

# Peru as a regional hub for trade facilitation and logistics services: Strategic considerations

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## Abstract

Peru has been implementing a policy of opening up and liberalizing trade aimed at integrating the country into the global economy with a view to improving the well-being of the population and benefiting from international market specialization. In spite of such trade policy assertiveness, the country continues to face many pending challenges in developmental policies. One such challenge relates to trade facilitation, logistics, and transport facilitation. As import tariffs have been reduced, border management and behind the border measures are becoming much more important for Peruvian competitiveness in both internal and external markets. Apart from the purpose of incorporating Peruvian production to the international economy, Peru aims to be a hub in the Southern Cone region to serve the Asian Pacific Rim markets. To achieve both goals Peru has to design a national and sub-regional policy which includes elements of trade facilitation and transport facilitation. This plan should be coherent and aligned with the country's and the region's present and future integration schemes.

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## LIST OF ACRONYMS

ACRONYM	MEANING
AC	Andean Community
ADA	2007 Roadmap for the Integration of Logistics Services
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATIT	Partial Agreement on International Road Transportation of the Southern Cone Countries
BIMP-EAGA	The Brunei Darussalam and border areas of Indonesia, Malaysia, and the Philippines
CAREC	Central Asia Regional Cooperation Economies
CBTA	GMS cross-border transit agreement
DGCG	Directorate – General of Harbor Authorities and Coastguards
DGTA	MTC’s Directorate – General of Water Transport
DIGEMID	General Division of Medical Supplies and Drugs
DIGESA	General Division of Environmental Health
DIRANDRO	Anti-Drugs Police Department
ECLAC	United Nations Economic Commission for Latin America
FDI	Foreign Direct Investment
GATS	General Agreement on Trade in Services
GATT	General Agreement on Trade and Tariffs
GMS	Greater Mekong Sub-region
IADB	Inter-American Development Bank
IIRSA	Integration of Regional Infrastructure in South America
ITC	International Trade Centre
LAIA	Latin American Integration Association
LPI	Logistics Performance Index
MEF	Peruvian Ministry of the Economy and Finance
MERCOSUR	Southern Common Market
MFN	Most favoured nation
MINCETUR	Peruvian Ministry of Commerce and Tourism
MPTF	Master Plan for Trade Facilitation
MTC	Peruvian Ministry of Transport and Communication
NAFTA	North American Free Trade Agreement
NCC	Peruvian National Competitiveness Council
NPA	National Port Authority
NPS	National Port Systems
OEA	Authorized Economic Operator program
OECD	Organisation for Economic Co-operation and Development
OSITRAN	Supervising Agency of Investment in Public Transport Infrastructure Facilities
PA	Pacific Alliance
PTAs	Preferential Trade Agreements

<b>ACRONYM</b>	<b>MEANING</b>
SADA	Sistema Anticipado de Despacho Aduanero
SANIPES/ITP	National Service for Fisheries Health and the Peruvian Institute of Fish Technology
SCCAP	APEC's Supply Chain Connectivity Action Plan
SCFAP	APEC's Supply Chain Connectivity Framework Action
SENASA	National Service for Agriculture Health
SOAT	Compulsory Vehicle Insurance in Case of Road Accident
SUNAT	National Superintendency of Tax Administration
TFA	Trade Facilitation Agreement
TFAP	APEC's Trade Facilitation Action Plan
TPP	Trans-Pacific Partnership
UNASUR	Union of South American Nations
UNCTAD	United Nations Conference on Trade and Development
UNECE	United Nations Economic Commission for Europe
UNESCAPE	United Nations Economic and Social Commission for Asia and the Pacific
USA	United States of America
USAID	United States Agency for International Development
USAID MRPCTCBA	USAID Monitoring Report of Peruvian Customs TC Baseline Assessment
WB	World Bank
WCO	World Customs Organization
WEF	World Economic Forum
WTO	World Trade Organization

# Peruvian strategy regarding trade facilitation and logistics services in order to be a hub in the region

## Section 1

### I. Background

As the WTO's latest Trade Policy Review for Peru made clear, for more than 20 years the country has been implementing a policy of opening up and liberalizing trade aimed at integrating the country into the global economy with a view to improving the well-being of the population and benefiting from international market specialization<sup>1</sup>. According to the report, Peruvian trade policy has been implemented through specific policy instruments, such as unilateral tariff liberalization, international trade negotiations and domestic foreign-trade related competition policies<sup>2</sup>.

Parallel to an active participation in the World Trade Organization (WTO), Peru negotiated 12 Preferential Trade Agreements (PTAs) from 2004 up to the end of 2013. Within the country's immediate periphery, Peru is a founding member of the Andean Community and has several commercial agreements under the umbrella of the Latin American Integration Association (LAIA). Outside the region, Peru is a member of the Asia-Pacific Economic Cooperation (APEC) and has been actively seeking to enhance its ties in the Pacific Rim area. Following such a trend, Peru is part of two major inter-regional agreements: the Pacific Alliance and the Trans-Pacific Partnership (TPP).

In spite of such trade policy assertiveness, the country continues to face many pending challenges in developmental policies. One such challenge relates to trade facilitation, logistics, and transport facilitation. As import tariffs have been reduced, border management and behind the border measures are becoming much more important for Peruvian competitiveness in both internal and external markets. A recent report by the Ministry of Production revealed that at least 34% of the value of a product was related to logistics costs. This far exceeds the regional average of 24%, hence Peru should reverse this trend promptly<sup>3</sup>.

In a recent study, Hoekman<sup>4</sup> (2013) holds that supply chain trade has helped many countries expand manufacturing activities, but many others have largely been left out. The importance of this phenomenon is that developing countries have benefited from the high rates of growth that have been sustained by the "supply chain countries",

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<sup>1</sup> WTO (2013) Trade Policy Review Peru Report By The Secretariat WT/TPR/G/289 p. 3.1, p. 8

<sup>2</sup> Ibid, p. 3.5, p. 8.

<sup>3</sup> Oxford Business Group (2014). The Report Peru 2014, Transport & Logistics, p. 155-160.

<sup>4</sup> Hoekman, B. (2013). Supporting Supply Chain Trade. Great Insights, Volume 2, Issue 8. November 2013.

most notably China. Meanwhile most of Africa and much of Latin America and the Middle East have not seen a significant shift towards the type of vertical specialization.

Apart from the purpose of incorporating Peruvian production to the international economy, Peru aims to be a hub in the Southern Cone region to serve the Asian Pacific Rim markets. To achieve both goals Peru has to design a national and sub-regional policy which includes elements of trade facilitation and transport facilitation. This plan should be coherent and aligned with the country's and the region's present and future integration schemes.

This paper is structured as follows:

Section 2 addresses conceptual issues regarding logistics services, trade facilitation and transport facilitation. The section describes how these topics have been regulated by different Peruvian authorities and their sectorial policies. Finally, this section analyses the most important restrictions Peru maintains in its logistics and transport sector. Section 3 examines specifically different trade policy instruments where logistics, trade facilitation, and transport facilitation are negotiated by Peru. First, multilateral rules negotiations by Peru in this area are described. Second, the section examines the different bilateral, regional, and sub-regional integration schemes where Peru includes these subjects. Section 4 identifies the multilateral and regional schemes governing these issues. It is pointed out that the trends observed in the Asian Pacific area offer a very good example for Peru to articulate a holistic policy of trade facilitation, logistics and transport facilitation both at the national and sub-regional levels. Section 5 draws some policy considerations for the domestic Peruvian regulators and includes a range of considerations about how Peru can interconnect multilateral, mega-regional, bilateral and sub-regional initiatives in this field in order to accelerate internal and regional reforms.

## Section 2

### I. Definitional considerations

This paper follows the “whole of supply chain approach” developed by Hoekman. Hoekman and Jackson attach great importance to the efficiency of border management and to the quality of transport and logistics services in the era of the International supply chains. The key factor for the ability of a country to participate in supply chains is the efficiency of local trade facilitation and logistics services.

As a recent UNCTAD<sup>5</sup> study points out, sometimes there are no clear categories to assess this multifunctional problem. Following a recent report by the World Economic Forum, in collaboration with Bain & Co. and the World Bank<sup>6</sup> (WEF 2013) studying the costs that affect the operation of international supply chains, it is considered that there are two main groups of restrictions: (i) trade facilitation issues which concentrate on border management (Customs clearance and other regulatory requirements and process that pertain to goods entering or leaving a country) and (ii) logistics, transport and communications infrastructure services.

In a narrow sense, trade facilitation may be defined as the systematic rationalization of customs procedures and documents, an approach that focuses on issues at play in WTO negotiations. Conversely, in a broader sense are all measures that affect the movement of goods between buyers and sellers, a definition adopted in the APEC fora. For pragmatic considerations, it is considered that the concept of logistics comprises all services and processes needed to transport goods and services from the point of production to the end-consumer<sup>7</sup>.

**TABLE Nº 01 – Definitions of Trade Facilitation**

Definitions of Trade Facilitation
<b>World Trade Organization (WTO):</b> The simplification and harmonization of international trade procedures are the activities, practices and formalities involved in collecting, presenting, communicating, and processing data and other information required for the movement of goods in international trade.
<b>World Customs Organization (WCO):</b> The avoidance of unnecessary trade restrictiveness. This can be achieved applying modern techniques and technologies, while improving the quality of controls in an internationally harmonized manner.

<sup>5</sup> UNCTAD (2006), Trade and Development Aspects of Logistics Services TD/COM.1/2, 2006

<sup>6</sup> World Economic Forum (2013), Enabling Trade Valuing Growth Opportunities, In collaboration with Bain & Company and the World Bank, [http://www3.weforum.org/docs/WEF\\_SCT\\_EnablingTrade\\_Report\\_2013.pdf](http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf)

<sup>7</sup> OECD/UN-ECLAC/CAF (2013), Latin American Economic Outlook 2014. Logistics and Competitiveness for Development. [http://www.oecd-ilibrary.org/development/latin-american-economic-outlook-2014/foreword\\_leo-2014-1-en;jsessionid=cmkm8p3his8fn.x-oecd-live-01](http://www.oecd-ilibrary.org/development/latin-american-economic-outlook-2014/foreword_leo-2014-1-en;jsessionid=cmkm8p3his8fn.x-oecd-live-01)



<b>Definitions of Trade Facilitation</b>
<b>United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT):</b> The simplification, standardization, and harmonization of procedures and associated information flows required to move goods from seller to buyer and to make payments.
<b>International Chamber of Commerce (ICC):</b> Improve the efficiency of the process associated information flows required to move goods internationally from seller to buyer and to pass payments in the other direction.
<b>Organization for Economic Co-operation and Development (OECD):</b> The simplification and standardization of procedures and associated information flows required to move goods internationally from seller to buyer and to pass payments in the other direction.
<b>Asia-Pacific Economic Cooperation (APEC):</b> The simplification and rationalization of customs and other administrative procedures that delay or increase the cost of moving goods across international borders.

Source: Designing and Implementing Trade Facilitation in Asia and the Pacific 2013 Update. ADA and UNESCAPE<sup>8</sup>

Alberto Portugal-Perez and John S. Wilson hold that trade facilitation not only includes at-the-border issues, but also beyond-the-border issues, dealing for instance with the business environment, the quality of infrastructure, transparency and domestic regulation. At times this latter notion of “trade facilitation” is used interchangeably with logistics and transport services, which is divided into dimensions of software and hardware. The hardware dimension relates to tangible infrastructure such as roads, ports, highways, and telecommunications, while the software dimension includes intangible issues such as transparency, business environment and regulations, etc.<sup>9</sup>

As global production chains are increasing in importance, logistics services become a crucial determinant of countries’ physical connectivity to global markets and their competitiveness. This supply chain perspective is drawing the attention of both policy makers and business, marking the necessity to include this topic in a holistic way in international trade instruments.

There is no universally agreed definition of logistics services and it is often difficult to distinguish properly all the activities which are comprised in the concept of logistics. Charles Kunaka, Monica Alina Mustra, and Sebastian Saez<sup>10</sup> point out that the logistics services industry encompasses several industries which are not always well integrated. These authors specify that the logistics sector covers a large set of activities which

<sup>8</sup> Asian Development Bank and the United Nations (2013), Designing and Implementing Trade Facilitation in Asia and the Pacific, 2013 UPDATE. <http://www.adb.org/publications/designing-and-implementing-trade-facilitation-asia-and-pacific-2013-update>

<sup>9</sup> Portugal – Pérez and Wilson, J. (2010), Export Performance and Trade Facilitation Reform, Hard and Soft Infrastructure, Policy Research Working Paper No. 5261. <http://dx.doi.org/10.1596/1813-9450-5261>

<sup>10</sup> Kunaka, Ch., Mustra, M., and Saez, Sebastian (2013) Trade Dimensions of Logistics Services: A Proposal for Trade Agreements. World Bank, Washington, DC. © World Bank. <https://openknowledge.worldbank.org/handle/10986/12155> License: CC BY 3.0 Unported.”

includes all modes of transportation services, all ancillary services related to these modes of transportation, distribution, packaging warehousing services, transport management services, and supply chain consulting services, among others. To better understand the scope of logistics services, the UNESCAP<sup>11</sup> suggests an analytical mapping of services traditionally associated with the role of carrier, warehouse provider, terminal operator, freight forwarder, no-vessel operator common carrier and multimodal transport operator. By identifying the services related to each role, it is possible to explore the nature and implications of non-traditional logistics services. These definitions are attached in Annex 01.

Logistics services, whose importance is heightened by global production fragmentation, lied outside the WTO terminology in 1994 when the GATS was created. Indeed, the GATS did not incorporate such services through a specific clasification, within the Services Sectoral Classification List prepared by the GATT Secretariat (W/120) and used for purposes of scheduling liberalization commitments. In 2006, a collective request was advanced by Australia, Canada, Chile, EC, Hong Kong, India, Korea, Malaysia, Mauritius, Mexico, New Zeland, Nicaragua, Norway, Pakistan, Panama, Singapore, Switzerland, Taiwan, Thailand, Turkey and US focusing on logistics services, dividing such services into three tiers: **Cargo Freight Logistics Services** (services auxiliary to all modes of transport not subject to other plurilateral negotiations; cargo handling services, other cargo handling, storage and warehousing, transport agency services and other auxiliary services); **Related Freight Logistics Services** ((1) Freight Transport Services: 11. A. Maritime Transport Services, 11.B. Internal Waterways Transport Services, 11.C. Air Transport Services: b. Air freight transport, c. Rental of aircraft with crew; 11. E. Rail Transport Services: Freight tranSPORT; 11. F Road Transport Services: b. Freight transport, c. Rental of commercial vehicles witho operator or without operator. (2) Other related logistics services: 1.A.e Engineering services, 1.A.f Integrated engineering services, 1.F.e. Technical testing and analysis services, 2. A/B Postal/Courier Services (including express delivery), 4.A Commission Agents' Services, 4. B. Wholesale Trade Services, 4. C. Retailing Services and other supporting services not covered by 11.H) and **Non-core Freight Logistics Services** (computer and related services, packaging, and management consulting and related services).

The collective request showed how difficult it is to separate logistics services from transport services when attempting a comprehensive mapping of all activities relating to supply chain activities. Moreover, when there is still a trend to protect domestic transport services from international competition, this supply chain vision would stop any negotiations in this field.

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<sup>11</sup> United Nations Economic and Social Commission for Asia and the Pacific (2013), Guide To Key Issues In Development Of Logistics Policy, Division of Transport, <http://www.unescap.org/resources/guide-key-issues-development-logistics-policy>

As is analysed in Section 4, in the Asean Pacific region, efforts are afoot to design policy approaches in which border measures (trade facilitation) and behind the border measures (transport facilitation and logistics) are incorporated with a view to promoting the competitiveness of the region. This agenda, clearly influenced by a supply chain perspective, comprises topics such as economic corridors, connectivity, competitiveness, transport service liberalization and logistics service promotion.

## **II. The domestic dimension of trade facilitation and logistics and transport services in Peru**

### **i. Trade Facilitation**

Like many other countries, Peru does not have a clear distinction of the policy boundaries of the trade facilitation issue. Generally speaking, TF has tended to be considered mainly as a matter of customs processes instead of border management integrally which includes many public entities in charge of controlling both exports and imports. This trend has been reversed in recent years, leading to a more integrated approach.

#### **1. Institutional analysis**

Peruvian Customs underwent a major reform at the beginning of the 1990s with a view to moralizing the institution, professionalizing its personnel, and modernizing customs operations<sup>12</sup> and procedures. These first generation changes were successfully implemented, converting the Peruvian Customs into one of the most respected customs organizations in Latin America by the end of the decade. This was a very good kick-off for improving trade facilitation processes in the country.

In 2004 Peru, under the aegis of the Ministry of External Commerce and Tourism – MINCETUR - launched its Master Plan for Trade Facilitation (MPTF) as part of its National Strategic Exports Plan 2003 – 2013. The purpose of the MPTF was to establish a framework to foster and facilitate trade and to contribute to Peru becoming a more competitive and export-oriented economy.

