Peru

RISK & COMPLIANCE REPORT

DATE: March 2018

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Executive Summary - Peru	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering assessment Not on EU White list equivalent jurisdictions International Narcotics Control Majors List Corruption Index (Transparency International & W.G.I.)
Medium Risk Areas:	Compliance with FATF 40 + 9 recommendations World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)

Major Investment Areas:

Agriculture - products:

asparagus, coffee, cocoa, cotton, sugarcane, rice, potatoes, corn, plantains, grapes, oranges, pineapples, guavas, bananas, apples, lemons, pears, coca, tomatoes, mangoes, barley, medicinal plants, palm oil, marigold, onion, wheat, dry beans; poultry, beef, pork, dairy products; guinea pigs; fish

Industries:

mining and refining of minerals; steel, metal fabrication; petroleum extraction and refining, natural gas and natural gas liquefaction; fishing and fish processing, cement, glass, textiles, clothing, food processing, beer, soft drinks, rubber, machinery, electrical machinery, chemicals, furniture

Exports - commodities:

copper, gold, lead, zinc, tin, iron ore, molybdenum, silver; crude petroleum and petroleum products, natural gas; coffee, asparagus and other vegetables, fruit, apparel and textiles, fishmeal, fish, chemicals, fabricated metal products and machinery, alloys

Exports - partners:

China 19.7%, US 15.5%, Canada 9.4%, Japan 6.5%, Spain 5.2%, Chile 4.8% (2012)

Imports - commodities:

petroleum and petroleum products, chemicals, plastics, machinery, vehicles, color TV sets, power shovels, front-end loaders, telephones and telecommunication equipment, iron and steel, wheat, corn, soybean products, paper, cotton, vaccines and medicines

Imports - partners:

US 24.4%, China 13.9%, Brazil 6.3%, Argentina 5.4%, Chile 4.7%, Ecuador 4.5%, Colombia 4.2% (2012)

Investment Restrictions:

The Peruvian government seeks to attract investment -- both foreign and domestic -- in nearly all sectors of the economy.

The 1993 Constitution guarantees national treatment for foreign investors and permits foreign investment in almost all economic sectors. Under the Constitution, foreign investors have the same rights as national investors to benefit from any investment incentives, such as tax exemptions. Article 6 of Supreme Decree No. 162-92-EF authorizes private investors to carry out any economic activity, provided investors comply with all constitutional precepts, laws and treaties. However, a few exceptions exist. For example, the law excludes investment activities in natural protected areas and manufacturing of war weapons, pursuant to Article 6 of Legislative Decree No. 757. Some laws require that Peruvians own a majority share in companies operating in certain sectors: media, air and land transportation, and private security surveillance services. Foreigners are legally forbidden from owning a majority interest in radio and television stations in Peru; nevertheless, foreigners have in practice owned controlling interests in such companies. Prior approval is required for domestic or foreign investment in banking (for financial regulatory reasons) and defense-related sectors. Under the Constitution, foreign interests cannot "acquire or possess under any title, mines, lands, forests, waters, or fuel or energy sources" within 50 kilometers of Peru's international borders. However, foreigners can obtain concessions and rights within the restricted areas with the authorization of a supreme resolution approved by the Cabinet and the Joint Command of the Armed Forces.

Contents

Section 1 - Background

Ancient Peru was the seat of several prominent Andean civilizations, most notably that of the Incas whose empire was captured by Spanish conquistadors in 1533. Peruvian independence was declared in 1821, and remaining Spanish forces were defeated in 1824. After a dozen years of military rule, Peru returned to democratic leadership in 1980, but experienced economic problems and the growth of a violent insurgency. President Alberto FUJIMORI's election in 1990 ushered in a decade that saw a dramatic turnaround in the economy and significant progress in curtailing guerrilla activity. Nevertheless, the president's increasing reliance on authoritarian measures and an economic slump in the late 1990s generated mounting dissatisfaction with his regime, which led to his ouster in 2000. A caretaker government oversaw new elections in the spring of 2001, which installed Alejandro TOLEDO Manrique as the new head of government - Peru's first democratically elected president of indigenous Quechuan ethnicity. The presidential election of 2006 saw the return of Alan GARCIA Perez who, after a disappointing presidential term from 1985 to 1990, oversaw a robust economic rebound. In June 2011, former army officer Ollanta HUMALA Tasso was elected president, defeating Keiko FUJIMORI Higuchi, the daughter of Alberto FUJIMORI. Since his election, HUMALA has carried on the sound, market-oriented economic policies of the three preceding administrations.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Peru is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Peru was undertaken by the Financial Action Task Force (FATF) in 2008. According to that Evaluation, Peru was deemed Compliant for 10 and Largely Compliant for 14 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 4 of the 6 Core Recommendations.

US Department of State Money Laundering assessment (INCSR)

Peru is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

OVERVIEW

Peru implemented important regulatory and legislative reforms and enhanced interagency cooperation in 2017. The government secured legislation enabling improved access to bank and tax information and issued regulations assigning criminal responsibility to legal persons for corruption.

The autonomous FIU completed national risk assessments of the mining and fishing sectors, with assessments of the financial and logging sectors in process. The Government of Peru issued a strategic National AML/CFT Strategy, and the Multisectorial Executive Commission Against Money Laundering and the Financing of Terrorism (CONTRALAFT) is developing a National AML/CFT Plan to implement the Strategy.

Interagency communication improved with a better-defined role for CONTRALAFT. When a new Minister of Justice and Human Rights was appointed in September, there was also a change in CONTRALAFT's leadership; however, the FIU, as the Executive Secretariat of the institution, ensured its operations continued. The Bank Supervisory Authority and the Tax and Customs Authority initiated an interagency agreement on information exchange and cooperation.

Peru is working to improve data and statistics on money laundering; for example, the national registry can now provide family tree information to assist investigations. However, the country must strengthen prosecutorial and judicial capacity and increase convictions to continue to build an effective AML regime.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Peru's national risk assessment identified five primary threats: narcotics trafficking; remnants of the Shining Path terrorist organization; increased public corruption; increased incidences of illegal mining, illegal logging, trafficking in persons, contraband, extortion, and contract killing; and high criminality in neighboring countries.

Significant vulnerabilities include extensive porous borders with countries with high levels of transnational crime, tolerance for public corruption, an extensive informal economy, limited reach of the state in some areas, poor controls over cash transfers, limited investigative capacity, and poor coordination between prosecutors and investigators.

Illicit funds are generated from a variety of illegal activities, including narcotics trafficking, public corruption, illegal gold mining, illegal logging, trafficking in persons, and counterfeiting and piracy of goods. Illegal gold mining, illegal logging, and counterfeiting are closely tied to the narcotics industry. Illegally mined gold is used as a medium for money laundering. Gold purchased using illicit revenue is imported into the United States with little oversight as gold is not a negotiable financial instrument. The FIU identified at least U.S. $4.4 billion in suspicious revenue associated with illegal mining over the last decade. The illegal gold trade in Peru is worth an estimated U.S. $2.6 billion per year.

Pervasive corruption hampers investigations and prosecutions of narcotics-related money laundering crimes. Judicial corruption halts progress of cases and threatens the regime. Political figures and legislators have been implicated in money laundering, creating an impediment to progress on reform. Corruption within the police force also constrains investigations.

The FIU cannot directly monitor or investigate casinos independent of the supervising authority, the Ministry of Foreign Trade and Tourism (MINCETUR), which provides information to the FIU and requires casinos to report suspicious transactions. Peru's risk assessment did not identify casinos as primary money laundering risks.

Criminal organizations increasingly launder proceeds from criminal activity (U.S. $140 million in 2016), partially by taking advantage of weak currency declaration laws.

KEY AML LAWS AND REGULATIONS

Peru has a robust legislative and regulatory framework for AML. New legislation makes notaries nationwide subject to improved reporting mechanisms.

Peru is able to exchange information on narcotics investigations with foreign counterparts.

Peru is a member of GAFILAT, a FATF-style regional body.

AML DEFICIENCIES

Peru's national plan aims to strengthen its AML/CFT regime. Peru receives technical assistance from several donors to this aim.

Money exchangers are not licensed, limiting supervision. Peru should seek to pass legislation requiring the identification of ultimate beneficial owners. The government is also aware it must increase attention to and regulation of online threats from gaming and illicit online activity, such as pharmacies and movie/music streaming.

A Supreme Court jurisprudence commission issued corrective guidance following a Supreme Court judge's decision that undermined a law allowing money laundering to be prosecuted as an autonomous crime without proof of a predicate crime. Strong government and Supreme Court responses to the rogue decision strengthened Peru's AML regime. Judicial corruption remains a liability.

Peru's AML agencies also need to increase focus on non-traditional avenues through which narcotics and transnational crime revenues are laundered, for example, illegally mined gold and counterfeit goods.

ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

Peru does not secure enough money laundering convictions given the scale of illicit activity and revenue in the country. Improved political will must translate into more prosecutions and subsequent convictions to deter money laundering. This will require both increased personnel resources and enhanced capacity to develop and prosecute cases, especially as Peru continues its transition to the accusatory legal system. Areas of focus include: conducting investigations; improved financial forensic analysis; investigative and intelligence reporting for prosecutors; case development and presentation by prosecutors; and judicial money laundering awareness. The government won 22 asset forfeiture cases in 2017, but should seize assets before accusing or arresting individuals to ensure assets are not liquidated or obscured.

Current Weaknesses in Government Legislation (INCRS Comparative Tables):

According to the US State Department, Peru conforms with regard to the government legislation required to combat money laundering and the terrorism of financing.

EU White list of Equivalent Jurisdictions

Peru is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Peru is not considered to be an Offshore Financial Centre

US State Dept Narcotics Report 2017:

A. Introduction

Peru was the second-largest producer of cocaine and cultivator of coca in 2015, the most recent year for which data is available, with an estimated 53,000 hectares (ha) under cultivation. Most Peruvian cocaine is transported to South American countries for domestic consumption or for onward shipment to Europe, East Asia, and Mexico. Peru is a major importer of precursor chemicals used for cocaine production.

Former President Ollanta Humala's administration dedicated substantial resources to implement Peru's 2012-2016 counternarcotics strategy. Presidential and congressional elections took place in 2016, and President Pedro Pablo Kuczynski's administration is developing a 2017-2021 counternarcotics strategy to be released in 2017. Peru's coca eradication force (CORAH) eradicated 30,150 ha in 2016. Peru's main coca-growing region continues to be the Valley of the Rivers Apurimac, Ene, and Mantaro (VRAEM). In October, President Pedro Pablo Kuczynski assigned primary authority in VRAEM to the Ministry of Defense, instructing the military to work with the Ministry of Interior, particularly the Peruvian National Police's (PNP) anti-drug unit, DIREJANDRO, on counternarcotics operations. Sendero Luminoso (Shining Path) terrorists in the VRAEM continue to rely on the cocaine trade for funding. The group killed 10 police and military personnel in 2016.

B. Conclusion

Both the Humala and Kuczynski administrations have demonstrated the political will to address drug production and trafficking, including aggressive eradication and interdiction programs. Peru is increasing resources to treat those addicted to illegal substances. The continuing U.S. partnership with Peru and U.S. support in implementing the Peru's counternarcotics strategy remain critical in combating the production and trafficking of illicit drugs.

US State Dept Trafficking in Persons Report 2016 (introduction):

Peru is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Peru is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. Indigenous Peruvians are particularly vulnerable to trafficking. Peruvian women and girls, and to a lesser extent boys, are exploited in sex trafficking within the country, often recruited through false employment offers. Women and girls exploited in sex trafficking near mining communities are often indebted due to the cost of transportation and unable to leave due to remoteness of camps and the demand for commercial sex by miners in these communities. Peruvian women and children are exploited in sex trafficking in other countries, particularly within South America, and women and girls from neighboring countries are found in sex trafficking in Peru. Child sex tourism is present in areas such as Cuzco, Lima, and the Peruvian Amazon.

Peruvian men, women, and children are exploited in forced labor in the country, principally in gold mining and related services, logging, agriculture, brick-making, unregistered factories, organized street begging, and domestic service. A public report revealed 17 percent of the cases of 3,911 known Peruvian trafficking victims involved male victims, and government officials and NGOs also acknowledged male victims of forced labor or bonded labor in illegal mining. Peruvians working in artisanal gold mines and nearby makeshift camps that provide the miners services experience forced labor, including through deceptive recruitment; debt bondage; restricted freedom of movement or inability to leave; withholding of or non-payment of wages; and threats and use of physical violence. Forced child labor occurs in begging, street vending, cocaine production and transportation, and other criminal activities. The terrorist group Sendero Luminoso, or Shining Path, recruits children using force and coercion to serve as combatants and children and adults into the illicit narcotics trade and domestic servitude. The ombudsman's office reported no cases of underage recruits in the Peruvian military in 2015. Peruvian men, women, and children are found in forced labor in other South American countries, the United States, and other countries. Migrants from South America, China, and Senegal transiting Peru to Brazil were reportedly vulnerable to trafficking.

