

INVESTMENT

The U.S.-Peru TPA establishes a secure, predictable legal framework for U.S. investors in Peru. The Agreement's commitments improve transparency, reduce barriers to investment and improve the dispute settlement process, addressing key concerns about the investment climate in Peru.

Foreign direct investment can contribute significantly to the economic development and stability of Peru. Increased foreign direct investment in Peru will greatly improve the development of efficient, reliable systems for power generation, water, sewage, transportation, and telecommunications. Peru is actively seeking foreign investment in nearly all sectors of the economy. During his tenure, President Toledo implemented several pro-investment policies. In April

2002, the government established ProInversion, building on the foundation of COPRI, the privatization agency created in 1991. The new agency seeks to be a "one stop shop" for current and potential investors. These pro-investment policies, coupled with the more secure, predictable legal framework that the U.S.-Peru TPA will establish, should improve the investment climate in Peru. Over the next few years, Peru has plans to expand multiple regional airports, and port terminals, develop and improve infrastructure projects in the areas of sanitation and transportation, and expand mining operations throughout the country. Peru is also hoping to expand investment in the tourism sector.

The U.S.-Peru TPA includes an effective, impartial, and transparent investor-state dispute settlement procedure, which provides investors with the option of seeking recourse outside of Peruvian courts, through binding international arbitration. Additionally, the U.S.-Peru TPA will afford U.S. investors protection for investments undertaken pursuant to written agreements with the Peruvian government that cover activities such as the exploration and extraction of natural resources; the supply of power generation services to the public; and the undertaking of infrastructure projects, such as the construction of roads, bridges, canals, dams, or pipelines.

Key Investment Provisions

- Establishes a secure, predictable legal framework for U.S. investors operating in Peru.
- Protects all forms of investment, including enterprises, debt, concessions, contracts and intellectual property.
- Gives U.S. investors, with limited exceptions, the right to establish, acquire and operate investments in Peru on an equal footing with local investors, and with investors of other countries.
- Provides U.S. investors in Peru the same substantive protections foreign investors enjoy in the United States.
- Affords U.S. investors the right of due process protections (consistent with those found in U.S. law) and the right to receive a fair market value for property in the event of an expropriation
- Backs investor rights by effective, impartial dispute settlement procedures.

The U.S.-Peru TPA provisions on investment disputes builds upon steps that the government of Peru has already taken to improve commercial dispute settlement. Since 2004, with the assistance of U.S. Agency for International Development, the Government of Peru has established thirteen commercial courts, two appeals courts and additional support staff to manage investment disputes. The commercial courts have substantially improved the process for handling commercial disputes. The average time cases spent in the judiciary dropped from two years to two months.