Loan Agreement

(Second Programmatic Decentralization and Competitiveness Structural Adjustment Loan)

between

REPUBLIC OF PERU

and

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Dated December 16, 2004
LOAN AGREEMENT

AGREEMENT, dated December 16, 2004, between REPUBLIC OF PERU (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) the Bank has received from the Borrower a letter, dated October 29, 2004 describing a program of actions, objectives and policies designed to achieve decentralization and competitiveness reforms in the Borrower’s economy (hereinafter called the Program), declaring the Borrower’s commitment to the execution of the Program, and requesting assistance from the Bank in support of the Program during the execution thereof;

(B) the Borrower has carried out the measures and taken the actions described in Schedule 3 to this Agreement to the satisfaction of the Bank and has maintained a macroeconomic policy framework satisfactory to the Bank; and

(C) on the basis, inter alia, of the foregoing, the Bank has decided in support of the Program to provide such assistance to the Borrower by making a loan in one tranche (the Loan) as hereinafter provided;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The “General Conditions Applicable to Loan and Guarantee Agreements for Fixed-Spread Loans” of the Bank dated September 1, 1999 (as amended through May 1, 2004) (the General Conditions) with the modifications set forth below, constitute an integral part of this Agreement.

(a) Section 2.01, paragraph 41, is modified to read:

“‘Project’ means the program, referred to in the Preamble to the Loan Agreement, in support of which the Loan is made.”;

(b) Section 3.08 is modified to read:
“Each withdrawal of an amount of the Loan from the Loan Account shall be made in the Loan Currency of such amount. If the Loan Currency is not the currency of the deposit account specified in Section 2.02 of the Loan Agreement, the Bank, at the request and acting as an agent of the Borrower, shall purchase with the Loan Currency withdrawn from the Loan Account the currency of such deposit account as shall be required to deposit the withdrawn amount into such deposit account.”;

(c) Section 5.01 is modified to read:

“The Borrower shall be entitled to withdraw the proceeds of the Loan from the Loan Account in accordance with the provisions of the Loan Agreement and of these General Conditions.”;

(d) the last sentence of Section 5.03 is deleted;

(e) Section 9.07 (c) is modified to read:

“(c) Not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, the Borrower shall prepare and furnish to the Bank a report, of such scope and in such detail as the Bank shall reasonably request, on the execution of the program referred to in the Preamble to the Loan Agreement, the performance by the Borrower and the Bank of their respective obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.”; and

(f) Section 9.05 is deleted in its entirety and Sections 9.06, 9.07 (as modified above), 9.08 and 9.09 are renumbered, respectively, Sections 9.05, 9.06, 9.07 and 9.08.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional term have the following meaning:

(a) “Canon” means the share of income tax revenue obtained from activities related to the exploitation of natural resources in the mining, gas and forests sectors which is allocated by the Borrower’s central government to local and regional governments;
ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, an amount equal to one hundred million Dollars ($100,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.09 of this Agreement.
Section 2.02.  (a) Subject to the provisions of paragraphs (b) and (c) of this Section, the Borrower shall be entitled to withdraw the amount of $99,500,000 from the Loan Account in support of the Program.

(b) The Borrower shall open, prior to furnishing to the Bank the first request for withdrawal from the Loan Account, and thereafter maintain in its central bank, a deposit account in Dollars on terms and conditions satisfactory to the Bank. All withdrawals from the Loan Account shall be deposited by the Bank into the Deposit Account.

(c) The Borrower undertakes that the proceeds of the Loan shall not be used to finance expenditures excluded pursuant to the provisions of Schedule 1 to this Agreement. If the Bank shall have determined at any time that any proceeds of the Loan shall have been used to make a payment for an expenditure so excluded, the Borrower shall, promptly upon notice from the Bank, (i) deposit into the Deposit Account an amount equal to the amount of said payment, or (ii) if the Bank shall so request, refund such amount to the Bank. Amounts refunded to the Bank upon such request shall be credited to the Loan Account for cancellation.

Section 2.03. The Closing Date shall be December 31, 2005 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a fee in an amount equal to one percent (1%) of the amount of the Loan, subject to any waiver of a portion of such fee as may be determined by the Bank from time to time. On or promptly after the Effective Date, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amount of said fee.

