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Rapid Baseline Study

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

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1. Introduction

The Peru and Andean Trade Capacity Building Program (PATCB) started operations in June 2010. Its 2010-2011 Work Plan was approved in August 2010 and it is expected that the Performance and Monitoring Plan (PMP) be presented to USAID for approval in early September 2010.

This Rapid Baseline Study presents the current state of key indicators to be addressed by USAID/Facilitando Comercio's six project components in order to measure the impact of technical assistance throughout the life of the project. This initial benchmark is elaborated in accordance to the requirement stated in page 6 of the Task Order, which establishes that "(...) *the contractor will conduct a baseline study (...) to ensure agreement on the current conditions and properly measure achieved results*".

The findings of this Baseline Study will be incorporated in the project's PMP. It is important to point out that this study addresses the indicators of the Task Order which measure general market or government capabilities, but does not include activity-specific indicators that will be identified throughout project design. Additionally, more in-depth baseline studies will be conducted for the labor, trade facilitation, and administrative simplification components.

Baseline information for other Andean countries (Colombia and Ecuador) will be included in their respective work plans.

Some indicators are relevant to the overall project. These are presented in the following table:

Indicator	Current Situation	Source
Peru Ranking in Doing Business	56	Doing Business 2010, World Bank
Peru Ranking in the Global Competitiveness Index	78	GCI 2009-2010

2. Peru Component Activities

COMPONENT 1—LABOR

In the past years the Government of Peru has carried out important reforms in the labor regulatory framework, which allows it to comply with the labor section of the PTPA, Chapter 17. Some of those measures taken include increasing the number of inspectors two-fold in the last four years, implementing nation-wide training programs for inspectors and other civil servants, and the creation of two higher education courses on fundamental rights and occupational health and safety for labor inspectors being carried out by the Universidad Católica del Perú with support from the Canadian government. Additionally, the GOP has recently begun to implement the new Process Labor Law, which is expected to reduce the average duration of labor disputes from four years to six months.

In the past, the USAID/Mype Competitiva project collaborated with Peru's ministry of labor (MTPE) to improve the protection of labor rights. Some of the activities undertaken include:

- Development of a national training program for labor inspectors that covered topics such as bargaining, labor relations, child labor, occupational safety and health, and forced labor;
- Establishment of a methodology for measuring inspectors' performance;
- Support for new transparent and merit-driven practices for recruiting inspectors; and
- Development of inspection protocols for specific sectors, including textiles, hotel/restaurant and civil construction.

However, the current labor market maintains a high rate of informality and low compliance of workers' fundamental rights: from an occupied population of about 15 million, more than 10 million is informal (67%); salary labor force is above 9 million but more than 5 million of it is informal (57%). Microenterprises have the highest informality rate, with 92% of its employees. With regards to unemployment, in 2008 unemployment was about 7.8% and underemployment at 46.4%. The rate of properly employed women has increased in the last years, though only one third is in this category and more than two fifths is considered inactive.

Metropolitan Lima. Structure of the Labor Market by Gender

	Total		Men		Women	
	2003	2008	2003	2008	2003	2008
Unemployment	9.4	7.8	8.6	6.3	10.3	9.6
Underemployment by Hours	15.9	13.8	13.0	10.2	19.4	18.2
Underemployment by Income	39.9	32.6	35.5	27.3	45.4	39.1
Properly Employed	34.8	45.9	42.9	56.2	24.9	33.1
Total	100.0	100.0	100.0	100.0	100.0	100.0
Labor Force Participation	66.4	66.7	76.0	76.7	57.4	57.3
Inactive Population	33.6	33.3	24.0	23.3	42.6	42.7
Total Working Population	100.0	100.0	100.0	100.0	100.0	100.0

Source: INEI. *Encuesta Permanente de Empleo de Lima Metropolitana - EPE* (2003, 2008).

