that the Law declaring of public interest the expropriation of plots for the construction of the Chincheros Airport in Cuzco—Law 29908¹²—; and the Law which declares the public need of the expropriation of plots for the sludge treatment plant’s project of the regulatory ponds in Atareja Plant, —Law 29980¹³—; were promoted by the Government last year within the same framework of policies to unblock investments.

The question now is if the Congress, and specially the opposition, sees the government’s measures to unblock investments as a matter of urgency. Analyzing votes, we can clearly see that most of the Congressmen opposing the measures belong to the “fujimorista” group. And it cannot be said that they are against investments.

⁶ Idem.

⁷ Law 30025: “...which facilitates the acquisition, expropriation and possession of real state goods assigned to infrastructure works and declares the public need of the acquisition and expropriation of real state goods affected for the realization of infrastructure works”. [http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/d99575da99ebf305256f2e006d1cf0/0e8eb4a2032d588405257b73004e0209/\\$FILE/30025.pdf](http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/d99575da99ebf305256f2e006d1cf0/0e8eb4a2032d588405257b73004e0209/$FILE/30025.pdf)

⁸ Bill 01832 “...which facilitates the acquisition, expropriation and possession of real state goods assigned to infrastructure works and declares the public need of the acquisition and expropriation of real state goods affected for the realization of infrastructure works”. [http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/d99575da99ebf305256f2e006d1cf0/627a82c44a7651a005257ad50002bcd9/\\$FILE/PL01832141212.pdf](http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/d99575da99ebf305256f2e006d1cf0/627a82c44a7651a005257ad50002bcd9/$FILE/PL01832141212.pdf)

⁹ Judgment of the Housing and Construction Commission. [http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/0/997619bb18ae991905257b660064a48c/\\$FILE/01832DC24MAY090513.pdf](http://www2.congreso.gob.pe/Sicr/TraDocEstProc/Contdoc01_2011.nsf/0/997619bb18ae991905257b660064a48c/$FILE/01832DC24MAY090513.pdf)

¹⁰ Idem.

¹¹ Idem.

¹² Law 29908 Law declaring of public interest the expropriation of plots for the construction of the Chincheros Airport in Cuzco. <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/29908.pdf>

What is true is that the political situation has a big influence on votes and thus, on the positive or negative result of passing a law. Not taking into account political ideas, we could say that it all depends more on a “mood answer” of both the opposition and the Congress in general. In fact, during the days the measures were voted the Minister of Foreign Affairs was being questioned after the diplomatic impasse with Venezuela and the resignation of the Peruvian Ambassador in the country¹⁴; a military patrol had attacked by mistake a vehicle with civils in VRAEM¹⁵ and the case of the goods acquired by the former President Toledo’s¹⁶ mother in law was part of the public agenda.

There is no doubt the opposition had several reasons to “spoil the party” questioning any law presented by the Government —unless it affects their own interests—. That means that, even to promote a law of these characteristics it is important that we really know what the political situation is and that we define a good timing to include it as a judgment in the session.

SUPREME DECREE PROMOTING BOTH, PUBLIC AND PRIVATE INVESTMENTS

The President also mentioned the Supreme Decree (SD) N° 054-2013-PCM¹⁷ published last May 16th 2013, which facilitates public and private investment. Measures linked to this Decree are: (1) the procedure’s simplification for the issuance of the “Certificate of Areas Free from Archeological Remains” (CIRA) with deadlines and the implementation of affirmative administrative silence, as well as the reinforcement of the archeological team of the Ministry of Culture; (2) environmental regulations regarding the enlargement of auxiliary components or technological improvements which will not have significant environmental impacts; (3) regulations regarding the water use and sanitation and; (4) rights on State’s lands through the land’s acquisition.

What the DS lists is all the steps needed to successfully promote investment projects through all the items before mentioned. As a rule established by the executive power, we can compare those implemented with those discussed and argued in the Congress.

FINANCIAL ASPECTS

There is also a bill on the capital market reform which will enable to enlarge the sources of financing for small and

medium-size enterprises through sovereign bonds and treasury bills and which individuals will also be able to access as a way to save or for capitalization. Under the same idea, another measure was the Law of Capital’s Replenishment, which gives a higher value to the bonds and allows them to be used as a payment or sold before their expiry date.

The President also pointed that new qualification criteria for the Promotion of Public Regional and Local Investment Fund (FONIPREL) were being defined. This initiative will enable the integration of the regional and local governments in a joint work with the Central Government to start the different investment projects required.