The Government of Peru does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government established specialized anti-trafficking regional prosecutor offices in Callao, Cusco, Lima, Loreto, Puno, Tacna, and Tumbes; increased anti-trafficking operations and arrests; increased efforts to identify and assist victims; and investigated and convicted sex tourists. However, official complicity in trafficking and related crimes as well as overall corruption undermines government efforts to combat human trafficking. Convicted traffickers received sentences insufficient to the gravity of their crimes. Detention of trafficking victims discourages victims from coming forward and cooperating with authorities. The government made inadequate efforts to identify and assist forced labor victims and to prosecute labor traffickers. Overlapping government data on trafficking victims and prosecutions made interagency coordination difficult.

US State Dept Terrorism Report 2016

Overview: The Shining Path (Sendero Luminoso or SL) constituted a continuing threat in 2016 to Peru's internal security in a localized zone. SL's membership consisted of a single active faction, whose area of activity and influence was confined to the special military emergency zone known as the Apurimac, Ene, and Mantaro River Valley (VRAEM) – a remote and rugged region slightly larger than Switzerland which accounts for more than one-half of the cocaine produced in Peru. Within the VRAEM, SL has retreated to its stronghold north of the Mantaro River. Estimates of SL's strength vary, but most experts and the Peruvian military assess SL to number 250 to 300 members of which 60 to 150 are hardcore fighters.

To sustain itself, SL is involved in all logistical aspects of drug trafficking in its area of influence: it collects "revolutionary taxes" from those involved in the drug trade, and for a price, provides security and transports narcotics for drug trafficking organizations. SL continued to use Maoist ideology to justify its illegal activities and opposition to the Peruvian state. It staged its most significant attack this year during the first round of Peru's 2016 elections, an ambush that resulted in 10 deaths. Beyond this high profile attack, SL conducted a limited number of operations in 2016. We received reports indicating a slight uptick in threats against political figures in Peru's remote provinces and SL propaganda outside of the VRAEM.

In October, President Pedro Pablo Kuczynski assigned primary authority in the VRAEM Emergency Zone to the Ministry of Defense, instructing the military to counter narco-terrorism and work with the Ministry of Interior on counternarcotics operations.

SL founder Abimael Guzman and key accomplices remain in prison serving life sentences for numerous crimes committed in the 1980s and 1990s. Two top SL leaders – Osman Morote and Margot Liendo – completed their 25-year sentences in June 2013, but were still in jail at the end of 2016. Morote was the second in command of SL, and Liendo led the SL faction that operated in the provinces north of Lima before their arrest in June 1988. These individuals remain in prison pending trials for other crimes committed in the 1980s. Many SL leaders were convicted of crimes long before Congress approved new legislation allowing for life sentences. Guzman and other captured SL figures from 1980s and 1990s are no longer associated with the active SL group in the VRAEM emergency zone.

Legislation, Law Enforcement, and Border Security: Over the past three decades, Peru has promulgated a variety of laws specifically designed to counter terrorism. These measures have broad political and public support. On February 16, the president signed legislative decree 1180, which authorizes compensation to citizens who provide information that leads to the capture of members of criminal or terrorist organizations.

Peruvian police and military counterterrorism units continued to capture SL fighters, recover weapons, and prevent terrorist incidents during the year.

The most significant Peruvian government actions against SL this year were the following:

- On May 19, police officers prevented SL fighters from destroying electricity towers in the Huanta province of Ayacucho region. After forcing the SL fighters to retreat, police deactivated the explosives left near the towers.

- On May 20, a military-police patrol in the district of Llochegua in the Ayacucho region killed Alejandro Auqui in a clash with an SL column. The military reported that Auqui, who served as an SL commander, had taken part in 13 Shining Path attacks, including shooting down helicopters in 2010 and 2012. The military captured weapons, ammunition, and communications equipment during the operation.

- The Counter-Terrorism Directorate of the National Police reported the arrest of 23 alleged terrorists in a multi-region operation launched ahead of the June 5 run-off presidential election. Antonia Paucarcaja, a.k.a. Comrade Esther, was among those arrested. Experts considered her an important SL logistics coordinator.

On border security, immigration authorities collected limited biometrics information from visitors. Citizens of neighboring countries were allowed to travel to Peru by land using only national identification cards. There was no visa requirement for citizens of most countries from Western, Central, and Eastern Europe, as well as Mexico. Peruvian immigration authorities used a database called "Movimiento Migratorio" at 18 points of entry to track entries and exits of travelers. This database also connects to the Peruvian National Police's database to flag outstanding arrest warrants. The Government of Peru collaborated with U.S. Customs and Border Protection on the use of traveler information to enhance security by determining and mitigating traveler risk prior to arrival and departure. In July, the Government of Peru started to issue biometric passports with upgraded security measures to Peruvian citizens.

In October 2014, Peruvian police arrested Muhammad Ghaleb Hamdar, a Lebanese citizen suspected of links to Hizballah. According to reports, there was residue and traces of explosives in Hamdar's apartment. In April 2016, a judge extended Hamdar's period of pre-trial detention another 15 months. In October, the First Criminal Superior Public Attorney requested a 30-year prison sentence for Hamdar on charges of terrorism and document forgery. Hamdar remained in pretrial detention at the end of 2016.

Countering the Financing of Terrorism: Peru is a member of the Financial Action Task Force of Latin America, a Financial Action Task Force (FATF)-style regional body. The Financial Intelligence Unit of Peru is also a member of the Egmont Group of Financial Intelligence Units. The President of Peru's Financial Intelligence Unit was appointed Chair of the Egmont Group of Financial Intelligence Units for the period 2015-2017. Under Decree Law 25475, Peru criminalizes any form of collaboration with terrorists, including economic collaboration.

In 2016, the Government of Peru made progress in implementing its national plan to counter money laundering and the financing of terrorism. In May, Peru approved Law 30437 which gives the FIU the authority to immediately seize assets belonging to organizations and individuals included on the UN Security Council ISIL (Da'esh) and al-Qa'ida sanctions list. The Government of Peru issued a decree on November 26, resolving one of the main liabilities in Peru's anti-money laundering legal framework. The law improves the FIU's access to bank and tax information, establishes greater control over reporting entities, and enables money-laundering cases to be tried absent proof of a predicate crime. The new administration moved the previously independent Peruvian seized assets agency back into the Ministry of Justice in 2016, reducing this organization's agility and efficiency.

SL's ability to sustain itself and finance its terrorist and other criminal actions depends on profits from drug trafficking activities. SL narcotics proceeds enter the VRAEM as bulk, physical dollars from neighboring countries via the same aircraft used to transport cocaine out of the region (commonly known as the "air bridge"). To address this issue, the PNP's 15-person specialized unit that focuses on investigating SL financing continued its work in 2016.

International Sanctions

None applicable

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	37
World Governance Indicator – Control of Corruption	43

Corruption is a serious problem for businesses in Peru, with irregular payments, bribes and favouritism of government officials in awarding contracts being particularly common. In fact, a very weak judiciary, inefficient government bureaucracy and high levels of favoritism have culminated in high corruption levels in almost all sectors of the Peruvian economy. Corruption is criminalized through Decree No. 635 of the Peruvian Penal Code (in Spanish), which covers attempted corruption, extortion, passive and active bribery, money laundering and bribery of foreign officials. Anti-corruption laws are however, poorly enforced by the government. The Corporate Anti-Corruption Act is expected to enter into force in July 2017, and under which companies can be held directly liable for corruption offenses. The official procedure of accepting gifts and small courtesies is not specified in the penal code, thus also representing a risk for companies. Further, Peru's Penal Code does not explicitly criminalize facilitation payments. **Information provided by GAN Integrity.**

US State Department

It is illegal in Peru for a public official or employee to accept any type of outside remuneration for the performance of his or her official duties. Peru has ratified both the UN Convention Against Corruption and the Organization of American States Inter-American Convention Against Corruption. Peru is not a member of the Organization of Economic Cooperation and Development (OECD). It has not signed the OECD Convention on Combating Bribery, although it has participated as an observer in the Working Group. The Contraloría General is the responsible government agency for combating corruption.

U.S. firms have reported problems directly resulting from corruption, usually in government procurement processes and in the judicial sector, with defense and police procurement generally considered among the most problematic in spite of PTPA's stipulations and of Peru's Government Procurement Law (Legislative Decree No. 1017, DL 1017, one of several laws passed with the specific intention to implement PTPA). Transparency International ranked Peru 83rd out of 177 countries in its 2013 Corruption Perceptions Index, unchanged since 2012, and down from 80th out of 183 countries in 2011. While anti-corruption efforts have been a stated priority of both the Garcia and Humala governments, in practice most resources to date have been directed at investigating extensive corruption during the Fujimori era (1990-2000). Former Presidents Garcia and Toledo and several sitting members of Congress are also under investigation for corrupt practices. The Peruvian armed forces and national police continue to prefer to execute government-to-government procurements (i.e., purchases by a GOP agency from a foreign government agency or government-owned company). In July 2012, the Government Procurement Supervisory Agency ruled that government-to-government procurements do not fall under the government procurement law (DL 1017). An article in the 2013 Budget Law also specified that procurements by the GOP from another state are not under the scope of DL 1017. Since then, there have been a number of local media reports of overvalued prices in several government-to-government purchases, of goods or services for the police or the armed forces. Cases include purchases of a satellite, planes, helicopters, and technical assistance training. Overvaluation has apparently occurred even in the case of open tenders, as in the notorious recent case of the purchase of 591 binoculars by the Interior Ministry for the National Police in December 2013. El Comercio, Peru's paper-of-record, published a report in January 2014 alleging the Interior Ministry bought 591 binoculars at a price more than ten times the market rate. In early-March 2014, local media reported that the Public Prosecutor's Office will investigate a technical assistance-training procurement made in 2009 by the Armed Forces Joint Command. This probe comes after the Comptroller General found irregularities and circumstantial evidence of collusion, embezzlement and other crimes.

Corruption and Government Transparency - Report by Global Security

Political Climate

Peru has experienced impressive economic growth in recent years with stable macroeconomic policies, improved investment rules, new labour laws, and privatisation policies that have made the country attractive to foreign investors. Extra effort has been made in the energy sector to attract foreign investment in Peru's mining industry, its fast-growing oil and gas sector and the ever-growing tourist industry. President Humala's goal is to make tourism Peru's second largest sector. The economic upswing over the past decade has halved the number of people living in poverty; the percentage of the population that continue to live in poverty now stands at 28%. Excluding 2009, the economy has grown over 6% annually over the past 5 years. However, the last decade has been characterised by an unstable political climate. Efforts to alleviate social and economic inequality and reduce unemployment have been impeded by corruption and by the government's failure to deal successfully with these problems. The leftist former army officer, Humala, narrowly won Peru's presidency in the June 2011 presidential election with over 51% of the vote, pledging to fight corruption in Peru, according to a 2011 article by MercoPress. In February 2012, the Humala government introduced the National Plan to Combat Corruption. The government's progress on combating corruption has been praised by the leading transparency NGO, Proética, according to a December 2012 Andina article.

Former President García, who took office in 2006, saw his popularity fall sharply and encountered turbulence due to a major corruption scandal over oil contracts in October 2008, which forced his entire cabinet to resign. The scandal involved the Norwegian oil company, Discover, which was accused of having bribed officials in order to obtain five oil concessions, accusations that the company denies. Peru has witnessed a large number of high-level corruption cases in the past involving high-ranking politicians, the most prominent case being that of ex-President Alberto Fujimori. According to Freedom House 2012 and several newspaper articles, after a decade in power, Fujimori fled to Japan in 2000, taking with him an alleged USD 600 million of national assets. Since his extradition to Peru in 2007, Fujimori has faced four trials on charges of having ordered killings, embezzlement, abuse of power and corruption. He has been found guilty on all charges and sentenced to a total of more than 30 years in prison. His national security advisor, Vladimiro Montesino, has also been involved in corruption scandals and is currently in jail convicted on charges of corruption, murder, arms smuggling, and drug dealing. Videos and reports have revealed how Montesino bribed judges, politicians and the news media, and how his network reached deep into the courts, the military, the Congress, the police, and the private sector. In the wake of the Fujimori and Montesino era, approximately 1,800 individuals have been indicted on charges of corruption and abuse of authority, and Peruvians are now highly sensitised to political corruption. In November 2011, Vice President Omar Chehade was suspended from Congress by the ethics committee over corruption allegations. Chehade is one of Peru's two vice presidents and finally resigned in January 2012, three months after his suspension. According to a 2011 article by MercoPress, Chehade is accused of illegal lobbying, namely, asking a police general to help his brother evict workers from a cooperative sugar farm to help a company that wanted to take it over. This was the first big corruption challenge for the new president, who, however, cannot dismiss Chehade as his power has been limited by the Constitution, meaning that only Congress can remove a vice president from office in an impeachment proceeding.

