PERU
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

Peru has been one of the fastest growing Latin American economies over the past decade. Between 2003 and 2013 the Peruvian economy grew an average of 6% per year. Though the trend did not continue in 2014, Peru's 2.35% growth was still higher than the 2.0% average growth in Latin America. The government's counter-cyclical stimulus spending, consumption, and private investment are the main driving forces of this growth. Investment grew by 8.3% year-on-year to a value of USD 33.5 billion in 2013. The Ministry of Economy and Finance set a target of 30% growth in public investment, and pledged a total of USD 30 billion over the next five years to address Peru's infrastructure gap, estimated at USD 80 billion. As the economy has grown, poverty in Peru has steadily decreased falling by half from 56% in 2005 to 23.9% in 2013 according to the World Bank. HSBC describes Peru could eventually "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 1990s. All 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 maritime 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 local currency, the Nuevo Sol (PEN), has been among the least volatile within Latin American over the past few years. In 2014, it did depreciate close to 10% in comparison to the USD. Since the mid-1990's, the PEN's exchange rate with the USD has fluctuated between 1.25 and 3.55 per USD. The exchange rate, as of March 16, 2015, was PEN 3.097 per USD.

The Government of Peru (GOP) has encouraged integration with the global economy by signing a number of free trade agreements, including the United States-Peru Trade Promotion Agreement (PTPA), which entered into force in February 2009. In 2014, trade between the United States and Peru totaled USD 16.1 billion up from USD 9.1 billion in 2009 the first year of entry into force. From 2009 to 2014, Peruvian exports to the United States jumped from USD 4.2 billion to USD 6.1 billion (a 45% increase) while U.S. exports to Peru jumped from USD 4.9 billion to USD 10.1 billion (a 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 the 2015 World Bank's Ease of Doing Business report, Peru ranked 35 out of 189.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The GOP seeks to attract investment -- both foreign and domestic -- in nearly all sectors of the economy. Several high level Peruvian officials, including President Ollanta Humala, the Minister of Economy and Finance, and the Central Bank President, attended global business conferences and toured several countries in 2014 in an effort to attract foreign investment. Some of these tours were organized and sponsored by In Peru, a private industry organization (http://inperu.pe). Peruvians and Americans benefit from the United States-Peru Trade Promotion Agreement (PTPA) which entered into force on February 1, 2009. Since entry into force, total trade (exports and imports) between Peru and the United States expanded significantly from USD 9.1 billion to USD 16.1 billion. The PTPA establishes a secure, predictable legal framework for U.S. investors operating in Peru. The PTPA protects all forms of investment. U.S. investors enjoy in almost all circumstances the right to establish, acquire and operate investments in Peru on an equal footing with local investors.

Other Investment Policy Reviews

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

Laws/Regulations of Foreign Direct Investment

The 1993 Constitution grants national treatment for foreign investors and permits foreign investment in almost all economic sectors. Under the Constitution, foreign investors have the same rights as national investors to benefit from 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.

The GOP 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 major infrastructure projects of national importance and upgrades to existing projects: Salaverry maritime port project, Quillabamba thermal power plant (Cusco region), liquid petroleum gas (LPG) transport system (from Pisco to Callao), lines three and four of the Lima and Callao Metro system, water supply to Lima and related headwater works, distribution system of natural gas via pipeline networks (Apurimac, Ayacucho, Huancavelica, Junin, Cusco, Puno, and Ucayali regions), rural broadband installation (optical fiber transportation networks and access networks), and connections to three existing 220 kV power transmission lines. Project opportunities are available on ProInversion's Project Portfolio page, available at: http://www.proyectosapp.pe/modulos/JER/PlantillaProyectoEstadoSector.aspx?are=1&prf=2&jer=5892&sec=30.

Although all Peruvian administrations since the 1990s have vowed to support private investment and abide by Peruvian laws, the GOP occasionally has passed measures that some observers have regarded as contravening legal principles. For example, the Garcia Administration in 2011 rescinded a Canadian company's rights to operate a silver mining project in Puno after violent protests opposing the project. The Canadian company delivered to the Peruvian Minister of Economy and Finance a Notice of Intent to submit a claim to arbitration under the terms of the Canada-Peru Free Trade Agreement in February 2014. Furthermore, President Ollanta Humala signed into law a 10-year moratorium on the entry into Peru of live genetically-modified organisms (GMOs) to be used for cultivation in December 2011. Peru also has implemented two 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 GOP created the Private Investment Promotion Agency, ProInversion, in 2002, based on an existing similar agency. ProInversion has completed both privatizations and concessions of state-owned enterprises and natural resource-based industries. Major recent concession areas include ports, power generation facilities, electrical transmission lines, oil and gas distribution, and telecommunications. In July 2014 the Peruvian Congress passed legislation to reform the public-private concessions process and require more oversight by the Ministry of Economy and Finance. The Ministry of Economy and Finance is working on the implementing regulations, and expects a final draft before the end of 2015.

