

## **SECTION I - SCOPE OF WORK**

### **Peru & Andean Trade Capacity Building Activity**

#### **1. PURPOSE AND OBJECTIVES**

The purpose of this activity is two fold: (1) increase Peru's ability to apply the US – Peru Trade Promotion Agreement (PTPA) to facilitate open and prosperous trade across a wide range of sectors and address systemic constraints that inhibit trade and investment; and (2) increase the competitiveness of the private sector in the Andean region by strengthening the capacity of Andean countries to take advantage of trade opportunities. Technical assistance will be provided in a range of core areas, such as: labor, telecommunications, pharmaceuticals, agricultural products, administrative simplification, intellectual property rights, trade facilitation, market access, customs reform, and international product and service quality standards certification. Ultimately, the program will reduce poverty by promoting internationally competitive exports, modernizing Peru's public and private systems for managing trade and business transactions, and protecting internationally recognized rights.

This Trade Capacity Building program seeks to achieve the following objectives:

- Capacity of Labor Inspectorate and Judiciary built in Peru and Andean countries.
- Enforcement and use of Intellectual Property Rights (IPR) increased in Peru and Andean countries.
- Trade facilitation and market access improved in Peru and Andean countries.
- Business registration simplified and transaction costs reduced in Peru and Andean countries.
- Regulation and oversight of medicines and pharmaceutical strengthened in Peru.
- Competition of telecommunications increased in Peru.

#### **2. BACKGROUND**

The United States Government's (USG) trade capacity-building (TCB) assistance to developing economies is based on the conviction that trade is critical tool for reducing poverty in developing countries. Funds to enhance developing country participation in global trade spur increased market access for their private sector businesses and stimulate investment. The USG is involved in trade liberalization activities at every level from global World Trade Organization (WTO) initiatives, regional initiatives such as the Central American/Dominican Republic Free Trade Agreement (CAFTA-DR) and bilateral Free Trade Agreements (FTAs). This multi-level approach of competitive liberalization allows progress to continue at some levels even when forward momentum is lacking at others.

Soon after the launching of the Doha Development Agenda (DDA) of the WTO, trade capacity building activities began in Bolivia, Colombia, Ecuador and Peru. As a result of the DDA, WTO members agreed to emphasize expanding global trade to developing countries. To take full advantage of trade opportunities, developing countries must improve their competitiveness in global markets. USG assistance to the Andean countries will help facilitate trade and improve policies and procedures to boost economic growth and reduce poverty.

During this period, the USG promoted the Free Trade Area of the Americas (FTAA) and Office of the U.S. Trade Representative (USTR) established an office for TCB as the U.S. began to emphasize development through trade. In 2004, when the FTAA initiative stalled, the USG shifted its focus to regional free trade agreements with Andean and Central American countries. The Dominican Republic -- Central America -- United States Free Trade Agreement (CAFTA-DR) became the first U.S. trade agreement to establish a TCB committee between the countries to facilitate and direct USG resources to key capacity needs. The USG also initiated free trade negotiations with three Andean countries -- Colombia, Peru and Ecuador and invited Bolivia to be an observer. When negotiations with Ecuador were suspended, the USG went forward and signed FTAs with Colombia and Peru, with the latter entering into force on February 1, 2009.

### *2.1 Development Challenge and Opportunity*

The great challenge of the United States -- Peru Trade Promotion Agreement (PTPA) is not simply legal revision but a qualitative and practical change in application and enforcement. Despite recent social unrest, the Government of Peru (GOP) has received overall high marks for codifying PTPA requirements and revamping local laws and regulations to facilitate trade and promote adherence to internationally recognized institutional standards. To build upon the existing momentum, this activity envisions strengthening institutional capacity, through several ministries, to ensure long term sustainable and practical change. While many of these areas began administrative and procedural transformations during PTPA implementation, several necessary changes have yet to be realized. Additionally, as the legal and administrative framework harmonizes with the PTPA, each cog in the respective facilitating wheel must be fortified to ensure pragmatic sustainability, in theory and application.

The activity will focus on strengthening labor law enforcement, protecting and enforcing intellectual property rights, promoting formalization and competition, administrative simplification, promoting an open and competitive telecommunications market, and monitoring and regulating medications.

#### Labor

The labor component of the PTPA is one of the most important priorities for Peru and the United States. This activity seeks to promote trade by continuing to improve labor law compliance and strengthening enforcement. Under the previous USAID Andean Trade Capacity Building Program (ATCBP), USAID/Peru assisted the GOP in greatly improving the labor inspectorate in Peru. For example, new inspectors were hired bringing the total to 412, the inspectors were all trained, and a hiring protocol to ensure the selection of quality labor inspectors was created. While the ATCBP made significant inroads, there is more work to be done.

Though the GOP adopted the necessary laws to comply with the labor section of the PTPA, Chapter 17, many of those laws are still in the initial stages of dissemination. Consequently, the laws remain inadequately enforced. For example, there are over three million formal and informal businesses in Peru with varying levels of exposure to the new laws. The Ministry of Labor (MTPE) inspectors, as the front line enforcers and often educators on the new laws, reach only a fraction of a percentage of the Peruvian businesses each year. Though inspections are occurring regularly, they are not conducted in an effective or strategic manner. Meanwhile, national and international data on labor abuses in Peru support the need for improved enforcement. In 2008, Peru's national statistics reported that there were 2.3 million child workers (600,000 under the age of 12). The State Department Human Rights Report

highlighted shortcomings in forced labor, freedom of association, and basic working conditions. Strengthening Peru's enforcement mechanisms for labor standards is critical to improve compliance, protect the most vulnerable, and promote an internationally desirable market for foreign investment.