However, the trigger for a much deeper reform in custom procedures related to trade facilitation was the free trade agreement Peru entered into with the United States in 2007. This trade agreement features legally binding obligations associated to trade facilitation in the following areas: posting on the Internet of customs laws,

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<sup>12</sup> Moisé, E. (2005), Trade Facilitation Reforms in the Service of Development: Country Case Study, OECD Trade Policy Working Paper No. 12, TD/TC/WP (2004)4/FINAL 22-Feb-2005

regulations, and general administrative procedures, designation and maintenance of inquiry points, release of goods within 48 hours upon arrival, without temporary transfer to warehouses or other facilities and separating the release from the clearance of the goods, and providing for electronic submission and processing to speed up cargo. In the FTA, Peru further assumed obligations about automation according to international standards, as well as about adopting or maintaining risk management systems that enable its customs authority to focus its inspection activities on high-risk goods. Express shipment procedures are incorporated in the Trade Facilitation Chapter as well as the right to appeal any customs determinations. Advance rulings are established for tariff classification, custom valuation, duty drawback, rules of origin, quotas application, questions related to the goods re-entered after repair or alteration mechanisms, and other matters as the Parties may agree.

As a result of the above obligations, Peru implemented the Trade Facilitation Chapter of the Free Trade Agreement with the United States through its Foreign Trade Facilitation Law No. 28977 and General Customs Law Legislative Decree No. 1053 in 2008. Basically, the new law of trade facilitation incorporates the customs law publicity, the fast track customs clearance procedure, the anticipated resolutions, risk assessment procedures, express shipments, customs cooperation, etc. Most importantly, the new law creates the single window and the new customs law institutes the Advance Clearance system (*Sistema Anticipado de Despacho Aduanero SADA*) and the Authorized Economic Operator program.

Before the above revolutionary changes, import customs procedures started after a vessel's arrival when it was possible to send the electronic documentation to the Peruvian Customs. Basically, the new law creates a means to anticipate the release procedures. Such Anticipated Customs procedures involve a pre-arrival filing and its requirements are:

1. The importer must have a global or specific customs bond,
2. The importer/broker must file the Customs declaration within 15 days prior of the arrival of the vessel carrying those goods,
3. Cargo Manifest must be transmitted before the shipment arrival and,
4. Tally Note must be transmitted within 8 hours of the good's discharge.

It is important to note that many free trade agreements negotiated by Peru after that with the United States feature similar norms on trade facilitation.

The National Competitiveness Council<sup>13</sup>, an entity falling within the purview of the Economy Ministry, also handles issues linked to Trade Facilitation. This Council pursues the following trade facilitation goals:

**Objective No. 16:** ensure that 91% of the master plan on trade facilitation shall be implemented into the single window. This aim is quantified as it incorporates procedures relating to certificates of origin, restricted merchandise and port services.

**Objective No. 22:** ensure full use of the Advance Clearance system. (SADA)

**Objective No. 23:** implement the Authorized Economic Operator program. This program was created by Supreme Decree Nº 186-2012.

The National Competitiveness Council (CNC) revised the above objectives proposed at the beginning of 2014. The single window project achieved 91% of the proposed results, incorporating restricted merchandise proceedings. The new Advance Clearance system was used by 35% of customs declarations from the private sector. Finally, as regards the AEO program, the Council secured full compliance by having 10 operators already approved.

Regarding the strategic line, it can be said that this plan did not cover TF comprehensively as some objectives were focused on enacting rulings or fixing some percentages rather than pursuing a complete reform package. For example, the single window project is far from being fully implemented. Among the difficulties to implement the full single window project are the different priorities of the official entities engaged in it, technological discrepancies, and the necessity to revise technical requirements in the case of restricted merchandise.

This Council is preparing a new plan for the 2014 – 2018 period in which issues relating to trade facilitation shall be updated, treated systematically, and integrated with transport and logistics plans.

## **2. A quantitative and qualitative vision**

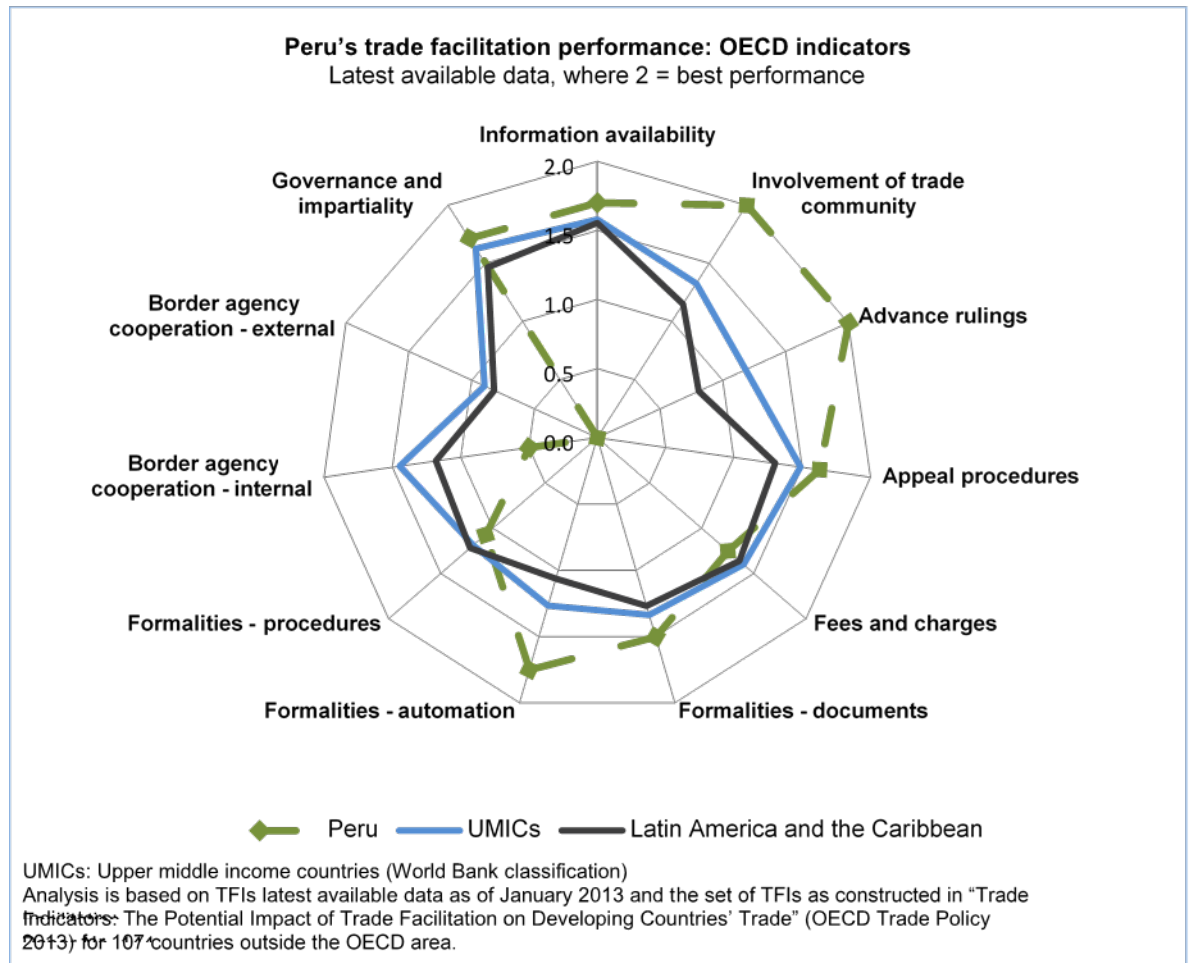
A recent OECD study found that Peru offered a better TF performance than the average of Latin America and the Caribbean and upper middle income countries in the areas of involvement of the trade community, advance rulings, automation and that its performance was relatively on par with the average for information availability, appeal procedures, fees and charges, simplification and harmonization of documents,

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<sup>13</sup> These objectives can be seen in <http://www.cnc.gob.pe/pagina/destacadas/presentacion-de-resultados-agenda-de-competitividad-2012-2013>

streamlining of procedures and governance and impartiality, according to OECD trade facilitation indicators<sup>14 15</sup>.

**GRAPH N° 01 - Peru's Trade facilitation performance: OECD indicators**



Source: OECD Trade Facilitation Indicators

This premise is shared by Shepherd<sup>16</sup> who finds that the private sector's level of satisfaction is generally higher with other agencies involved in the border clearance process. The sluggish advance in implementing the single window project shows how difficult is this kind of coordination inside the Peruvian government.

<sup>14</sup> OECD (2013), Trade Facilitation Indicators. Peru. "Trade Facilitation Indicators: The Potential Impact of Trade Facilitation on Developing Countries' Trade" (OECD Trade Policy Paper No. 144, 2013)  
[http://www.oecd.org/tad/facilitation/Peru\\_OECD-Trade-Facilitation-Indicators.pdf](http://www.oecd.org/tad/facilitation/Peru_OECD-Trade-Facilitation-Indicators.pdf)

<sup>15</sup> Ibid, p. 1.

<sup>16</sup> Shepherd, B. (2013), Aid for Trade and Value Chains in Transport and Logistics. (OECD/WTO (2013),  
[http://www.wto.org/english/tratop\\_e/devel\\_e/a4t\\_e/global\\_review13prog\\_e/transport\\_and\\_logistics\\_28june.pdf](http://www.wto.org/english/tratop_e/devel_e/a4t_e/global_review13prog_e/transport_and_logistics_28june.pdf))

The USAID Monitoring Report of Peruvian Customs TC Baseline Assessment<sup>17</sup> (USAID MRPCTCBA) reinforces such a perception in recalling that cooperation between Peruvian Customs and the National Agrarian Health Service (SENASA) is limited, with the two agencies often operating on independent tracks in the inspection and release of imported goods.

The World Bank Doing Business survey for 2014<sup>18</sup>, in the trading across borders section, classified Peru in 55<sup>th</sup> position globally. This represents a loss of 6 positions in the country's ranking in 2013.

**TABLE N° 02 - Trading across borders**

Year	Ease of Doing Business Rank	Trading Across Borders						
		Rank	Documents to export (number)	Time to export (days)	Cost to export (US\$ per container)	Documents to import (number)	Time to import (days)	Cost to import (US\$ per container)
DB 2006	..	..	5	22	575	7	29	670
DB 2007	..	..	5	22	575	7	29	670
DB 2008	..	..	5	22	575	7	29	670
DB 2009	..	..	5	22	860	7	25	895
DB 2010	..	..	5	21	860	7	24	895
DB 2011	..	..	5	12	860	7	17	880
DB 2012	..	..	5	12	860	7	17	880
DB 2013	39	49	5	12	890	7	17	880
DB 2014	42	55	5	12	890	7	17	1010

Source: WB. Doing Business 2014

The Trading Across Borders Panel – Observations from Diagnostic Study for Peru<sup>19</sup>, draws attention to the fact that Peru registered improvements in 2010/2011 in regard to both time to export (21 to 12 days) and time to import (24 to 17 days) due to Peru's new EDI-based system; fewer physical inspections of cargo needed thanks to further implementation of risk-based inspections, as well as a result of the introduction of a payment deferral system for import duties and taxes. This report also calls attention to the asymmetry registered between indicators of exports and imports both in documents and time, compared with the other economies of Latin America.

Since Peru is part of the Andean Community and the Pacific Alliance, it is important to compare different indices with partner countries. (See table N° 3 below)

<sup>17</sup> USAID (2013), Monitoring Report of Peruvian Customs TC Baseline Assessment, June, 2013.

<sup>18</sup> World Bank (2014), Doing Business, <http://www.doingbusiness.org/>

<sup>19</sup> APEC (2013) APEC Ease of Doing Business Phase 2 – Diagnostic Trip Report on Capacity Building Program for Trading Across Borders for Government of Peru, Submitted by Singapore, 2013/SOM1/EC/015

**TABLE Nº 03 - Doing Business 2014: Trading across borders**

Subject	Bolivia	Chile	Colombia	Costa Rica	Ecuador	Mexico	Peru	United States
Ranking trading across the borders 2014	126	40	94	44	122	59	55	22
Change in rank (2013)	-6	-1	-1	-2	1	4	-6	-1
The total number of documents required per shipment to exports goods	7	5	4	5	7	4	5	3
The time necessary to comply with all procedures required to export goods	21	15	14	13	20	11	12	6
The cost associated with all procedures required to export goods	1440	980	2355	1015	1535	1450	890	1090
The total number of documents required per shipment to imports goods	6	5	6	5	6	4	7	5
The time necessary to comply with all procedures required to import goods	24	12	13	14	25	11	17	5
The cost associated with all procedures required to import goods	1745	930	2470	107	1520	1740	1010	1315

Source: WB. Doing Business 2014

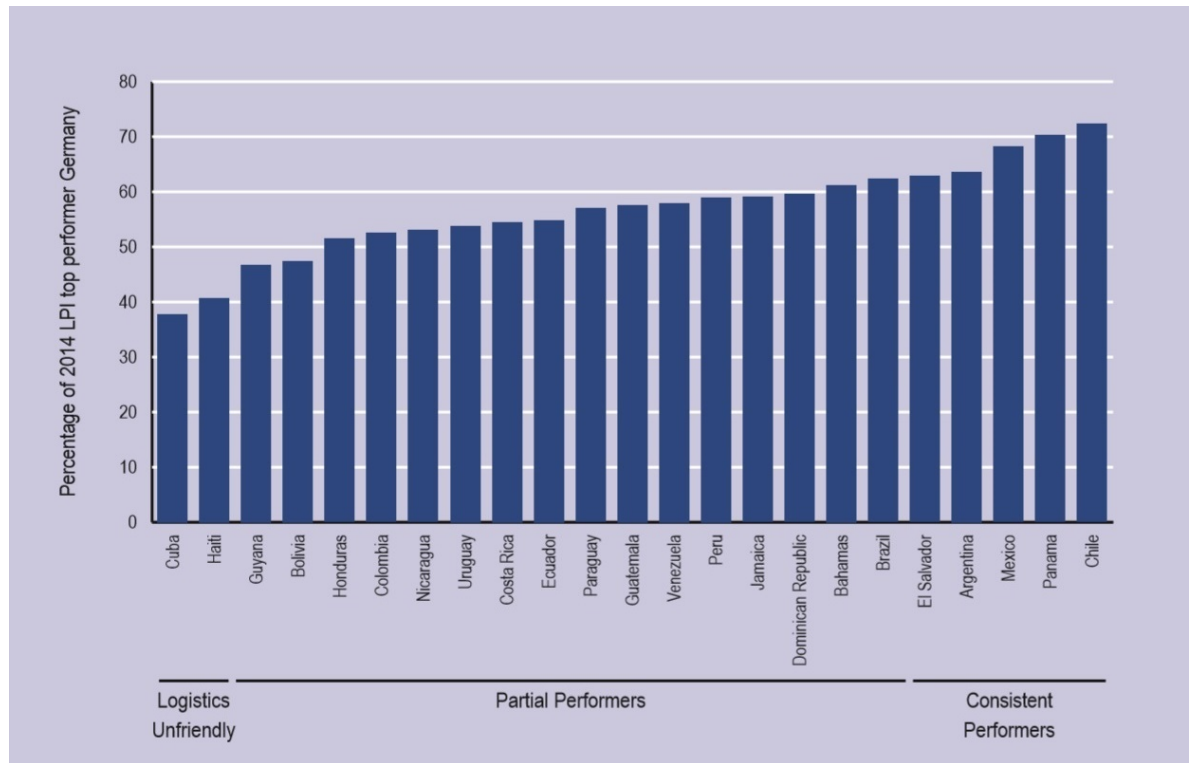
In comparison amongst the countries belonging to both the Andean Countries and the Pacific Alliance, only Mexico offers a superior performance to that of Peru as a result of its implementation of an electronic single-window system.

The Enabling Trade Index 2014<sup>20</sup>, ranking the performance of countries through a Logistics Performance Index, classifies Chile and Mexico as consistently solid performers and the remaining countries of the region, including Peru, as partial performers.

<sup>20</sup> World Economic Forum (2014), The Global Enabling Trade Report 2014, <http://www.weforum.org/reports/global-enabling-trade-report-2014>



**GRAPH N° 02 - LPI scores of Latin American and the Caribbean countries, 2014**



**Enabling Trade Index 2014**

Peru observes the trend depicted by Shepherd<sup>21</sup> that red tape barriers have not been substantially reduced in any region of the world over the last few years. However, taking into account the average performance of OECD countries, there is still room for improving the number of documents required and the time to comply with the procedures in both goods exports and imports.

More demanding is the Global Enabling Trade Report 2014<sup>22</sup> which ranks Peru in the 51st position out of 138 countries in terms of border administration. In the key areas of customs efficiency, import and export procedures, and transparency in border administration, Peru is ranked in the 49th, 91st and 39<sup>th</sup> positions respectively. The same report specifies that the most problematic factors for importing in Peru are burdensome import procedures.