It is a grant fund and its objective is to jointly finance Public Investment Projects (PIP) and pre-investment studies. These studies aim to reduce the prejudices of the provisions on services and basic infrastructures and to have the highest possible impact on poverty and extreme-poverty reduction in the country. The projects are divided into different groups depending on their area: basic health services, rural electrification, child malnutrition, agricultural infrastructure, basic education services, rural telecommunications, sanitation services, road infrastructures and the development of capacities for the comprehensive management of basins.

Regarding what we could call financial measures, the Government has tried to offer mechanisms which not only make the processes easier but also boost and promote the inclusion of new economic actors or give them more alternatives for the capitalization and reinvestment of the country’s utilities (which could produce a growth in the market). What is more, the President also noted that, together with all these seven measures, there is a production diversification law which aims to stimulate industrialization so the country does not only depend on the exportation of raw materials.

In the regional aspect the FONIPREL will try to use the funds of the mining and petroleum Canon which still remain to be used due to the poor spending capacity of the regional and local governments.

CONCLUSIONS

After a period of inactivity when facing the goals of investments’ promotion the country needs to maintain numbers on its growth, it is clear that the Government has now woken up. As the President himself and the Minister have declared, the reasons for this change are found in external aspects related to the drop on the international prices of

¹³ Law 29980: Law which declares the public need of the expropriation of plots for the sludge treatment plant’s project of the regulatory ponds in Atareja Plant. <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/29980.pdf>

¹⁴ Peruvian Ambassador in Venezuela resigns after being questioned. <http://elcomercio.pe/actualidad/1573963/noticia-embajador-peru-venezuela-renuncio-al-cargo>

¹⁵ Military patrol attacks a vehicle in VRAEM by mistake. <http://peru21.pe/impres/patrulla-militar-balea-combi-vraem-equivocacion-2129854>

¹⁶ Alejandro Toledo’s mother in law bought an office for more than US\$882 million in Surco. <http://elcomercio.pe/actualidad/1573837/noticia-suegra-alejandro-toledo-compro-oficina-mas-us882-mil-surco>

¹⁷ Supreme Decree N° 054-2013-PCM <http://elperuanolegal.blogspot.com/2013/05/decreto-supremo-054-2013-pcm-aprueban.html>



mining commodities and the investments' retraction of the extractive sector, as well as the drop on one-off exportations which made Peru grow only by 3.01% in March (its lowest data since October 2009, 1.6%).

We can also say that there were also internal aspects and that with these set and long-awaited measures, the President wanted peace back with businessmen rather than to solve the market's retractions.

As we have already mentioned, both the Expropriations Law and the idea of a team of specialists monitoring the implementation of investment projects, have been long-awaited and started with some specific and one-off legislative initiatives for specific projects. The Government's initiatives (Supreme Decree N° 054-2013-PCM), was passed last month so we can point that the situation's pressure has accelerated the government's decision to implement measures.

So, there is a broad feeling that these measures could have been taken long before which would have shown a clear planning of the needed policies to promote investments and not the accelerated policies to face (what has been called) the end of the metals' boom¹⁸. In this sense we could envisage to probable theories to have caused the situation.

In the first place, the fact that the government reacts to important economic situations —both for external or internal aspects— with last-minute initiatives that are forced by the situation, as by default, and turns initiatives into a measures' list which will allow them to save the situation.

Or, on the other hand, the fact that along the management these measures have been planned and were introduced in and

specific period (before mentioned), which would prove the good intentions but a very slow rhythm on planning measures and promoting them.

Moreover, also the market was showing a lower awareness about the speculation or the "exaggerated awareness about a final and pronounced deceleration in Peru" since it seems the country has recovered those economic growth indicators of 7% in April, opposing the negative forecasts some opinion leaders and politicians had predicted.

What must have worried the President are probably the confidence of businessmen and not the potholes of the economy's growth to which Peru is now used to (in words of the President).

As some specialists have mentioned, "a continued decline on the private sector's confidence could be translated as a loss of 1.5 points of the GDP growth for the next year". This would mean less means for social inclusion programs (which is the pillar of the current President's popularity).

The President has said it himself during his dialogue with economic journalists: over 75% investments in Peru are private. In this respect, his public appearance was needed to recover the lost confidence with entrepreneurs.

So, according to what has been said about the ruling of the President, will he be quiet with the clear alignment of the market regarding the initiatives or the small signs of change on the model? It is finally proved that the President's authority cannot overcome the possibilities of an economic decrease as a result of lack of confidence in the business sector which would affect investments and also the access to means for social programs?

All in all, with these late measures, the confrontation and the polarized situation between the Government and entrepreneurs is now finding a balance and going back to calm, which is good for all actors.



¹⁸ Centrum about the Economy deceleration: "We about to lose the history's train". <http://gestion.pe/economia/centrum-sobre-desaceleracion-economica-estamos-punto-perder-tren-historia-2067110>



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