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# PERU AND ANDEAN TRADE CAPACITY BUILDING PROGRAM FINAL REPORT

USAID | FACILITANDO COMERCIO

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FINAL REPORT

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# GLOSSARY

AEO	Authorized Economic Operator
AMCHAM	American Chamber of Commerce
ANPE Peru	National Association of Ecological Producers of Peru
CNC	National Competitiveness Council
CONFIEP	National Confederation of Private Business Institutions
DGIT	General Directorate of Labor Inspections of the Ministry of Labor
DICAPI	General Directorate of Port Authorities/Captaincies of the Ministry of Defense
DIAN	Direction of National Taxes and Customs (Colombia)
DIGEMID	General Directorate of Medicine and Drugs
DIGEMIN	General Directorate of Migration of the Ministry of Interior
DIGESA	General Directorate of Health and Environment
DIJIN	Direction of Criminal Investigation and INTERPOL (Colombia)
DIN	Directorate of Innovations and new Technologies of INDECOPI
DSD	Directorate of Distinctive Signs of INDECOPI
EMC	Continuous Improvement Teams
ENVME	National Survey of Monthly Employment Variation
FCC	Federal Communications Commission
FUNDES	Foundation for Sustainable Development
HACCP	Hazard Analysis and Critical Control Points (Certification)
IBCE	Bolivian Institute of Foreign Commerce
ILO	International Labor Organization
INDECI	National Institute of Civil Defense
INDECOPI	National Institute for the Defense of Consumers and Intellectual Property
IPER	Hazard Identification and Risk Assessment
ISO	International Standards Organization
ISPS	International Ship and Port Facility Security Code
ITP	Fishing Technological Institute
ITSDC	Civil Defense Technical Safety Inspections
LPL	Labor Procedural Law
MINCETUR	Ministry of Foreign Trade and Tourism (Peru)
MINSA	Ministry of Health
LPL	Labor Procedural Law
OSIPTEL	Oversight Organism of Private Investment in Telecommunications
PMM	Program for Municipal Modernization

POLFA	National Police Force (Colombia)
PTPA	Peru Trade Promotion Agreement
SENASA	National Service of Agricultural Sanitation
SIC	Colombian Superintendence of Industry and Commerce
SIIT	Labor Inspections Informatics System
SME	Small and Medium Enterprise
SPIJ	Peruvian System of Legal Information
SUNARP	National Superintendence of Public Registries
SUNAT	National Superintendence of Tax Administration
VUCE	Single Window of Foreign Trade
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

# EXECUTIVE SUMMARY

This report summarizes USAID | Facilitando Comercio's results and activities in its three years of implementation. The project conducted activities in Peru, Colombia, Bolivia and Ecuador, strengthening trade capacity throughout the region.

In Peru, the project worked with the government of Peru on a wide variety of trade-related policy and institutional reforms to help the country fully implement the Peru Trade Promotion Agreement (PTPA) with the United States, which entered into force February 1, 2009.

The project had six components and implemented activities with a wide variety of public and private counterparts, including the judiciary, the Ministry of Labor, the National Institute for the Defense of Competition and the Protection of Intellectual Property, and the Ministry of Foreign Trade and Tourism. The project provided support to some 30 government institutions and 62 municipalities and completed 391 training events for more than 15,000 officials and entrepreneurs.

Close coordination with the government of Peru was crucial for project success. In 2011, after Peru's general elections, the new government authorities had to be convinced to carry on with activities set with previous authorities. USAID | Facilitando Comercio met with Peru's top authorities and developed a fruitful relationship that enabled the continuation of activities.

The National Competitiveness Council (CNC) led the government's efforts to implement competitiveness-related reforms and was a key project ally. In late 2011, the CNC began enacting its 2012–2013 Competitiveness Agenda covering a wide variety of reform proposals, many of which had similar scopes to that of the project. The agenda enabled significant areas of joint work with the council and validated the project's scope of work. Table 1 summarizes the activities planned and performed by the project, included in the project's Task Order, and CNC's Competitiveness Agenda for 2012–2013:

*Table I-1. Comparison of Task Order, Planned Activities, Final Activities, and Peruvian Government Competitiveness Agenda*

TASK ORDER	PLANNED ACTIVITIES	IMPLEMENTED ACTIVITIES	COMPETITIVENESS AGENDA
<b>LABOR COMPONENT</b>			
Illustrative Activity 1.1.1 Strengthen and equip Andean countries' Ministries of Labor inspector with the skills and knowledge to identify and implement risk-based, proactive labor inspection system	Activity 1.2 Optimize Inspection System Procedures  Activity 1.6 Improve Statistical Information on Labor Conflicts	Protection of fundamental rights	Not Included in the Competitiveness Agenda
Mandatory Activity 1.1.2 Assist in the establishment of Peru's labor inspection guidelines that detail inspection procedures and provide pertinent reference material	Activity 1.1 Build Capacity to Conduct Inspections	Strengthening capacities for inspections	
Mandatory Activity 1.1.3 Support the development of Peru Ministry of Labor's Information Management System to plan, track and monitor inspections	Activity 1.5 Implement MOL's Integrated Information System	Optimization of the Labor Inspection Information System	
Illustrative Activity 1.1.4 Prepare Peru's labor judges, prosecutors, lawyers and court administrators with the skills and knowledge to adjudicate labor dispute cases efficiently, fairly and transparently	Activity 1.3 Build Capacity for Conciliation  Activity 1.4 Support Implementation of Labor Procedural Law	Implementation of the new Labor Procedural Law	
<b>INTELLECTUAL PROPERTY</b>			
Mandatory Activity 2.1.1 Draft and evaluate procedural amendments to implement IPR treaties	Activity 2.1 Implement PTPA IP Chapter	Capacities strengthened for the application and enforcement of IP treaties and regulations	Not included in the Competitiveness Agenda
Illustrative Activity 2.1.2 Strengthen capacity of IPR institutes to implement and apply treaties			
Illustrative Activity 2.2.1 Increase in the capacity to apply new legal and infrastructural changes required by international trade agreements			
Illustrative Activity 2.2.3. Equip INDECOPI agents with the best enforcement practices	Activity 2.3 Improve Technical Examinations		
Mandatory Activity 2.2.2. Improve INDECOPI's Information Management System (IMS) to accelerate the issuance of patents and resolve patent disputes more efficiently	Activity 2.2 Improve Information Management System	INDECOPI's informatics systems improved	

TASK ORDER	PLANNED ACTIVITIES	IMPLEMENTED ACTIVITIES	COMPETITIVENESS AGENDA
Illustrative Activity 2.2.4 Increase judges' ability to resolve IPR disputes efficiently	Activity 2.4 Strengthen Capacity for Intellectual Property Rights enforcement	Strengthening of the intellectual property rights enforcement Peruvian system	
Illustrative Activity 2.2.5 Develop and implement an educational campaign that promotes the benefits of IPR and encourages compliance with IPR laws.	Activity 2.5 Promote Intellectual Property as a Tool of Competitiveness Activity 2.6 Raise Awareness of Importance and Benefits of Intellectual Property Rights	Promotion of intellectual property as a competitive tool Dissemination of the importance and benefits of intellectual property use Support to innovation and patent registration in Peru	Goal 7: Count with a system to support agents on intellectual property issues. Goal 8: Support commercial exploitation of 20 innovative projects originated within the Science-Technology-Innovation System.
<b>TRADE FACILITATION</b>			
Illustrative Activity 3.1.1 Contribute to the increase in competitiveness of micro-, small- and medium-sized enterprises as a result of enterprises receiving international certifications	Activity 3.4 Authorized Economic Operator	Implementation and promotion of trade facilitation instruments	Goal 23: Implement the Authorized Economic Operator program
Illustrative Activity 3.1.2 Support the implementation of customs reforms to comply with trade agreements and decrease of transaction costs.	Activity 3.1 Improve Preclearance Procedure Activity 3.2 Simplify Foreign Trade Procedures and Single Window project	Improvement and promotion of preclearance Simplification of trade procedures	Goal 16: Strengthen the Single Window for Foreign Trade (VUCE) Goal 20: 200 enterprises located in regions take advantage of commercial opportunities in countries with which Peru has signed trade agreements Goal 22: At least 25 percent of imports are made through Preclearance
Illustrative Activity 3.1.3 Assist in the removal of barriers in selected product chains and sectors to improve the competitiveness of all actors along the value chains	Activity 3.1 Improve Preclearance Procedure	Improvement and promotion of preclearance	Goal 24: Enable public access and dissemination of 100 percent of the logistic costs for import and export
Illustrative Activity 3.1.4 Increase the capacity of local institutions to provide market information, and analyze and develop trade and investment policy recommendations	Activity 3.5 International Transactions and Competition Issues	Promoting competition	Not Included in the Competitiveness Agenda
Illustrative Activity 3.1.5 Increase the capacity of women entrepreneurs to take advantage of trade opportunities	Transversal effort in the different activities undertaken by the project		

TASK ORDER	PLANNED ACTIVITIES	IMPLEMENTED ACTIVITIES	COMPETITIVENESS AGENDA
<b>ADMINISTRATIVE SIMPLIFICATION</b>			
Illustrative Activity 4.1.1 Develop legislative and regulatory options to reduce time and costs to register and operate an enterprise	Activity 4.3 Optimize Municipal Zoning Process Activity 4.4 Optimize Business Constitution Procedure Activity 4.5 Law project of Identity and Digital Inclusion	Optimization of the Business Constitution Procedure Optimization of Civil Defense Technical Safety Inspections	Goal 38: Incorporate 10 high-demanded services to the State Interoperability Platform Goal 39: Implement a scheme to validate transactions among the State, until the final implementation of the digital signature Goal 40: Implement a scheme to validate transactions among citizens and enterprises, until the final implementation of the digital signature Goal 47: Establish, in 12 department capitals, the Electronic Service of Business Constitution
Illustrative Activity 4.1.2 Decrease administrative barriers and costs to formalize a business	Activity 4.2 Technical Assistance to Municipalities for Optimizing the Operating License Procedure	Simplification of the Operating License Procedure	Goal 48: Implement, in 25 municipalities, the electronic version of the operating license procedure
Illustrative 4.1.3 Equip municipal officers with the skills and knowledge to reduce administrative obstacles	Activity 4.1 Promote Administrative Simplification	Strengthening the Institutional framework of administrative simplification	Goal 49: Improve the Safety Technical Inspection on Civil Defense (ITSDC)
Illustrative Activity 4.1.4 Improve access to information through e-government publications	Activity 4.1 Promote Administrative Simplification	Strengthening the Institutional framework of administrative simplification	Goal 45: Enable public access of data registration of citizens and enterprises to public institutions
<b>MEDICINES</b>			
Illustrative Activity 5.1.1 Improve DIGEMID's information management system and provide training for officials in the new system	Activity 5.2 Improve DIGEMID's MIS and Improve Coordination with INDECOPI	Improve patents search	Not Included in the Competitiveness Agenda
Illustrative Activity 5.1.2 Improve DIGEMID official's knowledge of clinical pharmacology and therapeutics, biostatistics, bioethics, vigilance, good practices of pharmaceutical products manufacturing, and risk analysis	Activity 5.1 Strengthen DIGEMID's Capacity to Evaluate New Drug Applications	Manuals for DIGEMID's Directorate of Health Surveillance & Control and Directorate of Health Permits	
Illustrative Activity 5.1.3 Establish training programs for medicine utilization studies; pharmaceutical economics, problem-based pharmacotherapy; and others needed			
Illustrative Activity 5.1.4 Strengthen DIGEMID's oversight program to monitor quality and price of medications	Raise Awareness of Counterfeit Drugs and Regulations of Pharmaceuticals	Creation of 30 regional multisector teams of prevention against smuggling, illegal trade and counterfeiting of pharmaceuticals and related products	

TASK ORDER	PLANNED ACTIVITIES	IMPLEMENTED ACTIVITIES	COMPETITIVENESS AGENDA
<b>TELECOMMUNICATIONS</b>			
Illustrative Activity 6.1.1 Increase the technical capacity of OSIPTEL to implement portable numbers	Develop Human Capital in Economics of Telecommunication Regulation: Technical Assistance Program for OSIPTEL with Visiting Telecomm Experts.	International experts trained OSIPTEL officials in telecommunications regulation	Not Included in the Competitiveness Agenda
Illustrative Activity 6.1.2 Analyze U.S. regulation experiences in implementing disaggregation of network elements and related costs	Analyze International Best Practices on Telecommunications Regulation		
Illustrative Activity 6.1.3 Promote competition among platforms	Analyze and Propose Changes to Regional Regulations	Roadmap for the elimination of municipal bureaucratic barriers limiting the expansion of telecommunications infrastructure	Goal 30: Pass regulation to reduce bureaucratic barriers against private investment (on infrastructure)
Illustrative Activity 6.1.4 Regulate effectively convergence among platforms and new technologies			Goal 35: Connect 2,850 new settlements to telecom services



# I. INTRODUCTION

From June 2010 to October 2013, the USAID | Facilitando Comercio project promoted competitiveness and formalization of the Peruvian economy and in the Andean countries Bolivia, Colombia, and Ecuador. Peru and the other beneficiary countries received technical assistance from international experts for the execution of studies, development of training sessions, optimization and computerization of administrative procedures, and in other areas.

The USAID | Facilitando Comercio project promoted the application and adaptation of standards and processes to optimize public management capacity and allow the private sector and workers to have access to international markets in better conditions. The project had six technical components.

**The Labor component** aimed at strengthening public sector institutional capacities to promote compliance with and protection of labor rights, and to obtain timely justice when addressing labor conflicts through training and technical assistance. In Peru, the project supported implementation of the new Labor Procedural Law and strengthening of the Ministry of Labor's inspection system, as well as other activities related to ensuring workers' fundamental rights.

**The Intellectual Property component** worked to strengthen intellectual property rights and their enforcement, by enhancing processes in public institutions, strengthening the capacities of officials, and developing awareness campaigns on its benefits. The project promoted the use of intellectual property as a competitiveness tool for SMEs and as protection for local products with collective marks or appellations of origin. It also worked on the computerization of INDECOPI's recording procedures and promoted innovation and research as tools for growth.

**The Trade Facilitation component's** main target was to simplify, speed up, and reduce transaction costs of procedures related to foreign trade operations, such as customs procedures and those of related institutions, promoting SMEs' access to simplified processing. The project worked with Peruvian Customs and the Ministry of Foreign Trade and Tourism, as well as private sector companies to optimize the procedures of public entities participating in the Single Window for Foreign Trade (VUCE, for its Spanish acronym). It also supported obtaining certifications valued by companies in the international market.

**The Administrative Simplification component** facilitated the reduction of obstacles in the public sector, particularly in municipalities, to stimulate the formalization and registration of companies, and to reduce general transaction costs. The project supported 62 local Peruvian governments in implementing the operating license procedure and relaunched a website on administrative simplification for municipal officials ([www.tramifacil.pe](http://www.tramifacil.pe)).

**The Medicines component** intended to increase public awareness of the correct use of medications and supported the request assessment system for the authorization of new drugs.

**The Telecommunications component** promoted competition in the sector, taking into account consumer interest, by spreading knowledge about international best practices and

eliminating service expansion barriers, and strengthening the regulating body's and other relevant entities' capacities.

As requested by USAID, activities took into account their potential impact on gender and disadvantaged groups. Thus, the project applied the following principles:

- When reviewing management information or data collection, the project ensured that gender and minority designation variables were included in the process.
- When training events were planned and conducted, the project endeavored to have materials that reflected egalitarian participation and roles for men and women and for disadvantaged groups, and ensured that the training was accessible to all.
- When conducting studies, the project ensured that the scope of work required that gender and minority issues be addressed.
- In selecting municipalities and subnational regions for assistance, the project favored areas where minorities have a strong presence.

The main text of this report covers activities in Peru, Ecuador, Bolivia, and Colombia between June 2010 and August 2013. In Peru, the project implemented activities related to the Standards Alliance Fund through October 2013, which will be covered in a separate report.

## 2. PERU: ACTIVITIES, ACHIEVEMENTS, AND AGENDA OUTSTANDING

### COMPONENT I: LABOR

A country's human capital is the most important factor for its economic competitiveness; as a result, a well-paid and -trained labor force will have higher productivity. In Peru, however, many workers still have no access to labor rights, because they work for informal companies or because their companies do not comply with labor laws. This is one of the greatest constraints on human capital development in the country.

To address this constraint, the Peruvian labor rights protection framework has undergone continuous legal enhancement. Despite these improvements, the Government of Peru still faces the challenge of enforcing compliance with the law. The project focused its technical assistance on strengthening the capacities of the main actors in charge of addressing this challenge: the executive branch, including the Ministry of Labor and Employment Promotion and the Ministry of Justice and Human Rights, and the judicial branch.

The project provided training to the Judiciary's personnel on the implementation of the new Labor Procedural Law, informing Ministry of Labor's inspectors and Ministry of Justice's public defenders about the law and creating information tools customized for Ministry of Labor to optimize

labor inspection tasks in Lima and the provinces. The project developed manuals, guides, and inspection protocols to train labor inspectors

and standardize criteria in subjects related to fundamental rights, such as intermediation and outsourcing, child labor, forced labor, and equal opportunities.

The Ministry of Labor receives almost 12,000 conciliation requests every year, one of the most-demanded services by workers. The project sought to improve this procedure by training mediators and related personnel, and developing and enhancing and tools that facilitate conciliation processes.

The Labor component had the following important achievements:

- Implementation of the new Labor Procedural Law
- Optimization of the Labor Inspection Information System (SIIT, for its Spanish acronym)
- Strengthened capacity for conducting inspection
- Protection of fundamental rights.

The following pages present the most important achievements obtained by the Labor Component and suggestions for the continuation of activities.

INDICATOR	BASE	FINAL	CHANGE
No. of inspection orders	67,800 (2009)	86,346 (2011)	+27.3%
Duration of labor disputes	54 months (2010)	7 months (2012)	+87%
Number of companies registered in <i>Planilla Electrónica</i>	194,276 (2009)	222,149 (2011)	+14.3%

Source: Ministry of Labor 2009, 2010 and 2011 Yearbooks / Labor Procedural Law Monitoring System

## IMPLEMENTATION OF NEW LABOR PROCEDURAL LAW

In December 2009, the Peruvian Congress approved Law N° 29497, the Labor Procedural Law (LPL), designed to reduce the time needed for resolving labor disputes from four to five years to six months. Although this regulation came into effect on July 15, 2010, it has been applied only in a gradual manner by the Judiciary's Executive Board.

### TRAINING FOR MAGISTRATES AND PUBLIC DEFENDERS

The project supported training for magistrates and public defenders on the LPL. In coordination with the Judicial Academy, the project conducted seven workshops in 2010 and 2011 for Peace and Labor Judges in the cities of Tacna, Arequipa, Chiclayo, Trujillo, Cusco, and Lima. The workshops covered three topics: (1) principles and values of the new LPL, (2) meaning of conciliation, and (3) skills in trial hearings.



Figure 2-1. Labor Procedural Law Training for Judges in Arequipa

In addition, the project developed training processes for public defenders with the Ministry of Justice and the Ministry of Labor. The course given to Ministry of Justice officials had 120 class hours with a focus on the Substantive Labor Law. The course given to Ministry of Labor's officials had 30 hours of training, with a focus on legal argumentation and constitutional theory. The project made a special effort to increase the percentage of female professionals in these trainings, with women making up almost 50 percent of attendees.

INDICATOR	RESULT
No. of training events on the new LPL	9
No. of people trained	247
Women as share of people trained	47.7%

### COURT OFFICE MODEL FOR THE LABOR PROCEDURAL LAW

With the technical assistance provided by the project, the Judiciary approved the implementation of the corporate court office model for the new Labor Procedural Law by means of Administrative Resolution N° 127-2012-CE-PJ dated July 4, 2012. It is based on three principles that reflect the intended objectives of this rule:

- Separation of jurisdictional and administrative functions.
- Establishment of an administrative system supporting jurisdictional tasks to allow judges to focus on these tasks exclusively.
- Widespread use of information technology and office equipment installed in new physical rooms to optimize the performance of personnel and the magistrates.

The project also provided technical assistance related to the proposal of flow charts, regulation of hearings and notifications, estimates of standard workload, guidelines for the progressive adaptation of the Courts and guidelines for the estimation of goals of settlement jurisdictional bodies.

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The support provided by the USAID | Facilitando Comercio project regarding the application of the New Labor Procedural Law (Law N° 29497) was outstanding. As a result ... the labor procedural reform is a success as it is a quick process with an immediate response to labor disputes.

*Luis Antonio Ayca Gallegos  
Labor Judge (T) of Tacna Judiciary*

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Taking into account the aforementioned considerations, the Judiciary, by means of Administrative Resolution N° 195-2012-CE-PJ dated October 10, 2012, approved the Administrative regulation of the court office with the new Labor Procedural Law—Law N° 29497, to guide the operation of courts.

### MONITORING LABOR PROCEDURAL LAW IMPLEMENTATION

The project designed a monitoring system to track the implementation of the new Labor Procedural Law. First, the activity team members conducted a quick analysis of the LPL's implementation status. Then, they designed a conceptual framework for its implementation. Finally, they developed a matrix of indicators to monitor implementation progress (see Table 3-1). The team validated this matrix of indicators with the Institutional Technical Team and then in a validation workshop with the participation of judges and court administrators. On the basis of this matrix, the team prepared a baseline to establish the status of the reform and to measure its progress over time.

Table 2-1. Logical Framework

	STATEMENT	INDICATOR	MEANS OF VERIFICATION	ASSUMPTIONS
Aim	To improve access to justice	Better perception of access to justice among citizens	A national population-based survey	There is a need for justice service with a higher profile and better coverage
Purpose	To achieve more efficient and timely labor justice.	To improve users' perception on labor justice in terms of efficiency and opportunity. To reduce costs for access to justice.	Survey among labor justice users	There is a need for better labor justice (procedural economy, promptness, advertising and lower costs for users).

### RECOMMENDATIONS FOR IMPLEMENTING THE LABOR PROCEDURAL LAW

As part of the closing of technical assistance activities, the project created a road map for the execution of the labor procedural reform in those places in the country in which the Labor Procedural Law is not yet operating. Using the project technical assistance experience as a basis, the consultancy made recommendations of how the LPL could best be implemented in additional districts. As of today, the new LPL is effective in 15 judicial districts throughout the country, and 16 courts are pending of implementation. The products, conclusions, recommendations and lessons learned by USAID | Facilitando Comercio as it supported the Judiciary will continue to contribute to implementation of the new LPL in the courts where it is already applied as well as in the courts pending implementation.

Six needs were identified for judicial districts in which the LPL was implemented:

- Infrastructure and equipment
- Training personnel
- Conciliation process
- Allocation of human resources and reduction of staff turnover
- Government involvement
- Unification of criteria.

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The Judiciary now has better tools to strengthen the implementation of the new Labor Procedural Law as well as better-trained officials for the application of the new labor process, thanks to the support provided by the USAID | Facilitando Comercio project.

*Kenneth Garcés*  
Coordinator of the Presidency Advisors Board  
Judiciary

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## OPTIMIZATION OF LABOR INSPECTION INFORMATION SYSTEM

### DESIGN OF REPORTS FOR THE LABOR INSPECTION INFORMATION SYSTEM

The project improved the Labor Inspection Information System (SIIT) according to the needs of Ministry of Labor, primarily the Labor Inspection General Directorate (DGIT) and Lima's

Labor Inspection Directorate (DIT). It updated processes and reports that contribute to the management of the inspection system.

Inspectors had been using the information system file monitoring as input to their reports, and not as a complete management system to support them in all subprocesses involved in an inspection. For example, inspectors would create Excel spreadsheets rather than generate spreadsheets through the system. As a result, the information was neither complete nor updated in real time.

The project adjusted the system to make it a real support for the inspection process, from scheduling to the issuance of a preliminary report. Eleven new report models were designed, incorporating the following improvements:

- Inspection order management report at national and regional level
- Inspection and orientation order management report
- Search of inspection orders by multiple criteria
- Inspection proceedings report
- Sanctions report
- Infraction report by type
- Yearly total infractions report
- Inspection report by company
- Inspection report by type
- Report of workload of inspection orders pending closure.

The new reports will be applied in Lima initially and extended gradually to all departments using the SIIT.

#### ***MORE EFFECTIVE DISTRIBUTION OF FILES TO LABOR INSPECTORS***

The revision of SIIT processes revealed the following deficiencies in the distribution of files among inspectors:

- The main scheduling criterion was location.
- Load balance criteria were not used correctly, not taking into account the complexity of the issue, the reported event, or the size of the company.
- An updated inspector availability list was not used.
- Inspections were scheduled manually in a spreadsheet.
- The assignment of orders to supervisors and inspectors was made from person to person without using the SIIT.

These factors prevented inspectors from using their time efficiently and did not balance their workloads. The project designed the following procedures to achieve effective workload distribution:

- Configured a system alert for restrictions or inspector disability (for example, limits to certain inspection types)
- Configured the number of inspectors per shift
- Configured a period for the evaluation of workload by inspector
- Configured the level of complexity of orders
- Designed a record of inspectors with limitations or restrictions (studies, trips, and the like)
- Formulated a new distribution algorithm that considers the complexity of issues and statistical information on the duration and frequency of inspections.

With these improvements the SIIT now provides reasonable workload balance for inspectors, thus improving productivity.

### ***NEW FORMATS FOR THE SIIT***

To standardize the data in the databases and to enter the information generated in the inspection subprocesses, new formats (templates) were incorporated into the system. The catalogue of infringement subjects was improved to comply with regulations, which will allow better analysis of inspection results. Furthermore, these adjustments avoid errors and waste due to double or triple data entry and keeps manual data entry to a minimum.

The following formats were incorporated into the SIIT:

- Procedural decision for extension of inspection order deadlines
- Procedural decision for file closure: inspection order
- Procedural decision for file closure: orientation order
- Procedural decision for file closure: act of infringement
- Report of inspection proceedings
- Act of infringement
- Resolution approving penalty
- Resolution rejecting penalty.

The system allows the registration and maintenance of data for each infringement subject, pursuant to the catalogue of infringement subjects, which was revised and matched to the infringement regulations.

### ***DIGITAL SIGNATURE FOR SIIT FORMATS***

In order to optimize the use of time and resources (printing, subscription and physical distribution), a digital signature was implemented in SIIT documents, procedural decisions, reports and acts in digital format.

This improvement reduces in a considerable manner the risks of total loss or deterioration of key documentation, facilitates access to information as many times as deemed necessary and, depending on the type of document, it favors transparency and access to public information by the administrated persons.

A digital signature has been incorporated into the following documents:

- Report assessment
- Generation of inspection orders
- Generation of orientation orders
- Physical distribution of inspection orders
- Physical distribution of orientation orders
- Extension of the term for inspection orders
- Extension of subjects in the inspection order.

The system guarantees that the digital signature on the document can be made effective only by the authorized SIIT user.

## **STRENGTHENING CAPACITY FOR INSPECTION**

### ***ORIENTATION GUIDE FOR APPLYING LABOR INSPECTION STANDARDS***

The project compiled a Guide of Orientation for the Best Application of Inspection Standards. It gathers practical experience in subjects related to inspection and resolution procedures, and in the application of the regulatory framework in social and occupational subjects.

The process began with the systematization of over 300 files of different subjects in which a revision was made to the Act of Infringement and the Resolutions of First and Second Instance issued by the Labor and Employment Promotion Directorates of Lima and Arequipa, in an effort to identify the most common errors in sanctions resolution.

The Guide is organized in two sections. The first section discusses inspection and sanctioning procedures. The second section groups the different criteria applied to specific social and occupational subjects. Each section is divided into sheets with regulatory framework and case experience and recommendations. The guide is accompanied by a CD with files that readers may revise, both the Act of Infringement and the Resolutions of First and Second Instance.

The DGIT has instructed personnel in the use of this guide as a reference document and as teaching material in training processes developed since 2013 at national level.

### **STANDARDIZED CRITERIA IN LABOR INSPECTION**

The project held meetings on interpretative criteria harmonization for labor inspection in December 2011. Supervisors, inspectors and auxiliary inspectors at the national level were all present to analyze and discuss the interpretation criteria. A total of 26 female inspectors (42.6 percent of the inspectors trained) took part in the course.

Individual and collective subjects were discussed, including: criteria to examine the lawfulness in an intermediation chain; inspection of the employer's duty to deliver information in the collective negotiation process; and scopes of the employer's actions aimed at decreasing efficacy to strikes, among others. Participants discussed the subjects in groups and presented their conclusions in a semi plenary session. The approved conclusions and interpretative guidelines were consolidated and submitted to the Labor Inspection General Directorate. These conclusions and interpretative guidelines are now part of the labor inspection auditing criteria.

INDICATOR	RESULT
Inspectors trained	61
% women trained	42.6%

### **INSPECTION PROTOCOL FOR CHILD LABOR**

The project supported the discussion and validation of an inspection protocol for child labor issues at the national level. It contributed, thanks to the Ministry of Labor and Employment Promotion, to the consolidation of an articulated national policy for the prevention and eradication of prohibited child labor, guaranteeing the welfare and the protection of rights of children and adolescents at work. This tool was revised and improved in four regional workshops (Arequipa, Iquitos, Chiclayo and Lima) together with labor inspectors and officials from Ministry of Labor's Fundamental Rights department. As a consequence, General Directive N°02-2012-MTPE/2/16 Applicable Standards to the Labor Inspection System for the Prevention and Eradication of Child Labor was approved in December 2012.

The objective of the protocol is to establish guidelines orienting the various actors in the Labor Inspection System in exercising their functions of surveillance and enforcement of social and occupational standards regarding child and adolescent labor. The guidelines are fully supported in the current national and international regulations and in the interpretation made by national courts and

CITY	ALL PARTICIPANTS	MEN	WOMEN
Chiclayo	45	26	19
Arequipa	42	30	12
Iquitos	32	7	5
Lima	90	53	37
Total	209	136	73

International Labor Organization (ILO) governing bodies.

In brief, the protocol proposes flexible tools to carry out an efficient inspection and an effective sanctioning procedure. Its use may be adapted to each particular case and its content may be renewed as new situations arise requiring the establishment of innovative guidelines for proceedings. Furthermore, although this instrument has a sectorial nature, it has been designed to be integrated within an Inter-sectorial Proceeding Protocol framed within a National Strategy for the Prevention and Eradication of Child Labor.

### *INSPECTION PROTOCOL IN METAL-MECHANIC ACTIVITIES*

The project supported the discussion and validation of a national protocol for inspections at metal-mechanic workplaces.<sup>1</sup> The validation process was conducted through four workshops—in Arequipa, Lambayeque, Loreto, and Lima—in the first quarter of 2012. The process was designed by labor inspectors, who revised and discussed the instrument scopes, which was approved by means of Board Resolution N°002-2013-MTPE/2/15 dated February 25, 2013. This protocol is designed to strengthen objective monitoring and compliance with safety and health standards at work and contribute to the prevention of labor risks with legality, efficiency, probity and promptness. The protocol included a checklist for inspectors to use in their work.

