



USAID | **FACILITANDO COMERCIO**
DEL PUEBLO DE LOS ESTADOS
UNIDOS DE AMERICA

Quarterly Progress Report

Peru and Andean Trade Capacity Building Program: USAID/Facilitando Comercio

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Peru and Andean Trade Capacity Building
Program: USAID/Facilitando Comercio

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I. Executive Summary

Six months after contract signing, USAID | Facilitando Comercio has activities under way in the six components and the three countries. The following are the most important advances made by each component/country:

Labor

Two key studies have been completed, one related to the evolution of the labor market and the other to inspections statistics at the Ministry of Labor. Both studies lay the groundwork for defining the training and technical assistance activities planned for this component. In addition, training for the implementation of the New Labor Procedural Law has started for conciliators and will start in January 2011 for judges. The training takes into account the results of the pilot workshop for judges that were carried out in Tacna. An extensive agenda of activities has been identified with the Ministry of Labor, and it is expected that at least five consultancies will be initiated in December.

Intellectual Property Rights (IPR)

Activities on the IPR Component have advanced on several fronts, all in support of INDECOPI. The Project is currently developing the contents of the online course on trademarks for practitioners for the Academy of Competition and Intellectual Property. The design of the virtual platform for the course will start early in 2011. The Project has also called for proposals for the automation of processes for the Distinctive Signs Unit of INDECOPI (a module for the generation of electronic certificates of registration and entries, and a module to allow for the display, search and printing of these certificates, prior to the digitalization process). Finally, as part of the activity to raise awareness of the Importance and Benefits of IPR, the Project will provide assistance to the Inventions and New Technologies Unit to develop its National Inventors Contest and to the Copyrights Unit to develop an initiative called "Education for development: fostering a culture of respect for intellectual property".

Trade Facilitation

Coordination with the public and private stakeholders was strengthened during this quarter through meetings with trade associations. Strategic meetings with donors also were held and have enabled us to establish coordination bridge for a more accurate project targeting. Stakeholders now regard the Project as an important vehicle to promote Customs reforms. Almost all work plan activities have been started and some have shown a significant degree of progress--such as the assessment of trade related procedures in DIGESA of the Ministry of Health (part of VUCE). The Authorized Economic Operators (AEO) workshops carried out in September raised awareness of the importance of this trade facilitation issue and even put the topic on the priority agenda of the public private customs committee and Customs. These workshops

circulated the first publication from the Project (AEO Handbook, reprinted). The TCBaseline tool, which will provide an assessment of Peruvian Customs procedures and capacities, was conducted in November 2010. The trade community was very active in providing feedback about the quick release system status. The full report is expected in mid-December.

Administrative Simplification

Under the Administrative Simplification Component two activities are currently underway. The first is an evaluation of the role of local governments in the Operating License Procedure, which is being conducted in alliance with USAID / ProDescentralización. A consultant is performing the conceptual analysis and a Consultative Committee was formed with the participation of 14 public and private institutions.

The second activity consists of updating the TRAMIFACIL webpage. The corresponding Report and a proposal to redesign the webpage have been presented to the Public Management Secretariat for its review and approval.

Medicines

We are helping DIGEMID organize its digitalized archives into their SIDIGEMID information system. This action will enable DIGEMID to streamline the analysis of applications for registration and, later on, improve transparency for internal and external users by sharing online information. Training activities for examiners are being programmed to start in early 2011.

Telecommunications

A detailed work plan for the entire component has been formulated with the participation of Nathan in-house telecom expert, Mr. Bruno Viani. The plan has been validated with the main telecommunication stakeholders, and is currently being reviewed by the telecomm regulator, OSIPTEL.

Ecuador

The imminent approval of a new Production Code has presented a new work plan scenario for the Project. To better define next steps, a local consultant is currently conducting a quick assessment on the implementation of the US requirement under the Secure Freight Initiative (SFI) and the operational and regulatory status of Ecuador's Customs administration.

Colombia

A work plan for Colombia was prepared and submitted to USAID, and was validated with new authorities at the Superintendencia de Comercio (SIC) after the change of government in August 2010. The first year's work plan focuses on intellectual property rights activities. Main advances with counterparts are as follows:

- SIC: support in reducing backlogs in oppositions and in advising key stakeholders on implementation issues related to the TLT and the Madrid Protocol.
- School for Judges Rodrigo Lara Bonilla and the Antipiracy Convention: Training for Judges in IPR and Copyrights is being executed before schedule.
- University Jorge Tadeo Lozano, Andiarios and the Journalist Club of Bogota: the design of the Journalist Club was developed before schedule. This Club will provide systematic information on IP matter to journalists.
- Colombian Crafts: Identification of 20 artisan communities in order to protect their cultural legacy by assisting them in obtaining collective brands and appellation of origin. Corresponding TORs have been approved by USAID and contracting is in process.

II. Introduction: Context

In Perú, regional and local elections were held on October 3rd, and elected new authorities will assume office on January 1st, 2011. With elections, now complete, the Project is preparing to support to 20 municipalities in streamlining the business operations license procedure in early 2011.

Presidential elections, programmed in April 2011, are getting closer, and political parties have already presented their presidential candidates. The most recent national survey (Datum) shows the following results in the voters' preferences:

- Alejandro Toledo, 26%
- Keiko Fujimori, 22%
- Luis Castañeda, 21%
- Ollanta Humala, 10%.

The first three candidates are market friendly and pro integration. Thus, it seems very unlikely that the president that assumes office next July will be against trade agreements and the reforms related to them, which is positive news for the Project and the US-Peru Trade Promotion Agreement (PTPA). The candidate of the official party, Mercedes Araoz from APRA, has received so far only minimal support from the voters (4%). Since her election as president seems unlikely at this point, it also is unlikely that the current administration will be politicized in the following months. This is also positive news for the Project, as it will allow us to continue with the agenda of technical assistance and training activities that have been programmed in the first year work plan.

During the last quarter, Perú's competitiveness was an important part of the public agenda with the release of the Doing Business 2011 Ranking and the celebration of the Annual Conference of Executives (CADE) around the topic of "The Priority Agenda of Competitiveness: Towards Prosperity".