In response to the high informality rate, MTPE began implementing the RETO Plan (Mandatory Register of Workers) in December 2009 with the objective of guaranteeing workers' access to labor and social security benefits, and thus reducing informality. The ministry's statistics report that up through July 2010, 31,973 workers have benefitted from the RETO initiative by having been incorporated to the payroll by their employers. However, there are still important deficits revolving around human resource capabilities and support systems that need to be addressed in order to continue reducing informality and improve compliance with workers' rights. The following are important issues that must be taken into account.

Information Systems

Information is one of the most important requirements to achieve efficient law enforcement. Since 2008 Peruvian firms with three or more employees, including temporary hires, have been required to report payroll and employment data to the National Superintendency of Tax Administration (SUNAT) through the *Planilla Electronica*. Approximately 200,000 firms now report monthly through the Planilla, in comparison to 2008, when the system was first launched and only 160,000 businesses used the electronic system, and to the 30,000 that reported with MTPE's old paper system.

Today the MTPE can access the Planilla data almost in real time (two and half months lag), but it does not have a system for organizing and adapting the data for the use of planning inspections and ongoing monitoring. MTPE also lacks an integrated information system that aggregates different sources of pertinent labor information (SUNAT, planilla electrónica, and MTPE's own surveys and local databases), to allow it to better plan and organize inspections in the Lima metropolitan area. The planning capabilities are even weaker in the provinces, where only one third of the regions use the Labor Inspections Information System (SIIT).

Inspections

Inspections, though occurring regularly, are not conducted in an effective or strategic manner. Adequate guides, manuals and protocols are needed to have sustainable impact. The inspection system also needs to be better coordinated between MTPE's regional offices and regional governments. Outside of Lima regional governments administer subnational labor offices and

inspections are made by both MTPE and regional government inspectors. This fragmentation leads to poor coordination and weak law enforcement.

Judiciary

As of July 2010 the new Process Labor Law took effect and is now being put into force by the Judiciary through a gradual phase-in plan that includes implementing it in five judicial districts (Tacna, Cañete, Arequipa, La Libertad and Lambayeque). It is expected that the implementation of this law will reduce the average time to solve labor disputes from four years to six months.

There is also a need to establish common arbitration criteria between MTPE and the Judiciary. This will require the systematization of resolution criteria, which will serve to better orient judges, lawyers, workers and employers and increase the uniformity of applying labor laws.

Corporate Social Responsibility (CSR)

In addition to improving the labor inspection system as a means to guaranteeing high labor standards, the application of CSR measures in businesses can also achieve results. However, Peruvian executives aren't currently aware of the value CSR certificates can bring their businesses.

In the following chart we present different indicators that characterize the current situation with regards to labor in Perú. Unless stated, figures correspond to 2008.

Indicator	Current Situation	Source
Number of Strikes	63	MTPE, 2009
Phone inquiries from employers	4,670	MTPE, 2009
Phone inquiries from employees	7,315	MTPE, 2009
Firms reporting to the planilla electrónica	194,276	Informatics and Statistics Area, MTPE, 2009
Lag in MTPE's access to the planilla electrónica	2.5 months	Informatics and Statistics Area, MTPE, 2010
No. of regions using the SIIT	9	DNI
Modern Integrated Information Management System installed	No	Informatics and Statistics Area, MTPE
Inspection orders initiated in Lima		MTPE- DNI- Regional Directorates
- total	21,348	
- from external origin	12,869	