Various sources reveal that Peruvian households identify corruption as a major problem. For example, a Proética National Opinion Survey 2012 (in Spanish) reveals that public concern over corruption has grown considerably over the past decade and is perceived as the second largest national problem after crime. According to the same survey, half the population believe that corrupt officials are the largest impediment to development. According to Transparency International's Global Corruption Barometer 2010/2011, 85% of the respondents perceive the former government's actions against corruption to be 'ineffective', while the judiciary is reported to be the most corruption-prone public institution. According to an Ipsos Apoyo, Opinión y Mercado October 2011 public opinion poll (in Spanish), current President Humala has been off to a better start, with 41% of respondents supporting him primarily for his promise to fight corruption. Peru's fight against corruption seems to focus primarily on the offences of the Fujimori era and on other high-profile corruption crimes that took place in the past, whereas 'everyday corruption' has not been targeted in the same way. Attempts to combat corruption have been restricted, and many initiatives following the fall of the Fujimori regime have proven unsuccessful or have been abandoned. Given a political environment rife with corruption, business executives surveyed in the World Economic Forum Global Competitiveness Report 2012-2013 reveal that the level of public trust in politicians is very low. Similarly, Freedom House 2012 reports that Peruvian citizens consider Congress as the country's most corrupt institution.

Business and Corruption

The business climate in Peru is generally attractive. Foreign trade has been extensively deregulated in recent years, state interference in free trade is minimal and the present government is continuing many of the business-friendly policies of previous governments. The country has a liberal foreign investment regime, and the 1993 Constitution guarantees foreign investors the same treatment as nationals. Business executives surveyed in the World Economic Forum Global Competitiveness Report 2012-2013, cite corruption as the second-most problematic factor for doing business in Peru behind an inefficient government bureaucracy. According to the report, companies consider the occurrence of irregular payments and bribes in Peru as common. Companies also identify the favouritism of government officials in rewarding contracts to well-connected companies and individuals, and the ethical behaviour of companies operating in Peru as significant competitive disadvantages. In contrast, according to Transparency International's Global Corruption Barometer 2010/2011, the private sector is perceived as less corrupt than other sectors in the country and is given a score of 2.9 on a 5-point scale (1 'not at all corrupt' and 5 'extremely corrupt'). The difficulties that companies experience when trying to deal with Peru's extensive bureaucracy has led some companies to make use of facilitation payments or to contract local agents who they hope can expedite business transactions. However, since companies can be held accountable for corrupt behaviour performed by agents on their behalf, they are advised to conduct extensive due diligence on business partners and agents when investing in or already doing business in Peru.

According to the World Bank & IFC Enterprise Surveys 2010, 44.5% of the companies surveyed identify corruption as a major constraint for doing business, while 12.4% report that they are expected to give gifts in order to obtain an operating licence and 26.3% report that they are expected to give gifts to secure a government contract. There are also indications of widespread demands for facilitation payments, as more than 21% of companies expect to give gifts to public officials to 'get things done'. New and small companies are more likely to be asked for bribes than established or larger companies. Bribes are also commonly used by companies when dealing with the judiciary in order to speed up and facilitate judicial proceedings.

According to Bertelsmann Foundation 2012, several obstacles such as bureaucratic corruption have hampered growth of the private sector in Peru. Companies should be aware of government procurement processes and that the judicial sectors are susceptible to corruption. According to the US Department of State 2011, private sector groups have increased efforts to fight corruption through Proética, the national chapter of Transparency International in Peru. Companies are generally recommended to use a specialised public procurement due diligence tool in order to mitigate the corruption risks associated with public procurement in Peru.

Regulatory Environment

Although the regulatory environment in Peru has improved in recent years due to a reduction in barriers to trade, faster customs procedures and improved dispute settlement processes, many foreign companies still cite regulatory issues as constraints for their business operations in Peru. Business executives surveyed in The World Economic Forum Global Competitiveness Report 2012-2013 perceive inefficient government bureaucracy to be the most problematic factor for doing business in Peru, closely followed by corruption. Moreover, business executives also report that government policy-making is somewhat opaque and that government officials usually favour well-connected companies and individuals when deciding on policies and contracts. Commercial regulations can be sometimes inconsistent, and the lack of transparency may increase start-up and overall operational costs. In a similar vein, in Transparency International's Global Corruption Barometer 2010/2011, more than 38% of Peruvian households perceive public officials to be 'extremely corrupt'.

According to the World Bank & IFC Doing Business 2013, a company must go through 5 procedures taking an average of 26 days at a cost of nearly 11% of GNI per capita to start a company in Peru. The public institutions granting relevant business licences suffer from widespread corruption and a deficiency in the rule of law, and according to the US

Department of State 2009, companies continue to complain about excessive red tape and confusion about which licences they need and where to obtain them. One initiative to improve this situation is the private investment agency ProInversion, established as a 'one-stop shop' advisory agency for current and potential investors. ProInversion has successfully completed both concessions and privatisations of state-owned enterprises and natural resources. Foreign investors are advised to register with ProInversion in order to obtain a guarantee that they will be able to repatriate capital, profits and royalties. In December 2012, the European Parliament approved the EU-Central America Association Agreement, paving the way for the creation of a free-trade agreement between the EU and Peru. It is hoped that the agreement will result in a more stable and predictable environment for companies and the formation of a mediation mechanism to settle bilateral disputes.

Intellectual property rights are protected in Peru within a legal framework which is consistent with international standards. According to the Bertelsmann Foundation 2012, property rights are also properly defined and protected by law, with the exception of areas inhabited by the indigenous population, where they are not clearly defined. However, according to the US Department of State 2011, legal enforcement is problematic as the judicial system is often very slow to hear cases and court decisions have been difficult to predict and enforce. The competence of individual judges is said to vary substantially, and allegations of corruption and outside interference in the courts are common. The Peruvian appeals process also tends to delay the resolution of cases. Thus, foreign investors have found that contracts are often difficult to enforce in Peru. However, the Peruvian government has taken steps to improve dispute settlement procedures. Between 2004 and 2007, 24 commercial courts were established, with the purpose of ruling on investment disputes, including two courts of appeal, which have substantially improved the process of resolving commercial disputes. The amount of time required to resolve a case has, on average, been reduced from two years to two months, and the enforcement of court decisions has been reduced from 36 months to 3-6 months. Several private organisations operate their own arbitration centres, such as the Universidad Católica, the Lima Chamber of Commerce and the US Chamber of Commerce. Peru has also been a full member of the International Centre for Settlement of Investments Disputes (ICSID) since 1993 and of the New York Convention of 1958 since 1988. Access the Lexadin World Law Guide for a collection of legislation in Peru.

Section 3 - Economy

Peru's economy reflects its varied topography - an arid lowland coastal region, the central high sierra of the Andes, the dense forest of the Amazon, with tropical lands bordering Colombia and Brazil. A wide range of important mineral resources are found in the mountainous and coastal areas, and Peru's coastal waters provide excellent fishing grounds. Peru is the world's second largest producer of silver and third largest producer of copper.

The Peruvian economy grew by an average of 5.6% from 2009-13 with a stable exchange rate and low inflation, which in 2013 was just below the upper limit of the Central Bank target range of 1% to 3%. This growth was due partly to high international prices for Peru's metals and minerals exports, which account for almost 60% of the country's total exports. Growth slipped in 2014 and 2015, due to weaker world prices for these resources. Despite Peru's strong macroeconomic performance, dependence on minerals and metals exports and imported foodstuffs makes the economy vulnerable to fluctuations in world prices.

Peru's rapid expansion coupled with cash transfers and other programs have helped to reduce the national poverty rate by 28 percentage points since 2002, but inequality persists and continues to pose a challenge for the Ollanta HUMALA administration, which has championed a policy of social inclusion and a more equitable distribution of income. Poor infrastructure hinders the spread of growth to Peru's non-coastal areas. The HUMALA administration passed several economic stimulus packages in 2014 to bolster growth, including reforms to environmental regulations in order to spur investment in Peru's lucrative mining sector, a move that was opposed by some environmental groups. However, in 2015, mining investment fell as global commodity prices remained low and social conflicts plagued the sector.

Peru's free trade policy has continued under the HUMALA administration; since 2006, Peru has signed trade deals with the US, Canada, Singapore, China, Korea, Mexico, Japan, the EU, the European Free Trade Association, Chile, Thailand, Costa Rica, Panama, Venezuela, concluded negotiations with Guatemala and the Trans-Pacific Partnership, and begun trade talks with Honduras, El Salvador, India, Indonesia, and Turkey. Peru also has signed a trade pact with Chile, Colombia, and Mexico, called the Pacific Alliance, that seeks integration of services, capital, investment and movement of people. Since the US-Peru Trade Promotion Agreement entered into force in February 2009, total trade between Peru and the US has doubled.

Agriculture - products:

artichokes, asparagus, avocados, blueberries, coffee, cocoa, cotton, sugarcane, rice, potatoes, corn, plantains, grapes, oranges, pineapples, guavas, bananas, apples, lemons, pears, coca, tomatoes, mangoes, barley, medicinal plants, quinoa, palm oil, mari

Industries:

mining and refining of minerals; steel, metal fabrication; petroleum extraction and refining, natural gas and natural gas liquefaction; fishing and fish processing, cement, glass, textiles, clothing, food processing, beer, soft drinks, rubber, machinery

Exports - commodities:

copper, gold, lead, zinc, tin, iron ore, molybdenum, silver; crude petroleum and petroleum products, natural gas; coffee, asparagus and other vegetables, fruit, apparel and textiles, fishmeal, fish, chemicals, fabricated metal products and machinery, allo

Exports - partners:

China 22.1%, US 15.2%, Switzerland 8.1%, Canada 7% (2015)

Imports - commodities:

petroleum and petroleum products, chemicals, plastics, machinery, vehicles, TV sets, power shovels, front-end loaders, telephones and telecommunication equipment, iron and steel, wheat, corn, soybean products, paper, cotton, vaccines and medicines

Imports - partners:

China 22.7%, US 20.7%, Brazil 5.1%, Mexico 4.5% (2015)

Banking

With the opening to foreign institutions in the early 1990s, the Peruvian financial system modernized rapidly and became fairly competitive. Peru's financial system is composed of 16 commercial banks, 36 municipal and rural savings banks and microfinancial institutions, and 4 government-owned entities: the Central Bank (Banco Central de Reserva del Peru, or BCRP), the government's financial agent (Banco de la Nacion), and two development banks (COFIDE and the Agrarian Bank). These institutions—along with 34 finance companies, 5 leasing companies, 4 private pension fund administrators, 13 insurance companies, and 20 miscellaneous companies--are regulated by the Superintendence of Banks, Insurance and Pension Funds Administrators (known by its Spanish initials, SBS). SBS policy is generally to follow regulatory guidelines set by the Switzerland-based Bank for International Settlements (BIS) where possible. For example, bank financial statements must be audited in compliance with internationally accepted auditing standards; in cases not covered by BIS guidelines, regulators use standards set by the U.S. Financial Accounting Standards Board. In addition, SBS regulations require that all deposit-taking institutions have periodic compulsory assessments by at least two independent credit rating agencies, whose capacity to perform is assessed by the SBS.

Customer deposits carry insurance financed by commercial bank contributions to an insurance fund. The amount is adjusted quarterly on the basis of the wholesale price index. For the December 2008 - February 2009 period, accounts are insured up to S/.84,240 (about US$26,7000). As it is legally empowered to do, the Central Bank envisions having to act as a "lender of last resort" in the case of a run on any commercial bank only up to the limit of the bank's net worth, since the SBS has set liquidity requirements on deposits and other short-term liabilities at relatively high levels. Banks must also meet liquidity requirements on all short-term liabilities, including amounts due to banks outside of Peru.

The banking system is highly concentrated after a consolidation process underway since 1998. As of November 2008, the three largest banks held 72.7% of loans and 75% of deposits. Total commercial banking system assets were US$47.3 billion, on an uptrend from 2004.

Stock Exchange

In 2008, the global financial crisis severely hit the local capital markets. The Lima Stock Exchange (BVL) suffered the worst hit showing an almost continuous decline beginning in July 2007, dominated, as it is, by mining shares. The BVL General Index reached an all-time high of 23,418 in July 2007, and tumbled consistently until October 2008, when it reached 7,055 points. Since March 2009, the index began a steady recovery hovering around the 15,000 level from September 2009 until early 2010, making it the world's fifth most profitable stock exchange at 99% in 2009.