<sup>21</sup> See Shepherd (2013)

<sup>22</sup> See World Economic Forum (2014)

**TABLE N° 04 - Ranking The Global Enabling Trade Report 2014 (138)**

Country	Efficiency of Customs	Import and Export Procedures	Transparency in border administration
Bolivia	103	100	59
Chile	13	39	1
Colombia	76	79	1
Costa Rica	38	102	1
Ecuador	46	89	1
Mexico	95	69	39
Peru	49	91	39
United States	13	16	1

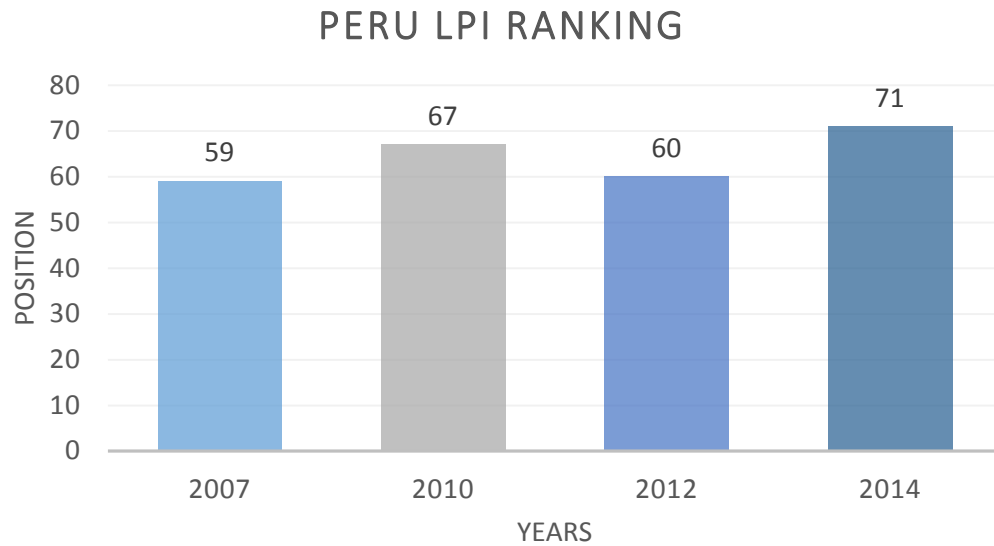
Source: The Global Enabling Trade Report 2014

Peru lags behind Chile and Costa Rica according to the data in the above table comparing figures of countries from the Andean Community (Bolivia, Colombia, and Colombia) and the Pacific Alliance (Chile, Colombia, Costa Rica and Mexico)

At regards border-related issues, the latter report indicates that Peru’s most problematic areas relate to burdensome import procedures, crime and theft, as well as corruption.

Peru registered noticeable improvements in its Logistics Performance Index ranking over the 2007-2010 periods, but little improvements are to note since then.

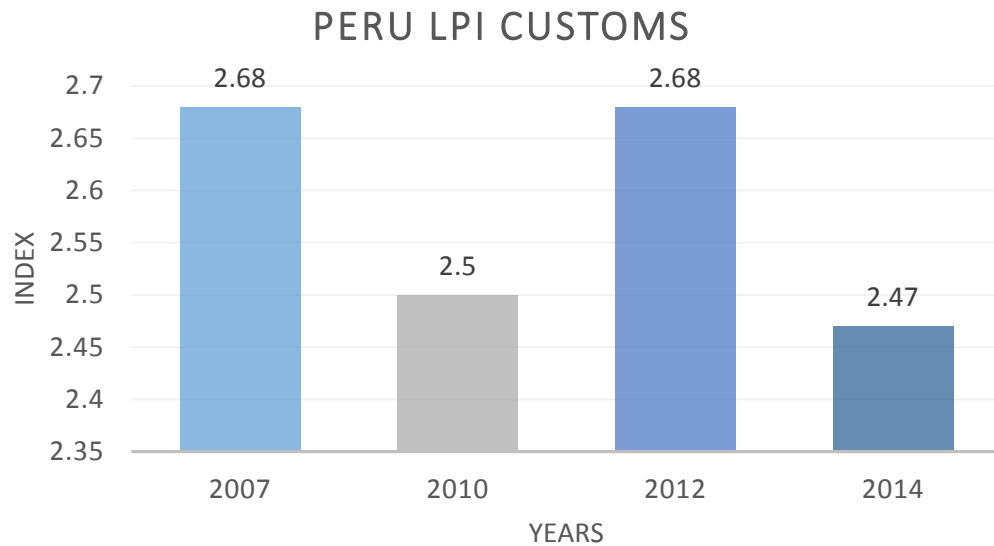
**GRAPH N° 03 - Peru LPI Ranking**



Source: Logistics Performance Index World Bank<sup>23</sup>

Regarding border management competence, Peru shows uneven performance as regards the efficiency of the goods clearance process (i.e., speed, simplicity and predictability of formalities) by border control agencies, including customs, in the World Bank's latest rankings.

**GRAPH N° 04 - Peru LPI Customs**

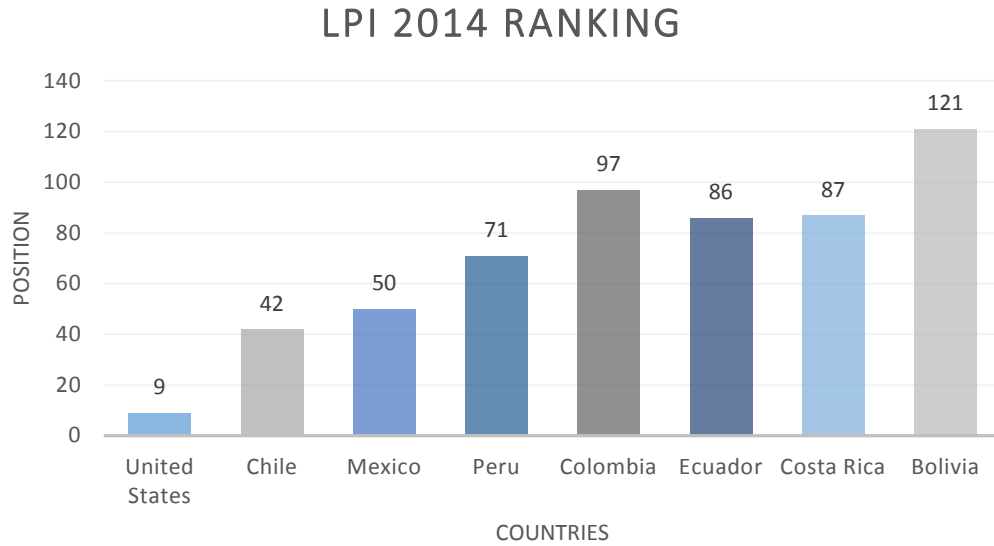


Source: Logistics Performance Index World Bank

In overall LPI terms, Peru ranked 71<sup>st</sup> in 2014, behind the US (9th), Chile (42nd), Mexico (50th) but ahead of regional partners Ecuador (82nd), Costa Rica (87th) and Bolivia (121st).

<sup>23</sup> World Bank (2014), Logistics Performance Index, <http://lpi.worldbank.org/>

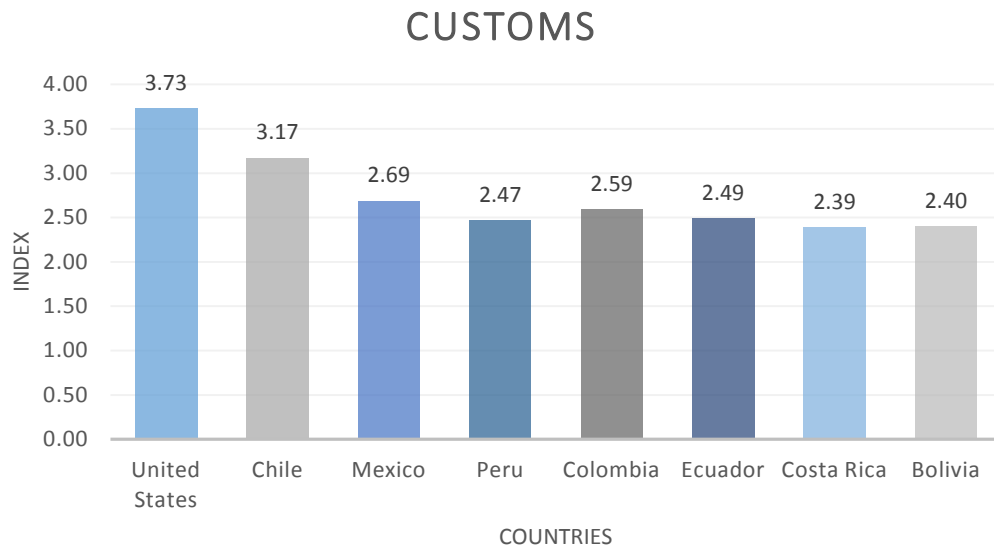
**GRAPH N° 05 - LPI 2014 Ranking**



Source: Logistics Performance Index World Bank

As regards customs-related issues, except for Chile in the Southern Cone, the remaining countries register broadly similar performances regarding the efficiency of their clearance processes.

**GRAPH N° 06 - Customs**



Source: Logistics Performance Index World Bank

From a qualitative perspective, the Domestic Logistics Performance Index of the World Bank 2014<sup>24</sup> notes for Peru that 66.67% of respondents believe that the process of clearance and delivery of exports is efficient, as compared to 33.33% each for imports and the transparency of customs clearance procedures.

Governance-related indicators, which refer to corrupt practices that impede supply chain operations, also need to be looked at in the context of border measures. The Global Enabling Trade Report 2014<sup>25</sup>, in the 3<sup>rd</sup> Pillar of border administration, places Peru in the 64th position out of 138 countries. In the 7<sup>th</sup> Pillar dealing with the operating environment, Peru ranks 127<sup>th</sup> in terms of the reliability of police services and 123<sup>rd</sup> for business costs relating to crime and violence. This trend is evidenced by Peruvian private operators in the Domestic Logistics Performance Index, where only 33.33% of respondents report improvements to requests for informal payments<sup>26</sup>.

Despite several important changes implemented by the Peruvian Customs, when the private sector is asked whether customs clearance procedures have improved or worsened, only 33.33 % respond favorably, according to the Domestic WPI 2014.

The Trading Across Borders Panel – Observations from Diagnostic Study for Peru<sup>27</sup>, for its part draws attention to the fact that Peru currently lacks a sufficiently high level national committee to pursue a “whole – of government approach” to the trade facilitation agenda. This report recommends establishing a national trade facilitation committee, vested with appropriate authority to drive the economy’s trade facilitation efforts (considering exports and imports as well as all transport modes) and enhance trade logistics in the economy. It also suggests that this committee should preferably be chaired by top political figures, showing that there is commitment at the highest level of the Peruvian government.

## **ii. Logistics and Transport Facilitation**

### **1. The nebulous frontier between logistics and transport services**

As noted earlier, trade logistics refers to a cluster of related service activities that bring exporters in one country into contact with consumers (importers) in another. Shepherd<sup>28</sup> holds that trade logistics depend on a number of inter-related factors for its smooth functioning: infrastructure, government services, and service sector

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<sup>24</sup> See World Bank (2014)

<sup>25</sup> See World Economic Forum (2014)

<sup>26</sup> See World Bank (2014)

<sup>27</sup> See APEC (2013)

<sup>28</sup> See Shepherd (2013)

regulatory policies. He goes on to say that in its broadest meaning, the logistics sector includes transport, freight forwarding and express operations, warehousing, and retail and wholesale distribution. There are two fields of trade logistics: international and domestic logistics. The former set of activities focuses on the way in which goods move between countries, and the latter focuses on their movement within countries.

## **2. The vicious circle: insufficient infrastructure – incorrect regulation**

A recent World Bank<sup>29</sup> report emphasized that access to infrastructure services is lower in Peru than in other Latin American countries. Furthermore, the situation of the Peruvian transport sector, despite recent improvements, remains less favorable than that in many neighboring countries, even less developed ones. Also, the country's physical infrastructure has been deteriorating, which is itself generally a sign of inefficient management and a lack of proper maintenance. The quality of the transport sector in Peru is lower than the Latin American average, and far below the average of world benchmark countries. The inadequate quality of transport infrastructure generates high transportation costs, which in turn affects the productivity of economic agents. High logistics costs thus result from the poor quality of transportation infrastructure and the unreliability and low quality of transport services, which increase the overall costs of transportation. The World Bank report goes on to note that the Peruvian transport systems is handicapped by a lower density of roads, especially paved ones; that large parts of the road network still need to be improved; that there is inequitable access to transport due to traffic density and to poor road conditions in rural areas; that Peruvian ports also perform poorly; and that the country's fleet of transport vehicles is obsolete and unduly informal in character. These factors lead to high transport costs in Peru. (World Bank, Peru Recent Economic Development in Infrastructure (REDI) (vol. 2) Investing in Infrastructure as an Engine for Growth: Spending More, Faster, and Spending Better, vol. 2 Report No. 43494, December 1 2010). A recent report by the Ministry of Production revealed that on average 34% of the value of a Peruvian product was related to logistics costs. This far exceeds the regional average of 24%.<sup>30</sup>

The Peruvian Ministry of Transport and Communication recently estimated that the country's infrastructure gap stood at some US\$38 billion, an amount equivalent to 30% of Peruvian GDP. Of the total, transport infrastructure represents 37%, or US\$ 14 billion, itself divided between the road system at US\$ 8 bn, ports (US\$ 4 bn) and US\$ 3 bn for the remaining transport modes.

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<sup>29</sup> World Bank (2010), Peru Recent Economic Development in Infrastructure (REDI) (vol. 2) Investing in Infrastructure as an Engine for Growth: Spending More, Faster, and Spending Better, vol. 2 Report No. 43494, December 1 2010.

<sup>30</sup> See, The Report Peru 2014, Oxford Business Group.

As is observed throughout the region, public infrastructure and transport policies have traditionally been handled separately and implemented in a different way depending on the mode of transport (mode-specific policies), hampering the efficient provision of public assets of strategic interest. Because of this disconnect, in most instances infrastructure is planned by one institution (ministry, specialized agency or other government body) and implemented by another. Services tend to be regulated by a third institution that very often had no policy input at the design stage. Similarly, plans relating to freight transport, passenger mobility and environmental considerations tend to be dealt with separately; and responsibility for planning very often falls to yet another public body<sup>31</sup>.

### 3. The Institutional analysis

This section examines how transport services are regulated and the main barriers maintained in the sector. The Ministry of Transport and Communications (MTC) is responsible for ensuring Peru's internal and external integration by regulating, promoting, building and supervising the country's transport and communications infrastructure. Since 1990, Peru has started a liberalization process in all transportation modes. In this regard, several regulations of national concern and promotion of transportation services and private investment in public transportation infrastructure have been taken up<sup>32</sup>. The Ministry of Transportation and Communications has furthered the transportation infrastructure concessions program aimed at expanding and improving infrastructure under international standards.

The MTC regulates transport policies according to each mode:

**Road transport services:** road transport services and vehicles are regulated by several pieces of legislation. These include: the Regulation for Compulsory Vehicle Insurance in Case of Road Accident (SOAT), the National Technical and Safety Standards. Other pieces of regulation establish Technical Standards for the Control of Vehicles and Weight regulations.

Peru does not discriminate between national and foreign providers of road transport services and has not established a band price mechanism in this sector since 2004. Road transportation for both passengers and cargo is regulated by the Road Transportation and Traffic General Law, and the Partial Agreement on International Road Transportation of the Southern Cone Countries (ATIT) as well as by Andean Community Law<sup>33</sup>.

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<sup>31</sup> See ECLAC (2009)

<sup>32</sup> APEC (2006) Transportation in Peru and the Bogor Goals, Bogor site: [www.apec-tptwg.org.cn](http://www.apec-tptwg.org.cn), Shepherd site.

<sup>33</sup> See APEC (2006)

**TABLE Nº 05 - Peruvian services restrictions by means of transport and mode**

Means of transport	Mode 1	Mode 3
Road Freight Domestic		There are no equity restrictions. At least 80 percent of employees must be nationals and 70 percent of wages must be paid to nationals. However, broad exceptions to these hiring restrictions may apply.

Source: World Bank Services Trade Restrictions database

**Air transport services:** air transport services are principally regulated by Civil Aviation Law No. 27261. Technical and operational issues related to air transport are regulated by secondary legislation issued by the MTC and the Generate Directorate for Civil Aviation, as well as by international agreements subscribed to by Peru. In 2005, another law (No. 28525) was passed to promote air transport services<sup>34</sup>.

One of the most important barriers in this sector is that domestic commercial aviation is reserved for Peruvian natural or legal persons. For a company to be considered a Peruvian legal person, at least 51% of its equity must be Peruvian-owned and it must be under the real effective control of Peruvian shareholders or partners with a permanent domicile in Peru. The restriction remains in force for at least six months from the date on which the operating permit takes effect, after which the percentage of the equity owned by foreigners may rise to a maximum of 70%<sup>35</sup>.

The Peruvian State grants routes, time-slots and commercial air rights to foreign carriers on the basis of the bilateral agreements it has signed. If there is no bilateral agreement, they are granted on the basis of reciprocity or subject to equivalent compensation for Peru<sup>36</sup>. Peruvian companies requesting a permit to operate international scheduled air transport services for passengers, freight and mail must also operate domestic air transport services. The purpose of this provision is to ensure that Peruvian operators of international routes also provide a service at the domestic level to promote connections between cities in Peru's interior, bearing in mind that domestic commercial aviation (*cabotage*<sup>37</sup>) is reserved for Peruvian companies.

Peru has signed a number of international agreements, including multilateral agreements and 36 bilateral air transport agreements<sup>38</sup>. According to the Andean

<sup>34</sup> See APEC (2006)

<sup>35</sup> WTO (2013), Peru Trade Policy Review, Report by the Secretariat, 9 October 2013, WT/TPR/S/289, p. 4.134, p. 90.

<sup>36</sup> See WTO (2013), p. 4.136, p. 90.

<sup>37</sup> *Cabotage* is a term of maritime law. It refers to transit of a vessel along the coast of a nation for the purpose of trade from one port to another within the territorial limits of that nation. Usually, this coastal trading is regulated by the national law of the host nation. The terms coastal trade or coastal trading is more used now instead of *cabotage*. Source USLegal.com. <http://definitions.uslegal.com/c/cabotage/>

<sup>38</sup> See WTO (2013), p. 4.138, p. 90.



Decision No. 682 the AC member countries may mutually grant fifth freedom traffic rights for scheduled passenger flights; operate unscheduled passenger flights when there are no scheduled air services; and grant fifth freedom traffic rights for unscheduled cargo flights between member countries and third countries<sup>39</sup>.