The recently released 2011 Doing Business Report has placed Peru in the 36th position over 183 economies, which is an improvement by 10 positions from the 2010 edition. This has turned greater attention to Peru as the most attractive South American economy to invest in, surpassing Chile and Brazil. The Peruvian Minister of Economy and Finance has stated that the most important reforms carried out to achieve this progress included:

1. The administrative simplification process carried out throughout the last several years. Work has focused on reducing the number of procedures and the costs of starting a construction.
2. The reduction of time to import and export, which facilitated increasing foreign trade.

These reforms, alongside others, have placed Peru as the third most progressive reformer in 2010, after Kazakhstan and Rwanda. The following table shows changes in the ranking for the period 2010-2011.

Topic	Rank 2011	Rank 2010	Change
Starting a Business	54	103	↑49
Trading Across Borders	53	80	↑27
Dealing with Construction Permits	97	103	↑6
Registering Property	24	28	↑4
Closing a Business	96	99	↑3
Protecting Investors	20	20	=
Getting Credit	15	14	↓1
Paying Taxes	86	85	↓1
Enforcing Contracts	110	108	↓2

Source: *Doing Business Webpage*.

It should be noted that the trade facilitation and administrative simplification components of USAID|Facilitando Comercio have been specifically designed to carry on the improvements that support the advances in the 2010 ranking. It is important to note that despite the higher ranking of 53 and 54, respectively, there is still an important reform agenda for these two topics. As stated by the Minister of Economy and Finance in a recent interview, there are still matters such as operating license procedures, the inspection certificate (National Institute of Civil Defense) and Customs procedures that need to be improved--all of which are being addressed by USAID|Facilitando Comercio¹. The Minister is committed to implementing these reforms, which as he has noted, enhance the country's competitiveness.

From November 11th to 13th, the Annual Conference of Executives (CADE) was held on the topic of "The Priority Agenda of Competitiveness: Towards Prosperity". The conference was divided into nine issues presented as key fields that needed substantial reforms to ensure the right path to prosperity. In the following table we present the relation of the different reforms proposed by CADE's technical team and the Project:

¹ Newspaper *El Comercio*, B2-B3. Wednesday, October 20th, 2010.

Issue exposed in CADE	Reform proposed in CADE	To be worked by the USAID Facilitando Comercio's Component:
Ease of Doing Business	<ul style="list-style-type: none"> - Simplify the Operating License procedure in local municipalities. - Simplify the establishments' inspections regulation. 	Administrative Simplification
	<ul style="list-style-type: none"> - Simplify procedures and institutions involved in the Single Window initiative. - Promote the implementation of the Authorized Economic Operator 	Trade Facilitation
	<ul style="list-style-type: none"> - Interconnection between databases from different institutions to increase interoperability within the State. 	Intellectual Property/Medicines
Institutional Reform	<ul style="list-style-type: none"> - Increase capacities in the Judiciary personnel. - Strengthen institutional performance 	Labor
Labor Reform	<ul style="list-style-type: none"> - Strengthen the labor inspection system by introducing informatics tools to rationalize inspections and training inspectors. - Develop an Integrated Information System with <i>Planilla Electrónica</i> (Electronic Payroll) 	Labor
Infrastructure	<ul style="list-style-type: none"> - Institutional Strengthening for Telecom regulation. - Promote the discussion of policy tools to increase access to Telecom services, especially on rural areas. 	Telecommunications
Innovation	<ul style="list-style-type: none"> - Promote a Culture of Innovation 	Intellectual Property

Source: USAID/Facilitando Comercio

CADE was also an opportunity to present the Project to the State news agency, Andina. USAID Mission Director, Richard Goughnour, and COP Elena Conterno conducted an interview in which they highlighted the Project's objective and main activities, as well as the relationship between the Project and the National Trade Capacity Building Plan of the Government of Peru (GOP).

In Ecuador, during the last months there has been an important effort to carry on with the implementation of the Productive Transformation Agenda, which has been designed to strengthen the productive capacity of the country. The National

Legislature developed a new Production Code focused on promoting private investment and establishing key productive sectors. A first version of the Code was passed by Congress but it was partially vetoed by the President, which has presented amendments to six articles of the Code. The Commission of Economic Regime of the Congress has already approved the amendments, thus introducing a high possibility that the new Production Code will be enacted promptly.

In Colombia, since the change of government carried out on August 7th, changes in the main officials of public institutions took place, including the Superintendence of Industry and Commerce (SIC). New officials have stated that policies to be applied by the new Office will be similar to those of the previous administration.

In both Colombia and Ecuador the USAID bilateral missions have awarded contracts to implement economic growth and policy programs. The Project's country coordinators are working with the respective projects and missions to ensure a streamlined approach to technical assistance.

III. Technical Implementation - Perú Component

Component 1: Labor

The development of activities to be undertaken in support of the Ministry of Labor (MOL) is taking longer than expected, first because of a redefinition of priorities by the Ministry -from the initial prioritization of June 2010- and the Ministry's slowness in formulating terms of reference for each of the activities. In response, the Project hired a consultant to help the MOL define the TOR for the activities. The consultant is actively coordinating with MOL representatives but is also being proactive in developing the TOR himself in coordination with the Project.

In the following paragraphs we present progress in the different activities of the work plan.

Activity 1.1: Develop Guidelines and Training Material for Inspectors

Two guidelines will be created to orient the work done by MOL inspectors:

- 1) Orientation for conducting labor inspections with regards to the characterization of most frequent deviations from outsourcing regulations and intermediation cases.
- 2) Guide for establishing sanctions for primary labor infractions.

TORs have been prepared and will be delivered to the Minister in the meeting scheduled on December 9th. The Project will initiate the process of hiring consultants after the meeting.

In addition, the MOL asked for support in conducting assessments on the status of labor conditions for different groups of workers: port workers, fishermen, agro-industry workers and sea navigation workers. A TOR that will define the methodology and deliverables is being developed, and will be applied as a pilot in one of the groups previously mentioned.

In addition, as a general framework regarding the status of labor conditions, a study on the labor market was produced to analyze informality in Perú.

Activity 1.2: Implement Ministry of Labor's (MoL) General Training Plan

Training will commence with activities to raise awareness about the regulation of health and safety at work. A TOR for these activities will be presented to the Labor Minister on December 9th.

