U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Executive Summary

Peru has been one of the fastest growing Latin American economies for the past ten years. Since 2002 the Peruvian economy has grown by an average of 6% per year, a trend forecasted to continue in 2014 at 5.5%, twice the regional average. Consumption and private investment are the main driving forces of this growth. Investment grew by 8.3% to a value of $33.5 billion in 2013. The Ministry of Economy and Finance has sent a target of 30% growth in public investment, and has pledged a total of $30 billion over the next five years to address to infrastructure gap. As the economy has grown, poverty in Peru has steadily decreased. HSBC describes Peru as “the third-fastest growing consumer market globally, and set to be a bigger economy than Chile, Colombia, or even South Africa in the long term.”

The steady economic growth began with the pro-market policies enacted by former President Alberto Fujimori in the 1990’s. Al subsequent governments have continued these policies, including the current administration inaugurated in July 2011 for a five-year term. President Ollanta Humala pledged to encourage private and public investment in infrastructure projects in transportation, telecommunications, energy, sanitation, airports, and ports. Congruent with his other campaign goals to reduce poverty and narrow the nation’s socioeconomic gap, President Humala has increased social spending and raised taxes on mining companies.

Peru’s currency, the “Nuevo Sol” (Sol), has been the least volatile of all Latin American currencies in the past few years, and was the least impacted by the downturn of the U.S. dollar. Since the mid-1990’s, the Sol’s exchange rate with the U.S. dollar has fluctuated between 1.25 to 3.55 to U.S. $1. The exchange rate, as of April 28 2014, was 2.79 Soles per U.S. $1.

The Peruvian Government has encouraged integration with the global economy by signing a number of free trade agreements, including the United States-Peru Trade Promotion Agreement, which entered into force in 2009. In 2013, trade between the United States and Peru doubled from $9.1 billion to $18.2 billion. From 2009 to 2013, Peruvian exports to the United States jumped from $4.2 billion to $8.1 billion (1 93% increase) while U.S. exports to Peru jumped from $4.9 billion to $10.1 billion (1 106% increase). Peru has preferential trade agreements with 49 countries and unions, including the United States, Argentina, Brazil, Uruguay, Paraguay, Bolivia, Colombia, Ecuador, Canada, Chile, China, Mexico, Japan, Singapore, South Korea, Norway, Iceland, Liechtenstein, Switzerland, Thailand, Panama, and the European Union.
In its *Doing Business 2013* publication, the World Bank ranked Peru 42nd among 189 countries surveyed in terms of ease of doing business. The report rates the ease of processes like starting a business, dealing with construction permits, registering property, and obtaining credit.

1. Openness To, and Restrictions Upon, Foreign Investment

The Peruvian government seeks to attract investment -- both foreign and domestic -- in nearly all sectors of the economy. Several high level Peruvian officials, including President Humala, the Minister of Economy and Finance, and the Central Bank President, have attended global business conferences and toured several countries in 2013 in an effort to attract foreign investment. Some of these tours were organized and sponsored by inPeru, a private industry organization (http://inperu.pe). Peruvians and Americans benefit from the United States-Peru Trade Promotion Agreement (PTPA) which entered into force on February 1, 2009. Since entry into force, total trade (exports and imports) between Peru and the United States has doubled from $9.1 billion to $18.2 billion. The PTPA establishes a secure, predictable legal framework for U.S. investors operating in Peru. The PTPA protects all forms of investment. U.S. investors enjoy in almost all circumstances the right to establish, acquire and operate investments in Peru on an equal footing with local investors.

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

Some laws also require that Peruvians own a majority share in companies operating in certain sectors: media, air and land transportation, and private security surveillance services. Foreigners are legally forbidden from owning a majority interest in radio and television stations in Peru; nevertheless, foreigners have in practice owned controlling interests in such companies. Prior approval is required for domestic or foreign investment in banking (for financial regulatory reasons) and defense-related sectors. Under the Constitution, foreign interests cannot "acquire or possess under any title, mines, lands, forests, waters, or fuel or energy sources" within 50 kilometers of Peru's international borders. However, foreigners can obtain concessions and rights within the restricted areas with the authorization of a supreme resolution co-signed by the President of the Cabinet of Ministers and the corresponding Minister, which should also have a favorable opinion from the Joint Command of the Armed Forces.