- from internal origin	8,515	
Inspection orders initiated out of Lima:		MTPE- DNI- Regional Directorates
- total	27,894	
- from external origin	14,838	
- from internal origin	13,056	
Inspection visits to workplaces executed yearly:		MTPE- DNI- Regional Directorates
- total	80,062	
- Lima	51,320	
- outside of Lima	28,742	
Employees involved in inspection visits in Lima:		MTPE- DNI- Regional Directorates
- total	118,042	
- adult men	84,855	
- adult women	34,985	
- children	87	
Employees involved in inspection visits outside of Lima:		MTPE- DNI- Regional Directorates
- total	308,462	
- adult men	263,377	
- adult women	44,828	
- children	219	
# of inspectors	413	DNI, 2009
# of Sanction Resolutions		
- Total resolutions issued	7,406	
- Resolutions issued in Lima	2,862	MTPE Statistics Yearly Report 2008
- Resolutions issued out of Lima	4,544	
Fines imposed:		
- Total no. fines imposed	11,798	
- No. of fines imposed in Lima	2,388	
- No. of fines imposed out of Lima	9,410	MTPE Statistics Yearly Report 2008
- Total fines imposed in S/.	14'964,615	
- Fines imposed in Lima in S/.	13'902,457	
- Fines imposed out of Lima in S/.	24'503,446	
Average duration of labor processes in the Judiciary	4 years	Statistics Area, Judiciary
# of Courts that have implemented the LPL	1	Executive Council of the Judiciary

DNI: National Inspections Directorate

COMPONENT 2—INTELLECTUAL PROPERTY

Protection of intellectual property rights (IPR) is a cornerstone of a modern, competitive economy. Copyrights, trademarks, and patents capture the economic value of a country's

intellectual property—its artistic, agricultural, indigenous, manufacturing, and technological endeavors, while IPR enforcement protects the economic motive for innovation and research and development (R&D), whether undertaken by individuals, companies, or universities. The causal link between a country’s IP regime and its ability to attract and retain foreign investment is well established.

The recent surge in foreign businesses’ IP participation in Andean countries indicates confidence in the Andean economies, yet enforcement and domestic participation remain weak. The following are important factors that must be taken into account to strengthen intellectual property respect and use in Perú.

International Treaties

Peru committed to accede to three main agreements in industrial property: the Patent Cooperation Treaty (PCT), the Trademark Law Treaty (TLT) and the International Convention for the Protection of New Varieties of Plants (UPOV Convention). The PCT and the TLT are already in force (since June 6, 2009 and February 1st, 2009, respectively). The UPOV Convention has recently (July 2010) been accepted by the Peruvian Congress through Resolution No. 29557 and the law is now waiting signature by the President.

Peru implemented regulations of the TLT by issuing a new industrial property law (Legislative Decree No. 1075), as explained in lines below, and is now accepting multiclass trademark applications. It also implemented the PCT by incorporating such treaty and its regulations under Peruvian national law, and the Inventions and New Technologies Unit (DIN) has already received its first national phase application which is currently under examination. The USAID/MYPE Competitiva project provided assistance to INDECOPI to implement proceedings related to both treaties.

In addition to the required treaties, Peru also committed to make all reasonable efforts to ratify or accede to the following agreements: the Patent Law Treaty (PLT), the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Agreement), and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Protocol of Madrid). None of such agreements are currently under discussion; however, the Director of the DIN has informed the project that Peru’s accession to the Hague Agreement is under consideration.

Trademarks, Geographical Indications (“Denominaciones de origen”) and Patents

Legislative Decree No. 1075, which is the Peruvian Industrial Property Law, has already implemented the necessary changes that were needed to comply with most of the commitments listed in the PTPA. For instance, the simplification of formalities required for the recording of some acts, such as the validity of trademark licenses, the prohibition to register a geographical indication that is likely to cause confusion with a trademark that is the subject of good-faith pending application or registration, the “bolar” exception¹, the compensation for unreasonable

¹ It is a provision by which some countries allow manufacturers of generic drugs to use a patented invention to obtain marketing approval — for example from public health authorities — without the patent owner’s

delays in the issuance of a patent, other than a patent for a pharmaceutical product, by restoring patent term or patent rights, among others.

Besides, Indecopi committed to provide:

- a. An online system for registering trademarks and their modifications; and
- b. A publicly available electronic database of trademark applications and registrations.

The Distinctive Signs Unit of INDECOPI (DSD) has already implemented a system for the online filing of trademarks, but it is still missing online services for filing trade names or slogans. It also doesn't include services to make modifications to the registries (change of name, change of proprietor address, etc.). This latter improvement will be reached once the DSD digitalize all its distinctive signs certificates (trademarks, trade names, slogans, etc.) for with PATCB will provide cooperation.