Section 4 - Investment Climate

Executive Summary

- Peru was one of the fastest growing Latin American economies between 2004 and 2013, growing an average of 6% per year. Though growth slowed in 2014 and 2015, Peru's 3.3% growth in 2015 remained higher than the -0.3% regional average. The government's counter-cyclical stimulus spending, consumption, and private investment are the main driving forces of this growth. Private investment totaled USD 39.3 billion in 2014. As the economy has grown, poverty in Peru has steadily decreased falling by half from 56% in 2005 to 22.7% in 2015, according to the World Bank. President Ollanta Humala has promoted private and public investment in infrastructure projects in transportation, telecommunications, energy, sanitation, airports, and maritime ports. In addition, the Government of Peru (GOP) has encouraged integration with the global economy by signing a number of free trade agreements, including the United States-Peru Trade Promotion Agreement (PTPA), which entered into force in February 2009. In 2015, trade between the United States and Peru totaled USD 13.9 billion up from USD 9.1 billion in 2009, the year PTPA entered into force. From 2009 to 2015, Peruvian exports to the United States jumped from USD 4.2 billion to USD 5.1 billion (a 21% increase) while U.S. exports to Peru jumped from USD 4.9 billion to USD 8.8 billion (an 80% increase).

- Corruption and civil unrest around extractive projects continue to negatively affect Peru's investment climate. Transparency International ranked Peru 88th out of 175 countries in its 2015 Corruption Perceptions Index, three points lower than 2014. As of October 2015, 10 of 25 regional governors were either under preliminary investigation or appealing corruption-related charges. Ideological opposition to foreign mining firms led to violent protests against Mexican and Chinese-owned mining projects in 2015.

- Extractive industries are a key draw of foreign investment. According to Peru's investment promotion agency, Proinversion, 24% of foreign direct investment in 2014 went to the mining sector, 13% to energy, and 3% to petroleum. Other destinations for investment included finance (18%) and communications (17%)

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	88 of 175	transparency.org/cpi2015
World Bank's Doing Business Report "Ease of Doing Business"	2015	50 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	70 of 143	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2014	$6.5 Billion	BEA

World Bank GNI per capita	2014	$6,360	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The GOP seeks to attract investment -- both foreign and domestic -- in nearly all sectors of the economy. Several high level Peruvian officials, including the Minister of Economy and Finance, the Central Bank Governor, and the Executive Chairman of the Lima Stock Exchange attended global business conferences and toured several countries in 2015 and early 2016 in an effort to attract foreign investment. Some of these tours were organized and sponsored by In Peru, a private industry organization (http://inperu.pe). Peruvians and Americans benefit from the United States-Peru Trade Promotion Agreement (PTPA) which entered into force on February 1, 2009. Since entry into force, total trade (exports and imports) between Peru and the United States expanded significantly from USD 9.1 billion to USD 13.9 billion. The PTPA establishes a secure, predictable legal framework for U.S. investors operating in Peru. The PTPA protects all forms of investment. U.S. investors enjoy in almost all circumstances the right to establish, acquire, and operate investments in Peru on an equal footing with local investors.

Other Investment Policy Reviews

The World Trade Organization (WTO) published a Trade Policy Review on Peru in 2013. The WTO commented that foreign investors receive the same legal treatment as local investors in general, although foreign investment on maritime services, air transport, and broadcasting is restricted. The report also noted that the Peruvian government promotes public-private partnerships to build infrastructure and spur economic growth, with tax exemptions and low-cost financing available for domestic and foreign investors alike.

Reports available at: https://www.wto.org/english/tratop_e/tpr_e/tp389_e.htm
http://www.oecd.org/countries/peru/multi-dimensional-review-of-peru-9789264243279-en.htm

Peru aspires to become a member of the Organization for Economic Cooperation and Development (OECD). On February 5, 2015 the GOP announced the start of an 18-month study to identify economic, social, and political "bottle necks" that could hamper Peru's OECD membership aspirations. The government noted that the study would act as a "roadmap" for Peru's goal to achieve membership by 2021 and highlighted education as an example of a key area that Peru must improve. According to the OECD, Peru dedicates only 2.8% of GDP towards education compared to the OECD average of 5.6% of GDP. As a result, Peruvian 15 year olds achieve education results equivalent to 12 year olds in OECD member countries. The result of this lack of investment in education is a chronic shortage of skilled labor in Peru. The OECD published the Initial Assessment of its Multi-Dimensional Review of Peru in October 2015, finding that in spite of economic growth, Peru "still faces structural challenges to escape the middle-income trap and consolidate its emerging middle class."

Laws/Regulations on Foreign Direct Investment

The 1993 Constitution grants national treatment for foreign investors and permits foreign investment in almost all economic sectors. Under the Constitution, foreign investors have the same rights as national investors to benefit from investment incentives, such as tax exemptions. In addition to the 1993 Constitution, Peru has several laws governing foreign direct investment (FDI) including the Foreign Investment Promotion Law (Legislative Decree (DL) 662 of September 1991) and the Framework Law for Private Investment Growth (DL 757 of November 1991). Other important laws include the Private Investment in State-Owned Enterprises Promotion Law (DL 674), the Private Investment in Public Services Infrastructure Promotion Law (DL 758), and specific laws related to agriculture, fisheries and aquaculture, forestry, mining, oil and gas, and electricity. Article 6 of Supreme Decree No. 162-92-EF (the implementing regulations of DLs 662 and 757) authorizes private investors to enter all industries except investments in natural protected areas and manufacturing of weapons.

The GOP has passed several laws and related implementing regulations aimed at encouraging private investment, such as two important decrees in 2008. The first was a legislative decree containing the Law on Public-Private Partnerships (PPPs). The second decree presents a priority list of projects for PPPs. Congress passed a law to reform regulations that would make PPPs less bureaucratic and more transparent, thus more attractive to foreign companies, in March 2014. Among these public-private partnerships are major infrastructure projects of national importance and upgrades to existing projects: Salaverry maritime port project, Quillabamba thermal power plant (Cusco region), liquid petroleum gas (LPG) transport system (from Pisco to Callao), lines three and four of the Lima and Callao Metro system, water supply to Lima and related headwater works, distribution system of natural gas via pipeline networks (Apurimac, Ayacucho, Huancavelica, Junin, Cusco, Puno, and Ucayali regions), rural broadband installation (optical fiber transportation networks and access networks), and connections to three existing 220 kV power transmission lines.

The GOP created the Private Investment Promotion Agency, ProInversion, in 2002, based on an existing, similar agency. ProInversion has completed both privatizations and concessions of state-owned enterprises and natural resource-based industries. Major recent concession areas include ports, power generation facilities, electrical transmission lines, oil and gas distribution, and telecommunications. Project opportunities are available on ProInversion's Project Portfolio page, available at: http://www.proyectosapp.pe/modulos/JER/PlantillaProyectoEstadoSector.aspx?are=1&prf=2&jer=5892&sec=30.

In September 2015, Peru published a legislative decree modifying regulations on public private partnerships (PPPs). The law establishes new investment committees, emphasizes evaluation reporting, and creates opportunities for submission of unsolicited proposals for national-level projects. ProInversion will share its project development responsibilities with other government stakeholders, including the Ministry of Economy and Finance.

Although all Peruvian administrations since the 1990s have vowed to support private investment and abide by Peruvian laws, the GOP occasionally has passed measures that some observers have regarded as contravening legal principles. For example, the Garcia Administration in 2011 rescinded a Canadian company's rights to operate a silver mining project in Puno after violent protests opposing the project. The Canadian company delivered to the Peruvian Minister of Economy and Finance a Notice of Intent to submit a claim to arbitration under the terms of the Canada-Peru Free Trade Agreement in February 2014. Furthermore, President Ollanta Humala signed into law a 10-year moratorium on the entry into Peru of live genetically-modified organisms (GMOs) to be used for cultivation in December 2011. Peru also has implemented two sets of rules for importing pesticides, one for commercial importers, which is restrictive and requires importers to file a full dossier with technical information, and another for end-user farmers, which only requires a written affidavit.

Business Registration

Peru permits foreign business ownership, provided that a company has at least two shareholders and that its legal representative is a Peruvian resident. The process takes an average of 43 days and involves 11 procedures. An entrepreneur must reserve the company name through the national registry, SUNARP (www.sunarp.gob.pe), and prepare a deed of incorporation through Portal de Servicios al Ciudadano y a las Empresas (http://www.serviciosalciudadano.gob.pe/). The deed is then signed and filed with a Public Notary, with notary fees of up to 1% of a company's capital, before submission to the Public Registry. The company's legal representative must obtain a Certificate of Registration and tax identification number from the National Tax Authority. Finally, the company must obtain a license from the municipality of the jurisdiction in which it is located.

All foreign investments must be registered with ProInversion, Peru's investment promotion agency. Provinversion helps potential investors navigate investment regulations and provides sector-specific information on the investment process.

Under Peruvian law, registered small and micro-businesses are afforded benefits including tax breaks, access to credit, and protections for managers and workers. Forty percent of government purchases are reserved for these businesses. Microbusinesses are defined as those with maximum annual revenue of USD 165,000, and small businesses as those with maximum annual revenue of USD 1.5 million. Businesses register as small or micro online through the Ministry of Labor.

Industrial Promotion

ProInversion also aims to attract investment in the following sectors: agricultural, construction, ground transportation, energy and mining, finance, health technologies, telecommunications, and travel. Information can be found on ProInversion's website: http://www.proyectosapp.pe/modulos/JER/PlantillaProyectoEstadoSector.aspx?are=0&prf=2&jer=5351&sec=22

Limits on Foreign Control and Right to Private Ownership and Establishment

The Constitution (Article 6 under Supreme Decree No. 162-92-EF) authorizes foreign investors to carry out any economic activity provided investors comply with all constitutional precepts, laws, and treaties. Exceptions exist, including exclusion on foreign investment activities in natural protected reserves and manufacturing of war weapons, pursuant to Article 6 of Legislative Decree No. 757. While long-term concessions are granted, the law states Peruvians must maintain majority ownership in certain strategic sectors: media; air, land and maritime transportation infrastructure; and private security surveillance services.

Prior approval is required in the banking (for regulatory reasons, and also applies to domestic investment) and defense-related sectors. Foreigners are also legally prohibited from owning a majority interest in radio and television stations in Peru; nevertheless, foreigners have in practice owned controlling interests in such companies. Under the Constitution, foreign interests cannot "acquire or possess under any title, mines, lands, forests, waters, or fuel or energy sources" within 50 kilometers of Peru's international borders. However, foreigners can obtain concessions and rights within the restricted areas with the authorization of a supreme resolution approved by the Cabinet and the Joint Command of the Armed Forces.

Privatization Program

The GOP initiated an extensive, but not yet complete, privatization program in 1991 in which foreign investors were encouraged to participate. Since 2000, the GOP has promoted multi-year concessions as a means of attracting investment in major projects. In 2000, the government granted a 30-year concession to a private group (Lima Airport Partners) to operate the Lima airport. In 2006, the government granted a 30-year concession to Dubai Ports to build and operate a new container terminal in the Port of Callao. The terminal’s first phase became operational in May 2010. In 2006, the Swiss-Spanish-Peruvian consortium Swissport received a 25-year concession to manage nine of Peru's northern airports. In 2011, the GOP awarded the Argentine-Peruvian consortium Aeropuertos Andinos a 25-year concession to manage six of Peru’s southern airports. Also in 2011, the government granted a 30-year concession to a Danish-Peruvian consortium led by the Danish-based A.P. Moller-Maersk Group to operate and modernize the multipurpose northern terminal at the Port of Callao. On June 30, 2014 the GOP awarded a multi-billion USD concession for the Southern Gas Pipeline to a consortium led by Brazilian company Odebrecht. On June 2, 2015, the GOP awarded Spanish construction company Sacyr a 25-year concession to maintain 875 kilometers of the Andean Longitudinal Highway. The concession for line three of Lima’s metro is expected to be awarded in late 2016. The GOP continues to award multi-year concessions for various energy, natural gas, hydro-energy and irrigation, telecommunications, ports, sanitation, roads, and tourism projects.

The concessions process is challenging for U.S. and other international companies interested in bidding on projects. ProInversion, the government agency responsible for drawing up and competing PPP concession projects, has come under considerable criticism for its bidding process, deadlines, and ambitious timetables. As a result, U.S. and other international companies have shown limited interest in Peruvian PPP projects.

Screening of FDI

The GOP does not screen, review, or approve foreign direct investment outside of those sectors that require a governmental waiver (see Limits on Foreign Control).

Competition Law

The Institute for the Protection of Intellectual Property, Consumer Protection, and Competition (INDECOPI) is the GOP agency responsible for reviewing competition-related concerns of a domestic nature.

2. Conversion and Transfer Policies

Foreign Exchange

There are no reported difficulties in obtaining foreign exchange. Under Article 64 of the 1993 Constitution, the GOP guarantees the freedom to hold and dispose of foreign currency. The GOP has eliminated all restrictions on remittances of profits, dividends, royalties, and capital, although foreign investors are advised to register their investments with ProInversion to ensure these guarantees. Exporters and importers are not required to channel foreign exchange transactions through the Central Reserve Bank of Peru (BCR) and can conduct transactions freely on the open market. Anyone may open and maintain foreign currency accounts in Peruvian commercial banks. U.S. firms have reported no problems or delays in transferring funds or remitting capital, earnings, loan repayments or lease payments since Peru's economic reforms of the early 1990s. Under the PTPA, portfolio managers in the United States are able to provide portfolio management services to both mutual funds and pension funds in Peru, including funds that manage Peru’s privatized social security accounts.