Section 2.05. The Borrower shall pay to the Bank a commitment charge on the principal amount of the Loan not withdrawn from time to time, at a rate equal to: (a) eighty five one-hundredths of one per cent (0.85%) per annum from the date on which such charge commences to accrue in accordance with the provisions of Section 3.02 of the General Conditions to but not including the fourth anniversary of such date; and (b) seventy five one-hundredths of one per cent (0.75%) per annum thereafter.

Section 2.06. The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, in respect of each Interest Period at the Variable Rate; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the Borrower shall, during the Conversion Period, pay interest on such amount in accordance with the relevant provisions of Article IV of the General Conditions.
Section 2.07. Interest and commitment charges shall be payable semiannually in arrears on January 15 and July 15 in each year.

Section 2.08. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 2 to this Agreement.

Section 2.09. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

(i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, withdrawn or unwithdrawn, to an Approved Currency;

(ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan from a Variable Rate to a Fixed Rate, or vice versa; and

(iii) the setting of limits on the Variable Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Variable Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by the Bank shall be considered a “Conversion”, as defined in Section 2.01 (7) of the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.

(c) Promptly following the Execution Date for an Interest Rate Cap or Interest Rate Collar in respect of which the Borrower has made a request, the Borrower shall pay to the Bank any premium payable in accordance with Section 4.04 (c) of the General Conditions.

Section 2.10. The Borrower’s Minister of Finance or the Borrower’s Director of Public Credit, and any person whom he or she shall designate in writing, is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.
ARTICLE III

Particular Covenants

Section 3.01. (a) The Borrower and the Bank shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program.

(b) Prior to each such exchange of views, the Borrower shall furnish to the Bank for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Bank shall reasonably request.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall exchange views with the Bank on any proposed action to be taken after the disbursement of the Loan which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program including any action specified in Schedule 3 to this Agreement.

Section 3.02. Upon the Bank’s request, the Borrower shall:

(a) have the Deposit Account audited in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(b) furnish to the Bank as soon as available, but in any case not later than six months after the date of the Bank’s request for such audit, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and

(c) furnish to the Bank such other information concerning the Deposit Account and the audit thereof as the Bank shall have reasonably requested.

ARTICLE IV

Additional Events of Suspension

Section 4.01. Pursuant to Section 6.02 (p) of the General Conditions, the following additional events are specified:

(a) A situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.
(b) The Borrower’s macroeconomic policy framework has become inconsistent with the objectives of the Program.

(c) An action has been taken or a policy has been adopted by the Borrower or its agencies to reverse any action or policy under the Program in a manner that would, in the opinion of the Bank, adversely affect the achievement of the objectives of the Program.

(d) An action has been taken or a policy has been adopted by the Borrower or its agencies to reverse any action listed in Schedule 3 to this Agreement.

ARTICLE V

Termination

Section 5.01. The date March 16, 2005, is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. Except as provided in Section 2.10 of this Agreement, the Minister of the Borrower at the time responsible for finance is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Economy and Finance
Jr. Junín 319
Lima, Perú

Facsimile:
(511) 426-8500 or
(511) 426-9822
For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address: INTBAFRAD
Telex: 248423 (MCI) or 64145 (MCI)
Facsimile: (202) 477-6391
IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF PERU

By /s/ Pedro Pablo Kuczynski
AUTHORIZED REPRESENTATIVE

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

By /s/ Marcelo Giugale
Acting Regional Vice President
Latin America and the Caribbean
SCHEDULE 1

Excluded Expenditures

For purposes of Section 2.02 (c) of this Agreement, the proceeds of the Loan shall not be used to finance any of the following expenditures:

1. expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;

2. expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Bank or the Association shall have financed or agreed to finance, or which the Bank or the Association shall have financed or agreed to finance under another loan or a credit;

3. expenditures for goods included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Bank by notice to the Borrower:

<table>
<thead>
<tr>
<th>Group</th>
<th>Subgroup</th>
<th>Description of Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>112</td>
<td>-</td>
<td>Alcoholic beverages</td>
</tr>
<tr>
<td>121</td>
<td>-</td>
<td>Tobacco, unmanufactured, tobacco refuse</td>
</tr>
<tr>
<td>122</td>
<td>-</td>
<td>Tobacco, manufactured (whether or not containing tobacco substitutes)</td>
</tr>
<tr>
<td>525</td>
<td>-</td>
<td>Radioactive and associated materials</td>
</tr>
<tr>
<td>667</td>
<td>-</td>
<td>Pearls, precious and semiprecious stones, unworked or worked</td>
</tr>
<tr>
<td>Group</td>
<td>Subgroup</td>
<td>Description of Items</td>
</tr>
<tr>
<td>-------</td>
<td>----------</td>
<td>----------------------</td>
</tr>
<tr>
<td>718</td>
<td>718.7</td>
<td>Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors</td>
</tr>
<tr>
<td>728</td>
<td>728.43</td>
<td>Tobacco processing machinery</td>
</tr>
<tr>
<td>897</td>
<td>897.3</td>
<td>Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths’ or silversmiths’ wares (including set gems)</td>
</tr>
<tr>
<td>971</td>
<td>-</td>
<td>Gold, non-monetary (excluding gold ores and concentrates)</td>
</tr>
</tbody>
</table>

4. expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;

5. expenditures for environmentally hazardous goods (for purposes of this paragraph the term “environmentally hazardous goods” means goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party;

6. expenditures on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and

7. expenditures under a contract in respect of which the Bank determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Borrower or of a beneficiary of the Loan during the procurement or execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation.
SCHEDULE 2

Amortization Schedule

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by the Bank by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<table>
<thead>
<tr>
<th>Payment Date</th>
<th>Installment Share (Expressed as a %)</th>
</tr>
</thead>
<tbody>
<tr>
<td>On each January 15 and July 15 Beginning January 15, 2013 through January 15, 2018</td>
<td>8.33%</td>
</tr>
<tr>
<td>On July 15, 2018</td>
<td>8.37%</td>
</tr>
</tbody>
</table>

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by the Bank by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.
3. (a) Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

(b) Notwithstanding the provisions of subparagraph (a) of this paragraph 3, if at any time the Bank shall adopt a due date billing system under which invoices are issued on or after the respective Principal Payment Date, the provisions of such subparagraph shall no longer apply to any withdrawals made after the adoption of such billing system.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by the Bank by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by the Bank under the Currency Hedge Transaction relating to said Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.
SCHEDULE 3

Actions Referred to in Recital (B) of the Preamble to this Agreement


2. The Borrower has strengthened the fiscal administration of its municipalities, as evidenced by Legislative Decree No. 952 dated February 3, 2004.

3. The Borrower has adopted and published:

   (a) a legislative decree which regulates the allocation of resources from FONCOMUN to municipalities based on: (i) poverty, territorial and demographics criteria of the population; and (ii) tax collection efforts and investment priorities of municipalities (Legislative Decree No. 952 dated February 3, 2004); and

   (b) a law which modifies the allocation of Canons and regulates their distribution to municipalities and regional governments based on population and basic unsatisfied needs criteria (Law No. 28322 dated August 10, 2004).

4. (a) The Borrower has adopted and published a supreme decree requiring independent and publicized credit ratings of municipal and regional governments for them to borrow amounts above the ceiling established in the Borrower’s annual public indebtedness law (Supreme Decree No. 151-2004-EF, dated November 4, 2004); and

   (b) the Executive has submitted to Congress a draft public indebtedness law for the year 2005, which includes the requirement that regional and municipal governments which borrow or guarantee an amount greater than $5 million have a favorable credit rating issued by a risk rating agency, as evidenced by the Borrower’s Letter (*Oficio*) No. 132-2004-PR dated August 30, 2004.

5. (a) The Borrower has adopted and published: (i) a law establishing an accreditation system for municipal and regional governments, including objective criteria for certifying that regional and local governments have the administrative capacity to assume devolved responsibilities and expenditures (Law No. 28273 dated July 9, 2004); and (ii) a supreme decree regulating the Framework Law on Participatory Budget (Law No. 28056 dated August 8, 2003) (Supreme Decree No. 171-2003-EF dated November 26, 2003); and
(b) at least 70% of the Borrower’s municipalities with more than 40,000 inhabitants have prepared their 2005 budget in accordance with the principles of participatory budget embodied in Law No. 28056 referred to in (a) above, as evidenced by the Borrower’s Report No. 070-2004-EF/76.15.2 dated September 20, 2004.

6. The Borrower has adopted and published a directive establishing technical guidelines for the progressive installation of a monitoring and evaluation system of public expenditures at the national level (Directoral Resolution (Resolución Directoral) No. 046-2004-EF/76.01 dated October 26, 2004.