### *FORMULATION AND VALIDATION OF FIVE INSPECTION PROTOCOLS*

To harmonize the criteria applied by labor inspectors in their inspections, the project supported the discussion and validation of ad hoc protocols at the national level. These do not replace or complement the legislation in terms of labor inspection but facilitate the work of the inspector by giving them guidelines for the development of investigations. Three protocols were part of the validation process performed in four workshops in Arequipa, Lambayeque, Loreto and Lima, in the first quarter of 2012:

- **Protocol for determining impact on freedom of association created by temporary and indirect hiring.** The objective of this protocol is to provide guidelines to optimize the use of inspection attributes for investigation and facilitate consistent conclusions, to guarantee the right to freedom of association. This is especially vulnerable when the use of temporary or indirect hiring is massive or infringes on the legislation.
- **Protocol of safety and health at work for the bakery and pastry industry.** This protocol outlines the orientation and auditing proceedings carried out in the bakery and pastry industry. A sequence was established for verifying facilities, labor procedures, and environmental agents, as well as safety and health management system tools.
- **Protocol of safety and health at work for the construction industry.** This protocol facilitates the verification of the content of the Safety and Health Plan at Work regarding the constitution and operation of the ad hoc Technical Committee in Construction Works, by means of a checklist.

In addition, the project supported the formulation of two other protocols: the guideline on labor inspection operations to be performed in agricultural exporting companies, and the protocol for the supervision of compliance with labor and social security regulations of sea workers. These instruments are in the phase of administrative approval by the Ministry of Labor's regular procedures to make them available for use.

### *HAZARD IDENTIFICATION AND RISK ASSESSMENT GUIDE*

The Ministry of Labor received technical assistance in the review, discussion and publication of the Hazard Identification and Risk Evaluation Guide (IPER), to strengthen safety and health at work, as part of fundamental rights of workers.

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<sup>1</sup> Metal-mechanic activities are any work that is part of a mechanical transformation process—such as cutting, changing the shape, joining parts—applied to materials made of solid metal with the use of tools, equipment, and/or machines.

This guide is a useful tool to start or strengthen the safety and health management system at work. It has the following main advantages:

- It is practical and easy to learn and may be used by employers and workers in all economic activities in the country.
- It helps users understand the meaning of hazards, assess the contingencies to adopt control and follow-up measures, and determine impacts on health, workers, property, and the working environment.
- It facilitates understanding of the importance of prevention in business management.
- It facilitates the design or modification of a safety and health management system at work.
- It identifies different risk levels and the manner to complete a risk matrix.
- It provides recommendations to improve risk management and control.
- It analyzes tasks for the implementation of safe work procedures.

This guide was published by Ministry of Labor and is available on its website. It was disseminated in seminars addressed to businesspersons and employers' representatives. One of the events drew 600 business and union representatives in the industry and civil construction sectors, to provide orientation in the use of the guide.

### **TRAINING FOR INSPECTORS IN SAFETY AND HEALTH STANDARDS**

By means of Supreme Decree N° 009-2012-TR, dated February 2012, the Labor Inspection General Directorate (DGIT) of the Ministry of Labor is entrusted with the function of monitoring compliance with safety and health standards at work for the energy, mining and hydrocarbons sectors, which in the past, were OSINERGMIN's responsibilities.

To support DGIT, the project held training on compliance auditing for labor inspectors in the above-mentioned sectors, with the participation of 79 persons, 54 percent of which were women, for a total of 59 class hours for each group.

The course covered the following topics:

- Mining
  - Modern occupational safety and health management system
  - Hazardous material management system
  - Safety and conditions of camps
  - Management of mining company's holders, contractors and/or subcontractors of related activities.
- Hydrocarbons
  - Safety and conditions of camps
  - Exploration and exploitation operations
  - Refinery and hydrocarbons process plant operations
  - Transportation and storage of hydrocarbons and other byproducts.
- Electricity
  - Safety and health management systems at work of electric activities
  - Complementary or related activities of the safety and health management system
  - Supervision, inspection and sanctioning procedure in occupational safety and health
  - Supervision and sanctioning procedure in OSINERGMIN's provisions

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The training of inspectors and preparation of protocols is an important contribution to the institutional strengthening process of the Ministry of Labor and Employment Promotion in general, and to the Labor Inspection in particular. We would like to show our gratitude to USAID | Facilitando Comercio project for the provision of this valuable technical assistance.

*Sylvia Cáceres*  
Vice minister of Labor, Ministry of Labor

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## PROTECTION OF FUNDAMENTAL RIGHTS

### *IMPROVEMENT IN THE DESIGN OF PROCEDURES AND CONTENT OF THE LABOR ECONOMIC REPORT*

Article 56 of Law Decree N° 25593, the Law of Collective Relations at Work, regulates freedom of association, collective negotiation and strike and was promulgated in June 1992. It establishes that in the course of the collective negotiations and at the request of one of the parties or ex officio, the Ministry of Labor and Employment Promotion will appraise the workers' requests and examine the economic and financial situation of companies and their capacity to address those requests.

In support of this decree, the project suggested a series of improvements to the content and procedures for preparing labor economic reports. The recommended improvements are meant to allow the negotiating parties, and if appropriate, the arbitrators to have a document that facilitates information on financial and comparative situation of companies and remunerations concerning certain economic indicators, after analyzing the economic labor information of greatest relevance. These improvements are meant to ensure that reports are based on useful and timely information that will support achievement of collective agreement.

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We would like to thank USAID for the support provided to the execution of safety courses in mining and hydrocarbons, also to our teachers and my classmates for their contributions to whom I would like to invite to renew our commitment for the promotion of a culture of prevention in safety and health, knowing that work serves the worker to earn a living, and not to lose it, because the most important thing in life is to live it with integrity

*Rosana Juana Koc Góngora  
Labor Inspector  
Ministry of Labor*

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To that end, the following was achieved:

- Identified the operating flow of management and the preparation of the labor economic report and its agreement with regulations.
- Prepared a proposal, approved by Ministry of Labor, of improvement in the operating flow of management and contents of Labor Economic Reports.
- Prepared a proposal of modification of the Organization and Functions Regulation and the Process Manual project for the preparation of the Labor Economic Reports, as approved by Ministry of Labor.

### *DESIGN OF A LABOR CONCILIATION PROTOCOL*

The project, in collaboration with the Ministry of Labor's mediators, prepared a basic action protocol for the labor mediator. This tool promotes conflict resolution through alternative mechanisms such as conciliation. The purpose of this protocol is to present clearly and succinctly basic guidelines and concepts of carrying out the conciliation task, and give the officials responsible for its execution an instrument that helps them improve their performance.

Both Ministry of Labor and Ministry of Justice perform conciliation functions and, therefore, the protocol developed will serve both sectors. The Ministry of Labor receives almost 12,000 conciliation requests annually—making it one of the most demanded services by workers.

The protocol has three subsections. The first addresses general conciliation concepts and establishes a theoretical framework for conciliation. The second develops the figure of the mediator and the most relevant aspects of their participation in the conciliation procedure. The third describes the stages of the labor conciliation procedure and indicates the task of the mediator in each. The protocol includes guidelines that will help the mediator improve communication channels and trust between parties while guaranteeing the legality of the agreements. The protocol is in the approval process and its utilization will commence in the Regional Labor Directorate of Lima and then be applied nationally.

### MINISTRY OF LABOR'S KEY SERVICE MANAGEMENT INDICATORS

The USAID | Facilitando Comercio project supported initiatives to modernize and optimize the management of procedures entrusted to Ministry of Labor, based on a more effective use of data. The project analyzed several data sources to obtain a set of short-term indicators useful to Ministry of Labor officials in monitoring the labor market. The sources include administrative records fed daily into the electronic payroll, which provide data with the most thorough coverage of the Peruvian labor market. After validation with the general directorates of the Vice Ministry of Labor the indicators were strengthened, and a subset selected for inclusion in the monthly information bulletin. The bulletin structure is shown in Table 3-2.

Table 2-2. Product Indicator Bulletin. Vice Ministry of Labor (2012)

DIRECTORATE	AREAS OF PROCEEDINGS	INDICATOR	UNIT OF MEASUREMENT	APRIL	MAY	JUNE
G.D. of Labor (DGT)	Collective negotiation	Number of statements of claims submitted	Statements of claims	-	36	29
	Legal advisory and defense of the worker	Number of inquiries	Inquiries	17,764	18,125	13,931
		Number of files of administrative conciliation	Files	732	858	691
G.D. of Labor (DGT)	Legal advisory and defense of the worker	Number of settlements of social benefits	Settlements	1,607	1,910	1,670
		Number of attentions with free judicial support	Attentions	1,286	2,076	2,639
G.D. of Labor Inspection	Volume of work	Number of acts of infringement generated	Acts of infringement	324	180	166
		Number of companies inspected	Companies	2,151	3,299	2,924
		Number of companies inspected ex officio in the period they were visited in 2 previous years	Companies	126	155	93
G.D. of DDDFF, Occupational Safety and Health	Occupational Safety and health	Number of notifications of accidents at work	Notifications	1,458	1,645	1,072
		Number of notifications of fatal accidents	Notifications	23	6	6
		Number of notifications of hazardous incidents	Notifications	41	77	66
		Number of notifications of occupational diseases	Notifications	5	11	10

### ENHANCEMENT OF MONTHLY EMPLOYMENT SURVEY METHODOLOGY

At the Ministry of Labor's request, the project provided support for the review of the methodology used for the National Survey of Monthly Employment Variation (ENVME), which aims to provide to policymakers reliable and timely data on monthly employment in private sector companies of 10 or more workers. It also identifies the causes of the variation by sector and occupational class (employees and workers). As a result of the recommendations provided by the project, adjustments have been made that have improved the quality of information gathered by ENVME.

### COMPENDIUM OF LABOR AND WORK SAFETY STANDARDS

At the Ministry of Labor's request, project experts reviewed and updated regulatory compendia of workers' fundamental rights. In general, this effort is relevant in the context of a dissemination policy of labor protection rules and in particular to the most vulnerable groups: children and adolescents, workers subject to discrimination, workers at risk because of their working conditions, and workers subject to violence who work against their will.

In this regard, national and international standards were reviewed related to:

- **Child labor.** A lack of dissemination of the legal framework often contributes to exploitation and violation of child and adolescent fundamental labor rights. Hence, there is a need to have a document like this containing legal norms, such as the Code of Children and Adolescents, fundamental rights enshrined in the Political Constitution, the Civil Code with the section authorizing minors to work and the procedure to register this with the Labor authorities as well as punitive aspects established in the Penal Code.
- **Forced labor.** it constitutes a crime and a violation of fundamental rights; thus, it is necessary to promote its definitive abolishment. Peru has ratified ILO Conventions on the elimination of forced labor and prepared national legislation consistent with this international instrument.
- **Occupational safety and health.** The enactment of a new law and regulations, the abundance of regulatory standards related to working conditions, establishment of safety and health committees, accident prevention and protection, safety and health for vulnerable workers (women during pregnancy, breastfeeding women, people with disabilities), occupational safety and health management, among others, make it essential to have an updated compendium of such important standards.
- **Equality of opportunities and nondiscrimination.** The subject is particularly relevant because the standards refer to the adoption of measures in order that men and women may exercise their rights under equal conditions. Particularly for women, it means creating specific conditions for them to exercise their rights, in equality with men, taking into account their historical situation of discrimination.

As a result of this effort, revised compendia were updated and improved, including chronological and thematic indices. Final versions were delivered to Ministry of Labor for publication.

### *NEXT STEPS*

The enactment of the law creating the National Labor Inspection Oversight Board provides a number of challenges in relation to tasks that must be addressed by the new institution and the Ministry of Labor and Promotion of Employment. The project recommends six ways to address these challenges, described below.

## **1. INCREASE EFFECTIVENESS OF LABOR INSPECTIONS THROUGH ACTION PROTOCOLS AND TRAINING OF INSPECTORS**

Despite having developed various action protocols, such as child labor and freedom of association, as well as those corresponding to the metal-mechanic, construction, bakery, agricultural export and fishery sectors, there is still room to develop standardized processes to ensure actual visits within reasonable terms, distinguishing sectors, company sizes, special conditions, and sectorial priorities, among others. Although progress has been made in training processes at the national level, it will be important to continue these efforts for the correct application of protocols, the use of the Practical Guide, and for improved application of Inspection Standards.

## **2. STRENGTHEN COLLECTION CAPACITY**

There are a number of difficulties and limitations with the information related to collection of fines generated by labor inspections. These difficulties are largely a result of the lack of integration of inspection and collection systems. In some cases these are carried out directly by the Ministry of Labor or the corresponding Regional Divisions and, in other cases, they have been outsourced to the local Tax Administration Services. To address this, there is the need to establish efficient processes that allow monitoring of the payment of inspection fines, thereby improving the effectiveness of collection at the national level. An important step will

be the integration of inspection and collection systems. In order to achieve this integration, Terms of Reference have been prepared with the Ministry of Labor user areas that enable their development and it is expected that the sector will be able to carry out this task throughout the country in the short term.

As for actual collections, Tax Administration Services' outsourcing experience has had good results, which is why other regional governments should consider the possibility of using this institutional arrangement for collections.

### **3. IMPROVE THE SIIT IN REGIONAL GOVERNMENTS**

SIIT has been improved in a number of areas with the support of the project (automatic distribution of dossiers, new templates and reports, digital signature) and has been applied to the headquarters in Lima. Its extension to the 18 regional governments where SIIT operates and the identification of technical solutions for those who do not have any information system are still pending. This will involve carrying out training processes of staff in charge and commitments from regional governments to maintain stable teams responsible for these tasks.

### **4. COMPUTERIZE MINISTRY OF LABOR SERVICES AND IMPROVE ADMINISTRATIVE PROCESSES**

Ministry of Labor receives an average of 600 people daily at the headquarters in Lima, requiring services of various kinds, some of which could be provided virtually through the web. A goal is to limit the audience for those services that actually require physical presence of the users. For example, around 150 people a day are attended only for social benefits settlement and this is a service that could typically be provided virtually. To achieve this objective, the project supported the identification of suitable software to facilitate migration of procedures to web platforms.

Progress should be made regarding computerization of the Ministry of Labor key services, prioritizing those that could be developed in the short term and that are demanded by a large number of users: such as the settlement of social benefits, legal counseling services, registration of people with disabilities, and registration of temporary contracts, among others.

### **5. HARMONIZE ACTIVITIES OF EXECUTIVE BRANCH AND JUDICIARY FOR LPL IMPLEMENTATION**

The new Labor Procedure Law (Ley Procesal del Trabajo [LPL]) was first applied in August 2010 in five judicial districts and has been implemented progressively until 15 judicial districts, including the four Courts of Lima, had been included as of April 2013. The project supported a number of activities that contributed to the implementation of this law, training judges and public officials, supporting the formulation of a new judicial office model, and a monitoring system and a baseline for the LPL.

For better implementation of this law, a coordinating organization is needed to enable the executive branch (Ministry of Labor and Ministry of Justice) and judiciary to standardize training criteria for their staff—judges, litigation attorneys, workers and employers, court officers, experts, public defenders and mediators. A coordinating organization would also enable the two branches to coordinate administrative and institutional planning.

### **6. LABOR CONCILIATION AT THE MINISTRY OF JUSTICE**

There is great unmet demand for labor conciliation services. The Ministry of Labor headquarters receives more than 12,000 applications annually, of which 8,000 are attended with the presence of the two parties. The application of the new LPL will likely increase the demand for this service. It is advisable to have an effective conciliation service to minimize court proceedings regarding labor conflicts. One possibility is to build on the Ministry of

Justice mediators capacity, who do not provide labor reconciliation services, but have been trained for this purpose according to the standards required by the National Reconciliation School. The project designed a roadmap for its implementation; a pilot with the mediation center of Callao is being considered.

## COMPONENT 2: INTELLECTUAL PROPERTY

Protection of intellectual property is one of the pillars of modern and competitive economies; on the one hand, it protects the creativity and talent of a country in economic terms and on the other, it promotes investment in innovation and development. USAID | Facilitando Comercio project focused on promoting intellectual property as a competitiveness tool in universities, schools and innovation centers and trained more than 1,400 university students and researchers and 21,000 schoolchildren in its use. The project also supported two successful editions of the Inventions Contest, managing to set a record of inventions submitted as well as to obtain international awards for the winning inventions.

The project provided technical support in the implementation and improvement of INDECOPI's computer systems, to automate the registration of patents and distinctive signs. The project also digitized over 1,500,000 images corresponding to trademark registrations in the database, which have been incorporated into the automatic generation module of registry entries developed by the Directorate of Distinctive Signs.

Additionally, given that the Judiciary plays a fundamental role in the protection of intellectual property rights, the project provided support by offering training courses to litigation, administrative and criminal judges. The topics covered in these trainings were consolidated into an Intellectual Property Manual for Judges, comprising definitions, case studies and all relevant legislation.

The Intellectual Property component achieved success in the following ways:

- Strengthened institutional capacity for the application and enforcement of IP treaties and regulations
- Promoted intellectual property as a competitive tool
- Supported innovation and patent registration in Peru
- Strengthened the intellectual property rights enforcement system
- Improved INDECOPI's informatics systems
- Disseminated the importance and benefits of intellectual property use.

INDICATOR	BASE	FINAL	CHANGE (%)
Applications for industrial property registry	20,261 (2009)	26,023 (2011)	28.40%
Percentage of records requested (inventions and new technologies)	23.38% (2009)	38.84% (2012)	15.46%

Source: INDECOPI Reports 2009, 2010, 2011, 2012

The following pages present the most important achievements of the Intellectual Property component, followed by suggestions for the continuation of activities.

## CAPACITY BUILDING IN ENFORCEMENT OF IP TREATIES AND REGULATIONS

### *SUPPORT FOR AMCHAM'S IP MISSION TO WASHINGTON, D.C.*

The project cooperated with AMCHAM to organize an IP mission to Washington, D.C. It included Peruvian officers from institutions involved with intellectual property, such as INDECOPI, the judiciary, DIGEMID, and Innovation, Science, and Technology Fund (FINCYT). The mission's purpose was for participants to learn best IP policies and practices of U.S. institutions such as the Patent and Trademark Office, Office of the U.S. Trade Representative, and Department of Commerce so they could establish networks with these institutions to aid in finalizing implementation of PTPA obligations.

### *ROUNDTABLE WITH OFFICIALS AND PRIVATE SECTOR ON IMPLEMENTING IP CHAPTER OF PTPA*

Before the IP mission trip, the project organized a roundtable with the mission participants to review the status of PTPA implementation. The speaker in charge of the roundtable was consultant Luis Alonso Garcia, former negotiator of the PTPA and a renowned IP attorney.



Figure 2-2. Consultant Luis Alonso Grúa (Standing)

Mr. Garcia not only provided an updated status of the PTPA implementation but shared with the attendants some of his experiences while a negotiator and emphasized the importance of this trip to build stronger relations between institutions and the areas that needed action to fully finalize the implementation of the treaty.

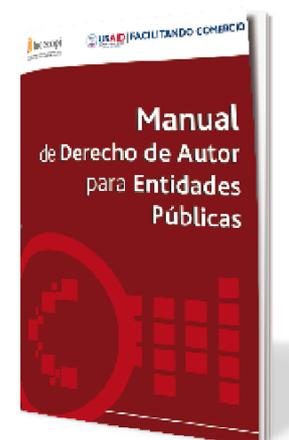
### *TRAINING MANUAL FOR PATENT EXAMINERS*

In support of the Department of Inventions and New Technologies of INDECOPI, the project offered its cooperation in the development and printing of the first training manual for patent examiners in Peru. This manual is based on national regulations and international IPR treaties and is intended as a basic guide for training and consultation by technical examiners, i.e., for professionals in engineering, chemistry, biology, among others, who are responsible for the background analysis of applications received by the department. It is also useful for patent system users who want to learn more about the process. The project printed 500 copies initially. Because of the importance of this publication, the Department of Inventions and New Technologies has planned a second printing.

### *COPYRIGHT MANUAL FOR PUBLIC ENTITIES*

With the support of the Copyright Department of INDECOPI, the project developed a copyright manual for public entities. The document is a reference tool for the use, development, and enforcement of copyright in national, regional and local government institutions, and thus, for ensuring compliance with international regulations and IP treaties.

Public institutions must be aware of the regulations to allocate and protect copyright of their plays and productions. The manual lists the obligations that the law provides for legal use in this area. It also includes information on laws, sample contracts and guidelines for the use of software in public administration, photographic



works, jobs involving copyright on the Internet and in social networks and more. One thousand copies were printed and donated to INDECOPI for distribution to public institutions.

### **MONITORING IMPLEMENTATION OF IP CHAPTER OF PTPA**

Since 2012 the project used a monitoring matrix to track the implementation of PTPA requirements in the government of Peru. This tool was periodically updated after meetings with officials from the Ministry of Commerce and related entities, and shared with them to encourage action on PTPA commitments that were not fully implemented.

**Table 2-3 Project-monitored IP Obligations**

<b>ARTICLE</b>	<b>IP. CHAPTER OBLIGATION</b>	<b>ADVANCE DURING 2012</b>
Side Letter January 2009	Peru shall adhere to the International Convention for the Protection of New Varieties of Plants (UPOV Convention).	On November 8, 2010 Peru ratified the UPOV Convention (Supreme Decree N° 121-2010-RE), and on August 8, 2011 it entered into force. All the Internal legislation has already been approved.
Side Letter January 2009	Peru will communicate an action plan and schedule to fight against the use of pirated electronic software by the Government.	Peru fulfilled this disposition by sending a communication to the USTR on January 26, 2009. Conversations between MINCETUR and the Presidency of the Ministers Council are taking place to develop a final report.
16.12.3.	Each Party shall designate a contact point to facilitate the development of collaborative projects from the following offices responsible for science and technology cooperation, which shall review periodically the state of collaboration through mutually agreed means of communication:  (a) in the case of the United States, Office of Science and Technology Cooperation, Bureau of Oceans, and International Environmental and Scientific Affairs, U.S. Department of State;  (b) in the case of Peru, el Consejo Nacional de Ciencia, Tecnología e Innovación Tecnológica (CONCYTEC);	No action has yet been considered as the obligation is without term.
16.14.3.	The Parties shall periodically review the implementation and operation of this Chapter and shall have the opportunity to undertake further negotiations to modify any of its provisions, including, as appropriate, consideration of an improvement in a Party's level of economic development.	Parties now address this obligation on a yearly basis in Trade Committee meetings.
Annex 16.1	Peru may delay giving effect to certain provisions of this Chapter for no longer than the periods in this paragraph, beginning on the date of entry into force of this Agreement:  with respect to Articles 16.2.9, 16.9.6(b), 16.11.23, 16.11.28, and 16.11.29, one year (01/02/2010);  With respect to Articles 16.7.5(a)(ii) and 16.11.15, as it relates to enforcement of Article 16.7.5(a)(ii), 30 months; (01/08/2011); and  With respect to Articles 16.7.4(a)(ii), 16.7.4(g), 16.7.4(h), and 16.11.15, as it relates to the enforcement of Articles 16.7.4(a)(ii), 16.7.4(g), and 16.7.4(h), three years	Obligations set in paragraph (a), article 16.2.9 (electronic system for submitting trademark applications), article 16.9.6 (b) (compensation for delays in the issuance of a patent), article 16.11.23 (border measures ex-officio) and article 16.11.28 (criminal procedures for counterfeit labels), all have been implemented by Legislative Decrees N° 1075, N° 1076 and N° 1092, and Law N° 29316.  The implementation of the disposition stated in article 16.11.29 (Limitations on Liability for Service Providers – ISPs) remains pendant.  MINCETUR started a consultancy in October 2012 to develop a legal proposal on the matter. The ISPs regulation proposal will also incorporate obligations (c) and (d). USTR and MINCETUR concur with this approach.
	With respect to Article 16.11.8, 18 months; (01/08/2010);	Regarding the obligation set in paragraph (b), concerning article 16.11.8 (pre-established compensations), MINCETUR has started coordination with Ministry of Justice to implement pre-established compensations. A schedule is yet to be defined.

## TRAINING FOR PUBLIC OFFICIALS IN ENFORCEMENT

To support of the Peruvian government in the fight against intellectual property and customs crimes, the project joined forces with the Commission to Combat Customs Crimes and Piracy (Comisión de Lucha contra los Delitos Aduaneros y la Piratería) to organize a two-day event in Piura and Lima. More than 300 officials of the Judiciary, Public Prosecution, SUNAT, INDECOPI, National Police, National Society of Industries, Chamber of Commerce of Lima, CONFIEP institutions and other private sector representatives participated in the workshops, of whom 38.8 percent were women.

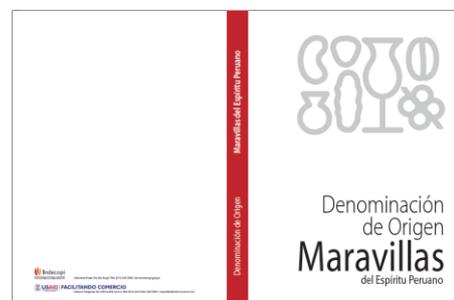
The project brought Mr. Timothy Trainer, former president of the International Anti-Counterfeiting Coalition and director of the Global Intellectual Property Strategy Center, as a speaker. Mr. Trainer provided an international perspective on intellectual property and customs crimes, as well as successful cases to combat them. Topics covered include the fight against global piracy and economic achievements, protection of intellectual property rights, copyright violation, special prosecutors' role, and the private sector's role in the fight against illicit trade. According to *El Comercio* (Lima) of March 5, 2013, in the past three years, Peru has experienced a four percentage point reduction in piracy rates.

## PROMOTION OF INTELLECTUAL PROPERTY AS A COMPETITIVE TOOL

### APPELLATIONS OF ORIGIN

To promote the use of the appellation of origin as a tool of economic development, the project developed and disseminated a publication promoting seven appellations.

- Mensajero de los dioses: Pallar de Ica (Bean from Ica)
- Lágrimas de Luna: Loche de Lambayeque (Squash from Lambayeque)
- Milagros y leyendas en el Valle Sagrado: Maíz blanco gigante Cusco (Giant white corn from Cusco)
- La nobleza del barro: Chulucanas (Pottery)
- Trece años después del fin del mundo: Café Machu Picchu-Huadquiña (Machu Picchu–Huadquiña Coffee)
- Las grandes minorías: Café Villa Rica (Villa Rica Coffee)
- Gusto y orgullo peruano: Pisco



An eighth Peruvian appellation of origin, Marca Junín-Pasco, was recognized after the book went to press.

One thousand copies were distributed mainly among the representative authorities and producers in the geographical area of the appellations of origin as well as during the World Symposium on Geographical Indications held in Lima in 2011. Because of the success of the publication, the project also conducted a photo exhibition during the Intellectual Property Week 2012. Representatives of regulatory boards and producer associations were invited for the occasion to provide their testimonials about the use and benefits generated by the appellation of origin. Finally, support was provided to INDECOPI through the organization of a workshop in the Cusco attended by Maíz Blanco Gigante Cusco and Café Machu Picchu-Huadquiña producers.

### FRUTOS DE LA TIERRA COLLECTIVE BRAND

The National Association of Organic Producers of Peru (ANPE Perú for its Spanish acronym) is an organization of farmers and organic producers who joined together to promote good agricultural practices, organize training among its members, and develop markets. It currently has 12,000 member farmers.

Frutos de la Tierra was born as a brand to be identified in trade fairs organized by ANPE Perú, however, it became known by distinguishing various agricultural products and even processed products.



ANPE therefore decided to incorporate and position the brand in the market for the benefit of all its associates. It is in this context that the project offered its support for the incorporation and registration of the Frutos de la Tierra brand as a collective brand in collaboration with ANPE and the Universidad Nacional Agraria La Molina's AGROECO project. It also included a series of trainings to the farmers involved in the cities of Cajamarca, Cusco, Huánuco and Huaraz.

Work with ANPE and AGROECO consisted of a series of meetings to work on the development and validation in the field (with regional managers and farmers) of the regulations to use the collective brand. Also, Frutos de la Tierra was registered preventively as a trade mark in Classes 29, 30, 31, 32 and 33. Currently, applications for registration as a collective mark have already been submitted to INDECOPI. The collective brand was formally launched at Mistura 2013, the renowned gastronomic Peruvian fair.

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The development work of the Frutos de la Tierra collective brand is a pioneering work in Peru seeking to highlight the qualities of products from organic small-scale farming in different markets ... We hope that with this brand it will be easier for urban consumers to choose these products and contribute to social inclusion and biodiversity conservation and the cultural aspect associated with it. The joint work of ANPE Perú (Agriterro project), the AGROECO (IDRC-CIDA) project, through UNALM and the USAID | Facilitando Comercio project has been a very valuable experience of synergy and shared visions.

*Roberto Ugás*  
Vegetable Program  
Universidad Nacional Agraria La Molina

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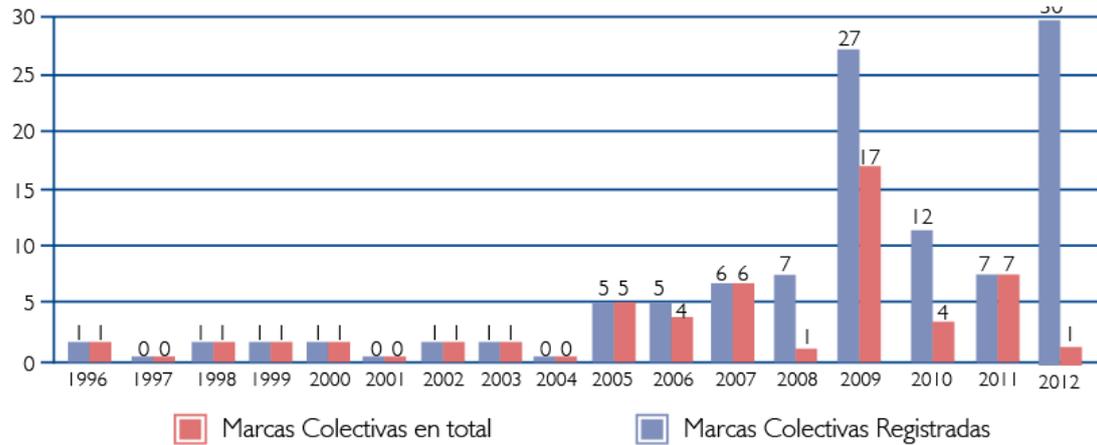
### **MANAGEMENT MANUAL FOR COLLECTIVE BRANDS**

Collective brands are elements of industrial property that distinguish products or services from various companies or individuals grouped under an association or a legally established organization. They have features or quality standards related to all of them mutually and previously agreed on through a set of rules. This instrument is useful for small-scale farmers or entrepreneurs who can join efforts and resources with counterparts to carry out certain activities jointly, for example marketing campaigns, searching for new markets or exports, or using a single brand. However, these benefits are not always exploited, either because of lack of awareness, little experience in managing this type of instrument or lack of coordination.

In this context, the project offered its support for the development of the Management Manual for Collective Brands. Developed in conjunction with CITEMarketing, it is aimed at small-scale producers to inform them of the advantages that this type of protection represents (including its legal basis) and guide them in its use.

For the preparation of the manual, information from a previous study carried out in Arequipa, Junín, Puno, Ica, Cusco and Lambayeque departments was used. It was also funded with the support of our project and offered interesting data on the real situation of collective brands in Peru and their strengths and weaknesses.