**TABLE Nº 06 - Peruvian services restrictions by means of transport and mode**

Means of transport	Mode 1	Mode 3
Air Passenger Domestic		The limit on foreign ownership is 49 percent, after six months it can reach up to 70 percent. At least 80 percent of employees must be nationals and 70 percent of wages must be paid to national employees. However, broad exceptions to these restrictions may apply. Over 50 percent of the managers and persons who control or manage the enterprise must be Peruvian nationals or have permanent domicile or be normally resident. The captain and crew must be nationals.
Air Passenger International		There is no limit on foreign ownership. At least 80 percent of employees must be nationals and 70 percent of wages must be paid to national employees. However, broad exceptions to these restrictions may apply. Over 50 percent of the directors, managers and persons who control or manage the enterprise must be Peruvian nationals or have permanent domicile or be normally resident. The captain and crew must be nationals.

Source: World Bank Services Trade Restrictions database

**Maritime transport:** The MTC's Directorate-General of Water Transport (DGTA) is responsible for promoting, regulating and administering the development of waterways and multimodal transport. The National Port Authority (APN) is responsible for developing the National Port Systems (SPN), encouraging private investment in the ports and coordinating the various public and private actors. The fees charged for port services are regulated by OSITRAN<sup>40</sup>.

All Peruvian-registered vessels must be listed in the Ship Register of the National Supervisory Authority for Public Registers. Entry in the register requires, inter alia, that the Peruvian ship or Peruvian shipping company be in a possession of a permit from the DGTA. After listing in the Ship Register, which confers ownership, the registration authority informs the Directorate-General of Harbor Authorities and Coastguards

<sup>39</sup> See WTO (2013), p. 4.138, p. 91.

<sup>40</sup> See APEC (2006).

(DGCG) so that it can grant the registration certificate authorizing the Peruvian flag to be flown and free navigation inside and outside Peru's territorial's waters. Peruvian-registered ships must have a Peruvian captain, except in exceptional circumstances, and at least 85% of the crew must be Peruvian nationals. Most of the shipping fleet operated by companies established in Peru is foreign-registered<sup>41</sup>.

Commercial water transport for domestic traffic is exclusively reserved for Peruvian-registered merchant vessels belonging to Peruvian ship owners or Peruvian shipping companies or operating under financial leasing or bareboat charter agreements with mandatory purchasing option. A Peruvian ship owner or Peruvian shipping company must be a natural person of Peruvian nationality or a legal person established in Peru, with its principal domicile and actual and effective head office in Peru. In case of legal persons, at least 51% of the paid-up equity must be held by Peruvians nationals<sup>42</sup>. If there are no Peruvian ships for transport by water between Peruvian ports, foreign-registered merchant vessels operated by Peruvian ship owners or Peruvian shipping companies may be chartered for a period not exceeding six months. For reason of security and national defense, up to maximum of 25% of the volumes of hydrocarbons transported are reserved for the Peruvian Navy on domestic *cabotage* routes<sup>43</sup>.

There is freedom of routes in Peruvian waters, that is to say, there are no restrictions limiting free access to traffic, services or routes to Peruvian vessels and Peruvian shipping companies. Waterborne cargo generated by Peru's foreign trade may only be restricted in cases of national crisis and/or a state of emergency<sup>44</sup>.

There are also cargo reservations for the domestic maritime transport of hydrocarbons as a minimum of 25 per cent of the volume transported is reserved for Peru's navy.

The reciprocity principle requires that the share of foreign companies in Peru be equivalent to the share to which Peruvian companies have a right in the foreign country concerned.

The AC countries are given preferential treatment for *cabotage* services within the Andean region. Moreover, there is a freedom of access for cargo originating in and intended for shipment within the Andean region on vessels owned, chartered or operated by shipping companies of the member countries and third countries. AC

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<sup>41</sup> See WTO (2013), p. 4.148 and 4.149, p. 92.

<sup>42</sup> See WTO (2013), p. 4.150, p. 92.

<sup>43</sup> See WTO (2013), p. 4.151, p. 92.

<sup>44</sup> See WTO (2013), p. 4.152, p. 92.

members may act jointly against third countries which discriminate against maritime transport companies in one or more members States<sup>45</sup>.

**TABLE N° 06 - Peruvian services restrictions by means of transport and mode**

Means of transport	Mode 1	Mode 3
Maritime Shipping International	There are no restrictions	Applicants must be domiciled in Peru, and purchase at least one Peruvian-flagged merchant ship, and obtain an Operating Permit. The limit on foreign ownership is 49 percent of the paid-in capital.
Maritime Auxiliary Services		There are no equity restrictions. At least 80 percent of employees must be nationals and 70 percent of wages must be paid to nationals. However, broad exceptions to these hiring restrictions may apply.

Source: World Bank Services Trade Restrictions database

**Railways:** Railways are mostly regulated by National Regulation No. 032-2005-MTC. The scope of this Supreme Decree includes the construction, improvement, rehabilitation, and maintenance of railway infrastructure; as well as railway transport services. Therefore institutions, infrastructure, equipment operations, and services of railway activities are all regulated<sup>46</sup>.

**TABLE N° 07 - Peruvian services restrictions by means of transport and mode**

Means of transport	Mode 1	Mode 3
Rail Freight Domestic		There are no equity restrictions. At least 80 percent of employees must be nationals and 70 percent of wages must be paid to nationals. However, broad exceptions to these hiring restrictions may apply.

Source: World Bank Services Trade Restrictions database

**Multimodal transport:** The Peruvian legislation aims at promoting multimodal transport through a specific piece of legislation<sup>47</sup> (Decree – Law No. 714 and the associated secondary legislation)

The World Bank Services Trade Restrictions Database<sup>48</sup> lists the main policy measures that can be considered services transport barriers.

<sup>45</sup> See WTO (2013), p. 4.154, p. 93.

<sup>46</sup> See APEC (2006).

<sup>47</sup> See APEC (2006).

<sup>48</sup> World Bank Services Trade Restrictions Database: <http://data.worldbank.org/data-catalog/services-trade-restrictions>

**TABLE Nº 08 – Main Policy Measures**

Sector	Mode	Variable	Year	Response	Comment
Air Passenger Domestic	3	Market entry allowed	2008	yes	
Air Passenger Domestic	3	Greenfield subsidiary - max. ownership allowed	2008	70	Maximum 49% during the first 6 months.
Air Passenger Domestic	3	Acquisition domestic private entity -max. ownership allowed by a group of entities	2008	70	Maximum 49% during the first 6 months.
Air Passenger Domestic	3	Difference in licensing criteria for foreign and domestic applicants	2008		
Air Passenger Domestic	3	Limit on number of licenses available	2008		
Air Passenger Domestic	3	Nationality requirement for board of directors	2008	no	
Air Passenger Domestic	3	Right to appeal regulatory decisions	2008	yes	
Air Passenger International	3	Market entry allowed	2008	yes	
Air Passenger International	3	Greenfield subsidiary - max. ownership allowed	2008	100	
Air Passenger International	3	Acquisition domestic private entity -max. ownership allowed by a group of entities	2008	100	
Air Passenger International	3	Difference in licensing criteria for foreign and domestic applicants	2008		
Air Passenger International	3	Limit on number of licenses available	2008		
Air Passenger International	3	Nationality requirement for board of directors	2008	no	
Air Passenger International	3	Right to appeal regulatory decisions	2008	yes	
Maritime Shipping International	3	Market entry allowed	2008	yes	While there exist discriminatory restrictions for enterprises which provide their services as national ship enterprises, these discriminatory restrictions do not apply to international enterprises---established as maritime shipping companies abroad---which have commercial or administrative offices in Peru and provide international maritime transport services.
Maritime Shipping International	3	Greenfield subsidiary - max. ownership allowed	2008	100	
Maritime Shipping International	3	Acquisition domestic private entity -max. ownership allowed by a group of entities	2008	100	
Maritime Shipping International	3	Difference in licensing criteria for foreign and domestic applicants	2008		
Maritime Shipping International	3	Limit on number of licenses available	2008		
Maritime Shipping International	3	Nationality requirement for board of directors	2008	yes	The chairman of the board, the majority of directors and the General Manager must be nationals and resident in Peru.
Maritime Shipping International	3	Right to appeal regulatory decisions	2008	yes	
Maritime Auxiliary Services	3	Market entry allowed	2008	yes	In addition to those services listed below, services as international cargo agents may be rendered.
Maritime Auxiliary Services	3	Greenfield subsidiary - max. ownership allowed	2008	100	
Maritime Auxiliary Services	3	Acquisition domestic private entity -max. ownership allowed by a group of entities	2008	100	
Maritime Auxiliary	3	Difference in licensing criteria for	2008		

Sector	Mode	Variable	Year	Response	Comment
Services		foreign and domestic applicants			
Maritime Auxiliary Services	3	Limit on number of licenses available	2008		
Maritime Auxiliary Services	3	Nationality requirement for board of directors	2008	no	
Maritime Auxiliary Services	3	Right to appeal regulatory decisions	2008		
Road Freight Domestic	3	Market entry allowed	2008	yes	
Road Freight Domestic	3	Greenfield subsidiary - max. ownership allowed	2008	100	
Road Freight Domestic	3	Acquisition domestic private entity -max. ownership allowed by a group of entities	2008	100	
Road Freight Domestic	3	Difference in licensing criteria for foreign and domestic applicants	2008		
Road Freight Domestic	3	Limit on number of licenses available	2008		
Road Freight Domestic	3	Nationality requirement for board of directors	2008	no	
Road Freight Domestic	3	Right to appeal regulatory decisions	2008	yes	
Rail Freight Domestic	3	Market entry allowed	2008	yes	
Rail Freight Domestic	3	Greenfield subsidiary - max. ownership allowed	2008	100	
Rail Freight Domestic	3	Acquisition domestic private entity -max. ownership allowed by a group of entities	2008	100	
Rail Freight Domestic	3	Difference in licensing criteria for foreign and domestic applicants	2008		
Rail Freight Domestic	3	Limit on number of licenses available	2008		
Rail Freight Domestic	3	Nationality requirement for board of directors	2008	no	
Rail Freight Domestic	3	Right to appeal regulatory decisions	2008	yes	

Source: The World Bank Services Trade Restrictions Database

#### 4. A quantitative and qualitative vision

Different studies have analyzed the quality and suitability of transport infrastructure and the competitiveness of services relating to logistics and transport services. In this section, consideration is given to both the hardware (infrastructure) and the software (related services regulation) of logistics and transport facilitation. Moreover, it is not only revised Peru statistics, but covers figures from Bolivia, Ecuador, Colombia (Andean Community countries), Chile, Mexico, Costa Rica (Pacific Alliance countries including Colombia) and the United States (as a benchmark of a developed country) in order to give a picture for future work at the sub-regional level or free trade agreements in the region.

##### a. Hardware

Infrastructural deficiencies in Peru appear in the Global Enabling Trade Report 2014<sup>49</sup>, specifically in the 4<sup>th</sup> pillar relating to the availability and quality of transport infrastructure, where Peru is ranked 101<sup>st</sup> out of a total of 138 sample countries. Table N° 09 below situates Peru from a comparative regional perspective.

**TABLE N° 09 – The availability and quality of transport infrastructure**

Topic	Ranking Peru	Bolivia	Chile	Colombia	Costa Rica	Ecuador	Mexico	United States
Available int'l airline seat km/week, millions	45	96	47	50	72	74	22	1
Quality of air transport infrastructure	80	109	44	90	52	64	59	17
Quality of railroad infrastructure	94	58	61	103	97	n/a	57	16
Liner Shipping Connectivity Index	42	n/a	41	38	70	54	32	6
Quality of port infrastructure	85	133	30	101	119	63	57	16
Paved roads (% of total)	116	132	94	114	89	112	81	1
Quality of roads	90	84	27	121	116	46	47	18

Source: Global Enabling Trade Report 2014

The Global Competitiveness Report (2013-2014) of the World Economic Forum<sup>50</sup> ranks Peru 91<sup>st</sup> out of a total of 148 economies in regard to the 2<sup>nd</sup> infrastructure pillar (see Table N° 10 below).

<sup>49</sup> See, World Economic Forum (2014)

<sup>50</sup> World Economic Forum (2013), The Global Competitiveness Report 2013 – 2014, <http://www.weforum.org/reports/global-competitiveness-report-2013-2014>

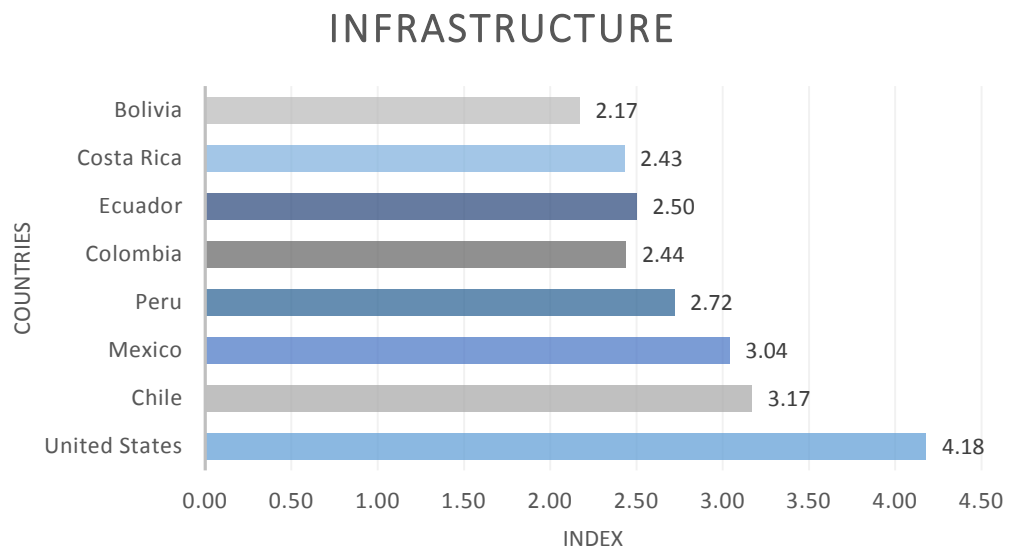
**TABLE N° 10 – Infrastructure pillar**

Topic	Ranking Peru	Bolivia	Chile	Colombia	Costa Rica	Ecuador	Mexico	United States
Quality of overall infrastructure	101	107	45	117	97	75	66	19
Quality of roads	98	92	27	130	125	50	51	18
Quality of railways infrastructure	102	61	65	113	105	57	60	17
Quality of port infrastructure	93	142	32	110	128	69	62	16
Quality of airport infrastructure	83	117	46	96	57	70	66	18

Source: Global Competitiveness Report (2013-2014)

Regarding the quality of trade and transport-related infrastructure (e.g., ports, railroads, roads, information technology); the International LPI Global Ranking of 2014<sup>51</sup> shows how countries of the region fared:

**GRAPH N° 07 - Infrastructure**



Source: World Bank International LPI Global Ranking

It is clear that Chile presents the best infrastructure quality, followed by Mexico, as befits their status as OECD Member countries.

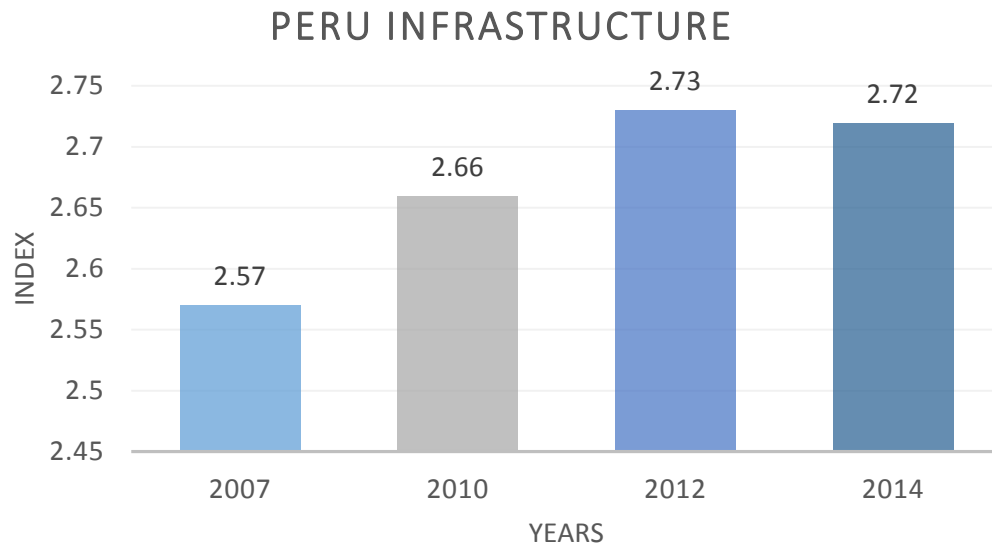
This situation is confirmed by the Domestic LPI 2014 of the World Bank<sup>52</sup> in the case of Peru when 33.33% of respondents affirm that the quality of infrastructure is low or

<sup>51</sup> See World Bank (2014)

<sup>52</sup> See World Bank (2014)

very low in ports and airports, a level that reaches 100% in regard to rail and road transport. However, in the same survey, 33.33% of respondents considered the country's trade and transport infrastructure improved or much improved since 2011. Again, accordingly the trend observed in the International LPI Global Ranking is improving, albeit slowly.

**GRAPH N° 08 – Peru Infrastructure**



Source: World Bank International LPI Global Ranking

Peru has also registered modest results in the use of information and communication technology (ICT), as documented in the Enabling Trade Index 2014<sup>53</sup>, where the country is ranked in 89<sup>th</sup> place (out of 138 countries surveyed).

