

PERU: NONREIMBURSABLE TECHNICAL-COOPERATION FUNDING  
INSTITUTIONAL STRENGTHENING FOR A HIGHWAY CONCESSION SYSTEM

(TC-96-03-21-9)

EXECUTIVE SUMMARY

**EXECUTING AGENCY:** Comisión de Promoción de Concesiones Privadas (PROMCEPRI) [Commission for the Promotion of Private Concessions]

**BENEFICIARY:** Republic of Peru

**OBJECTIVES:** To support efforts by the Peruvian government to develop a concession system for public works and to get the private sector involved in the provision, operation and maintenance of transportation infrastructure.

The specific purpose of the program is to increase the technical and institutional capability of PROMCEPRI and the Ministry of Transportation, Communications, Housing and Construction (MTC) to successfully phase in the concession program currently being designed by the government, culminating in the take-over of sections of major highways by private enterprises under concession agreements. This should help expand highway infrastructure and improve its management, maintenance and operation by extending the sphere of the action of the private sector.

**DESCRIPTION:** The program will promote private-sector participation in the supply and operation of transportation infrastructure in general and highways in particular under a concession system. To this end, it will: (i) review the existing legal and regulatory framework; (ii) establish the legal structure, functional layout and operating procedures for the system's regulatory agency; (iii) perform technical studies (engineering, environmental, economic, and financial); (iv) draw up bidding documents; (v) promote the concession program; and (vi) award at least one highway concession.

The operation is designed to bolster the Peruvian government's policy of funding the expansion of infrastructure facilities without increasing government spending. The combination of population growth, an upsurge in business activity and mounting demands for economic infrastructure, which could hamper

medium-term economic growth, has created a pressing need to put this policy into effect. The government has accorded high priority to this matter in general and to the current operation in particular, as demonstrated by the establishment of PROMCEPRI, the Comité Especial de Privatización de Caminos (CE-Caminos) [Special Committee for the Privatization of Highways] and a concession unit attached to the Ministry of Transportation, Communications, Housing and Construction (MTC-AC).

<b>FINANCING:</b>	Modality:	Grant (Window 1)
	Beneficiary:	US\$ 700,000
	MIF:	US\$1,300,000
	Total:	US\$2,000,000

**BENEFITS AND RISKS:** The project will establish a permanent structure for expanding the transportation concession system, provide training for the government agencies concerned and their staffs, organize and start up a regulatory agency in this sector, and assist in the implementation of a pilot project.

The institutional strengthening and interagency coordination risks examined in the course of the project preparation process are mitigated by the commitment inherent in the establishment of PROMCEPRI and by the active role played by the MTC on this committee and the involvement of its technical departments in the operations of CE-Caminos.

**EXCEPTIONS TO BANK POLICY:** None

**CONTRACTUAL CONDITIONS:** Disbursements of MIF funding will be made in accordance with Bank procedures, the first of which will be contingent on the executing agency furnishing evidence of compliance with the following conditions: (i) the establishment of CE-Caminos and the appointment of officials to serve on the committee; and (ii) the submission of a project execution plan, including the following elements: (a) a project activity schedule; (b) preliminary terms of reference for all consultants and studies to be financed with MIF funding and for regular staff members to be engaged with local counterpart funding; and (c) a hiring schedule for the aforesaid staff members.

**ENVIRONMENTAL  
CLASSIFICATION:** The Environment Committee, at its meeting of August 13, 1996, classified this as a Category III operation.

**POVERTY  
TARGETING:** This is a policy-based institutional strengthening operation and is not considered poverty-targeted.

**PROJECT TEAM:** Ricardo Posada (PRE/MIF), Juan Carlos Pérez Segnini (LEG/OPR), María Claudia Perazza (RE3/EN3), Miroslava de Nevo (COF/CPE), Jacob Greenstein, Hilia Gensheimer, and Rodolfo Huici (RE3/FI3), Team Leader.

## I. COUNTRY ELIGIBILITY

- 1.1 The MIF Donors Committee declared Peru eligible for all MIF financing facilities on December 14, 1993.

## II. BACKGROUND

### A. Introduction

- 2.1 The Peruvian economy has gone through major changes over the course of the past few years as a result of efforts to overhaul the entire productive structure in line with the development of an open-market economy and a structural adjustment program with an emphasis on boosting exports, investment and savings. From a country with rampant inflation and significant government involvement in business, Peru has been transformed into an open, competitive economy with relatively stable prices. This transformation is consistent with efforts to redefine the role of government in the economy and to channel government spending into the social sectors.