Figure 2-3. Chronological Evolution of Collective Brands



Note: Marcas Colectivas en Total—Total Collective Brands; Marcas Colectivas Registradas—Registered Collective Brands  
 Source: Collective Brands Situational Diagnosis in Peru, CITEMarketing

## INNOVATION AND PATENT REGISTRATION

### CONSOLIDATED INVENTIONS CONTEST

The project offered its support to INDECOPI for the relaunch, dissemination, and awards for the 10th and 11th Invention Contests to promote intellectual property as a tool for innovation in Peru. In the two contests the project supported, the competition was made known to the public at every stage through a website and a Facebook page. As of March 18, 2013, the website had received 32,326 visits and the Facebook page had 27, 285 fans.

INDECOPI relaunched the National Invention Contest (2011 and 2012 editions), aiming at promoting and recognizing Peruvian creativity. Project support enabled the promotion of the contest and the participation of the winning inventions at the International Exhibition of Inventions of Geneva 2013. And thanks to the communication and dissemination strategy in social networks and the Internet, an opportunity was given to inventions from poor and remote areas of the country to participate in this contest. Applications were received from Huancavelica, Huánuco, Moquegua, Ucayali, Apurimac, and the VRAEM area.

Dr. Oscar Patiño won in the Natural Person category, and Sixto Ramos S.A.C. won in the Legal Person category. Both traveled to the International Exhibitions of Inventions in Geneva, Switzerland, where they were awarded the Gold and Bronze Medals, respectively.



Figure 2-4. Natural Person Winner: Dr. Oscar Patiño, winner of the gold medal with his Tracheotomy Tube in the International Exhibitions of Inventions of Geneva.



Figure 2-5. Legal Person Winner: Sixto Ramos Granados S.A.C. with the Force Multiplier System, winner of the bronze medal in the International Exhibitions of Inventions of Geneva

In the 11th edition, the number of Inventions Contest participants broke a record—248 applications, more than a 100 percent increase compared to the 10th event. Of these, 226 inventions were shortlisted, and 160 were exhibited. The inventions ranged from simple technologies such as household utensils or tools for masonry, to highly complex inventions.



*Figure 2-6. Winner of the Invention Patent category: Comprehensive treatment for the remediation of mining and metallurgical effluents through the process of obtaining dolomite as a remedial agent, developed by metallurgical engineers Silvana Luzmila Flores Chávez and Oscar Eusebio Tinoco Moleros.*



*Figure 2-7. Winner of the Utility Model category: Safety system with adjustable height for pedestrian gates, created by businessman José Ramón Ostaiocoechea Gonzáles.*

### TRAINING ON INTELLECTUAL PROPERTY RIGHTS AT UNIVERSITIES

From the beginning, the project supported major universities, especially science faculties and research units, with training through conferences and courses on intellectual property. These activities were well attended and ultimately affected the intellectual property policies of each university and the support that is now being given to research units in patenting and technology transfer.

INDICATOR	RESULTS
Events	12
Total number of trainees	1464
Percentage of women trained	47.5%

- Conference “The importance of links between universities and companies to promote technological development”, Rubén Darío Sinisterra (Brazil).
- Conference “Commercializing Technology: The Role of IPR in Technology Development and Sustaining Growth”, Timothy Trainer (USA.).
- Course “Universities as engines in the knowledge economy: Use of Intellectual Property”, Marcelo Vergara (Chile) and Luis Alonso García Muñoz Nájjar (Peru).
- EPICAH (Cayetano Heredia Meeting for Research): Conference “Innovation and Development: The Brazilian Experience”, Rubén Darío Sinisterra (Brazil).
- Arequipa “Intellectual Property as a useful tool in the protection of intellectual creations”, Juan Pablo Schiantarelli.
- Conference “Intellectual Property as a competitive tool”, Patricia Gamboa (Department of Distinctive Signs of INDECOPI).
- Conference “The importance of distinctive signs as business tools”, Bruno Mérchor (Department of Innovation and New Technologies of INDECOPI).
- Conference “Innovation in action, successful intellectual property cases of in Peru”, Ray Meloni (Peru).

### TRAINING IN PATENT TECHNICAL EXAMINATION

INDECOPI and the project developed a training course for patent examiners, between September 3 and October 24, 2012, aimed at 40 graduates and professionals who completed studies in engineering, pharmacy and biology between 2007 and 2012.

The course informed participants about the guidelines for properly evaluating the patentability of inventions and utility models, to issue proper patentability technical reports. The project received 190 applications for the 40 places available. The training was free for participants and was given by professional members of the Department of Inventions and New Technologies of INDECOPI. The main study material during the course was the Training Manual for patent examiners in Peru, created by the project. After completing the course, recognition was awarded to the top positions of each specialty.

Graduate professionals of this first course will be considered in the next calls by the DIN.

Furthermore, they could also be incorporated as technical advisors in the various law firms and universities using the services of the DIN. Given the success of this first version, INDECOPI is already planning a second course.

### STRATEGIC PLAN OF INNOVATION SUPPORT BRANCH

In 2012, the Department of Inventions and New Technologies of INDECOPI created the Innovation Support Branch as a liaison between the actors in the local innovation system (universities, inventors, companies, research institutes) and intellectual property systems administered by INDECOPI, particularly those protecting inventions and new technologies.

To develop the strategic plan for this new branch for 2013–2015, with project support, Jorge Alzamora, Knowledge Transfer Deputy Director of the Chilean National Institute of Industrial Property, in operation since 2009 and considered a key player in the Chilean innovation system, shared his knowledge and experience with the DIN. Mr. Alzamora held three working meetings in Lima, the first with universities and research centers, the second with inventors, and the third with representatives of institutions that support innovation in Peru. This revealed the views of each group on the shortcomings of the current innovation system and INDECOPI's performance as lead agency regarding intellectual property in Peru, as well as to pick up some ideas that were incorporated into the strategic plan.

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The course is important because it has allowed the creation of a specialized group of professionals who may be able to apply and transfer technical and legal knowledge gained on the patent system within their organizations. This, in addition to contributing to the creation of a patent culture among innovation actors, should result in an eventual increase on system usage by nationals ... Transferring and disseminating knowledge about patents to the society is always a positive process that adds value to the innovation ecosystem, still fragile and in process of articulation in the country.

*Sergio Rodríguez Soria*  
Former Deputy Director of Inventions and New  
Technologies  
INDECOPI

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The Branch's Strategic Plan has been approved by the DIN and has been shared with INDECOPI's senior management. Among its strategic objectives is to train not only officials but also students and graduates interested in becoming examiners as well as the general public. It also aims to advise innovation actors in Peru on the use and enjoyment of the benefits of intellectual property registration, use of technological platforms to facilitate access to information, and to continue promoting the National Invention Contest, among others.

### **REGISTER PATENTS FROM THE UNIVERSIDAD NACIONAL DE INGENIERÍA (UNI)**

Globally, universities are frequent users of intellectual property registration services. However, this is not the case in Peru, which can be seen in the low national patent rate. This is because intellectual property courses are not taught outside the School of Law and university authorities lack awareness about IP.

In the case of the Nacional de Ingeniería (UNI), one of the most important universities at national level, institutional policies to promote the protection of inventions, licensing, innovation and other forms of knowledge transfer were almost unknown by university researchers. This was despite the fact that professionals from the institution proved that developments and research subject to protection did exist.

In partnership with the Innovation Support Branch and the General Research Institute of the UNI, the project supported the identification of patentable subject matter and encouraged registration among researchers from this university. Support included training workshops to make the university community aware of the benefits of intellectual property use and registration.

During the program, 50 technological projects were received, which were reduced to 41 after the first patentability analysis. Search reports were performed on these and a new examination was carried out to choose the 10 projects with greater probability for registration.

At the end of the program, 10 patent applications were drafted and submitted (nine as utility models and one as an invention patent) on behalf of UNI before the Department of Inventions and New Technologies of INDECOPI.

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The project allowed for a significant increase in patent applications at the Universidad Nacional de Ingeniería. In 2012, 10 were submitted to INDECOPI, which has made the UNI a leader on this issue within the Peruvian university environment.

*Juan Rodríguez*  
Director of the General Research Institute  
Universidad Nacional de Ingeniería

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## **STRENGTHENING OF INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT**

### **“COMPRA LEGAL, COMPRA ORIGINAL” ANTIPIRACY CAMPAIGN**

The “Compra Legal, Compra Original” (“Buy Legal, Buy Original”) Campaign was a joint initiative of the U.S. embassy, INDECOPI, the Commission to Combat Customs Crimes and Piracy and the USAID | Facilitando Comercio project. Its purpose is to inform the public

about the harm that piracy, smuggling, and counterfeiting cause to the state and Peruvian creators, entrepreneurs, and innovators as well as to provide information on options for legal downloads and purchases.

The campaign had three phases:

- Three videos on the most pirated products—music, software, and movie videos.
- An animation video complementing the three initial videos, presenting in a didactic manner the economic damage that piracy causes to the country.
- Social network pages and a website that seek to provide information on illegal options in software, music, and movies.

### *JUDGES TRAINED ON INTELLECTUAL PROPERTY RIGHTS*

The project organized two theoretical and practical workshops to help dispute tribunal judges and first instance judges to strengthen their notions about intellectual property issues and intellectual property crimes. Both were taught by experienced professionals in the field of intellectual property and INDECOPI officials, including the Copyright Director and Deputy Director.

Eighty-seven judges received training, of which 57 percent were female. The judges shared their experiences in the resolution of IP cases. They also consulted on how to handle specific issues related to evidence submitted and technical reports by INDECOPI, among others.

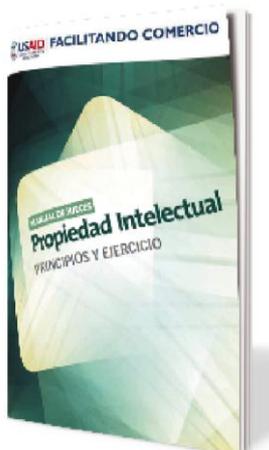
On October 24, 2012, the Executive Council of the Judiciary issued Administrative Resolution No. 206-2012-CE-PJ by which it created the following permanent courts in the Superior Court of Lima, with responsibility for Intellectual Property:

- The Twenty-fourth, Twenty-fifth and Twenty-sixth Courts Specialized in Contentious Administrative Proceedings, with sub specialty in areas including the INDECOPI.
- The Eighth Superior Court Specialized in Contentious Administrative Proceedings, with subspecialties in areas including INDECOPI.

### *INTELLECTUAL PROPERTY MANUAL FOR JUDGES*

In addition to the various training sessions in intellectual property issues made for the Judiciary, the project decided to replicate the successful experience that the previous USAID-funded MYPE Competitiva project had training judges in Colombia, and adapt the book used in these training sessions in Peru.

The book, *Intellectual Property: Principles and Practice*, was developed by U.S. attorney Judy Goans for a USAID project in Egypt. The base legislation relates to TRIPS (Trade-Related Aspects of Intellectual Property Rights Aspects of the World Trade Organization), which also applies to Peru and Colombia. This text was translated into Spanish and adapted to the Colombian context during the MYPE Competitiva project and then was modified for Peru, including national and Andean legislation as well as Peruvian cases for better understanding by the judges.



This publication gives judges reference material that meets the definitions of each legal case, examples to understand their application, and even the historical background of each, and the applicable law at the national and international levels.

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Peruvian judges have strengthened their capacity for better protection of intellectual property in Peru thanks to the support of the USAID - Trade Facilitation project. Training workshops on specialized intellectual property held under the framework of the USAID - Trade Facilitation project have allowed the Judiciary to strengthen its commitment to consolidate intellectual property protection through the promotion and progressive multiplication of training activities of their judges and officials nationwide.

*María Antonieta Delgado*  
Head of International Technical Cooperation  
Office  
Judiciary

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## IMPROVEMENT OF INDECOPI'S INFORMATICS SYSTEMS

### ***DIGITIZED ARCHIVE OF DISTINCTIVE SIGNS***

As part of obligations undertaken upon the signing of the Trade Promotion Agreement with the United States, the Department of Distinctive Signs (Dirección de Signos Distintivos - DSD) of INDECOPI complied with the implementation of an electronic system for the application of trademark registrations. However, it required upgrading the computer systems and redesigning its approval system for application registry to make its databases accessible more quickly to the users of its services.

In this context, the project supported digitization and storage of microforms with legal value of registration certificates administered by the DSD and the corresponding registry entries to facilitate their entry into the virtual database and enable direct and faster access to external users.

Images were generated following the guidelines established in World Intellectual Property Organization Standard ST.67. The allocation of legal value to microforms generated was performed by a notary. Of the 1,571,429 images generated, 314,172 correspond to ITINTEC certificates and registry entries and 1,157,257 to INDECOPI certificates and registry entries. All images generated were incorporated into INDECOPI's computer system to enable updates in the automatic generation module of registry entries which has also been implemented in the DSD. Digitization of DSD's registration certificates and registration entries constitutes one more step in the modernization of INDECOPI's computer systems which will help to reduce examination time and enable the public in the search for records. This activity was one of the first steps toward automation of the entire registration system.

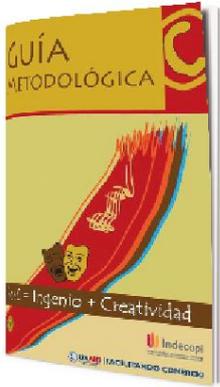
### ***VIRTUAL COURSE ON TRADEMARKS***

The project aided INDECOPI in implementing the first online course on trademarks, utilizing e-learning to bring training to a greater number of people nationwide. The course modules cover distinctive signs, trademarks and registration requirements, registration bans, prohibitions on registration, and trademark registration procedures.

One hundred and two students participated in the first edition of the course for INDECOPI staff nationwide. From this group, 58.8 percent were women and 68 percent came from regional offices. Furthermore, 97 percent of students passed the course.

## RAISING AWARENESS OF BENEFITS OF INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT

### TRAINING FOR STUDENTS IN COPYRIGHT



To raise awareness of the importance and benefits of intellectual property and promote the value of creativity, the project supported the Copyright Department of INDECOPI in designing a training program for teachers.

The initiative was targeted to fifth- and sixth-grade elementary school teachers and students. It included development of a methodological guide called “Perú = Ingenio + Creatividad”,

and workshops for teachers and

students. The training concluded with the staging of plays on intellectual property issues written by the students.

The project was very successful, with 21,750 students and 440 teachers trained in the departments of Lima, Piura, Arequipa, Lambayeque, and Loreto. Methodological guides were distributed as well as other materials about intellectual property rights developed by INDECOPI. Additionally, replication of this activity in other cities has been planned.



Figure 2-11. Federico Helguero students and teachers with head of Regional Office of INDECOPI, Piura

The trademarks online course enabled the national dissemination of the grounds and procedures for the registration of trademarks. This year we are developing a virtual campus with which we hope to replicate the course.

Giovana Hurtado  
Director of the School of Competition and  
Intellectual Property  
INDECOPI

### PUBLISHED AND DISSEMINATED COPYRIGHT GUIDES

The Copyright Department (DDA) of INDECOPI, the authority responsible for overseeing the registration and protection of copyright in Peru, wished to reach the artist community and provide guidance on intellectual property. The project published two manuals to support this effort: the information guide *Derecho de Autor: Una herramienta al servicio de los creadores* and 14 booklets on copyright for emerging creative industries: musicians, software, literary works, book publishers, movie theaters, playwrights, dramatic and musical works, visual artists, videogames, broadcasting, crafts, fashion design, choreographers, and architects.

Both guides are being used for training that the DDA provides to various creative sectors and it has also been made available to the general public. The Information Guide “Derecho de Autor: Una herramienta al servicio de los creadores” explains the basics of



copyright and related rights applicable generally to any artistic/creative expression. The booklets for emerging cultural industries contain basic copyright concepts and information on special contracts, registration, procedures and collective management societies.

### **NEXT STEPS**

INDECOPI has made significant progress in protecting and spreading the benefits of registration and respect for intellectual property, not only through its headquarters in Lima, but also through its regional branches, and has positioned itself as one of the most solid and reliable government institutions and a role model for other intellectual property bodies in Latin America.

However, the growing demand for its services because of the economic growth experienced by Peru in recent years and the adoption of international treaties has raised the need to modernize and expand, not only physically but in terms of number of staff employed and the quality of services provided.

A set of recommendations is provided to further improve the promotion and protection of intellectual property.

### **1. MODERNIZATION OF COMPUTER SYSTEMS AND ONLINE SERVICE**

Whereas INDECOPI has invested heavily in upgrading its equipment and computer systems, the comprehensive automation of its assessment procedures and registration of intellectual property is still far from being completed.

The first steps taken with the digitization of registration certificates and entries of DSD and the applications for registration files of DIN are certainly great achievements that will facilitate access to the information contained in these documents, but the DDA files and the update of digitized files of the three departments is still pending. Furthermore, it is necessary to improve the online registration system of the DSD to allow applications for amendments and other type of distinctive signs, and build the online registration system for DIN.

The operation of some systems that have already been designed is pending, such as the display, consultation and printing of certificates and registry entries modules, as well as the automatic generation of certificates and record entries of DSD. Investing in new systems that have already been identified and described is also pending, such as electronic notification and automation of the assessment applications process of DIN and the automatic processing of applications for the DSD. The automation of INDECOPI's systems will not only mean an increase in its productivity and efficiency but also time saved for those interested in obtaining information from their databases, whether from the public or private sectors.

### **2. PUBLICATIONS AND MANUALS TO GUIDE EVALUATORS**

Among the various issues that INDECOPI manages through its intellectual property offices, there are some issues which deserve special treatment, such as cases related to known trademarks, plant varieties, genetic resources, and traditional knowledge, among others. In addition to the various trainings that are offered nationwide, it would be useful to have printed material that can be delivered to participants or that is available in electronic version for free use by the public. The project supported INDECOPI in the development of the book *Appellation of Origin: Wonders of the Peruvian Spirit*, which broadcasts the story behind the producers of each of these appellations and the appellations themselves. Also the *Methodological Guide Perú = Ingenio + Creatividad*, which is used in the teacher training. INDECOPI can continue promoting these publications.

The Judiciary's Commission to Combat Customs Crimes and Piracy has been promoting training in intellectual property issues and undertaken the development of reference materials for all attendees to their training. Coordination among institutions such as the Judiciary and INDECOPI would be a big step toward achieving joint goals. Publications targeted at specific sectors (judges, prosecutors, police force, etc.) could be pursued, for example.

Finally, even though INDECOPI has specialized and constantly trained personnel, it faces staff turnover. It is necessary to train new staff periodically in the various processes it manages. Preparing internal procedures manuals, including guidelines and criteria for each department, such as the one developed with the support from the project for training of technical patent examiners (DIN), would be useful tools that could save time in training new staff and provide greater predictability to the performance of the institution.

### **3. COORDINATION AMONG INSTITUTIONS TO ENSURE BETTER ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

One of the most recurring topics during the training of specialized dispute tribunal judges and criminal judges has been a call for greater coordination between the Judiciary and the Public Ministry with INDECOPI in issuing technical reports or consultation on specific issues. Another important issue that emerged especially during the training in criminal proceedings for the prosecution of intellectual property crimes has been the treatment of evidence and coordination between the Public Ministry and the Judiciary.

There are also inspections to seize counterfeit and adulterated products and drugs carried out by INDECOPI, DIGEMID, SUNAT, the Police force and the Prosecutor's office, which are often carried out separately. This does not include research conducted on their own by a large number of private companies which do not share information with these institutions. All these institutions, responsible for safeguarding intellectual property rights, are part of the front fighting piracy, smuggling and illegal trade of drugs. However they do not often coordinate and join efforts to achieve a greater impact.

To improve this, the following steps could be taken:

- Designate one or more officials as points of contact in each institution to coordinate actions among themselves and to exchange information.
- Hold regular meetings with the representatives to develop newsletters, which according to their content would be made available to the public or key officials.
- Conduct joint training in intellectual property issues including not only the theory and criminal process, but the recommendations to be considered during searches and seizures (procedures, treatment of evidence, reporting), the chain of custody, and drafting of the indictment and sentence, among others.
- Create tiered access to INDECOPI databases to facilitate and accelerate delivery of this information for the relevant notification of holders of rights allegedly infringed.

### **4. INCENTIVES FOR INTELLECTUAL PROPERTY REGISTRATION AMONG STUDENTS, RESEARCHERS AND ENTREPRENEURS**

Intellectual property is an unknown topic for many people who, paradoxically, have creations, research or innovations subject to protection. To a large extent, this is because this subject is not taught in school other than law schools (with few exceptions) and that entrepreneurs, when starting or formalizing their businesses do not take into account the importance of registering their trademarks, brands or products, as they do not consider them as assets of their companies. It is recommended that INDECOPI seeks approaches, communication opportunities and exchanges of information with these groups to engage with them on the

benefits of use and registration of intellectual property and the actions that could be taken if they were violated.

To the extent that the cost of the registry may be a barrier, consider creating special rates for entrepreneurs wishing to register their trademarks, patents, industrial designs and copyright, and for farmers or producers that are committed to collective brands or appellations of origin. A first step could be to reduce the fee for multiclass trademark registration given that many are betting on individual registrations per class since currently there is no significant difference in costs.

Finally, continuous support of initiatives is expected, such as the creation of the Division of Support for Innovation, the National Invention Contest and the education program for the creation and promotion of a culture of respect for intellectual property, which has certainly contributed to spreading the benefits of registering intellectual property.

## COMPONENT 3: TRADE FACILITATION

The economic momentum experienced in recent years by Peru and the signing of several international trade agreements have led to a significant increase in trade. The need for efficient clearance procedures has therefore become critical to maintaining the country's competitiveness. The USAID | Facilitando Comercio project in partnership with the Ministry of Foreign Trade and Tourism, SUNAT, and other institutions responsible for trade facilitation, completed a set of activities designed to simplify procedures, promote new commercial instruments, and train entrepreneurs and public officials in the efficient use of these tools.

The project was an important ally of the government in VUCE implementation, building systems and supporting the simplification of procedures by entities governing restricted goods. One partner in the building of the VUCE, the General Directorate of Environmental Health (DIGESA), implemented significant improvements in 20 administrative procedures and trained more than 800 businessmen and officials in 12 cities. In July 2013, the Ministry of Health enacted its 2013–2015 Simplification Plan for Administrative Procedures in DIGESA and DIGEMID. This plan acknowledges the importance of administrative simplification within the framework of foreign trade procedures, which are key to promoting a suitable trade environment. This plan also reflects the commitment of the government of Peru in moving forward with VUCE-related reforms, thus continuing with the work developed jointly with the project.

The project spread information about preclearance benefits through national workshops for 600 officials and entrepreneurs from 13 cities. The material from these trainings formed the basis for a manual, 3,000 copies of which were distributed in cities throughout the country and online. The project also contributed to the development of an preclearance website, a tool that provides all the information needed to guide entrepreneurs to perform this procedure.

Additionally, the project provided technical support in the design and operation of the Authorized Economic Operator (AEO) program launched in October 2012.



The main improvements obtained by the Trade Facilitation Component during the project relate to the following areas:

- Improvement and promotion of preclearance
- Simplification of trade procedures
- Implementation and promotion of trade facilitation instruments
- Promoting competition.

MAIN INDICATORS	BASE YEAR	FINAL YEAR	INCREASE
Trading Across Borders Subindex	Position 91 (2010)	Position 56 (2012)	35
Global Enabling Trade Report	Position 63 (2010)	Position 53 (2012)	10

Source: *Doing Business 2010 and 2012/ Global Enabling Trade Reports 2010 and 2012*

The following paragraphs present the most important achievements of the Trade Facilitation component, followed by suggestions for the continuation of activities.

## IMPROVEMENT AND PROMOTION OF PRECLEARANCE

### *PUBLICATION AND DISSEMINATION OF PRECLEARANCE MANUAL*

Preclearance is one of the main trade facilitation instruments promoted by the Trade Promotion Agreement with the United States and provided for in the Customs Law. Studies carried out by the project recommended the implementation of institutional marketing measures and their dissemination, especially in seaborne imports.

Therefore, in conjunction with the National Superintendency of Tax Administration (SUNAT), the project published the manual, *Guidance for the Preclearance User*. The manual has a user-friendly format and didactic content. It has a glossary of terms, graphics, and uses simple language that can be understood by importers of all sizes. SUNAT officials led workshops to validate its content.

The project published a first batch of 3,000 copies, which have been distributed nationwide through the decentralized Customs offices. The manual is available in Lima in the Customs Customer Care Division of SUNAT and online at

[http://www.facilitandocomercio.com/publicaciones/Manual\\_Despacho\\_Anticipado.pdf](http://www.facilitandocomercio.com/publicaciones/Manual_Despacho_Anticipado.pdf)

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Preclearance is an important instrument to facilitate trade. The increase in its use shows its advantages in saving time and costs. The Guide prepared by the USAID Trade Facilitation project and Customs is a great contribution to the knowledge and application of this system, especially for the benefit of small and medium-sized companies interested in importing.

*Manuel Quindimil*  
Assistant Manager, Government and Legislative  
Relations Department  
American Chamber of Commerce of Peru

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Additionally, before the production of this document, the project supported the design of the Preclearance trademark, which included a logo and slogan.

### *TRAINING IN PRECLEARANCE*

The project, in conjunction with SUNAT, carried out a training program aimed at importers and trade operators on the operation and advantages of preclearance. The purpose of the program was to transmit information to the interested public about the characteristics and benefits of preclearance provided under the General Customs Law. The need to disseminate the program nationwide was recommended in the baseline report (TCBaseline) prepared by the project, because there was evidence that potential users had only superficial knowledge about this tool.

The workshops were carried out in 13 cities (Piura, Lima, Trujillo, Tumbes, Chiclayo, Tacna, Arequipa, Cusco, Puno, Huancayo, Iquitos, Matarani and Huacho) from May to September 2012. The workshops covered the following topics: general import clearance, the

characteristics and advantages of preclearance with emphasis on time and cost savings, and recommendations for its efficient use.

It had the support of SUNAT's decentralized offices as well as regional chambers of commerce, which provided facilities and logistics for the promotion of the event. An important contribution to this initiative was that SUNAT's officials conducted the workshops, which assured significant participation and generated discussion on substantive aspects of customs operations.

INDICATOR	RESULTS
Public officials trained	601
Percentage of female participants	40.9%
Cities	13

### STUDY MISSIONS FOR BEST PRACTICES IN CUSTOMS AND LOGISTICS

Two study missions composed of public officials and representatives of companies engaged in foreign trade traveled to the United States as a way to explore areas of common interest and benefit from the American experience in customs management and logistics chain safety.

The organization of both missions was conducted by the American Peruvian Chamber of Commerce with support from the project. The delegations were led by SUNAT. A significant number of SUNAT officials participated, including the deputy superintendent of Customs.

### WASHINGTON, D.C., AND BALTIMORE, OCTOBER 2010

The delegation was composed of more than 20 people, including representatives of SUNAT and the Ministry of Foreign Trade and Tourism. The main objective was to get acquainted with port and airport import clearance customs procedures and other ways the U.S. facilitates trade. The visit strengthened ties between the U.S. and Peruvian agencies, and informed Peruvian officials about the technological resources used for nonintrusive inspection and the application of border measures for the protection of intellectual property rights. Also discussed were issues related to logistics chain safety and risk management that should be taken into account in an Authorized Economic Operator program.

Through the visit, Peruvian authorities were encouraged to find the means to make progress towards effective trade facilitation mechanisms without neglecting cargo safety.



Figure 2-12. Presentations at U.S. Customs and Border Protection, Los Angeles, May 2012

The visit included a trip to the facilities of the Long Beach and Los Angeles ports (two of the largest and busiest in the United States, which together have 150 gantry cranes) as well as some terminals. Meetings between SUNAT and the federal port authorities were held to address risk issues. Similarly, visits were made to the Los Angeles International Airport to hold meetings with federal authorities.

As a result of the mission, the need to intensify the development of logistics around the ports was stressed, especially in El Callao, to facilitate the entry and exit of goods by road. Similarly, the mission raised awareness regarding the need to promote training and develop transparency mechanisms related to logistics costs and conflict settlement between suppliers and users of those services.

### ROADMAP TO IMPROVE PRECLEARANCE

The start of the project's activities coincided with the entry into force of preclearance, providing the opportunity for a baseline study that served as a reference to promote its use

and make recommendations to improve trade facilitation policies. Article 5.2 of the Trade Promotion Agreement with the U.S. requires the parties to release goods within 48 hours of arrival at the point of arrival. This provision was incorporated into the General Customs Law (Legislative Decree 1053) and its regulations, and has been in full force since October 2010.

In order to carry out the baseline analysis, the project used the methodological tool called TCBaseline, designed in accordance with standards of the World Customs Organization and the World Trade Organization. The work covered four modules: (1) Institutional capacity, (2) field operations, (3) efficiency, and (4) economic analysis.

In November 2010, the study was conducted focusing on the preclearance scope at the port of Callao. A tentative estimate of clearance times was prepared, listing the constraints on the implementation of preclearance. It was developed by a team led by former officials of the U.S. Customs with experience in this type of analysis.

Although SUNAT (Customs) is a highly professional body with trained and motivated staff, it was necessary to improve the preclearance measurement systems as well as disseminate its characteristics with proper marketing tools. Therefore, the study recommended:

- Conduct a training program nationwide
- Create institutional marketing instruments: trademark, website, manuals
- Promote the use of customs guarantee
- Form a user support team regarding preclearance
- Produce status reports on clearance times
- Address the labeling problem that hinders the use of preclearance
- Increase public interagency coordination.

According to SUNAT, the use of preclearance has increased from 930 users in 2010 to over 1,400 in 2012. The number of single customs declarations rose from 47,387 in 2010 to 124,303 in 2012, and the share of imports in preclearance rose from 13 percent in 2010 to 29 percent in 2012.

To establish a monitoring methodology, the project developed the first TCbaseline monitoring study to identify progress made and outstanding items.

### **WEBSITE ON PRECLEARANCE LAUNCHED**

As with the preclearance manual, the project worked together with SUNAT in the construction of a website to promote this issue. The main objectives of the website are to provide information about the benefits of preclearance and how it operates. The site describes preclearance and its characteristics, and presents basic information about the legal framework of this tool and general customs rules. It also describes how preclearance functions, to make the process transparent for foreign trade operators.

## **SIMPLIFICATION OF TRADE PROCEDURES**

### **VUCE TRAINING FOR PUBLIC OFFICIALS**

The project conducted an intensive training program on the use of the VUCE in 12 cities in support of the Ministry of Foreign Trade and Tourism. The activity was conducted between January and March 2011 and was composed of six-hour workshops for public sector officials (foreign trade regional directors, SUNAT, SENASA and ITP officials) and private sector representatives (importers, exporters, customs agents and other foreign trade operators). The workshop covered objectives, principles, legal framework, benefits, the complete VUCE processing cycle, electronic mailbox usage, traceability procedures, and technical consultations.

Training participants also visited four of the top companies of a representative economic sector in each city where a workshop was conducted, to provide practical training on the operation of the VUCE. The workshops helped to gather information on the perception of user companies regarding the use of this tool.