**b. Software**

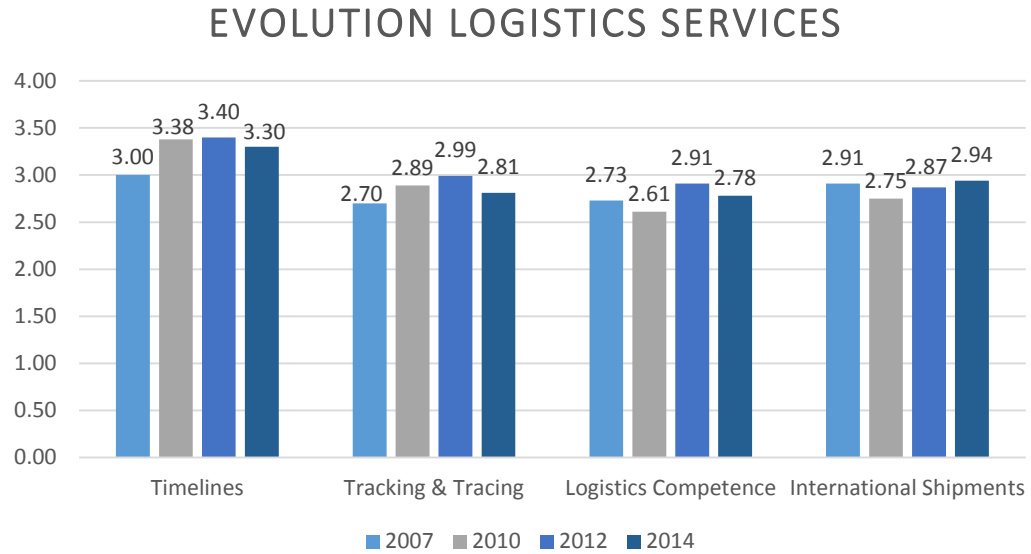
The International LPI Global Ranking 2014<sup>54</sup> includes in the software dimension of logistic and transport services, examining the ease of arranging competitively priced shipments; competence and quality of logistics services (e.g., transport operators, customs brokers); ability to track and trace consignments; as well as the timeliness of shipments in reaching their destination within the scheduled or expected delivery time. Peru shows measured advances during the period from 2007 to 2010. Such a performance has since stagnated evidencing a lack of public policies aimed at securing better results.

<sup>53</sup> See World Economic Forum (2014)

<sup>54</sup> See World Bank (2014)



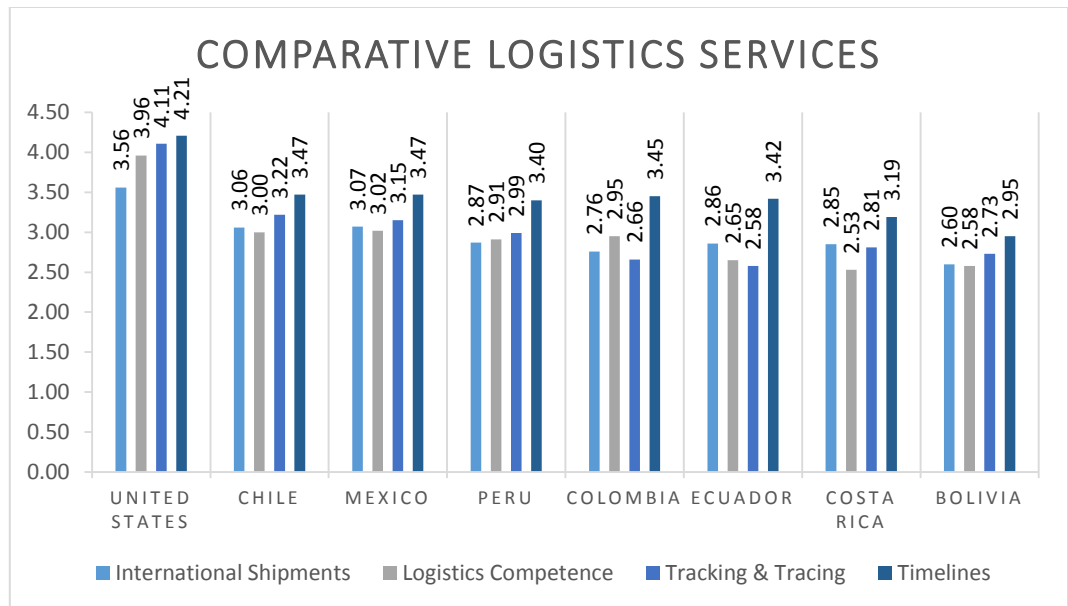
**GRAPH Nº 09 – Evolution Logistics Services**



Source: World Bank International LPI Global Ranking

Looked at in comparative terms, and taking into consideration countries of both the Andean Community and Pacific Alliance countries – with the exception of Chile - there are no significant differences in aggregate performance in logistics services.

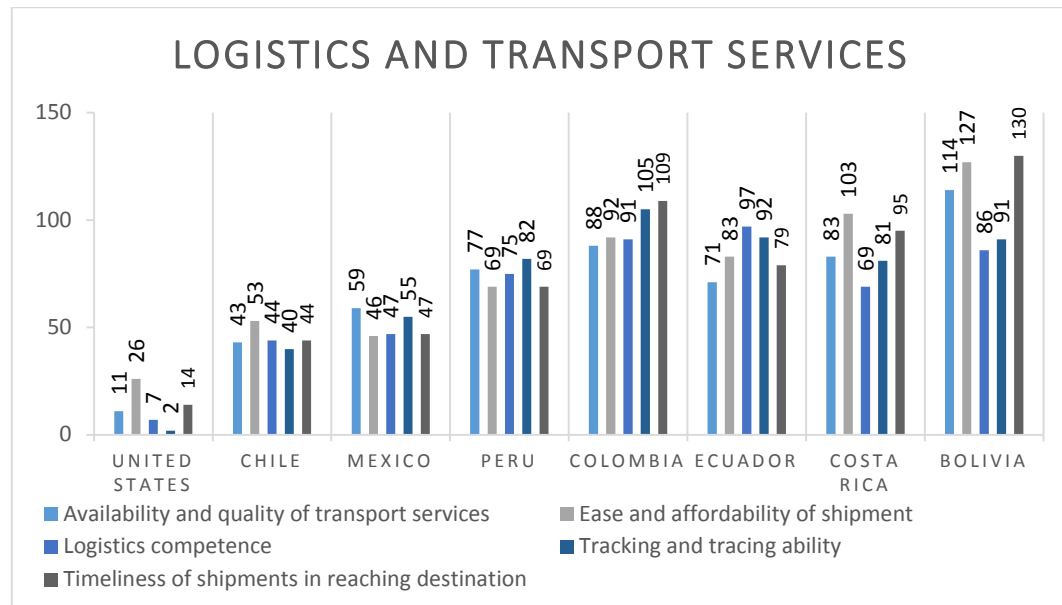
**GRAPH Nº 10 – Comparative Logistics Services**



Source: World Bank International LPI Global Ranking

The ranking of the Enabling Global Trade Index 2014<sup>55</sup> confirms that the quality of logistics and transport services stands to be reinforced in each country of the sub-region.

**GRAPH N° 11 – Comparative Logistics Services**



Source: Global Enabling Trade Report 2014

Services relating to transport and logistics are still evaluated as low performance in the Domestic LPI 2014<sup>56</sup> since nobody in Peru appears to believe in the high quality of services delivered by road, rail, maritime transport, freight forwarders, quality/standards inspections agencies, health/SPS agencies, trade and transport associations and consignees and shippers, and only 33.33% of those surveyed think that customs brokers, warehousing/transloading and distribution, air transport services provide quality services. Perhaps this belief is counterbalanced by another survey of the World Bank in 2009 that suggests that logistics services supplied by the private sector in Peru are improved or much improved since 2011.

As Shepherd<sup>57</sup> notes, regulation of the transport and logistics sector and the quality of the business environment more generally, can be crucial factors in the development of this sector. The Global Enabling Trade Report 2014<sup>58</sup> underlines this openness, classifying Peru 45<sup>th</sup> in terms of the country's openness to foreign participation and 24<sup>th</sup> in terms of the business impact of rules on FDI (out of 138 countries).

<sup>55</sup> See World Economic Forum (2014)

<sup>56</sup> See World Bank (2014)

<sup>57</sup> See Shepherd, B. (2013)

<sup>58</sup> See World Economic Forum (2014)

### iii. National roadmap

Peru, like the whole region around it, requires a paradigm shift in transport policy, instead of treating modes of transport individually and separated from each other, the country should embrace a multi-modal approach to transport.

Peru requires a new institutional architecture that encapsulates at the national, regional and municipal level topics related to trade facilitation, logistics, transport infrastructure and related services. This new vision entails the need of different public and private stakeholders, which must be coordinated effectively. Moreover, because it involves many public entities, this also requires enhanced communication inside the Peruvian State.

Leaders from the public and private sectors alike generally agree that the country's transport and logistics infrastructure has not kept pace with the high level of economic growth. To address these needs, in 2011 the government launched a plan to invest \$20.5bn in infrastructure over the following five years. Major efforts are currently being made to attract greater private investment. For example, in May 2013 the government declared of national interest and priority the promotion and facilitation of investment in Peru, with special emphasis on procedures and the issue of permits and licenses<sup>59</sup>.

The National Competitiveness Council (CNC) includes topics related to logistics and transport facilitation in the infrastructure strategic plan including as goals the promotion of logistics services, the creation of logistics activities zones, transport project priorities, and the reduction of bureaucratic barriers.<sup>60</sup>

In spite of general work, it can rescue the elaboration of the document "Diagnosis and Proposal of investment transport policy" from the Ministry of the Economy. Another piece of work that would be very useful as a kick-off is the Development Plan of the Logistics Services of Transports written by the Ministry of Transport and Communication and the Inter-American Development Bank in 2011.

The above elements should be periodically updated (as is usefully done within the ASEAN and APEC contexts), shared, enriched with the trade facilitation agenda and discussed with key private sector stakeholders in order to design a national plan for trade facilitation, logistics, and trade facilitation.

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<sup>59</sup> See, Oxford Business Group (2014)

<sup>60</sup> Both documents can be consulted at the website of the Ministry of Transport and Communication: <http://www.mtc.gob.pe/portal/ogpp/estudios.html>

### **Section 3**

Peru negotiates at the multilateral, sub-regional, and bilateral levels various commitments relating both to trade facilitation on the one hand and logistics and transport facilitation on the other hand.

#### **I. Trade Facilitation**

##### **1. The Preferential Trade Facilitation inheritance in the Peruvian Customs Law**

Until the December 2013 WTO Ministerial Meeting in Bali, Indonesia, trade facilitation was not an issue incorporated through the multilateral forum in Peru. Peru, as a condition to put in force the Free Trade Agreement, enacted several domestic rulings for fulfilling the trade facilitation chapter and others related to it.

Peru, basically driven by bilateral and regional negotiations, has been incorporating trade facilitation measures in its domestic legislation. As noted earlier, the US-Peru Free Trade Agreement led to the adoption of the Foreign Trade Facilitation Law No. 28977 and the General Customs Law Legislative Decree No. 1053. This piece of legislation and related regulations are aligned with the new pillars of the WTO Trade Facilitation Agreement: publication and availability of information, prior publication and consultation, advance rulings, appeal or review procedures, other measures to enhance impartiality, non-discrimination and transparency, disciplines on fees and charges imposed on or in connection with importation and exportation, release and clearance of goods, border agency coordination, movement of goods under customs control intended for import, formalities connected with importation and exportation and transit, freedom of transit, and customs cooperation.

Table Nº 11 below describes the different obligations assumed by Peru relating to Trade Facilitation prior to the conclusion of the December 2013 WTO Trade Facilitation deal.

**TABLE Nº 11 – The different obligations assumed by Peru relating to Trade Facilitation**

RTA Name	GATT Art. X: Transparency								GATT Art. VIII: Fees and Formalities															GATT Art V Transit	S&DT, TACB											
	Publication & Availability of Info			Internet Publication		Enquiry points	Publication prior to implementation	Obligation to consult traders / business	Commenting on proposed regulations	Advanced Rulings	Appeals	Fees & charges connected w Import / export			Penalty disciplines	Pre-arrival processing	Automation / electronic submission	Separation of release from clearance	Risk management	Post clearance Audits	Release times	Authorized Operators	Expedited Shipments		Consularization	Cooperation on custom & other TF matters	Simplification of formalities / procedures	Harmonization of regulations / formalities	Use of international standards	Single window	Pre-shipment inspections	Customs Brokers	Temporary admission of goods	Freedom of transit for goods	Exchange of customs of related information	Special & differential treatment
Canada Peru	1	1	1	1	0	1	1	1	1	1	1	0	1	0	1	0	1	0	1	0	1	1	1	1	1	1	1	1	0	0	0	0	1	0	0	
Costa Rica Peru	1	1	1	1	0	1	1	1	1	1	0	0	1	1	1	1	0	0	1	1	0	0	1	0	0	1	0	1	1	0	0	1	0	0	0	
EC Peru	1	1	0	1	1	1	1	1	1	1	1	0	1	1	1	0	1	0	1	1	1	1	1	1	1	1	1	1	0	0	1	1	1	1	1	
EFTA Peru	1	1	1	1	0	0	1	1	1	1	0	0	1	1	1	0	0	0	0	1	1	1	1	1	0	0	0	0	0	0	0	0	0	1	0	1
Japan Peru	1	1	0	1	0	1	1	1	1	1	0	1	1	0	1	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0	1	0	0	
Panama Peru	1	1	1	1	0	1	1	1	1	1	0	0	1	0	1	0	1	0	1	1	1	1	1	1	1	0	1	1	0	0	1	1	1	0	0	
Chile Peru	1	1	1	1	0	0	1	1	1	0	0	1	1	0	1	0	1	0	1	0	1	0	1	1	1	1	0	0	0	0	1	0	1	0	1	
Peru China	1	1	1	1	0	0	1	1	1	1	0	1	1	1	1	0	1	0	1	1	1	1	1	1	1	1	0	0	0	1	0	1	0	0	0	
Peru Korea	1	1	1	1	0	0	1	1	1	1	0	1	1	1	1	0	1	0	1	1	1	1	1	1	1	1	0	0	0	1	0	1	0	0	0	
Peru Mexico	1	1	0	1	0	1	1	1	1	1	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	1	0	1	0	0	
Peru Singapore	1	1	1	1	0	0	1	1	1	1	0	1	1	0	1	0	1	0	1	1	1	1	1	1	0	0	0	0	0	1	1	1	0	0	0	
Trans-Pacific Economic Partnership	1	1	1	1	0	1	1	1	1	1	1	1	0	1	0	1	0	1	1	1	1	1	1	1	1	0	0	0	0	1	0	1	0	0	0	
US Peru	1	1	1	1	0	1	1	1	1	1	1	1	1	1	0	1	0	1	1	1	1	1	1	1	0	1	0	0	0	1	0	1	1	1	1	

Source: Nora Neufeld Trade Facilitation Provision in Regional Trade Agreements. Traits and Trends. 2014.

In regard to transparency, Peru has been unwilling to agree to disciplines on prior consultations (i.e. consulting traders and business prior to the enactment of any law), with the exception of its FTA with the EU, where such a provision is included. As a consequence of this obligation, Peru enacted Supreme Decree No. 001-2009-MINJUS in which any public entity is obliged to publish 30 days in advance any project to be put in force. This means that the Peruvian administration is obliged to make public all laws before enacting them, so in practice there is communication between the government and the business community.

Peru is also reluctant to incorporate obligations regarding penalties and disciplines on post-clearance audits, single windows, pre-shipment inspections and the mandatory use of customs brokers. However, as an innovation in this matter, in the trade facilitation chapter of the Pacific Alliance, the connection of different countries' single window projects is taken up.

Disciplines on freedom of transit have only been negotiated within the AC and the LAIA countries. Consequently, as it refers to land transport, there are no obligations in other Peruvian FTAs.

Peru has secured special and differential treatment, technical assistance and trade capacity building commitments from the USA, the EC, and Chile in regard to trade facilitation matters.

The next section considers the relationship between the Peruvian Customs Law and the WTO Trade Facilitation Agreement.

## **2.Trade Facilitation in the Andean Community**

At the sub-regional level, in the Andean Community of Nations, trade facilitation is a matter which has been negotiated. Through Decision N° 770, Ministers of Foreign Trade agreed to a Strategic Plan to Facilitate Trade by Simplifying Customs Formalities and ordered its approval within a period of 90 days via a Resolution of the AC General Secretariat. The aim of this measure is to put forward new initiatives for facilitating trade among the AC Member Countries and with third countries by simplifying AC customs formalities.

The above Strategic Plan foresees the implementation of an Andean Economic Operator, developing a Community risk management manual, an Andean database on customs valuation, and the preparation and implementation of a Training Plan in customs formalities, among other actions.

