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September 9, 2011

VIA E-MAIL

Mr. Edward G. Kehoe
King & Spalding LLP
1185 Avenue of the Americas
New York, NY 10036-4003

Re: *The Renco Group, Inc. v. The Republic of Peru*

Dear Mr. Kehoe:

White & Case LLP represents the Republic of Peru (the “Republic” or “Peru”) in connection with the Amended Notice of Arbitration and Statement of Claim by The Renco Group, Inc. (“Renco”) dated August 9, 2011 (“Notice of Arbitration”) and received by Peru on August 10, 2011. Renco’s Notice of Arbitration raises claims against Peru under the United States-Peru Trade Promotion Agreement (“TPA”) in an arbitration to be conducted under the 2010 UNCITRAL Arbitration Rules.¹ Pursuant to Article 4 of the UNCITRAL Rules, as applicable under the TPA, Peru provides the following preliminary response to the Notice of Arbitration.

1. Legal Instruments Giving Rise To The Dispute. Renco alleges that it invested in Peru in or about 1997 through an acquisition of an ownership interest in its Peruvian affiliate Doe Run Peru S.R.LTDA (“DRP”) in connection with a metallurgical facility in La Oroya, Peru (“La Oroya”). In the Notice of Arbitration, Renco alleges that its claims arise under the TPA and in connection with the 1997 Contract of Stock Transfer (“Contract”)² and the 1997 Guaranty

¹ See Notice of Arbitration ¶ 1; see also TPA, Art. 10.16(3)(c) (providing that claims may be brought under the UNCITRAL Rules) & Art. 10.16(5) (providing that the applicable rules are those “in effect on the date the claim or claims were submitted to arbitration”).

² Contract of Stock Transfer between Empresa Minera del Centro del Peru S.A., Doe Run Peru S.R.LTDA, The Doe Run Resources Corporation, and The Renco Group, Inc., dated Oct. 23, 1997 (Exhibit C-2 to Notice of Arbitration).

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Agreement (“Guaranty”)³ relating to the La Oroya facility acquisition. Renco alleges that the Contract and Guaranty constitute “investment agreements” under the TPA.⁴

Renco alleges that an agreement to arbitrate is contained in TPA Article 10.16(1), which states that a claimant “may submit to arbitration” a dispute under TPA Chapter 10, together with Article 10.17, which states that Peru “consents to the submission of a claim to arbitration under [Chapter 10] in accordance with this Agreement.”⁵

Peru reserves all rights to raise any and all comments, objections or defenses – including, without limitation, with respect to jurisdiction and admissibility – related to the legal instruments alleged to give rise to the dispute or to the alleged agreement to arbitrate.

2. Procedural History. Renco submitted the Notice of Arbitration further to a Notice of Intent to Commence Arbitration dated December 29, 2010, in which Renco indicated that it intended to pursue arbitration against Peru under the TPA.

Prior to the filing of the Notice of Arbitration, Renco submitted a document titled Notice of Arbitration and Statement of Claim dated April 4, 2011. That document sought to pursue in one proceeding a treaty arbitration arising under the TPA and a contract arbitration arising under the Contract (and under the Guaranty), combining Renco and DRP as claimants in a case against Peru and Activos Mineros S.A.C. (“Activos Mineros”).

The April 4 document presented procedural and jurisdictional issues under the TPA with respect to, *inter alia*, the inclusion of an enterprise of a Party as a claimant; the inclusion of a respondent other than the Party to the Treaty; the consolidation of treaty and contract proceedings, parties and procedures; the scope of the mandatory waiver of other proceedings with respect to the same alleged measures; and the scope of the consent to arbitrate.

Following discussions and correspondence with Peru, Renco chose to submit the Notice of Arbitration under the TPA with Renco as the claimant and Peru as the respondent.

In addition to the foregoing procedural history related to the case allegedly arising under the TPA, Renco appears to be directly or indirectly involved in other allegedly related processes such as engaging lobbyists in the United States and Peru, and seeking to stay, pending the arbitration, litigation brought in U.S. courts by third parties.

³ Guaranty Agreement between the Republic of Peru and Doe Run Peru S.R.LTDA dated Nov. 21, 1997 (Exh. C-3 to Notice of Arbitration).

⁴ *See, e.g.*, Notice of Arbitration ¶¶ 1-2.

⁵ Notice of Arbitration ¶¶ 62, 65 (citing TPA, Art. 10.16(1) & Art. 10.17).

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3. Claims And Relief Sought. Renco alleges that its claims relate to an investment and operational and environmental issues at La Oroya, including alleged breaches of the TPA (and subsidiarily, the Contract and Guaranty), as well as certain environmental obligations under the applicable Programa de Adecuación y Manejo Ambiental (“PAMA”). The alleged breaches relate significantly to alleged measures and treatment *vis-à-vis* DRP. Renco seeks, *inter alia*, an interim award granting declaratory relief and a final award granting unspecified damages.

Peru rejects Renco’s allegations and reserves all rights to raise any and all objections or defenses to these claims and the relief sought.

4. Procedural Matters

a. Arbitrators. TPA Article 10.19(1) provides that, unless the disputing parties otherwise agree, the arbitration tribunal shall be comprised of three arbitrators – one arbitrator appointed by each of the parties and the presiding arbitrator appointed by agreement of the parties.⁶ If the tribunal has not been constituted within 75 days from the date that Peru received the Notice of Arbitration – *i.e.*, October 24, 2011 – the ICSID Secretary General, at the request of a party, may appoint the arbitrator or arbitrators not yet appointed.⁷ Renco proposes a three-member tribunal and has appointed its arbitrator.⁸ Peru agrees that the number of arbitrators shall be three and will appoint its arbitrator in due course. Peru also will endeavor to reach agreement with Renco as to appointment of the presiding arbitrator.

b. Language. Renco proposes proceedings in the English language. Peru proposes proceedings in the Spanish language.

c. Place Of Proceeding. Renco proposes that the place of arbitration be fixed in The Hague, Netherlands.⁹ Peru proposes a seat of arbitration in Latin America, with the particulars subject to discussion. Counsel notes that it may be in a position to discuss the possibility of another seat.

d. Contact Details. Communications to Peru for purposes related hereto shall be addressed to its counsel of record, and all communications shall be served through counsel. The contact information for counsel to Peru is set forth below.

* * *

⁶ TPA, Art. 10.19(1).

⁷ *Id.* Arts. 10.19(2)-(3) (providing for the constitution of the tribunal within 75 days “from the date that a claim is submitted to arbitration”); *see also id.* Art. 10.16(4)(c) (providing that a claim “shall be deemed submitted to arbitration” under the UNCITRAL Rules when the notice of arbitration and statement of claim “are received by the respondent”).

⁸ Notice of Arbitration ¶¶ 68-69.

⁹ Notice of Arbitration ¶ 70.

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Peru expressly and broadly reserves any and all objections, defenses, privileges, immunities, claims, and counter-claims in connection with the above-referenced matter.

Sincerely,

WHITE & CASE LLP
By: Jonathan C. Hamilton

Contact information for counsel to Peru

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