INDICATOR	RESULTS
No. of public officials trained	928
Women as share of all participants	38%
Cities	12

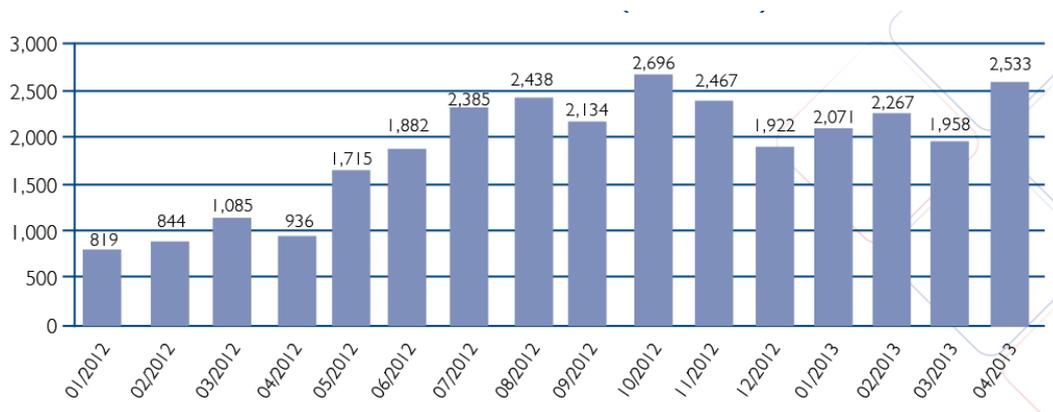
**OPTIMIZATION OF 20 PROCEDURES FOR DIGESA**

The Single Window—VUCE—is one of the most important trade facilitation tools. Several organizations have built their procedures with the aim of using a single electronic processing center that operates 24 hours a day year round. One such entity is the General Directorate of Environmental Health (DIGESA), in the Ministry of Health. DIGESA’s primary role is to authorize the marketing of foods and beverages for human consumption.

The project helped DIGESA to simplify 20 procedures included in the VUCE, eliminating unnecessary requirements. The project developed a comprehensive diagnosis of DIGESA’s administrative procedures included in the VUCE, proposing short-, medium- and long-term plans and then supported implementation of the improvements. The project’s support was carried out by various experts according to the roadmap agreed with DIGESA. The project also organized workshops for DIGESA staff on foreign trade and administrative law.

As a result of the first stage of intervention, Ministerial Resolution No. 097-2012- MINSa was issued on February 2012 simplifying five procedures used by companies that sell food and beverages. In a second stage in October 2012, Ministerial Resolution No. 843-2012- MINSa was issued simplifying 15 additional procedures. In July of the same year, by Directorial Resolution No. 2811-2012-MINSa, checklists of three of the administrative procedures most used in the entity were approved to expedite the evaluation of dossiers.

Figure 2-13. VUCE DIGESA Applications (2012–2013)



Source: MINCETUR VUCE Unit

**TRAINING FOR PUBLIC OFFICIALS IN CUSTOMS AND ADMINISTRATIVE LEGISLATION**

With MINCETUR, the project organized an intensive training on administrative and customs law to strengthen the knowledge of officials from VUCE agencies. The training sought to deepen officials’ knowledge on administrative law and regulatory challenges that “paperless trading” will bring. The nine-hour courses were taught by renowned professors of the leading law schools in the country, who tailored the curriculum to fit the audience.

In administrative law, the training discussed changes that the VUCE has brought to processing procedures. In customs law, the course explained the connection between administrative permissions by VUCE institutions and customs clearance. The course content

also addressed the legal framework of international trade, customs procedures, and principles of trade facilitation such as preclearance.

These courses were conducted in 12 cities—Piura, Tumbes, Trujillo, Lambayeque, Lima, Arequipa, Tacna, Cusco, Puno, Iquitos, Huancayo and Huacho—May to September 2012. In total, 841 public officials were trained.

#### ***FIVE PROCEDURES OF SENASA INC. IN THE VUCE***

The project funded the building of information exchange modules for processing procedures of the Servicio Nacional de Sanidad Agraria (SENASA) in the VUCE. The first stage of this process incorporated five procedures. The IT solution allows information to be processed and exchanged between SENASA and the VUCE, enabling traceability, data replication, payment control, and other capabilities.

SENASA is the national authority in agricultural health, quality of supplies, organic production and food safety. It is estimated that SENASA procedures will represent in the future almost 50 percent of the volume of procedures to be managed by the VUCE. In August 2012, six SENASA administrative procedures were included in the VUCE through Ministerial Resolution No. 234-2012-MINCETUR.

#### ***THIRD LATIN AMERICAN AND CARIBBEAN MEETING ON SINGLE WINDOW***

The third Latin American and Caribbean Meeting on the Single Window for Foreign Trade took place in November 2011. Organized by the Peruvian Ministry of Foreign Trade and Tourism, the Latin American and Caribbean Economic System Permanent Secretariat (SELA), and sponsored by the Andean Development Corporation and USAID | Facilitando Comercio, it was held to promote the VUCE as an effective instrument to facilitate trade in Peru and promote regional standardization and interoperability. More than 200 representatives from the public and private sectors and donors organizations in Latin America, the Caribbean, Europe and Asia attended the conference.

The project helped in the development of the program and brought in international experts who gave presentations on paperless trading and risk management. As a result of the meeting, the need for promoting the VUCE in the region, exchanging experiences and promoting successful practices in its development to deepen trade facilitation was reaffirmed. Participants had access to methodologies, procedures and resources of proven effectiveness in paperless trading according to criteria of efficiency, compatibility of standards and security.

#### ***COMPLETION OF THE VUCE ORIGIN MODULE***

The VUCE has three pillars: restricted goods, port services, and certificates of origin. The final pillar, certificates of origin, allows users to request documents for goods online from certification bodies authorized by the Ministry of Foreign Trade and Tourism through the Origin Unit such as the Chamber of Commerce of Lima, Peru's Exporters Association, and the National Society of Industries. The project developed the formats and software for this function.

The project first analyzed the rules of origin of every international trade agreement signed by Peru and of unilateral trade preference regimes to select the information to be included in application forms for each case. Then, modules were built for each case or type of procedure or subprocedure, so that the whole process could be handled electronically for each trade

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On behalf of SENASA, I would like to thank the technical assistance funded by the USAID | Facilitando Comercio project that allowed the incorporation of more Administrative Procedures of our institution into the VUCE. Procedures related to foreign trade which used to take five days, now take 30 minutes, through the automation of these processes that allow us to improve the service, provide administrative transparency and integrate governmental institutions in the context of e-government.

*César Salas Arbaiza*  
Computing and Statistics Unit, OPDI  
National Agrarian Health Service

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agreement or trade preferences system. Finally, software was developed for VUCE interoperability and certification authorities to utilize the modules.

The Origin module was officially enacted on June 8, 2013. The statute that regulates how operations of issuance, duplicate, replacement and cancellation of Certificates of Origin are to be performed was approved by Supreme Decree N°. 006-2013-MINCETUR. The regulation states that until December 31, 2013 the use of this module will be optional and mandatory afterwards.

MINCETUR will hold intensive training programs for business users over the course of the next year, so that they become familiar with the module. It is expected that the VUCE-Origin module will be utilized as an effective tool for cost and time savings and serve, in turn, to test interoperability with other countries' single windows.

### **IMPROVEMENT IN PORT SINGLE WINDOW PROCEDURES**

MINCETUR commissioned the project to carry out an analysis of the legality and rationality of procedures identified to integrate the port component of the VUCE. In conducting the analysis, the project reviewed 44 administrative procedures of partner government agencies. Of these, 17 are related to the arrival, stay and departure of ships from ports and 27 are related to obtaining operating permits from companies or economic operators that provide port services. The project issued a report of its analysis recommending corrective measures including the establishment of legal standards amending administrative procedures to make them compliant with the law.

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USAID | Facilitando Comercio has been a key partner in the development of the Single Window for Foreign Trade in Peru, as they have strengthened capacities of public officials responsible for resolving cases, participated in the simplification, rationalization and improvement of the regulatory framework, and helped in IT development.

*Abel Chaupis*  
General Coordinator of the Single Window for Foreign Trade, MINCETUR

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We want to thank the USAID | Facilitando Comercio project for preparing the technical report which analyzed the administrative procedures of the entities that comprise VUCE's port component. This document has been prepared with great academic and methodological rigor and it will enable us to adopt measures which will improve our processes.

*Guillermo Bouranle*  
General Manager  
National Port Authority

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## **IMPLEMENTATION AND PROMOTION OF TRADE FACILITATION INSTRUMENTS**

### **MANUALS ON RULES ORIGIN IN THE PERU-U.S. TPA**

Rules of origin are laws and regulations governing eligibility for the tariff benefits granted by the free trade agreement partners. To facilitate understanding of rules of origin, the project prepared and published manuals on rules of origin in the trade promotion agreement with the U.S. for the agricultural and textile clothing sectors.

Rules of origin are complex and can vary according to the trade agreement or country. The challenge in this activity therefore was to prepare a rigorous yet instructive document that small and medium businesses could understand. The document includes basic and complex case studies for understanding how rules of origin are applied. Sample situations are whether potato flour, made with potatoes harvested in the country and salt imported from Ecuador, is originally from Peru, or, if a coat qualifies as Peruvian alpaca, if it is composed of 80 percent of alpaca fiber raised in the country and 20 percent wool imported from Bolivia. Each case is solved by using a "test" to answer questions through a logical development of the topic. The exercises presented in the manuals have earned them a positive reception thanks to their innovative and educational approach.

Over 2,000 copies were distributed nationwide through the Ministry of Foreign Trade and Tourism offices, PROMPERÚ and the National Society of Industries.

### **AUTHORIZED ECONOMIC OPERATOR PROGRAM IMPLEMENTATION**

The Authorized Economic Operator (AEO) program is a qualification that grants customs benefits to foreign trade operators who meet security standards in the handling of cargo and who have an outstanding track record on meeting their tax obligations. It was included in the General Customs Law of 2008.

The project provided the following technical assistance in designing the AEO program:

- Publication and dissemination of the AEO Program Implementation Manual, which includes best practices and recommendations for countries starting this task
- Raising awareness about the program through workshops prepared for the implementation team, public officials, and foreign trade operators, including ports and airports
- Technical advice and in-house training from international experts for the National Tax Administration.

The program was launched on October 2, 2012, with Peru becoming the sixth country in South America to have an AEO program.

Exporters, customs agents, and warehouses were incorporated into the program's first phase, and a progressive extension of the program to other foreign trade

operators is anticipated. AEO members benefit from less physical inspection for exporters and special attention for shipments with physical inspection and during periods of closure of ports of entry.

### **TRAINING ON RULES OF ORIGIN IN THE TPA**

The project trained public officials and business representatives through the workshops on rules of origin for the preferential admission of textile and agricultural products to the United States.

INDICATOR	RESULTS
People trained	150
Percentage of women trained	43.3%
Number of cities involved	6

The project organized workshops in the cities of Lima, Piura, Arequipa, Cusco, Trujillo and Chiclayo with the participation of 150 public officials, business representatives and students. USAID | Facilitando Comercio had the support of PROMPERU, the Chamber of Commerce of Lima, the Exporters

Association and the National Society of Industries.

These training sessions served to collect case studies for the content of the Rules of Origin Manual. Participants had the opportunity to receive training from a former government official who negotiated issues related to rules of origin of several international trade agreements. The methodology was based on actual cases and a test to easily understand each of the rules of origin for apparel, agricultural and farming products.

### ***TRAINING FOR SUNAT OFFICIALS ON BEST PRACTICES IN EARLY RESOLUTIONS***

Under the Partnership for Trade Facilitation program, the project held a training program on advance rulings and customs valuation for SUNAT customs officials.

The project undertook a research study to determine the status of the advance ruling system and investigate the reasons that may limit further use of this trade facilitation tool. The report's findings pointed out that it was essential train officials in best international practices about advance rulings to have the necessary inputs to promote their use and reform. Similarly, the formulation of a single regulation on the matter was proposed. Finally, it was recommended to deploy an outreach program in the private sector, and review the current deadline of 150 days, which may be inconsistent with the objectives of this instrument.

Article 5.10 of the Peru-US Trade Promotion Agreement establishes the obligation to issue advance rulings regarding: tariff classification, valuation, rules of origin, application of quotas, and other matters. This instrument is designed to enable users to achieve a binding opinion from the government so as to give legal certainty to a customs operation. The New Customs Law (Legislative Decree No. 1053) and its regulations embraced this obligation, issuing additional rules to operationalize its use<sup>2</sup>. However, there had been few advance rulings requests, reflecting the need to make adjustments to the system.

Forty-five public officials attended the six-hour activity lead by an international expert. The purpose of the activity was to train SUNAT officials in best practices and how to encourage their use by the private sector. Also, it helped to enhance substantive knowledge such as customs valuation.

Finally, together with the Peruvian-American Chamber of Commerce (AMCHAM), the project organized a dissemination workshop on the same topic for the private sector. Thirty representatives of export and import companies as well as logistic operators and legal advisors attended the workshop.

## **PROMOTING COMPETITION**

### ***INTERNATIONAL COURSE ON CONTROL REGULATION OF MERGERS AND ACQUISITIONS FOR INDECOPI'S OFFICIALS***

With the support of the project, the Fordham Competition Law Institute (FCLI) of Fordham University (U.S) provided a regulation course on mergers and acquisitions for INDECOPI officials. The FCLI is a globally recognized organization that has provided training on competition policy for 40 years and has, among its staff, professors with expertise in U.S. regulatory agencies and in the analysis of mergers and acquisitions in several countries.

In December 2011, the project organized a week-long (40 academic hours) course in which 30 officials of

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<sup>2</sup> Through Resolution No. 26, 27, 29 y 35-2012/SUNAT issued in 2012 by the Superintendence, some specific rules on the application of the procedure were established.

INDECOPI's Competition Commission participated. The course was given by distinguished professors William Kovacik, Dan O'Brien, Derek Ritzmann and Tom Whalen. Participants gave high ratings of 4.5 out of 5 points to the course and noted that their knowledge was enriched by the quality of the speakers, content and materials. Likewise, the professors appreciated the dedication and the professionalism of INDECOPI staff as well as the efficient organization of the event. At the end of the course, a roundtable discussion on the benefits and potential problems of merger control in Peru was held for INDECOPI officials, congressmen, consultants, and professors from the main universities.

### **COMMISSIONER OF U.S. INTERNATIONAL TRADE COMMISSION-LED WORKSHOP ON ANTIDUMPING FOR INDECOPI**

In joint action with the U.S. Embassy and the Peruvian-American Chamber of Commerce (AMCHAM), and at the request of the Dumping and Subsidies Commission of INDECOPI, the project brought a member of the International Trade Commission to Lima to provide training in the assessment of antidumping cases.

Antidumping measures play an important role in international trade since they mitigate the negative effects of unfair trade practices. They are mainly established in the World Trade Organization and in the signed trade promotion agreements. INDECOPI is the authority responsible for investigating and applying anti-dumping measures in accordance with international standards. The United States has participated in several major trade disputes on this matter and its precedents have shaped the current international legal framework.

INDICATOR	RESULT
Public officials trained	24
Female participants	10 (42%)
Male participants	14 (58%)

The United States International Trade Commission (USITC) is a federal agency which determines and investigates whether dumped imports damage or threaten the American industry. One of its current members is Dean A. Pinkert, who agreed to give a workshop to 24 INDECOPI's officials for a week. We also invited Yohai Baisburd, an expert of the White & Case firm, headquartered in Washington, D.C. and ranked among the world's best law firms on trade defense, to hear the private sector's point of view on antidumping-related matters. The event was held June 13–17, 2011, at INDECOPI.

### **INSTITUTIONAL ARRANGEMENTS FOR THE NATIONAL QUALITY SYSTEM**

In support of the Competitiveness Agenda for 2012-2013, the project offered technical assistance in meeting Goal No. 13, Restructuring and strengthening the national quality system. The ultimate purpose of this goal is to boost the competitiveness of Peruvian entrepreneurs and their access to international markets as well as to ensure consumer, health, and environmental protection. The project commissioned a study that identified the deficiencies of the legal framework for the National Quality System and proposed ways to strengthen it. This proposal included the Quality Promotion Bill, which is awaiting approval.

### **ROADMAP TO IMPROVE FOREIGN TRADE PROCESSES**

After two years of the preparation of the baseline study on preclearance (TCBaseline 2010), the project conducted a monitoring study to check the progress and pending tasks in the process. The analysis covered the use of risk management for foreign trade processes and all the processes related to the authorization and supervision of restricted goods.

The study was conducted by two international experts, one specializing in foreign trade and the other in transport logistics, and included the analysis of maritime imports at the port of Callao and Paita (Piura). The assessment comprised 3 out of the 4 major private port operators of the country and covered the impact of port operations in private terminals and their relation to the trade of goods. It also included an analysis of clearance times for a set of random imports using preclearance.

The study found that some progress had been made in expanding preclearance. This was reflected in the number of users and applications importing under this system. It also found, however, that much work remains to be done to reduce the number of days and cost as well as to strengthen the dissemination of trade facilitation instruments outside Lima.

*Table 2-4 TC Baseline 2010 Recommendations and Progress Made by 2012*

2010 RECOMMENDATIONS	PROGRESS MADE BY 2012
Conduct dissemination and training programs on preclearance nationwide.	In 2012 a national dissemination campaign was launched with over 13 workshops and with the participation of 600 people.
Create institutional marketing instruments: brand, website, manuals.	A distinctive brand was created, the manual on preclearance was published and the website is working since March 2013.
Promote the use of customs guarantee.	The workshops included the operation and advantages of the customs guarantee.
Implement the Authorized Economic Operator program.	The AEO program was implemented and came into effect as of March 2013.
Form an assistance team to serve the users of the anticipated release.	A service assistance program to help users of the anticipated release was implemented.
Prepare reports on the processing times of advanced clearance	Customs is capable of preparing accurate reports on the processing times of releases
Addressing the labeling problem which hinders the use of preclearance.	Policy measures were issued to facilitate prior recognition to mitigate sanctions.
Greater public interagency coordination	There is greater concern by state agencies in charge of foreign trade operations to intensify coordination with Customs.

The report highlights the following recommendations:

- **Management reports:** Develop and disseminate reports on customs performance, especially related to processing times of preclearance.
- **Customs Support Group:** Formation of a team responsible for addressing the problems and disincentives that prevent more effective customs processes.
- **Marketing and dissemination:** Keep making efforts to educate and inform on foreign trade issues, mainly small and medium enterprises and cities outside Lima.
- **Customs penalties:** The Commission of infractions, based on the system of penalties for infringement, should consider the intentionality and proportionality of the infringement.
- **Transport Logistics:** Optimize the flow of goods from release time in the port terminal to the delivery of goods to the consignee.
- **Interagency coordination related to customs operations:** Strengthen customs coordination with entities such as SENASA, DIGESA and DIGEMID.

## NEXT STEPS

Trade facilitation is integral to foreign trade policy. The areas covered by this concept have transcended customs responsibilities to encompass control of goods by other public bodies, transport logistics, and infrastructure. The use of international trade agreements requires urgent facilitation for viable commercial promotion and export under competitive conditions. Project activities provided public entities and traders with technical resources for the implementation of short, medium and long term plans, but more can be done. Below are the recommendations for further improvements in this area:

### 1. STRENGTHENING TRADE FACILITATION POLICY

It is recommended that MINCETUR and SUNAT lead and keep a common agenda towards trade facilitation, involving relevant entities in the regulation of transport logistics. Smooth coordination will bring consistency and efficiency to trade facilitation policies.

It is also necessary that the National Competitiveness Council continues establishing goals and monitoring their compliance by inviting the Commission of Foreign Trade and Tourism of the Congress to participate in spaces for open dialogue to strengthen this policy. Coordination between donors and cooperating agencies must also continue to review the progress made and exchange ideas on the conditions of technical assistance in trade facilitation.

### 2. SPEED, LOWER COST, AND GREATER TRANSPARENCY IN THE ARRIVAL AND RELEASE OF GOODS

The increase in the use of preclearance is encouraging. It reduces processing times in the clearance of goods, but other important issues remain to be addressed:

- Evaluate and monitor the processing times and cost of the supply chain involved in the clearance of goods, to promote necessary investments, greater competition between operators, and more information to users.
- Strengthen the functioning of the SUNAT Advisory Committee so that logistics operators, customs, and final users discuss and agree on measures to cheapen logistics costs.
- Continue working toward reducing costs and processing times of preclearance and customs procedures in general. SUNAT should use their powers under the Strengthening Law (Ley de Fortalecimiento) to fulfill this objective, without prejudice to the responsibilities that belong to other public entities.
- Continue training and outreach for preclearance among users.
- Restructure the control that is performed on restricted goods when they enter the country, so as to privilege the control process during trading rather than on the time the goods arrive at customs.
- Review product labeling requirements, so that customs control requirements are similar for different goods.
- Develop a financial instrument that decreases the cost of customs guarantee to enable small and medium companies to access preclearance on better terms.

### 3. VALIDITY OF THE AUTHORIZED ECONOMIC OPERATOR PROGRAM

The AEO program came into effect in March 2013, now the main challenge is to have companies apply and qualify as AEO. SUNAT should reach out to the private sector to encourage companies to participate, and if necessary, to improve the AEO model. For the medium term the project suggests evaluating extending the eligible operators list to include carriers and importers and work on mutual recognition that facilitates access of our products to other markets.

#### 4. SIMPLIFICATION OF PROCEDURES RELATED TO FOREIGN TRADE AND THE SINGLE WINDOW FOR FOREIGN TRADE (VUCE)

To strengthen the Single Window for Peruvian Foreign Trade so that it has a key role in trade facilitation, emphasis should be put on simplifying procedures and institutions improvements, so that the VUCE not only represents an online process, but also the motivation for its simplification. There is some intervention methodology developed by the project that has produced very good results and is still available for interested parties.

MINCETUR should keep monitoring and evaluating the performance of the different entities, with emphasis on the response times for related procedures. It should also review the costs and evaluate the economic impact of barriers to restricted goods. In addition, it should continue incorporating more entities and procedures to the Foreign Trade Single Window.

MINCETUR should also consider giving greater organizational and functional hierarchy to the VUCE to coordinate activities with participating public entities belonging to other sectors. However, it is noteworthy that the National Competitiveness Council Agenda has helped drive progress and solve the obstacles presented. Finally, coordination between the VUCE and Customs should be strengthened to facilitate border control measures with access to the information generated and managed by VUCE.

#### 5. OPTIMIZING CONTROL PROCEDURES ON RESTRICTED GOODS

The use of risk management in the control of restricted goods is still in its initial stage; consequently, this fact has encouraged excessive control on foreign goods before they can be traded. In this regard, the incorporation of risk management into restricted good entities should be promoted, in addition to setting a goal related to the new competitiveness agenda.

Similarly, often the public entities directly perform the certification of facilities and processes involved in the manufacture and sale of these goods, which is still a bottleneck in the light of the rapid growth of trade in recent years. It is recommended to evaluate the outsourcing of services, so that this certification can be obtained from private institutions.

It is also advisable to connect public institutions and laboratories and other private companies that generate reports that are part of the procedures to speed up the processes and control the veracity of the analysis made. Finally, the project suggests allocating more financial independence to entities such as DIGESA and DIGEMID, so that they can rapidly undertake institutional strengthening actions.

#### 6. STRENGTHENING OF COMPLEMENTARY ELEMENTS FOR TRADE FACILITATION

In order to achieve greater trade facilitation the advance ruling process must be improved through the simplification of its regulation and reducing the response time and the promotion of its use. It is also recommended to implement the program Importa Fácil (Easy Import) that is being designed, which will certainly be of great value to small companies.

### COMPONENT 4: ADMINISTRATIVE SIMPLIFICATION

Excessive bureaucracy is one of the main disincentives that lead entrepreneurs to operate under informal schemes. This not only brings in less tax revenue but it also limits the growth of businesses, restricting access to bank loans with competitive rates and entry to international markets.

In recent years the Government of Peru has made significant efforts to simplify procedures and improve business conditions. USAID | Facilitando Comercio supported institutions such

as the Public Management Secretariat of the Presidency of the Council of Ministers, the National Competitiveness Council, the National Superintendence of Public Registries, and the National Institute of Civil Defense, to carry out administrative simplification reforms. It also provided technical assistance to 62 provincial and district municipalities of 10 departments throughout the country for the optimization process of its Operating License.

The project also trained more than 3,200 municipality public officials in various topics related to administrative simplification. Also, some guidelines aimed at providing modern and friendly tools for public officials were developed and distributed. In addition, the Tramifácil website ([tramifacil.pe](http://tramifacil.pe)), which provides complete and updated information on administrative simplification to approximately 4,000 civil public officials on a monthly basis, was enhanced.

During its three years of activity, the Administrative Simplification Component has contributed to significant improvements in the following areas:

- Simplification of the operating license procedure
- Strengthening the institutional framework of administrative simplification
- Optimization of civil defense technical safety inspections
- Optimization of the business constitution procedure

INDICATOR	PREREFORM	POSTREFORM	CHANGE
Average cost to register a business in municipalities	444.5 soles	159 soles	-64.2%
Average time to register a business in municipalities	249.5 hours	35.5 hours	-85.7%

Source: Technical Assistance reports for implementation of the Law of Operating License. Fahsbender Consulting

The following pages present the most important achievements obtained by the Administrative Simplification Component, followed by suggestions for the continuation of activities.

## SIMPLIFICATION OF THE PROCEDURE FOR OBTAINING AN OPERATING LICENSE

### REDUCED DELIVERY TIME AND COST OF OPERATING LICENSES FOR ESTABLISHMENTS OF UP TO 100 SQUARE METERS

Through direct technical assistance to 62 municipalities across the country, the project implemented reform of the operating license procedure, improving management tools and adapting them to the Framework Law of Operating License. This assistance was made possible by the willingness of mayors, shown in the Compromise Agreement that each of them signed at the beginning of the intervention.

The reform was carried out in each municipality in four stages:

- Diagnosis and proposed reform
- Ordinance approval
- Reform implementation
- Monitoring and evaluation of results

The stages were carried out in workshops with officials involved in the operating license process and other related areas, such as civil defense, zoning and subsequent control.

INDICATOR	BEFORE	AFTER	CHANGE
Processing time in hours	132	14	-89%
Areas involved in the process	7	4	-43%
Steps taken	58	22	-63%
Cost of the process	319	75	-77%

Source: Technical Assistance reports for the implementation of the Law of Operating License. Fahsbender Consulting

The assistance had the following main objectives:

- Increased formalization

- Reduced transaction costs
- Increased local economic development through investments in new businesses
- Improved services given to citizens who request an Operating License with modern management and staff trained in this process

Additionally, the project helped municipalities meet the goals of the economic incentive program of the Ministry of Economy and Finance, in obtaining these incentives, and also in complying with the guidelines of the Government Accountability General Office on the implementation of simplified processes.

### **REDUCED TIME, COST AND NUMBER OF STEPS FOR AN OPERATING LICENSE FOR ESTABLISHMENTS OF 100–500 SQUARE METERS**

The technical assistance given to 62 municipalities across the country also contributed with significant improvements to the operating license processes for establishments between 100 and 500 square meters.

This procedure includes the assessment of security issues through the Technical Safety Inspections of Civil Defense, prior to the granting of the Operating License. According to the analysis and contributions of other studies, technical safety inspections are a major bottleneck in that licensing process, which is why this obstacle generated greater effort and commitment by the officials in reducing time, steps, and cost.

	BEFORE	AFTER	CHANGE
Processing time in hours	254	45	-82%
Areas involved in the process	8	5	-34%
Steps taken	73	33	-54%
Cost of the process	513	225	-56%

*Source: Technical Assistance reports for the implementation of the Law of Operating License. Fahsbender Consulting*

This assistance was complemented by an Informational leaflet on Operating License procedures, which is being used by civil servants to advise and give information to entrepreneurs who want to start a licensing procedure. The technical inspections section of the leaflet is very educational, explaining the details of general safety requirements and the technical inspection process itself, giving the entrepreneur a clearer idea of the safety conditions that should be implemented in his or her business.

The technical assistance was very good as it has allowed us to eliminate procedures, so now giving an operating license is much faster, and processing times have considerably reduced. Before it took us about 20 to 25 days to give a license and now it is given in 2 or 3 days ... Now you can see that citizens receiving our services are very pleased by these changes and appreciate the guidance we offer them.

*Wilmer Santos*

*Income Department Manager  
Provincial Municipality of Morropón, Chulucanas*

### **LEAFLETS ON OPERATIONAL LICENSING**

The project prepared an orientation booklet on the operating license process for users. This booklet contains all the information and details about the procedure, including sections on the Technical Safety Inspections of Civil Defense. The booklet was developed in coordination with the National Competitiveness Council (CNC) and the National Institute of Civil Defense (INDECI), and had a print run of 90,500 copies. The booklet is available for free download at Tramifacil portals ([www.tramifacil.pe](http://www.tramifacil.pe)). Initially the booklets were distributed in municipalities where the project provided technical assistance. Then other public institutions requested copies:

- The Incentive Plan for Management Improvement and the Municipal Modernization of the Ministry of Economy and Finance used the booklets in training workshops given to mayors and municipal officials of type A and B on the incentive scheme, which has a goal related to the simplification of the operating license process.

- The Chief of INDECI Inspections Division was invited by his counterpart to a conference in Ecuador to share the Peruvian experience in inspections. This booklet was presented at the event as a model of informational material.
- The District Municipality of Miraflores in Lima uses them for its business audit and formalization campaign.
- The Public Management Secretariat of the Presidency of the Council of Ministers used the operating license booklet in workshops given for the Diploma in Administrative Simplification.

### **ROADMAP FOR LOCAL GOVERNMENTS IN ENSURING GOOD BUSINESS OPERATIONS**

USAID | Facilitando Comercio and the Pro-Decentralization project conducted a study that revealed important findings on the role played by municipalities in the authorization and control of facilities. The recommendations were formulated taking into account the size of the municipalities. The main general recommendations were:

- Incorporate the review and improvement of TUPAs (Unique Texts of Administrative Procedures), zoning processes, civil defense technical inspections and subsequent control into the simplification approaches on licensing processes.
- Create and implement virtual processing platforms, through the use of e-government tools.
- Develop reform programs based on the operating license process, having as main objectives zoning respect and civil defense safety, differentiated by type of municipality.
- Promotion of the Operating License process for it to be considered not only as a tool that contributes to zoning but as part of economic development strategies of the territories that covered local governments since it contributes to the formalization of businesses.

### **STEP-BY-STEP GUIDE FOR THE REFORM OF THE OPERATING LICENSE PROCESS IN LOCAL GOVERNMENTS**

The project developed a guide for the operating license process that encompasses all activities that must be done by consultants, civil servants, or any person related to Administrative Simplification who wants to implement the operating license law in a local government. The document provides detailed guidance based on the experience gained from direct technical assistance to 62 municipalities over three years, which can be tailored to the local context.

The guide explains how to conduct technical assistance in local governments in an easy and friendly way, so that officials can implement the simplification process in their municipalities. It contains all the necessary tools from the stage of the prior intervention to monitoring and evaluation of results, carrying them out carefully to leave no doubt at the time of execution.

This document has been given to the Public Management Secretariat of the Presidency of the Council of Ministers, as the lead agency for Administrative Simplification, for validation and dissemination to municipalities.