The 1993 Constitution guarantees free convertibility of currency. However, limited capital controls still exist as private pension fund managers (AFPs) are constrained by how much of their portfolio can be invested in foreign securities. The maximum limit is set by law (currently 50% since July 2011), but the BCR sets the operating limit AFPs can invest abroad. Over the years, the BCR has gradually increased the operating limit, which reached 40% in July 2014. Several additional increases were made between October 2014 and January 2015, bringing the current operating limit up to 42 percent.

The BCR is an independent institution, free to manage monetary policy to maintain financial stability. The BCR’s primary goal is to maintain price stability, via inflation targeting. Inflation at year-end in Peru reached 3.9% in 2007, 6.7% in 2008, 0.3% in 2009, 2.1% in 2010, 4.7% in 2011, 2.7% in 2012, 2.8% in 2013, 3.2% in 2014, and 4.4% in 2015.

The GOP has implemented policies to de-dollarize the economy, but in the last few years market forces have been more effective in reducing dollarization as the Peruvian Nuevo Sol had trended (until 2014) to appreciate vis-à-vis the U.S. dollar. U.S. dollars account for a decreasing share of banking system transactions, according to the Bank Supervisory Authority (SBS). In 2001, U.S. dollars accounted for 82% of loans and 73% of deposits. As of December 2015, U.S. dollars accounted for 29.7% of loans and 45.5% of deposits.

The foreign exchange market operates freely, for the most part. To quell “extreme variations” of the exchange rate, the BCR intervenes through purchases and sales in the open market without imposing controls on exchange rates or transactions. In the last few years, the BCR has consistently purchased U.S. dollars to mitigate the risk that spillover from expansionary U.S. monetary policy might result in over-valuation of the Peruvian Nuevo Sol relative to the U.S. dollar. This policy is likely to continue for the foreseeable future, until U.S. economic recovery begins to tighten credit conditions.

Remittance Policies

Peru is neither a major regional financial center nor an offshore financial center. Currently, businesses involved in the transfer of funds only need prior authorization by the SBS while cash couriers need a signed agreement with the Ministry of Transportation and Communication. The GOP’s Financial Intelligence Unit (FIU) is an independent agency that monitors and investigates financial institutions and cash transfers (physical and electronic for money laundering and other financial crimes.

Peru’s cash-based and heavily-dollarized economy, large informal sector (estimated to be 70% of GDP), and deficient regulatory supervision of designated non-financial businesses and professions (DNFBPs), such as informal money exchanges and wire transfer services, make the economy vulnerable to money laundering and other financial crimes. The informal remittance businesses remain unsupervised and vulnerable to money laundering, including travel agencies and small wire transfer businesses. Peru would benefit from expanded supervision and regulation of financial institutions and DNFBPs. Peru made progress in monitoring and regulating notaries, pawn shops, and exchange houses. Peru is a member of the Financial Action Task Force on Money Laundering in South America (GAFILAT).

A U.S. company complained to the Embassy that their pension plans, issued in the United States and registered under the Texas Commissioner, have been excluded by the SBS from being used by their clients to demonstrate provisional coverage within the funds transfer abroad procedure, despite the company having certified compliance with the coverage requirements. This is notwithstanding the AFPs (pension funds) accepting private voluntary plans from other countries.

3. Expropriation and Compensation

Congress passed a law streamlining expropriation procedures in August 2015. The Peruvian Constitution states that the GOP can only expropriate private property on the basis of public interest, such as public works projects or for national security. In order to expropriate Congress is required to pass a decree. The Government of Peru has expressed its intention to comply with international standards concerning expropriations. On January 12, 2012, Congress approved legislation to expropriate a number of homes and other real estate adjacent to the Lima Airport for an airport expansion project. Compensation for expropriations is based on fair market value. Notably, concessionaires have complained that the government has been extremely slow in implementing expropriations, which have caused delays to their investment commitments.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The PTPA includes a chapter on dispute settlement, which applies to implementation of the Agreement's core obligations, including labor and environment provisions. Dispute panel procedures set high standards of openness and transparency through the following measures: open public hearings; public release of legal submissions by parties, enlisting special labor or environment expertise for disputes in these areas, and opportunities for interested third parties to submit views. The Agreement emphasizes compliance through consultation and trade-enhancing remedies. The Agreement also encourages arbitration and other alternative dispute resolution measures for disputes between private parties.

Peru is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) and to the International Center for the Settlement of Investment Disputes (ICSID convention). Disputes between foreign investors and the GOP regarding pre-existing contracts must still enter national courts, unless otherwise permitted, such as through provisions found in the PTPA. In addition, investors who enter into a juridical stability agreement may submit disputes with the government to national or international arbitration if stipulated in the agreement. Several private organizations -- including the American Chamber of Commerce, the Lima Chamber of Commerce, and Universidad Catolica – operate private arbitration centers. The quality of such centers varies, however, and investors should choose arbitration venues carefully.

Bankruptcy

Peru has a creditor rights hierarchy similar to that established under U.S. bankruptcy law, and monetary judgments are usually made in the currency stipulated in the contract. However, administrative bankruptcy procedures under INDECOPI (the Antitrust, Unfair Competition, Intellectual Property Protection, Consumer Protection, Dumping, Standards and Elimination of Bureaucratic Barriers Agency) have proven to be slow and subject to judicial intervention. Compounding this difficulty are occasional laws passed to protect specific debtors from action by creditors that would force them into bankruptcy or liquidation.

Investment Disputes

The 1993 Constitution allows disputes among foreign investors and the government or state-controlled enterprises to be submitted to international arbitration. In 2005, in order to reinforce the constitution, the Supreme Court ruled that all arbitration awards are final and are not subject to appeal.

International Arbitration

The Constitution permits international arbitration of disputes between foreign investors and the government or state-controlled enterprises. Although Peruvian law stipulates the GOP must accept binding arbitration, parastatal companies and government ministries disregarded unfavorable judgments several times over the past three years. Previously, the Government of Peru turned these arbitration cases over to the judiciary, where they were bureaucratically delayed until the companies conceded the cases. Peru's Supreme Court ruled that effective July 2005 all arbitration findings and awards are final and not subject to appeal.

In February 2016, a U.S. investor filed a Notice of Intent to pursue international arbitration against the GOP for violation of the U.S.-Peru Trade Promotion Agreement. The investor holds agrarian land reform bonds it argues the GOP has undervalued.

Peru is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) and to the 1965 International Center for the Settlement of Investment Disputes (ICSID convention). Disputes between foreign investors and the GOP regarding pre-existing contracts must still enter national courts. However, investors who conclude a juridical stability agreement for additional investments may submit disputes with the government to national or international arbitration if stipulated in the agreement. Several private organizations -- including the Universidad Catolica, the Lima Chamber of Commerce and the American Chamber of Commerce -- operate private arbitration centers. The quality of these centers varies, and investors should choose arbitration venues carefully.

ICSID Convention and New York Convention

Peru became a signatory to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) since September 4, 1991. Peru ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards on July 7, 1988.

Duration of Dispute Resolution – Local Courts

Dispute settlement remains problematic in Peru; although in 2004 the GOP took steps to improve the dispute settlement process by establishing commercial courts to rule on investment disputes, including two courts of appeal. Prior to the existence of the commercial courts, it took an average of two years to resolve a commercial case through the civil court system. With their specialized judges, these courts have reduced the amount of time to resolve a case to just two months. The appeals level resolves most of these cases.

The criminal and civil courts of first instance and appeal are heard at the provincial level. The Supreme Court is located in Lima. In principle, Peruvian law recognizes secured interests in property, both movable and immovable. With the exception of the commercial courts, the judicial system is extremely slow to hear cases and to issue decisions. A large backlog of cases further complicates decision-making. Court rulings and the degree of enforcement have been difficult to predict. The competence of individual judges varies, and allegations of corruption, political interference, and outside interference in the judicial system are common. Frequent use of appellate processes as a delay tactic leads to the belief among foreign investors that contracts can be difficult to enforce in Peru. The 1997 Law of Conciliation (DL 26872) requires disputants in many types of civil and commercial matters to consider conciliation before a judge can accept a dispute for litigation. Private parties often resort to arbitration to resolve business disputes, avoiding involvement in judicial processes.

Peru has a creditor rights hierarchy similar to that established under U.S. bankruptcy law, and monetary judgments are usually made in the currency stipulated in the contract. However, administrative bankruptcy procedures under INDECOPI (the National Institute for the Defense of Free Competition and the Protection of Intellectual Property) have proven to be slow and subject to judicial intervention. Compounding this difficulty are occasional laws passed to protect specific debtors from action by creditors that would force them into bankruptcy or liquidation.

The 1993 Constitution permits international arbitration of disputes between foreign investors and the government or state-controlled enterprises. Previously, the Government of Peru appealed arbitration cases to the judiciary, where they were typically delayed until the international companies conceded the cases. To reinforce Peruvian law, the Supreme Court ruled that effective July 2005, all arbitration findings, and awards are final and not subject to appeal.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

The PTPA has resulted in benefits to U.S. enterprises seeking to invest in Peru. Under the PTPA, Peru has made concessions beyond its commitments to the World Trade Organization (WTO), eliminating investment barriers such as the requirement for U.S. firms to hire nationals rather than U.S. professionals, and measures requiring the purchase of local goods.

The GOP does not maintain any measures that are inconsistent with Trade-Related Investment Measure (TRIM) requirements, according to a WTO Committee on Trade-Related Investment Measure notification dated August 19, 2010.

Investment Incentives

Peru offers both foreign and national investors legal and tax stability agreements to stimulate private investment. These agreements guarantee that the statutes on income taxes, remittances, export promotion regimes (such as drawbacks, or refunds of duties), administrative procedures, and labor hiring regimes in effect at the time of the investment contract will remain unchanged for that investment for 10 years. To qualify, an investment must exceed USD 10 million in the mining and hydrocarbons sectors or USD 5 million within two years in other sectors. An agreement to acquire more than 50% of a company's shares in the privatization process may also qualify an investor for a legal or tax stability agreement, provided that the added investment will expand the installed capacity of the company or enhance its technological development.

Research and Development

Promoting science, innovation, and technology and improving Peru's education system remain priorities for the Humala Administration. Peru ranked last out of 65 surveyed countries in the OECD's 2013 Program for International Student Assessment (PISA). The OECD noted the high inequity of quality between urban and rural schools and low levels of Peruvian students meeting PISA standards in mathematics, science, and reading. The Humala Administration increased budgeted spending for education for 2016 from 3.5% to 3.85% of GDP. In 2014, the GOP launched an ambitious national plan to promote innovation, science, and technology jobs.

Performance Requirements

There are no performance requirements that apply exclusively to foreign investors. Peruvian civil law applies to legal stability agreements, which means the GOP cannot unilaterally alter agreements. Notwithstanding these protections, investors should be aware that government officials have delivered negative remarks to the press regarding companies exercising their contractual rights and obligations.

Laws specific to investment in the petroleum and mining sectors provide assurances to investors in those sectors. However, a history of tightening of benefits has occurred in these industries. In 2000, the government modified the General Mining Law, reducing some benefits to investors in that sector. Among the changes were reductions in the term concessionaires are granted to achieve the minimum annual production, increases in fees for holding non-productive concessions, increases in fines for not achieving minimum production within the allotted time, reductions in the maximum allowable annual accelerated depreciation, and revocation of the income tax exemption for reinvested profits.

After a growing number of local communities demanded a share of mining profits from operations in their areas, the incoming Garcia Administration and mining companies agreed in 2006 to a voluntary contribution system whereby companies agreed to provide funding to the government (in addition to the regular corporate income tax) for community infrastructure projects. This voluntary contribution averted adoption of exacting taxes. The agreement allowed mining companies to control where their contributions were invested and did not apply if the prices of metals or minerals drop below certain levels. As the voluntary contribution agreement was to expire at the end of 2011 during a period of windfall profits for extractive industries, the incoming Humala Administration and mining companies agreed in August 2011 to replace it with a new tax regime on mining profits called the "gravamen minero." It produced tax revenues (including the royalty tax) of USD 1.97 billion in 2012; but with declining metals prices the contribution in the January-November tax 2013 period was USD 1.48 billion.

With regard to licensing arrangements, private parties may freely negotiate contractual conditions related to licensing arrangements and other aspects of technology transfer, needing no prior governmental authorization. Registration of a technology transfer agreement with INDECOPI is required for a payment of royalties to be counted against taxes.

Current law limits foreign employees to 20% of the total number of employees in a local company (whether owned by foreign or national interests). The combined salaries of foreign employees are limited to no more than 30% of the total company payroll. However, DL 689 from November 1991 provides a variety of exceptions to these limits. For example, a foreigner is not counted against a company's total if he or she holds an immigrant visa, has a certain amount invested in the company (approximately USD 4,000), or is a national of a country that has a reciprocal labor or dual nationality agreement with Peru. The United States and Peru tolerate dual nationality, but do not have a formal agreement. Furthermore, the law exempts foreign banks, and international transportation companies from these hiring limits, as well as all firms located in free trade zones. Companies may apply for exemption from the limitations for managerial or technical personnel. Sector-specific regulating bodies enforce performance requirements.