### B. The highway sector

- 2.2 Peru lost a large part of its highway infrastructure during the 1980s as a result of inadequate spending on maintenance and rehabilitation projects. By 1990, 76% of its 70,000 kilometers of highways were in poor condition and 16% in fair condition, with just 8% considered to be in good condition. The situation was much the same for infrastructure in other areas of the transportation sector. The deteriorating conditions created confusion and disrupted communications, adding to pressures that were pushing the country to the brink of economic collapse.
- 2.3 The government launched an emergency road program to rehabilitate the country's major national highways in September of 1990. Financial assistance furnished by the IDB in successive loans (Loans 651/OC-PE and 836/OC-PE for US\$210 million and US\$252 million respectively) and by the World Bank (Loan 3717-PE for US\$150 million) allowed this work to proceed at a steady pace.
- 2.4 Approximately 4,500 kilometers of roadways that included the Panamerican and Central American Highways were rehabilitated in the course of the past six years at a cost of more than US\$500 million. Rehabilitation work also began on other major sections of highway (Pisco-Ayacucho; Nazca-Cusco-Puno-Desaguadero, etc.). However,

these highway repairs have raised new challenges associated with their operation and maintenance, among other factors. 1/

C. Institutional framework

- 2.5 The oversight agency for the highway sector is the MTC, which is in the process of carrying out institutional programs to realign highway administration responsibilities currently scattered among several internal agencies, namely the Dirección General de Caminos [Highway Department] in charge of the unpaved primary and secondary road system, the Sistema Nacional de Mantenimiento de Carreteras (SINMAC) [National Highway Maintenance System] in charge of maintenance work on the rehabilitated primary road system, and the Proyecto Especial de Rehabilitación de la Infraestructura de Transporte (PERT) [Special Rehabilitation Project for Transportation Infrastructure] in charge of construction and rehabilitation work for the primary road network.
- 2.6 Under this realignment, the MTC will address itself to high-level activities associated with transportation infrastructure and services such as strategy- and policy-making, establishing and fine-tuning the legal and regulatory framework and overseeing enforcement efforts. It also provides for the establishment of a single executing agency within the highway sector, with a considerable degree of operational and administrative autonomy, headed by a Board of Directors consisting of both government officials and appointees with proven skills and experience. This new administrative structure will be set up in 1997.

D. Infrastructure concessions

- 2.7 The privatization and concession program was introduced in the early 1990s with the establishment of a sound legal and regulatory framework for private investment in the power and telecommunications industries, followed by the privatization of government enterprises operating in both these sectors. The establishment of the Comisión para la Promoción de la Inversión Privada (COPRI) [Commission for the Promotion of Private Investment] consisting of the ministers in areas with direct ties to government enterprises scheduled for divestiture provided the momentum and political backing needed for this successful effort.

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1/ The National Highway Maintenance System (SINMAC) operated by the MTC has established a system of toll charges and drawn up short-term routine maintenance contracts to ensure that rehabilitated sections of road are properly maintained. Not all the proceeds from toll charges, however, are used to maintain the roads on which they are collected, nor does the amount charged reflect the cost of rehabilitation and maintenance work performed on and required by the road in question.

- 2.8 The recent formation of the Comisión de Promoción de Concesiones Privadas (PROMCEPRI) [Commission for the Promotion of Private Concessions] designed to boost private sector participation in the rehabilitation, construction, operation and maintenance of transportation and other types of infrastructure gave new momentum to the concession program.
- 2.9 The concession system for the transportation sector provides for the private financing of highway, port, and airport infrastructure projects and the private operation of related services. Concessions may be operated at no cost whatsoever to the government or they may be subsidized, in which case they involve a mix of private and government financing. In either case, there is a contractual relationship between the concession holder and the government rooted in common goals and interests.
- 2.10 Its main objectives are to: (a) narrow gaps in public infrastructure; and (b) promote private sector participation in the financing, maintenance and operation of transportation infrastructure. The latter objective will be attained by means of a system of user charges whereby the construction, expansion and use of transportation infrastructure will be paid for by their direct users. It is also expected to raise investment efficiency by delegating the responsibility for the construction and maintenance of these works to the private sector and involving it in the setting of priorities, as well as through the use of innovative construction methods in projects proposed by the government.

E. Participation by the private sector in the highway sector

- 2.11 The government proposes to use the concession system to draw on the private sector to ensure that highway infrastructure is adequately expanded, operated and maintained. Its experience with concessions in this economically and socially strategic sector is limited. At present only one concession is in operation, along a 105-kilometer stretch of highway between Arequipa and Matarani. Another concession for the Cusco tourist route was put out to tender, only to be withdrawn by the MTC for purposes of developing a more comprehensive concession program.
- 2.12 Government policies are ambitious and mean involving private enterprises in the operation, maintenance and expansion of the country's main highways, and the construction of new ones, particularly access roads to the city of Lima, as well as the possibility of granting concessions for port and airport infrastructure. The MTC is about to approve and issue a policy paper outlining its position in regard to highway concessions. A summary of the paper can be found in a letter from the MTC to the

Ministry of Economy and Finance (MEF). 2/ This paper will be used by PROMCEPRI to draw up a master plan for public infrastructure works and public utilities (Article 2 of the Regulations of the consolidated amended text of the law).