## **STRENGTHENING THE INSTITUTIONAL FRAMEWORK OF ADMINISTRATIVE SIMPLIFICATION**

### **DIPLOMA IN ADMINISTRATIVE SIMPLIFICATION**

In support of the Public Management Secretariat of the PCM, the project developed the Virtual Diploma in Administrative Simplification for public officials of municipalities responsible for designing, simplifying, and paying the processes that businesses and citizens make through these entities. The work was done with Type B municipalities, according to the classification made by the Incentives Program for Management Improvement and Municipal Modernization of the Ministry of Economy and Finance.<sup>3</sup>

The diploma program had five modules:

- Regulatory framework of administrative simplification and bureaucratic barriers
- Simplification methodology for administrative procedures and services
- Methodology for cost determination
- Improving guidance and services given to citizens
- Simplification, costing, and development of TUPAs through the single process system

The teaching methodology covered a wide range of online tools, such as online discussion forums, videos, case studies, PowerPoint presentations, teachers' virtual support, personalized progress monitoring, an additional bibliography and regulations, a practical activity, and a final learning consolidation workshop.

The management of the diploma was under the responsibility of Educaline consultancy agency, which belongs to the international business network in education and e-learning, while the academic accreditation was entrusted to San Martín de Porres University, through the agreement they signed with the Public Management Secretariat.

INDICATOR	RESULT
Approved participants	1,274
Female participants	36%
Women in the Top 10	4
Participating municipalities	927
Hours that students dedicated to obtaining diploma	450
Cost per approved participant	US\$ 195

### MODERNIZATION OF WEBSITE

A website was needed to provide information to public officials in the management of administrative simplification. It was therefore decided to relaunch the Tramifácil website. The project provided all existing information to make it available to public officials, mainly from municipalities, with a modern and friendly design.

<sup>3</sup> Group of Municipalities including "major cities", excluding the 40 most important municipalities in the country, which belong to type "A" municipalities.

The website includes information on administrative simplification policy and tools, including the Administrative Simplification National Plan, simplification methodology, cost methodology, a cost guide, and a guide for improving the Single Text of Administrative Procedures (TUPA).

In 23 months, this website has become an administrative simplification reference tool for officials. Since its launch, it has had 92,392 visits, or over 4,000 visits per month.

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By using the tools learned in the Diploma we were able to simplify the subscription procedure or transfer of properties in the Provincial Municipality of Ferreñafe. The time required to complete this procedure has been reduced by 97 percent, from one month to one day, and the cost has been reduced by 50 percent, from 40 to 20 soles.

*Jesus Alfredo Flores Wall*  
Provincial Municipality of Ferreñafe (3rd place)

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## NATIONAL WORKING COMMITTEE FOR PROCESS SIMPLIFICATION

The National Working Committee for Procedure Simplification was formed to undertake reforms that facilitate business access to formality. To strengthen this institution, the Public Management Secretariat called on public and private entities, international cooperation and nongovernmental organizations to sign the Procedure Simplification Interagency Agreement. The

Figure 2-18 . Executive Council of Tramifácil.



USAID | Facilitando Comercio project was invited to join the Executive Council representing international cooperation.

As an active member of the Executive Council, the project worked in coordination with the Public Management Secretariat in developing the Tramifácil Work Plan proposal 2012-2013. It also provided technical support that helped meet the following goals:

- Proposed reform of Civil Defense Safety Technical Inspection.
- Approval of Supreme Decree on sectorial authorizations.
- Simplified Operating License process in 62 municipalities nationwide.
- Cost Integrated Guide costs for the three levels of government.
- Continuous improvement team guide.
- Zoning methodology and use compatibility.
- Proposal for the improvement of Law No. 27444.
- Training 3,400 municipal officials in administrative simplification.
- Updated Tramifácil website, as information and consultation tool for public officials.

## OPTIMIZATION OF CIVIL DEFENSE TECHNICAL SAFETY INSPECTIONS

### ROADMAP TO IMPROVE THE PROCEDURE FOR CIVIL DEFENSE TECHNICAL SAFETY INSPECTIONS - ITSDC

In support of the National Institute of Civil Defense (INDECI), studies were performed to determine the problems in the process of ITSDC and make reform proposals.

The report recommended some basic modifications to ITSDC regulations to help in the short term. It also recommended transferring the detailed and multidisciplinary powers of the ITSDC to municipalities and having tools that help improve the predictability of inspection

results and reduce the subjective nature of inspector. Also in the short term, the report recommended developing a system to monitor the process and actions of the inspectors and develop mechanisms for effective accountability.

Research on national and international experiences was conducted as part of the analysis. This research showed instances in which the private sector was incorporated into the accreditation system, assuming responsibility for the issuance of certificates. In the medium term, the report recommended a pilot program in Lima Metropolitan Area, where ITSDCs are conducted by companies or persons accredited by INDECOPI to issue inspection certificates.

These studies were shared with the National Competitiveness Council (the ITSDC reform is enshrined in the Competitiveness Agenda) as input for the development of the roadmap for the reform of this process. The working committee has since approved the process for outsourcing.

### ***IMPROVEMENT AND REDESIGN OF THE RECORD COMPUTER APPLICATION FOR INDECI INSPECTORS***

The project redesigned and improved the Inspectors Record application. In its previous state, the physical format was not consistent with the application data; inspectors had to constantly check the physical file of inspectors' records, either to complete or correct the information. Additionally, It was not possible to export information to Excel to apply statistical standardization tasks on the data, filter and obtain reports. There was also a lack of transparency towards entrepreneurs and citizens in general, since they could not access the information to guarantee the inspector's identity during the inspection. Finally, the process to make changes to the content was difficult and generated inconsistent information.

This computer application is now managed and used by the Technical Inspection Unit. The application is used for daily management of information: registration of new inspectors, data modification, training schedule, and report preparation. Citizens now have access to this application, so they may identify and assure the accreditation of the inspector that the municipality or regional government has assigned to visit the premises.

This improvement of the Inspectors Records application has enabled its connection to the Operating License Platform, which allows municipalities and regional governments to know in advance the inspectors assigned to their jurisdiction, if they are active, and other data to efficiently schedule technical inspections.

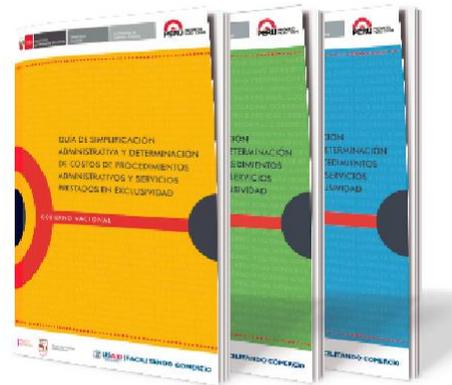
### ***ZONING GUIDE FOR MUNICIPALITIES***

A study by the project identified that the lack of stability and consistency in zoning laws has created conflicts between municipalities and their constituents because of zoning changes in residential areas that become areas of high residential usage (allowing the construction of buildings) or commercial areas (enabling the opening of commercial establishments). It also identified the municipalities' need to have a methodology allowing the development, review, or update of zoning for urban land use, considering its direct and practical implications in the authorization for businesses and buildings operations.

To that end, the project developed a zoning guide for municipalities to aid them in formulating zoning proposals. The methodology in the guide will complement the manual for the preparation of urban development plans, conducted by the Ministry of Housing and Construction. Together the guides help municipalities develop or improve their regulation of land use, to direct investment and business development consistent with the development approach of the locality.

## GUIDE FOR EVALUATING PROCEDURAL COSTS IN PUBLIC INSTITUTIONS

The project developed three guides that clearly and accurately explain the proper methodology for determining procedural costs. Since the costing methodology is applicable to all public administration bodies (Supreme Decree No. 007-2011-PCM), an effort was made to develop “personalized” guidelines to each level of government: national, regional and local. These guidelines contain all the steps involved in the evaluation of procedural costs, with case studies that complement the theory and use the computer application developed by the Public Management Secretariat to facilitate costing-related tasks. The guide includes the administrative simplification methodology, to make available to public officials a comprehensive document on the subject.



The Municipal Incentive Program of the Ministry of Economy and Finance is considering setting a goal for 2014 of using this methodology in the evaluation of procedural costs in local governments. The publication and dissemination of these guides was handled by German Cooperation in coordination with the Public Management Secretariat Management and the USAID | Facilitando Comercio project.

## OPTIMIZATION OF BUSINESS CONSTITUTION PROCEDURE

### ROADMAP TO REDUCING PROCESSING TIME FOR INCORPORATION REGISTRATION PROCESS FROM 5 DAYS TO 24 HOURS

In support of the National Superintendence of Public Registries (SUNARP), the project developed a proposal to improve the online procedure followed by entrepreneurs for the incorporation and formalization of companies.

The diagnosis showed that the business incorporation cannot be completed online, because the notarized document must be presented for the generation of the title and the subsequent rating by the registrar. The comprehensive reform proposal to address deficiencies such as this one involves technical, computer and legal aspects, the most important the inclusion of digital signatures using PKI technology to give legal value to the electronic document. This eliminates the presentation of the notarial document and significantly reduces the time and steps, from 15 steps in approximately 5 days to 7 steps in 24 hours maximum. This proposal has also been coordinated and validated with the National Competitiveness Council, as part of its agenda.

### NEXT STEPS

Great progress has been made to date by the Peruvian government in matters of administrative simplification. There is the Framework Law of Operating Licenses, the Building Law, the Administrative Silence Law, the methodology of administrative simplification, the costing methodology, the definition of sectorial authorizations, and the relaunching of Tramifácil as a public and private platform to discuss simplification issues for the benefit of citizens and businesses. In order to complement what has been achieved, the project suggests the following to reinforce the progress made and to support its sustainability:

#### I. UPDATED ZONING PLANS AVAILABLE TO THE PUBLIC

The operating license is a process that seeks harmony between business development, citizens' safety in civil defense, and local zoning. However many municipalities do not have zoning plans or they are not up to date, which hinders entrepreneurs and does not guarantee a

transparent and predictable process. It is recommended that type A and B municipalities have a permanent updated zoning plan, available to the general public for consultation that includes an economic map of the business lines allowed in each zone.

## **2. TECHNICAL SAFETY INSPECTIONS WITH THE PARTICIPATION OF THE PRIVATE SECTOR (SERVICE OUTSOURCING)**

The Working Committee led by the National Competitiveness Council has agreed to promote the participation of private enterprises in the implementation of safety technical inspections. The first step to be taken is the development of relevant regulations including the adoption of the proposed risk matrix. This will help assess the level of risk of establishments.

The proper implementation of this outsourcing will enable similar initiatives to be carried out for other certifications that are currently performed by the government, such as good storage practices, good manufacturing practices and others, allowing the government to focus on its supervisory role.

## **3. IMPROVEMENT OF LAW NO. 27444, GENERAL ADMINISTRATIVE PROCEDURE LAW**

The following suggestions are given for the ongoing improving process of Law No. 27444 that is being promoted in Tramifacil's Committee of Institutional Reforms and Regulations:

- Eliminate the ratification process of TUPA costs of district municipalities by the provincial municipality, or otherwise determine the application of administrative silence to expedite the enforcement of rules.
- Promote the free exchange of information between public agencies through the State's interoperability platform to avoid cost overruns in the payments of fees made by the citizens and expedite the process.
- Add guidelines to the current regulations regarding online procedures.
- Allow public institutions to incorporate, in the cost structure of procedures, control duties to promote the ex post rather than ex ante evaluation.

## **4. CONTINUE WITH ECONOMIC INCENTIVES TO MUNICIPALITIES THROUGH THE INCENTIVE PROGRAM OF THE MINISTRY OF ECONOMY AND FINANCE.**

The Incentive Program implemented by the Ministry of Economy and Finance is promoting compliance among local governments, especially in the administrative simplification of the procedure of the Operating License and its adaptation to the Framework Law. Therefore, it is recommended to continue with this mechanism incorporating compliance with the new administrative simplification objectives by type A and B municipalities, such as: (1) compliance with the methodology used in operating license procedural costs, so that rates reflect the actual cost of the procedure, (2) Have an updated zoning plan, (3) Execute a fixed number of subsequent controlling sessions according to the number of licenses issued, (4) Approved ordinance of related and complementary topics, (5) Updated controlling and sanctioning tools, (6) Creation and implementation of continuous improvement teams.

In this way, municipalities will meet regulations and will have resources for the better performance of its functions.

## **5. DEVELOPMENT AND TRANSFER OF ABILITIES**

It is advisable to continue developing the abilities of public officials for them to have a favorable attitude to simplify procedures, and have the necessary knowledge and tools to undertake reforms in their entities. An alternative is to continue with the virtual diplomas in Administrative Simplification, and a certification by a university should be contemplated.

Likewise, it is important to keep updating the [tramifacil.pe](http://tramifacil.pe) website, to continue being a model on this matter.

## 6. ENTER PROCEDURES IN AN ONLINE PLATFORM

It is important to implement the abovementioned proposals to develop an online version for the whole business incorporation procedure, thus reducing the processing times significantly. The Operating License platform could be linked to the business incorporation platform, to make it available to entrepreneurs in a single procedure where all entities involved interact in the process of formalization, such as notaries, SUNAT, SUNARP and municipalities. Later, the Ministry of Labor could be included, in particular for the REMYPE registration.

## 7. STRENGTHEN CONTROL AND SUPERVISION DUTIES OF THE OPERATING LICENSE PROCESS IN LOCAL GOVERNMENTS

The simplification of the Operating License procedure is based on the presumption of correctness of the information provided by entrepreneurs. Further simplification of this and other procedures requires the proper execution of control and supervision duties for municipalities to better regulate the subsequent inspection and less through an ex ante evaluation.

Municipalities should be included in the Ministry of Economy and Finance Incentive Program for them to have control and supervision tools, so they can monitor the procedure according to the number of licenses issued. Moreover, the Chambers of Commerce should promote citizen monitoring, particularly of procedures related to the functioning of business, as a control and sustainability mechanism of the reform.

# COMPONENT 5: MEDICINES

Respect for intellectual property rights for drug manufacturers is not only important for protecting patents for new medicines, but also for supporting public health and protecting against the illegal production and sale of potentially dangerous counterfeit drugs.

Counterfeit pharmaceuticals, particularly nongenerics sold on the black market, are of great concern to DIGEMID. Most counterfeits are sold informally, but the problem appears to be spreading to licensed suppliers, and DIGEMID is investigating distributors who have supplied large quantities of such drugs to military and other medical institutions. DIGEMID has indicated the need for stronger provisional authority to end the sale of illegal pharmaceuticals in black markets.

The project worked together with the General Directorate of Medical Supplies and Drugs (DIGEMID) of the Ministry of Health to improve the assessment and approval of health registrations, as well as to strengthen health control and surveillance. Accordingly, two manuals were prepared and a campaign of prevention against smuggling, illegal trade and counterfeiting and related pharmaceutical products was launched. This led to the creation of 30 multisectoral regional teams responsible for preventing such crimes nationwide.

## IMPROVE PATENTS SEARCH

The project supported DIGEMID in initiating the digitation of information regarding sanitary registries into its own informatics system. A total of 37,492 archives related to pharmaceutical products were entered into the system, which helped examiners make better use of search capabilities, and thus reduce examination times. Efforts were made to move forward in the implementation of the linkage between DIGEMID and INDECOPI, but government of Peru was not interested in this activity.

The project also supported INDECOPI's improvement of their informatics systems, including the platform PATENTA for the Directorate of Inventions and New Technologies which will allow the search of patents to external users, including DIGEMID.

### **REGIONAL MULTISECTORAL TEAMS OF PREVENTION AGAINST SMUGGLING, ILLEGAL TRADE AND COUNTERFEITING**

The project supported the Multisectoral Technical Team of Prevention and Fight against Smuggling, Illegal Trade and Counterfeit Pharmaceuticals and related products (GTM-CONTRAFALME) to raise public awareness about the dangers of counterfeit drug consumption, expired, counterfeit and/or drugs coming from smuggling, as well as to create opportunities for information exchange and discussion among responsible authorities.

Through the Department of Control and Health Surveillance of DIGEMID, the project supported the implementation of the Fifth and Sixth International Forums to Fight the Illegal Trade of Pharmaceuticals, in the cities of Puno and Iquitos, respectively, which brought together experts from the Judiciary, Public Ministry, DIGEMID, DIRESAs, international experts and the general public, to discuss this problem and propose common strategies. Attendance at both events was massive, which had great impact on regional and national media.



*Figure 2-19. Sixth International Forum to Fight Illegal Trade of Pharmaceuticals Iquitos*

Created in 2006, the GTM-CONTRAFALME has the participation of public and private institutions, and aims to develop a national plan with concrete strategies and actions so that the use or consumption of these products does not

lead to an unreasonable or warned risk for the health or safety of the population.

The development of these forums helped the GTM-CONTRAFALME strengthen multisectoral actions and establish joint operational plans between authorities and the population. In addition, various strategies were presented to prevent and combat illegal drug trade. The health risks for consuming counterfeit, adulterated or contraband medicines, among others, were disseminated among the population. These efforts have been very productive and are reflected not only in the massive attendance of 465 people, but also in the creation of 30 Regional Multisectoral Teams of Prevention against smuggling, illegal trade and counterfeiting of pharmaceuticals and the like nationwide.

### **MANUALS FOR HEALTH MONITORING AND PERMIT ISSUANCE**

After the enactment of the new Law No. 29459 - Law of Pharmaceuticals, Medical Devices and Health Products, and its corresponding regulations, new principles, standards, criteria and basic assessment requirements were established to ensure that the entry of drugs into the domestic market is done efficiently and safely.

These regulatory changes have involved a large number of pharmaceutical dossiers for their assessment. Also, these changes require that DIGEMID's Human Resources Department continues strengthening the abilities and technical expertise of the staff, as well as giving updates on issues related to control of the institutions responsible for the production, storage, distribution and marketing of products.

To speed up the assessment of dossiers received for the Health Registry, the Department of Health Authorizations requested the support of the project to develop the Good Practices Assessment Manual for the registration/re-registration procedures of medicinal gases and other diagnostic agents. Moreover, the Department of Health Control and Surveillance requested our cooperation in developing a manual for inspectors of pharmaceutical establishments.

The manuals will help:

- Standardize review and assessment practices of medical records, to optimize the efficiency, clarity, and transparency of the processes involved, and achieve full compliance with efficiency, safety and quality standards.
- Ensure consistency in the development of inspection processes and facilitate the standardization of health control and surveillance measures, primarily at the operational level, and better target the efforts of the inspector.
- To instruct and guide new staff of the institution to help them adapt to new tasks assigned.

### **NEXT STEPS**

DIGEMID has faced major challenges with the enactment of Law No. 29459—Law of Pharmaceuticals, Medical Devices and Health Products and the approval of the Pharmaceutical Establishments Regulations, and Registration, Sanitary Control and Surveillance of Pharmaceuticals, Medical Devices and Health Products, which came into effect in January 2012. DIGEMID is taking action to adapt internal procedures and practices to these new challenges.

In this regard it is recommended to:

- Continue with the development of assessment procedures manuals for pharmaceuticals, medical devices and health products based on international best practices.
- Continue promoting the development of international forums to fight illegal trade of pharmaceuticals and prevention campaigns at the level of macro-regions, prompting the activation of GTM-CONTRAFALME regional teams.

As discussed in the Trade Facilitation component, it is also important to simplify DIGEMID procedures related to foreign trade using online processes through VUCE and to incorporate risk management practices. Similarly, it is important to evaluate the possibility of outsourcing the certification of storage, manufacturing and other practices, so that DIGEMID can focus on regulatory and supervisory tasks.

## **COMPONENT 6: TELECOMMUNICATIONS**

Telecommunication services increasingly influence the provision of goods and services, and competition among telecommunication service providers spurs efficiency that lowers service costs and prices for consumers and businesses. Peru has taken steps to heighten competition in the country's telecommunications sector. OSIPTEL has reduced barriers to market entry and the number of competitors has since increased. And since approval of a new concession law and bylaws in 2006, operators need to follow only one concession procedure instead of multiple procedures. Still, the telecommunications market remains highly concentrated. The project conducted a training session, led by international experts, for civil servants of the Supervisory Authority for Private Investment in Telecommunication (OSIPTEL) on international best practices and removing barriers to the expansion of services in this sector.

In addition, in a joint effort with the National Competitiveness Council (CNC), the project diagnosed the main problems with the expansion of telecommunications infrastructure and developed a roadmap to overcome these limitations, which are mainly in municipal licensing.

## ELIMINATING BARRIERS TO THE EXPANSION OF TELECOMMUNICATIONS INFRASTRUCTURE

One of the goals set by the Competitiveness Agenda is to reduce the infrastructure deficit of access to telecommunications services. In that sense, the CNC considers the need to reduce bureaucratic barriers that impede their expansion and installation, mainly caused by the authorizations that must be given by local governments.

The project, in coordination with the National Competitiveness Council, conducted a study in different parts of the country to identify municipal regulations preventing the expansion of telecommunications infrastructure. Obstacles include charging fees above the limit prescribed by law and with obstacles presented in the installation of equipment.

To present the study and discuss its findings and recommendations, a roundtable was organized with the participation of the Vice Minister of Telecommunications, officials working in the sector, the CNC Director, and municipal and major telephony company operators' representatives in the country.



*Figure 2-20. Roundtable to Present the Findings of the Study and the Roadmap*

The study recommended simplifying the procedure that authorizes the installation of telecommunications infrastructure. The first step would be to develop a Framework Law to standardize the process in all municipalities, following the example of the Framework Law of Operating License. Another recommendation was to include a goal in the Ministry of Economy and Finance's Incentive Program, to encourage municipalities to implement that referred law in their jurisdictions, once the Framework Law is established. Finally, the study recommended publishing a report from the Ministry of Health related to health or radio signals on the website of the Ministry of Transport and Telecommunications.

## TRAINING ON REGULATION FOR OSIPTEL OFFICIALS

Two workshops were organized with the participation of international experts Martin Taschdjian and George Ford, both renowned American researchers in telecommunications. Dr. Taschdjian conducted three training sessions for staff of OSIPTEL in November 2011 on economic fundamentals of telecommunications, with emphasis on the economics of network interconnection and costs modeling. He also participated in a workshop with private sector companies including Telefonica del Peru, Claro and Americatel. This initiated a discussion on the outstanding agenda regarding the regulation of the sector and provision of the service, such as obtaining authorizations for network expansion.

In November 2012, Dr. Ford led a workshop for nearly 30 OSIPTEL officials on the U.S. experience in unbundling network elements from an economic and legal perspective, which was based on an ad hoc study that he developed for the project. This concept says that telecommunications operators can make use of individualized elements of the dominant

operator. He recommended developing this regulation cautiously, taking into account the lessons of the American experience to think strategically about the long-term market and accurately identify segments that have the greatest potential opportunities to benefit from this regulation.

The recommendations of the experts have been systematized and submitted to OSIPTEL's officials who will evaluate the promotion of better conditions of service competition.

## NEXT STEPS

The activities in this component were directed towards showing OSIPTEL officials how to promote competition in the sector for the benefit of consumers. The project recommends the following additional actions:

- Continue giving training on international practices that promote continuous regulation improvement.
- Hold workshops with the private sector to discuss regulatory issues on the agenda.
- Simplify the procedure that authorizes the installation of telecommunications infrastructure, through a Framework Law for the authorization of the installation of utility infrastructure.
- Publish on the website of the Ministry of Transport and Telecommunications a report of the Ministry of Health related to health and radio signals.

# 3. ANDEAN REGION: ACTIVITIES AND MAJOR ACHIEVEMENTS

## BOLIVIA

Activities in Bolivia were initiated after USAID | Bolivia informed USAID | Peru that project activities could start in early 2011. A mission was organized to explore which activities to undertake, and in April 2011, the project director and the COP had meetings with several potential beneficiary institutions. On the basis of these interviews, and despite the government of Bolivia's reluctance to work with USAID, the project began six activities, all involving private sector institutions.

In early 2013, activities in Bolivia were quickly and unexpectedly concluded, following instructions of USAID, given the decision of the Bolivian government to expel USAID from the country. Thus, many activities achieved their expected goals, but others were left pending. Because the project worked in Bolivia supporting local institutions, it is expected that they will finish activities that were underway.

## COMPONENT 2: INTELLECTUAL PROPERTY

### *PROMOTE INTELLECTUAL PROPERTY AS A COMPETITIVE TOOL*

Through this activity with the Foundation for Sustainable Development (FUNDES), the project supported MSMEs to use IP as a competitive tool. This activity was performed with enterprises that wished to register their products, logos or names at the Bolivian Institute of Intellectual Property, and also to learn an additional tool for export. In 2012 and 2013 the project worked with 37 enterprises (15 in Cochabamba, 12 in Santa Cruz, and 10 in La Paz) and obtained 95 registrations.

In addition, to disseminate IP knowledge among MSMEs, the project developed and printed a manual for managing intellectual property rights (250 copies), which was distributed among additional MSMEs.

## COMPONENT 3: TRADE FACILITATION

### *CERTIFICATION OF PRODUCTS AND PROCESSES*

The project worked with two counterparts to certify MSMEs on a variety of certifications, financing up to 50 percent of the certification chosen by each MSMEs.

### NATIONAL CHAMBER OF INDUSTRIES

The project signed a Memorandum of Understanding with the NCI to support the certification of MSMEs on international standards such as ISO 9000. More than 60 MSMEs applied to take part in the activity and were assessed on their ability to obtain the certification in the short term. Despite the interest shown by Bolivian MSMEs, only five proved ready to apply for the certification (four requested support for ISO 9000 and one for Best Manufacturing Practices). For these MSMEs, the project and NCI provided training and technical support to adjust their processes to achieve certification. Two MSMEs were certified on ISO 9000, and the other will be certified in the near future.

### FUNDES

Fourteen MSMEs sought ISO 22000 certification. The certification team first developed an audit plan to prepare the MSMEs in the process. Next, they assessed all the relevant documentation of each management system and submitted a report with comments and results. Finally, the team evaluated the level of implementation and efficiency of the management system according to ISO 22000 standards. An audit report was submitted including all relevant results. Of the 14 MSMEs, one withdrew and the rest continued the certification process and reached the final audit. Ten obtained the ISO 22000 certification while three received comments to be addressed in the short term.

### PROMOTE BEST BIOTRADE PRACTICES

The project, along with *Amigos de la Naturaleza* Foundation, selected and trained eight MSMEs to obtain the BioEthics Union membership, an important tool to access international markets. Five have met the membership requirements. In addition, the project trained four Bolivian auditors in the Bioethics Union standards, to facilitate the membership of other MSMEs in the country.

### INSTITUTIONAL STRENGTHENING FOR TECHNICAL ASSISTANCE IN TRADE FACILITATION

The activity was aimed at supporting the Chamber of Exporters of Cochabamba, specifically its support center for MSMEs



Figure 3-2. Review of documentation in PA and PA



Figure 3-3 Audit Meeting in Empresa Panificadora Zelada



Figure 3-4. Review of registries during second stage audit in PA and PA's facilities

in the area of technical assistance for trade facilitation. The project produced 250 copies each of seven Hazard Analysis and Critical Control Points (HACCP) guides, six covering specific sectors and one covering general aspects.

### **DISSEMINATION OF BEST PRACTICES IN TRADE FACILITATION**

The Forum on Trade Facilitation was organized by the Chamber of Exporters of Santa Cruz and supported by USAID | Facilitando Comercio and held November 23–24, 2011, to share, debate and identify how trade facilitation affects the consolidation and insertion of MSMEs into the global market, to increase social inclusion and regional integration. The forum included the participation of 122 members of the private sector, both local and international, who expressed satisfaction with the speakers and the forum, noting that the topics covered were relevant to their companies' work.

## **ECUADOR**

Providing trade capacity building in Ecuador proved extremely difficult, even after three exploratory visits (July 2010, September 2010 and February 2011), the hiring of a local country coordinator, and efforts to complement initiatives with USAID's bilateral project, Red Productiva. This difficult working environment arose from the strained political relations between the governments of Ecuador and the United States, which even expelled each other's ambassadors while the project was conducting initial coordination with Ecuadorian counterparts.

After the visit in February 2011, two months before the ambassadorial incident, four activities were selected with beneficiary institutions and USAID | Ecuador:

- Support the government in defining its institutional design for trade negotiations
- Promote secure commerce for SMEs
- Promote the appellation of origin Cacao Arriba
- Assess Ecuador Customs outsourcing system for physical inspections

Although coordination on the first activity was well underway with the vice minister of Foreign Commerce, USAID | Ecuador advised the project to put its support on hold. Likewise, despite an exploratory report on Customs regulation, the Customs assessment did not go forward when the head of Customs did not return the mail or phone calls of the project director and COP. Two activities were conducted; they are described below.

### **PROMOTION OF CACAO ARRIBA APPELLATION OF ORIGIN**

The project provided support to the Ecuadorian Institute of Intellectual Property to develop regulatory and planning tools for strengthening the verification system and quality control of the Appellation of Origin *Cacao Arriba*. The project deployed a Peruvian expert and an Ecuadorian expert to Quito and Guayaquil, where they provided technical assistance to the Institute of Intellectual Property in developing regulatory reform proposals and planning to strengthen the verification system and quality control of Appellations of Origin in Ecuador, specifically the appellation of origin *Cacao Arriba*. They also performed a cost-benefit analysis of certifications desired by the market and that Cacao Arriba and CCN51 producers can comply with.

In addition, the project sent a representative of the Peruvian Appellation of Origin Pisco as a speaker to the event "Ecuador and its origin products: implementing intellectual property as a tool for development" organized by Institute of Intellectual Property in Guayaquil. The European Union, Mexico, Honduras, and other countries also presented speakers, representing some of their most important appellations of origin. This was a big opportunity for Ecuador to show other countries what they have done regarding this subject and to learn

from successful experiences internationally and apply best practices to their own appellations of origin, namely Cacao Arriba and Sombreros Montecristi (Panama hats).

Despite this progress, and as result of regulatory changes introduced in Ecuador in 2012, the Ecuadorian Institute of Intellectual Property lost its independence to follow through work with the project. Given this situation, in agreement with USAID | Ecuador the project decided to work directly with the private sector in promoting the Appellation of Origin Cacao Arriba.

A Peruvian consultant visited Ecuador to present a manual to establish requirements and procedures to allow access of producers to the authorization of use of the Cacao Arriba Appellation of Origin. This manual was presented to Institute of Intellectual Property officials and local producers. In addition, the consultant visited local associations of producers to discuss the implementation of the Cacao Arriba Appellation of Origin and its technical regulation, which is currently under design. The consultant recommended that producers keep monitoring and promoting changes to the technical regulation of Ecuadorian Cacao so as to develop separate regulations for Cacao Arriba and Cacao CCN 51. Associations of Cacao Arriba producers, such as Unocace and Marplantis, should also be called to take participate in developing the technical regulation. Next, it is important to ask Cacao Arriba's top buyers in Europe to recognize the physicochemical tests used to assess purity and replicate them before export. Finally, the regulation of use of Cacao Arriba Appellation of Origin is a basic requirement to enable its use by local producers, and it must therefore set tracking and control systems for its commercialization in Ecuador and for export.

The final activity was development of a manual setting out the requirements and the procedure for potential beneficiaries of the Cacao Arriba appellation of origin to obtain international certification. The manual was presented and validated with producers' associations UNOCACE and Agrocalidad, and the National Institute of Agricultural Investigations of Ecuador.