Although there are no discriminatory or onerous visa requirements, residence, or works permit requirements that inhibit foreign investors' mobility, the application and approval process can be cumbersome and lengthy.

Data Storage

Peru adopted the Personal Data Protection Law (N° 29733) in July 2011 and went into effect on March 22, 2013. The Law is available here in English: http://web.ita.doc.gov/ITI/itiHome.nsf/1dd3c7c4faeeff0585256ccb00657bab/112a1a2f4d01989c85257a78004dd2ec/$FILE/Peru%20Data%20Protection%20Law%20July%2028_EN.pdf.

The implementing regulations are available in Spanish here: http://spij.minjus.gob.pe/normas/textos/220313T.pdf

A data controller who processes personal data must notify the National Authority for Personal Data Protection (ANPDP for its Spanish acronym), which keeps a public register of data processors and the type of data they collect. Personal data is defined by the Law as any information on an individual which identifies or makes him/her identifiable through means that may be reasonably used. Sensitive personal data means any of the following: biometric data, data concerning the racial and ethnic origin; political, religion, philosophical or moral opinions or convictions, personal habits, union membership and information related to health or sexual life. Unless otherwise exempted by statute, data controllers are generally required to obtain the consent of data subjects for the processing of their personal data. Consent must be prior, informed, expressed, and unequivocal. In the case of sensitive personal data, consent must also be given in writing, which may be done digitally. Even without the consent of the subject, sensitive data may be processed when authorized by law, provided that it in in the public interest.

Data controllers may process personal data without consent:

- When the personal data are compiled or transferred for public entities in control of the personal data and in the performance of its duties;
- When personal data is accessible to the public or is intended to be accessible to the public;

- To comply with other laws related to financial solvency and credit;
- In the case of a law for the promotion of competition in regulated markets under certain circumstances;
- When necessary to perform a contract to which the data subject is a party;
- For personal data related to health, under certain circumstances;
- When processing is carried out by non-profit organizations with political, religious or union purposes, under certain circumstances; or
- In an anonymization or disassociation procedure.

A data controller may transfer personal data to places outside of Peru only if the recipients have adequate protection measures. The ANPDP supervises compliance with this requirement. That provision does not apply in the following cases:

- When the data subject has given his/her prior, informed, express and unequivocal consent;
- Agreements under international treaties to which Peru is a party;
- International judicial cooperation;
- International cooperation between intelligence agencies for the fight against terrorism, illegal drug trafficking, money laundering, corruption, human trafficking and other forms of organized crime;
- When necessary to implement a contract to which the data subject is a party;
- To comply with laws concerning the transfer of bank or stock exchanges; or
- When the transfer is for the prevention, diagnosis or medical or surgical treatment of the data subject; or when necessary to carry out epidemiological or similar studies (provided that adequate disassociation procedures are applied).

Data controllers must adopt technical, organization and legal measures to guarantee the security of personal data and avoid their alteration, loss, unauthorized processing or access. Peru's law does not require any notifications to any data subject or any other entity upon a breach. Peru does not mandate special regulations be enacted for the processing of personal data of minors. The ANPDP is responsible for enforcement and can issue the following administrative sanctions/fines based upon whether the violation is mild, serious or very serious. The law provides a "Principle for availability of recourse for the data subject" stating that any data subject must have the administrative and/or jurisdictional channel necessary to claim and enforce his rights when they are violated by the processing of his personal data

6. Protection of Property Rights

Real Property

The GOP recognizes and enforces secured interests in property, both movable and immovable. The GOP is working on improving the registry of those rights, which will further enable the government's enforcement capabilities.

Peru's legal framework provides for easy registration of trademarks, and inventors have been able to patent their inventions since 1994. Peru's 1996 Industrial Property Rights Law provides an effective term of protection for patents and prohibits devices that decode encrypted satellite signals, along with other improvements. Peruvian law does not provide pipeline protection for patents or protection from parallel imports. Peru's Copyright Law is generally consistent with the TRIPS Agreement.

Intellectual Property Rights

While the legal framework for protection of intellectual property (IP) in Peru has improved over the past decade, including the law enacted in 2011 to criminalize the sale of counterfeit medicines, enforcement remains weak. Peru has remained on USTR's Section 301 "Watch List" since 1992 because of continued high piracy rates, inadequate enforcement of IP laws, and weak or unenforced penalties for IP violators.

Under the PTPA, Peruvian law should treat U.S. companies at least as well as Peruvian companies in all IP categories. The PTPA provides for improved IP protection on a broad range of intellectual property rights. Such improvements include protections for digital products such as U.S. software, music, text, and video; protection for U.S. patents, trademarks and pharmaceutical and agrochemical test data; legal penalties to deter piracy; and an electronic system to register and maintain trademarks.

Despite PTPA implementation and recent legal code amendments creating stricter penalties for some types of IP theft, the judicial branch has failed to impose sentences that adequately deter future IP theft. Prosecutors do not pursue piracy cases through the entire process to final judgment. Furthermore, the Peruvian public does not regard IP theft as a serious crime. The public continues to purchase pirated software, CDs, DVDs, pharmaceutical products, and books from vendors in public. The purchases continue openly since most Peruvians realize their government will not prosecute this theft.

Some GOP institutions, sometimes with the support of the U.S. Embassy in Lima, sponsor public awareness campaigns to raise awareness about the damage that IP theft causes the Peruvian economy and Peruvians consumers. Peruvian newspapers complain about piracy, including pirated versions of Peru's Nobel Laureate Mario Vargas Llosa's books. While the GOP occasionally has carried out raids against small-time vendors of pirated goods, piracy remains a significant problem for legitimate owners of copyrights in Peru.

The International Intellectual Property Alliance (IIPA) estimates that the piracy level in Peru for recorded music is at 98% and 100% for video content and books. The Business Software Alliance estimates that software piracy level is at 65%, costing the industry USD 60 million in 2014. Pay-TV piracy is estimated to cost industry USD 200 million per year.

The U.S. pharmaceutical industry advises that the GOP fails to provide data exclusivity protection for all pharmaceutical products and does not provide patent linkage or "second use" medical patents. The pharmaceutical industry also advises that the GOP does not offer any extension of the patent term for pharmaceutical products to compensate for processing delays at the patent office. The GOP published biologic regulations on February 27, 2016 that are consistent with international norms, and biosimilar regulations on March 1, 2106 that include a six-month window during which drugs can be granted marketing approval without providing clinical data demonstrating safety and efficacy. The GOP has used the threat of a compulsory license when negotiating pharmaceutical prices.

The GOP agency charged with promoting and defending intellectual property rights is the Antitrust, Unfair Competition, Intellectual Property Protection, Consumer Protection, Dumping, Standards and Elimination of Bureaucratic Barriers Agency (INDECOPI, www.indecopi.gob.pe), established in 1992. Peru belongs to the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO). It is also a signatory to the Paris Convention on Industrial Property, Geneva Convention for the Protection of Sound Recordings, Bern Convention for the Protection of Literary and Artistic Works, Brussels Convention on the Distribution of Satellite Signals, Phonograms Convention, Satellites Convention, Universal Copyright Convention, the World Copyright Treaty, and the World Performances and Phonographs Treaty and the Film Register Treaty. In December 1994, the Peruvian Congress ratified the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property (TRIPs).

Pursuant to the terms of the PTPA, Peru has ratified or acceded to the following agreements: the Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite; the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; the WIPO Copyright Treaty; the WIPO Performances and Phonograms Treaty; the Patent Cooperation Treaty; the Trademark Law Treaty; and, the International Convention for the Protection of New Varieties of Plants (UPOV Convention). Although Peru has ratified or acceded to several of the above agreements as part of its implementation of the PTPA, it has not yet fulfilled its PTPA commitments by ratifying or acceding to the following agreements: the Patent Law Treaty; the Hague Agreement Concerning the International Registration of Industrial Designs; and, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.

The GOP does not have a single database that tracks seized counterfeit goods. Moreover, the various Peruvian agencies/ministries do not share information, which results in conflicting data. This information is not available to the public.

Customs officials have the authority to seize counterfeit goods. There is a process for rights holders to be notified for an inspection of the seized goods, but implementation of the process is inconsistent.

Piracy remains a prevalent problem in Peru. GOP officials recognize that the country will not achieve its full economic potential if IPR laws are not implemented more robustly to protect legitimate owners of trademarks, copyrights, and patents. Even Peruvian businesses complain that piracy is biting into their bottom lines, and are joining U.S. and foreign companies to engage the GOP on the economic costs of IPR violations. The World Economic Forum ranked Peru 69 out of 140 countries in its Global Competitiveness Index 2015-2016 behind fellow Pacific Alliance members Chile (35), Mexico (57), and Colombia (61).

INDECOPI continues to report that hundreds of millions of dollars-worth of pirated goods are sold with impunity in notorious markets like “Polvos Azules,” “El Hueco,” and “Fronteras Unidas” in Lima. For example, El Hueco, in spite of its location just blocks from the PNP headquarters, is full of shoppers buying the latest pirated movies. In the outer Andean and

Amazon regions, notorious markets for pirated goods operate even more openly with little fear of interference from law enforcement.

Piracy is so common that specialized markets operate for different sectors. For instance, Lima's "Capon Center Mall" specializes in counterfeit medicines. During a July 2014 raid, PNP and SUNAT agents discovered that over 50% of all medicines sold at Capon were counterfeit. In spite of this flagrant IPR violation, the mall remains in operation. Gamarra, a district in Lima, is home to large notorious markets ("Galeria Azul," "Galeria Santa Lucia," "Galeria San Miguel," "Galeria Markata," and "Galeria Senor de Chacos") that specialize in counterfeit clothing. Even upscale districts in Lima like La Molina and Miraflores are home to well-known notorious markets like "La Esquina" and "La Quinta" where hawkers sell fake Gucci, Louis Vuitton, and other high-end merchandise.

GOP and private sector interlocutors note the increasing sophistication of piracy groups, which are utilizing internet tools to expand their business. Notorious markets are becoming more adept at using social media to promote and sell their goods, with many markets and vendors using Facebook to promote the latest sales and availability of new merchandise. This trend has extended to the online distribution and sales of counterfeit medicines; however, MINSA lacks resources to adequately monitor these unregistered websites, which offer deeply discounted and counterfeit medicines to the public.

Piracy in Peru is most pervasive in software, music, video, and TV content. The International Intellectual Property Alliance estimates that the piracy level for music is around 98% and nearly 100% for video content. The Software Business Alliance estimates that the piracy level for software is 65%, costing copyright holders an estimated USD 60 million annually. The Alianza contra Piratería de Televisión Paga (Alianza), which aims to combat TV content piracy, estimates that pay-TV piracy costs industry $171 million annually, with related tax losses for the government of $52 million per year. The Peruvian market is so saturated with pirated movies that there is no legitimate rental market for movies and few legitimate venues to buy legal music and movie DVDs. Pirated movies sell for only USD 1.00-1.65 per DVD while pirated books sell for less than a third of the price of licensed editions. Novels by noted Peruvian author Mario Vargas Llosa sell in stores for USD 20.00) while illegal book venders sell them for USD 7.50.

Resources for Rights Holders

Contact at Mission:

Benjamin Yates
Economic Officer
+51-1-618-2414
YatesBA@state.gov

A list of lawyers can be requested from the Embassy's Commercial Service Office (Office.Lima@trade.gov).

Country/Economy resources:
The American Chamber of Commerce in Peru can be contacted via this link: http://www.amcham.org.pe/contactenos/escribanos.php.

7. Transparency of the Regulatory System

Regulatory transparency and independence have become central issues for foreign investors in Peru. Although many of the central government regulators related to foreign investment have relatively transparent and predictable procedures, delays and the lack of predictability in the rulings of these institutions, have been impediments to doing business in Peru.

The Securities Market Superintendence (SMV) maintains the company registry and supervises the securities market. ProInversion handles privatization and most concessions. INDECOPI handles competition policy, bankruptcy, and intellectual property matters. The Superintendence of Banking and Insurance (SBS) regulates banks, insurance companies, and private pension funds, including determination of whether potential market entrants qualify to operate in Peru.

The GOP makes drafts of regulations, including investment laws, available through the website of the relevant ministry or regulator. Exceptions are rules and decisions made by the Congress and the Judiciary through Emergency Decrees and Legislative Decrees, as well as instances in which the ministry or regulator finds publication unnecessary or contrary to the security or the public interest.

When the GOP privatized state-owned monopolies in the areas of telecommunications, energy, and the hydrocarbons sector in the late 1990s, it also established regulatory institutions to oversee the new private sectors – among them OSIPTEL for telecom, and OSINERGMIN for energy, mining and hydrocarbons – the GOP created the Environmental Enforcement Organism (OEFA) in 2008 which is progressively taking over the environmental enforcement functions previously held by OSINERGMIN and other agencies.