The Peruvian Government has passed several laws and related implementing regulations aimed at encouraging more private investment, such as two important decrees in 2008. The first was a legislative decree containing the Law on Public-Private Partnerships (PPPs). The second decree presents a priority list of projects for PPPs. Congress passed a law to reform regulations that would make PPPs less bureaucratic and more transparent, thus more attractive to foreign companies, in March 2014. Among these public-private partnerships are upgrades of major infrastructure projects of national importance: maritime ports (in San Martin (Pisco), Salaverry, San Juan de Marcona), the Amazon waterways- Marañón and other Amazonas rivers, Chinchero (Cuzco) airport project, Line Two of the Lima Metro system, a South American Integrated Regional Infrastructure Project (IIRSA), water supply to Lima and related headwater works, a southern gas pipeline and commensurate support infrastructure, an agricultural project (in Majes-

Siguas), and three 220 kV power transmission lines. Project opportunities are available on ProInversion's Project Portfolio page, available at: http://www.proyectosapp.pe/modulos/JER/PlantillaProyectoEstadoSector.aspx?are=1&prf=2&jer=5892&sec=32.

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

The Peruvian Government created the Private Investment Promotion Agency, ProInversion, in 2002, based on an existing similar agency. ProInversion has completed both privatizations and concessions of state-owned enterprises and natural resource-based industries. Major recent concession areas include ports, power generation facilities, electrical transmission lines, oil and gas distribution, and telecommunications.

Peru has made significant strides in various areas measured in The World Bank's "Doing Business" reports, including reformed procedures on starting a business, securing construction permits, registering property, and closing a business. Although Peru's efforts to reform business start-up procedures made significant advances according to the 2011 report, Peru declined by three places in the World Bank's business start-up ranking from 60th in 2013 to 63rd in 2014. At the same time, Peru lowered the average amount of time it takes to start a business from 41 days (in 2010) to 25 days (in 2014). Although the 2013 report noted Peru's efforts to strengthen investor protections through a new law regulating the approval of related-party transactions and making it easier to sue directors when such transactions are prejudicial, the 2014 does not show any relevant legal modifications for Peru.

Below follows a list indicating Peru's rankings in international studies.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	**Year**	**Rank or value**	**Website Address**
Transparency International Corruption Perceptions Index	2013	83 of 177	http://cpi.transparency.org/cpi2013/results/

Heritage Foundation Index of Economic Freedom	2014	47 of 186	http://www.heritage.org/index/about
World Bank Ease of Doing Business Rank	2013	42 of 189	http://doingbusiness.org/rankings
Global Innovation Index	2013	69 of 142	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	6, 060 USD	http://data.worldbank.org/country/peru

Peru received $35.6 million Millennium Challenge Corporation Threshold funding in 2008 for health and anti-corruption programs. In 2009 Peru reached upper-middle income country status and is officially ineligible for further Millennium Challenge Corporation assistance.

2. Conversion and Transfer Policies

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

The 1993 Constitution guarantees free convertibility of currency. However, limited capital controls still exist as private pension fund managers (AFPs) are constrained by how much of their portfolio can be invested in foreign securities. The maximum limit is set by law (currently 50% since July 2011), but the BCR sets the operating limit AFPs can invest abroad. Over the years, the BCR has gradually increased the operating limit, which reached 36% in April 2013. The BCR announced plans to establish a schedule of monthly increases from 36.5% starting on December 15, 2013, to 40% by July 15, 2014. For several years, AFPs have protested the low operating limit on grounds that the Peruvian securities market remains small and unable to absorb the incessantly increasing funds the AFPs manage.

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

The Peruvian Government has implemented policies to de-dollarize the economy, but in the last few years market forces have been more effective in reducing dollarization as the Peruvian Nuevo Sol has trended to appreciate vis-à-vis the U.S. dollar. U.S. dollars account for a decreasing share of banking system transactions, according to the Peruvian Banking Superintendence (SBS). In 2001, U.S. dollars accounted for 82% of loans and 73% of deposits. As of December 2013, U.S. dollars accounted for 40% of loans and 40% of deposits.

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

3. Expropriation and Compensation

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

4. Dispute Settlement

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

Peru is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention of 1958) and to the International Center for the Settlement of Investment Disputes (the Washington Convention of 1965). Disputes between foreign investors and the Peruvian Government regarding pre-existing contracts must still enter national courts, unless otherwise permitted, such as through provisions found in the PTPA. In addition, investors who enter into a juridical stability agreement may submit disputes with the government to national or international arbitration if stipulated in the agreement. Several private organizations -- including the American Chamber of Commerce, the Lima Chamber of Commerce, and

Universidad Catolica – operate private arbitration centers. The quality of such centers varies, however, and investors should choose arbitration venues carefully.