Activity 1.3: Conduct Dispute Resolution Training

Training with the Ministry of Justice (MINJUS) has witnessed significant progress, and the Project developed a training program for 40 MINJUS conciliators on labor disputes. Currently, labor disputes are not part of the conciliation services provided by the MINJUS.

The training will start with 20 conciliators from Lima who work directly in the Conciliation Centers of the MINJUS. Training will take place between December 6th and the third week of January 2011. The second group of 20 facilitators will be trained during February 2011. The training process has been divided into two: a section focused on the knowledge of the main aspects of the Labor Law (52 hours) and a practical section focused on conciliation (34 hours). The courses will include entry and exit tests for participants.

After completing the training of the first group, the Project will train a second group of 20 facilitators. Thereafter, trainings will be taken to the regions in about 4 macro-regional workshops, which will include conciliators from private Centers of Conciliation.

Activity 1.4: Integrate MoL's Information System

The Project has prepared the TORs for the formulation of a conceptual design of an information system to consolidate and centralize the management of statistical information of the MOL. The system will be based on an analysis of the situation and demands for industry information and statistics at a national and regional level.

The design of the system will consider the current status of labor statistics and informatics nationwide, comprising:

- The registration and use of statistical information
- Detail on the equipment and technology available to house statistical information
- Human resource capacity to analyze statistical information

This diagnosis will update and expand the assessment conducted in 2007 by MYPE COMPETITIVA.

The main objective of the conceptual design of an informatics system is to consolidate and centralize MOL's various sources of statistical information in order to facilitate the decision making processes by the most important areas of the MoL (General Directions or above) and the regional governments.

During the previous quarter, a study for evaluating the inspection system statistics was conducted. This study systematized available statistics of the Ministry of Labor on labor inspections and assessed the problems that the process of generating and registering inspections statistics faces.

In response to MOL's request, the Project has also developed a TOR for constructing employment and revenue statistics from the planilla electronica, which will phase out the quarterly surveys that MOL regularly conducts.

Both TORs will be presented to the Labor Minister in the meeting of December 9th.

Activity 1.5: Improve Tracking of Labor Dispute Processes

No significant progress reported in this activity, as there have been some limitations to work created by the Judiciary. It is expected that the change of administration at the Judiciary in January 2011 will provide an opportunity to obtain further advances in this activity.

Activity 1.6: Support the Implementation of the Procedural Labor Law

The Judicial Academy agreed to carry out a fairly extensive activity plan that will extend into the first half of 2011. The programs draws on the experience obtained in carrying out a pilot training workshop in the city of Tacna during September (where we trained 5 judges, 3 superior vocals of the Court and 15 auxiliaries of justice in the contents of the New Labor Procedural Law).

The activity plan with the Judicial Academy includes the following three tasks:

Task1. - Preparation of materials. Involves creating materials, during December and part of January, for the Training Course for Trainers in oral litigation in Labor, and for the Training of Judges in oral litigation. Activities include:

1. Collecting case studies in which the process is applied orally.
2. Adaptating these case studies for use with judges.
3. Filming audiences.
4. Preparing a syllabus for carrying out a Training Course for Trainers in oral litigation in labor that includes: public hearing models, strategic litigation, evidence, litigation techniques, comments on the evidence and sentencing, all by implementing the case methodology.
5. Selecting expert thematic consultants, both national and international, to develop materials for the training course.
6. Selecting an educational adviser in order to, jointly with the experts, develop a didactic course with materials that are appropriate.

Task 2. - Oral litigation workshops. Five (5) workshops will be developed in oral litigation between January and March. Participants in each workshop will be approximately 20 judges and the agreed timetable is as follows:

City	Date (2011)
Trujillo	15 – 16 January
Arequipa	5 – 6 February
Chiclayo	19– 20 February
Lima / Cañete	7 – 11 March
Cuzco	26 – 27 March

Contents covered include mainly the following points:

1. Principles and values of the New Labor Procedural Law (NLPL). This topic is intended to internalize the benefits of NLPL compared to the previous law. An explanation of the principles and values that are contemplated in the NLPL will facilitate the understanding of the new institutions and regulations contemplated in the Law. A bibliography will be compiled in order to address these issues. There also will be practical examples to explain each of the issues addressed in this part.

2. Conciliation management. This topic is intended to allow judges to appreciate the scope and limits of conciliation in the NLPL. The most relevant topics that should be addressed in this part are:

- a. Conciliation as a form of conflict resolution (the action right).
- b. Reconciliation and the principle of irrevocability of rights.
- c. Contents of the Conciliation: facts and obligations.
- d. Role of the Judge in the Conciliation.
- e. Conciliation techniques.

3. Management of Hearings. This topic is designed to train judges to adequately prepare for hearings. This will require designing templates of the main disputes that arise in Labor processes. These templates should help to identify the central issues of dispute, rules of the burden of proof, and the usual documents to prove a claim.

Task 3. - Training Course for trainers in Oral Litigation in Labor. This activity aims to train future instructors at the Judges Academy on oral litigation techniques for labor judges. Two courses will be developed, each of which will target 20 judges of the labor specialty selected by the Academy. The judges must sign an agreement with the Academy to replicate the knowledge acquired.

Component 2: Intellectual Property

Coordination with Indecopi has been very good, which has allowed for a steady progress in the different activities considered in the work plan. A meeting with Indecopi's President, Eduardo de la Piedra, took place during this quarter, at which the different activities under consideration were prioritized and ratified. The President assured his strong support for project implementation.

Activity 2.1: Implementation of PTPA IP Chapter

The Project assisted the US Embassy and INDECOPI in carrying out a three hour workshop with an international copyrights expert, Richard Neff, who provided an overview to Internet Service Providers and the Copyrights Office on how the law of Limitations on Liability of Internet Service Providers is currently being applied in the United States.

Activity 2.2: Information Management System Improvement

The Project has four sub-activities in process:

- a. *Module of generation of electronic certificates of registration and entries for the Distinctive Signs Unit. Module to allow the display, search and printing of such electronic certificates of registration and entries*

Due to the constant changes in the information contained in many Certificates of Registration and Entries, such as proprietor, renewal of the certificate validity, change of address, etc., the Distinctive Signs Unit urgently requires a tool that would allow examiners to update such changes automatically.

With this in mind, the Distinctive Signs Unit asked USAID|Facilitando Comercio to support the implementation of a number of modules that would allow examiners to streamline internal and external processes related to Certificates of Registration and Entries.

