

Company Name	2005
EXPORTADORA BANANERA NOBOA, INC	\$49,206,895.28, PLUS INTEREST AND FINES
DOLE	\$700,136.37
CHIQUITA	\$39,500.20
REYBANPAC	\$14,219.11
DEL MONTE	\$11,748.13

ÁLVARO NOBOA

Guayaquil, 17 January 2013

Dr.
RAFAEL ALBURQUERQUE
CHIEF OF THE ELECTORAL OBSERVATION MISSION, OEA
City-

With regard to:

The INTER-AMERICAN DEMOCRATIC CHARTER (Lima-2001) states that “*Democracy is essential for the social, political and economic development of the peoples of the Americas,*” (Art. 1) which is the effective exercise of “*representative democracy*”, the effective basis of the rule of law and of the constitutional orders of the Member States of the Organization of American States (Art. 2) and that they “*are essential elements of representative democracy, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power and its exercise with subjection to the rule of law, the holding of periodic, free and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people...*” (Art. 3)

Via this present letter, I would like to make you aware of a series of situations that, in fact, impede the electoral process of Ecuador, and that, in the end, are aimed at my detriment, in light of my having been a candidate for President of the Republic on five consecutive occasions for the National Institutional Renovation Action Party PRIAN List 7.

The Ecuadorian electoral system was modified with the ideal of perfecting it and to achieve true egalitarian and equitable participation of the different political actors, and especially the candidates in the different social communications media. Ideally, the elimination of distortions was aimed for, that could influence the electorate in the free and voluntary decision in favor of a particular candidate or tendency, with prejudice towards the rest of the competitors in the electoral race.

Unfortunately, this ideal of a sovereign people of Ecuador has been defrauded by the incumbent candidate, President Rafael Correa Delgado, who, from his “privileged” position, makes use of all the measures at his disposal to cast disfavor on me as the PRIAN’s candidate.

Given that I am the Leader of the PRIAN, which is the second Party with the largest number of affiliates in Ecuador, after the Government's party, ALIANZA PAIS, I am currently facing the most bloody political persecution that an electoral rival has been subjected to in the republican history of our Country.

The list of abuses of power, illegalities, outrages, inequalities, pernicious acts and more, undertaken to harass and to attempt to crush the most representative image of Ecuadorian opposition that I embody are many, but I will restrict myself to indicating and denouncing the most significant of them.

I am politically persecuted by the current Government, as you can clearly appreciate from the following facts:

1. Via the IRS, the National Government CREATED an audit for the fiscal year of 2005, applying adjustment for the transfer prices utilizing prices that do not correspond to reality and that were never technically and legally proven by the IRS. With this method it was able to invent, create or manufacture an absurd profit that is inconsistent or incongruent to *Exportadora Bananera Noboa* and which doesn't correspond to the reality of any banana producing business in the world. While they are attempting to charge *Exportadora Bananera Noboa* \$49,206,895.28 in taxes on income only for the 2005 fiscal year, *DOLE*, for example, paid \$700,136, as the attached chart demonstrates. There exists no real debt on the part of *Exportadora Bananera Noboa S.A.*, nor on my part. This is about an attempt to discredit my image as a person and as a politician given that, in public, on various occasions, with regard to the audit referred to above, the Director of the Internal Revenue Service has addressed me as a tax evader.
2. The National Government has prevented a corresponding case from being opened so that the Justice Tribunals be the ones to decide if the IRS audit is correct, or not. They have never permitted *Exportadora Bananera Noboa* to litigate as, without detailing the suit, they ordered it be filed, denying the right to a legitimate defense and effective judicial protection.
3. Besides that, the Internal Revenue Service (IRS), among other measures, has issued a prohibition against my leaving the Country days before the closing date for the registration of candidates thinking thereby to intimidate me so that I would not register myself as a candidate for President of Ecuador. This measure, issued by an administrative body and not a judicial one, besides being illegal, unconstitutional, arbitrary and irrational, is unfair, given that, at this precise moment, it affects my legal right to reach the special electoral constituents living abroad to reveal to Ecuadorian emigrants proposals, plans, and political ideology, as well as addressing regional political leaders, foreign business leaders and investors, related to my plans of government and interested in investing their capital in Ecuador. This causes a lessening of my rights due me as a candidate, leaving me in a condition of inequality with regard to the incumbent candidate.

4. The implementation of a regime of terror destined to intimidate Judges, public servants, social communicators and journalists, student directors, neighborhood directors, community leaders and, in general, against any political figure, who, like myself, opposes their political ideology, initiating polemical legal processes against judges, journalists, writers, independent thinkers, student directors, some of which have been imprisoned. The case of Judge Augusto Posligua Galarza, who after a public declaration and sentence against the part of President Rafael Correa, has been imprisoned for more than 120 days for having granted a Precautionary Measure to *Exportadora Bananera Noboa*. The aforementioned Judge was detained arbitrarily, illegally and unjustifiably, without due process of law, without a demand for his arrest, without the judicial expedient which justifies, at the very least, the anti-judicial behavior; an act which poses a threat to the guarantees of Due Process and the legitimate right to a defense, which has already been denounced to the InterAmerican Court of Human Rights.
5. The using of seized television channels, TC Television, GAMATV and CN3, for the manipulation of the editorial line of their news broadcasts, and, in general, of the editorial line of all its programs to carry out the implementation of advertising campaigns directed at influencing the collective conscience of their audiences, and to create a supposed atmosphere of wellbeing with the aim of favoring the incumbent Presidential candidate, Rafael Correa to the detriment of the rest of the participants in the elections on 17 February 2013.
6. The using of public means of communication are also used to benefit the ideology and image of the President incumbent to the detriment of the other candidates.
7. The utilizing of public goods and the state apparatus to carry out a campaign with the aim of benefitting Rafael Correa in an indiscriminate manner and without true control on the part of the bodies constitutionally charged with doing so.
8. The indiscriminate use of television channels, the same which are exposed during prime television viewing time with the only aim of prejudicing the image of opposition candidates, and, in particular, my own for being the most highly-opposed candidate of the opposition in this electoral race.

What has been related is a clear violation of the principles of the Inter-American Democratic Charter, being an obligation that “The electoral observation missions shall advise the Permanent Council, through the General Secretariat, if the necessary conditions for free and fair elections do not exist.” (Art. 25), the reason for which I direct myself to you with this present denunciation.

Cordially,

[signature]
ÁLVARO NOBOA

[signature]
[clarification] Maria T. Mellenkamp
[date] January 17, 2013