The Strategic Plan was enacted through Resolution No. 1467 and its main dispositions are:

<b>Objectives:</b>
1. The ICT development and implementation.
2. Organize and implement the harmonization in Customs Community process.
3. Develop a system which allows coordination amongst Customs and border management authorities.
4. Promote the implementation of tools which empower technological capabilities amongst the different Customs and allow interconnectivity of them.
5. Strengthen risk analysis process, oriented to combat Customs fraud.
<b>Specific strategies:</b>
1. The ICT development and implementation.
2. Strengthen Customs administration; focus on the Andean Economic Operator.
3. Develop simplified and efficient processes which permit the fulfillment of tax and Customs obligations.
4. Implement simplified and efficient process for Customs operations.
5. Harmonize procedures and formats for the viability of digital integration.
6. Implement integration schemes amongst different customs and border measures entities.
7. Reinforce the infrastructure necessary for the technological and interconnectivity development amongst the different Customs administrations.
8. Develop a communitarian risk analysis process.
9. Strengthen human capabilities and competences.
<b>Projects and Actions:</b>
1. Implement a digital an automation system with Customs' documents; focus on the approach commerce without papers.
2. Develop and extend widely communication virtual tools with the foreign trade operators.
3. Implement a publicity system of Customs norms and the possibility to receive feed-back of it.
4. Instrument assistance services for the users of the process of the Customs clearance for:
a. Attend personal, telephone or digital consults from the users.
b. Establish diffusion programs of Customs operations.

c. Elaborate and publish informative brochures, bulletins, and videos over Customs procedures.
5. Devise mechanism of Customs evaluation services in favor of the international trade operators.
6. Implement or make more powerful electronically payments of Customs obligations.
7. Implement an electronic system which permit corrections or rectifications of any mistakes in any Customs declaration.
8. Optimize process of authorization and monitoring of international trade operators.
9. Implement the Andean Economic Operator.
10. Contribute to improve the process of “exporta facil” oriented to micro and small entrepreneurs.
11. Contribute to implement national single windows and their connectivity.
12. Instrument anticipated resolutions for tariff classification, customs valuation and origin.
13. Contribute to implement digital origin certificate emission.
14. Instrument the system of non-intrusive inspection.
15. Ruling the Communitarian transit regime (Decisions No. 671, 716, 617, 636)
16. Automate the transit regime using ICT technologies,
17. Modernize the border crossing infrastructure of the Customs administrations (Decision No. CEBAF)
18. Implement a new system of measures at the border following international standards.
19. Strengthen mutual assistance and cooperation amongst the different Customs administrations.
20. Facilitate and promote the dialogue amongst the Customs administrations and the other national entities in charge of the border management.
21. Advance the equipment of chemical laboratories.
22. Advance the development of electronic networks amongst different Customs for interconnectivity for information exchange.
23. Harmonize the anticipated information required for cargo to be sent inside or outside the Andean sub region.
24. Implement an electronic system of anticipated information for the Customs administrations for identifying high risk shipment and allowing low risk ones.
25. Develop a manual of risk assessment process.
26. Develop and adopt methodologies of risk analysis, based on electronic technologies.
27. Structure a systematized of information exchange for information exchange in customs valuation.
28. Elaborate and implement a capacitation plan oriented to the formation of customs community, international trade



through face to face workshop or virtual or internship modalities.

Regardless of the above regional aims, little progress has been made to date on the implementation front. This can be explained by two factors: on the hand the difficulty of enacting changes domestically in each national Customs regimes; on the other hand the lack of political will inside the CAN to implement ambitious region-wide projects.

## II. **Logistics and Transport Facilitation**

Despite its increased importance and the growing recognition of it, there is as yet no integrated framework or coherent set of rules<sup>61</sup> governing policy making in logistics services. Moreover, transport services as a core component of logistics services are still heavily protected in domestic markets. Peru is no exception in this regard, the country having negotiated few commitments at the multilateral (GATS), sub-regional (AC) and bilateral FTA levels.

### **1. The timid approach adopted in GATS**

Peru only made limited specific commitments in transport services and logistics including in the lists of maritime transport services (11 A) and internal waterway transport (11 B) in the Uruguay Round.

Peru

#### **11 TRANSPORT SERVICES**

##### **11.A Maritime Transport Services**

A. Maritime transport services Solely: - Passenger transportation by ferries exclusively for internal tourist services (CPC 72111) - Other passenger transportation exclusively for internal tourist services (CPC 72119) B. Internal waterways transport Solely: - Passenger transportation by ferries exclusively for internal tourist services (CPC 72211) - Other passenger transportation exclusively for internal tourist services (CPC 72219)

##### **11.B Internal Waterways Transport**

A. Maritime transport services Solely: - Passenger transportation by ferries exclusively for internal tourist services (CPC 72111) - Other passenger transportation exclusively for internal tourist services (CPC 72119) B. Internal waterways transport Solely: - Passenger transportation by ferries exclusively for internal tourist services (CPC 72211) - Other passenger transportation exclusively for internal tourist services (CPC 72219)

Peru also listed horizontal commitments on the movement of natural persons and investment. Natural persons supplying services or employed by companies in the sectors included in Peru's Schedule may enter the country for a period of not more than three years, renewable for successive periods. Such persons may not comprise more than 20 per cent of the total workforce employed by the company and their remuneration may not exceed 30 per cent of the total payroll, with some exceptions.

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<sup>61</sup> See Kunaka, Charles; Mustra, Monica Alina; and Saez, Sebastian (2013)

As far as investment is concerned, Peru's horizontal commitments guarantee foreign investors and companies the same rights and obligations as Peruvian investors and companies, without any exceptions other than those laid down in the Constitution and Legislative Decree No. 662.

Peru's list of MFN exemptions under the GATS contains a horizontal exemption stating that the movement of nationals of a country that has a reciprocal labor agreement or an agreement on dual nationality, or foreign personnel recruited under bilateral or multilateral agreements concluded by Peru shall not be subject to horizontally scheduled limitations on the recruitment of foreign workers. The exemptions from MFN treatment relating to specific sectors concern land and maritime transport with countries of the AC; land transport with member countries of the Convention on International Land Transport; and recreational, cultural and sporting services with several Latin American countries.<sup>62 63</sup>

It bears recalling that in GATS air transport services are governed by a specific annex. The annex excludes from the agreement the largest part of air transport services: traffic rights and services directly related to such traffic. The Agreement only applies to measures affecting: a) aircraft repair and maintenance services; b) the selling and marketing of air transport services; and c) computer reservation system (CRS) services.

## **2.The sub-regional governance of transport services**

The AC has enacted legislation to facilitate and liberalize the different modes of transportation and contribute to the growth of trade within the sub-region and to the strengthening of its physical integration.

International road transport in the AC is regulated by Decisions 398 (passengers) and 399 (goods), whose purpose is to guarantee the efficiency of the service by spelling out the contractual conditions and the responsibility of both transporters and users in clear and precise terms. The international highway transportation of goods is governed by Decision 399 (JAN.17.1997) and other Community legislation on the subject constitutes regulatory offshoots. This Decision is currently being revised and a draft Decision is now under review. The development and specialization achieved in this field warrants an updating of the sectors regulatory framework to reflect modern transport operations, bearing in mind the sector's economic and social significance. (Website Andean Community).

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<sup>62</sup> See WTO, p. 4.74, p. 80.

<sup>63</sup> See WTO, p. 4.75, p. 80.

Decision 617 (JUL.15.2005) adopted regulations governing Community Customs Traffic, which is the customs regime whereby goods are transported under customs control from a customs office of departure to one of arrival in a single operation in which one or more Member Country borders may be crossed, with a suspension of payable duties and taxes so long as the goods remain under the same system. The above regulations were subsequently amended through Decision 636 (JUL.19.2006).

Air transport is regulated by Decision 582 concerning the provision of scheduled and non-scheduled international air passenger and mail transport services, both separate and combined, among the respective territories of AC Members and between these and third countries. This Community Decision consolidates into a single piece of legislation the different sub-regional provisions on AC air policy, updating them to comply with demands arising out of the socioeconomic, technological and business organization changes of recent years (Decisions 297 and 320, 360 and 361). Decision 582 regulates the conditions for flights within and outside the sub-region, the granting of permits and authorizations, and the setting of fares, taxes and marketing, among other matters. In July 2005, Decision 619 was approved, establishing the rights and obligations of users, carriers and operators of scheduled and non-scheduled air transport services in the AC.

In the area of ocean transport, the adoption of Decision 288 made it possible to eliminate reserved cargo at the Andean region level, thereby reducing freight costs significantly and increasing the hold capacity available for trade in goods. Subsequently, Decision 314 supplemented this Community legislation by setting down policies for the development of the merchant marine in the Andean countries. The purpose of this Decision is to harmonize ocean transport policies and to enhance the competitiveness of enterprises working in the sector. In addition, Decision 390, which amended some of the articles of Decision 314, establishes the necessary mechanisms to enable Member Countries to act as a community vis-à-vis third parties that commit discriminatory acts against sub-regional maritime transport enterprises. In this regard, the regulations for Community implementation of the principle of reciprocity in ocean transport were approved through Resolution 422 of the Board of the Cartagena Agreement on August 5, 1996.

Community provisions adopted pursuant to Decisions 331 and 393 regulate multimodal transport operations in the sub-region. These provisions create the appropriate legal conditions for promoting and boosting the supply and provision of multimodal transport services.

However, regionally there is no trunk cargo system. The nodes are not integrated in a logical system. An inadequate supply of competitive transport services remains a main entrance barrier for the development and improvement of the logistics supply chain.

This sector is highly atomized, for example in Peru 98.5% of the supply of carriers is provided by 65% of companies who have only one truck and 19.4% with two units. The carriers do not operate in networks and customers do not require quality in the service, generating a vicious circle of low quality supply<sup>64</sup>.

Despite enacting several rulings relating to transportation, the Andean Community does not yet have a strategic approach to solving different problems in an integrated manner. Moreover, the discussion of transport regulation is only made by representatives of the Transport Ministries and not by the private sector or carriers or even representatives of the Ministry of Commerce or Production<sup>65</sup>.

The land transport sector confronts several other difficulties inside the Community, such as: trans-boarding at the frontiers (particularly the Colombian frontier), emission of circulation permits, customs transit, and the operation of Bi-national Border Services (CEBAF)<sup>66</sup>.

### **3.The status quo negotiated in free trade agreements**

As noted above, neither the GATS nor the Andean Community liberalize and promote logistics and transport services. Rooted in old-fashioned model laws and policy frameworks, the free trade agreements that were negotiated broadly maintain the status quo. Peru has negotiated services through the negative list approach in which all services or service sectors are included and considered free of trade and investment restrictions unless they are placed on a list of exclusions or reservations. For illustrative purposes, The Annex N° 02 attached describes some of the reservations made in the Canada-Peru negative list agreement. Furthermore, there is no promotional scheme for logistics development.

A new trend is observed in negotiations on maritime services in Free Trade Agreements. For example, the Peru-EU FTA incorporates a new section on International Maritime Transport Services in which there are obligations related to unrestricted access to international maritime markets and trade on a commercial and non-discriminatory basis; affording to ships flying the flag of another Party or operated by service suppliers of another Party treatment no less favorable than that accorded to its own ships with regard to, inter alia, access to ports, use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs

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<sup>64</sup> Martínez R., M. (2010), Aspectos determinantes del estado de la facilitación del transporte en América Latina: los casos de Colombia y el Perú (Comunidad Andina de Naciones), Series Studies and Perspectives No. 8, ECLAC Office in Washington

<sup>65</sup> See, Martínez R., M. (2010).

<sup>66</sup> See, Martínez R., M. (2010).

facilities and the assignment of berths and facilities for loading and unloading. Moreover, it is established that each Party shall permit international maritime service suppliers, including maritime agency services of another Party, to have an establishment in its territory under conditions of establishment and operation no less favorable than those accorded to its own service suppliers or those of any third country, whichever are more favorable.

Moreover, the EU-Peru FTA foresees that port-related services such as pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, shore-based operational services essential to ship operations, including communications, water and electrical supplies, emergency repair facilities, anchorage, berth and berthing services shall be made available to suppliers of another party on reasonable and non-discriminatory terms and conditions.

In the same vein, in the Pacific Alliance, there is a Maritime Chapter which contains provisions connected to national treatment, the establishment of maritime agents, recognition of documents of vessels and crews, the exchange of electronic information, competitiveness in the maritime sector, cooperation, and enquiry points.

## **Section 4**

This section explores how the multilateral system approaches trade facilitation, logistics and transport services and discusses emerging trends across various integration schemes.

### **Trade Facilitation**

#### **i. The WTO Trade Facilitation Agreement: how is it going to influence domestic developments in Peru?**

The WTO's Trade Facilitation Agreement was signed at the 9th Ministerial Conference held in Bali, Indonesia, in December 2013, culminating more than a decade and a half of arduous negotiations, the implementing modalities of which remain to be determined.<sup>67</sup>

##### **1. The WTO Trade Facilitation in a nutshell**

The new Trade Facilitation Agreement negotiation was a process which started at the 1<sup>st</sup> WTO Conference held in Singapore in 1996. The Member States finally agreed to add trade facilitation to the negotiation agenda of the Doha Agenda Development Agenda (the July 2004 package).

The TF Agreement is divided into two sections: Section I, dealing with trade facilitation measures and obligations, and Section II, revolving around special and differential treatment for developing and least developed countries.

The Trade Facilitation Agreement aims to clarify three articles of the GATT 1994: Article V (freedom of transit), Article VIII (fees and formalities) and Article X (transparency). The ITC explains why this agreement is necessary to complement all GATT 1994 trade facilitation articles. In the field of freedom of transit, several proposals were made such as: strengthened non-discrimination (MFN and national treatment) provisions, predictable, reduced and simplified fees and charges, more transparent transit formalities and documentation for traders, use of international standards, promotion of regional transit arrangements, limitation of inspections and controls (bonded transport), and quota-free transit. The initiatives to simplify the fees and formalities include: greater predictability and reliability of procedures, a cost-based limit to fees and charges, simplified formalities and documentation, use of international standards, adoption of single windows for traders, elimination of pre-shipment inspection, mandatory customs brokers and consular transactions,

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<sup>67</sup> International Trade Center (2013), WTO Trade Facilitation Agreement. A Business Guide for Developing Countries.

expedited release and clearance of goods, greater use of risk assessment techniques and authorized trader schemes, post-clearance audits. For transparency changes, WTO Members asked for the following amendments and improvements: better and easier access to information for traders, use of modern technology for publication (e.g. Internet publication), the establishment and publication of enquiry points for customs matters; prior publication and consultation, advance rulings on customs matters, and rights of appeal for traders.

Developing countries showed preoccupation regarding the continued need for technical assistance and capacity building and for the adequate supply of the physical infrastructure required to implement such trade facilitation obligations.

Transparency is regulated in Articles 1 to 5 in the new agreement. Publication, information available through the Internet, enquiry points and notification is established in Article 1. Article 2 obliges Parties to consult traders and other interested Parties prior to introducing new or amended laws or regulations related to the movement, release and clearance of goods. Also it regulates regular consultations between border agencies, traders and other stakeholders. The advance ruling system is incorporated in Article 3. The commitments in this regard are: to issue an advance ruling in a reasonable, time-bound manner, to guarantee the advance ruling for a reasonable period of time and to be bound by it, to publish requirements for how an applicant may apply for it and for how long it shall be valid, and how an applicant may request a review of an advance ruling, and to publish such advance rulings as may be interest to other traders. Article 4 extends the right to appeal or review procedures – administrative or judicial - from customs authorities' decisions to all border authorities' decisions. The new agreement also institutes an obligation relating to border controls and inspections of foods, beverages or feedstuffs. Where a member issues notifications or guidance for enhancing the level of control or inspection of such goods, the member must base such controls or inspections on risk, to apply such measures uniformly at relevant points of entry, to withdraw the procedures promptly when the circumstances no longer justify them, and to publish promptly an announcement of the termination of the measures. The importer or his authorized agent must be informed of any cases where the goods have been detained, and, if a first test proves negative, it obliges the Member State to carry out a second sample test if requested to do so.

Articles 6-10 regulate fees and formalities for export and import and transit. The disciplines on fees and charges imposed on or in connection with importation and exportation are included in article 6. The core principle is that fees and charges must have the same cost of the service rendered. Regulation on penalties is a novelty of this article, which look forward to ensure that penalties are imposed only on persons responsible for a breach or regulations and should be proportionate to the breach,

take account of mitigating circumstances, be communicated in writing and be imposed within a fixed, finite period from the alleged offence. Article 7 includes the best practices related to release and clearance of goods such as: pre-arrival processing, electronic payment, separation of release from final determination of customs duties, risk management, post-clearance audit, average release times, authorized operators, expedited shipments, and perishable goods. Another innovation of this new agreement is the discipline about border agency coordination (Article 8). There is a compromise to coordinate all border management authorities regarding: alignment of working days and hours, alignment of procedures and formalities, development and sharing of common facilities, joint controls, and establishment of one stop border post control. Article 9 looks forward to speeding the flow of goods at borders and to allowing goods to be cleared at inland depots. The reduction of formalities connected with exportation, importation and transit is provided for in Article 10, describing the following topics: formalities and documentation requirements, acceptance of copies, use of international standards, single window, pre-shipment inspection, use of customs brokers, common border procedures and uniform documentary requirements, rejected goods, and temporary admission for goods including inward/outward processing.

The free transit regime is taken up by Article 11. Additionally to Article V of GATT 1994, this article incorporates some obligations such as: encouraging members to provide physical separation between traffic in transit and other imports, ensuring that formalities and customs controls related to transit are not burdensome, that the general regime, ensuring that once goods have been put under a transit procedure they will not be subject to further customs control until they conclude their transit within a Member State's territory, nor will they be subject to technical regulations and conformity assessment while in transit, requiring Member States to allow advance filing and processing transit documents, requiring Member States to terminate the transit operation promptly once the traffic in transit has reached the destination where it exits the territory of the Member State, requiring Member States to discharge any guarantee without delay, and cooperation to enhance freedom of transit.