USAID|Facilitando Comercio agreed to provide support in the first two modules during this first year: i) a module for the generation of electronic certificates of registration and entries and ii) a module to allow the display, search and printing of such electronic certificates of registration and entries, as they are directly related to the digitalization processes that were included as a main activity for the first year of the Project.

Currently, the tender to choose the company that will be in charge of the implementation of such two modules is being carried out. The activity is scheduled to be complete in six months.

b. Digitalization of the Certificates of Registration and entries of the Distinctive Signs Unit

The Project has contacted a number of companies that have experience in digitalization processes to make a first analysis in situ of the type of documents and information that will be digitalized. Terms of reference related to this activity were written. The tender to choose the winning company is scheduled to start in three months, once the previous subactivity is in progress.

c. Automation of the filing system and examination process by the Inventions and New Technologies Unit

Although at first the Project had agreed to help the Inventions and New Technologies Unit with the implementation of the online system for filing applications for patents, utility models, industrial designs and requests of modification, after some coordination meetings with their Directors and after reviewing their automation plans and goals, it's been decided to start by providing cooperation to implement the online examination process, including electronic notifications for the users, which will improve timing for examinations.

Terms of reference were written, however some details must be adjusted to define the scope of our cooperation (for going either with the whole package or to divide the initiative in small modules).

d. Automation of the filing system of the Copyrights Unit

The Project is coordinating with USAID|PERU and the United States Copyrights Office the study tour of one officer from the Peruvian Copyrights Unit to the US Copyrights Office in order to learn about their registration system. The officer has already been identified and a schedule is being drafted for him in order to take full advantage of this experience.

The activity is scheduled for the first trimester of 2011.

Activity 2.3: Improving Technical Examinations

Two sub-activities are in process and one sub-activity is pending.

a. Updating the Andean Processing Manual for patent examiners

Bruno Merchor, Director of Inventions and New Technologies, has committed to contact the Heads of Patent Offices in Ecuador, Bolivia and Colombia to talk about the intention of updating the Andean Processing Manual for Patent Examiners. If the parties are receptive, INDECOPI will hand the proposal to the CAN, noting that our Project will extend its cooperation for the realization of this activity. Once the

proposal is accepted, another meeting will be held to design the strategy, timing and methodology of work. The Project will involve in this activity the World Intellectual Property Organization (WIPO), the European Patent Office (EPO), the United States Patent and Trademark Office (USPTO) and the Andean Community (CAN).

b. Develop a training course for Direction of Inventions and New Technologies' New Examiners and for people interested in becoming examiners

After a meeting with the Direction of Inventions and New Technologies (DIN) to discuss this activity, it was decided that it would be better to first create a manual for new examiners.

The Project has given the DIN two proposals:

- Develop a manual based on the PCT International Search and Preliminary Examination Guidelines but including Peruvian regulations, taking as example the Manual that was developed during the USAID's Egypt Project implemented by Nathan Associates.
- Develop a manual including the procedures, criterion and policies of the DIN.

A final answer from the DIN is pending.

Activity 2.4: Strengthen Capacity for Intellectual Property Rights Enforcement

The National Academy of Judges has agreed to work with the Project in training on IP matters. The Project is in the process of defining in conjunction with the Academy whether it will be convenient to adapt for Peru the Judges IP training material developed for Colombia or start with small workshops.

Activity 2.5: Raise awareness of the importance and benefits of Intellectual Property

Four sub-activities are in process:

a. Online course on trademarks for INDECOPI's Academy of Competition and Intellectual Property

The Project is currently carrying out a consultancy for the development of the contents of the first online course on trademarks that is scheduled to be completed by Mid-February. After this activity is completed, the Project will provide support for the design of the virtual platform on which such a course will be contained. Terms of reference are already approved and possible developers of the virtual platform are identified.

b. Study on the Economic Impact of the recognition of an Appellations of Origen over their producers

The Project held meetings with the most important stakeholders related to appellations of origin for Pisco (Wines Committee of the National Industries Society) and White Giant Corn of Cuzco (Agricultural Ministry) and has a pending meeting with the National Direction of Crafts to obtain information about appellation of origin for Chulucanas Pottery.

The Project also held meetings with possible consultants to get to know their point of view about the study approach. A final meeting with the possible consultants and the Distinctive Signs Unit is pending.

Due to the uniqueness of the subjects under study it was decided to divide it in two. The first study will be based on secondary sources and will present a general vision of the evolution of Pisco and Chulucanas Pottery since its recognition as appellations of origin. With the information obtained, it will be decided which of the two appellations of origin will be the subject of the second study –which will include field work- and how to approach it to show the benefits of the recognition of a product as an appellation of origin.

c. IP course for students and teachers

The Copyrights Unit has presented for USAID|Facilitando Comercio's approval the project: "Education for the creation and promotion of a culture of respect for Intellectual Property" which is a short course for students between 10 and 12 years old and their teachers. The project is based on materials tailored for schoolchildren. At the end of the course there will be a contest of plays created by the students including IP topics. The project will be developed under the authorization of the Ministry of Education throughout the country.

The Project has agreed to provide cooperation for the printing of the materials to be used in such courses and for the elaboration of the Teachers Guidelines. Likewise, the Project will help the Copyrights Unit with the dissemination campaign through the press and local radios, and in such a way, build a network of contacts for starting a Media Club.

This activity is scheduled to be developed in 2011.

d. Inventors Contest

The Inventions and New Technologies Unit asked for our cooperation in the organization of their Annual Inventors Contest. The contest promotes the innovation and investigation among universities, companies, individuals, etc, and has had 6 previous versions.

The Project agreed to provide cooperation for the awards ceremony as well as assist in the dissemination campaign.

This activity will be developed in 2011.

Component 3: Trade Facilitation

As a result of the presentation of the work plan to the Ministry of Economy and Finance (MEF), the Project held several meetings with Customs officials under the umbrella of the National Competitiveness Council (NCC) to establish an action plan for improving Customs operations which involved the topics contemplated in our work plan. The agreed action plan sets an institutional framework to target project activities. Based on this coordination, public stakeholders i.e. Ministry of Foreign Trade & Tourism (Mincetur), MEF and NCC, are duly informed as to the activities to be performed and they take part on every related discussion.