#### Intellectual Property Rights

In Peru, Intellectual Property Rights (IPR) enforcement is a substantial and complicated problem. INDECOPI (National Institute for the Defense of Intellectual Property Rights), according to legal experts, is extremely competent and prepared to confront the changes that must occur. Additionally, previous activities, both regional and bi-lateral, have been effective. For example, in Colombia a backlog of patent requests were digitized and the ATCBP implemented a successful trademark information campaign that informed the Peruvian and Colombian public, of the value and benefits of IPR protection. However, despite the competence and positive political will of the relevant IPR governing bodies in Peru and most of the Andean region, more assistance is required to address concerns and raise the level of IPR protection to the standards set forth in the PTPA and relevant international treaties.

In Peru, the production of illegal CDs or other forms of pirated media remains a thriving industry. Copyright violations are not confined to entertainment software or media, but have spilled into universities in the form of illegal photocopying of textbooks and other literature. Despite possible long term economic consequences, copyright violations continue to rise. According to the International Intellectual Property Alliance (IIPA), Peru is one of the Latin America's most active violators of IPR protections. In the IIPA 2008 report, Peruvian IPR violations accounted for nearly \$109 million in quantifiable lost U.S. profits. Video pirating is an accepted part of the culture. Vendors are accessible throughout the country. Pirated videos, to the indolent wage earner, remain an effortlessly harvestable cash crop. Despite inroads made during PTPA implementation, advances are tempered by a lack of knowledge regarding IPR protections. Sustainable success in IPR protection is dependent upon on the GOP's ability to alter the perception of IPR violations and ensure that distributors and consumers, jointly, comprehend and respect the benefits of IPR protection.

Strong protection of global intellectual property rights, through the implementation of international treaties, is essential to trade, investment, and worldwide economic growth. As part of the PTPA, Peru is required to implement several international IPR treaties that will provide a much needed buttress to fortify Peru's IPR legal protections. Though the legal changes have forged new enforcement tools, their application remains a challenge. INDECOPI has the desire to protect rights but the effectiveness of their efforts will be measured by their ability to properly apply the laws and enforce new standards. Apart from multi-sector coordination concerns in IPR enforcement, INDECOPI has some fundamental legal interpretation and application issues of international IPR agreements. For the system to function across borders, interpretation and application of rights should be universally applied.

Additionally, INDECOPI uses an antiquated Information Management System (IMS) that does not allow information sharing among divisions within INDECOPI. Delays and administrative glitches caused by the cumbersome IMS not only delay effective enforcement but drain public and private coffers. Patent and trademark requests amble through the administrative process, while disputes, on average, require 185 days to reach first appeal resolution. The system is currently overloaded with nearly 2,000 pending cases. Many of the officers still operate with hard copy files because the current IMS does not provide a more efficient alternative. The lack

of system efficiency has created administrative obstacles. Updating the IMS will increase administrative efficiency, improve enforcement, and decrease barriers to trade.

Elimination of IPR violations and creating a receptive climate remains the overarching and long-term goal. In years past, the GOP addressed these problems through organized and extensive raids on selected locales, known for IPR violations. Though the efforts appear devastating to violators, most are back to business as usual the next day. The GOP has the will to enforce, but lack modern tools and all the necessary training to ensure sustainable change. As an alternative to raids, the GOP will be best served by implementing strategically selected infrastructural and fundamental improvements that will lay the foundation for Peru's IPR enforcement bulwark and ensure a lasting cultural transformation.

#### Trade Facilitation

For sustainable expansion of commerce in Peru, it is imperative that micro, small and medium-sized enterprises (MSMEs) take advantage of the benefits of free trade. After an unusually long period of economic growth, Andean countries are beginning to suffer the effects of global deceleration. The slow down in consumption of industrial countries has created a reduction in exports in Andean countries and further discouraged MSMEs from expansion and impeded growth, which breeds social unrest. In this context, it is imperative that the countries continue to promote trade as a highly developed source of economic growth. To that end, Ecuador has been certified to continue benefiting from the Andean Trade Promotion and Drug Eradication Act (ATPDEA) and the U.S. Congress extended the benefits of ATPDEA through December 31, 2009 for Colombia and Peru. Colombia's Trade Promotion Agreement (TPA) with the United States will hopefully be ratified by Congress before the end of 2009. Peru is already exporting under the PTPA.

Facilitating trade from MSMEs will require further establishing a trade enabling environment that eliminates barriers to trade and other business activities. Thanks to prior USAID-funded activities, MSMEs' management practices in Bolivia and Peru have been improved. As a result, assisted-businesses have access to International Organization for Standardization 9001 certification, thus increasing their competitiveness and commercial image. To ensure competent compliance with PTPA customs requirements, USAID/Peru provided assistance to improve customs valuation, and Peruvian officials traveled to the United States to observe more modern procedures. Some procedures and processes require additional modernization, with a particular focus in reducing the amount of time it takes for goods to pass through customs. This activity also envisions continuing support for the elimination of unnecessary barriers to trade.