- 2.13 The government has now identified over 10,000 kilometers of main highways that could be operated as concessions in the next few years. It is also framing a comprehensive financial aid policy for projects with a good economic rate of return but with a financial rate of return unacceptable to private investors, and which would therefore require partial government funding in order to produce an acceptable financial return. Moreover, the use of a shadow toll in the case of projects involving highways with a low traffic density where the collection of tolls is ruled out by the operating costs involved would allow large numbers of roads to be added to the rolls of privately operated highways. Such a policy means recognizing concessions as a highway administration system and not just another highway financing scheme.

F. Legal and regulatory framework

- 2.14 The concession system is presently in the implementation and expansion phase. There is a legal framework in place which, in general, has been accepted by the different economic agents. Existing legislation has been updated on the basis of previous local and international experience and the actual operation of the concession system, albeit on a limited scale (see paragraph 2.11). However, the regulatory framework needs to be fine-tuned, particularly the system for administration and supervision of the concession agreements.
- 2.15 The legal framework established by Legislative Decree No. 758 for the promotion of private investment in infrastructure works and public services passed in 1992 as part of the move to streamline government provides for private investment in areas traditionally reserved for the public sector.
- 2.16 Legislative Act No. 839 for the promotion of private investment in public infrastructure works and public services passed on August 20, 1996, established PROMCEPRI as the agency in charge of spurring efforts to prepare and award concessions to private enterprises.
- 2.17 The consolidated amended text (TUO) of Executive Decree No. 059-96-PCM and its implementing regulations (Executive Decree No. 060-96-PCM) issued by the government reconciles the provisions

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2/ Official Letter No. 1236/96 MTC/15.01 dated December 27, 1996, which can be found in the project technical files.

of the aforesaid legislative acts, providing a comprehensive legal framework for the development of an infrastructure concessions market.

- 2.18 This legal and regulatory framework is adequate for purposes of activities associated with concessions and the privatization of transportation infrastructure, although specific activities in need of further development have been identified and will be perfected in the course of this operation.

G. Administration of concessions

- 2.19 Concession agreements in the highway sector will be administered by Organo Regulador Autónomo para Carreteras (ORAC) [Independent Highway Regulation Agency], a specialized agency whose operations will be independent of both PROMCEPRI and the MTC. The main attributes of this agency were established in a resolution passed by PROMCEPRI 3/ and ensure that it has all the elements of a highly qualified, independent agency (see paragraph 2.27).
- 2.20 Its attributes include: (i) operational and administrative autonomy; (ii) a considerable degree of financial autonomy through funding provided by concession holders; 4/ (iii) responsibility for the administration and supervision of concession agreements, including environmental considerations; and (iv) transparent operations through the disclosure of its decisions and financial statements and the publication of regular reports.
- 2.21 The aforesaid resolution also makes the MTC responsible for drafting the legislation creating the ORAC as an activity to be carried out as part of the current project.

H. Executing agency

- 2.22 The executing agency for the concession program is PROMCEPRI. Article 5 of the TUO gives this agency "sole responsibility for promoting private investment in public infrastructure works and public services eligible for operation as concessions by the private sector." It further provides that "PROMCEPRI is to be in charge of the design and implementation of promotional activities ... consolidating decision-making ... as the supreme oversight agency." The MTC, represented by the Minister of Transportation, Communications, Housing and Construction, is one of four members of

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3/ PROMCEPRI Resolution 001-01-97 dated January 7, 1997, which can be found in the project technical files.

4/ The provision to the effect that ORAC is to be funded by the holders of concessions administered by this agency is designed to ensure its sustainability. The act creating ORAC should establish the origin of its operating capital to the extent of its funding by concession holders.



PROMCEPRI with full rights. The others are the Ministry of Economy and Finance, the Office of the President and the Ministry of Energy and Mines.

- 2.23 PROMCEPRI will conduct its operations through special committees. The MTC will play a key technical role on the Special Committee for the Privatization of Highways dealing specifically with highway concessions.
- 2.24 As the executing agency, PROMCEPRI may, where necessary, arrange for project components to be implemented through the MTC, assigning funding for this purpose according to the established breakdown of responsibilities, subject to clearance with the Bank (see paragraph 2.21). PROMCEPRI will be fully responsible for implementing the component in question.

I. Bank experience

- 2.25 Both the IDB (Loans 651/OC, 836/OC and 901/OC) and the World Bank (Loan 3717-PE) have successful ongoing operations with large-scale institutional strengthening components that are gradually helping to streamline the management of Peru's highway sector and its oversight agency, the MTC. These operations will continue at the same time as the current technical assistance program, furnishing it with a comprehensive, stable institutional framework.
- 2.26 The Bank recently approved an investment sector loan (ISL) (Loan 985/OC-PE) under which the government has undertaken to strengthen the legal and regulatory framework for transportation concessions and other types of infrastructure concessions, and to establish independent regulatory agencies (IRA) for the regulation and administration of concession agreements.
- 2.27 The agreements entered into with the Peruvian government under the ISL provide for the creation of one or more independent regulatory agencies for the transportation sector (for highways and ports for example) and establish their independent status, structure and procedures. 5/ They also provide for these agencies to be set up during the current year. The studies to be conducted under the proposed project will establish the institutional features and sectoral scope of the independent regulatory agency.