The Project also promoted coordination meetings with institutional donors such as IADB, IFC and SEKO. Moreover, the Project met key trade associations such as ADEX, COMEX, and Lima Chamber of Commerce to bring them in.

Activity 3.1: Establish baseline for Customs Operations

USAID's TCBaseline activity was established after discussions with the Customs Authority, MEF, Mincetur and NCC. The assessment mainly focuses on issues affecting the trade community's acceptance and use of the new 48-hour release procedure Expedited Custom Clearance Procedure (Despacho anticipado en 48 horas) as established under the PTPA. It also includes a brief on-site assessment to Peru's largest volume port of entry, the Callao Seaport.

The *TCBaseline* assessment was performed in Lima from November 8th to 19th 2010. The assessment was performed by two senior trade facilitation experts, Robert Holler and Wilbur Smith, and two local associate experts who provided logistic and technical support.

The assessment team members individually and/or in groups had the opportunity to interview and observe a wide spectrum of individuals and activities, both inside and outside of Customs with a focus on clearance procedures. Interviewees included responsible Customs Headquarters managers and field officers, representatives of the National Bureau of Foreign Trade Development of the Mincetur, managers and officers of the National Service of Agrarian Health (SENASA), customs brokers, temporary deposit warehouse managers, vessel line and maritime agents, port operator managers, and importers. In addition, the assessment team toured the DPWorld port facilities, the Customs Maritime Intendancy Office at Callao, the new Customs examination facility just outside of the ENAPU complex, and observed pre-release processing of imported goods, as conducted respectively by Customs Specialists and SENASA Inspectors. Public and private authorities were fully open to providing information and material to carry out the assessment.

The first draft of the report was delivered to USAID/Facilitando Comercio. The report discusses actual or potential disincentives to the use of the Despacho anticipado en 48 horas from different perspectives such as Customs operations, practices from trade operators and other government agencies. Both findings and recommendations are to be handed over for discussion among public stakeholders and relevant private parties in mid-December. It is expected to shape a joint action plan.

Activity 3.2: Dissemination of Quick Release System Benefits

Two sub-activities are considered:

a. *Develop Dissemination Strategy*

The Project held several meetings with Customs, Mincetur and MOF to discuss the communication strategy for the quick release system. The Project analyzed the status of the actions taken by Customs and has been collecting information from private stakeholder to identify problems and bottlenecks that hinder broader use of such system. Since there were several constraints to the implementation of the quick release system it was necessary to analyze the current problems in order to elaborate a suitable content of the information which is needed to disseminate. For this purpose the TCBaseline will provide valuable information as to the relevant constraints of the system.

b. *TCbaseline awareness workshops in 10 Peruvian cities*

This activity will be devised based upon the results of TCBaseline results. Preliminary findings of TCBaseline will cast relevant information as to the low degree of awareness from trade operators with regard to new customs procedures.

Activity 3.3: Simplify Import Related Procedures

Two sub-activities are in process:

a. *Mapping and reengineering of procedures.*

The objective is to propose reforms to those procedures included in the Single Window for Foreign Trade (VUCE). As agreed with the Ministry of Foreign Trade a pilot activity is in progress by assessing the 20 (twenty) trade-related procedures of the National Health Bureau – DIGESA of the Ministry of Health. The two-member team is comprised by experts in flow-processes and administrative trade law. Both have already accomplished the field study having worked closely with DIGESA officials as well as frequent users of such procedures. Surveys from private users have been a useful tool to identify problems of DIGESA procedures. Based on the findings, the activity intends to propose improvements or adjustments to the procedures by presenting a range of alternatives including legislative reforms if needed. Moreover, if it is found

that an IT issue needs to be modified, the Project could also assist the entity to recommend a suitable solution that considers their budget constraints.

Once the pilot activity is completed and a methodology is finally set, the Project will likely assess DIGEMID trade related procedures (aprox. 60), building on the coordination already in place through the medicines component of the Project. This activity is expected to start in January 2011.

b. *Single Window (SW) training in controlled products*

Training on SW for trade operators has solely been focused in Lima and now the characteristics and benefits of SW need to be disseminated in other cities. Criteria to select ten cities are still under analysis by Mincetur. It's expected to start in February 2011 as previously scheduled.

Activity 3.4: Facilitate Creation of a Surety System

A Surety System is a key piece for the adequate operation of the quick release system. According to preliminary meetings with Customs, there are few proposals for a Surety System.

Along with Mincetur officials the Project held meetings with Customs, insurance Companies, Superintendence of Insurance and Banking, importers and trade associations to collect information as to the suitability of the current surety system and, as a result, shape the scope of the activity. The Project resolved to convene a multidisciplinary team supported by Apoyo Consultoria to devise a US Custom bond-like product or other products that are less costly than those currently available in the market. This study is expected to start on mid-January 2011.

Activity 3.5: Support creation of Authorized Economic Operators (AEO)

Within the framework of this risk management tool, the Project participated in a trade mission organized by the AMCHAM to gain knowledge and exchange practices as to the Customs and logistic operations in the US East Coast. The visit took place in Washington DC and Baltimore during the third week of October.

The Peruvian delegation included 8 (eight) Customs officials led by the Chief of Customs, Ms. Gloria Luque, along with the Director of Trade Facilitation of Mincetur, Mr. Francisco Ruiz, and representatives from major importers (3M, Kimberly Clark and Caterpillar) and traders (Ransa, Fed Ex, Tramarsa and DP World). The trade mission was successful and served to strengthen a public-private relationship. It also allowed trade operators to deepen their knowledge of US customs practices in risk management and import controls and requirements.

a. *Publish AEO handbook to officials*

The Spanish version of the AEO handbook was updated and published (more than 200 copies) for the workshops discussed below. It was handed over to stakeholders and trade related public sector agencies (apart from Customs) such as National Council of Competitiveness, Ministry of Foreign Trade and Tourism, Ministry of Economy, Ministry of Health, etc.

b. *AEO handbook workshop for customs and other international trade officials*

Along with the IADB, two workshops were carried out on September 22nd. Expatriate consultant Lynn Daugherty conducted the workshops. She presented the book, explained its content and provided preliminary recommendations to implement the program based on the handbook guidelines.