The DIN has already digitalized its archives and is now seeking for cooperation in order to implement the online filing of applications for patents, utility models and industrial designs, and the corresponding modifications to the registries.

Copyrights and related rights

Legislative Decree 822, which is the Peruvian Copyright Law, has been partially modified by Legislative Decree No. 1076, with the inclusion of new definitions related to technological measures and others, in compliance of the commitments listed in the PTPA.

What is left to be done in the copyrights area is the drafting of the law on Limitations on the Liability for Internet Service Providers.

The Limitations on the Liability for Internet Service Providers (ISPs), as clearly pointed out in the text of the PTPA, will *“provide enforcement procedures that permit effective action against any act of copyright infringement”* by providing *“legal incentives for service providers to cooperate with copyright owners...”*

In order to enforce copyright liabilities with ISPs, the text of the PTPA will have to be incorporated into Peruvian law. Before that can occur, INDECOPI must reach out to the private sector to incorporate ISPs (Telefonica del Peru, Red Cientifica Peruana, Telmex and Telecom Italia) into the decision, and law drafting process.

Enforcement of Intellectual Property Rights

The Peruvian Patent and Trademark Office (INDECOPI) and the Peruvian Tax Office (SUNAT) have been working together in order to strengthen the legislation and control on border measures. Several legislative decrees have been adopted to implement border measures, and the

permission and before the patent protection expires. The generic producers can then market their versions as soon as the patent expires.

Trademarks, Patents, Copyrights and Related Rights Registry of the Peruvian Customs was created. Since this is a relatively new experience for the Peruvian customs authority, there is not much expertise on the subject and the staff needs training.

Besides, the Peruvian Criminal Code has been modified due to Laws Nos. 29263 and 29316 including new crime definitions such as “elution of technological measures”, specifying some concepts, and developing new penalties for some infringements.

Finally the Peruvian Law that Regulates the Appeals of Administrative Resolutions at the Peruvian Courts has been modified due to Legislative Decree 1067 in order to improve de justice administration by reorganizing some proceedings.

Outreach to the private sector

In July 2009, INDECOPI established an Academy of Competition and Intellectual Property focusing on improving competitiveness of Peruvian companies through effective use of intellectual property and knowledge of market competition rules.. Among one of its main goals, the academy works to increase knowledge and awareness of intellectual property issues by the general public, as well as to increase the skills of internal and external IP practitioners.

The Academy of Competition and Intellectual Property is now searching for cooperation in order to implement online courses.

In the following chart we present different indicators that characterize the current situation with regards to intellectual property in Perú.

Indicator		Current Situation	Source
No. of registrations (yearly)	Distinctive Signs Unit	19,015 (regular applications)	www.indecopi.gob.pe (based on 2009 data)
		517 (multiclass applications)	
	Inventions and New Technologies Unit	729	
	Copyrights Unit	1,437	
% of registrations by national enterprises (yearly)	Distinctive Signs Unit	61.08%	www.indecopi.gob.pe (based on 2009 data)
	Inventions and New Technologies Unit	23.86%	
	Copyrights Unit	Not available	
No. of days it takes to register	Distinctive Signs Unit	120	Director of Distinctive Signs
	Inventions and New Technologies Unit	1,170	www.indecopi.gob.pe
	Copyrights Unit	1	Sub-Director of the

			Unit
Cost for obtaining a registry	Distinctive Signs Unit	S/. 486.35 (13.7% UIT)	TUPA INDECOPI
	Inventions and New Technologies Unit	S/. 1,153.75 (32.5% UIT)	
	Copyrights Unit	S/. 177.50 5% UIT (except for software, 10% UIT)	
No. of denouncements for infringements (yearly)	Distinctive Signs Unit	583	www.indecopi.gob.pe
	Inventions and New Technologies Unit	8	www.indecopi.gob.pe
	Copyrights Unit	376	www.indecopi.gob.pe
IP Online courses by Indecopi's Academy		0	Director of Indecopi's Academy
Online system for registering	Distinctive Signs Unit	Yes	www.indecopi.gob.pe
	Inventions and New Technologies Unit	No	
	Copyrights Unit	No	
Enforcement officers have online access to intellectual property registries		No	Directors of Intellectual Property Units