Dispute settlement generally and arbitration awards enforcement remain problematic in Peru, although in 2004 the Peruvian Government began taking steps to improve the dispute settlement process by establishing commercial courts to view investment disputes, including two courts of appeal. These commercial courts have substantially improved the process for commercial disputes. Prior to the existence of the commercial courts, it took an average of two years to resolve a commercial case through the civil court system. With their specialized judges, the commercial courts have reduced the amount of time to resolve a case to just two months. The appeals level resolves most of these cases, so that few appeals cases reach the Supreme Court.

The criminal and civil courts of first instance and appeal are heard at the provincial level. The Supreme Court is located in Lima. In principle, Peruvian law recognizes secured interests in property, both movable and immovable. With the exception of the commercial courts, the judicial system is often extremely slow to hear cases and to issue decisions. A large backlog of cases further complicates decision-making by business litigants.

Court rulings and the degree of enforcement have been difficult to predict. The proficiency of individual judges varies, and allegations of corruption, political interference, and outside interference in the judicial system are common. Frequent use of appellate processes as a delay tactic lead to the belief among foreign investors that contracts can be difficult to enforce in Peru.

The 1997 Law of Conciliation (DL 26872) requires disputants in many types of civil and commercial matters to consider conciliation before a judge can accept a dispute for litigation. Private parties often resort to arbitration to resolve business disputes, avoiding involvement in lengthy judicial processes.

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

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

5. Performance Requirements and Investment Incentives

The PTPA has resulted in benefits to U.S. enterprises seeking to invest in Peru. Under the PTPA, Peru has made concessions beyond its commitments to the WTO and has dismantled significant investment barriers, such as measures that required U.S. firms to hire nationals rather than U.S. professionals, and measures requiring the purchase of local goods.

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

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

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

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

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

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

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

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

6. Right to Private Ownership and Establishment

Peruvian law generally grants foreign and domestic entities the right to establish and own business enterprises and to engage in most forms of remunerative activity. Subject to the restrictions listed earlier in this document, both foreign and domestic entities may invest in any legal economic activity -- including foreign direct investment, portfolio investment, and in real estate. Private entities may generally freely establish, acquire, and dispose of interests in business enterprises. In the case of some privatized companies deemed important by the government, the privatization agency ProInversion has included a so-called "golden share" clause in the sales contract, which allows the government to veto a potential future purchaser of the privatized assets.

7. Protection of Property Rights

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

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

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

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

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

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

The International Intellectual Property Alliance (IIPA) estimates that the piracy level in Peru for recorded music is at 98% and 100% for video content and books. The Business Software Alliance estimates that software piracy level is at 67%, costing the industry $209 million in 2013.

The U.S. pharmaceutical industry advises that the Peruvian Government fails to provide data exclusivity protection for all pharmaceutical products and does not provide patent linkage or “second use” medical patents. The pharmaceutical industry also advises that the Peruvian Government does not offer any extension of the patent term for pharmaceutical products to compensate for processing delays at the patent office. There has also been at least one instance of GOP initiatives creating a backdoor for domestic companies to avoid complying with IP laws. This backdoor can be seen in the pharmaceutical sector in the registration of biosimilar products of biologics, drugs made from organic material that infringe upon patented U.S. biological products.

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

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

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Local lawyers list: http://lima.usembassy.gov/acs_peru.html

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

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO’s country profiles at http://www.wipo.int/directory/en/.

8. Transparency of Regulatory System

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

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

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

In 2010, OSIPTEL established a “glide path” plan to continuously lower the mobile termination rates for all carriers by October 2013. This created a more favorable and competitive environment for the smaller carriers. While a company may be pleased that its final rate in 2013 will be more competitive with the other carriers than before, concerns remain that the planned 2013 rates are based on the cost structure from 2010. Historically, telecommunication companies have experienced a downward trend in cost per call. Therefore, the telecommunications sector may face an outdated cost structure.

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

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

Businesses also have complained about the high health insurance and pension tax rates and a number of labor laws. Businesses state these tax and labor policies increase labor costs and hinder investment capital flows. The lack of a U.S.-Peru treaty on double taxation also disincentivizes foreign investment.