7. The Executive has submitted to Congress four draft laws on the employment of civil servants covering, inter alia, career development, appointment, management, responsibilities and incompatibilities, as evidenced by Letter (Oficio) No. 079-2004-PR dated June 23, 2004.

8. The Borrower has adopted and published:

(a) the guidelines for its national competitiveness strategy for the preparation of its national competitiveness plan (a plan to improve its economic competitiveness), as evidenced by Supreme Decree No. 094-2003-PCM dated November 27, 2003;

(b) the National Strategic Export Plan/PENX for the years 2003-2013, as evidenced in the following website of the Borrower: http://www.mincetur.gob.pe/comercio/otros/penx/index.htm; and

(c) eight regional export plans, as evidenced in the following website of the Borrower: http://www.mincetur.gob.pe/comercio/otros/perx/index.htm.

9. (a) Twelve CITEs are operational throughout the Borrower’s territory, including at least six outside the Lima-Callao area, as evidenced by the resolutions listed in Schedule 4 to this Agreement; and

(b) the Borrower’s Ministry of Production has evaluated the performance of the CITE network, as evidenced by the Borrower’s Letter (Oficio) No. 331-2004-PRODUCE-VMI dated October 21, 2004.

10. The Borrower has adopted and published a framework law on science, technology and innovation (Law No. 28303 dated July 27, 2004).
11. The Borrower has:


(b) adopted and published Supreme Resolution No. 007-2004-MTC dated March 24, 2004, establishing its national port authority (Autoridad Portuaria Nacional or APN);

(c) published its draft national ports plan in its Official Gazette (Diario Oficial El Peruano) dated October 2, 2004, for consultation purposes; and


12. The Borrower has furnished to the Bank an action plan for the simplification of administrative procedures required to open and operate an enterprise and has provided the Bank with a progress report on how at least two of its agencies at the national level have started linking processes to simplify administrative procedures, as evidenced by Letter (Oficio) No. 242-2004-PCM/SGP from the Borrower’s Council of Ministers (Presidencia del Consejo de Ministros) dated October 29, 2004 with attached action plan and progress report.

13. The Borrower’s Supreme Court has adopted Administrative Resolution No. 006-2004-SP-CS, dated October 2, 2004 to enable the Borrower’s Executive Council of the Judiciary to create and set-up progressively commercial courts within those judicial districts which would so request in accordance with the criteria established in Article 82 of the Texto Único Ordenado of the Organic Law on the Judiciary (Legislative Decree No. 767 dated December 4, 1991).
SCHEDULE 4

Resolutions Referred to in Paragraph 9 (a) of the Schedule 3 to this Agreement

Supreme Resolution No. 063-98-ITINCI dated July 17, 1998 (CITE de Innovación Tecnológica del Cuero, Calzado e Industrias Conexas (Lima)).

Supreme Resolution No. 149-2000-ITINCI dated Oct. 6, 2000 (CITE Vitivinícola (Ica)).

Supreme Resolution No. 150-2000-ITINCI dated Oct. 6, 2000 (CITE Madera (Lima y Ucayali)).

Vice Ministerial Resolution No. 015-2002-MITINCI/VMI dated July 1, 2002 (CITE Frutas Tropicales y Plantas Medicinales (Loreto)).

Vice Ministerial Resolution No. 020-2002 PRO/VMI dated July 25, 2002 (CITE Confecciones y Tejidos (Arequipa)).

Vice Ministerial Resolution No. 011-2003-PRODUCE/VMI dated May 23, 2003 (CITE Agroindustrial (Tacna)).

Vice Ministerial Resolution No. 017-2003-PRODUCE/VMI dated June 26, 2003 (CITE Agroindustrial (Arequipa)).

Vice Ministerial Resolution No. 023-2003-PRODUCE/VMI dated Nov. 6, 2003 (CITE Textil de Camélidos (Arequipa)).

Vice Ministerial Resolution No. 001-2004-PRODUCE/VMI dated Jan. 23, 2004 (CITE CIBERTEC (Lima)).

Vice Ministerial Resolution No. 002-2004-PRODUCE/VMI dated Jan. 26, 2004 (CITE Agroindustrial (Ayacucho)).

Vice Ministerial Resolution No. 014-2004-PRODUCE/VMI dated Aug. 24, 2004 (CITE Agroindustrial (Piura)).

Vice Ministerial Resolution No. 016-2004-PRODUCE/VMI dated October 21, 2004 (CITE Metalmecánico (Lima)).