Industrial Promotion

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

Limits on Foreign Control

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

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

Privatization Program

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

The concessions process is challenging for U.S. and other international companies interested in bidding on projects. ProInversion, the government agency responsible for drawing up and competing public-private-partnership (P3) concession projects, has come under considerable criticism for its bidding process, deadlines, and ambitious timetables. As a result, U.S. and other international companies have shown limited interest in Peruvian P3 projects.

Screening of FDI

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

Competition Law

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

Investment Trends

Peru has made significant strides in various rankings within the World Bank's Doing Business report, 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 has made significant strides, 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.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	85 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	35 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	73 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 6,270	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

In 2008, Peru received USD 35.6 million from the Millennium Challenge Corporation Threshold funding 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

Foreign Exchange

There are no reported difficulties in obtaining foreign exchange. Under Article 64 of the 1993 Constitution, the GOP guarantees the freedom to hold and dispose of foreign currency. The GOP has eliminated all restrictions on remittances of profits, dividends, royalties, and capital, although foreign investors are advised to register their investments with ProInversion to ensure these guarantees. Exporters and importers are not required to channel foreign exchange transactions through the Central Reserve Bank of Peru (BCR) and can conduct transactions freely on the open market. Anyone may open and maintain foreign currency accounts in

Peruvian commercial banks. U.S. firms have reported no problems or delays in transferring funds or remitting capital, earnings, loan repayments or lease payments since Peru's economic reforms of the early 1990s. Under the PTPA, portfolio managers in the United States are able to provide portfolio management services to both mutual funds and pension funds in Peru, including funds that manage Peru’s privatized social security accounts.

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

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

The GOP has implemented policies to de-dollarize the economy, but in the last few years market forces have been more effective in reducing dollarization as the Peruvian Nuevo Sol had trended (until 2014) to appreciate vis-à-vis the U.S. dollar. U.S. dollars account for a decreasing share of banking system transactions, according to the Peruvian Banking Superintendence (SBS). In 2001, U.S. dollars accounted for 82% of loans and 73% of deposits. As of February 2015, U.S. dollars accounted for 42.6% of loans.

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

Remittance Policies

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

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

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

3. Expropriation and Compensation

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

4. Dispute Settlement

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

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

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

Bankruptcy

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

Investment Disputes

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

International Arbitration

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

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

ICSID Convention and New York Convention

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

Duration of Dispute Resolution

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

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

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

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

5. Performance Requirements and Investment Incentives

WTO/TRIMS

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

Investment Incentives

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

Research and Development

Promoting science, innovation, and technology and improving Peru's education system remain priorities for the Humala Administration. Peru ranked last out of 65 surveyed countries in the OECD's 2013 Program for International Student Assessment (PISA). The OECD noted the high inequity of quality between urban and rural schools and low levels of Peruvian students meeting PISA standards in mathematics, science, and reading. The Humala Administration increased spending on education for 2015, including USD 1 billion to build and renovate schools and USD 450 million to hire more teachers. In 2014, the GOP launched an ambitious national plan to promote innovation, science, and technology jobs.

Performance Requirements

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

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

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

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

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

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

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

Data Storage

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

The implementing regulations are available in Spanish here: http://spij.minjus.gob.pe/normas/textos/220313T.pdf 2.

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

Data controllers may process personal data without consent:

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

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

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

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

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

Real Property

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

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

Intellectual Property Rights

While the legal framework for protection of intellectual property (IP) in Peru has improved over the past decade, including the law enacted in 2011 to criminalize the sale of counterfeit medicines, enforcement mechanisms remain weak. However, 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 GOP institutions, sometimes with the support of the U.S. Embassy in Lima, sponsor public awareness campaigns to raise awareness about the damage that IP theft causes the Peruvian economy and Peruvians consumers. Peruvian newspapers complain about piracy, including pirated versions of Peru's Nobel Laureate Mario Vargas Llosa's books. While the GOP occasionally has carried out raids against small-time vendors of pirated goods, piracy remains a significant problem for legitimate owners of copyrights in Peru.