In 2010, OSIPTEL established a “glide path” plan to continuously lower the mobile termination rates for all carriers by October 2013. This created a more favorable and competitive environment for the smaller carriers. In July 2014, OSIPTEL introduced number portability—which allows consumers to keep their mobile phone number despite changing service providers—and cut interconnection fees by 68% to spur competition and facilitate new entrants into the market. OSIPTEL also lowered costs for rural operators to facilitate mobile penetration. Since these changes, over 200,000 Peruvian consumers have switched providers.

U.S. and other non-Peruvian firms and investors have complained about the reinterpretation of rules and the imposition of disproportionate fines coupled with usurious interest charges on unpaid taxes or fines by the Peruvian tax agency, SUNAT. U.S. firms and other investors allege SUNAT's capricious behavior and reinterpretation of tax laws are often contrary to the spirit of the law and intent of government policies, thereby complicating and making normal business operations costlier. This situation may be at least be partly explained by the fact that the remuneration of SUNAT employees is partially determined by the theoretical tax liability they assess in audits. The U.S. Embassy continues to hear that this perverse incentive leads to overzealous tax collection practices.

Businesses point out that SUNAT's retroactive reinterpretation of regulations and laws, levying of disproportionate fines, usurious interest rates on the alleged assessments and below market interest rates on payable tax rebates, lengthy resolution processes, and initiation of full company audits when companies request a refund or legal revaluation of assets for depreciation purposes, create additional investment and trade barriers. In one case, a U.S. firm requested, by clerical mistake, an improper drawback of USD 1,345, only to face SUNAT fines of USD 645,000. Although the case was resolved, legislation now allows for an independent tax tribunal to serve as a check on alleged abuses by SUNAT. However, when SUNAT exercises its right of appeal against unfavorable tax tribunal rulings, the disputed assessments and liabilities on companies' balance sheets are prolonged. As a balance to this tendency, a tax ombudsman must approve SUNAT's request to appeal adverse tax tribunal decisions. At times, the ombudsman has also acted to end unwarranted litigation of disputed assessments. For example, in 2005, a U.S. company won long-standing tax cases against SUNAT as a result of these improvements. Nevertheless, the U.S. Embassy has heard of cases of companies deciding to pay long-disputed assessments in order to eliminate liabilities from their books. A conspicuous case was that of a Canadian bank, which in late-February 2014 decided to pay under protest approximately USD 170 million in tax liabilities, most of it accumulated interest. In recent years a number of companies have opened international arbitration cases against the GOP.

Businesses also complain about high health insurance and pension tax rates, and state that these tax policies hinder investment capital flows. The lack of a U.S.-Peru treaty on double taxation is also a disincentive to foreign investment.

8. Efficient Capital Markets and Portfolio Investment

Credit is allocated on market terms and the banking industry in Peru is generally considered competitive in offering services to business customers. Private pension funds have keenly competed in recent years with financial companies for bonds issued locally by companies and the GOP. These entities compete because the supply of local securities is insufficient given the small size of the market. Under the PTPA, U.S. financial service suppliers have full rights to establish subsidiaries or branches for banks and insurance companies.

The private sector has access to a variety of credit instruments. Mutual funds managed USD 6.2 billion in December 2015, a 1.6% decrease from the December 2014 level. Private pension funds managed a total of USD 36.4 billion in December 2015.

The Securities Market Superintendence (SMV) is the GOP entity charged with regulating the securities and commodities markets. Following the IMF's recommendations, the GOP passed a law reforming the SMV's predecessor, CONASEV (the National Commission for the Supervision of Companies, Securities, and Exchanges). SMV's mandate includes controlling securities market participants, maintaining a transparent and orderly market, setting accounting standards, and publishing financial information about covered companies. SMV requires stock issuers to report events that may affect the stock, the company, or any public offerings. This requirement promotes market transparency, and aims to prevent fraud. Trading on insider information is a crime, with some reported prosecutions in past years. One case at the end of 2010 involved three (government-owned health care provider) ESSALUD employees, a stock brokerage firm and an employee of the stock brokerage firm. CONASEV fined these individuals and the stock brokerage firm, and their cases are moving through the Peruvian court system. SMV must vet all firms listed on the Lima Stock Exchange (Bolsa de Valores de Lima) or the Public Registry of Securities. SMV also maintains the Public Registry of Securities and Stock Brokers. SMV is studying ways to improve the regulatory system to encourage and facilitate portfolio investment.

Money and Banking System, Hostile Takeovers

The banking system is considered generally sound, thanks to lessons learned during the 1997-1998 Asian crises, and continues to revamp operations, increase capitalization, and reduce costs. Under the SBS's conservative criteria, non-performing loans rose in the last two years, to 2.58% of total loans as of September 2015, yet down from a high of 11% in early 2001. Able bank supervision and strong GDP growth over the last decade through 2014 also helped banks weather the 2008-2009 global financial crises with little trouble.

Economic opening since the 1990s, coupled with competition, has led to banking sector consolidation. Seventeen commercial banks comprise the system, with assets accounting for 84.6% of Peru’s financial system. In 2014, three banks account for 73% of local loans and deposits among commercial banks. Of USD 105.1 billion in total banking assets at the end of January 2016, assets of the three largest commercial banks amounted to USD 74.36 billion. As of December 2013, foreigners had significant shares in thirteen banks, of which they were majority owners of eleven (including one of the country's largest ones) and operator of one of the largest commercial banks. Notably, two of the four banks that are majority-owned by residents account for 45.1% of commercial banks’ assets.

Peru’s financial system has 11 specialized institutions ("financieras"), 31 thriving micro-lenders and savings banks (although several large banks also lend to small enterprises), two leasing institutions, two state-owned banks, and one state-owned development bank. In 2015, the Economist Intelligence Unit again ranked Peru number one worldwide on microfinance business environment for the eighth consecutive year because of its sophisticated legal and regulatory framework and competitive microfinance sector. Nevertheless, Peru’s over 150 savings and loan cooperatives operate in an environment almost devoid of government oversight.

Peruvian law and regulations do not authorize or encourage private firms to adopt articles of incorporation or association to limit or restrict foreign participation. There are no private or public sector efforts to restrict foreign participation in industry standards-setting organizations. However, larger private firms often use "cross-shareholding" and "stable shareholder" arrangements to restrict investment by outsiders -- not necessarily foreigners -- in their firms. As close families or associates generally control ownership of Peruvian corporations, hostile takeovers are practically non-existent. In the past few years, several companies from the region, China, North America, and Europe have actively been buying local companies in power transmission, retail trade, fishmeal production, and other industries.

9. Competition from State-Owned Enterprises

Several electricity, water and sewage, bank, and oil companies remain state-owned and state-operated. The most notable area of SOE activity pertains to the petroleum sector, where the state-owned petroleum company PetroPeru is an oil refiner and operator of an underutilized oil pipeline. Congress passed several laws since which purport to strengthen PetroPeru and free it from bureaucratic controls, so that it can enter into all stages of the petroleum and petrochemical sectors, especially upstream. In 2008, PetroPeru took center stage in a corruption scandal related to oil and gas concessions. The scandal led to the resignation of the Minister of Energy and Mines and the PetroPeru President and forced the GOP to implement a number of changes in PetroPeru’s management. Over the last two decades, PetroPeru has experienced significant attrition in managerial and technical expertise. This, coupled with its limited financial resources, cast into doubt the company’s ability to implement its long-held plans to expand and upgrade its aging Talara refinery – which continues to produce dirty gasoline and diesel fuel, a situation the government permits by not enforcing regulatory standards. Limited resources and expertise also downplay expectations following repeated announcements from its leadership regarding entrance to upstream, and participation in a proposed gas pipeline and petrochemical complex in southern Peru. In November 2015, Peru's Congress overrode a Presidential veto, adopting a law that allowed Peru's oil and gas promotion agency, PeruPetro, to sign a contract directly with PetroPeru to operate Lot 192, Peru's largest oil concession, following a failed bidding process for the claim. Critics note the prescriptive nature of the legislation runs afoul of Peru's competition and concession laws and that PetroPeru lacks the financial and technical resources to serve as an operator.

Significant SOEs have audited accounts that are made public. In addition, the accounts are monitored by a board of directors. The majority of the country's SOEs is corporately managed by FONAFE and is listed on FONAFE's website along with their audited accounts (http://www.fonafe.gob.pe/portal/empresas?accion=transparenciaNew&m=6&Contenidoid=32). Petroperu, which is managed independently from FONAFE, publishes a report that includes the audited financial statements of the company, such as those of comprehensive income, changes in equity, and cash flows, as well as a summary of significant accounting policies and other explanatory notes included in Petroperu's financial statements. The report is produced annually and is publicly available on Petroperu's website (http://www.petroperu.com.pe/transparencia/ley27806.asp).

Peru is not party to the Government Procurement Agreement (GPA) within the framework of the World Trade Organization.

OECD Guidelines on Corporate Governance of SOEs

The GOP's role as an enterprise owner is specified through several publically available laws and regulations. Ownership practices are generally consistent with OECD guidelines, although not all guideline subsections are specifically addressed. Central entity FONAFE (http://www.fonafe.gob.pe/) exercises ownership of SOEs with the exception of those considered intangible under the Peruvian constitution (including public university services). FONAFE appoints an independent board of directors for each SOE using a transparent selection process. There is no notable third party analysis on SOEs' ties to the government.

Sovereign Wealth Funds

Peru's Ministry of Economy and Finance (MEF) manages the Fiscal Stabilization Fund. The fund had a balance of USD 9.2 billion in November 2015 and consists of treasury surplus, concessional fees, and privatization proceeds, with a cap of 4% of GDP. The MEF released investment guidelines for the Fiscal Stabilization Fund in December 2015. The guidelines permit investment in demand deposits, variable and fixed interest rate time deposits, and seven currencies including the USD.

10. Responsible Business Conduct

The GOP does not have a holistic action plan or national standards for responsible business conduct (RBC). Standards for conduct on environmental, social, and governance issues are instead implemented through sector-specific regulation. Supreme Decree No. 042-2003-EM promotes social responsibility within the mining sector, encouraging local employment opportunities, support to communities' projects, development activities, and purchase of local goods and services. The decree requires mining companies to publish an annual report on sustainable development activities. The Ministry of Energy and Mines has prepared a guidebook for community relations, as well as public information on social measures related to the mining and energy sectors. In February 2011, INDECOPI adopted the Peruvian Technical Regulation of Social Responsibility ISO 26000 that serves as a voluntary guide to CSR activities.

Peru continues to implement its 2013-2017 National Strategy to Combat Forced Labor, which emphasizes the state's role to protect and promote labor rights. The plan simultaneously prioritizes building capacity and empowering vulnerable groups to transform their environment and enforce their rights. The plan addresses both medium and long-term multi-sector plans to eliminate or reduce conditions that enable forced labor. Despite these efforts, the government did not effectively enforce labor laws in all cases. Child labor, particularly in informal sectors, forced labor, and employers engaging in antiunion practices remain significant problems

In some regions, lack of capacity hinders the government's ability to effectively enforce regulations.

In February 2013, the superintendent of the Lima Stock Exchange published the Code on Good Corporate Governance for Peruvian Societies, developed in conjunction with thirteen public and private entities including the Ministry of Economy and Finance. The document outlines shareholder protections.

Several independent NGOs monitor and promote RBC, notably Peru 2021. These organizations are able to work freely.

ProInversion serves as the National Point of Contact (NCP) for the OECD Guidelines for Multinational Enterprises, to which Peru is an adherent. The NCP held a workshop to promote MNE guidelines in Arequipa in April 2014, attended by representatives from 30 companies and the regional government. The same year, the NCP was asked to facilitate an out-of-court settlement with a multinational Swiss mining company in a labor rights dispute. The 2015 NCP report is not yet available.

On February 15, 2012, Peru was listed as a compliant country under the Extractive Industries Transparency Initiative (EITI), as the GOP and extractive industries openly publish all company payments and government revenues from oil, gas, and mining. Peru is one of two EITI-compliant countries in Latin America.

11. Political Violence

Although political violence against investors is rare, protests, sometimes violent, have taken place in or near communities with extractive industry operations. Environmental concerns were often the cited pretext. Protestors often objected to the fact that environmental impact assessments were reviewed by the Ministry of Energy and Mines, rather than the Ministry of Environment. In January 2016, the Ministry of Environment's National Service for Environmental Assessments (SENACE) assumed responsibility for evaluating and approving environmental impact assessments and monitoring related to mining and hydrocarbons, eliminating the previous conflict of interest with the Ministry of Energy and Mines responsible for oversight. In many cases, protestors sought public services not provided by the government. Ideological opposition to foreign mining firms, not opposition to mining itself, often leads to protest in communities incited by NGOs. In some cases, organizers from outside the local community are brought in to foment protests against the companies. Groups blocked roads and an airport in 2014 to protest extractive industry operations; hydroelectric projects; restrictions on informal gold mining, gas exports, and the Government's coca eradication policies. In several of these protests, police and civilians were injured or killed. As of February 2016, the Ombudsperson's Office reported 208 conflicts in Peru; 78% of active conflicts involve socio-economic concerns, usually linked to extractive industries.