#### Administrative Simplification

The implementation and durability of the PTPA will hinge on the extent to which Peruvians experience remuneration as a result of expanded international market access. Since 2006, USAID/Peru and the World Bank's International Financial Corporation (IFC) have collaborated in collecting performance information of municipalities measuring and comparing specific barriers for the municipalities. In Peru, implementation of the Municipal Score Card has aided the measuring of the regulatory burden on businesses at the municipal level related to starting and operating a business. It is expected that the project will reduce excessive regulation of the private sector and decrease the high levels of informality in Peru by inducing competition among municipalities. Southern Peru's Arequipa municipality, which received USAID's assistance under the previous program, has significantly improved its services. In 2006, registering a business took 41 days, after the reform, it now takes three days and business registration

increased from 500 to 2,694 businesses in 2008. Despite wonderful progress, more needs to be done across the country.

According to the 2009 Doing Business Report (DBR), Peru remains encumbered with onerous administrative procedures, which dissuade formalization and frustrate domestic and internationally-generated investment. USAID/Peru has made strides combating administrative and trade barriers through CRECER (Creating Conditions for Economic Revitalization) and MYPE Competitiva (Peru Micro and Small Enterprise Facilitation Program) projects, which have helped, for example, lower the national-level average number of days it takes to start a business from 100 to 65. Moreover, MYPE Competitiva has provided training and assistance to 81 municipalities to implement the Municipal Operations License. As a consequence, during the October 2007 – March 2009 period, assisted municipalities increased the number of licenses issued by more than 450 percent.

The GOP has also updated their MYPE law to help ease informal businesses into the formal sector. The legal structure is in place but the reality of simplifying administrative processes across various municipalities has been complicated. Peru has over 1800 municipalities with nearly as many interpretations and applications of the various laws. Municipal violations are appealable to the constitutional court, which further stymies simplification efforts.

USAID and the GOP are interested in creating conditions that assist micro and small enterprises (MSEs) in taking advantage of the expanded access to markets made permanent by the PTPA. MSEs are an important source of job creation in Peru. Improving the productivity of MSEs and expanding their participation in exports will help create additional quantity and quality employment opportunities.

### Medications

Within the framework of PTPA implementation, DIGEMID (Peruvian Agency for the control of medicines, inputs and drugs) is required to collect, store and protect patents and test data in the sanitary registry. The task is made especially difficult due to the frequency of IPR violations and widespread counterfeiting. Nevertheless, Peru remains attractive to companies, like foreign research organizations, due to medical needs in Peru, abundance of resources and continued economic growth. Because Peru is rich in diverse flora, the successful harnessing of biological compounds will likely boost the local pharmaceutical industry. As the industry grows, DIGEMID must modernize to accurately and efficiently regulate.

In order to meet PTPA obligations to accurately and efficiently regulate medicines, DIGEMID must strengthen its infrastructure, including equipment and software. Currently, modernization at DIGEMID is stalled by the lack of necessary equipment or a competent IMS that, with proper training and application, would ensure efficient use of information, improve DIGEMID's ability to monitor and ensure the quality of medications, and increase procedural transparency. DIGEMID is currently using an antiquated IMS that is not integrated with the regions or other relevant branches of the GOP. The lack of updated tools places DIGEMID at an immediate disadvantage. The GOP has agreed to provide updated equipment; additionally, a new IMS and extensive technical training will be required. An integrated IMS coupled with strategically selected trainings should, for example, provide ample support for the collection and use of quality data for monitoring and evaluation, and for ensuring availability of key data necessary for decision-making at local levels. Additional targeted trainings will assist the modernization of DIGEMID and ensure the best possible protection for producers and consumers of medicines in Peru.

### Telecommunications

The PTPA guarantees reasonable and non-discriminatory telecommunication network access. Application of the PTPA will prevent, in theory and practice, local firms from having preferential access to the telecommunications network. Several practical changes are happening in Peru telecommunications as a result of the PTPA and the GOP has requested assistance to ensure that necessary changes are implemented. For example, the GOP has legislated number portability and the private mobile phone providers have signed an agreement to allow the service by 2010. OSIPTEL (the Supervisor of Private Telecommunications Investment) is intent on ensuring that their regulating ability modernizes at the same pace as private sector changes. Accordingly, the GOP has requested technical assistance to ensure that OSIPTEL officials are trained in: number portability, unbundling of network elements, promoting competition and strengthen technical capacity. As with other sectors, OSIPTEL must modernize to properly police developments and growth in Peruvian telecommunications.

### *2.2. Activity Rationale*

The Mission Strategic Plan states that “the implementation of the Peru Trade Promotion Agreement in the context of a global economic crisis of uncertain dimension, the challenge of making international trade broadly benefit all Peruvians is now front and center. USG trade capacity building assistance will seek to eliminate the most important barriers to trade and investment for micro, small, and medium enterprises.” In seeking to continue trade capacity building, the GOP produced and presented to USAID/Peru an assessment of their trade capacity building needs, to ensure PTPA compliance. USAID/Peru officers reviewed the requests with other pertinent USG agencies, and concluded that assistance will be most beneficial in the areas specified: labor, IPR, trade facilitation, administrative simplification, medication monitoring and telecommunication regulation.