COMPONENT 3—TRADE FACILITATION

Peru's World Bank Doing Business (WBDB) indicators for Trade Across Borders are lower than other emerging markets in Latin America. WBDB casts 24 and 23 calendar days for import and export, respectively. However, based on a different methodology, recent studies supported by the Ministry of Commerce and Tourism (Mincetur) and the customs authority (SUNAT) establish 6-8 days for imports and exports. Peru has recently amended its customs law (Decreto Legislativo 1053) and started to implement a "48 Hour Dispatch" in compliance with PTPA obligations, which is aimed to reduce time and costs of international trade operations. Moreover, Mincetur has devised and implemented a Single Window for international trade of goods, which involves 8 government agencies and at least 243 procedures. Many undertakings are under way and require support for its full implementation.

TC Baseline and dissemination of quick release system benefits

The project will partner with MINCETUR, Customs, the National Competitiveness Council (CNC), the Association of Exporters (ADEX), and Peruvian-American Chamber of Commerce

(AMCHAM) to conduct an assessment of customs operations using the TCBaseline tool (developed by Nathan for USAID's global TCBoost project), which will measure the time-release of goods based on recent regulations (Custom Law) which is expected to be fully implemented by October 2010.

Mincetur has informed that 15% of importers are using the quick release system, so it is necessary to devise and implement a dissemination strategy for the quick release system and carry out workshops with public officials and the private sector in cities where knowledge and training is needed. MINCETUR and the CNC, which is also championing this initiative, will help identify the cities and local collaborators to assist with these workshops.

National Single Window

Mincetur has identified 243 import procedures of 8 government agencies that must be mapped, evaluated, and simplified for the full implementation of the National Single Window (NSW). The first stage of the NSW comprises 82 procedures. Throughout 2010 Mincetur has been moving forward in the implementation of the NSW by making a preliminary assessment of such procedures.

In July 2009 the NSW started to function with 19 import-related procedures from three government agencies. However, none of them have been simplified yet. Therefore, Mincetur will lead the efforts to reform the identified 82 procedures mentioned above.

Quick Release and Surety System

Under the PTPA, Peru committed to implementing a 48-hour customs clearance. A surety system or bond guarantee reduces times associated with the release of goods and facilitates risk assessment procedures so customs officials can focus on inspection of shipments from importers who have not met qualifications for bond holder eligibility.

The financial and insurance sector has developed some customs-bond-like products, which are mostly adaptations of current available products; however, they are still inaccessible for many SME. Therefore it is necessary to devise and implement a more suitable product to attend to their needs.

Authorized Economic Operators

The implementation of an express system with the Authorized Economic Operator (AEO) figure is a priority for Mincetur and especially for the private sector. AEO was created under the Customs Law, but no significant developments to implement it have been made thus far. Specific regulations and requirements to become an AEO are still under analysis by Customs and Mincetur.

In the following chart we present different indicators that characterize the current situation with regards to trade facilitation in Perú.

Indicator	Current Situation	Source
Time release study of quick release system fully implemented	None	Mincetur, Customs
Dissemination of quick release system fully implemented.	None	Mincetur, Customs
Ranking in Trading Across Borders (Doing Business Subgroup)	91	Doing Business 2010, World Bank
No. days to export	7	Mincetur, Customs
No. days to import	6	Mincetur Customs
% of users in the quick dispatch system	15%	Mincetur
No. of procedures in the NSW	19	Mincetur
No. of NSW procedures that have been simplified	0	Mincetur
AEO in operation	No AEO profile has been elaborated nor specific regulation has been enacted	Customs, Mincetur

COMPONENT 4—ADMINISTRATIVE SIMPLIFICATION

MSMEs account for almost 90 percent of all jobs in Peru, but most are in informal businesses. Such businesses lack collateral to secure financing and insurance and their workers have few if any options for protecting their rights and safety. Moreover, larger businesses, including exporters, are unlikely to source from firms that lack the credibility necessary to enter legal transactions. Persistent informality is attributed a burdensome tax system, the cost of “non-wage” employees’ social benefits, and bureaucratic barriers to business registration.