9. Efficient Capital Markets and Portfolio Investments

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

The private sector has access to a variety of credit instruments. In 2013, firms placed $1.75 billion on the local bond market, 3.7% below the year earlier. Mutual funds managed $5.9 billion in December 2013, a large 16.3% decrease from the December 2013 level. By December 2013, private pension funds managed a total of $36.2 billion.

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

The banking system is considered generally sound, thanks to lessons learned during the 1997-1998 Asian crisis, and continues to revamp operations, increase capitalization, and reduce costs. Under the SBS's conservative criteria, non-performing loans rose in the last two years, to 2.14% of total loans as of December 2013, yet down from a high of 11% in early 2001. Able bank supervision and strong GDP growth over the last decade through 2013 also helped banks weather the 2008-2009 global financial crisis with little trouble.

Economic opening since the 1990s, coupled with competition, has led to banking sector consolidation. Sixteen commercial banks comprise the system, with assets accounting for 88.9% of Peru's financial system. Three banks account for 73% of local loans and deposits among commercial banks. Of $93.2 billion in total banking assets at the end of December 2013, assets of the three largest commercial banks amounted to $67.3 billion. As of December 2013, foreigners had significant shares in thirteen banks, of which they were majority owners of eleven (including one of the country's largest ones) and operator of one of the largest commercial banks. Notably, two of the four banks that are majority-owned by residents account for 45.1% of commercial banks' assets.

Peru's financial system has 12 specialized institutions ("financieras"), 31 thriving micro-lenders and savings banks (although several large banks also lend to small enterprises), two leasing institutions, two state-owned banks, and one state-owned development bank. In 2013, the Economist Intelligence Unit again ranked Peru number one worldwide on microfinance business environment for the sixth consecutive year because of its sophisticated legal and regulatory framework and competitive microfinance sector. Nevertheless, Peru's over 150 savings and loan cooperatives operate in an environment almost devoid of government oversight.

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

10. Competition from State-Owned Enterprises

The Peruvian government initiated an extensive, but not yet complete, privatization program in 1991 in which foreign investors were encouraged to participate. Since 2000, the Peruvian government has promoted multi-year concessions as a means of attracting investment in major projects. In 2000, the government granted a 30-year concession to a private group (Lima Airport Partners) to operate the Lima airport. In 2006, the government granted a 30-year concession to Dubai Ports to build and operate a new container terminal in the Port of Callao. The terminal's first phase became operational in May 2010. In 2006, the Swiss-Spanish-Peruvian consortium Swissport received a 25-year concession to manage nine of Peru's northern airports. In 2011, the Peruvian Government awarded the Argentine-Peruvian consortium Aeropuertos Andinos a 25-year concession to manage six of Peru's southern airports. Also in 2011, the government granted a 30-year concession to a Danish-Peruvian consortium led by the Danish-based A.P. Moller-Maersk Group to operate and modernize the multipurpose northern terminal at the Port of Callao. The Peruvian Government continues to award multi-year concessions for various energy, natural gas, hydro-energy and irrigation, telecommunications, ports, sanitation, roads, and tourism projects.

Several electricity, water and sewage, bank, and oil companies remain state-owned and state-operated. The most notable area of SOE activity pertains to the petroleum sector, namely Peru's state-owned petroleum company PetroPeru, which currently is an oil refiner and the operator of an underutilized oil pipeline. Congress passed several laws since that purport to strengthen PetroPeru and free it from bureaucratic controls, so that it can enter into all stages of the petroleum and petrochemical sectors, especially upstream. In 2008, PetroPeru took center stage in a corruption scandal related to oil and gas concessions. The scandal led to the resignation of the Minister of Energy and Mines and the PetroPeru President. The scandal forced the Peruvian government to implement a number of changes in PetroPeru's management. Over the last two decades, PetroPeru has experienced significant attrition in managerial and technical expertise. This, coupled with its limited financial resources, cast into doubt the company's ability to implement its long-held plans to expand and upgrade its aging Talara refinery – which continues to produce dirty gasoline and diesel fuel, a situation the government permits by not enforcing regulatory standards. Limited resources and expertise also downplay expectations following repeated announcements from its leadership regarding entrance to upstream, and participation in a proposed gas pipeline and petrochemical complex in southern Peru. Up until recently, PetroPeru's leadership's plans even included a return to oil production through participation in tenders of oil producing blocks that the GOP was set to auction in 2013, with a requirement to partner with PetroPeru. Limited or no interest shown by oil companies in that auction and in several exploration blocs' pending auctions, have left those plans up in the air.