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- 5/ In brief, their attributes, as established under the ISL, are as follows:
- (a) complete insulation from political interference;
  - (b) a considerable degree of financial autonomy;
  - (c) responsibility for the supervision and administration of concession agreements;
  - (d) a mandate to protect the interests of the parties;
  - (e) fully transparent operations; and
  - (f) accountable to the public.

- 2.28 The formation, functional layout and institutional strengthening of the independent regulatory agency for the transportation sector in this operation should ensure its involvement in the highway concession program from the outset, thereby guaranteeing that concession agreements may be administered (i.e., enforced) by the regulatory agency. It should also ensure that the independent regulatory agency has the necessary structure, experience and expertise to discharge its responsibilities.
- 2.29 This technical assistance will complement the aforementioned operations in a positive sense by helping to set up a highway administration system providing for regular maintenance and improvements, with available government resources being used to fund the expansion of the highway network.

### III. THE CONCESSION PROGRAM

#### A. Scope and background

- 3.1 The concession program for the period from 1997 through the year 2000 involves 10 highway networks covering a total of 11,300 kilometers at a projected cost of US\$610 million. <sup>6/</sup> All these networks include sections of the existing rehabilitated primary road system, as well as stretches of highway requiring capital expenditures. Both the government and the general public have expressed a great deal of interest in this matter, and the program is expected to make rapid progress.
- 3.2 However, as it starts up, the concession program (only one concession is now in operation) has raised a series of problems which need to be studied and resolved if the program is to achieve its objectives. Procedures for the granting of concessions are complicated and involve a number of interrelated areas. It is a slow-moving process requiring an exhaustive preparation phase commanding massive inputs of financial and technical resources, together with enormous political and financial backing from the government.

#### B. Institutional strengthening and consulting services

- 3.3 Moving this process forward requires putting together a team of qualified experts dedicated exclusively to this task, having appropriate training, facilities and equipment. The concession unit (MTC-AC) and, more recently, CE-Caminos were established specifically for this purpose. Both these agencies have hired

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<sup>6/</sup> Presented in technical annexes.

experienced staffs of professionals who are being trained for the tasks at hand. This process will be deepened by the proposed project.

- 3.4 These experts do not have the necessary experience to design and implement a concession system on their own. A number of key areas have been identified in which the regular staffs of these agencies will need to be reinforced by consulting services for a period of 6 to 18 months to organize and standardize tasks which will eventually become relatively routine. These areas include matters such as the legal and regulatory framework, bidding documents, studies of demand and the impact of toll rates, the administration of concession agreements, the financing and management of new works, and environmental considerations.
- 3.5 Resolving these problems is crucial to the success of the concession program. Hence the need to act quickly and confidently to engage the services of consulting firms. The proposed MIF operation will ensure that these tasks are performed with the necessary diligence and expertise and will allow the government to benefit from the Bank's own experience in this area.

C. Environmental quality control and monitoring

- 3.6 The highway concession system would be based on a tripodal structure formed by the MTC, PROMCEPRI and the ORAC. These three agencies will share environmental quality control and monitoring responsibilities as follows: (i) the MTC will continue to be responsible for issuing environmental standards for the highway sector; 1/ including the environmental impact assessments (EIA), environmental audits and management plans, and will also implement final designs, including the aforesaid studies, via its various agencies, as warranted by the specific circumstances; (ii) the environmental standards and the obligations derived therefrom will be included in the bidding documents by PROMCEPRI, as well as the environmental analyses conducted by the MTC; PROMCEPRI will verify the quality of these studies and whether they are acceptable; and (iii) the ORAC will ensure compliance with the environmental provisions of concession agreements, enforce penalties for noncompliance and establish corrective measures to be taken by the concession holder in such cases.

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1/ Responsibility for setting standards will be separate from responsibility for highway projects, which may be carried out by the public sector (agencies attached to the MTC) or by private concession holders.

#### IV. THE PROJECT

##### A. Objectives

- 4.1 The proposed project is designed to support efforts by the Peruvian government to strengthen its concession system for public works and get the private sector involved in the construction and operation of transportation infrastructure.
- 4.2 The specific purpose of the project is to furnish technical assistance to increase the capacity of CE-Caminos, the MTC concession unit and ORAC to successfully implement each phase of the concession program. This should help to expand highway infrastructure and improve its management, operation and maintenance while, at the same time, spurring the growth of private enterprise.

##### B. Activities

- 4.3 The project will provide institutional support to assist CE-Caminos and the MTC-AC with strategy- and policy-making, the design of the highway concession program, business management and promotion, financing, the legal and regulatory framework for granting concessions and the establishment of bidding procedures, institutional factors associated with the administration of concession agreements and the preparation and promotion of a specific project, as well as the organization and start-up of the regulatory agency for the concession system.
- 4.4 The project is divided into four interrelated components.