This activity meets USG, Agency, and Mission objectives to reduce poverty by reducing the obstacles to entering the formal economy, improving investment climate, ensuring modernization and administrative competence, increasing the poor’s access to productive assets and promoting trade-led economic growth. Through past activities, the GOP has received considerable strength. Specifically, from 2006-2008, the ATCBP (Andean Trade Capacity Building Program) conducted under the MYPE Competitiva activity (hereafter MYPE) promoted labor rights and improved labor inspections, supported IPR enforcement and modernization throughout the Andean region, and supported the simplification of administrative procedures. For example, MYPE helped digitalize IPR files in Colombia and trained nearly 500 inspectors in Peru. In Ecuador, the program designed and implemented an information system for labor inspections that covers 15 labor topics that include: contracts, child labor, disabilities, and employment termination. Additionally, MYPE assisted with the digitalization of trademark archives, which have been scanned indexed and are now searchable electronically. The activity reduced search and examination times and will eventually be offered as a web-based service for searching existing trademarks and checking the status of applications.

Additionally, MYPE, in their March 2009 semi-annual report, detailed several significant trade capacity building advances which included: trade facilitation training and assistance to 81 municipalities which increased the number of licenses issued by 450%, reduced the time to register a business by 75% and cut registration costs by 46%. Furthermore, MYPE proposed legal reforms, which have been well received and led to legislative incorporation, in agriculture, banking and trade regulation. Further strengthening of the GOP will promote continued

economic strength, in the face of the global financial crisis, and increase trade-led growth. The GOP is a willing partner but often lacks the resources to proficiently train staff, modernize equipment or processes in order to ease the flow of trade and ensure full enforcement of PTPA requirements.

MYPE laid a foundation for future trade capacity building projects. Despite successes, additional assistance is needed. For example, the labor inspection system is inefficient and lacks logistical capacity to maximize inspector time and resources. Intellectual property rights are misunderstood, inefficiently applied and infrequently enforced. Private sector telecommunications is more advanced than its regulating body. The monitoring of medications is impeded by a lack of essential technology and training. Furthermore, despite the many advances in administrative simplification, obstacles to formalization and trade remain. While the results achieved to date are impressive and support continued progress, USAID/Peru recognizes that success is measured over the long-term. Improvements may be gradual, but should maintain a deliberate and positive pace. Ultimately, a successful investment in strengthening trade capacity will ensure that Peru is a more effective trading partner.

### *2.3. Coordination*

Coordination with other efforts is critical in order to avoid unnecessary duplication and to leverage the maximum amount of resources towards achieving activity objectives. Any USAID/Peru, GOP or other donor activities related to trade capacity building should be assessed and coordinated. In order to ensure sustainability, the activity must work well with the GOP, private sector and NGOs to ensure that the program is properly implemented and sustained.

Poverty reduction is a cross-cutting theme that has an impact on all sectors in which USAID is working. Given its overlap with other USG programs, it is essential that the implementer collaborate actively, fruitfully, and collegially with the other USAID partners and programs. The ability and success in establishing effective, collaborative relationships will be assessed in contractor performance reports. Below is an illustrative summary of the most relevant USG, donor, and GOP activities in Peru related to trade capacity building.

#### Other USAID/Peru Activities

This section outlines relevant USG, donor, and GOP activity in Peru involving trade capacity building projects. Coordination with these other efforts is critical in order to avoid unnecessary duplication and to leverage the maximum amount of public and private resources towards achieving project objectives.

- The MCC anti-corruption program will work with fee collecting ministries to monitor corrupt practices in Lima and the regions. The program's objective is to combat the perception of corruption by indicating where opportunities for corruption may exist and/or where the rules are unclear. The new activity shall coordinate with the MCC to protect the integrity of USAID support and preempt possible corruption.
- USAID/Peru's Health Sector Reform project – which will include portions of logistical and information management systems strengthening. The project will begin at the end of fiscal year 2009. The project seeks to strengthen the capacity of national and regional authorities

to govern a decentralized health sector and improve the capacity of local authorities to manage their health systems and programs.

- USAID/Peru's Alternative Development Private Investment project – which is promoting public-private partnerships and other strategic alliances to improve the quality and tradability of selected products.
- Each bilateral USAID mission in the Andean countries has a project aimed at improving private sector competitiveness and the trade and investment climate. This program will coordinate closely with the bilateral mission to ensure close and effective coordination and collaboration.

#### Other USG Actors

Though there are several USG organizations interested in the proposed activity, only the USDA is currently working on capacity building with Peru's Ministry of Agriculture. USDA's Animal and Plant Health Service (APHIS) works closely with SENASA on numerous technical issues including a pilot pre-shipment treatment program on asparagus.

Financial resources from PL 480 Food Aid Agreements between the USDA and the Government of Peru have supported SENASA in a number of areas, including building labs, protecting Peru's plant genetic resources, and supporting fruit fly eradication efforts. USDA has supported INIA participation in international agricultural biotechnology workshops and meetings as well as visits by agricultural biotechnology experts to educate policy makers, Ministry of Agriculture staff, academics, and the public at large.

Other USG organizations will have interest in the results of the proposed activity but are not currently working in trade capacity building. The contractor, through reports to USAID, will update several USG organizations to include but not limited to: the Department of Labor, Federal Communications Commission, the United States Patent and Trademark office, the United States Department of Agriculture, the United States Trade Representative and the United States State Department.