## PROMOTION OF SECURE COMMERCE FOR SMEs

The project signed a memorandum of understanding with the Business Alliance for Secure Commerce to promote certification of security standards for SMEs. Although the alliance implemented dissemination activities, only five enterprises showed interest in participating: Mariscalsa, Serpotransa, Grovice, Transporte Linetran, and Transasia Pacific, and USAID | Ecuador agreed to these enterprises' participation. The final report of the Business Alliance for Secure Commerce indicated that five MSMEs were affiliated with BASC and two had received the final certification.

Table 3-1. Business Alliance for Secure Commerce Training Accomplished by SMEs

ENTERPRISE	INTERNAL AUDITORS COURSE	RISK ASSESSMENT COURSE	MANUAL	AFFILIATION	CERTIFICATION
Mariscalsa	x	x	x	x	x
Serpotransa	x	x	x	x	x
Grovice	x		x	x	
Transporte Linetran	x	x	x	x	
Transasia Pacific	x			x	
TOTAL	5	3	4	5	2

Source: Business Alliance to Promote Secure Commerce Ecuador

# COLOMBIA

## INTRODUCTION

In October 2011, U.S. Congress ratified the Colombia Trade Promotion Agreement (CTPA). In response to CTPA implementation needs, USAID/Colombia obligated additional funds to USAID|Facilitando Comercio to expand trade capacity building technical assistance in Colombia, particularly for trade facilitation. The project established a permanent team in Colombia in February 2012 and developed a new and expanded work plan to address CTPA implementation commitments in two chapters—IPR and trade facilitation. Technical assistance was also provided under in a third technical area—competition policy—and was carried out on a demand-driven basis.

USAID|Facilitando Comercio carried out baseline studies to evaluate qualitative and quantitative performance indicators that would contribute to trade capacity building and adherence to CTPA obligations. These studies were conducted mainly for the trade facilitation component with the purpose of mapping out an action plan to lead customs and related counterparts to reducing customs clearance times. Activities implemented under the IPR component and competition policy were also designed and implemented with the objective of helping the meet CTPA commitments, however, both with a heavier focus on qualitative improvements rather than quantitative gages. All Colombian work plan activities are reported on below with elaborated summaries of impact and results for those activities which were realized. Brief implementation notes are provided for those activities which the project was not able to fully execute for reasons given below.

While the project was being implemented, the Government of Colombia set-up a US Free Trade Agreement Implementation Office in early 2012, led by former Colombian negotiator, Hernando Jose Gomez. USAID|Facilitando Comercio coordinated closely with this office to report on all project activities and progress with the objective of: (1) centralizing information on project assessments and results achieved; (2) seeking assistance when Colombian inter-agency coordination was required; and (3) avoiding duplication of effort by other donor agencies. Consequently, many of the project's findings under the trade facilitation component were highlighted by Gomez's office at national conferences, and thereby supported the project's strategy of pushing for custom modernization that would result in reduced clearance times.

## COMPONENT 2: INTELLECTUAL PROPERTY RIGHTS

Results achieved:

- Examiner Guides for the Superintendence of Industry and Commerce on the Madrid Protocol, the Patent Cooperation Treaty.
- WIPO recognition for the PCT Guide, which they will reproduce and disseminate to Latin American IP offices.
- Virtual training course developed on copyrights and online piracy. Material was used to train 659 police officers and 17 public prosecutors.
- Trained 20 SIC officials—jurisdictional administrative judges and legal advisors—on industrial property infringement.
- IPR Trademarks Manual was produced to train chamber of commerce officials on the use and benefits of trademarks for private businesses; 15 chambers of commerce were trained by the project.

- Oriented more than 5,300 public school students on copyrights and information and communication technology (ICT); a handbook on the subject was published and distributed to teachers nationwide through the Ministry of Education.
- Reduction of SIC's IP registration backlogs leading to reduced registration times; from 9 months to 6 for trademarks, and from 7 years to 4 years for patents.
- Assisted with the registration of 18 collective marks for Colombian artisan goods.

### ACTIVITY 2.1: CTPA IMPLEMENTATION

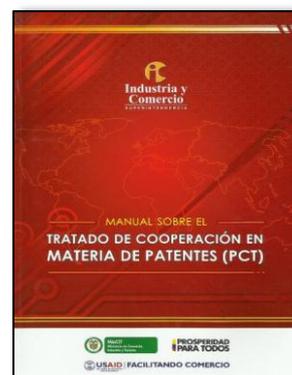
The project focused its technical assistance on helping Colombia's industrial property office with the implementation of international intellectual property treaties and on working with government entities responsible for enforcing both industrial property rights and copyrights. As stipulated in the CTPA under Article 16:11, the government of Colombia must effectively enforce intellectual property rights across its civil, administrative, and criminal systems.

In late 2012, the Superintendence of Industry and Commerce (SIC) and the National Copyrights Office (DNDA) were given authority to rule as administrative judges on industrial property and copyright infringement, respectively. The private sector can now choose to take their case to one of these offices rather than the civil court system, which should result in timelier rulings and improve overall enforcement through a specialized group of IP administrative judges. USAID|Facilitando Comercio aimed to work across Colombia's enforcement chain (SIC, DNDA, national judges, public prosecutors, and the national police) by developing training material for industrial property infringement and copyright piracy, which can easily be adapted to train additional government entities.

### ACTIVITY 2.1.1: IMPLEMENTATION OF IP TREATIES

Under its industrial property commitments, Colombia adhered to implementing the Trademark Law Treaty, the Madrid Protocol, and the Patent Cooperation Treaty. SIC requested assistance from the project in developing an examiner's guide for the Madrid Protocol and the PCT. Although, Colombia was already an existing member of the PCT, it has not served as a receiving office for PCT registration applications, which requires an established set of procedures for examiners. Both treaties serve as registration mechanisms to reduce the time and cost of internationally filing for trademark and patent protection, respectively.

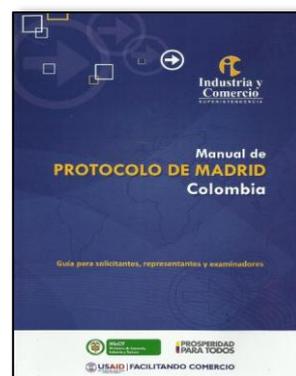
The project developed guides for both treaties based on international best practices and SIC supplemented them with Andean and national IP laws. The guides have a primary objective of addressing SIC's institutional capacity to process registrations, however, they can also be used by the private sector, particularly filing attorneys, making the examination process (international searches and required timeframes) more transparent. Both guides have been published on SIC's website. Additionally, SIC featured the guides at a Latin American IP conference in July of 2013, where the PCT guide was recognized as one of the best existing guides for the treaty by the World Intellectual Property Organization (WIPO). WIPO has committed to publishing additional copies of the guide to distribute among Latin American IP offices, thereby requesting project approval to reproduce the guide and giving credit to USAID|Facilitando Comercio.



### ACTIVITY 2.1.2: ENFORCEMENT OF IPR

Colombia remained on the Office of the U.S. Trade Representative (USTR) Special 301 Report Watch List for 2013, which noted concerns about resources and training for

enforcement and calling attention to piracy over the Internet. During the project's first two years, efforts were directed at training civil and criminal judges through a one-day training session on the principles of IPR. In the last year of the project, USAID|Facilitando Comercio changed strategy to focus on training by developing a virtual training course that includes an overview of IPR and focuses on online piracy. The virtual course (detailed under Activity 2.123) addresses the challenge of transferring knowledge when a personnel turnover is high, as is common among Colombian enforcement authorities. This course was developed for Colombia's National Police Force (POLFA) and can easily be adapted for other entities. Because of time restrictions the project was not able to complete this activity, but Colombia's Antipiracy Campaign will lead this endeavor with the objective of improving much-needed coordination among the entities that make up the enforcement chain.



### **ACTIVITY 2.121 EVALUATE EFFECTIVENESS OF JUDGES' TRAINING**

In 2011, USAID|Facilitando Comercio worked with the Rodrigo Lara Bonilla Judges School to conduct a series of training for judges in 16 cities on IPR. Nearly a year after the training, the project reached out to all 410 judges who participated in the activity to evaluate the number and type of IPR-related cases being ruled in order to develop a second phase of training. Most cases seen by judges were on copyright piracy and some trademark infringement. The inputs of this monitoring and evaluation activity were used to design the virtual course on copyrights and the training workshop for SIC's administrative judges, which are elaborated on below.

### **ACTIVITY 2.122 TRAIN PUBLIC PROSECUTORS ON IP ENFORCEMENT**

Throughout the first two years of the project meetings we held with the public prosecutor's training school to develop a training-of-trainers program. A needs assessment was conducted and found that prosecutors did not have a basic grasp of intellectual property rights, or the legal and procedural requirements needed to take a case before a judge. USAID|Facilitando Comercio compiled the judicial guidelines for copyright infringement in the first phase of this activity. However, throughout project implementation, the leadership of the training school changed four times and the project could not move forward in developing the training material.

In early 2013, the U.S. embassy created a partnership with the public prosecutor's training school, taking a lead in strengthen its internal technical capacity. USAID|Facilitando Comercio met with the school and embassy team to discuss potential collaboration and concluded that the school was not ready to participate in the development of an IPR training program, but rather would use the material being developed by the project for the national police force as introductory training on IPR.

### **ACTIVITY 2.123 TRAIN NATIONAL POLICE ON IP ENFORCEMENT**

In June 2012, the project conducted a needs assessment with POLFA's Bureau of Criminal Investigation and Interpol and found the majority of cases being seen by the national police force were related to piracy. USAID|Facilitando Comercio initiated a series of meetings with POLFA's training academy to develop a virtual training course that could be incorporated into the school's training platform, which is used to train officers throughout the country.

The course focuses on online piracy and contains three modules: (1) IPR principles, copyright and related rights; (2) investigative proceedings in criminal law; and (3) evidence and proofs

in copyright and related right violations. Each module contains theory and practical aspects to facilitate learning and also contains an evaluation to measure comprehension. The course was developed with input from POLFA, the public prosecutor's IP division, and members of Colombia's Antipiracy Campaign, which include the music, movie, book, and software industry, along with digital TV service providers.

When the initial material for the training was developed, USAID|Facilitando Comercio began conducting training with police officers to gauge their comprehension of topics and make modifications to the material that would address POLFA's enforcement responsibilities. The project conducted two-day training in Cali, Armenia, and Medellin, as seen in Figure 3-5. A total of 659 police officers and 17 public prosecutors were trained.



Figure 3-5. Copyright Training for POLFA in Armenia, Colombia

The virtual training course was completed in August 2013 and submitted to POLFA. Upon the project's conclusion, Colombia's Antipiracy Campaign is leading follow-up and will conduct a series of pilots in Colombia's principal cities via POLFA's e-learning platform. The antipiracy campaign will also lead the efforts to incorporate this course into a mandatory training for the police and public prosecutors. The material is also being shared with the Rodrigo Lara Bonilla Judges School.

#### **ACTIVITY 2.124 DEVELOP ENFORCEMENT TOOL AND TRAIN DIAN**

Chapter 16 of the CTPA also stipulates improved enforcement at the borders for goods entering and exiting the country. This responsibility falls under Colombia's National Tax and Customs Agency (DIAN). In 2012, when the project began to engage DIAN on trade facilitation matters, training on counterfeiting was also discussed. As noted under the Activity 3.113, the project was not able to develop a training program for inspectors.

Late in the project, DIAN objected to incorporating counterfeit identification into a training program for inspectors because, according to the work description for inspectors, this matter is not among their responsibilities. Although inspectors are at the forefront of examining goods entering the country, another group of DIAN officials (the preinspectors) are technically responsible. Due to many internal debates within DIAN about the structure of the training program for customs officials, the project could not move forward with this activity.

#### **ACTIVITY 2.125 TRAIN ADMINISTRATIVE JUDICIAL UNIT**

As noted in the introductory section for this component, SIC was granted authority to rule over IP infringement cases in late 2012 and requested assistance from USAID|Facilitando Comercio to train their administrative judges on the subject matter. The project developed training material and case studies on infringement, evidentiary issues and methods to quantify damages. The project then held a four-day training workshop in June 2013 for 20 SIC officials—jurisdictional administrative judges and legal advisers—to build SIC's enforcement

capacity. Digital copies of the training material developed by the project were transferred to SIC for future use.

## ACTIVITY 2.2: IP OUTREACH ACTIVITIES

### ACTIVITY 2.2.1: ASSIST THE SUPERINTENDENCE OF INDUSTRY AND COMMERCE (SIC) IN PUBLIC OUTREACH

USAID|Facilitando Comercio entered into a partnership with SIC and the Colombian Confederation of Chambers of Commerce (Confecamaras) to promote the use of industrial property as a competitiveness tool for local businesses. One of SIC's strategic goals (which was initially put forward by the project's predecessor, USAID|Mype Competitiva, in a 2008 institutional assessment) is to reach out to Colombian's private sector, particularly provinces outside of Bogota to breach the gap between IP benefits and commercial activity in the capital city and other regions of the country.

The project assisted with this initiative by producing a manual for the staff working at the chambers of commerce and responsible for providing customer service to local companies (*Centros de Atencion Empresarial*). The manual was developed to be a reference guide on industrial property, with a focus on trademarks. USAID|Facilitando Comercio then trained 15 chambers of commerce, 93 staff members in total (see Table 3-2), on the type of guidance that they can offer to the business community on trademarks. SIC has since reprinted the manual and is continuing to work with Confecamaras to train an additional 15 chambers in 2013.

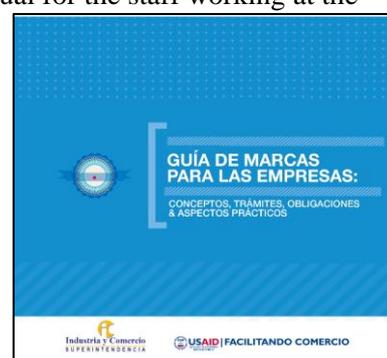


Table 3-2. Chambers of Commerce Receiving Training on IPR

CHAMBER OF COMMERCE	NO. OF STAFF TRAINED
Cauca	7
Ibagué	11
Villavicencio	6
Cúcuta	9
Barranquilla	5
Bucaramanga	8
Cartagena	4
Sur oriente del Tolima	6
Buga	3
Palmira	8
Tuluá	5
Florencia	4
Riohacha	2
Facatativá	9
Barrancabermeja - Santander	6
Total (15 Chambers)	93

## ACTIVITY 2.22: FOSTER RESPECT FOR INTELLECTUAL PROPERTY IN SCHOOLS

USAID|Facilitando Comercio produced a handbook on copyrights in relation to information and communication technology (ICT) for school-age children. Its contents were developed with inputs of teachers and organizations, such as BiblioRed (Colombia's network of public libraries), Colombia's Antipiracy Campaign, Bogota's Secretary of Education, and the National Copyrights Office. Workshops based on the handbook's contents and structure were conducted in public schools in Colombia's Cundinamarca department. A total of 5,393 students, 205 teachers, and 46 education officials participated in the workshops.

The copyrights-ICT publication was incorporated into the Ministry of Education's national Basic Skills Development Campaign for public school teachers. The publication was also sent to 500 teachers and is being disseminated through CD copies by the Ministry. Additional copies of the handbook were left with Colombia's Antipiracy Campaign for similar workshops they intend to conduct with public schools in 2014.

## ACTIVITY 2.23: ASSIST SIC IN REDUCING ITS BACKLOG

Between 2010 and 2011, trademark applications increased by 35 percent and patents increased by 48 percent. This growth is contributed to the reduction in backlogs of registry applications and other related filings, such as trademark oppositions. To address the concern of emitting timely registrations, SIC requested assistance in contracting temporary examiners. USAID|Facilitando committed to supporting SIC with this initiative if SIC would in return permanently increase the human capital of their examination divisions. Between 2011 and 2012, the Distinctive Signs division increased personnel dedicated to examinations by 45 percent, and the new inventions division increased theirs by 100 percent; some of SIC's hires included temporary examiners that were initially contracted under the project.

With assistance from USAID|Facilitando Comercio, SIC was able to reduce the following registration backlogs:

- New invention applications by 63 percent
  - 346 industrial designs
  - 397 patents
  - 118 utility models
- Distinctive signs
  - 1,743 trademark applications; reduced backlog by 90 percent
  - 1,000 trademark oppositions; reduced backlog by 65 percent
  - 285 trademark reconsiderations; a 100 percent elimination of the backlog
  - 150 trademark cancelations; a 100 percent elimination of the backlog
  - 38 trademark appeals; reduced backlog by 4 percent.

By June 2013, SIC was averaging six months to register trademarks without oppositions, and nine months for those with oppositions. For the New Inventions Unit, SIC is averaging 52 months (four years) to issue patents. To improve efficiency in the SIC, the IP office has now eliminated the possibility of reconsiderations. A study by a third party was conducted and found that rulings by SIC were rarely overturned, and that reconsiderations were resulting in an additional process with no value added. SIC eliminated reconsiderations and now only processes appeals. Part of these improvements were recognized in USTR's Special 301 Report to Congress, which noted, "Colombia has taken significant steps to reduce its backlog of pending patent applications."

### **ACTIVITY 2.24 SUPPORT IP REGISTRATION FOR COLOMBIAN ARTISANS**

Starting in Year 1, the project partnered with Artesanias de Colombia to assist 20 artisan communities in the registration of a collective mark to enhance the competitiveness of their craft goods and protect the uniqueness of artisan goods through legal rights. The collective mark serves as a characterization of the geographical origin, material used, and the method of production for a particular good. After working with the communities to inform them of the benefits of registering a mark, the project assisted with the formation of associations, made up of artisans or enterprises from their respective communities, and then supported the legal application process that must be presented to SIC for the registration of a collective mark.

A total of 18 collective mark applications were submitted for review by SIC and all were granted in late 2012. The two remaining communities that participated in the project were not able to come to an agreement on the ownership of the mark, and therefore, registration applications were not submitted for those goods.

## **COMPONENT 3: TRADE FACILITATION**

Results achieved:

- Conducted three time-release studies to establish baseline data for customs release times for: (1) cargo at the Port of Buenaventura; (2) cargo at the Bogota airport; and (3) express deliveries at the Bogota airport that led to the incorporation of trade facilitation regulatory reform in the latest draft of the customs code.
- Designed a new operational model for the customs clearance of express shipments, which includes improvements to the IT system, and a cause-effect analysis to be incorporated into DIAN's risk management system.
- Training on Origin Verification for DIAN officials and the development of a verification and audit manual.
- Training on Rules of Origin Application under the CTPA for 312 companies and the production of manuals for the agribusiness sector, textiles and apparel sector, and a guide on short supply for textiles.

### **ACTIVITY 3.11: ASSIST DIAN WITH A 48-HOUR RELEASE OF GOODS**

To support the government of Colombia's measures to comply with Article 5.2 of the CTPA, which requires Colombia to release cargo goods from customs within 48 hours, the project collected baseline information using a combination of the TCBaseline methodology to evaluate qualitative aspects of the customs operation and a process-mapping and time-release methodology to quantify procedural bottlenecks. This combined methodology was shared with DIAN and carefully documented in each study.

In the process of collecting baseline data, USAID|Facilitando Comercio was able to identify trade facilitation measures, which were put forward for discussions with DIAN at an opportune time for the agency as it was in the process of drafting a new customs code.

Throughout the course of implementing the project, the working relationship between DIAN and USAID|Facilitando Comercio grew stronger and DIAN began involving the project in confidential reviews of the customs code. The project's inputs on the code are summarized below, and although the code has not been officially finalized at the time of writing, the project remains confident that its proposed modifications will remain in the final version.

### ACTIVITY 3.1.1.1: CONDUCT TCBASELINE DIAGNOSTIC AND RELATED ASSESSMENTS (PTF ACTIVITY)

In early 2012, USAID|Facilitando Comercio carried out a TCBaseline assessment at the Port of Buenaventura, which receives about 60 percent of Colombia's imports. This assessment was complimented with a time-release study. Main findings include:

- 93 percent of goods entering Buenaventura clear customs in an average of 9 days;
- 7 percent of goods clear customs in 43 hours with the use of anticipated declarations;
- Lack of inspector training; and
- The need for regulatory modifications to the customs code to improve clearance times.

Proposals made by the project are summarized Table 3-3.

Table 3-3. Custom Code Changes Impacting Cargo Clearance

ISSUE	CURRENT CUSTOMS CODE	MAY 29, 2013 DRAFT CODE	IMPACT
Time in which a discrepancy report (overages or shortages) must be filed by the transporter.	Discrepancy report must be filed within 12 hours after the unload completion notice for airports, and 24 hours at seaports.	Discrepancy report must be filed within 6 hours after the unload completion notice for airports, and 12 hours at seaports.	Reduction of time for filing, which impacts average clearance times.  (The project also recommended filing discrepancy reports later in the process to further streamline clearance, however there was lack of consensus within DIAN to incorporate this change.)
Risk Selectivity and duty payments	DIAN's risk selectivity process must occur after importer pays duties at bank.	DIAN's risk selectivity process occurs prior to importer's payment of duties.	Reduction of time. Clearance process no longer has to be stalled by the payment of duties. Goods passing through the green channel, which is about 85 percent in Buenaventura, can continue through the clearance process.
Electronic payments	Voluntary use.	Mandatory use.	Reduction of time. Most importers currently pay duties at banks.  (The project recommended a phased approach to allow importers to adapt and to ensure DIAN has the IT functionalities needed to support this change.)

In 2013, the project carried out another time-release study for cargo at the request of DIAN's customs director, who was interested in comparing the operational practices of two different ports. The study was conducted at Bogota's El Dorado Airport and included process-mapping to capture the interplay between customs, importers, customs brokers, and port operators. Key findings include:

- 30 percent of cargo entering Bogota ends up in a warehouse when it was initially intended for pick-up at the airport because the clearance process can be lengthy and results in surpassing the 48-hour limit allowed for goods to stay at airport terminals.
- 63 percent of cargo entering Bogotá clears customs in an average of eight days. (This indicator is directly affected by the volume of goods that end up going to warehouses when originally intended for airport pick-up.)

- Goods entering with an anticipated declaration clear customs in less than 48 hours. (Anticipated declarations are mandatory for textile/apparel and footwear and not typically used by other importers due to high penalties if errors exist on the declaration.)

The study also includes recommendations to improve DIAN's IT system and the integration of data; improve coordination between the preinspection, inspection, and discrepancy reports; and the need to conduct examinations at the airport for (1) urgent cargo deliveries; (2) goods entering with anticipated declarations; and (3) goods intended for pick-up at the airport terminal.

USAID|Facilitando Comercio has stressed the need for DIAN to be able to generate its own time-release studies using a standard methodology that can be applied at all ports. Although DIAN has carried out some of its own time measurements, great inconsistency and erroneous use of data skew the calculated averages. The project has evaluated some of these practices with DIAN to make adjustments, but a standard approach is still lacking.

### ACTIVITY 3.1.1.2: DEVELOP PILOT CLIENT SERVICE CHARTER FOR PORT OF BUENAVENTURA

The project included this activity in its work plan with the anticipation of being able to initiate it by June 2012. When personnel changes occurred within customs leadership, the design of this activity was postponed. The development of a multiuser client service commission requires about a full year to foster; exceeding the implementation period for the project. USAID|Facilitando Comercio, therefore, removed this activity from its implementation plan.

### ACTIVITY 3.1.1.3: TRAIN DIAN EXAMINERS

The TC Baseline analysis conducted at the Port of Buenaventura recommended training for all customs inspectors through DIAN's e-learning platform and an on-the-job field training program based on the U.S. Customs Border Protection methodology. In 2012, DIAN initiated its e-learning training program for three ports: Buenaventura, Bogotá, and Cartagena. It was agreed with DIAN that USAID|Facilitando Comercio would develop and pilot the on-the-job training program with the inspectors that concluded the e-learning courses, but as of March 2013, only one of the 21 inspectors going through the e-learning program remained in his position as an inspector. Additionally, DIAN's management could not come to an agreement about the subject matters and structure of the training program, causing long delay in moving this activity forward. DIAN requested that the on-the-job training program be delayed until July 2013. Due to the project's period of performance, it was decided that this activity would be suspended.

### ACTIVITY 3.1.2: ASSIST DIAN IN ESTABLISHING 6-HOUR RELEASE OF EXPRESS SHIPMENTS (PTF ACTIVITY)

USAID|Facilitando Comercio developed a detailed technical assistance action plan for express shipments and carried out the first three phases with a focus on implementing CTPA commitments. The first was a time-release study for express deliveries at Bogota's airport, where the majority of express deliveries are received. The diagnostic revealed the following findings:

- Time-release of express shipments average 40 hours
- Customs' regulations are not aligned with CTPA commitments



Figure 3-7. Express Deliveries Entering DIAN's Warehouse for Scanning

- Severe IT constraints that inhibit the clearance process
- Lack of an effective risk management system
- Inadequate warehouse infrastructure and logistics operation management (see Figure3-7).

The project then assisted DIAN with the regulatory changes by drafting sections of the customs code that would ensure Colombia's compliance with CTPA obligations. The majority of text proposed by the project was included in the May 29, 2013, version of the code. Table 3-4 summarizes the main recommendations and its expected impact.

*Table 3-4. Custom Code Changes Impacting Express Deliveries*

ISSUE	CURRENT CUSTOMS CODE	DRAFT MAY 29	IMPACT
Separation of express delivery service from the postal service	Regulated under the same framework.	Specifies different requirements and obligations for the two services.	Adopts international best practices to facilitate CTPA implementation.
WCO categorization	Limits on weight and value.	Incorporates the four categories recommended by the WCO.	Adoption of best practices to facilitate CTPA implementation. In particular, the elimination of limits on weight and value and the implementation of a de minimis threshold allowing goods valued under \$200USD to be exempt from duties and taxes.
Use of anticipated declaration for high-value goods (>2,000USD)	n/a	Allows for use of anticipated declarations.	Reduction of clearance times.
Role of carrier or consolidator	Express delivery operators are intermediaries.	Express delivery operators can now be recognized as intermediaries, carriers or consolidators.	Improves operational traceability by DIAN, ensuring roles and responsibilities can be attributed to the correct operator.
In-transit customs handling	Currently not allowed for express shipments.	Allows for in-transit treatment subject to compliance with certain requirements.	Trade facilitation and lower administrative costs for the private sector.
Discrepancy report	Same reporting process for all import methods.	More expedited process for express delivery shipments.	Reduction of clearance times.
Pre-inspection zone, where operators can verify information from cargo manifest with the cargo that arrives.	n/a	Operators with airport warehouses will automatically have an authorized pre-inspection zone, and other operators will be eligible to apply for one.	Improves customs' control.
Standardize express shipment service for deliveries from all countries	n/a	Imports from any country will benefit from the CTPA's trade facilitation measures, such as the elimination of weight and value limits.	Trade facilitation and lower administrative costs for DIAN.

The third phase of technical assistance included the development of a new operational model for customs clearance, improvements to the IT system to support the new model, and a cause-effect analysis to be incorporated into DIAN's risk management system.

This new operational model includes four main proposed changes that will allow for reduction in clearance times: 1) international standards for the transfer of information

between the private sector and DIAN to avoid manual transcription of data, 2) advance processing of information through a risk management system, 3) a simplified process for changing information transmitted to DIAN's system prior to cargo being cleared, and 4) the incorporation of a mechanism that allows information to be cross-checked and verified between valuation and duties owed. Currently changes in valuation that result in higher duties are not recorded in DIAN's system in a manner that allows customs to ensure the correct collection of duties when the importer makes the payment post clearance. With the implementation of this new model and improvements to the physical infrastructure of DIAN's warehouse, clearance times are expected to reduce from an average of 40 hours to six hours, as is stipulated in the CTPA.

The operating model proposal was designed with inputs from DIAN and the private sector, and was approved by DIAN deputy directors in April 2013. Many of the project's recommendations can also be applied to the release of general cargo and were given to DIAN for further consideration to help adhere to the 48-hour cargo clearance commitment in the CTPA.

### **ACTIVITY 3.13: TRAIN DIAN ON ORIGIN VERIFICATION**

The CTPA allows for the importer, exporter, or producer to certify the origin of its good, rather than having a government entity certify it. Therefore, Colombia will no longer have a government agency emitting certifications, but rather will verify rules of origin when imported goods are called into question. In early 2012, DIAN established a new unit in charge of verification, which resulted in responsibilities that require new technical skills. To address this need, USAID|Facilitando Comercio implemented a training plan with six workshops (see Table 3-5) and developed a verification and audit manual. The manual includes a detailed description of the verification process, incorporating best-practice recommendations to help DIAN standardize procedures for verifying goods imported into Colombia under preferential treatment.

*Table 3-5. Rules of Origin Training for DIAN*

Year	Workshop/Training	DIAN Officials
2012	Rules of origin application (general)	66
	Rules of origin application (Virtual exercises)	54
	Application of rules of origin for agribusiness sector	23
	Application of rules of origin in textile/apparel sector	36
2013	Best practices in origin verification	16
	Regional Value Content Calculation	22

USAID|Facilitando Comercio also assisted DIAN by reviewing text in the customs code for CTPA compliance, and based on the project's observations, the latest draft now includes exceptions to the filling of origin certifications for goods such as traditional folklore handicrafts from the textile sector, and penalties for producers and exporters who provide false certifications.

### **ACTIVITY 3.14: PROMOTE IMPLEMENTATION OF ADVANCE RULINGS (PTF ACTIVITY)**

The CTPA also obligates Colombia to issue advance rulings before imported goods enter the country at the request of the exporter, importer or producer by 2015. Rulings can be done in seven categories (tariff classification, customs valuation, origin, quotas, duty drawbacks, duty deferral, and treatment of goods in transit). The project trained DIAN officials on how to implement advance rulings, focusing on tariff classification by conducting procedural

assessments, developing an implementation action plan, and designing forms and formats to issue rulings.

DIAN officials who will be in charge of issuing rulings participated in a workshop on best practices, which included a comparative analysis of advance rulings procedures and requirements for tariff classifications in the United States, Peru, Chile, and Guatemala. This analysis explains the options that these countries have taken in terms of critical implementation issues such as validity period, right to appeal, and third-party use of a ruling. As a result, DIAN incorporated a validity period of five years in the new customs code to manage the applicability of rulings given their limited automated systems and human resources. Also, the project teamed up with the WCO to conduct a one-week seminar on tariff classification attended by 35 officers from customs headquarters and 10 from regional offices.

The project presented an assessment of the tariff classification concepts DIAN emits, showing the differences between this mechanism and advance rulings to the customs director to solidify the need for procedural changes. The implementation of advance rulings is pending the signing of the new customs code. When the code is approved, DIAN intends to initiate advance rulings for tariff classification and will upload the forms designed by the project on its website.

### **ACTIVITY 3.2 PROMOTE CTPA TRADE FACILITATION MEASURES AMONG PRIVATE SECTOR**

To complement USAID|Facilitando Comercio's technical assistance on rules of origin with customs, the project worked with Colombia's export promotion agency, Proexport, to reach the private sector. The project promoted the benefits of open trade to private enterprises while strengthening their capacity to take advantage of the benefits of the trade agreement through the workshops elaborated on below.