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

The U.S. pharmaceutical industry advises that the GOP fails to provide data exclusivity protection for all pharmaceutical products and does not provide patent linkage or "second use" medical patents. The pharmaceutical industry also advises that the GOP does not offer any extension of the patent term for pharmaceutical products to compensate for processing delays at the patent office. 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 GOP agency charged with promoting and defending intellectual property rights is the Antitrust, Unfair Competition, Intellectual Property Protection, Consumer Protection, Dumping, Standards and Elimination of Bureaucratic Barriers Agency (INDECOPI, www.indecopi.gob.pe), established in 1992. Peru belongs to the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO). It is also a signatory to the Paris Convention on Industrial Property, Geneva Convention for the Protection of Sound Recordings, Bern Convention for the Protection of Literary and Artistic Works, Brussels Convention on the Distribution of Satellite Signals, Phonograms Convention, Satellites Convention, Universal Copyright Convention, the World Copyright Treaty, and the World Performances and Phonographs Treaty and the Film Register Treaty. In December 1994, the Peruvian Congress ratified the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property (TRIPs).

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

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

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

Piracy remains a prevalent problem in Peru. GOP officials recognize that the country will not achieve its full economic potential if IPR laws are not implemented more robustly to protect legitimate owners of trademarks, copyrights, and patents. Even Peruvian businesses complain that piracy is biting into their bottom lines, and are joining U.S. and foreign companies to engage the GOP on the economic costs of IPR violations. The World Economic Forum ranked Peru 119 out of 144 countries in its Global Competitiveness Index 2014-2015 (an improvement of one point from last year), significantly behind fellow Pacific Alliance members Chile (56), Mexico (82), and Colombia (96).

INDECOPI reports that hundreds of millions of dollars-worth of pirated goods are sold with impunity in notorious markets like “Polvos Azules,” “El Hueco,” and “Fronteras Unidas” in Lima. For example, El Hueco is full of shoppers buying the latest pirated movies even though it is located just a few blocks away from the national PNP headquarters. In the outer Andean and Amazon regions, notorious markets for pirated goods operate even more openly with little fear of interference from law enforcement (ref B).

Piracy is so common that notorious markets have fragmented into specializations. For instance, Lima’s “Capon Center Mall” specializes in selling low-priced counterfeit medicines. During a July 2014 raid, PNP and SUNAT agents discovered that over 50% of all medicines sold at Capon were counterfeit. Gamarra, a district in Lima, is home to large notorious markets (“Galeria Azul,” “Galeria Santa Lucia,” “Galeria San Miguel,” “Galeria Markata,” and “Galeria Senor de Chacos”) that specialize in counterfeit clothing. Even upscale districts in Lima like La Molina and Miraflores are home to well-known notorious markets like “La Esquina” and “La Quinta” where hawkers sell fake Gucci, Louis Vuitton, and other high-end merchandise.

GOP and private sector interlocutors note that piracy groups are utilizing internet tools to expand their business. Notorious markets are becoming more adept at using social media to promote and sell their goods, with Facebook being the social media of choice. For instance, “Fronteras Unidas’” Facebook page (http://www.facebook.com/pages/galeria-fronteras-unidas-grau/173545512699294) promotes the latest sales and discounts for new merchandise, looking as professional as legitimate companies that use Facebook. MINSA is concerned over the growth of counterfeit medicine moving towards online distribution and sales. One MINSA interlocutor noted that her office has insufficient resources to adequately monitor the ever growing number of unregistered websites offering deeply discounted and counterfeit medicines to the public.

Piracy in Peru is most rampant in software, music, and video content. The International Intellectual Property Alliance estimates that the piracy level for music is around 98% and nearly 100% for video content. The Software Business Alliance estimates that the piracy level for software is 65%, costing copyright holders an estimated USD 60 million in 2014. The Peruvian market is so saturated with pirated movies that there is no legitimate rental market for movies and few legitimate venues to buy legal DVDs of music and movies. Pirated movies sell for three to five Peruvian Nuevo Soles (PEN) (USD 1.00-1.65) per DVD while pirated books sell for less than a third of the price of licensed editions. Novels by noted Peruvian author Mario Vargas Llosa sell in stores for PEN 70 (USD 23.00) while illegal book venders sell it for PEN 25 Soles (USD 8.30). Customers can even use their cell phones to pay for downloading pirated movies. For example, PeliculaSONL (www.peliculasonl.com) allows customers to pay for weekly subscriptions through their Claro and Movistar (the two largest and legitimate cellular network providers) accounts to pay for illegal video downloads.