Politically motivated movements at times have opposed large extractive projects. In some cases, these movements have been successful in delaying large investments, as occurred in the USD 4.8 billion Conga mine project in Cajamarca in August 2012. In 2015, protestors in Arequipa delayed Mexican-owned Southern Copper's planned USD 1.4 billion Tia Maria greenfield copper mine. In other cases, protests have stopped such investments entirely.

The National Office of Dialogue and Sustainability is actively engaged in mitigating social conflict connected to the extractive industry in Peru. This office addresses conflict in a broader community development context, rather than only responding to social conflicts after they have already erupted. To this end, the government is providing more education, infrastructure, and health care services in areas where extractive industry projects are planned or under development, which will increase government presence and reduce potential for conflict in those (historically underserved and often remote) areas. Peru's Prior Consultation Law was signed in 2011, and its implementing regulations were approved in 2012. The law requires the GOP to consult with indigenous communities before enacting any legislation, administrative measures, or development projects that could affect communities' rights of territorial demarcation. There have been several successful prior consultation processes related to the extractive industry, but the law remains controversial. Critics believe it creates burdensome processes and results in delays. The industry association Peruvian Society of Hydrocarbons alleges that work on 30 oil exploration blocks is paralyzed due to lengthy permit processing. The National Society of Mining, Electricity and Petroleum (SNMPE) and the government have become involved in assisting local governments to access the extractive industry "canon" (tax revenue-sharing scheme with funding for public works projects) as a way to both stimulate local development and prevent conflicts. Although these efforts have been effective in some mining regions, in others, conflicts have continued or expanded.

Violence remains a concern in coca-growing regions. The government reported that through 2015, the Shining Path conducted 13 terrorist acts, resulting in the death of two soldiers and three civilians, as well as injuries to seven soldiers in the Apurimac, Ene, and Mantaro River Valleys (VRAEM) emergency zone, which includes parts of Ayacucho, Cusco, Huancavelica, Huanuco, and Junin regions. A separate emergency zone in the Upper Huallaga Valley (UHV) includes parts of San Martin and Ucayali regions. The Humala government continues the longstanding practice of authorizing separate 60-day states of emergency in two areas where the Shining Path operates – the Apurimac, Ene, and Mantaro River Valleys (VRAEM); however, as a result of successful operations in the Upper Huallaga Valley, the GOP lifted the state of emergency in this area after 30 years. On December 5, 2015, the GOP declared a state of emergency in Callao, home of Peru's main port, due to organized crime and drug trafficking activity. The state of emergency authorization suspends some civil liberties and gives the security forces additional authority to maintain public order.

There is little government presence in the remote coca-growing zones of the VRAEM and Upper Huallaga Valley, although significant ramp-up of government presence and programs is underway. The U.S. Embassy in Lima restricts visits by official personnel to these areas because of the threat of violence by narcotics traffickers and columns of the Shining Path. Information about insecure areas and recommended personal security practices can be found at http://www.osac.gov or http://travel.state.gov.

12. Corruption

It is illegal in Peru for a public official or employee to accept any type of outside remuneration for the performance of his or her official duties. Peru has ratified both the UN Convention against Corruption and the Organization of American States Inter-American Convention against Corruption. Peru is not a member of the Organization of Economic Cooperation and Development (OECD), but it signed a Country Program agreement in December 2014 to provide an anchor for policy reforms aimed at meeting OECD standards and practices. It has not signed the OECD Convention on Combating Bribery, although it has participated as an observer in the Working Group. The Contraloría General is the responsible government agency for overseeing proper procedures in public administration, thus ends up being responsible in combating corruption.

U.S. firms have reported problems resulting from corruption, usually in government procurement processes and in the judicial sector, with defense and police procurement generally considered among the most problematic in spite of PTPA's stipulations and of Peru's Government Procurement Law (Legislative Decree No. 1017, DL 1017, one of several laws passed with the specific intention to implement PTPA). Transparency International ranked Peru 88th out of 175 countries in its 2015 Corruption Perceptions Index, three points lower than 2014.

As of October 2015, 10 of the 25 regional governors were either under preliminary investigation or appealing corruption-related charges and electoral authorities barred two additional elected governors from serving based on corruption charges against them. Peru's Electoral Authorities suspended one governor in September 2015 due to his June 2015 conviction on corruption charges. An appeals court affirmed the ruling in November 2015. One former regional governor under investigation for corruption remained a fugitive. A study published in May of 2014 by the office of the anti-corruption solicitor reported that 92 percent of the over 1,800 district-level mayors in office between 2011 and 2014 had been investigated for criminal activity. Ten percent of sitting members of congress had been suspended for ethical violations since taking office in 2011.

The Peruvian armed forces and national police continue to prefer to execute government-to-government procurements (i.e., purchases by a GOP agency from a foreign government agency or government-owned company). This practice has impeded the participation of U.S. companies in GOP procurement, mainly with the Ministries of Defense and Interior. The Embassy is currently trying to reach an agreement with the Ministry of Interior that could be acceptable for both parties. In July 2012, the Government Procurement Supervisory Agency ruled that government-to-government procurements do not fall under the government procurement law (DL 1017). An article in the 2013 Budget Law also specified that procurements by the GOP from another state are not under the scope of DL 1017. Since then, there have been a number of local media reports of overvalued prices in several government-to-government purchases, of goods or services for the police or the armed forces. Cases include purchases of a satellite, planes, helicopters, and technical assistance training. Overvaluation has apparently occurred even in the case of open tenders, as in the notorious recent case of the purchase of 591 binoculars by the Interior Ministry for the National Police in December 2013. El Comercio, Peru's paper-of-record, published a report in January 2014 alleging the Interior Ministry bought 591 binoculars at a price more than ten times the market rate. In early-March 2014, local media reported that the Public Prosecutor's Office would investigate a technical assistance-training procurement made in 2009 by the Armed Forces Joint Command. This probe comes after the Comptroller General found irregularities and circumstantial evidence of collusion, embezzlement and other crimes. During 2014, the press published articles alleging that Peruvian Air Force officers had accepted kickbacks for illegally selling fuel on the open market.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Peru signed the UN Anticorruption Convention on December 10, 2003 and ratified it on November 16, 2004.

Peru is not a participating country of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Resources to Report Corruption

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Contact at "watchdog" organization (international, regional, local or nongovernmental organization operating in the country/economy that monitors corruption, such as Transparency International):

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13. Bilateral Investment Agreements

The United States-Peru Trade Promotion Agreement (PTPA) eliminated the need for a bilateral investment agreement between the United States and Peru. Peru also has free trade agreements with Canada, Chile, China, Colombia, Costa Rica, the European Free Trade Association (which includes Iceland, Liechtenstein, Norway, and Switzerland), Japan, Mexico, Panama, Singapore, South Korea, and Thailand. It has Framework Agreements with

MERCOSUR countries (Argentina, Brazil, Paraguay, Uruguay, and Venezuela). It has a partial preferential agreement with Cuba. More agreements have been signed and are awaiting full implementation, including with Guatemala, Honduras, and the Pacific Alliance (Mexico, Colombia, Chile, and Costa Rica).

Peru has bilateral investment agreements in force with Argentina, Bolivia, Canada, Chile, China, Colombia, Costa Rica, Czech Republic, Denmark, Ecuador, El Salvador, Finland, Italy, Korea, Netherlands, Norway, Paraguay, Portugal, Romania, Spain, Sweden, Switzerland, Thailand, United Kingdom, Venezuela, and the European Union.

Peru is one of twelve signatories of the Trans-Pacific Partnership.

Bilateral Taxation Treaties

Peru does not have a bilateral taxation treaty with the U.S.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

Peruvian law currently covers two types of trade zones: export, transformation, industry, trade and services zones (CETICOS), and a free trade zone (ZOFRATACNA) in Tacna. The rules and tax benefits applying to these zones are the same for foreign and national investors. These zones have failed to attract any sizeable investment, and their importance for Peru's economy is negligible.

CETICOS exist at Ilo, Matarani and Paita. One CETICO is authorized in Loreto department, but is not operational. There is concern that the GOP does not have the proper WTO waivers to validate the CETICOS export requirement. The U.S. automotive industry has expressed a specific concern that U.S. brands are unable to compete with used Japanese vehicles that enter the Peruvian market duty-free through the CETICOS. The Ministry of Transportation and Communications banned the importation of right-hand drive vehicles in 2013, citing environmental, and safety concerns. Imports of used cars more than five years old and used buses and trucks more than two years old are prohibited.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

The stock of foreign direct investment in Peru stood at USD 86.1 billion in December 2015 according to the BCR, up from USD 79.7 billion at the end of 2014. According to the most recent data from the BCR, the largest investors in Peru are the United States, the United Kingdom, Spain, and Chile. By industry, the main investment destinations are mining (29%), services (24%), oil and gas (17%), manufacturing (10%), finance (13%), and energy (6%).

U.S. foreign direct investment in Peru amounted to USD 10.9 billion in 2012, a 21.4% increase from 2011, according to the U.S. Department of Commerce Bureau of Economic Analysis. Of that sum, USD 4.1 billion was invested in mining, USD 1 billion in manufacturing, and USD 319 million in wholesale trade.

Major foreign direct investments included Xstrata (Switzerland), Hunt Oil (U.S.), Newmont Mining Corporation (U.S.), BHP Billiton (Australia), Cencosud Internacional Limitada (Chile), Endesa Latinoamericana (Spain), Freeport-McMoRan (U.S.), Golds Fields Corona (South Africa), SN Power Peru (Norway), Compania Minera Latino-Americana (Chile), Sempra Energy (U.S.), Citibank (U.S.), Southern Peru Copper (Mexico), Pluspetrol (Argentina), Scotiabank (Canada), Telefonica (Spain), Repsol (Spain), Gerdau (Brazil), Anglo American

(United Kingdom), Invercale (Chile), Asa Iberoamerica (Spain), Fraport AG Frankfurt Airport Services Worldwide (Germany), Aeropuertos Andinos del Peru (Argentina), Odebrecht (Brazil), and the Falabella Group (Chile). When completed, Glencore-Xstrata's USD 5.2 billion Las Bambas copper mine project in Apurimac will rank as Peru's largest foreign direct investment ever. The multi-year Hunt Oil-led investment is part of a consortium that invested USD 3.8 billion to develop a natural gas liquefaction plant, maritime terminal, and pipeline in southern Peru.

Peru's direct investment abroad amounts to USD 2.1 billion, according to the BCR. Peruvian investment in Chile, Brazil, the United States, and Bolivia comprised the vast majority of Peru's direct investment abroad.

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	$203 billion	2014	$202.6 billion	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2014	$3.2 billion	2014	$6.5 billion	BEA
Host country's FDI in the United States ($M USD, stock positions)	No Data	No Data	2014	$123 million	BEA
Total inbound stock of FDI as % host GDP	2014	1.6%	2014	3.2%	N/A

*Host Country Data Sources: BCRP; ProInversion.

Table 3: Sources and Destination of FDI

IMF CDIS Data is not available for Peru

Table 4: Sources of Portfolio Investment

IMF Coordinated Portfolio Investment Survey data is not available for Peru.

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

Civil law system

International organization participation:

APEC, BIS, CAN, CD, CELAC, EITI (compliant country), FAO, G-24, G-77, IADB, IAEA, IBRD, ICAO, ICC (NGOs), ICRM, IDA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAES, LAIA, Mercosur (associate), MIGA, MINURSO, MINUSTAH, MONUSCO, NAM, OAS, OPANAL, OPCW, PCA, SICA (observer), UN, UNASUR, UNCTAD, UNESCO, UNIDO, Union Latina, UNISFA, UNMIL, UNMISS, UNOCI, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Foreign-exchange controls have been eliminated. Consequently, transactions are carried out in a free market at prices set by supply and demand.

Treaty and non-treaty withholding tax rates

Peru has signed Double Taxation Agreements with Chile, Canada, Brazil and the countries of the Andean Community (CAN). There is an agreement signed with Mexico pending for approval by the Congresses of each country.

	Royalties (%)	***Dividends (%)***	***Interest (%)***
Non-treaty countries:	30	4.1	30
			4.99 (1)
Treaty countries:			
Andean Community (2)	-	-	-
Brazil	15	10/15 (3)	15
Canada	15	10/15 (3)	15
Chile	15	10/15 (3)	15

Notes:

1. Rate applied to foreign banks and also under certain conditions.
2. The Andean Community includes Ecuador, Colombia, Peru and Bolivia. The Treaty levies income under the source principle.
3. The rates are minimum and maximum. The lesser applies for related entities under certain conditions.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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