##### Component 1 - Institutional strengthening and review and refinement of the regulatory framework

- (i) Review of the existing legal and regulatory framework, including environmental aspects, in order to identify any gaps that would hamper program implementation;
- (ii) Establishment of bidding conditions and a model concession agreement;
- (iii) Design of the legal and institutional structure of the oversight agency for the concession system to be organized as an independent regulatory agency and drafting of the legislation establishing such agency;
- (iv) Functional layout and organizational development of the independent regulatory agency and a plan of action for starting up the agency as the program progresses and an initial group of concession holders materializes; and

- (v) Training of CE-Caminos, MTC-AC and ORAC personnel through field trips to regional countries with more highly developed concession systems. Hiring of international consultants to give courses and seminars and train local personnel.

Component 2 - Preparations for the bidding process

- (i) Economic and financial appraisals of highway networks to be awarded under concessions, designing of concessions on a large enough scale to attract international investors;
- (ii) Development of financial models to determine financial rates of return on private investment;
- (iii) Development of financing mechanisms (risk analysis, limited guarantee systems) providing these highway networks with access to domestic and international financial markets; and
- (iv) Studies of demand and resulting levels of service on these highway networks and impact and sensitivity analyses of toll rates.

Component 3 - Promotion of the concession program

Workshops offered to publicize the program and furnish information to prospective investors, lenders and other parties with a legitimate interest in the program. This component will be financed mainly with local funding.

Component 4 - Assistance in the awarding of a highway concession

- (i) Review of the technical studies forming part of the bidding documents, including the EIA and the analysis of adverse environmental impacts (environmental audit);
- (ii) Adaptation of bidding documents to the specific circumstances; and
- (iii) Assistance during the project bidding phase for:
  - a. Issuance of a call for proposals under an international competitive bidding (ICB) process;
  - b. Consultations and clarifications of bidding documents;
  - c. Acceptance and evaluation of bids;
  - d. Selection of the successful bid and award of the concession;

- e. Review of protests filed against the award, where applicable;
- f. Negotiation and signature of the concession agreement; and
- g. Take-over by the concession holder.

4.5 The government will contract out the final engineering studies for the highway concession pilot project as soon as the highway in question has been identified to ensure that these studies are included in the bidding documents. The cost of these studies are such that they cannot be financed under the present project, and the government has undertaken to cover their cost with funding of its own. This particular activity will need to be conducted simultaneously with and possibly prior to the above-mentioned activities to ensure that all necessary documentation is ready in time for the bidding process. These studies will be conducted in accordance with the terms of reference used by the PERT [special rehabilitation project for transportation infrastructure], 8/ which have already been approved by the Bank.

C. Environmental considerations

4.6 The special environmental impact assessment unit (UEIA-PERT) is responsible for monitoring and controlling the environmental quality of road works. The terms of reference for construction and/or rehabilitation contracts set out most of the controls and mitigating measures, to cover the gaps in the law in this area. Rules and regulations governing concessions and maintenance of existing works and the delineation of responsibilities for adverse environmental impacts produced by such works will be formulated with the proceeds from the investment sector loan (Loan 985/OC-PE) or the second highway loan (Loan 836/OC-PE).

4.7 Furthermore, project component 4 (Assistance in the awarding of a highway concession) includes provisions for necessary environmental analyses (environmental audits and mitigating and control measures). Preliminary terms of reference for an assessment of the environmental debt associated with the highway to be operated as a concession are presented in a technical annex. Environmental assessments of

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8/ The terms of reference for the PERT will be updated to meet what are considered to be appropriate technical standards for private concessions involving such considerations as investment and maintenance costs, levels of service, travel safety, environmental impact assessments and environmental audits, etc. Tools such as the 1995 HDM may be used for this purpose. Any changes to the terms of reference will require the Bank's nonobjection.

prospective rehabilitation projects will be conducted in accordance with the environmental management guide for road work published by the UEIA.

D. Project cost and financing

- 4.8 The estimated cost of the project is US\$2 million (see Annex I). The government contribution, amounting to 35% of the project cost, will be used to hire local personnel and acquire office space, as well as for to fund studies and promote investments. The project budget is summarized in the following table.

BUDGET (US\$000s)	MIF	LOCAL CONTRIBUTION	TOTAL
Subproject I	460	110	570
Subproject II	450	90	540
Subproject III	50	150	200
Subproject IV	210	40	250
Coordination, supervision, contingencies	130	310	440
Total project cost	1,300	700	2,000

