



PERÚ

Ministerio
de Economía y Finanzas

Comisión Especial
Ley N° 28933

“DECENIO DE LA IGUALDAD DE OPORTUNIDADES PARA MUJERES Y HOMBRES”
“AÑO DEL FORTALECIMIENTO DE LA SOBERANÍA NACIONAL”
“AÑO DEL BICENTENARIO DEL CONGRESO DE LA REPUBLICA DEL PERÚ”

Lima, 24 August 2022

OFICIO N° 463-2022-EF/32

Mr.
JOSÉ LUIS ARAGÓN CARDIEL
Legal Counsel
Permanent Court of Arbitration
Peace Palace, Carnegieplein 2
2517 KJ The Hague
The Netherlands

Re: *Bacilio Amorrortu v. The Republic of Peru*

Dear Mr. Aragón,

On behalf of the Republic of Peru (“Peru”), the Special Commission that represents Peru in International Investment Disputes (“**Special Commission**”), hereby acknowledges receipt of the Notice of Arbitration dated August 16, 2022 (“**Notice of Arbitration**”), submitted to the Permanent Court of Arbitration (“**PCA**”) by Mr. Bacilio Amorrortu (“**Claimant**”) under the United States-Peru Trade Promotion Agreement (“**TPA**”).

In this respect, Peru writes to notify Claimant of its failure to satisfy the requirements provided in Article 10.15 (Consultation and Negotiation) and Article 10.16 (Submission of a Claim to Arbitration) of the TPA, which expressly state the following:

“Article 10.15: Consultation and Negotiation

*In the event of an investment dispute, **the claimant and the respondent should initially seek to resolve the dispute through consultation and negotiation**, which may include the use of non-binding, third-party procedures.*

Article 10.16: Submission of a Claim to Arbitration

1. In the event that a disputing party considers that an investment dispute cannot be settled by consultation and negotiation:

(a) the claimant, on its own behalf, may submit to arbitration under this Section a claim

(i) that the respondent has breached

(A) an obligation under Section A,

(B) an investment authorization, or

(C) an investment agreement;

and

(ii) that the claimant has incurred loss or damage by reason of, or arising out of, that breach; and

(b) the claimant, on behalf of an enterprise of the respondent that is a juridical person that the claimant owns or controls directly or indirectly, may submit to arbitration under this Section a claim

1 de 3





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(i) that the respondent has breached

(A) an obligation under Section A,

(B) an investment authorization, or

(C) an investment agreement;

and

(ii) that the enterprise has incurred loss or damage by reason of, or arising out of, that breach,

provided that a claimant may submit pursuant to subparagraph (a)(i)(C) or (b)(i)(C) a claim for breach of an investment agreement only if the subject matter of the claim and the claimed damages directly relate to the covered investment that was established or acquired, or sought to be established or acquired, in reliance on the relevant investment agreement.

2. **At least 90 days before submitting any claim to arbitration under this Section**, a claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (“notice of intent”). The notice shall specify:

(a) the name and address of the claimant and, where a claim is submitted on behalf of an enterprise, the name, address, and place of incorporation of the enterprise;

(b) for each claim, the provision of this Agreement, investment authorization, or investment agreement alleged to have been breached and any other relevant provisions;

(c) the legal and factual basis for each claim; and

(d) the relief sought and the approximate amount of damages claimed.”

(Emphasis added)

Pursuant to Article 10.17 (Consent of Each Party to Arbitration) of the TPA, Peru has given its consent to the submission of a claim to arbitration under the provisions of Section B (Investor-State Dispute Settlement) of Chapter Ten (Investment) of the TPA, that is made in accordance with such agreement. Peru, thus, reserves all rights, including any jurisdictional objections, for Claimant’s failure to satisfy the requirements provided in Article 10.15 (Consultation and Negotiation) and Article 10.16 (Submission of a Claim to Arbitration) of the TPA, prior to commence this arbitration proceeding.

Respectfully,

DIGITALLY SIGNED DOCUMENT
VANESSA RIVAS PLATA SALDARRIAGA
President
Special Commission - Law N° 28933





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