#### Other Donor Activities

Due to Peru's active international trade policies that have resulted in several new trade agreements, the GOP has spotlighted several internal trade capacity building issues and inspired some international assistance that may overlap or add to the proposed activity. The following are organizations that are invested in improving Peru's trading capacity. Many of these organizations work directly in cost-share relationships with GOP ministries; therefore, coordination is imperative to eliminate overlap and learn from key contacts in the public and private sector. The list should not be considered comprehensive but is intended to be illustrative of the trade capacity work being accomplished in Peru.

- The International Labor Organization (ILO) - the ILO is working with the MTPE, unions and NGOs to support the MTPE's efforts to eliminate child labor.
- La Agencia Española de Cooperación Internacional - began a four year project commitment to the MTPE in November 2007. The projects propose is to strengthen the system of prevention and resolution of societal labor conflicts and supporting the promotion of worthy work as part of the program: Mi Empresa.



- Government of Canada – working with MTPE to continue work accomplished by USAID/Peru in training labor inspectors. Canada is even using the same expert trainers used by USAID/Peru. Program will begin in September 2009.
- Inter-American Development Bank – working with INDECOPI on the digitizing patent registries.
- WIPO (World Intellectual Property Organization) – working with INDECOPI on training officers on subjects related to the Patent Cooperation Treaty (PCT) with internships in Spain, Mexico and Switzerland.
- Inter-American Development Bank – working with the Presidency of the Council of Ministers (PCM) to improve strategic alignment for INTERMESA (National Table for Administrative Simplification).
- International Finance Corporation – working with Municipalities to simplify administrative business procedures in Chiclayo, Trujillo, Huaraz, Santa, and Huarmey.
- International Finance Corporation – working with Tramifacil to train the trainers in ICA, Piura and Arequipa.
- GTZ – working with the PCM to streamline administrative processes on a national level.
- World Bank – working to improve ease in securing guarantees for loans.
- Inter-American Development Bank- working with SUNAT (National Superintendent of the Administration of Tax Payments) to support customs reform.

### GOP Activities

In recent history, the GOP has adjusted laws and regulations to benefit Peru's trade-led economic plan. Since signing the PTPA, the GOP has vigorously implemented the necessary directives and regulations to meet its PTPA obligations and ensure protection of trade benefits. MINCETUR, the GOP's trade capacity assistance coordinating body, works with all GOP ministries to match requests for aid with relevant donors. Additionally, MINCETUR has funding for some internal trade capacity building projects. Where and how MINCETUR operates internally funded trade capacity building activities will depend on need once all donors are identified and begin operations. Therefore, the contractor will be required to coordinate with MINCETUR to avoid overlap and ensure proper coordination.

MINCETUR, and more specifically the office of National Direction of Development and Foreign Trade, will inform USAID/Peru and/or the contractor regarding any undertakings that may overlap or be relevant to the results sought in this project.

## **3. STATEMENT OF WORK**

### *3.1. General Approach*

The objective of this activity is to increase Peru and the Andean region's capacity to facilitate trade and adhere to negotiated legal standards and trade agreements. Approximately 75 percent of the funds will be used for trade capacity building activities for Peru and the remainder for the Andean Region. Activities implemented in Peru will follow closely the Government of Peru's (GOP) trade capacity building plan. The U.S. will coordinate closely with multilateral development banks and other donors to ensure that the GOP's priority TCB needs are met. Peru is a willing partner in creating an efficient, well-regulated environment for trade, but the comprehensive changes required by new laws will necessitate careful planning and ongoing

diligence to implement. With U.S. assistance, the obstacles to trade can be disassembled and international trade markets opened to the benefit of all regions, businesses, workers, and citizens of Peru.

In the Andean Region, this program will pursue a dual approach of providing technical assistance in areas common to two or more countries as well as tailoring specific activities to meeting individual country needs. Implementing similar activities in two or more countries is more cost effective and will improve the implementation of trade agreements and standards in the region. Each Andean country is taking a different approach to increasing trade which necessitates that some assistance offered under this program will need to be designed to meet individual capacity building objectives. Both of these approaches are required to increase competitiveness and broaden the benefits of trade by assisting countries and their private sectors to meet international standards and take advantage of international trade opportunities. Below are the results that the U.S. intends to achieve under this program.

*3.2. Performance Requirement and Indicators*

This activity seeks to achieve the following results:

**Result 1:** Capacity and efficiency of the Labor Inspectorate and the Judiciary to improve the enforcement of labor codes and to protect labor rights strengthened.

**Result 2:** Enforcement and use of Intellectual Property Rights (IPR) as a competitiveness tool in Peru and the Andean Region increased.

**Result 3:** Trade facilitation and market access to increase the competitiveness of the private sector in the Andean Region improved.

**Result 4:** Enterprises formalized and are more competitive as a result of simplified business registration and reduced transaction costs.

**Result 5:** Regulation of medicines and pharmaceuticals in Peru strengthened.

**Result 6:** Competitiveness of telecommunications market in Peru increased.

The section below lays out the suggested primary Peruvian and Andean partners, activities, and indicators for each desired result. Additionally, the following six results include selected activities. In the course of creating this activity, USAID/Peru has determined that certain activities are “mandatory”, while others can be considered “illustrative.” The activities are marked accordingly. Offerors are encouraged to develop or suggest their own activities that will support or lead to meeting program objectives as well as addressing ILO Convention 169.