#### **ACTIVITY 3.2.1: IMPROVE UNDERSTANDING OF RULES OF ORIGIN AMONG PRIVATE SECTOR IN COLLABORATION WITH PROEXPORT**

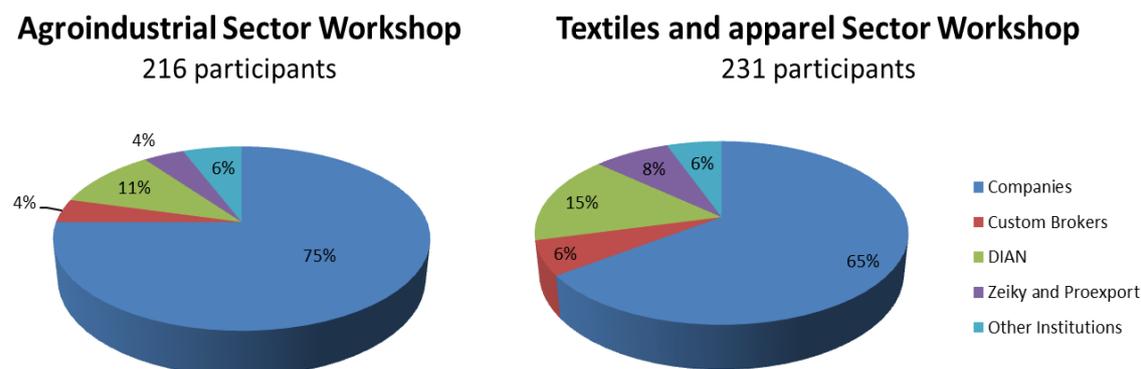
The project developed training material and held workshops for the agribusiness, textile and apparel sectors, and elaborated two voluntary origin certificate forms for imports and exports to improve the private sector's knowledge on rules of origin and the certification process. The certificate forms have been uploaded to DIAN's website.

Building on the rules-of-origin manuals developed for Peru's private sector, USAID|Facilitando Comercio developed guides for Colombia's agribusiness and textiles sectors and produced additional guidelines for the correct use of the special commercial availability (short supply) determination process for the textiles sector. This mechanism allows for some inputs that are deemed not commercially available in the region to be used in the production of apparel and still receive preferential treatment under the CTPA. These manuals include Colombian examples of products analyzed during project training workshops and plant visits (see in Figure 3-8). Drafts of the manuals were reviewed by DIAN, the Ministry of Trade and Industry, and private sector trade associations. Final versions of the

manuals are available on Proexport's website.

The project held seven workshops in four cities for 162 agribusiness companies and 150 textile and apparel manufactures. The project estimates that about 80 percent of these companies were SMEs. Additionally, 59 DIAN officers, 23 customs brokers, 27 Proexport employees, and 26 people from other trade associations attended (see Figure 3-9).

Figure 3-9. Participants in Rules of Origin Training for Private Sector



### ACTIVITY 3.22: CONTRIBUTE TO THE IMPLEMENTATION OF A SURETY SYSTEM OF BOND GRANTEES FOR SMES

The project included this activity in its work plan with the objective of evaluating the guarantee needs of SMEs to then be able to make recommendations that would result in making credit more accessible. However, DIAN did not include a broad possibility for the use of guarantees by SMEs in the draft customs code. Therefore, the project eliminated this activity from its work plan.

### DEMAND-DRIVEN TECHNICAL ASSISTANCE

In addition to the technical assistance under the IPR and Trade Facilitation components, the project set aside resources for demand-driven technical assistance that could arise for the implementation of other CTPA chapters.

#### X.1 ASSIST SIC'S ANTITRUST DIVISION IN CONDUCTING ECONOMIC ANALYSIS THROUGH TRAINING BY FEDERAL TRADE COMMISSION

Under the CTPA's Competition Chapter, the US and Colombia committed to enhancing coordination to enforce their respective competition laws. Colombia's competition authority, housed under the SIC, is a fairly new office in the process of establishing procedures and guidelines. To encourage exchange of information between the U.S. Federal Trade Commission (FTC) and SIC, FTC sent an antitrust specialist to Colombia for two months in mid-2012 to work with SIC staff on competition assessments. The FTC employee concluded his field visit in June 2012 with a review of SIC's merger guidelines and a list of recommendations for SIC to consider. Additionally, the FTC antitrust specialist noted the following for SIC's superintendent to take into consideration:

- SIC's merger investigations need to be more in depth and supported by more objective records.
- SIC requires more training and in house expertise in carrying out industry-wide, economic impact analysis post-merger and acquisition rulings.
- SIC has the power to continue requesting information from merger and acquisition parties until it believes it has all of the information necessary to make a decision. This gives SIC

almost unlimited power over the timing of the parties' merger. SIC should limit this power by law to make regulation fairer.

A working relationship was established between SIC and FTC leading to the negotiations of an antitrust bilateral cooperation agreement in late 2012. The project followed up with further assistance by facilitating a SIC staff member's fellowship to work with FTC for three months (March to June 2013). According to the agreement between SIC and USAID|Facilitando Comercio, the SIC staff member has committed to staying with SIC through at least June of 2014 and is now responsible for conducting internal training at SIC to transfer best practices.

## ***X.2 PROCESS SIMPLIFICATION FOR GOVERNMENTAL ENTITIES INVOLVED IN THE SINGLE WINDOW***

Ministry of Trade and Industry is the government entity in charge of the country's single window operation, which is made up of 18 government offices. Ministry of Trade and Industry would like to develop a new level of integration to incorporate all the players in the logistics chain into the existing single window. USAID|Facilitando Comercio held several meetings with MCIT throughout 2012 and 2013 to help define the objective and resources needed to carry-out this activity.

The project was adamant about the need to first carry out a study on the single window's current capabilities to incorporate a new level of connectivity. It also advised Ministry of Trade and Industry to begin engaging the private sector, and pushed for the importance of establishing a legal framework prior to moving into a design phase. While several discussions were held with Ministry of Trade and Industry, the project was not able to provide any technical assistance due to the ministry's expedited implementation timeframe and differing views on implementation requirements.

## 4. LESSONS LEARNED

This section presents the lessons learned during project design and execution.

### GOVERNMENT SUPPORT

Government support of reform is necessary for success. Without it, activities will not result in the implementation of reforms. In Peru, many activities benefited from the engagement of government counterparts. In Bolivia and Ecuador, it was impossible to work with government counterparts, and thus activities supported initiatives of NGO and private associations.

### TRADE FACILITATION FOR PUBLIC AUTHORITIES

In trade capacity building projects such as this one, governments must have a positive and proactive attitude to trade facilitation. If not, as in Ecuador and Bolivia, the project could support only training and technical assistance for enhancing SME performance, not reform.

### MULTIPLE CLIENTS

The project worked with USAID and several other U.S. government agencies. The project team strove to follow USAID procedures and meet USAID requests and to work with the U.S. embassy. Many activities were organized with the U.S. embassy, especially in intellectual property and trade facilitation. Some activities were also undertaken in support of other government agencies, such as the Office of the USTR, the Department of Commerce, and the Department of Labor. The project prepared periodic reports on implementation of the PTPA for different U.S. government agencies. The project was as responsive as it could be to agencies' needs given time and budget constraints.

### TRUST IN RELATIONSHIPS

Project team members sought to build trust between the project and its stakeholders in Peruvian government agencies. The experience of team members in the public sector and their reputations as experts created a strong foundation for this trust-based partnership. Additionally, project team members were sensitive to respecting the confidentiality requested by public entities during the process of preparing reports, which strengthened their relationship and led to ample support to public entities in key reforms.

### SUPERIOR TEAM

Probably the most important factor in ensuring superior performance on the project was the assembly of a team of highly competent and committed professionals, most of whom had experience in the public sector and excellent interpersonal capabilities. They worked as a team and sought excellence in all activities they undertook.

### INTELLIGENT PLANNING

The project initially formulated a one-year work plan that gave the project a quick start-up. Afterwards, with better knowledge of the issues in the country, the counterparts being served,

and the project's capabilities, a solid three-year plan was formulated. In developing the work plan, the project identified areas of overlap between task order goals and Government priorities, so as to focus on activities that were the most likely to achieve the desired results.

## COMMUNICATIONS

Communication with USAID and the government of Peru was essential to the success of the project, so the project could be responsive to their needs and keep them informed about activities and priorities.

The project kept in constant communication with USAID by presenting reports required by the task order and sending weekly reports describing what was accomplished the previous week and what was planned for the current one. Communication and coordination with the COR was frequent, through daily phone calls and weekly meetings. Communication with government counterparts was also frequent. The project shared work plans and progress reports and had bimonthly meetings.

## FAST, HIGH-QUALITY RESPONSE

Project members strove to respond to requests quickly and effectively, to show the value of the project as a source of technical support. Because public procurement is perceived as slow and bureaucratic by technical departments of public entities, the possibility of getting a fast response from the project according to their specific needs was appreciated. In addition, government counterparts appreciated project members' thorough assessment of consultants' reports, which enabled achievement of expected results on time and with the desired quality level.

## CLEAR DEFINITION OF ACTIVITIES

The project formulated terms of reference carefully and involved input from counterparts, so activity goals and expectations were clear. This approach reduced uncertainty about outcomes and avoided conflicts with clients or consultants later on.

## TOP-LEVEL CONSULTANTS

The project recruited top-level consultants who could deliver high-quality reports and earn the respect and trust of counterparts. This allowed the project to achieve the desired results and avoided having to change consultants in the middle of an activity.

## MONITORING OF PROGRESS

For consultant assignments, the project established a work plan and partial reports as deliverables in addition to the final report. This approach allowed component leaders and clients to supervise the consultant's progress and make adjustments as needed. Final reports were approved by component leaders and the COP.

## CAREFUL BUDGETING

Planning monthly spending for consultant activities was key to the project's achieving progress in its first-year activities. In agreement with component leaders, specific activities were identified at the beginning of each month for execution. In the middle year, leveraging funds from other sources was important to keep up with the level of activities because funds planned from USAID/Peru were restricted. In the final months, a careful budget pipeline allowed the project to prioritize activities and have sufficient funding until closing.

# APPENDIX A

## SUMMARY OF FINANCIAL RESOURCES ALLOCATION

The task order budget was US\$14,039,234.00 for the base period and a total of US\$16,996,502.00 with the option year. Total obligated funding for the project was US\$15,148,798.67.

After the signing of the FTA between the United States and Colombia in October 2011, USAID/Colombia decided to finance additional activities to help in its implementation and assigned funds to the project to develop an extended work plan. USAID/Colombia obligated US\$1,690,000 to the project in 2012 and US\$1,201,000 in 2013 for this purpose.

During Year 2, the project coordinated with customs authorities to develop requests to the Partnership for Trade Facilitation fund from USAID/Washington. They jointly prepared a scope of work and budget for PTF activities, and were awarded US\$400,000 for Peru and US\$404,000 for Colombia.

Finally, in Year 3, the project prepared a request to the Standards Alliance for US\$350,000, and received US\$350,000 in additional funding. The following table summarizes total funding:

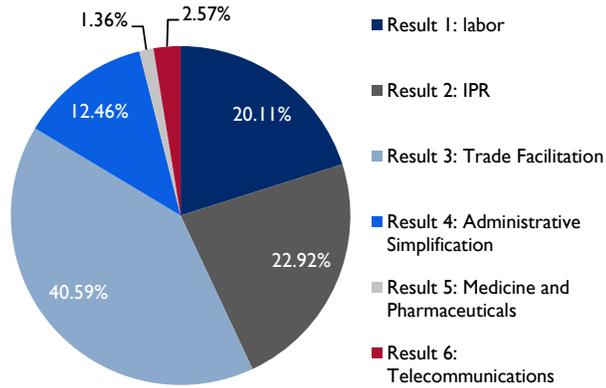
	TASK ORDER	ACTUAL FUNDING
USAID/Peru bilateral funds	12,747,376.50	6,454,839.24
USAID/Peru regional funds	4,249,125.50	4,648,959.43
USAID/Colombia bilateral funds		2,891,000.00
Partnership for Trade Facilitation: Peru		400,000.00
Partnership for Trade Facilitation: Colombia		404,000.00
Standards Alliance		350,000.00
<b>Total</b>	<b>16,996,502.00</b>	<b>15,148,798.67</b>

The following table summarizes expenditures over 41 months of operations (June 2010 – October 2013) by component.

COMPONENT	TOTAL EXPENDITURE	
	PERCENTAGE	US\$
Result 1: Labor	20.11	3,046,538
Result 2: IPR	22.92	3,471,891
Result 3: Trade Facilitation	40.59	6,148,206
Result 4: Administrative Simplification	12.46	1,886,905
Result 5: Medicine and Pharmaceuticals	1.36	206,405

COMPONENT	TOTAL EXPENDITURE	
	PERCENTAGE	US\$
Result 6: Telecommunications	2.57	388,853
Total	100	15,148,798

The following figure also shows project spending by component:



As planned at the beginning of the project, 84 percent of the total was spent on three components: Labor Rights, Intellectual Property Rights, and Trade Facilitation.

# APPENDIX B

## PARTNERSHIP FOR TRADE FACILITATION

### INTRODUCTION

In June 2012, Peruvian Customs became eligible to receive technical assistance under the Partnership for Trade Facilitation (PTF) program, for activities related to the advance rulings and pre-arrival processing.

PTF accomplished important goals in these areas and consolidated USAID's presence and support to Peruvian authorities and the private sector in trade facilitation policy implementation.

In the case of advance rulings, the project raised awareness of the importance of this tool and its economic advantages towards trade facilitation and predictability. Moreover, PTF allowed the project to deepen into major customs-topics such as valuation, in order to strengthen capacities of Customs Officials and to exchange relevant international precedents with private sector representatives.

With regards to pre-arrival processing, PTF funded technical reports on logistics transparency costs which turned out to be one of the most sensitive issues faced by Peruvian government since logistics progresses are still slow and impact negatively on import clearances procedures. Additionally, the project set the basis of risk management on non-Customs institutions by establishing baselines to implement it.

### ADVANCE RULINGS SYSTEM

At the beginning of 2012, Peru's customs authority, SUNAT, issued specific procedures to implement advance rulings requirements to comply with PTPA obligations.<sup>1</sup> The Advance Rulings System entered into force in February 2012. It covers the following topics: valuation, origin, quota compliances, and tariff classification. Previously, advance rulings had only been requested for tariff classification-related procedures and there was a perception that regulations on advance rulings were confusing and that little effort had been made to disseminate information on the topic.

The following activities were undertaken:

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<sup>1</sup> The Customs Code approved by Legislative Decree No. 1053 and its statute contained in the Supreme Decree No. 010-2009-MEF establishes AR system and the specific subjects it will embrace. Moreover, Superintendence Resolutions Nos. 26,27,29 y 35-2012/SUNAT issued on 2012 set out various guidelines and procedures for the compliance of this trade facilitation tool.

## STUDY TO IMPROVE LEGISLATION AND PROCESSES

As an initial task, the project examined the organizational structure and technical capacity of Customs officers responsible for advance rulings and analyzed the system's status to determine why it was not being utilized.

Customs expert Robert Holler, who led the 2010 TC Baseline assessment, conducted the study in October 2012 along with the assistance of an experienced Peruvian lawyer from Ernst & Young. The field work included meetings with SUNAT and private sector stakeholders such as importers and legal trade advisers.

The report confirmed that advance rulings were requested infrequently, except in the area of tariff classification. The consultants concluded that SUNAT's intention to implement an expanded advance rulings system in accordance with preferential trade agreements and international standards was negatively impacted by flawed regulations, ineffective project management, and inadequate internal and external communications practices.

The report recommended that advance rulings be consolidated in one institution, since the Ministry of Foreign Trade and Tourism was responsible for advance rulings on Rules of Origin and SUNAT dealt with the other topics. The report also recommended that SUNAT should consolidate the various procedural instructions into one single document, and a model of a single procedure which embraced several FTA provisions was delivered to Customs. The report also emphasized the importance of legal review and clear oversight for SUNAT, since there was no provision in any of the instructions as to who had oversight over the work of the four technical divisions with respect to advance rulings. Finally, the report recommended a 45-day response time to reply the existing 150 days allotted.

Report results were presented to the head of Customs, Mr. Rafael García Melgar, and his main adviser, Ms. Cristina Gastulo, who appreciated the analysis and recommendations. They recognized that efforts should be made to encourage the use of advance rulings, and requested project assistance to do so.

## TRAINING FOR PUBLIC AND PRIVATE SECTORS AND DISSEMINATION

In March 2013, U.S. customs expert Bryce Blegen conducted three training sessions for Customs officials and the private sector, organized in alliance with the American Peruvian Chamber of Commerce (AMCHAM), to promote the use and benefits of advance rulings.

Thirty Customs officials gathered from the valuation, classification, and import quotas divisions for the first two workshop sessions, which focused on international best practices for advance rulings and customs valuation. The next day, AMCHAM and USAID Facilitando Comercio co-hosted a workshop for the private sector entitled "Global Trading Environment Trends and the Significance of Advance Valuation Rulings for the Import Community." This afforded an opportunity to explain to the private sector how to use the advance rulings system and its benefits to trade. Among participants were trade consultants, importers and representatives from major companies such as Hunt Oil, DHL, Talma, Caterpillar, 3M and even officials from the Customs Tax Court (Tribunal Fiscal).

## RECOMMENDATIONS FOR ADVANCE RULINGS SYSTEM

Advance rulings are a process-based instrument closely tied to major customs topics such as valuation, classification and rules of origin. The project shared the following findings with SUNAT to improve the advance ruling system in the short, medium and long terms:

- SUNAT expressed interest in the detailed discussion of U.S. advance rulings practice in the field of customs valuation, since customs valuation field is an area of frequent controversy between SUNAT and Peruvian importers. Royalties and fees (i.e. engineering fees) and related-party transfer pricing are areas of great concern, and there are a number of large disputes going on between SUNAT and trade interests in the Peruvian court system.
- According to SUNAT, traders have not yet taken advantage of the new advance ruling process. SUNAT officials indicated that traders were concerned with confidentiality and would prefer to handle such issues out of the public eye (advance rulings would be published). Moreover, traders or their representatives generally handled related questions informally via direct discussions with SUNAT in order to obtain guidance as to how SUNAT might treat customs valuation in a potential or hypothetical transaction.
- The 150-day response period for receiving advance rulings appeared to be a disincentive to applicants, so it was strongly recommended that the time be shortened.
- It was inefficient to regulate advance rulings based on the international agreements, as there were no substantial differences among them as to advance ruling provisions. Therefore it was advised to merge those independent regulations in one single procedure/instrument.

## PREARRIVAL PROCESSING

Article 5.2 of the PTPA commits Peru to releasing goods within 48 hours of unloading. Although the Government of Peru had improved its Customs Code (2008) based on PTPA obligations, it still faced obstacles for a broader use of the 48-Hour dispatch requirement.

USAID | Facilitando Comercio performed a TCBaseline assessment in 2010 which evaluated prearrival processing and proposed recommendations for its improvement. The report identified material and potential disincentives such as misconduct by trade operator (carriers, custom brokers, freight forwarders, etc.) and weak regulations across the logistic chain. USAID|Facilitando Comercio worked closely with Customs to overcome these constraints.

The project measured the performance of prearrival processing again in December 2012, focusing on logistics factors that might neutralize the advantage of using this procedure. Additionally, the report discussed the scope of the Carriage Contract according to International Conventions<sup>2</sup> applicable to Peru to assess whether the regulation limited the efficacy of prearrival processing.

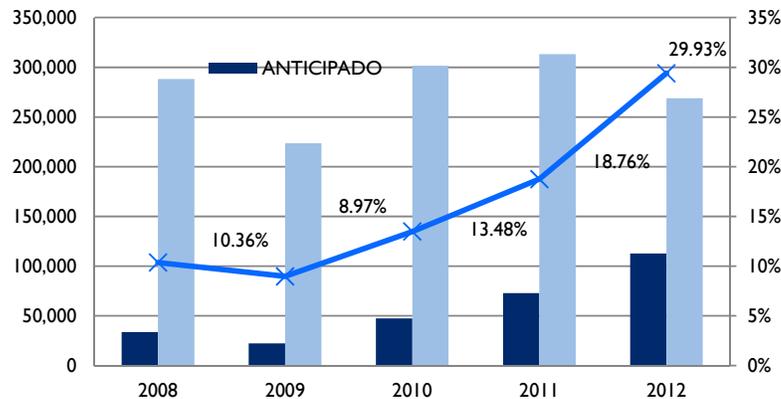
The report concluded that users of logistics services could experience delays in each “transfer point” (ship to terminal patio/storage, patio to truck, gate processing) that affected overall delivery time and caused non-compliance with the target of 48-hour release. The assessment team determined that international conventions did not affect clearance efficiency.

## FIELD WORK IN PAITA PORT-PIURA (TPE PRIVATELY RUN TERMINAL), DECEMBER 2012

The use of preclearance increased in 2012, reaching almost 30% of total import declarations (see figure below). However, import costs did not diminish significantly, which made SUNAT and the Ministry of Foreign Trade join efforts to optimize import/export procedures.

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<sup>2</sup> 1924 Hague Convention on Carriage of Goods by Sea



The project provided technical assistance in the following prearrival processing subjects:

### LOGISTICS COSTS TRANSPARENCY WEBSITE

Article 10 of the Trade Facilitation Law (Law N° 28977, January 2007), requires the Ministry of Transport and Communications to maintain a website containing detailed information on port and airport services supplied by logistics operators with basic services descriptions and costs. This site must be kept up-to-date and shared with other public entities. The Ministry of Transport and Communications and the Ministry of Foreign Trade and Tourism launched the website in the fourth quarter of 2013.

To gather information for the site, the project prepared a report on trade operators and services and presented it to MINCETUR. The field work involved meetings with importers, brokers, and maritime agents associations. The report thoroughly described seaport logistics operations and responsibilities from trade operators to be included in the cost transparency website.

The report pointed out that quality information supplied by port system trade operators is still weak, affecting the final user's ability to choose the most suitable operators. Moreover, problems remain unresolved regarding confusing services descriptions for charges that trade operators (i.e. off docks terminals) invoiced importers. This important input was delivered to MINCETUR and the Ministry of Transport and Communications as inputs for the website.

### MARITIME TRANSPORT REGULATIONS

Long-standing discussions have been held over the interpretation of the carrier agreement in international conventions (especially Brussels Convention 1924) as to whether it considers the scope of services and freight to be paid by users. Some experts believe that the Convention is not favorable to importers and should be dismissed.

The TC Baseline monitoring report analyzed this topic and produced an opinion as to parties' liabilities covered by a maritime bill of lading. The purpose of the Hague Rules, as a mandatory framework, is to prevent sea carriers from excluding themselves from liability by means of the provisions of the bill of lading and that the rules are not meant to deal with negotiable provisions of the carriage contract, such as freight and the scope of the services. This conclusion is critical to rule out that Brussels Convention 1924 imposes further obligations to the carrier, thus the scope of services and freight fee due date should be regulated in a different instrument.

### RISK MANAGEMENT AND JOINT INSPECTIONS

In early December 2012, the project's Chief of Party (pictured below), the Trade Facilitation Component Leader, and customs expert Gonzalo Bernal visited logistics facilities adjacent to Port of Callao in order to observe how customs and regulatory bodies' inspections operated. We took part in onsite Customs inspections of medicines, toys and perishable goods to understand different criteria applied according to the type of goods and degree to which risk criteria were utilized in coordination with regulatory bodies (i.e. DIGESA, SENASA, DIGEMID). Findings helped the project to shape the scope of forthcoming activities.

Based on the importance of the economic sector and market potential, two consultancies were conducted to assess policies on risk management and ex post control in DIGESA and DIGEMID. Experts were asked to establish a baseline and to describe the necessary conditions to apply risk management criteria—such as institutional organization, legal framework, data availability, human resources, and coordination with customs.

In the case of DIGESA, the report indicated that no risk management strategy had existed in the regulatory body nor had there been joint inspections with Customs. The consultancy reviewed the requirements of ex post sanitary audit in two units: the Bureau of Food Safety and Hygiene and Bureau of Basic Sanitation, Ecology and Environmental Protection to initiate implementation of a risk management approach. The consultancy found that basic steps should be taken to implement the risk management system approach, such as systematizing the information to determine companies' risk profiles and secondly, to restructure DIGESA to become more independent and self-funded.

For DIGEMID, the analysis not only assessed the design of a risk management system but also the relationship with regional bodies (regional health bureau) around the National System of Sanitary Control of the Ministry of Health. Accordingly, it was necessary to conduct a diagnostic of ex post control performance in eight regions in Peru (including Lima). The baseline report indicated that regional bodies performed their duties poorly due to various causes. Budget limitations were a serious concern in regional bodies which were unable to carry out ex post control such as inspections, quality control of medicines and sanitary products. Also, current framework was clearly insufficient to establish responsibilities and objectives of these units.

The proposed guidelines to address these issues recommended organizing administrative proceedings, personnel, and economic and logistics resources. It also provided management standards to improve coordination with the central government, enhancing the role of the National Authority of Medicines. That instrument is expected to be approved by the Ministry of Health before the end of 2013.

## IMPORTA FÁCIL

At the request of the National Competitiveness Council, the project implemented an activity to improve SUNAT's proposed simplified clearance procedure, Importa Fácil (Easy Import) aimed at facilitating low-value imports by SMEs. The report compared the model in place with SUNAT's proposal and identified its advantages and weaknesses. It recommended improving the IT platform.

According to inputs from stakeholders and importers from Lima and the regions, the consultants structured an alternative model. The report was delivered to NCC and Customs to encourage an analysis of the system and its effectiveness. In the NCC trade facilitation group's meeting in July 2013, SUNAT mentioned that technological requirements were underway to host a new system.

A preliminary draft of a new regulation for the Importa Fácil system was delivered to the Ministry of Economy and Finance for discussions and the regulation was expected to be issued the second half of 2013. Afterwards SUNAT will commence a nationwide training program to ease the implementation of the improved model.

## FINANCIAL RESOURCES

In the following table we present disaggregated expenditures for these initiatives.

ADVANCE RULING SYSTEM		US\$
1.1. Design of a study to improve legislation and processes		50,602
1.2. Trainings for public and private sectors and dissemination		38,523
1.3. Recommendations on advance rulings system and substantial related topics		17,810
PREARRIVAL PROCESSING		
2.1. Logistics costs transparency website		51,647
2.2. Maritime transport regulations		20,753
2.3. Risk Management and Joint Inspections		189,219
2.4. <i>Importa Fácil</i> Project		31,982
Total		400,536

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# APPENDIX C

## STANDARDS ALLIANCE

### BACKGROUND

Peru is a founding member of the WTO and therefore a signatory to the Agreement on Technical Barriers to Trade (TBT). The US-Peru Trade Promotion Agreement (PTPA) reinforces those commitments. The Ministry of Foreign Trade and Tourism (MINCETUR) negotiates and administers the TBT Agreement and is the WTO focal point, while the National Institute for the Defense of Competition and Intellectual Property Protection (INDECOPI) takes the lead on standards and conformity assessment procedures.

On May 2013, the Government of Peru through MINCETUR became eligible to receive technical assistance under USAID's Standards Alliance Program. Technical needs were identified by MINCETUR based upon the institution's priorities, and activities were implemented through USAID/Peru's Facilitando Comercio Project through October 2013, when the project ended. The approved work plan identified four major areas of focus: (1) training on specific TBT/industry topics, (2) specialized dissemination tools; (3) on-site visit to U.S. entities; and (4) technical studies on TBT-related issues.

Collaboration from the U.S. government, mainly from the USTR and the American National Standards Institute (ANSI) was critical, as these agencies supplied experienced officials in the different training areas. Training sessions were conducted in Lima, Piura and Arequipa to raise awareness of the importance of best practices in regulatory and standards development within the WTO framework and PTPA. The Standards Alliances program also enriched current discussions the institutional framework of Peru's standards system.

### ACTIVITIES

#### PUBLIC AND PRIVATE SECTOR TRAININGS

TBT obligations and their role in trade are not widely understood in Peru. Accordingly, specialized training was a major goal of the program. Workshops were designed in coordination with MINCETUR and INDECOPI and were divided into four topics, with a focus on best practices: (i) The WTO TBT Agreement (ii) regulation and standards (iii) legal metrology and (iv) accreditation and conformity assessment. The following paragraphs provide details on each of the training sessions.

#### *WTO AGREEMENT OF TECHNICAL BARRIERS TO TRADE*

This first workshop captured wide attention from regulatory bodies, the private sector and academia. It also served to measure the degree of knowledge of TBT issues so that future workshops could be adjusted. The project invited Mr. Fernando Rojas, a Dispute Settlement Lawyer in the WTO, who has been closely involved in sensitive WTO TBT cases. The workshop was replicated in Piura (half day) and included both private sector and government authorities.

The topics covered in this first workshop were the fundamentals of the WTO TBT Agreement and technical regulations. The speaker also analyzed two WTO cases, which

enabled participants to understand the matter better. Finally, the speaker was interviewed by *El Comercio* newspaper, where he highlighted the benefits of the training programs carried out by the Standards Alliance.

AGOSTO DEL 2013

EL COMERCIO

OCIOS

PIQUERO EMPRESARIAL

ENTREVISTA

**Antamina alcanza 1.000 embarques en Punta Lobos**  
Antamina realizó su embarque 1.000, con lo cual alcanzó despachar 27.000 toneladas de concentrado de minerales (16.000 de cobre y 11.000 de zinc) en el carguero Uja Bulker Puerto Puntal. Los trabajos empezaron a operar en el 2001.

**Expectativa: Cervecería San Juan invierte en su planta en la selva**  
La Cervecería San Juan incrementó su participación de mercado a 88% en la selva peruana en el primer trimestre del año. Ello le permitió elevar sus ingresos en 14,7% e invertir S/33,3 millones en ampliación de su planta.

**Lanzamiento: El nuevo yogurt griego de Laive ya está a la venta**  
Como parte de su estrategia para reforzar su portafolio de yogures, Laive lanzó su nuevo yogurt griego.

**Automotriz: Nissan Juke llega al mercado peruano**  
Con el respaldo de Motorquías S.A., Nissan presentó el Juke, una SUV con cualidades de un automóvil deportivo y un diseño atractivo. Al primer trimestre de lazo, Nissan anunció

**584**  
fichas de proyecto se registraron en las convocatorias los concursos que promueve el fondo del Ministerio de Promoción y Turismo de Perú. Fidecom.

**Automotriz: Nissan Juke llega al mercado peruano**  
Con el respaldo de Motorquías S.A., Nissan presentó el Juke, una SUV con cualidades de un automóvil deportivo y un diseño atractivo. Al primer trimestre de lazo, Nissan anunció

**“El Perú debe aprender a usar las reglas en materia comercial”**

**Fernando González**  
Experto de la Organización Mundial de Comercio

**DAVID WU CHU PIESTAS**  
Los tratados de libre comercio por sí solos no son suficientes para abrir mercados. Existen otros mecanismos, además de la reducción de aranceles, que se deben tomar en cuenta y aprovechar. Entre ellos, se hallan los obstáculos técnicos al comercio (OTC), sobre los que habló el experto Fernando González, quien visitó Lima invitado por el proyecto Facilitando Comercio de Usaid.