E. Management and execution

- 4.9 The executing agency will be PROMCEPRI, through its special committee for the privatization of highways (CE-Caminos). The MTC will play a key role in establishing the scope and features of the concession program, and in implementing it. PROMCEPRI may assign a portion of its funding to the MTC as required by the division of responsibilities between the two agencies, with the Bank's nonobjection.
- 4.10 Given their nature, project activities will need to be carried out by consulting firms with recognized international experience, particularly in areas bearing on the legal and regulatory framework, the institutional structure of the regulatory agency for the concession system (Component 1), financial appraisals of established concessions and analyses of demand (Component 2), and assistance with the pilot project concession (Component 4), which will be used as a yardstick by domestic and international tenderers in judging the merits of the projects.
- 4.11 PROMCEPRI will be in charge of all facets of project planning, organization, coordination, management, monitoring and supervision. Its responsibilities include: (i) preparing terms of reference; (ii) issuing invitations to submit bids, drawing up short lists of bidders and issuing calls for proposals; (iii) selecting successful bidders and awarding consultancy contracts; (iv) verifying the

progress of work; (v) authorizing payments; (vi) preparing all documentation to be submitted by the executing agency to the Bank under the provisions of the loan agreement; (vii) coordinating the efforts of consultants, government officials and agencies associated directly or indirectly with the project; and (viii) serving as contact with the Bank during project implementation.

- 4.12 CE-Caminos will require the services of a coordinator, an economist specializing in finance, a transportation and transit engineer, an attorney and administrative support to perform the tasks referred to in paragraph 4.11 above. The individuals may be regular staff or consultants hired on contract. The coordinator will have technical responsibility for the staff and consultants engaged with project funding. MTC-AC personnel may be used to fill some or all of the staff positions. The government has undertaken to keep on the personnel trained under the current program.

F. Disbursements and procurements of goods and services

- 4.13 The MIF funding will be disbursed in accordance with Bank procedures, the first of which will be contingent on the executing agency demonstrating that it has satisfied the following conditions: (i) the establishment of PROMCEPRI and its designation as the project executing unit; (ii) the appointment of officials to serve on CE-Caminos; (iii) the submission of a project execution plan, including: (a) a work schedule; (b) preliminary terms of reference for all consultants and studies to be financed with project funding and for staff members to be engaged with local counterpart funding; and (c) a hiring schedule for the aforesaid staff members.
- 4.14 The time frame for project execution will be 18 months, with a 24 month disbursement period, in each case from the effective date of the agreement. PROMCEPRI may request direct payments by the Bank for procurements of goods and services for the project and for consultancy services. Procurements of goods and consultancy services will be done in accordance with Bank procedures.
- 4.15 Bank funding shall be earmarked exclusively for the financing of its percentage share of the items specified in the cost breakdown for this operation.

G. Supervision

- 4.16 The execution of each component requires close cooperation between PROMCEPRI and the Bank. Bank supervision will be afforded through regular meetings of the head sector specialist at the Country Office in Peru with the executing agency and the CE-Caminos coordinator and through four-month reports to be drawn up and submitted to the Bank by CE-Caminos within thirty days from the end of each four-month period.



- 4.17 These reports shall include at least the following information: (i) a summary of activities during the reporting period; (ii) progress in furtherance of the envisaged project objectives embodied in the outputs established in the logical framework (see Annex II); (iii) problems encountered in the course of implementing the project and measures taken to resolve these problems; (iv) recommendations concerning any reallocations of funding from one budget entry to another, without modifying the terms and conditions or increasing the funding and, where applicable, for the rescheduling of activities as a result of intervening problems; all of these recommendations are subject to Bank approval; and (v) a short-term plan of action for the ensuing period. Moreover, the consultants' reports and the preliminary and final reports on specific studies subject must be submitted to the Bank for review as they are presented.
- 4.18 The executing agency will submit a final report within six months of conclusion of the project. The report will summarize the activities conducted, specifying the application of all outlays of MIF and local counterpart funding and indicating all decisions taken and outputs produced and expected to be generated by the project. The technical cooperation agreement will also include as a condition that the executing agency submit project financial statements examined by independent auditors acceptable to the Bank in accordance with generally accepted auditing standards.
- 4.19 CE-Caminos operating expenses, estimated at US\$240,000, will be financed with local counterpart funding. All counterpart expenses are project-specific costs and represent expenses incurred by the Peruvian government.

H. Program benefits

- 4.20 Implementation of this program will provide the government with a legal, institutional and technical framework for developing concessions in transportation infrastructure, mainly for roads, which, in turn, will boost investment and, more importantly, improve maintenance, which is now poor, on the nation's major highways.
- 4.21 This operation could be replicated in other jurisdictions (the metropolitan Lima area is in need of enormous outlays for urban transport) or other sectors (ports and airports for example), which could benefit from the experience gleaned by PROMCEPRI and the MTC.
- 4.22 If sustained over the next few years, this project will lay the groundwork for a new highway administration system that is increasingly reliant on private enterprise for service delivery, allowing the government to channel its efforts into social development programs.

## I. Risks

- 4.23 The main risk presented by the program lies in the possibility of the government lacking the necessary determination to follow through with the concession program and to sustain its continuity in the years ahead. This risk is mitigated by the recently established institutional framework and the reforms planned for this framework during 1997. The risk of inadequate interagency coordination is tempered by the participation of the Ministry of Transportation, Communications, Housing and Construction in the administration of PROMCEPRI, as well as by the involvement of its technical departments in the operations of CE-Caminos.
- 4.24 The possibility of the program failing to attract the interest of foreign investors poses yet another potential risk. However, one of the program components is specifically geared to mitigate this risk by designing concessions that are large enough to attract foreign investors and by furnishing prospective investors with extremely reliable and detailed information. The institutional and regulatory framework to be established thereunder will afford investors necessary assurances that concession agreements are protected from swings in the political climate.
- 4.25 Lastly, the security risk is alleviated by the fact that the first series of concessions to be awarded will involve the most heavily traveled sections of the Panamerican Highway.