11. Corporate Social Responsibility

Peruvian businesses participate in Corporate Social Responsibility (CSR) programs, primarily on a voluntary basis. For the energy and mining sector, certain regulations do exist to promote social responsibility. Supreme Decree No. 042-2003-EM promotes social responsibility within the mining sector, encouraging local employment opportunities, support to communities' projects, development activities, and purchase of local goods and services. The decree requires mining companies to publish an annual report on sustainable development activities. The Ministry of Energy and Mines has prepared a guidebook for community relations, as well as public information on social measures related to the mining and energy sectors. In February 2011, INDECOPI adopted the Peruvian Technical Regulation of Social Responsibility ISO 26000 that serves as a voluntary guide to CSR activities.

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

Peru continues to be recognized for its 2013-2017 National Strategy to Combat Forced Labor. Its plan emphasizes the state's role to protect and promote labor rights. Simultaneously, it strives to build capacity and empower vulnerable groups to transform their environment and enforce their rights. The plan addresses both medium and long-term multi-sector plans to eliminate or reduce conditions that enable forced labor. Despite these efforts, the government did not effectively enforce labor law in all cases. The exploitation of child labor, particularly in informal sectors, forced labor, and employers engaging in antiunion practices remained significant problems.

12. Political Violence

Although political violence against investors is rare, protests, sometimes violent, have taken place in or near communities with extractive industry operations. Environmental concerns were often the cited pretext, with protestors objecting to the fact that environmental impact assessments are reviewed by the Ministry of Energy and Mines, rather than the Ministry of Environment, when in fact, the Ministry of Environment along with other national agencies do participate in assessment reviews. In many cases, protestors sought public services not provided by the government. Ideological opposition to foreign mining firms, not opposition to mining itself, often leads to protest in communities incited by NGOs, bringing in protestors from outside the local community to foment protests against the companies. Groups blocked roads in 2013 to protest extractive industry operations; hydroelectric projects; restrictions on informal gold, mining, and gas exports; and the Government's coca eradication policies. In several of these protests, police and civilians were injured. There are 220 conflicts in Peru, and more than half of these conflicts involve extractive industries.

Politically motivated movements at times have opposed large extractive projects. In some cases, these movements have been successful in delaying large investments, as occurred in the $4.8 billion Conga mine project in Cajamarca in August 2012. In other cases, protests have stopped such investments entirely.

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

Violence remains a concern in coca-growing regions. Members of two Shining Path factions conducted 50 terrorist acts (including armed actions) in remote coca-growing areas that resulted in the killings of three soldiers, injuries to three police and three soldiers, and two civilian deaths in the Apurimac, Ene, and Mantaro River Valleys (VRAEM) and the Upper Huallaga Valley (UHV) emergency zones during 2013. On January 23, 2013 Shining Path members attacked and kidnapped workers at a construction project in the district of Sivia, Ayacucho Region. The hostages did not sustain any injuries, and the Shining Path released them a few hours later. There were reports that the Shining Path abducted children to work for the terrorist organization during the year. The Humala government continues the longstanding practice of authorizing separate 60-day states of emergency in two areas where the Shining Path operates – the Apurimac, Ene, and Mantaro River Valleys (VRAEM) and the Upper Huallaga Valley. The state of emergency authorization suspends some civil liberties and gives the security forces additional authority to maintain public order.

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

13. Corruption

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

U.S. firms have reported problems directly resulting from corruption, usually in government procurement processes and in the judicial sector, with defense and police procurement generally considered among the most problematic in spite of PTPA's stipulations and of Peru's Government Procurement Law (Legislative Decree No. 1017, DL 1017, one of several laws passed with the specific intention to implement PTPA). Transparency International ranked Peru 83rd out of 177 countries in its 2013 Corruption Perceptions Index, unchanged since 2012, and down from 80th out of 183 countries in 2011. While anti-corruption efforts have been a stated priority of both the Garcia and Humala governments, in practice most resources to date have been directed at investigating extensive corruption during the Fujimori era (1990-2000). Former Presidents Garcia and Toledo and several sitting members of Congress are also under investigation for corrupt practices. The Peruvian armed forces and national police continue to prefer to execute government-to-government procurements (i.e., purchases by a GOP agency from a foreign government agency or government-owned company). In July 2012, the Government Procurement Supervisory Agency ruled that government-to-government procurements do not fall under the government procurement law (DL 1017). An article in the