The first workshop was held for the private sector in the AMCHAM offices and included customs brokers, trade legal advisors, importers, etc. More than 40 people attended the event. The second workshop was addressed to public sector representatives, and 30 officials attended.

The consultant produced a report with findings and recommendations to implement the program. It was strongly advised that the private sector take part in the discussions to devise the implementation plan, and she also suggested a “start small” approach by launching a pilot with certain segment of either importers or exporters to validate the model.



AEO Workshop for Private Sector

c. *AEO implementation strategy*

It deserves to be mentioned that one of most notable outcomes of the workshops was that the AEO issue was reactivated and it was placed as a discussion topic in the Custom Consulting Committee meeting held on the last week of September. As a result, Customs became aware of the necessity of implementing this important trade facilitation tool.

As a result of this activity the AEO-Customs team has been working on collecting information to devise the implementation plan. It's expected that early next year the Project will be able to provide technical advice to the plan. TCbaseline will also serve as a framework to match this activity.

Component 4: Administrative Simplification

In this component, USAID/Facilitando Comercio is coordinating activities with the National Competitiveness Council and the Public Management Secretariat of the Office of the Prime Minister, focusing on obtaining business operation licenses and business constitution processes.

Activity 4.1: Conduct Baseline Study on Municipal Regulation of Business Operation

The results of the baseline will provide the project with analysis and evaluation of the regulatory role of local governments in business operations. It also will serve as a reference for improving the business climate in Peru and strengthening local governments as promoters of local economic development.

This research process will be carried out in four stages:

- 1° Formation of the Consultative Committee
- 2° Exploratory Study carried out by USAID|Facilitando Comercio
- 3° Quick Field Study carried out by USAID|Peru Pro Descentralización
- 4° Systematization of the results, the proposals and their dissemination.

a. *Formation of the Consultative Committee*

In coordination with USAID|Peru Pro Descentralización, the most important institutions involved in Administrative Simplification were identified and invited to participate as members of the Consultative Committee, which will serve as the group in charge of overseeing the baseline research and enrich the analysis of the results as well as present recommendations to improve the overall process.

The Consultative Committee's kick-off meeting was held on October 1st. The Committee is comprised of the following institutions:

- Sociedad Nacional de Industrias
- Perú Cámaras
- Asociación para el Fomento de la Infraestructura Nacional – AFIN
- Secretaría de Gestión Pública de la Presidencia del Consejo de Ministros
- Comisión de Eliminación de Barreras Burocráticas del Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual – INDECOPI
- Cámara de Comercio de Lima
- Cámara de Comercio Americana del Perú
- Consejo Nacional de Competitividad
- Instituto Nacional de Defensa Civil
- International Finance Corporation
- Confederación Nacional de Instituciones Empresariales Privadas – CONFIEP
- Red de Municipalidades Urbanas y Rurales del Perú – REMURPE
- Dirección General de Mype y Cooperativas del Ministerio de la Producción
- Agencia de los Estados Unidos para el Desarrollo Internacional – USAID

The kick-off agenda included establishing the Committee’s role as well as targets, stages and the schedule for the overall research process. A second meeting was held on November 25th and the agenda was to present and comment on the preliminary report developed by a consultant.



USAID | Peru Pro Descentralización's and USAID | Facilitando Comercio's Team.

b. *Exploratory Study*

Administrative Simplification is one of the most important tools to strengthen the country's competitiveness. It's based on improving the quality of the services provided to citizens by public institutions, especially for businesses purposes, in order to eliminate bureaucratic barriers.

Despite the important regulatory advances made in Peru during past years, especially those introduced under the new Framework Law of Operating Licenses, there are still difficulties in implementing the reforms, including the slow implementation of reforms by local governments, ongoing additional requirements, unplanned evaluations, etc. And these problems are being constantly submitted as complaints to the Commission of Elimination of Bureaucratic Barriers of INDECOPI.

The Exploratory study will analyze the regulatory role of Local Governments in dealing with the operating license procedure.

In this second stage of the research, a preliminary report was developed by the Consultant Juan José Martínez and presented to the Consultative Committee on November 25th. The most important conclusions were:

- The Operating License Procedure is a mechanism that constrains or conditions entrepreneurs' freedom of enterprise rights, which are recognized by the Constitution.
- From an economic perspective, the municipal regulation of establishments is based on three criteria: zoning, negative externalities and public services.

In addition to the activities performed by the consultant, the Project will gather information from other cities via a questionnaire that will be sent by Peru Camaras to their partners in every city. The questionnaires will be distributed to entrepreneurs that have requested an Operating license. The information gathered will be sent to the consultant for analysis. Similarly, with the support of INDECI, questionnaires were developed and delivered to the local and regional governments in order to be filled out by inspectors.

Activity 4.2: Consolidate information and products developed for administrative simplification

This activity consists of gathering all the products related to administrative simplification and uploading them onto the TRAMIFACIL webpage in order to be available for Public Officials and interested professionals. The objective is to turn TRAMIFACIL into a valuable tool, especially for municipal officials. The public counterpart for this activity is the Public Management Secretariat of the Presidency of the Council of Ministers and the activity is being executed by the Fahsbender Consulting Team.

The activity is comprised of two stages:

- 1) Interviewing officials involved in Administrative Simplification / Identification of Products.
- 2) Updating the TRAMIFACIL webpage.

To date, the interview process was finished and the products were gathered. The findings were presented to the Public Management Secretariat alongside a proposal to modify the TRAMIFACIL webpage based on the needs identified by the survey and interviews.

Formal approval from the Public Management Secretariat is pending. Meanwhile, we are coordinating next steps in the informatics area, specifically on the programming language of the webpage, access keys, and others.

Activity 4.3: Amend Established Inspection Regulations

The initial objective of this activity was to identify the contradictions between the Framework Law of Operating License and the Regulation of Technical inspections in Civil Defense, under the scope of the Operating License Procedure. Preliminary discussions revealed that the National Competitiveness Council would conduct such a process with IADB support and INDECI noted a need to reform the execution of Technical Inspections in Civil Defense, as part of the evaluation carried out by Local Governments in order to grant the Operating License.

Thus, the activity was refined into evaluating the feasibility of including private institutions as certifiers of the compliance with security conditions in Civil Defense, as part of the evaluation to grant the Operating License.

The Terms of Reference for this activity are already finished and were approved by the technical area of INDECI. To date, the hiring process of the consultant in charge of the evaluation is in progress.