## V. PROJECT ELIGIBILITY CRITERIA

- 5.1 MIF funding for implementation of an institutional strengthening project for a highway concession system is consistent with the overall objective of the MIF of seeking to boost private sector participation and investment with a view to spurring growth and socioeconomic development. The proposed project is also consistent with Technical Cooperation Facility guidelines for the allocation of MIF funding, which give priority to projects that encourage more private investment in infrastructure.

## VI. COMPATIBILITY WITH THE BANK'S COUNTRY PROGRAM

- 6.1 This technical-cooperation project is consistent with the priorities agreed on between the country and the Bank, as established in the programming memorandum of November 29, 1995. According to this document, one of the main focuses of the Bank strategy (paragraph 5.1(c) and (d)) is to increase private-sector participation in infrastructure.

## VII. EVALUATION

- 7.1 The monitoring and supervision procedures described in section "G" (Supervision) of this document (i.e. regular meetings and reports on all project activities) will be followed to ensure adequate project monitoring and evaluation. These reports will furnish all of the necessary data for an ex post evaluation, if need be. The most telling indicator of success, however, will be the results of the international competitive bidding held to award the concessions for transportation infrastructure.

**PERU: MIF**  
**INSTITUTIONAL STRENGTHENING FOR A HIGHWAY CONCESSION SYSTEM (TC-9603219)**  
**Itemized budget (US\$000s)**

PROJECT COMPONENTS	MIF	LOCAL	TOTAL	COMMENTS
<b>LEGAL STRENGTHENING AND REGULATORY FRAMEWORK</b>	<b>460</b>	<b>110</b>	<b>570</b>	
Legal and regulatory framework	50	10	60	To be performed by a single consulting firm with experience in local administrative law, the international regulatory framework for the granting of concessions and the functional roles of regulatory agencies
Concessions and standard concession agreement	100	20	120	
Legal and institutional structure of the regulatory agency for the concession system	170	20	190	
Organizational structure of the regulatory agency for the concession system	110	30	140	O & M firm, working with the legal advisor
Training of Caminos, MTC-AC and ORAC personnel	30	30	60	Local seminar and training trips
<b>FINANCIAL AND ECONOMIC ACTIVITIES INVOLVED IN PREPARING THE BIDDING PROCESS</b>	<b>450</b>	<b>90</b>	<b>540</b>	
Financial appraisal of highway networks	80	20	100	To be performed by a single consulting firm, preferably an investment bank with experience in international bidding processes for public works or services
Development of financial models	100	20	120	
Risk mechanisms and risk analysis	70	10	80	
Standards and levels of service and sensitivity analysis of toll rates	200	40	240	Prominent international consulting firm
<b>ACTIVITIES OF THE CONCESSION PROGRAM</b>	<b>50</b>	<b>150</b>	<b>200</b>	International seminar, promotion, materials
<b>ACTIVITIES WITH THE AWARDING OF A HIGHWAY CONCESSION</b>	<b>210</b>	<b>40</b>	<b>250</b>	
Technical and environmental studies	50	10	60	Quality control of technical studies and environmental assessments
Preparation of bidding documents	30	10	40	Where applicable, to be performed by the same firm that established the regulatory framework
Managing the bidding process	130	20	150	
<b>OPERATION AND SUPERVISION</b>	<b>-</b>	<b>240</b>	<b>240</b>	36 p/m of professional services; 18 p/m of secretarial services
<b>RESERVE FUNDS</b>	<b>130</b>	<b>70</b>	<b>200</b>	10% of total cost
<b>TOTAL PROJECT COST</b>	<b>1,300</b>	<b>700</b>	<b>2,000</b>	

**PERU: TECHNICAL-COOPERATION FUNDING IN SUPPORT OF AN INSTITUTIONAL  
STRENGTHENING PROGRAM FOR A HIGHWAY CONCESSION SYSTEM (TC-96-03-21-9)  
LOGICAL FRAMEWORK AND INDICATORS**

OUTLINE OF OBJECTIVES	VERIFIABLE INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
Strengthen a concession system for highways and get the private sector involved in the construction and operation of transportation infrastructure	Calls for tenders for concessions to operate highways and other transportation infrastructure works. Signature of corresponding concession agreements. Transfer of infrastructure and commencement of service delivery by the private operator (second half of 1998).	Award decisions, signed concession agreements, public information.	Political and macroeconomic stability; no major changes in support of privatization policy.
Establish a concession system for the operation and maintenance of the country's major highways. To ensure that the system is open to include other transportation modes	Formulation of an action plan and timetable for:  1. conducting the bidding process for the award of highway concessions; 2. performing technical, legal, economic and environmental studies; 3. allocating funding for implementation of the action plan.	1. Information reported by government agencies; 2. Information collected by the Country Office and in the course of administration missions.	1. Clearly delineated agency responsibilities; availability of financial resources for necessary activities; 2. The government has approved and disclosed its policy on highway concessions.