2013 Budget Law also specified that procurements by the GOP from another state are not under the scope of DL 1017. Since then, there have been a number of local media reports of overvalued prices in several government-to-government purchases, of goods or services for the police or the armed forces. Cases include purchases of a satellite, planes, helicopters, and technical assistance training. Overvaluation has apparently occurred even in the case of open tenders, as in the notorious recent case of the purchase of 591 binoculars by the Interior Ministry for the National Police in December 2013. El Comercio, Peru's paper-of-record, published a report in January 2014 alleging the Interior Ministry bought 591 binoculars at a price more than ten times the market rate. In early-March 2014, local media reported that the Public Prosecutor's Office will investigate a technical assistance-training procurement made in 2009 by the Armed Forces Joint Command. This probe comes after the Comptroller General found irregularities and circumstantial evidence of collusion, embezzlement and other crimes.

14. Bilateral Investment Agreements

The PTPA eliminated the need for a bilateral investment agreement between the United States and Peru. Peru also has free trade agreements with Canada, Chile, China, Colombia, Costa Rica, the European Free Trade Association (which includes Iceland, Liechtenstein, Norway and Switzerland), Japan, Mexico, Panama, Singapore, South Korea, and Thailand. It has Framework Agreements with MERCOSUR countries (Argentina, Brazil, Paraguay, Uruguay, and Venezuela). It has a partial preferential agreement with Cuba. More agreements have been signed and are awaiting full implementation, including with Guatemala, and the Pacific Alliance (Mexico, Colombia, Chile, and Costa Rica).

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

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC), an independent U.S. Government agency, offers medium-to-long-term financing and political risk insurance. From 2010 thru 2013, OPIC supported solar power plants, consumer lending, operation and expansion of retail stores, microfinance, installation/operation of stereotactic radiosurgery equipment, consulting services, export services, import-export logistical services, and portfolio expansion of SME, micro-credit and consumer loans, in the form of commitments totaling $21 million.

Because of the free convertibility of currency, the U.S. Embassy purchases Peruvian currency for expenses on an as-needed basis at the market exchange rate. The U.S dollar averaged 2.75 Nuevos Soles per dollar in 2013, after averaging the same in 2012. Peru is a member of the Multilateral Investment Guarantee Agency.

It is unlikely that the Peruvian government would either devalue or revalue the Nuevo Sol. The foreign exchange market mostly operates freely. However, the Peruvian BCR intervenes in the foreign exchange market to prevent significant exchange rate variations – at times day after day. To many observers, this regime has succeeded in avoiding traumatic foreign exchange adjustments to the economy.

16. Labor

Labor is abundant, although several large investment projects in recent years led to localized shortages of highly skilled workers in some fields. While the legal framework to uphold international labor standards is well-defined, the government did not effectively enforce the law in all cases. Mining sector contacts praise the technical knowledge and professional dedication of Peruvian engineering graduates. Since the 1960s, the number of jobs created by the Peruvian economy was consistently below the number of new entrants to the labor market. The situation meant underemployment or seeking work in the informal economy. In February 2014, the Labor Ministry estimated 56.3% of workers were engaged in the informal economy. There are no precise statistics on the size of the informal economy, but it is estimated to be anywhere from 50% to 70% of the formal economy.

The Peruvian government increased the statutory monthly minimum wage in May 2012, from 675 Nuevos Soles (approximately $241) to 750 Nuevos Soles (approximately $268). The National Institute of Statistics and Information (INEI) estimated the poverty line to be 284 new soles ($102 USD) a month per person, although it varied by region due to different living costs. The Ministry of Labor (MOL) enforces the minimum wage only in the formal sector. Many workers in the unregulated informal sector, most of them self-employed, make less than the minimum wage. Wages are sometimes higher than U.S. wages in the mining sector for management positions and consulting services. Workers in Peru are paid by the month, not by the year. Some workers, like formal miners, are highly paid and also (per statute) receive a share of company profits up to a maximum total annual amount of 18 times their base monthly salary. Current labor law provides for a 48-hour work week and one day of rest, and requires companies to pay overtime for more than eight hours of work per day and additional compensation for work at night. Noncompliance with the law is a punishable infraction. There is no prohibition on excessive compulsory overtime.

A 2008 law reduced severance pay and bonuses by 50%, and paid annual vacation to 15 days for small business workers. Workers readily sacrifice these and other benefits in exchange for regular employment. Another 2008 law gave micro-enterprise workers social security and pensions.