The selected offeror’s achievement will be measured by the following results and indicators.

**Result 1: Capacity and efficiency of Labor Inspectorate and Judiciary to improve the enforcement of labor codes and protect labor rights built.**

Primary	Indicator
The Ministry of Labor’s, in	1. Number of people completing U.S.-supported trade and investment capacity building trainings.

Peru and other Andean countries, ability to conduct labor inspections and enforce laws strengthened.	<ol style="list-style-type: none"> <li>2. Number of legal, regulatory, or institutional actions taken to improve implementation or compliance with international trade and investment agreements that is due to the support received from U.S.-assisted organizations.</li> <li>3. Modern Information Management System installed on time.</li> <li>4. Inspection guidelines for Ministry of Labor inspectors approved by USAID, published, and disseminated.</li> <li>5. Number of inspections conducted.</li> <li>6. Number of inspected companies in compliance with all PTPA requirements.</li> <li>7. Number of labor disputes resolved by the judiciary.</li> <li>8. Number of fines issued.</li> <li>9. Percentage of labor fines collected.</li> <li>10. Number of civil society organizations agreeing that the Ministry of Labor enforcement process has improved.</li> </ol>
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Although indigenous and Afro-Peruvians make up a significant portion of the population, they are frequently underrepresented in labor bargaining, have not been properly instructed as to their labor rights, and experience various forms of work place discrimination, including forced labor. The contractor will consider International Labor Organization Convention 169 concerning indigenous and tribal peoples when assessing discriminatory practices related to indigenous and Afro-Peruvian laborers. Special consideration should be given to empowering disadvantaged groups and mitigating all forms of labor discrimination. Results and indicators, where appropriate, will be disaggregated by ethnicity to highlight discrepancies.

- Illustrative Activity 1.1.1. Strengthen and equip Andean countries' Ministries of Labor (MOL) inspectors with the skills and knowledge to identify and implement a risk-based, proactive labor inspection system.
- Mandatory Activity 1.1.2. Assist in the establishment of Peru's labor inspection guidelines that detail inspection procedures, and provide pertinent reference material.
- Mandatory Activity 1.1.3. Support the development of Peru MOL's Information Management System (IMS) to plan, track, and monitor inspections.
- Illustrative Activity 1.1.4. Prepare Peru's labor judges, prosecutors, lawyers and court administrators with the skills and knowledge to adjudicate labor dispute cases efficiently, fairly, and transparently.

**Result 2: Enforcement and use of Intellectual Property Rights (IPR) increased as a competitiveness tool in Peru and the Andean Region.**

Primary	Indicator
INDECOPI's, and Andean country equivalent institutions', ability to process requests, resolve	<ol style="list-style-type: none"> <li>1. Number of people completing U.S.-supported trade and investment capacity building trainings.</li> <li>2. Number of legal, regulatory, or institutional actions taken to improve implementation or compliance with international trade and investment agreements due to support from U.S.-Assisted Organizations.</li> <li>3. Modern Information Management System installed.</li> <li>4. Number of persons reached through an educational campaign on the benefits of IPR.</li> </ol>

disputes, and enforce IPR laws and regulations strengthened.	
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Sub-result 2.1. International IPR Treaties implemented in Peru and the Andean Region.

- Mandatory Activity 2.1.1. Draft and evaluate procedural amendments to implement IPR Treaties.
- Illustrative Activity 2.1.2. Strengthen the capacity of IPR institutes to implement and apply treaties.

Sub-result 2.2. Technical capacity of IPR institutes in Peru and the Andean Region strengthened.

- Illustrative Activity 2.2.1. Increase the capacity to apply new legal and infrastructural changes required by international trade agreements.
- Mandatory Activity 2.2.2. Improve INDECOPÍ's Information Management System (IMS) to accelerate issuance of patents and resolve patent disputes more efficiently.
- Illustrative Activity 2.2.3. Equip INDECOPÍ agents with the best enforcement practices.
- Mandatory Activity 2.2.4. Increase judges' ability to resolve IPR disputes efficiently.
- Illustrative Activity 2.2.5. Develop and implement an educational campaign that promotes the benefits of IPR and encourages compliance with IPR laws.

**Result 3: Trade facilitation and market access improved to increase the competitiveness of the private sector in the Andean Region.**

Primary	Indicator
Competitiveness increased through improved public sector trade efficiency and private sector market access.	<ol style="list-style-type: none"> <li>1. Reduction in the cost to trade goods across borders as a result of U.S. assistance.</li> <li>2. Reduction in the number of days required for trade goods to cross borders as a result of U.S. assistance.</li> <li>3. Number of customs harmonization procedures implemented in accordance with internationally accepted standards as a result of U.S. assistance.</li> <li>4. Number of legal, regulatory, or institutional actions taken to improve implementation or compliance with international trade and investment agreements due to support from U.S.-Assisted Organizations.</li> <li>5. Number of legal obstacles to women's economic activities eliminated as a result of U.S. assistance.</li> <li>6. Number of U.S.-supported training events held that related to improving the trade and investment environment.</li> <li>7. Number of institutions/organizations whose capacity/competency were strengthened as a result of U.S. assistance.</li> <li>8. Number of people completing U.S.-supported trade and investment capacity building trainings.</li> </ol>

- Illustrative Activity 3.1.1. Contribute to the increase in competitiveness of micro-, small- and medium-sized enterprises as a result of enterprises receiving international certifications.
- Illustrative Activity 3.1.2. Support the implementation of customs reforms to comply with trade agreements and decrease transaction costs.
- Illustrative Activity 3.1.3. Assist in the removal of barriers in selected product chains and sectors to improve the competitiveness of all actors along the value chains.
- Illustrative Activity 3.1.4. Increase the capacity of local institutions to provide market information, and analyze and develop trade and investment policy recommendations.
- Illustrative Activity 3.1.5. Increase the capacity of women entrepreneurs to take advantage of trade opportunities.