In recent past years there has been a significant effort to simplify procedures and improve the business climate of Peru. In 2009, the Ministry of Economy and Finance (MEF) has launched “Plan de Mejora de Negocios 2009-2011” (a national plan to improve the business environment for 2009-2011), which seeks to put the Peruvian economy in the top ranks for doing business in Latin America. To achieve this, a group of reforms have been proposed, including simplifying and expediting the business registration and business operating permit procedures.

Efforts to simplify and expedite procedures have been promoted by the Office of the Prime Minister, MEF, international cooperation agencies, as well as by municipalities. One of the most important efforts has been made within INTERMESA-TRAMIFACIL, a coordinating public-private council in which both predecessor USAID projects, CRECER and MYPE Competitiva, participated actively.

General Administrative Simplification

In order to measure municipal efforts in administrative simplification, USAID MYPE Competitiva, together with IFC, participated in the Municipal Scorecard 2008 Study from the World Bank. This Study gathers perceptions of entrepreneurs, managers and municipal civil servants with respect to municipal procedures, which include the operating license. It measures

the time, cost and requirements that an entrepreneur faces to meet municipal regulations. A total of 50 municipalities volunteered to participate in this scorecard activity.

Recently, the PCM, through its Public Management Secretariat, has developed a Methodology for Administrative Simplification, which is currently waiting for approval. Nowadays workshops on the subject are taking place for civil servants of different institutions. On July 15th 2010, a National Plan on Administrative Simplification 2010 – 2014 has been approved (RM N° 228-2010-PCM), which establishes the actions to be undertaken, their targets, the monitoring indicators to be applied, and the public sector responsible for its execution.

It has also developed a Methodology to Determine Costs of Administrative Procedures and Services, which has already been approved by Supreme Decree N°064-2010-PCM. At present, workshops are being given on the subject.

Other general administrative simplification undertakings include the following:

- Standardization of rural municipalities' TUPA, undertaken by the PCM-SGP- Program of Modernization and Decentralization of the State (SGP-PMDE).
- Standardization of the 10 most frequent and relevant procedures in public universities.
- Unique Procedures System
- Call Center Operations
- Virtual training to improve skills in simplification of procedures
- Implementation of interoperability platform.
- Single Windows (Citizen Attention Module and SME Attention Module)

Operating License Procedure

In 2005, USAID/Creceer developed a group of methodological tools for training municipal experts and civil servants on eliminating barriers in the operating license procedure. In 2007, USAID/Mype Competitiva conducted dissemination and training workshops on the Operating License General Law directed towards municipal civil servants - leaders of the operating license procedure. Afterwards, 22 municipalities were chosen to receive direct technical assistance in reforming and simplifying their operating license procedure. As a result, time and cost of the procedure was reduced, and business formalization was increased.

In addition, USAID/Mype Competitiva presented to the PCM-SGP a report regarding the reduction of sectoral authorizations requested in the operating license procedure. It is still under revision because it is a very confusing subject for municipalities, ministries and the private sector, but its publication is expected soon.

Recently, MEF has implemented the Municipal Modernization Program, based on an incentives scheme that provides additional financial resources to those municipalities that implement reforms related to finance management, provision of public services, and improving the business climate. In the last matter, the simplification and expedition of municipal procedures for opening businesses have been prioritized (under DS-02-2010-EF y DS-03-2010-EF). For this program, MEF has classified municipalities according to size (number of houses) and needs, which has resulted in the following disaggregation of municipalities:

Municipal Group	# of districts	% of districts
Big Cities Type A ²	40	2
Big Cities Type B	209	12
Other Cities with more than 500 houses	55	30
Other Cities with less than 500 houses	1 030	56
Total	1 834	100

USAID / Facilitando Comercio will use this classification as a reference in determining which municipalities the project will work with.