Resources for Rights Holders

Contact at Mission:

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

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

Country/Economy resources:

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

8. Transparency of the Regulatory System

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

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

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

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

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

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

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

9. Efficient Capital Markets and Portfolio Investment

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

The private sector has access to a variety of credit instruments. In 2013, firms placed USD 1.75 billion on the local bond market, 3.7% below the year earlier. Mutual funds managed USD 5.9 billion in December 2013, a large 16.3% decrease from the December 2013 level. Private pension funds managed a total of USD 36.2 billion in December 2013. (Full 2014 Statistics are not yet available.)

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

Money and Banking System, Hostile Takeovers

The banking system is considered generally sound, thanks to lessons learned during the 1997-1998 Asian crises, and continues to revamp operations, increase capitalization, and reduce costs. Under the SBS's conservative criteria, non-performing loans rose in the last two years, to 2.14% 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 2014 also helped banks weather the 2008-2009 global financial crises with little trouble.

Economic opening since the 1990s, coupled with competition, has led to banking sector consolidation. 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 USD 93.2 billion in total banking assets at the end of December 2013, assets of the three largest commercial banks amounted to USD 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

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

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

OECD Guidelines on Corporate Governance of SOEs

Not applicable.

Sovereign Wealth Funds

Not applicable.

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

OECD Guidelines for Multinational Enterprises

Not applicable.

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. Protestors often object 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. In some cases, organizers from outside the local community are brought in to foment protests against the companies. Groups blocked roads and an airport in 2014 to protest extractive industry operations; hydroelectric projects; restrictions on informal gold mining, gas exports, and the Government's coca eradication policies. In several of these protests, police and civilians were injured or killed. As of February 2015, the Ombudsperson's Office reported 211 conflicts in Peru; 67% of these conflicts involve socio-economic concerns, usually linked to extractive industries.

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

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

Violence remains a concern in coca-growing regions. The government reported that through October 2014, the Shining Path conducted 18 terrorist acts, resulting in the death of two soldiers and two civilians, as well as injuries to six soldiers, seven civilians, and one police officer in the Apurimac, Ene, and Mantaro River Valleys (VRAEM) emergency zone, which includes parts of Ayacucho, Cusco, Huancavelica, Huanuco, and Junin regions. A separate emergency zone in the

Upper Huallaga Valley (UHV) includes parts of San Martin and Ucayali regions. 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. On September 11, 2014 the GOP declared a new emergency zone in the Loreto region due to drug trafficking activity. The state of emergency authorization suspends some civil liberties and gives the security forces additional authority to maintain public order.

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

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), but it signed a Country Program agreement in December 2014 to provide an anchor for policy reforms aimed at meeting OECD standards and practices. It has not signed the OECD Convention on Combating Bribery, although it has participated as an observer in the Working Group. The Contraloría General is the responsible government agency for overseeing proper procedures in public administration, thus ends up being responsible in combating corruption.

U.S. firms have reported problems resulting from corruption, usually in government procurement processes and in the judicial sector, with defense and police procurement generally considered among the most problematic in spite of PTPA's stipulations and of Peru's Government Procurement Law (Legislative Decree No. 1017, DL 1017, one of several laws passed with the specific intention to implement PTPA). Transparency International ranked Peru 85th out of 175 countries in its 2014 Corruption Perceptions Index, two points lower than 2013.

At the end of 2014, three former regional presidents – roughly equivalent to U.S. state governors – were in jail awaiting trial on corruption charges while a fourth was a fugitive from justice. Three newly elected regional presidents – sworn into office January 1, 2015 – were facing legal problems: two had been sentenced to jail for crimes they committed prior to assuming office but remained at their posts while they appealed; the third was barred from assuming office for failure to pay a USD 333,000 fine associated with a prior bribery conviction. A study published in May of 2014 by the office of the anti-corruption solicitor reported that 92 percent of the over 1,800 district-level mayors in office between 2011 and 2014 had been investigated for criminal activity. Ten percent of sitting members of congress had been suspended for ethical violations since taking office in 2011.