Peruvian labor law requires that employees provide advance notice to the MOL before holding a strike, with the new legislation not being as permissive as before. According to the MOL, 94 strikes took place in the private sector in 2013, 5.6% above 2012, but person-hours lost from strikes decreased by 16.2%, for a total of 1.57 million work hours. Unions in what the government determines are “essential public services” are permitted to call a strike but must provide 10 working days’ notice, receive the approval of the Ministry of Labor, be approved by a simple majority of workers, and provide a sufficient number of workers during a strike to maintain operations, as jointly determined by the union and labor authorities on an annual basis. As of October 2013, the Ministry of Labor registered 33 total strikes, with 25 of those declared illegal. According to labor leaders permission to strike was difficult to obtain, in part because the MOL feared harming the economy. The MOL justified its decisions by citing failure of unions to fulfill the legal requirements necessary to strike.

On January 15, 2010, Congress adopted a new labor procedure law (No. 29497) to improve the efficiency of resolving labor disputes. The law requires that labor conflicts be resolved in less than six months, allows unions or their representatives to appear in court on behalf of workers, requires proceedings to be conducted orally and video-recorded, and relieves the employee from the burden of proving an employer-employee relationship. On November 5, 2012, the Lima Judicial District began implementing the labor procedure law. At year's end, it was in effect in at least 15 of the 31 judicial districts in Peru.

Six percent of the labor force in the private sector was organized in 2013, with unionization highest in electricity, water, construction, and mining (from 39% to 22%) and generally low in the rest of economy. Unemployment in Lima officially stood at 5.7% during the fourth quarter of 2013, with INEI stressing that the number of jobs increased for the 58th consecutive month. A 2011 government survey showed that 34.5% of Lima's labor force was underemployed in the same period (versus 36.9% in the same period of 2012), mostly self-employed in the informal sector. The average nominal monthly salary increased 8.0% year-on-year in the fourth quarter of 2013, INEI reported. The ILO's Global Wage Report 2012/2013 released in December 2012 stated that average real wages in Peru grew at over 3% per annum between 2004 and 2011.

Labor laws have become more inflexible in the last ten years, making labor relatively more expensive. A law passed in 2008 created more restrictions on outsourcing and subcontracting, made the contracting company more responsible for the actions of its subcontracted company, and created a national registry of contracting companies. The PTPA requires Peru to respect the ILO-defined core labor rights of its workers. In January 2010, the Peruvian Government and U.S. Government established the bilateral Labor Affairs Council as mandated in Article 17.5 of the PTPA.

According to labor leaders, the current labor law has weakened unions in part because companies create competing unions that are seen as more favorable to management. Workers in probation status or on short-term contracts are not eligible for union membership. Bargaining agreements are considered contractual agreements, valid only for the life of the contract. Productivity provisions must be included in any collective bargaining agreement. The amount of time union officials may devote to union work is limited to 30 days per year. Unless there is a pre-existing labor contract covering an occupation or industry as a whole, unions must negotiate with each company individually. The government did not effectively enforce the law in all cases. Penalties for violations of freedom of association and collective bargaining exist, but were rarely enforced. Workers faced prolonged judicial processes and lack of enforcement following trade union activity-related dismissals. For instance, NGOs reported that emblematic cases of labor arbitration dating from 2012 remained in limbo, with the implementation of arbitrators' decisions delayed by ongoing judicial appeals processes.

In practice workers faced some challenges in exercising their rights of freedom of association and collective bargaining. Unions were generally independent of government and political parties. Employers continued to dismiss workers for exercising the right to strike. Dismissal of striking workers and delays in reinstatement of these workers, in both legal and illegal strikes, were the main tactic used by employers to dissuade workers from going on strike. Labor leaders and the ILO argue that current labor laws erode labor protections and encourage outsourcing in ways that undercut union activity.

Either unions or management can request binding arbitration in contract negotiations. Strikes can be called only after approval by a majority of all workers (union and non-union) voting by secret ballot, and only in defense of labor rights. Unions in essential public services, as determined by the government, must provide a sufficient number of workers during a strike to maintain operations.

The government approved in January 2013 the formation of a national labor inspectorate and approved in October 2013 opening regional offices to represent the labor inspectorate nationally. This new inspectorate will allow Peru to more comprehensively and systematically enforce labor laws. The Ministry of Labor plans to open five inspectorate offices in 2014.