MEF, through the Public Budget National Direction, and in coordination with ONGEI, PCM and CNC, is also finishing an online system for obtaining an operating license, and is installing it in the municipality of Villa El Salvador. A legal and software security diagnostic is being undertaken to improve its operation, and the incorporation of digital signatures is also being evaluated.

Another related undertaking is a report on the inspection of municipalities related to the operating license procedures, which is being finalized by the PCM together with the IFC, CONFIEP, and the Defensoría del Pueblo (Ombudsman).

Business Constitution Procedure

The CNC in coordination with ONGEI, SUNARP, and the Notaries Association, have finished the online business constitution software that will work with the online operating license system to complete the whole procedure of creating and registering a business.

In the following chart we present different indicators that characterize the current situation with regards to administrative simplification in Perú.

Indicator	Current Situation	Source
Peru Ranking in Starting a Business (Doing Business Subgroup)	112	Doing Business 2010, World Bank
No. of days for opening a business	65	Doing Business 2009, World Bank
No. of days for obtaining an operating license	49	Municipal Scorecard 2008
No. of visits to a municipality to obtain an	5	Municipal

² Type A municipalities include the capital district of Arequipa, Trujillo, Chiclayo, Callao and Tacna, and 35 municipalities of the province of Lima. A group of 249 municipalities of big cities was identified, of which the before mentioned 40 municipalities were chosen because of their economic potential. The remaining 209 of the big cities were classified as Type B.

operating license		Scorecard 2008
No. of businesses registered in Remype	59,602	Ministry of Labor, April 2010
Cost to constitute a business	S/. 500	CEPEFODES, Julio 2009
Lowest cost to obtain an operating license	0.6% del BI Percapita	Municipal Scorecard 2008
Online system for constituting a business	No (only for some steps)	CNC
Online system for obtaining an operating license	No	CNC

COMPONENT 5—MEDICINES

Protecting the public from unsafe drugs and drugs that fail to work as claimed requires improving the ability of regulatory agencies to conduct initial scientific reviews of drugs and by purging the market of unlicensed drugs, including counterfeits. Under the PTPA, GOP committed to the protection of the undisclosed tests or data, especially, if such data was a requirement for granting the permission for commercialization. In such regard, Legislative Decree 1072, which is the law on Protection of Test Data and Other Undisclosed Data related to pharmaceutical products, repeats, almost without modifications, the text proposed in the PTPA³.

On the other hand, the GOP approved several norms as to implement the trade promotion agreement signed between Peru and the United States⁴. The new legal framework regulates the operation of the sanitary registry, resets the requirement of the operating health approval for establishments engaged in the manufacture, export, import, storage, distribution, marketing, supply and sale of pharmaceutical products, prior to the start of their activities, and having had a previous inspection to verify the accomplishment of the actual legal devices. It also orders that Peruvian Customs must require the copy of the Sanitary Registry, the analysis protocol of the lot, the identification of the shipment by lot and expiration date, the certificate of Good Manufacturing Practices of the manufacturer, among others, for the importation of pharmaceutical products.

³ Supreme Decree 002/2009/SA establishes the rules and proceedings for the implementation of what is established in Legislative Decree 1072.

⁴ On January 2009, the Peruvian Government approved Law No. 29316 which is an amending Act that incorporates and regulates various provisions to implement the trade promotion agreement signed between Peru and the United States, and modified article 50° of the General Law of Health, Law N° 26842, related to sanitary registries, and Supreme Decree N° 001-2009-SA which contains the regulations of such law. Finally, on November 2009, the Peruvian Government approved Law N° 29459 which is the Peruvian Law of Pharmaceutical Products, Medical Devices and Sanitary Products. Specifically, this law modifies Chapter III of the General Law of Health, Law N° 26842, establishing requirements that are necessary to guarantee the efficacy, security and quality of pharmaceutical products in order to apply for the sanitary registry.