—En tiempos de crisis los países tienden a cerrar sus mercados mediante aranceles o medidas no arancelarias. ¿Qué tanto han afectado al comercio estos obstáculos? La crisis financiera ha reducido la intensidad

**EL EJEMPLO.** Fernando González afirma que el Perú es considerado un ejemplo en la defensa contra obstáculos técnicos.

**—¿Cuándo determina**

stino del comercio en general. Ambos son deseables, pero pueden contraponerse. Todos los acuerdos OMC promueven, a través de esta ingeniería jurídica, crear los mecanismos para preservar ese balance.

—¿Cómo se encuentran el Perú respecto al uso de estos mecanismos? El Perú ha experimentado un aumento del mismo de su comercio internacional desde el 2002, lo que quiere decir que debe aprender a jugar con las reglas en materia comercial. Con esto me refiero al hecho de que debe conocer mejor estas normas para defenderse y no incurrir en violaciones al derecho comercial internacional. Ahora, el Perú no ha sido denunciado por poner estos obstáculos.

—¿Fue entendido que el Perú se ha defendido de este tipo de obstáculos... Así es. Eso fue en el 2002 contra la Unión Europea. El Perú reclamó porque la Unión Europea no cumplía con las reglas internacionales sobre el uso del término sardina. Según la legislación europea, solo se permitía esta



Excerpt of *El Comercio* newspaper (Economic section), August 2, 2013

This workshop largely surpassed participants' expectations and raised interest in the forthcoming activities.

### U.S. STANDARDIZATION AND REGULATORY SYSTEM

The objective of this workshop was to learn from U.S. best practices in the development of regulations and standards. The design of this workshop was closely coordinated with Jennifer Stradtman, USTR's Director for TBT, and the American Institute of Standards (ANSI). Seven U.S. officials from USTR, the Department of Commerce, the Office of Management and Budget and the Office of Consumer Protection took part in this workshop. Workshops were conducted in Lima and Arequipa.

Given the different backgrounds of speakers and importance of the topics, the workshops attracted a diverse audience. Opening remarks were given by Mr. Carlos Posada, Vice Minister of Foreign Trade of MINCETUR, and Hebert Tassano, President of INDECOPI. Congressman Jaime Delgado was the keynote speaker and Ministry of Finance representative Javier Roca gave an interesting presentation on Peru's rule making process. In addition, Ms. Rosario Uría from INDECOPI presented a case on the economic advantages of applying standards.



Ms. Jennifer Stradtman Director of TBT of the USTR and Vice Minister of Foreign Trade Carlos Posada.

A screenshot of the Office of the United States Trade Representative website. The header includes the USTR logo, the text "OFFICE of the UNITED STATES TRADE REPRESENTATIVE EXECUTIVE OFFICE OF THE PRESIDENT", and navigation links like "Site Map", "Help", "Contact Us", and "Search". Below the header are menu items: "Trade Agreements", "Countries &amp; Regions", "Trade Topics", "About Us", "Benefits of Trade", and "Trade Toolbox". The main content area shows a "Resource Center" with a calendar for 2013. The selected date is August, and a press note is displayed: "United States and Peru Co-Host Workshops to Promote Trade and Investment through Best Practices in Standardization and Regulation" dated 08/10/2013 - 12:28am. The text of the press note describes the workshops held in Lima and Arequipa, Peru, on August 6 and 8, 2013, aimed at promoting transparent, predictable, and effective regulatory practices.

Excerpt of the Press Note published on the USTR website August 10, 2013 (<http://www.ustr.gov/about-us/press-office/blog/2013/august/US-Peru-standards-workshops>)

### LEGAL METROLOGY IN THE UNITED STATES

Led by the Metrology Unit of INDECOPI, this workshop was aimed at analyzing the economic advantages of legal metrology. The workshop featured three speakers from the National Institute of Standards and Technology (NIST) of the US Department of Commerce. Speakers addressed the role of NIST in the U.S. metrology system, their relationship with research and development institutions and an impact assessment on the importance of national metrology systems. A panel addressed the topic “Calibration of Scales: a Consumer Perspective” where the Peruvian Association of Consumers was invited. The event was once again opened by Mr. Hebert Tassano, President of INDECOPI.

### CONFORMITY ASSESSMENT IN THE UNITED STATES AND LATIN AMERICA

The fourth and last workshop dealt with conformity assessment procedures as well as conformity certification in the United States and Latin America. The workshop was designed to focus on the electronics sector but also covered more general issues. The workshop also dealt with the quality of the conformity assessment infrastructure. Two speakers, one from the National Association of Standards and Certification of Mexico (ANCE) and the other from Argentina’s Institute of Standardization and Certification (IRAM) offered their experiences in conformity assessment, while the U.S. speakers provided their presentations through video conference. In all, 472 representatives of the public and private sector participated in the four workshops.

BASELINE	INDICATOR	GOAL
No nationwide training on TBT has been offered in recent years.	Number of trained public officials and companies across the country.	272 public officials 201 private companies and academia.
	Number of notifications to WTO (within the Standards Alliance program execution term)	Regulations drafts of: <ul style="list-style-type: none"> <li>• Clinical thermometers (9/16/2013).</li> <li>• Statute of milk-based products (7/4/2013)</li> <li>• Components of fuel systems on Liquefied Gasoil-operated vehicles. (6/11/2013)</li> <li>• Liquefied Gasoil storage containers. (6/11/2013).</li> <li>• Statute of organic production. (5/6/2013)</li> </ul>

## TBT WEBSITE

Updating Peru's TBT website ([www.MINCETUR.gob.pe/reglamentostecnicos](http://www.MINCETUR.gob.pe/reglamentostecnicos)) was another activity supported through Standards Alliance funds. Technical assistance was provided to update and streamline MINCETUR's website and to enhance access to relevant information (including an English version for easier access for trading partners). The technicians also improved access through different platforms, given that the previous version of the website was only accessible through Internet Explorer. The redesign was based on a comparison of other relevant webpages and required close coordination with MINCETUR's IT department. Today the website has the following improved features:

- Easier maintenance to ensure sustainability.
- Can be executed from the most common commercial web browsers.
- Can easily track the number of visitors to the web page, and through Google Analytics it is possible to assess the profile of web users.
- It is intuitive, user-friendly, and more interactive.



*Prior version*

The screenshot shows the 'Reglamentos Técnicos' website. The header includes the logos for 'PERÚ Ministerio de Comercio Exterior y Turismo' and 'USAID | PERU'. The main navigation bar contains links for 'Inicio', 'Información General', 'Reglamentos Técnicos', 'Notificaciones', 'Documentos OTC', 'Intereses', and 'Eventos'. The 'Quienes Somos' section contains several paragraphs of text describing the portal's purpose and the cooperation with USAID. On the right side, there is a Twitter feed with three tweets from @mincetur\_rt\_pru. A blue arrow points to the second tweet, and a grey box with the text 'Interaction through twitter' is overlaid on the feed.

New version

The screenshot shows a detailed article on the 'Reglamentos Técnicos' website. The header is identical to the previous screenshot. The article content includes sections for 'Que es un reglamento técnico', 'Identificación de un reglamento técnico. (Guía)', 'Metodología para la realización de un reglamento técnico', 'Buenas prácticas regulatorias. (Manual de buenas prácticas regulatorias)', and 'Procedimiento para la emisión de un reglamento técnico'. A 'Visión' section is also present. On the right side, there is a Twitter feed with three tweets from @mincetur\_rt\_pru. At the bottom of the page, there is a visitor counter displaying '0000692' and a blue arrow pointing to it. A yellow box with the text 'Visitor counter' is overlaid on the counter.

Access analysis

Baseline	Indicator	Goal
Website elaborated in 2009 has not been updated nor streamlined since then.	Updated and streamlined TBT webpage fully operating. Number of visits recorded.	Adjusted version completed.

### TBT MANUAL

In order to reach a broader audience a TBT manual was developed under the Standards Alliance program. It provides a general understanding of TBT topics, including policy, negotiations, and the role of standards and regulations compliance in trade, market access and export competitiveness. Legal and economic information related to TBT was collected from sources such as the WTO website, reports from MINCETUR, studies carried out by specialized organizations and academia, and others that the consultant considered appropriate.

The manual covers the following topics:

- **Fundamentals of Technical Barriers to Trade:** the rationale behind standards and their impact on international trade.
- **The WTO TBT Agreement:** the structure and characteristics of the agreement as well as its main provisions. This chapter also discusses specific features of technical regulations, standards and conformity assessments procedures.
- **TBT in Preferential Trade Agreements (or Free trade Agreements):** Peru has signed more than 17 preferential trade agreements with different countries which include provisions of TBT. This section explains how these provisions build on the WTO TBT Agreement.
- **Andean Community:** At the regional level several obligations are in force with regard to technical regulations, standards as well as quality infrastructure. All are discussed.
- **TBT domestic regulation in Perú.** This chapter analyzes the rule making process for regulations, the role of various agencies, and the certification of accreditation bodies.
- **Regulatory practices:** the Government of Perú has been committed to improving the regulatory practices of the different agencies that issue technical regulations. This section focuses on the Regulatory Impact Assessment methodology which is to be implemented by several agencies.

Obstáculos Técnicos al Comercio OTC	Medidas Sanitarias y Fitosanitarias MSF
<p><i>Se refieren a</i> las características específicas de un producto. Por ejemplo: el tamaño, la forma, el diseño, las funciones, el rendimiento, o la manera en que se etiqueta o embala para ponerlo en venta<sup>1</sup>.</p> <p>Pueden ser obligatorios o voluntarios según se trate de reglamentos técnicos o normas.</p>	<p><i>Se refiere a</i> toda medida, incluidos los reglamentos técnicos, que tenga como fin garantizar la inocuidad de los alimentos y la protección sanitaria de los animales y vegetales.</p> <p>Son siempre obligatorias.</p>
<p><i>Persigue objetivos legítimos</i>, tales como: los imperativos de la salud o seguridad humana, de la vida o la salud animal o vegetal, o del medio ambiente.</p> 	<p><i>Sus objetivos son:</i></p> <ul style="list-style-type: none"> <li>✓ Proteger la vida humana o animal ante la presencia de aditivos o contaminantes, toxinas u organismos causantes de enfermedades, en alimentos, bebidas o piensos<sup>2</sup>.</li> <li>✓ Proteger la vida humana ante enfermedades transmitidas por vegetales o animales (zoonosis)</li> <li>✓ Proteger la vida de los animales o vegetales frente a las plagas, enfermedades u organismos causantes de enfermedades.</li> </ul>

“Box” mode sample included in the Manual:

As shown below, the manual uses a case based methodology to explain the characteristics of a technical regulation as well as the rule making process. The product has been delivered to MINCETUR and has been approved. The Ministry shall make arrangements for printing and distribution.



*Fibras de amianto*



a) **Regulación para la comercialización de ciertas mercancías.**  
Por ejemplo:  
Uso y comercialización de armas de fuego.

b) **Regulación técnica sobre servicios.**  
Por ejemplo:  
Normas sobre el transporte aéreo comercial de pasajeros.

c) **Prohibición de producción o comercialización de ciertos productos.**  
Por ejemplo:  
Prohibición de comercialización de fibras de amianto.

BASELINE	INDICATOR	GOAL
No educational handbook which comprises general knowledge and resources on TBTs in Peru.	Handbook published, launched and disseminated in Lima and Provinces.	The manual has been delivered and approved by MINCETU which will print and distribute it.

## ORIENTATION VISIT ON STANDARDS AND REGULATIONS

Initially, the plan for this study tour was to have officials from MINCETUR, INDECOPI and key regulatory bodies visit ANSI headquarters in Washington DC to gain knowledge on standards development and regulatory procedures; however, the workshops in Peru and the other Standards Alliance activities encouraged both governments to take full advantage of the visit by broadening the agenda to include other regulatory bodies in Washington DC.

Accordingly, additional visits were scheduled with the Food & Drug Administration, the Department of Commerce and the Consumer Product Safety Commission with the view to exchange information on current good regulatory practices and areas of regulatory cooperation. In addition, the Project took advantage of the trip to follow up on certain topics which generated interest at the Peru workshops, such as regulatory impact assessments.

The study tour was carefully developed throughout program execution, as it involved a great deal of coordination with the U.S. government agencies and ANSI members. USTR, ANSI and USAID Washington played a pivotal role, which contributed to the success of the visit.

The Project team along with MINCETUR and INDECOPI identified potential participants from the Peruvian side and finally were able to include three (3) additional agencies: the National Bureau of Environmental Health (DIGESA), the National Bureau of Medicines, Supplied and Drugs (DIGEMID) and the Ministry of Production. The agenda was intense, busy and fruitful. It also served as the basis for the formal launch of the Standards Alliance, where the Peruvian delegation was featured (See agenda Exhibit 1).

As a result of the visit, Peruvian officials gained greater awareness of U.S. implementation and standards development procedures and coordination with stakeholders.

Peruvian authorities took particular note of (1) the function of international mirror committees, (2) ANSI's operations nationwide and its relation with U.S. regulatory bodies (3) standard's impact on the growth of a certain key U.S. industry sectors.

As a result of the visit, officials are better equipped to adopt international best practices to improve TBT implementation.



*Peruvian delegation during the Standard Alliance kick-off event*

BASELINE	INDICATOR	GOAL
Limited cooperation between ANSI and INDECOPI.	Paper with recommendation to improve TBT issues in Peru based on the visit.	Based on the discussions held during the visit, Government of Peru is drawing up a work plan for potential further cooperation with the Standards Alliance

## **ACTION PLAN ON REGULATORY IMPACT ASSESSMENTS RELATED TO TECHNICAL BARRIERS TO TRADE**

In July, the Ministry of Health issued the Ministerial Resolution No. 461-2013-MINSA, with the objective of simplifying administrative procedures in the National Bureau of Medicines, Supplies and Drugs (DIGEMID) as well as the National Bureau of Environmental Health (DIGESA). Based on that decision, these entities are expected to introduce regulatory adjustments. However, their impact on trade has not been fully assessed.

MINCETUR has been receiving training to implement a regulatory impact assessment (RIA) methodology, aimed at building capacity in the development of trade related regulations. Such a tool is crucial to help Peruvian regulatory bodies to analyze if regulatory measures under discussion might become technical barriers to trade.

A consultancy firm with extensive experience in RIA capacity building will draft two action plans of at least ten pages to be undertaken by the Ministry of Health's two task forces (DIGEMID and DIGESA) in charge of the RIA. Each action plan will describe and discuss the following elements: description of the activities, main responsibility to undertake the activity, time required to undertake the activity in weeks, description of the deliverables expected after each activity, and notes concerning the methods and risks related to the activity.

BASELINE	INDICATOR	GOAL
There is no assessment on sector specific TBT compliance.	Study on TBT's compliance conveyed and commitment from entities to adopt recommendations.	Report on how to meet TBT obligations.

## CONCLUSIONS

- Despite the short time frame to execute the program (five months), the Project achieved the main objectives of the work plan.
- Participation of U.S. government speakers was critical to attracting an audience and fomenting dialogue.
- The Standards Alliance allowed both governments to explore areas of cooperation, which will not only improve Peru's trade capacities but also will contribute to strengthening trade and political ties with the United States.
- The workshops provided valuable information regarding the benefits of transparent standards-making policies and coincided with internal assessments on the issue.
- Based on the successful results of the program and the momentum it has created for greater cooperation, more technical assistance may be delivered. ANSI and USTR are in preliminary discussions with the Peruvian government

## RECOMMENDATIONS DELIVERED TO THE GOVERNMENT OF PERU

- Participants who benefited from the orientation visit and who collaborated with the execution of the program must disseminate gained knowledge to other regulatory bodies.
- RIA- methodology must be adopted in regulatory agencies. Either MINCETUR or the Ministry of Economy and Finance must encourage entities to apply such a methodology and share their experience with other regulatory bodies.
- Dissemination activities must be continued to reach out to regions outside Lima where standards and accreditation may well play an important role in improving product quality.
- Strengthening accreditation policies, laboratories and conformity assessment will be critical to improving the overall standards system or infrastructure.
- More case studies must be carried out related to the economic benefits of adopting standards (As the DANPER case showed).
- The Peruvian government must carry on discussions for potential cooperation under the Standards Alliance framework. As requested by ANSI and USTR, Peruvian regulatory bodies are meeting to elaborate a proposal of activities for a long term project. Tentative areas of cooperation are detailed below:

SECTOR	INTEREST	AGENCIES INVOLVED
<b>INDUSTRY &amp; ENERGY</b>		
I.1 Electric	MoU with NEMA . Advise on elaboration of Technical regulations	PRODUCE – DIGESA – INDECOPI
I.2 Textiles	Regulations on flammability in children's clothing.	DIGESA -PRODUCE – INDECOPI
<b>HEALTH &amp; ENVIRONMENT</b>		
2.1 Water treatment	ASTM standards feedback	DIGESA – INDECOPI – VIVIENDA - MINAM

SECTOR	INTEREST	AGENCIES INVOLVED
2.2 Clinical trials	ANSI feedback.	MINSA (INS-DGSP), INDECOPI
2.3 Medical devices	Participation in the technical committee.	DIGEMID - INDECOPI
2.4 Toys	Regulation and essay methods. Alert systems implementation.	DIGESA - INDECOPI
2.5 Water management	IAPMO and ASTM Standards.	DIGESA-INDECOPI-PRODUCE
<b>FOOD SAFETY</b>		
3.1 Alerts	Capacity building for COMPIAL / FDA-like alert system.	DIGESA
3.2 Capacity building	Chemical polluting agents. Aquaculture – JIFSAN. Inspector training in FIT facilities.	COMPIAL- PRODUCE- INDECOPI
3.3 FDA Modernization Act	Criteria to allow participation of accredited laboratories.	COMPIAL- INDECOPI
3.4 sample collection plans and food test methods.	Technical assistance from JIFSAN and FDA	COMPIAL-INDECOPI
<b>QUALITY INFRASTRUCTURE</b>		
4.1 New accreditation programs	Training experts in laboratories accreditation (clinical trials, electric, geotechnic).	INDECOPI
4.2 Legal metrology	Technical assistance from NIST.	INDECOPI
<b>COMMON AREAS</b>		
5.1 Risk analysis	Training and capacity building on risk management in JIFSAN.	COMPIAL- INDECOPI-PRODUCE
5.2 RIA capacity building	RIA methodology /NIST experience.	MINCETUR-Regulatory bodies
5.3 Faster data flow Exchange between Customs and regulatory bodies	Technical assistance in international best practices.	Regulatory bodies, SUNAT

## FINANCIAL RESOURCES

The following table summarizes disaggregated expenditures for the Standards Alliance initiatives.

ITEM	US\$
Training to public and private sector	181,545
TBT Website	35,390
TBT Manual	51,570
Orientation Visit on Standards and Regulations	60,446
Action plan on regulatory impact assessments related to TBT	21,127
Total	350,078

## ANNEX



**Government of Peru Orientation Visit on Standards and Regulations  
Draft Agenda  
September 23–27, 2013  
Washington, DC Delegation Participants**

Ms. Rocío Elena Barreda Santos	MINCETUR	Negotiator
Ms. María del Rosario Uría Toro	INDECOPI	Head of Standardization
Mr. Augusto Emiliano Mello Romero	INDECOPI	Head of Accreditation
Mr. José Antonio Dajes Castro	INDECOPI	Head of Metrology
Ms. Jacqueline Grace Neumann Valenzuela	DIGEMID	Legal Advisor
Ms. Mónica Saavedra	DIGESA	Executive Director
Mr. Raúl Armando Flores Romaní	Ministry of Production	Executive of Regulation

**Monday, September 23, 2013**

**Meeting Location: ANSI Main Conference Room, 1899 L Street, NW, 11th Floor  
Washington, DC, 20036  
Tel: 202.293.8020. Fax: 202.293.9287**

Meeting Time: 9:00 a.m. 11:30 a.m.

The purpose of this meeting is to provide an overview of the week's meetings and to discuss the future Standards Alliance work plan.

- 9:00 a.m. Introduction of the Peruvian Delegation and U.S. Host Committee
- 9:10 a.m. Welcome: John M. Melle, Assistant U.S. Trade Representative for the Western Hemisphere
- 9:15 a.m. Expectations for the U.S. Visit
- 9:45 a.m. Discussion of the upcoming changes to Peru's law's which would help facilitate understanding of where U.S. input or practice may be considered.
  - Proposed Changes for INDECOPI for increasing responsibilities on safety and quality, Rosario Uria, Director for Standardization, INDECOPI
  - Proposed Conformity Mark, changes to Peruvian requirements, Augusto Mello, Director for Conformity Assessment, INDECOPI
- 10:15 a.m. Review of the Week's Schedule
- 10:30 a.m. Discussion of Work Plan for the Standards Alliance and Path Moving forward with ANSI Partnership with USAID

## Plans for 2014-2018

- Working Toward a Spanish version of the Standards Portal
- Taking advantage of APEC's E-rulemaking project
- Cooperation in COPANT
- Standards Alliance and Peru's APEC Host Year in 2016

## Partnering on Regional Initiatives

## USTR attending:

- Jennifer Stradtman, Director, Technical Barriers to Trade
- Catherine Hinckley, Director, Peru, Chile and Venezuela

11:30–1 p.m. Lunch Break

1:00 p.m. Vehicle Emission and Safety Standards

The United States understands Peru may be considering changes for vehicle emissions standards. Our experts will review the U.S. system and ask about future plans to regulate the Peruvian regulatory system.

## Experts

- Michael Ralsky, Global Government Relations, Navistar International Corporation
- Sarah Sowell and Other Representatives, Air Quality Office, U.S. Environmental Protection Agency
- Representative from the National Highway Transportation and Safety Administration
- Sarah Stewart, Director for Environment and Natural Resources, Office of the U.S. Trade Representative
- Andy Parris, Office of Automotive and Aerospace Industries, Department of Commerce.

2:00 p.m. Greg Orehowsky , U.S. Environmental Protection Agency, Office of Transportation and Air Quality. Emission Standards for mobile sources

2:30 p.m. Peru's Involvement in the Global Food Safety Partnership

The World Bank has launched a food safety partnership modeled off the work of the APEC Food Safety Cooperation Forum. Ms. Evans will present to the group information about how Peru can take greater advantage of the food safety programming under GFSP offered by the World Bank.

Expert: Amy Evans , Program Director, World Bank

4:00 p.m. Roundtable on Laboratory Accreditation The Peruvian delegation would like to exchange experiences in the implementation of accreditation programs, including

- Evaluating the possibility that INDECOPI-SNA staff (2 or 3 people) can be trained by A2LA or other AB
- Training for new INDECOPI-SNA assessors in medical laboratory and

proficiency testing providers accreditation (if possible, an internship)

- INDECOPs of interest: a) Acoustics and Vibration, b) Construction Materials, c) Electrical/Electronic, d) Forensics Examination, e) Geotechnical, f) Sustainable Energy (GHG).

Expert

- Peter Unger, President/Chief Executive Officer and Sylvana Ricciarini, Director of Government Relations, A2LA
- Reinaldo Balbino Figueiredo, Senior Program Director Product/Process/Services Accreditation Programs, ANSI
- Dr. Roy Swift, Senior Director, Personnel Credentialing Accreditation Programs, ANSI
- Ileana Martinez, Senior International Affairs Advisor, Standards Coordination Office, National Institute of Standards and Technology (NIST)

5:00 p.m. ANSI discussion Work Plan: continuation of the discussion of the morning

### **Tuesday, September 24, 2013**

**Meeting Location 1: U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, D.C. 20230  
Room 1414**

The morning will be dedicated to meeting with Standards Development Organizations

- 9:00 a.m. Gene Eckhart, Senior Director for International Trade, NEMA
- Standards related to electrical products, both safety and energy efficiency
  - NEMA's ongoing outreach program in Latin America
- 10:00 a.m. Christopher Lindsay, Manager Government Relations, International Association of Plumbing and Mechanical Officials (IAPMO)
- 11:00 a.m. Anthony Quinn, Director, Public Policy and International Trade, ASTM International
- Textile Regulatory Compliance (for example Flammability of Children's Sleepwear)
  - Proficiency Test Program for Textiles
  - E36 Conformity Assessment
  - D34 Waste management D34.03 Treatment, Recovery and Reuse (waste water)
  - F04 Medical and Surgical Materials and Devices (good practices in medical services)

Lunch in the DC area before traveling to College Park

**Meeting Location 2: Food and Drug Administration  
Center for Food Safety and Applied Nutrition (CFSAN)  
@ the Harvey Wiley Building  
5100 Paint Branch Parkway  
College Park, Maryland 20740**

Meeting time: 1:30 p.m.-3:00 p.m.

- Brief overview of FDA's food safety programs and FDA's international partnerships – Julie Moss, Deputy Director for International Affairs, CFSAN
- The Food Safety Modernization Act (FSMA) – Jeff Read (IAS, CFSAN)
- International Food Safety Capacity Building Plan – Cathleen Barnes (IAS, CFSAN)
- FDA and the Standards Alliance – Andrew Stevens (IAS, CFSAN)

**Meeting Location 3 (ALL): JIFSAN Training room: 2134 Patapsco Building next store to CFSAN on the second floor**

Meeting time: 3:15 p.m.-4:30 p.m.

- Clare Narrod, Research Scientist and Manager, Risk Analysis Program: Overview on JIFSAN and discuss the risk analysis program and the GAPS/GAP/FIT
- Janie Dubois, Lab Manager will give an overview on the lab program and a tour of the labs
- Romina Heymann will be convening the lab training on Methods of Determination of Drug Residues in Aquaculture, Meat and poultry

**Wednesday, September 25, 2013**

**Meeting Location 1 (ALL in the AM): National Institute of Standards and Technology  
100 Bureau Dr. Gaithersburg, MD 20899  
(301) 975-2000**

- Meeting/briefing with Dr. Willie May, Associate Director for Laboratory Programs.
- Meeting with key staff in the Standards coordination Office (Gordon Gillerman, Ileana Martinez); Metrology and Weights and Measures (Ralph Richter and others); the U.S. WTO TBT inquiry Point; and the Office of International and Academic Affairs (Dr. Claire Saundry and Dr. Katya Delak)
- A laboratory visit and tour to the Physical Measurement Laboratory meeting with Dr./Ms. Michal J. Chojnacky; this group conducts temperature research and has worked closely with U.S. industry and government including the FDA, FedEx, and the Grocer's Association.

Meeting Location 2: Office of the U.S. Trade Representative  
4<sup>th</sup> Floor Conference Room, Office of the U.S. Trade Representative  
1724 F Street, NW, Washington, DC 20508

Catered Lunch at Office of the U.S. Trade Representative (USTR) 1p.m.-2p.m., 4<sup>th</sup> Floor Conference Room

Meeting times: 2:00 p.m.– 4:00 p.m.

Topic: United States and Peru Trade Promotion Agreement TBT Chapter Meeting (confirmed). Jennifer Stradtman of USTR will organize the agenda for this meeting. E-mail information – [Jennifer A Stradtman@ustr.eop.gov](mailto:Jennifer_A_Stradtman@ustr.eop.gov)

The delegation will move to the 2<sup>nd</sup> Floor Conference Room for the final meeting of the day.

4:00 p.m. Fernanda Machado, Associate Vice President, Advamed  
Gerry Zappian, Industry Specialist, Department of Commerce

Discuss any assistance Peru will need to adapt to the TPP Health Annexes and any other regional activities on medical devices (Pacific Alliance, Andean, PAHO)

### **Thursday, September 26, 2013**

**Meeting Location 1: U.S. Department of Commerce**  
**1401 Constitution Ave., NW**  
**Washington, D.C. 20230**  
**Room 1414**

Meeting times: 9:00 a.m.– 3:00 p.m.

Topic: Trade in Foods and Beverages. Opportunities for Cooperation.

**Public Sector Dialogue: 9:00 a.m. – 10:45 a.m.**

- Chanda Berk, Deputy Director, Processed Products and Technical Regulations Division, Office of Agreements and Scientific Affairs, Foreign Agricultural Service, United States Department of Agriculture (Confirmed)
- Mark Petry, Deputy Director, New Technologies Division, Office of Agreements and Scientific Affairs, Foreign Agricultural Service, United States Department of Agriculture (Confirmed)
- Christine Strossman, Director, Office of Capacity Building and Development, United States Department of Agriculture (Confirmed)

**Private Sector Dialogue 1, 11:00 a.m. – 12:30 p.m.**

- Carmen D.H. Stacy, Director, Global Issues & Multilateral Affairs, Grocery Manufacturers Association (Confirmed): “Industry-Government engagement to lower obesity: fact-based labeling, advertising/marketing to kids, and self-regulation tools” (ppt)
- Christine LoCascio, Senior Vice President, International Issues & Trade, Distilled Spirits Council of the United States (Confirmed)
- Thomas LaFaille, Director of International Trade Policy, Wine Institute (Confirmed): “U.S. wine and Opportunities for U.S.-Peru government and industry collaboration through the World Wine Trade Group and the APEC Wine Regulatory Forum” (ppt)

USDA additional Participants:

Ben Rau  
Christine Strossman  
Chen-Lun (Jason) Chang  
Dorian LaFond  
Katherine Bedard  
Sara Kucenski

Expectations and what will be discussed:

Private Sector Dialogue 2, 2:00 p.m. – 3:00 p.m.

- Matthew O'Mara, Director, International Affairs, Food and Agriculture, Biotechnology Industry Organization (Confirmed)
- James Travis, Director, International Government Affairs & Trade, Monsanto (Confirmed)

**Meeting Location 2: FHI 360 CONFERENCE CENTER: The Globe Theater**  
**1825 Connecticut Avenue NW**  
**8th Floor**  
**Washington, DC 20009**  
**(202) 884-8279**

Meeting times: 4:00 p.m.– 6:00 p.m.

**Friday, September 27, 2013**

**Meeting Location 1: U.S. Department of Commerce**  
**1401 Constitution Ave., NW**  
**Washington, D.C. 20230**  
**Room 1410**

Meeting Times: 9:00 a.m. – 5:00 p.m.

9a.m.–10a.m. Heidi Hijikata, Director for Global Development American Society for Mechanical Engineers

Jim Ramirez, Vice President, Business Development, ASME Standards Technology, LLC

- Codes and Standards
- Conformity Assessment
- Training and Development
- Publications
- Oil and gas
- Participating in ASME Code Committees
- The importance of IP for ASME in Peru

10 a.m.-11 a.m. Nathan Frey, Policy Analyst, Office of Management and Budget  
 Mr. Frey will provide a high-level discussion about risk assessment, including factors to consider and resources to improve a risk assessment program.

11a.m.-12:00 p.m. Personal Care Products Council  
 Tonya Kemp  
 Director of International Trade Policy  
 Global Strategies

12:00 p.m.–1 p.m. Matthew Wilshire, Federal Trade Commission  
 Linda Martinich, Department of Commerce

Follow-up to the Peru meeting

1 p.m.–3 p.m. Lunch Break and travel to ANSI (Recap with ANSI on week's events/next steps)

**Meeting Location2: American National Standards Institute (ANSI)**

**Videoconference**

**1899 L Street, NW, 11th Floor Washington, DC, 20036**

**Tel: 202.293.8020**

**Fax: 202.293.9287**

3:00 p.m.–5 p.m. Consumer Product Safety, and also Textile Flammability, INDECOPI has a proposed new mark for children's toys.

Tilven Marcela Bernal, Program Manager for the Western Hemisphere,  
International Programs