Activity 4.4: Technical Assistance to Municipalities in Business Registration

The main objective of this activity is to simplify the Operating License Procedure in municipalities of Peru. A first year target is to assist 20 municipalities in business registration across different parts of the country. The Fahsbender Consulting team will be in charge of executing the activity in municipalities.

Based on a report made by the organization “Ciudadanos al Día” (Informed Citizens) and the Municipal Monitoring Report 2010, “Monitoring Campaign to the Operating License procedure” by CONFIEP, IFC and the Presidency of the Council of Ministers, a preliminary list of municipalities to receive assistance is complete and will be validated with USAID in the following weeks:

Municipality	
Province	District
Trujillo (La Libertad)	Victor Larco (La Libertad)
Virú (La Libertad)	Castilla (Piura)
Piura (Piura)	Catacaos (Piura)
Talara (Piura)	Baños del Inca (Cajamarca)
Paita (Piura)	Hunter (Arequipa)
Tarapoto (San Martín)	Yanahuara (Arequipa)
Moyobamba (San Martín)	Miraflores (Arequipa)
Rioja (San Martín)	Alto Selva Alegre (Arequipa)
Yurimaguas (San Martín)	
Cajamarca (Cajamarca)	
Hualgayoc (Cajamarca)	
Jaen (Cajamarca)	

Source: USAID/Facilitando Comercio

The intervention strategy is also oriented by geographic position: after the departments are identified four of the most important municipalities are selected.

Documentation for the consultants who will implement the activity was submitted to USAID. The activity will start the second week of December 2010.

Component 5: Medicines

Project coordination with DIGEMID officials has been good, although Mincetur has shown reluctance to establish a linkage between Indecopi and DIGEMID for drug registrations.

Activity 5.1: Strengthen DIGEMID's capacity to Evaluate New Drug Applications

The Project has coordinated with DIGEMID's Direction of Sanitary Authorizations on a list of topic areas for the trainings, which include the following:

- Pre-Formulation, Pharmaceutical Formulation, Analytical and Technical Specifications of API and Excipients;
- Best Manufacturing Practices;
- Pharmacovigilance applied to product registration;
- Quality Control of Biologicals and Vaccines;
- Risk analysis, identification and control of critical points in pharmaceutical production;
- Best Manufacturing Practices and Best Laboratory Practice;

- Clinical Pharmacology and Therapeutics (focused on preclinical and clinical evaluation);
- Risk analysis, identification and control of critical points in pharmaceutical production (focused on aspects of quality assessment of the dossier);
- Biostatistics; and
- Bioethics

The Project has also identified some possible consultants for the trainings.

The Project held a conference call with Ana Maria Osorio, the Assistant Regional Director of Latin America for the FDA at the US Embassy, Santiago, Chile. Ms. Osorio expressed her total support to the Project. Currently, draft course descriptions and a draft course timeline are being developed to share with Ms. Osorio, so as to develop a workplan for the above-mentioned DIGEMID trainings.

Activity 5.2: Improve DIGEMID's MIS and Improve Coordination with INDECOPI

The Project has three sub-activities:

a. Evaluation of the legal value and correct storage of DIGEMID's digitalized information

An informatics Notary visited the DIGEMID's office and determined that the information that is digitalized was properly stored and has legal value. Therefore, as programmed, the Project started the corresponding second activity (described below).

b. Management of the digitalized information into the SIDIGEMID system

The Project hired three consultants to organize the digitalized information into the SIDIGEMID information system. The consultants were trained to identify all the documents that needed to be organized and started work on this activity in October 2010.

c. Automation of the processes related to sanitary registrations by DIGEMID

The Project started coordinating with DIGEMID to develop an online notification system so that DIGEMID can easily determine product patent and data issues with INDECOPI before granting marketing approval; however, this activity has been put on hold due to some concerns expressed by MINCETUR.

MINCETUR contends that such a notification system is the so called "linkage" that was already discussed during the negotiation rounds of the PTPA. The parties ultimately agreed that linkage is not an obligation; therefore, Mincetur is resistant to undertaking this activity. The Project is evaluating how to improve the transparency of the registration process so as to define which improvements can be made and determine whether the linkage is the only means of adequately protecting drug patents.

Component 6: Telecommunications

On September 17th the Project activities for the telecommunications component were presented to OSIPTEL President Guillermo Thornberry. Led by Nathan's expert Bruno Viani, a working meeting was held with OSIPTEL's staff to devise the component's work plan.

Later, Mr. Viani collected information from telecommunication stakeholders to validate activities in the proposed work plan. During the 1st week of October, the Project conducted an intense schedule of meetings with dominant telecom operators, infrastructure companies, associations, the Ministry of Transport and Communications, etc. Mr. Viani made a presentation to OSIPTEL technical staff to exchange ideas as to the scope of the technical assistance. The Project received valuable feedback during the validation meetings and agreed to make slight changes to the work plan so that it more closely reflects the present needs of OSIPTEL and the MTC while keeping consistent with the intended objectives of this component.

This week (1st of December) OSIPTEL approved the inception report with some adjustments as to the activities to be performed. Among the immediate activities, it is expected that early next year expatriate consultants will conduct workshops, and some technical studies will be conducted as detailed below:

Activity 6.1: Analysis of International Best Practices on Telecommunications Regulations

The Project will provide the latest findings from international telecommunications experts on the kinds of regulations that best achieve the intended outcome of increased competition and increased use of telecommunications services. The results of the four studies describing best practices in telecommunications regulations will be presented in a seminar to the members of OSIPTEL, the MTC, and other stakeholders in Lima. Moreover, the Project will develop a draft white paper of policy recommendations and coordinate its circulation with OSIPTEL among the main stakeholders for comments.

a. International Best Practices on Unbundling of Network Elements

The Project will conduct a thorough review of the empirical evidence that link changes in unbundling regulations to changes in market outcomes. For example, there is a growing literature linking changes in unbundling regulations to changes on broadband investment, broadband prices, and quality of service indicators for broadband. Based on this review, the Project will draw conclusions regarding the current state of knowledge on the effect of unbundling regulations on broadband service. To the extent possible the Project will also bring into the analysis the evidence from unbundling regulations in Europe and countries from the OECD. The report of this activity will end with a summary of the current understanding of

what constitutes international regulatory best practices to attract investment in broadband infrastructure.