OUTLINE OF OBJECTIVES	VERIFIABLE INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
<p>strengthening and review and of the regulatory framework: the present legal and regulatory (ii) bidding conditions and model (iii) design of the legal and structure of the oversight agency for on system; (iv) functional layout and al development of the independent agency; and (v) training of MTC, I and IRA personnel.</p> <p>for the bidding process: and financial appraisal of highway be awarded under concession (ii) financial models; (iii) financing analyses of demand and elasticity of</p> <p>f the concession program: workshops publicize the program and furnish to prospective investors, lenders and ted parties.</p> <p>with the awarding of a highway (i) review of technical and al studies; (ii) adaptation of bidding and (iii) support and assistance with process for the pilot project.</p>	<p>Specialized consultants with proven international experience in conducting the activities involved in each program component are hired. The final terms of reference for these consultants will need to be presented to the Bank for its non objection by April 30. Consultants must commence their work by the end of the third quarter of the current year and conclude it by the end of the second quarter of 1998, with the exception of services associated with Components 1 (iv — functional layout and organizational development of the IRA) and 4. Required rules and regulations for the implementation of recommendations prompted by these studies will need to be issued within 30 days of approval of the studies in question, including bidding documents and the model agreement. Studies associated with the establishment of the independent regulatory agency will need to be completed during the fourth quarter of 1997 to ensure formal approval by the end of the current year. The call for proposals under the pilot project will need to be issued in the first half of 1998, with the concession to be awarded in the second half. The training and development of CE-Caminos and MTC-AC personnel through field trips to regional countries will need to take place by the end of the second quarter of 1997. IRA personnel will be trained during the six-month period following its establishment.</p>	<ol style="list-style-type: none"> <li>1. Completed studies;</li> <li>2. Recommendations adopted by the government;</li> <li>3. Legislation and regulations approved;</li> <li>4. Approval and disclosure of bidding documents and the model agreement.</li> </ol>	<ol style="list-style-type: none"> <li>1. Clear delegation of respo CE-Caminos for the contr studies for program prepa purposes.</li> <li>2. Close ties of cooperation MTC-AC and CE-Caminos</li> <li>3. Design of consultancy co enough to attract the inter prominent international fir</li> <li>4. The government agencies have capable professiona a low turnover rate, and th program in progress to pr training in highway conce</li> </ol>
<p>nt of CE-Caminos; strengthening and training services for s and the MTC-AC concession unit; consulting services engaged.</p>	<ol style="list-style-type: none"> <li>1. CE-Caminos set up and operational (March 31, 1997);</li> <li>2. A fully operational MTC-AC as a functional unit within the MTC (March 31, 1997);</li> <li>3. Allocation of responsibilities and financing for studies not covered by the project (PERT and SINMAC budget for 1997, use of proceeds from loan 836/OC-PE);</li> <li>4. Contract awarded for specialized consulting services (June 30, 1997);</li> <li>5. Allocation of funding to each activity according to the budget presented in Annex I;</li> <li>6. Budgetary appropriation in the amount of US\$700,000 to cover the local counterpart funding.</li> </ol>	<ol style="list-style-type: none"> <li>1. Terms of reference submitted and approved;</li> <li>2. Calls for proposals issued under international competitive bidding for the consulting services;</li> <li>3. Progress reports by consultants;</li> <li>4. Reports by the executing agency;</li> <li>5. Bank supervision.</li> </ol>	<ol style="list-style-type: none"> <li>1. Availability of specialized international consultants;</li> <li>2. Availability of local fundin</li> <li>3. Contract awarded in acco established procedures;</li> <li>4. CE-Caminos operating sa</li> </ol>

PROPOSED RESOLUTION

PERU. NON-REIMBURSABLE TECHNICAL COOPERATION FOR  
THE PROGRAM FOR INSTITUTIONAL STRENGTHENING OF TOLL ROAD CONCESSIONS

The Donors Committee of the Multilateral Investment Fund

RESOLVES:

1. That the President of the Bank, or such representative as he shall designate, is authorized, in the name and on behalf of the Multilateral Investment Fund, to enter into such agreements as may be necessary and to adopt such other measures as may be pertinent for the execution of the program for institutional strengthening of toll road concessions, described in the Proposal Memorandum contained in Document MIF/AT-\_\_\_\_\_ with respect to a technical cooperation with the Government of the Republic of Peru for the development of a system for toll road concession to private investment.

2. That up to the sum of US\$1,300,000 is authorized for the purposes of this resolution, chargeable to the Technical Cooperation Facility of the Multilateral Investment Fund.

3. That the above mentioned sum is to be provided on a non-reimbursable basis.