Customs cooperation is addressed under Article 12 and Institutional arrangement described in Article 13. According to this article the Negotiation Group on Trade Facilitation is converted in a permanent forum which will be very useful for the private sector.

Section II covers special and differential treatment. During the negotiation of the Trade Facilitation Agreement, many developing and least-developed countries were afraid of the cost of implementing this agreement. The TF Agreement provides for staged implementation, over long periods where necessary. There are different



categories of commitments: Category A: commitments enter into force immediately, Category B: commitments enter into force on a date after a transitional period and Category C: commitments enter into force on a date after a transitional period and the acquisition of implementation capacity through the provision of technical assistance and support for capacity building.

As highlighted by Nora Neufeld<sup>68</sup> the new focus of the TFA is for an individual, country-by country and measure-by-measure approach.

Peru should be cautious in sending its lists of commitments which will be part of the Trade Facilitation Agreement. As is analyzed in section II of this paper, according to the Logistics Performance Index of the World Bank, Peru is a Partial Performer, which means that it still needs deep reforms in this area. This situation arguably prevents Peru from undertaking commitments under category A, because it needs either to implement them or to improve their application. Many of the obligations should be included in category C with a view to receiving needed technical cooperation in the design and implementation of reform measures.

Taking into consideration the Self-Assessment Guide of the Trade Facilitation Agreement, and according to its own national legislation, Peru is close to complying with the following TF commitments:

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<sup>68</sup> Neufeld, N. (2014) The Long and Winding Road: How WTO Members Finally Reached a Trade Facilitation Agreement World Trade Organization Economic Research And Statistics Division Staff Working Paper ERSD – 2014-06, April 7, 2014.

**TABLE Nº 12 – Peru TF commitments status**

Transparency	ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION	1 Publication
		2 Information Available Through Internet
		3 Enquiry Points
		4 Notification
	ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE	1 Opportunity to Comment and Information before Entry into Force
2 Consultations		
ARTICLE 3: ADVANCE RULINGS		
ARTICLE 4: APPEAL OR REVIEW PROCEDURES		1 Right to Appeal or Review
Fees for formalities for import, export and transit	ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION	1 General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation
	ARTICLE 7: RELEASE AND CLEARANCE OF GOODS	1 Pre-arrival Processing
		2 Electronic Payment
		3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges
		7 Trade Facilitation Measures for Authorized Operators
		8 Expedited Shipments
	ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION AND TRANSIT	5 Pre-shipment Inspection
		8 Rejected Goods
		9 Temporary Admission of Goods/Inward and Outward Processing

On the other hand, Peru faces continued challenges in complying with several commitments of the new WTO agreement.

At the outset, concerning fees and formalities for import, export and transit, as Peru does not yet have a coordinated border management system, there are many delays, institutional costs, excessive paperwork which require a regulatory reform. This means that besides Article 8 which refers to border agency cooperation, Peru should improve its single window project (which currently only covers restricted merchandise under Article 10.4), adopt those international standards which have not yet been assumed (Article 10.3; examples of such standards include: World Customs Organization: Customs Convention on the ATA carnet for the temporary admission of goods (ATA Convention)Centre for Trade Facilitation and Electronic Business: UN/EDIFACT; United

Nations Economic Commission for Europe: UN layout key for Trade Documents, UN Trade Data Elements Directory, etc.), and revise specific disciplines on fees and charges imposed on or in connection with the importation and exportation of other border agencies (Article 6.2).

The ITC reports that Peruvian firms face obstacles, including delays due to administrative procedures, particularly in customs; a large number of different documents required to obtain certificates of origin as well as commercial and sanitary certificates; and high fees often related to extra-port logistics services. The same report recommends the strengthening of specialized technical agencies such as the National Service for Agriculture Health (SENASA), the National Service for Fisheries Health and the Peruvian Institute of Fish Technology (SANIPES/ITP), the Anti-Drugs Police Department (DIRANDRO), the General Division of Environmental Health (DIGESA), and the General Division of Medical Supplies and Drugs (DIGEMID), so as to provide them with more human and financial resources<sup>69</sup>.

The level of penalties is very controversial in Peru (Article 6.3). On the one hand, the private sector thinks that the level of penalties, based on objective responsibilities, and the incrimination of formal offences, make for an unfriendly business environment, while the Peruvian Customs supports such penalties to combat high levels of fraud. It will likely take time to reconcile these views and adjust the Customs controls to the informal sector. On the subject of administrative Penalty Provisions, the Monitoring Report of Peruvian Customs TC Baseline Assessment indicated that the administrative penalty provisions of the new Customs Code failed to give due consideration to culpability and proportionality and were not consistent with either the Revised Kyoto Convention or the WCO SAFE Framework of Standards<sup>70</sup>.

The same could be said of post-clearance audits (Article 7.5). In the case of Peru, the Customs office and SUNAT (internal taxes) were unified in 2002. The merger that started in 2002 should be understood as a process, and as such, it presents advantages and accomplishments, as well as disadvantages and delays<sup>71</sup>. Nahil Hirsh points out SUNAT's challenges in leveraging joint supervision actions, with a view to increasing the risk of foreign trade operators who defraud customs duties and evade internal taxes; and integrating the information of Customs and Internal Taxes, as a basic element to apply joint procedures intended to assure the effective control of tax and

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<sup>69</sup> International Trade Centre (2012), Peru: Company Perspectives – An ITC Series on Non-Tariff Measures, 19 July 2012 - See more at: <http://www.intracen.org/peru-company-perspectives-itc-series-on-non-tariff-measures/#sthash.avpviljZ.dpuf>

<sup>70</sup> See, USAID (2013).

<sup>71</sup> Hirsh, N. (2010), The Merger Models, Their Compatibility and Viability with the Tax Function, CIAT Technical Conference, Improvement of the Effectiveness of the Tax Administration Through New Organizational Models, Inter-American Center of Tax Administrations – CIAT, General Directorate of Public Finances – GDPF, Paris, France, October 18 to 21, 2010

customs obligations. Peru needs to improve the level of coordination between SUNAT's internal entities, internal taxes and Customs, in order to carry out a proper system of post-clearance audits<sup>72</sup>.

The USAID MRPCTCBA considers the post-clearance audits highly effective from an enforcement perspective but suggests that they still lack both the flexibility and the incentive to support Customs goals in the related areas of trade facilitation and voluntary compliance. The Monitoring Report does not advance a performance improvement plan nor does it recommend other non-punitive remedial actions when unintentional discrepancies, clerical mistakes, or good faith technical errors arise<sup>73</sup>.

In the area of risk management (Article 7.4) the USAID MRPCTCBA indicates that SUNAT has a high degree of sophistication in its area of specialization, on par with best practices. The Report further indicated a clear understanding of SUNAT in the facilitation of legitimate trade. At the same time, the Report observes an inadequate risk management system and deficient regulations regarding restricted and dangerous goods, of which 100% are inspected physically<sup>74</sup>.

There is no legislation in Peru regulating Customs clearance and the release of imported perishable goods (Article 7.9). Accordingly, Peru should approve procedures for the importation of perishable goods that:

- Allow release within the shortest possible time;
- Provide for release, where appropriate, outside normal Customs business hours;
- Give priority perishable goods when scheduling examinations;
- Allow such goods to be stored in appropriate conditions for their conservation, where facilities approved by the relevant authorities are available; where practicable, and upon request, allow release to occur at these storage facilities; and
- Require Customs to give a written explanation to the importer, on request, when there is a significant delay in the release of the goods.

Likewise, Peru has not adopted a system of issuing notifications or guidance to its concerned authorities for enhancing the level of controls or inspections at the border in respect of foods, beverages or feedstuffs covered under the notification or guidance for protecting human, animal or plant life or health within its territory (Article 5).

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<sup>72</sup> See, Inter-American Center of Tax Administrations – CIAT, General Directorate of Public Finances – GDPF (2010).

<sup>73</sup> See, USAID (2013).

<sup>74</sup> See, USAID (2013).

Peruvian customs (or any other responsible authority) has not established a formal policy to implement and publish the results of a time release study on a regular basis. So, this good practice should be put into practice in the near future (Article 7.6).

As the presence of a custom broker is mandatory for customs procedures in the Peruvian Customs Law, the Peruvian Customs Agents Association were against the EU proposal to eliminate the obligation to hire them in the release of goods. Consequently, Peru maintains this requirement for customs clearance purposes (Article 10.6).

Peru regulates the transit regime (Article 11) in its National Customs Law, incorporating the internal transit system and the international transit regime. Moreover, Peru signed a sub-regional transit agreement in LAIA (Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay) and with the Andean countries. Besides, Peru entered into bilateral transit agreements with Bolivia, Ecuador and Chile.

As Peru wants to become a regional hub, it requires public policies to create economic corridors in which the international transit of goods and services are crucial. Since there is no developed multi-modal transport modes, Peru should reinforce its infrastructure, technology and regulatory framework to strengthen the transit regime (Article 11). Finally, Peru has to look forward to improving customs cooperation given the prevalence of dangerous and illegal activities at its border, such as narcotics traffic and trade in endangered species of wild fauna and flora (Article 12).

### **Logistics and Transport Facilitation**

Trade facilitation, logistics and transport facilitation are issues which have not been distinguished clearly enough in the specialized literature. Trade Facilitation, as a topic in itself surfaced just after the end of the Uruguay Round. Besides, as import tariffs continue to recede, logistics and international trade is becoming a crucial issue in an era fragmented production and global value chains. Consequently, as the new WTO Trade Facilitation Agreement chiefly regulates border measures and constraints, behind the borders restrictions impeding TF are not yet properly governed at the multilateral level.

### **The multilateral approach in GATS**

Logistics services in GATS and other trade agreements are not currently subject to an integrated approach. Charles Kunaka, Monica Alina Mustra and Sebastian Saez<sup>75</sup> specify that GATS has three important weaknesses regarding logistics services that can

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<sup>75</sup> See, Kunaka, Ch., Mustra, M., and Saez, S. (2013)

be addressed directly by WTO members. The first is the explicit exclusion of air transportation traffic rights and services directly related to their exercise. Second, maritime transport services commitments (international shipping, auxiliary services and access and use of port facilities) are limited to the GATT framework. And thirdly, the main focus of the negotiations is about market access and national treatment, but additional disciplines about regulatory disciplines are important for logistics services development. Besides, fully 32 WTO members included in their Uruguay Round commitments on international maritime transport services, the suspension of negotiations, including the full application of the MFN clause, meaning that the current coverage of maritime services by WTO members' commitments is limited<sup>76</sup>.

### **The “traditional” preferential regulation of logistics and transport services in integration schemes**

In line with the multilateral approach depicted above, neither regional nor bilateral trade agreements have adopted coherent rules on logistics services. T.R. Lakshmanan and William P. Anderson<sup>77</sup> analyze the transport sector's role in the regional integration process. These authors split an advanced trade and transport facilitation system into two components: (i) the physical infrastructure (transport infrastructure and facilities, and communication infrastructure that complements transport infrastructure) and (ii) non-physical infrastructure (knowledge and competencies applied to the physical infrastructure).

Within the European Union, the Treaty of Rome set up as a goal an integrated transport system based on the following principles: interoperability, free market access, and interconnection. Interoperability assumes to the prior harmonization of technical standards; free market access refers to the freedom of transportation service providers to operate outside their own countries – rules permitting *cabotage* and interconnection refer to the need to forge links between transportation networks that have been developed with national needs and goals in mind in order to create a common regional network.

Lakshmanan and Anderson<sup>78</sup> indicate that, despite the good intentions of Community authorities, this process was delayed, basically due to national authorities retaining regulatory sovereignty over transport policies. A supranational institution, the European Court of Justice, played a critical role in breaking down the national prerogatives that had prevented the emergence of a common transport policy. After

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<sup>76</sup> See, Kunaka, Ch., Mustra, M., and Saez, S. (2013)

<sup>77</sup> European Conference of Ministries of Transport, (2007), ECMT Round Tables No. 134 Market Access, Trade in Transport Services and Trade Facilitation Paperback – June 5, 2007 Lakshmanan, T. R. and Anderson W. P. , Transport's Role in Regional Integration Processes.

<sup>78</sup> See, European Conference of Ministries of Transport, (2007).

30 years, in 1992, the Common Transport Policy was established in the Treaty of the European Union, establishing Trans-European Networks. Guillermo Perry<sup>79</sup> emphasizes the European case in which there is a strong transnational structure, which is governed through consensus but is endowed with the power and resources to do top down designs and facilitate the allocation of costs by subsidizing poorer countries with its own resources.

The process of integrating all transport modes was far from smooth within the North American Free Trade Agreement signatories (NAFTA), despite the fact that (first the US and then Canada) deregulated their transportation service industries in the 1980s. In North America, the process of transport deregulation and privatization has played a complementary role alongside more limited trade and investment liberalization to promote interregional transport integration. Despite the regulatory reform efforts that have proceeded in Canada, Mexico and the US, there is still a remnant of restrictions in the form of *cabotage* rules that continue to hinder efficient transborder operations<sup>80</sup>.

NAFTA Members confront a vast unfinished agenda in the transportation sector, including: harmonization of regulations, compatibility of infrastructure and integration of business relations. There are still infrastructural constraints in the NAFTA territorial space. Freight movements between Mexico, Canada and the United States continue to be hampered by transportation regulations and economic protectionism. All countries impose *cabotage* restrictions that are designed to protect national transportation industries by prohibiting foreign carriers from exploiting the region's integrated market. There are also cumbersome customs procedures, especially in the border between Mexico and the United States, which make commerce more difficult and costly than it should be. Moreover, the continuing conflict regarding cross-border trucking at the Mexico-US border has created a lot of friction among the NAFTA partners<sup>81</sup>.

Given the problems indicated, it can be said that NAFTA is far from implementing an economic corridor between their partners in the near future.

Analyzing Latin America's transport costs, Guillermo Perry<sup>82</sup> points out those countries in the region face transport costs that are significantly higher than those observed in other latitudes. The Initiative for the Integration of Regional Infrastructure in South

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<sup>79</sup> Perry, G. (2014), Regional Public Goods in Finance, Trade, and Infrastructure: An Agenda for Latin America, Center for Global Development, Policy Papers, 18/02/2014.

<sup>80</sup> See, European Conference of Ministries of Transport, (2007).

<sup>81</sup> Prentice, B. and Ojah, M. (2001), NAFTA in the Next Ten Years: Issues and Challenges in Transportation, Paper presented at the NAFTA in the New Millennium Symposium University of Alberta, May 24-25, 2001

<sup>82</sup> See, Perry, G. (2014)

America (IIRSA) is an institutional mechanism aimed at coordinating intergovernmental actions adopted by twelve South American countries<sup>83</sup> with a view to building a common agenda to foster projects for the integration of transport, energy, and communications infrastructure.

The COSIPLAN is a forum for political and strategic discussion through consultation, evaluation, cooperation, planning and coordination of efforts, and articulation of programs and projects aimed at implementing the integration of regional infrastructure among UNASUR Member States<sup>84</sup>. It was created at the Third Meeting of the Council of Heads of State of UNASUR held in the city of Quito on January 28, 2009.

However, the results of IIRSA are modest to date due to the following reasons: first, the project portfolio does not differentiate projects likely to have a strong regional-connectivity impact from those whose benefits would largely be confined to the project country. The result has been a high proportion of individual country infrastructure projects in the IIRSA portfolio, which has kept the Initiative from its original mandated regional integration focus. Second, there was an overwhelming emphasis on searching for multilateral financing in hard infrastructure projects, with scant attention paid to regulatory issues. Finally, there has been a lack of an institutional structure empowered to promote, design, finance and execute transnational projects. As Guillermo Perry mentions, neither MERCOSUR nor the Andean Community have yet addressed the need to coordinate actions in physical integration and infrastructure regulation.

Lessons to be considered by Peru are that articulating national and sub-regional strategies in trade facilitation, logistics and transport facilitation necessitate proper integration structures for designing and implementing such programs.

### **Logistics and Transport Facilitation in the Asia-Pacific region**

Notwithstanding the lack of a clear framework for trade facilitation, countries in the Asia-Pacific region have nonetheless advanced from a concept of trade facilitation at the borders to a more comprehensive concept of logistics, transport facilitation, connectivity. Such an approach was developed recently within APEC, ASEAN and various other sub-regional integration schemes, including bilateral FTAs. It is important to note that the TF agenda of these countries cover both border and behind the border measures in order to improve simultaneously border management,

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<sup>83</sup> Mercosur members' are: Argentina; Brazil; Paraguay; Uruguay; and Venezuela. Bolivia became an acceding member on 7 December 2012.

<sup>84</sup> Unasur members' are: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela.



logistics and transport policies, as well as to further competitiveness at both the national and regional levels.

One example of this approach is the movement from the APEC's Trade Facilitation Action Plan (TFAP, 2001-2010) to a Supply Chain Connectivity Action Plan (UNESCAP 2010-2015). The TFAP's first phase, which started in 2001, saw APEC Leaders call for a 5 per cent cut in trade transaction costs over four years until 2006. To realize this, the APEC Trade Facilitation Principles were endorsed in close participation with the private sector. The second phase of the TFAP was launched in 2007 with the objective of a further 5 percent reduction in transaction costs. APEC Members' Trade Facilitation Plans concentrated on border issues such as customs facilitation, APEC travel card and facilitation of the movement of goods via the adoption of harmonized standards and Mutual Recognition Agreements. In 2009, APEC moved beyond reducing transaction costs and expanded its trade facilitation work to cover other associated transport, communication and related regulatory behind the border costs, including trade logistics, in the region's trade facilitation agenda. This forum realized that in the current economic environment, businesses seek short transit times, reliable delivery schedules, careful handling of goods, certification of product quality and security from theft. After receiving inputs from the private sector, APEC Members developed their Supply Chain Connectivity Framework Action Plan in 2009. The SCFAP was developed to counteract eight critical supply chain "chokepoints".