b. Intersectoral Infrastructure for Telecommunications

The Project will conduct a review of the international experience regarding regulations that enable the sharing of infrastructure for telecommunications purposes, especially in the US. This sharing of infrastructure lowers the costs of expanding telecommunications services as the fixed costs of power lines/poles are spread over more uses. The Project will document the current state of rate regulation for sharing of infrastructure facilities; often referred as pole attachment regulations.

c. Best Practices on Spectrum Licensing

The Project proposes to study different features of spectrum licenses in several countries and compare the relative strength of the rights conferred using various dimensions. For example, some countries allow flexibility on the kind of services a license holder can offer. Another important feature is the ability of license holders to transfer or lease the rights conferred by the license. These features will be analyzed for each country.

d. Radio spectrum pricing

Stakeholders expressed that the current system of spectrum fees (known as Canon por uso del espectro) for the use of radio frequencies needed much improvement. The international experience with user fees can provide valuable lessons to Peru. The initial spectrum fees (for mobile operators) in Peru were based on the number of subscribers; however, this discourages the expansion of the mobile network and increases the final costs to the consumers. The Project will undertake a major review of the existing systems for spectrum pricing used internationally and summarize the pros and cons of each regime. To the extent possible, the team will gather evidence from different countries on the impact of different spectrum pricing regimes on the availability of mobile services.

Activity 2: Development of Human Capital in the Economics of Telecommunications regulation

The Project proposes to implement this task by sending economists with international regulatory experience to OSIPTEL for a period of one week. During that time the US experts will provide in-house training to OSIPTEL's staff on the regulation of telecommunications. This will take the form of structured seminars primarily for economists and market analysts in OSIPTEL.

Activity 3: Analyze and propose changes on regional regulations

Based on the information collected from telecom operators, the Project proposes to conduct an exploratory study to identify key municipal or regional regulations that

hinder the deployment of telecommunications infrastructure. Special emphasis will be put to local/regional regulations that are not directly related to telecommunications services but that may affect indirectly the deployment of services. To the extent possible the Project will characterize and classify the nature of the opposition/obstacle and identify municipalities where these obstacles are more frequent.

IV. Technical Implementation - Regional Component

Colombia / Component 2: Intellectual Property

Activity B2.1 and B2.2: *Implementing the Trademark Law Treaty (TLT) and the Madrid Protocol*

For the first two activities in the Work Plan, the Project closely followed activities performed by the Superintendence of Industry and Commerce (SIC) and worked to identify a consultant to evaluate the SIC's current status in implementing the Trademark Law Treaty (TLT), as well as propose an action plan for it. In the meantime, the SIC presented a communications plan, based on sectorial work tables, to inform all the communities interested in the benefits of the Madrid Protocol.

Activity B2.4: *Reducing Trademark Registration Backlogs*

USAID|Facilitando Comercio and the SIC have identified 5 (five) junior lawyers for the implementation of this activity, which should start in January 2011. This activity will be useful to study and resolve 1,900 backlogged opposition registries.

Activity B2.5: *General IPR Training for Judges*

The Project is working closely with the School for Judges "Rodrigo Lara Bonilla" in order to train 1,135 judges in 32 IPR seminars during the first year of the program. The first seminar was held on December 6th in Bogotá.

Activity B2.6: *Copyrights Training for Judges*

The Project, along with the Convenio Antipiratería and the Copyrights Office, is working on creating a handbook for the judges training in Copyrights. The handbook will be developed according to the School for Judges Rodrigo Lara Bonilla's methodology so as to be used in the school's future trainings.

Activity B2.7: Limitations of Liability for Internet Service Providers

Thanks to the support of the Antipiracy Agreement, Chambers of Commerce and Unions, a consultant was identified for the seminar on Limitations of Liability for Internet Service Providers. To date, the Project has achieved the commitment of the Chambers of Commerce and Universities for this activity.

Activity B2.8: Support IP Registration of Colombian Artisans

In cooperation with the organization *Artesanias de Colombia* (Colombian Crafts), twenty (20) artisan communities were identified to receive assistance in obtaining the collective brand and the appellation of origin. This will help them to protect their cultural legacy.

The Project identified three lawyers to carry out the technical assistance for this activity, which will start in December 2010.

Activity B2.9: Support Creation of a Journalism Club

The Project started conversations with Andiaros, Colombian Association of Diaries, the Journalist Club of Bogota, and the Jorge Tadeo Lozano University to create a Journalism Club for IP and Copyrights.

Ecuador

USAID|Facilitando Comercio has analyzed potential activities since August 2010. Initially, under the guidance of USAID|Ecuador, the Project began researching the following activities:

- ISO and SPS certifications for the private sector;
- Certifications for tourism operators;
- National macro administrative simplification law implementation.

After a week visit to Quito, Guayaquil, and Cuenca, by Nathan's Rodrigo Carvajal and country coordinator Martin Acosta, it was decided to dismiss all 3 options and identify new activities to implement. A list of 8 potential activities was created, of which only one remains: Preparing the public and private sector for the implementation of Law 2012, which will require that all containers with exports to US be scanned starting in mid-2012. The other 7 activity options were dismissed after feasibility discussions were held between Nathan and USAID project officers in the fall of 2010.

During a visit by Project Director Paul Moore in October other potential activities were identified during meetings with the recently appointed Vice-Minister of Foreign Commerce, Francisco Ribadeneira. The possible activities included:

- Assistance in the formation and training of Ecuador's long-term negotiating team;
- Assistance with the curriculum and training of Ecuador's commercial officers abroad;
- Assistance with the Strategic Plan of the Vice Ministry of Foreign Commerce;
- Assistance with an internal restructuring of the Vice Ministry of Foreign Commerce.

However these activities were put on hold, as suggested by USAID|Ecuador, until the Vice-Minister assigns advisors who can implement and follow-up on these activities.

More recently, following the guidance of USAID|Ecuador and the Business Alliance for Secure Commerce (BASC) in Ecuador, a local consultant has been hired to provide a clear picture of the current situation of Ecuadorian Customs. Thereafter, the Project will hire an international expert on the requirements for scanning of containers at Ports and the Project's COP and trade facilitation coordinator will conduct a mission to Ecuador.