All labor in the (very small) export processing zones (EPZs) is subcontracted. With the exception of enjoying greater flexibility in hiring temporary labor, there are no special laws or exemptions from regular labor laws in EPZs.

Foreign employees may not comprise more than 20% of the total number of employees of a local company (whether owned by foreign or Peruvian persons) or more than 30% of the total company payroll. However, under the PTPA, Peru has agreed not to apply most of its nationality-based hiring requirements to U.S. professionals and specialty personnel. Peru also has bilateral agreements with Spain and Argentina, for example, so that Spaniards and Argentines working in Peru do not count as foreigners and vice versa.

17. Foreign Trade Zones/Free Ports

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

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

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

The stock of foreign direct investment in Peru stood at $73.6 billion in December 2013 according to the BCR, up from $63.4 billion at the end of 2012. According to the most recent data from the BCR, the largest investors in Peru are the United States, Canada, Spain, and Chile. By industry, the main investment destinations are mining (29%), services (24%), oil and gas (17%), manufacturing (10%), finance (13%), and energy (6%).

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

Major foreign direct investments included Xstrata (Switzerland), Hunt Oil (U.S.), Newmont Mining Corporation (U.S.), BHP Billiton (Australia), Cencosud Internacional Limitada (Chile), Endesa Latinoamericana (Spain), Freeport-McMoRan (U.S.), Golds Fields Corona (South Africa), SN Power Peru (Norway), Compania Minera Latino-Americana (Chile), Sempra Energy (U.S.), Citibank (U.S.), Southern Peru Copper (Mexico), Pluspetrol (Argentina), Scotiabank (Canada), Telefonica (Spain), Repsol (Spain), Gerdau (Brazil), Anglo American (United Kingdom), Invercale (Chile), Asa Iberoamerica (Spain), Fraport AG Frankfurt Airport Services Worldwide (Germany), Aeropuertos Andinos del Peru (Argentina), and the Falabella Group (Chile). When completed, Glencore-Xstrata's $5.2 billion Las Bambas copper mine project in Apurimac will rank as Peru's largest foreign direct investment ever. The multi-year Hunt Oil-led investment is part of a consortium that invested $3.8 billion to develop a natural gas liquefaction plant, maritime terminal, and pipeline in southern Peru.

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

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Host Country Statistical source*		USG or international statistical source		USG or international Source of data (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (*Millions U.S. Dollars)*	2013 2012 2011 2010 2009	193,214 199,608 176,727 153,710 126,910	2013 2012 2011 2010 2009	No data 203,790 181,011 157,609 130,064	http://www.worldbank.org/en/country

Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (*Millions U.S. Dollars, stock positions)*	2013 2012 2011 2010 2009	No data No data No data 9,199 9,113	2013 2012 2011 2010 2009	No data 10,918 8,993 7,196 6,435	(BEA) click selections to reach. • Bureau of Economic Analysis • Balance of Payments and Direct Investment Position Data • U.S. Direct Investment Position Abroad on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)
Host country's FDI in the United States (*Millions U.S. Dollars, stock positions)*		No national data available	2013 2012 2011 2010 2009	No data 122 235 182 112	(BEA) click selections to reach • Balance of Payments and Direct Investment Position Data • Foreign Direct Investment Position in the United States on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)
Total inbound stock of FDI as % host GDP (***calculate)***	Year 2013 2012 2011 2010 2009	Amount No data No data No data 0.253 0.272	Year 2013 2012 2011 2010 2009	Amount No data No data No data 0.246 0.265	

* Peruvian (host country) statistical sources:
http://www.mef.gob.pe/index.php?option=com_content&view=article&id=1116&Itemid=100233&lang=es
http://elibrary-data.imf.org/DataReport.aspx?c=11666795&d=33061&e=171392
http://www.bea.gov/international/di1usdbal.htm

TABLE 3: Sources and Destination of FDI
Peru, 2013

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	38,841	100%	Total Outward	1,239	100%
United States	9,199	24%	Chile	367	30%
Canada	4,710	12%	United States	267	22%
Spain	3,700	10%	Panama	212	17%
Panama	2,803	7%	Jamaica	194	16%
Cayman Islands	2,590	7%	Bolivia	116	9
"0" reflects amounts rounded to +/- USD 500,000.					

Source: International Monetary Fund, *http://cdis.imf.org/*

19. Contact Point at Post for Public Inquiries

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