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

UN Anticorruption Convention, OECD Convention on Combatting Bribery

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

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

Resources to Report Corruption

Contact at government agency or agencies are responsible for combating corruption:

Sara Arobes
a.i Technical Secretary
High Commission to Fight Corruption (CAN)
Jr. Carabaya Cdra. 1 S/N - Lima,
(51) (1) 219-7000, ext. 7202
sarobes@pcm.gob.pe

Soraya Altabas
Officer of Technical Cooperation
General Comptroller's Office
Jr. Camilo Carrillo 114, Jesus Maria, Lima
(51) (1) 330-3000, ext.
faltabas@contraloria.gob.pe

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

Samuel Rotta
a.i Executive Director
ProEtica, the Peruvian chapter of Transparency International
Calle Manco Capac 816, Miraflores, Lima
(51) (1) 446-8581, 446-8941, 446-8943
srotta@proetica.org.pe

14. Bilateral Investment Agreements

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

Bilateral Taxation Treaties

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

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 2014, 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 more than USD 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 USD averaged PEN 2.84/USD in 2014. Peru is a member of the Multilateral Investment Guarantee Agency.

It is unlikely that the GOP 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. According to the National Bureau for Statistics (INEI), 74.3% of the labor force is informal.

The statutory monthly minimum wage is PEN 750/month (approximately USD 242). INEI estimated the poverty line to be PEN 292/month (USD 92) 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. Micro-enterprise workers are entitled to 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, 95 strikes took place in the private sector in 2014, just 1.1% above 2013, but person-hours lost almost doubled, for a total of 3.153 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 MOL, 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 September 2014, the MOL registered 53 total strikes during 2014, 48 of which were declared illegal. According to labor leaders permission to strike was difficult to obtain. The MOL justified its decisions by citing failure of unions to fulfill the legal requirements necessary to strike.

The labor procedure (No.29497) 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. At year's end, the labor procedure law was in effect in at least 25 of the 31 judicial districts in Peru.

July 2014 labor reforms to the Occupational Safety and Health (OSH) Law and inspection law allow employers to outsource the management of health and safety to third-party service providers. Employers are now responsible for conducting one health exam every two years, rather than every year, which labor NGOs and unions were concerned leaves short-term contracted workers exposed to industrial illness. These reforms narrow the justification for a criminal penalty to only those cases where employers have "deliberately" violated safety and health laws and where labor authorities have previously notified employers who have chosen not to adopt measures in response to a repeated infraction. Labor experts and NGOs expressed concern about what they considered an unreasonably high threshold for holding employers accountable for workplace injuries and for not maintaining health and safety standards. The law reduces the sentence for employers found guilty of health and safety violations from four-to-eight years' to one-to-four years' imprisonment. In the case of a serious or fatal accident where a worker is found to be solely responsible for noncompliance with OSH rules, the employer is exempted from responsibility.

Six percent of the labor force in the private sector was organized in 2014, 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 6.9%% during the first quarter of 2014. A 2012 GOP survey showed that 41.1% of Lima's labor force was underemployed in the same period (versus 58.3% in the same period of 2011). 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.

The law forbids businesses from hiring subcontracted workers as a simple provision of personnel, requires businesses to monitor their contractors with respect to labor rights, and imposes liability on businesses for the actions of their contractors, and created a national registry of contracting companies. The PTPA requires Peru to adopt and maintain fundamental labor rights as stated in the ILO Declaration on Fundamental Principles and Rights at Work. In January 2010, the GOP 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 2013 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, was 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 created in April 2014 the National Labor Superintendence (SUNAFIL, for its Spanish acronym) and opened nine regional offices to represent the labor inspectorate nationally.

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/Trade Facilitation

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

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

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

The stock of foreign direct investment in Peru stood at USD 73.6 billion in December 2013 according to the BCR, up from USD 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 USD 10.9 billion in 2012, a 21.4% increase from 2011, according to the U.S. Department of Commerce Bureau of Economic Analysis. Of that sum, USD 4.1 billion was invested in mining, USD 1 billion in manufacturing, and USD 319 million in wholesale trade.

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

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

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

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2013	193,214	2013	202,350	www.worldbank.org/en/country

Foreign Direct Investment	**Host Country Statistical source***		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2013	No data	2013	10,061	BEA data available at http://www.bea.gov/iTable/iTable.cfm?ReqID=2&step=1#reqid=2&step=7&isuri=1&202=1&203=30&204=10&205=1,2&200=1&201=1
Host country's FDI in the United States ($M USD, stock positions)	2013	No data	2013	100	BEA data available at http://www.bea.gov/iTable/iTable.cfm?ReqID=2&step=1#reqid=2&step=7&isuri=1&202=1&203=22&204=10&205=1,2&200=2&201=1
Total inbound stock of FDI as % host GDP	2014	No data	2014	No data	N/A

*Peruvian 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

(The chart does not reflect committed investment yet to be executed, for example China Minmetals' Las Bambas project.)

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: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

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

19. Contact for More Information

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