**Result 4: Enterprises formalized and more competitive as a result of simplifying business registration and reducing transaction costs.**

Primary	Indicator
Number of businesses in the formal sector and formal businesses competitiveness increased.	<ol style="list-style-type: none"> <li>1. Improved ease of doing business score.</li> <li>2. Reduction in the number of procedures required to trade goods across borders as a result of U.S. assistance.</li> <li>3. Number of U.S.-supported training events on topics related to investment capacity building and improving trade.</li> <li>4. Number of municipalities receiving U.S. assistance with regulatory/ administrative simplification.</li> <li>5. Number of legal, regulatory, or institutional actions taken to improve implementation or compliance with international trade and investment agreements due to support from U.S.-assisted organizations.</li> <li>6. Number of e-government publications published.</li> </ol>

- Illustrative Activity 4.1.1. Develop legislative and regulatory options to reduce time and costs to register and operate an enterprise.
- Illustrative Activity 4.1.2. Decrease administrative barriers and costs to formalize a business.
- Illustrative Activity 4.1.3. Equip municipal officers with the skills and knowledge to reduce administrative obstacles.
- Illustrative Activity 4.1.4. Improve access to information through e-government publications.

**Result 5: Regulation and oversight of medicines and pharmaceuticals in Peru strengthened.**

Primary	Indicator
Ability of DIGEMID to regulate medicines and pharmaceuticals increased.	<ol style="list-style-type: none"> <li>1. Modern Information Management System installed.</li> <li>2. Number of people completing U.S.-supported trade capacity building trainings in each of the following six categories: clinical pharmacology and therapeutics; biostatistics; bioethics; vigilance; good practices of pharmaceutical products manufacturing; and risk analysis.</li> </ol>

- Mandatory Activity 5.1.1. Improve DIGEMID’s information management system and provide training for officials on the new system.
- Illustrative Activity 5.1.2. Improve DIGEMID officials’ knowledge of clinical pharmacology and therapeutics, biostatistics, bioethics, vigilance, good practices of pharmaceutical products manufacturing, and risk analysis.
- Illustrative Activity 5.1.3. Establish training programs for: medicine utilization studies; pharmaceutical economics; problem-based pharmacotherapy; and others as needed.
- Illustrative Activity 5.1.4. Strengthen DIGEMID’s oversight program to monitor quality and price of medications.

**Result 6: Competitiveness of telecommunications market in Peru increased.**

Primary	Indicator
The regulation of Telecommunications competition in Peru strengthened.	<ol style="list-style-type: none"> <li>1. Number of people completing U.S.-supported trade and investment capacity building trainings.</li> <li>2. Number of legal, regulatory, or institutional actions taken to improve implementation or compliance with international trade and investment agreements due to support from U.S.-Assisted Organizations.</li> </ol>

- Illustrative Activity 6.1.1. Increase the technical capacity of OSIPTEL to implement portable numbers.
- Illustrative Activity 6.1.2. Analyze U.S. regulation experiences in implementing disaggregation of network elements and related costs.
- Illustrative Activity 6.1.3. Promote competition among platforms.
- Illustrative Activity 6.1.4. Regulate effectively convergence among platforms and new technologies.

Coordination and Target Beneficiaries

Offerors shall propose innovative techniques for meeting the results of this program. A particular emphasis shall be placed on best practices for strengthening government institutions and demonstrating the improvements to civil society. Efforts should be focused within the indicated ministries and with the central government. Offerors should propose where and how working with municipal governments will help meet the desired result. To meet the results outlined above, the contractor shall work with local private sector institutions that play a role in helping Peru promote trade led growth and adhere to the requirements of the PTPA.

Offerors should be creative and strategic in their efforts to provide effective technical assistance while capitalizing on GOP and partners’ interest in this program. Clear markers of interest or progress should also be established prior to engagement. Flexibility to react when opportunities present themselves is essential. The contractor shall be able to quickly receive inputs from a wide variety of actors – experts, GOP stakeholders – to reach the results that are established herein. The contractor will be responsible for promoting monitoring and evaluating the results.

*3.3 Environment, Gender, and Indigenous Peoples – Procedures and Guidelines*

### Environment

The contractor shall take into consideration the environmental impact of all proposed and planned activities according to USAID's regulations. Annual work plans and budgets shall include environmental mitigations planned and the outcomes of these efforts will be reported as part of the annual reports. Potential environmental problems will be identified in each subsequent annual work plan. The contractor shall be responsible for actions that will be required to mitigate any potential impacts. The environmental compliance report shall be prepared on an annual basis.