DIGEMID, which is the Peruvian General Office of Medicines, Supplies and Drugs that is in charge of the evaluation and authorization of sanitary registries and sanitary surveillance in the country, has taken measures to increase its efficiency in the services provided to the community by taking the following actions:

- a. Digitalization of all the dossiers related to sanitary registries: DIGEMID is now searching for cooperation in order to start the automation of its processes, including the possibility of online filing of applications for registration.
- b. Creation of a website for the Peruvian Observatory of Pharmaceutical Products, including information regarding the price of the products, whether they are generic or branded, information about the manufacturers of the products, the places where they are sold and the addresses of the places of sale. DIGEMID is now searching for cooperation to improve this website by including information on their quality.

In the following chart we present different indicators that characterize the current situation with regards to medicines in Perú. Data corresponds to 2009.

Indicator		Current Situation	Source
# of pharmaceutical products registrations (yearly)		3,089	DIGEMID
% of pharmaceutical products registrations by national enterprises (yearly)		56%	DIGEMID
# of days it takes to register		103.57 ⁵	DIGEMID
Cost for obtaining a register		S/ 3,117 ⁶	DIGEMID
Online filing system for sanitary registrations		No	www.digemid.minsa.gob.pe
Modern Information Management System installed		No	Director of DIGEMID
# of inspectors	control and monitoring facilities	27	DIGEMID
	control illegal trade	9	
	advertising control	5	
Number of fines issued		103	DIGEMID

⁵ Average time of seven categories of registration (being the fastest 30 days and the slowest 1 year).

⁶ Average cost of the two most frequent categories of registration (generic and brand-named medicines).

COMPONENT 6—TELECOMMUNICATIONS

Peru has taken steps to heighten competition in the country's telecommunications sector. The telecommunications regulator (OSIPTEL) and the Ministry of Transportation and Telecommunication (MoT) have deployed efforts to reduce barriers to market entry, which has resulted in the increase of the number of competitors. In addition, since the approval of a new concession law and bylaws in 2006, market access has been simplified.

However, some constraints are still visible: (i) lack of access to disaggregated network and wholesale telecom services at competitive rates for resale operators; (ii) high switching costs for users; (iii) low penetration of broadband services for businesses and individuals in urban and rural areas; (iv) high transaction costs and misaligned incentives for using facilities of other public utilities, such as electric poles and highways; (v) regulations that focus on individual services instead of a convergence service regulation; and (vi) inadequate framework for promoting better service quality.

Relevant recent undertakings include:

- A Special Government Commission has been established chaired by MoT to analyze broadband development in Peru.
- A specific study under the International Telecommunication Union (ITU) has been ordered to deal with expanding infrastructure problems in Municipalities. It is expected that improvements in using other facilities will reduce transaction costs and cushion social conflicts. OSIPTEL has elaborated performance indicators but no specific strategy has been devised based on such information.
- OSIPTEL is currently working with ITU for capacity building. They recently held a conference in Lima regarding network and technologies of 3rd and 4th generation; other events are under construction.

In the following chart we present different indicators that characterize the current situation with regards to telecommunications in Perú.

Indicator	Current Situation	Source
Facilitation in number portability	Reforms only made in mobile network	OSIPTEL
Fixed telephone lines operating (march 2010)	2,931,262	OSIPTEL
Mobile lines operating (march 2010)	25,909,795	OSIPTEL
Public service standpoints	197,230	OSIPTEL
Suscriptors to internet access based on used technology:		OSIPTEL
- Dial Up	18,031	
- Wired service	4,246	
- Wireless service	15,204	
- Other technologies	793,157	
% of districts nationwide with fixed and/or	89.0%	Ministry of

mobile telephone access		Transportation
% of districts nationwide with internet access	79.3%	Ministry of Transportation