The Bureau Environmental Officer issued the Environmental Threshold Decision (ETD), LAC-IEE-09-61, for this activity on July 31, 2009<sup>1</sup>. The ETD for this activity is a Categorical Exclusion.

The contractor shall be responsible for repairing the results of negative impacts of any projects that fail to mitigate negative environmental impacts or that do not address on a timely manner unforeseen environmental impacts. The Environmental Management Plan is subject to review and approval by USAID's Mission Environmental Officer. For further reference, the offeror may consult the recommendations from the Latin American and Caribbean Environmental Guidelines that are posted online ([http://www.usaid.gov/locations/latin\\_america\\_caribbean/environment/docs/epiq/epiq.html](http://www.usaid.gov/locations/latin_america_caribbean/environment/docs/epiq/epiq.html)) for all activities that may have significant environmental impacts.

### Indigenous and Afro-Peruvian considerations

The technical approach to every activity under this program will integrate indigenous and Afro-Peruvian considerations into the program design and implementation. Though indigenous and Afro-Peruvians make up a significant portion of the population, they are frequently underrepresented in labor bargaining, have not been properly instructed as to their labor rights, and experience various forms of work place discrimination, to include forced labor. USAID/Peru will require implementing partners to consider International Labor Organization Convention 169 concerning indigenous and tribal peoples when assessing discriminatory practices related to indigenous and Afro-Peruvian laborers. Special consideration will be given to empower disadvantaged groups and mitigate all forms of labor discrimination. Results and indicators will be, where appropriate, disaggregated by ethnicity to highlight discrepancies.

### Gender and other ADS Requirements

The current Mission strategy notes that households headed by women in both urban and rural areas have been most negatively affected by economic and political crises and that rural women experience the greatest levels of poverty. Although women represent over 40 percent of the economically active population, the majority of employment opportunities for women are unstable, low-wage positions. In the formal sector, opportunities and treatment are not equal for men and women, and unemployment and underemployment affect women disproportionately.

USAID/Peru recognizes that trade-led economic growth in and of itself will not necessarily improve the status of women nor ensure broad-based growth and sustainable poverty reduction. Since USAID/Peru anticipates that gender issues may exist in some of the possible areas of intervention, it is a requirement that the work plan submitted by the offerors contain an analysis

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<sup>1</sup> Please note, USAID/Peru is currently in the process of implementing a larger trade capacity building program that includes eight distinct results. IEE reference for this activity examines each of the eight results. The six results included in this RFTOP are numbered results 1, 3, 4, 5, 6, and 7.

of the gender issues for each proposed area of intervention. USAID/Peru will continue to receive support from USAID Women in Development Office's Greater Access to Trade Expansion (GATE) project which has examined the gender impact of trade-oriented policy. In 2006, GATE conducted a study for USAID/Peru which signaled important considerations relevant to incorporating gender into economic growth activities. The contractor must be familiar with this study and other analyses conducted by GATE. According to GATE, reducing gender discrimination within the labor market leads to better market efficiency, especially in countries like Peru that rely on inexpensive labor. The ILO has noted that discrimination faced by women is a significant obstacle to economic efficiency and social development. In Peru, women face various levels of discrimination, like general preclusion from mining jobs due to superstitions. USAID will ask the contractor to consider the following factors:

- Reports of labor law violations, disaggregated by sector and sex of worker.
- Number of workers who go to legal projects for assistance, disaggregated by sector and sex.
- Reports of gender-based labor rights violations by sector.
- Number of factories that adopt gender-specific codes of conduct.
- Changes in knowledge, attitudes, and behaviors related to living wage campaigns.
- Number of female and male leaders involved in living wage campaigns.

Offerors are asked to integrate gender as a cross-cutting consideration in the design, implementation, and evaluation of this activity. Offerors shall address at least two questions: (1) "How will gender relations affect the achievement of sustainable results?"; and (2) "How will proposed activities affect the relative status of men and women?" (ADS 201.3.8.4)

Furthermore, offerors will demonstrate how the activity will be monitored, tracked, and evaluated to measure the impact on gender relations and to mitigate any biases that arise against men or women to ensure the highest level of effectiveness and sustainability. All results and indicators, where appropriate, will be disaggregated by gender.

### *3.5. Sustainability*

The contractor will take all appropriate steps to ensure that results are sustainable. For example, training programs should include elements for "training trainers" to make certain that the implemented program continues and evolves, as needed, over time. Similarly, program components that involve the improvement of Information Management Systems (Results 1, 2, and 5) should incorporate regular updates and employees should be trained to perform updates and execute future alterations to the program in order to maximize efficiency.

Each intervention should account for sustainability as part of the action plan. An assessment should be made as to whether each relevant recipient of assistance has been sufficiently equipped to maintain, adapt, and improve upon the program. The overall objective is to achieve a mutually beneficial application of the PTPA to enhance and facilitate sustainable bilateral trade.

Experience under the Peru Micro and Small Enterprise Facilitation Program (MYPE) indicates no single organization is likely to have the depth and breadth of experience necessary to operate all the elements of the activity. Thus, it is expected that the institutional contractor may enter into sub-contracts with appropriate local actors in order to achieve best results, subject to



restrictions on local procurement. If waivers are thought to be necessary, the contractor shall submit its rationale and justification for USAID's consideration.

**[END OF SECTION I]**