These chokepoints are the following: 1) Lack of transparency/awareness of the full scope of regulatory issues affecting logistics; Lack of awareness and coordination among government agencies on policies affecting logistics sector; Absence of single contact point or champion agency on logistics matter; 2) Inefficient or inadequate transport infrastructure; Lack of cross border physical linkages (e.g. roads, bridges); 3) Lack of capacity of local/regional logistics sub-providers; 4) Inefficient clearance of goods at Customs; Lack of coordination among border agencies, especially relating to clearance of regulated goods "at the border"; 5) Burdensome customs documentation and other procedures (including to preferential trade); 6) Underdeveloped multimodal transport capabilities; inefficient air, land, and multimodal connectivity; 7) Variations in cross-border standards and regulations for movement of the goods, services and business travelers; and 8) Lack of regional cross – border customs-transit arrangements.

The core objective of the above efforts is to reduce trading times, costs and uncertainty by 10 percent by 2015. APEC now focuses on three main areas that will merge with the regional grouping's connectivity agenda: 1) improving reliability by reducing supply chain uncertainty characterized by the lack of consistency in supply chain transit time around which users have organized their activities, 2) building

awareness of the risks of connectivity and 3) higher visibility through the creation of an information-sharing platform that could ensure real-time integrity of the data<sup>85</sup>.

The 2013 Interim Assessment for Supply Chain Connectivity Framework Action Plan points out that: first, in terms of time, APEC economies have been quite successful in reducing trade times by nearly 7% (using Doing Business data on export time and LPI data on import time). Second, in terms of costs, there is some indication of a cost increase, which would be explained by unexpected supply chain disruptions due to natural events such as earthquakes and floods. Third, in terms of uncertainty based on the percentage of shipments meeting firm quality criteria from the LPL, there has been an increase of about 4% over the 2009-11 period. The percentage of shipments that are physically inspected also showed significant improvement and met the interim target. Collectively, this could be interpreted to mean a similar reduction in the level of supply chain management uncertainty.

Despite the optimism noted above, Edna Ramírez Robles<sup>86</sup> presents different comments about the connectivity of the Latin American members of APEC (Mexico, Peru and Chile), saying that the three countries present some advances in the software of TF (i.e. border procedures) rather than a marked improvement in the hardware (i.e. the physical infrastructure) linked to logistics.

The above supply chain perspective was also adopted among the member states of the Association of Southeast Asian Nations (ASEAN). ASEAN's vision has evolved to treat logistics as a part of the core integration agenda in its own right. The 2007 Roadmap for the Integration of Logistics Services effectively designates logistics as an additional priority sector (ADA). The ASEAN roadmap recognizes this by identifying five core principles, which can be developed into detailed sets of actions and time frames: i) progressive liberalization of transport and logistics services sectors; ii) enhanced competitiveness of ASEAN logistics providers through trade and logistics facilitation; iii) expanded capability of logistics services providers in ASEAN; iv) development of human capacities in logistics; and v) upgraded multimodal transport infrastructure and investment.

According to the ADA, ASEAN's approach is notable for its ambition. It covers both physical and regulatory infrastructure. It goes further by addressing the need to invest in sector-specific human capital as well. Each of the principles set out above is used as

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<sup>85</sup> Basu Das, S., Phuong Thao, P. T. and James, C. R., (2013), APEC and ASEAN Connectivity: Areas of Mutual Interest and Prospects of Cooperation, ISEAS Perspective No. 28 2013, Singapore 8 May 2013.

<sup>86</sup> Ramírez Robles, E. (2013) Facilitación del comercio en APEC, la participación de Latinoamérica en la conectividad de sus cadenas de suministro, ¿Soft o Hard? Puentes, Volume 14 - Number 6, <http://www.ictsd.org/bridges-news/puentes/news/facilitaci%C3%B3n-del-comercio-en-apec-la-participaci%C3%B3n-de-latinoam%C3%A9rica-en-la>

an organizing concept for a set of specific policy goals, each of which has a designated implementing agency within ASEAN and a set timeline for implementation.

The ADA remarks that ASEAN's experience in enhancing the performance of the grouping's logistics sector as part of the broader regional integration agenda suggests a number of useful lessons for policy makers. These include the following: i) an enhanced logistics sector has the potential to significantly boost regional and international trade; ii) reform of the logistics sector needs to be broad-based, covering sector-wide regulations, infrastructure, and the general trading environment; iii) general principles should be backed up by detailed, precise commitments, attribution of responsibility to implementing agencies, and verifiable timelines; iv) coordination of actors at the national and international levels is vital to the success of reforms, given the dispersion of responsibilities and expertise across agencies.

In 2010, ASEAN Leaders adopted the Master Plan on ASEAN Connectivity. Connectivity is crucial for physical, institutional and people-to-people connectivity is not only important to reduce business transaction costs, time and travel costs, but also to connect the "core" and the "periphery" in ASEAN, thus distributing the benefits of multi-faceted growth more widely in the region and reducing the development divide in ASEAN.

ASEAN thus has a three-pronged strategy for enhancing connectivity:

**Physical connectivity:** This includes land and maritime transport, ICT, and energy infrastructure. Currently, in ASEAN, the physical infrastructure, particularly in the less developed members, is characterized by structural weaknesses. Most ASEAN countries are also short of soft "infrastructure" (ICT), which is an important prerequisite for the next step of development. This calls for the upgrading of existing infrastructure, the construction of new infrastructure and the harmonization of regulatory frameworks.

**Institutional connectivity:** This relates to free flow of goods and investment and transport facilitation. ASEAN countries continue to struggle with the issue of NTBs to trade and investment. While some such barriers are necessary – for example, to protect the environment or the health of the humans, animals or plants - others unnecessarily distort trade flows and restrict competition. To address this, ASEAN needs to harmonize standards and conformity assessment procedures, and operationalize key transport facilitation agreements to reduce the cost of moving goods across the borders. In addition, ASEAN Member States must fully implement their respective National Single Windows towards realizing the ASEAN Single Window by 2015.

**People-to-people connectivity:** This entails deeper intra-ASEAN cultural interaction, greater intra-ASEAN people mobility through the progressive relaxation of visa requirements and the development of mutual recognition arrangements (MRAs) to facilitate ongoing efforts to increase greater interactions between the peoples of ASEAN.

In the area of connectivity, the themes that APEC proposes to collaborate with ASEAN on are: customs procedures, risk management methodologies, single window procedures, aviation and multimodal transport, mutual recognition agreements and harmonization devices.

At the sub-regional level, there are many integration schemes which adopt a supply chain perspective, combining trade facilitation, logistics and transport facilitation. In the case of the Greater Mekong Sub-region (GMS), for instance, the approach to trade cost reduction is improving regional connectivity, first through the creation of transport corridors programs, followed by the provision of regulatory support to regional infrastructure development through the GMS cross-border transit agreement (CBTA). The transport corridors program has developed transport networks throughout the sub-region to increase trade volumes within and outside the GMS. The CBTA covers customs and border formalities, exchanges of commercial traffic rights, transit regimes, infrastructure standards, and vehicle requirements for cross-border traffic.

Another example is the Central Asia Regional Cooperation Economies (CAREC) to reduce trade through an ambitious program of trade facilitation and transport. The CAREC Joint Transport and Trade Facilitation Strategy developed priority corridors, which were focused on improvements in trade facilitation measures, thereby creating synergistic effects on trade cost reduction.

The Brunei Darussalam and border areas of Indonesia, Malaysia, and the Philippines (BIMP-EAGA) offers another example of coordinating policies of trade facilitation with logistics services and transport facilitation. The goal of breaking the vicious cycle of low trade volumes – no connectivity - is approached by sequencing reforms. Fragmented supply chains and improvements in trade facilitation measures are first addressed, followed by the development of transport networks. This sequence of reforms is borne out of a diagnostic analysis that identifies critical constraints to integration and trade. The approach to developing the potential sub-regional economic corridor in the Pacific is building border relations with neighbors, covering border management and border infrastructure and services.

## Section 5

Peru needs to adopt many public policies in order to have coherent trade facilitation, logistics and transport sector results. The country also must interconnect multilateral, mega-regional, bilateral and sub-regional initiatives in this field in order to accelerate internal and region-wide reforms.

### The domestic reform agenda

At the national level, there is no connection between trade facilitation and logistics and transport facilitation policies. The new wave of trade facilitation reforms has come chiefly from the rules found in the free trade agreements negotiated by Peru (especially in the Peru-USA FTA). The most important efforts to implement these new rules have been made by the Peruvian Customs. However, there are many pending challenges in implementing comprehensive trade facilitation plans over the medium-term.

The main topics that would need to form part of the country's future trade facilitation agenda include: customs automation, single window (there is a considerable delay to 100% implementation), adoption of WCO international customs standards, border agency cooperation, strengthening of human resources, post-clear audits, risk management, procedures for clearance and release of perishable imports, improvement of the transit regimes, reduction of costs of international trade, etc. The full implementation of the WTO Trade Facilitation Agreement would be a very good guide for how the country should pursue its own reform.

Besides, there are many stakeholders in the public sector that need to be involved in promoting trade facilitation in the country, such as the Peruvian Customs, the Ministry of External Commerce and Tourism (MINCETUR) and the National Competitiveness Council, an entity related to the Ministry of the Economy. Equally necessary is to include more entities related to international trade, such as the Ministry of Transport and Communications, the Port Authority, the National Service for Agriculture Health (SENASA), the National Service for Fisheries Health, the Peruvian Institute of Fish Technology (SANIPES/ITP), the Anti-Drugs Police Department (DIRANDRO), the General Division of Environmental Health (DIGESA), the General Division of Medical Supplies and Drugs (DIGEMID), and the local authorities). There is a critical need to reinforce the institutional platform required to design and implement a holistic TF reform agenda.

There are many public institutions in Peru in charge of various elements of trade facilitation, logistics and transport liberalization issues (the latter two lying in the sphere of the Ministry of Transport and Communications). This situation confuses the

private sector, whose representatives must attend several different forums, receiving potentially conflicting policy messages and plans. From the very outset, Peru needs to design a proper institutional architecture in order to accelerate the reform process in trade facilitation, logistics and transportation services.

The Asian Development Bank and the United Nations<sup>87</sup> recommend as guidelines for the design of trade facilitation plan the following key elements:

- High-level political commitment
- Public and private consultation and partnership
- Early identification of legislative requirements
- Identification of financial requirements and funds availability
- Integrated approach
- Pilot and phased implementation
- Transparency
- Built-in training and technical support
- Performance and progress

The ADB and the UN also recommend the study of the following key areas:

- Trade and customs laws and regulations
- Trade documentation and related procedures
- Trade and customs control and enforcement
- Computerization and automation

Peru's trade facilitation plan should also be coordinated with the logistics and transport facilitation strategy in order to achieve better results. From a hardware/infrastructure perspective, Peru still needs to increase its investments in land roads, airports, and ports in order to be competitive in the region. Trade-related infrastructure should be created and fostered. Specifically, it is necessary to develop infrastructure at the borders in order to allow the emergence of effective transit corridors and logistics zones.

Meanwhile, the software side of logistics and transport services remains underdeveloped in Peru. A comprehensive regulatory assessment is needed for Peruvian Logistics operators. Also necessary is the performance of a due diligence audit of regulations on entry and operations in order to avoid needlessly burdensome regulation and to improve their quality and efficiency. Equally important is the need to adopt international standards in the whole logistics supply chain.

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<sup>87</sup> See The Asian and Development Bank and United Nations Economic and Social Commission for Asia and the Pacific (2013)

As was mentioned in Section 3 above, implementation of the Development Plan on Logistics Services and Transport developed by the Ministry of Transport and Communication and the IADB in 2011 is still pending. This plan should be geared up with the trade facilitation one following the approach championed within the Asia-Pacific region (such as APEC's Supply Chain Connectivity Action Plan, ASEAN's Roadmap for the Integration of Logistics Services, the Indonesian National Logistics Blueprint, and the Korean Logistics Master Plan).

### **The lack of a sub-regional reform**

Having in mind that Peru wishes to become a regional hub, domestic reform efforts in trade facilitation, logistics and transport will not suffice in reaching this goal. The Andean region as a whole needs to be engaged more resolutely for any durable improvements in TF performance to take hold in Peru.

Unfortunately, to date, the member states of the Andean Community have not taken a strategic approach to addressing their common TF challenges in an integrated manner. The region seems paralyzed by region-wide political tensions. Land transport reforms raise particular challenges inside the Community. All of the above problems appear intractable within the CAN forum, preventing needed regional progress and the supply of regional public goods required for sustained improvements in TF performance.

Despite the existence of TF chapters in the various preferential trade agreements entered into by countries in the region, and beyond the pressure for deeper domestic reforms, it is necessary that deeper integration schemes give a helping hand since behind the border measures need to be tackled to advance the TF reform agenda. Examples such as the Trans-European Networks in the European Union and the development of various transport corridor projects in Europe, Central and South-East Asia need to be studied and key lessons learned within the region if Peru is to improve its own connectivity and overall TF performance and competitiveness. Without more effective regional integration architecture, sustained progress will likely remain elusive.

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## ANNEX 01 - LOGISTICS DEFINITIONS

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
Managing the request-offer negotiation under the GATS	UNCTAD	Logistics can be defined as the management of global supply chains. The services provided by logistics companies include: management of customs procedures, setting up of assembly and manufacturing plants; groupage; warehousing, information logistics services; and transportation with selection of carriers and negotiations of tariffs. Some value added services include management of warranty support programs, return and repair as well as global logistics services	Management of customs procedures	Customs and other formalities	X	X
			Setting up of assembly and manufacturing plants	Assembly	X	X
			Groupage	Consolidation	Handling	X
			Warehousing	Warehouse	X	X
			Information logistics services	Information	X	X
			Transportation with a selection of carriers	Carriage	Selection of carriers	Negotiations of tariffs
			Management of warranty support programs	Custom service	X	X
			Return and repair	Custom service	Repair	Value added service
			International services	Value added services	X	X
		3 PL firms specialize in integrated logistics services. They address the logistics needs of their clients by integrating, transportation, warehousing, inventory control, order processing, customs brokerage and other logistics activities in processing a comprehensive and seamless supply chain management system. Firms in the 3 PL sub-sector provide a	Transportation	Carriage	X	X

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
		designed set of customized logistics services, tailored to the exact needs and specifications of their clients.				
			Warehousing	Warehouse	X	X
			Inventory control	Inventory	X	X
			Order processing	Order processing	X	X
			Customs brokerage	Customs and other formalities	X	X
			Customized logistics services	Customized logistics services	X	X
			Integration of services	Integration of suppliers	X	X
		Fourth-party logistics (4PLs) goes one step further than 3PL and involves the integration of all companies involved in the supply chain. This guarantees that planning, steering and controlling of all logistics procedures will be done by a simple service provider with a long-term strategic objective.	Integration of all companies involved in the supply chain	Integration of suppliers	X	X
		Planning all procedures	Design of supply chain	X	X	
Steering and controlling of all logistics procedures	Management of supply chain	X	X			
Terminology on combined transport	UNECE	Logistics: "The process of designing and managing the supply chain in the wider sense." "The chain can extend from the delivery of supplies for manufacturing, through the management of materials at the plant, delivery to warehouses and distribution centers, sorting, handling, packaging and final distribution to point of consumption."	Delivery of supplies for manufacturing	Delivery (inbound)	X	X
			Management of materials at the plant	Inventory	X	X

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
			Delivery to warehouses and distribution centers	Delivery (outbound)	X	X
			Sorting	Processing of goods	X	X
			Handling	Handling	X	X
			Packaging	Packaging	X	X
			Final distribution to point of consumption	Distribution	X	X
			Designing the supply chain	Design of supply chain	X	X
			Managing the supply chain	Management of supply chain	X	X
Supply Chain Challenges for National Competitiveness through Transport (Informative document for the 73rd session of the ITC, Agenda item 10 (g))	UNECE	Quoting Council of Supply Chain Management Professionals (CSCMP): Logistics is "The process of planning, implementing, and controlling procedures for the efficient and effective transportation and storage of goods including services, and information from the point of origin to the point of consumption for the requirements. This definition includes inbound, outbound, internal and external movements." "Supply Chain is 1) Starting with unprocessed raw materials and ending with the final customers using the finished goods, the supply chain links many companies together. 2) The material and informational interchanges in the logistical process stretching from the acquisition of raw material delivery of finished products to end user. All vendors, service providers and customers are links in the supply chain."	Planning procedures for transportation	Design of transport operations	X	X
		"Based on the definition of supply chain and logistics, the role of logistics can be divided into the transportation and the storage of the goods. It consists of the planning, implementation and the control of these tasks."	Implementing and controlling procedures for transportation	Carriage	Management of transport operations	X
			Planning procedures for	Design of warehousing	X	X

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
			storage of goods			
			Implementing and controlling procedures for storage of goods	Warehouse	Management of warehousing	
			Planning, implementing, and controlling procedures for related information	Information services	X	X
Logistics Performance Index 2012	World Bank	"Logistics: organizing the movement of goods over time and space has evolved from its 19th century military roots to today's international supply chains. AS the backbone of international trade, logistics encompasses freight transportation, warehousing, border clearance, payment system, and many other functions."	Freight transportation	Carriage	x	x
			Warehousing	Warehouse	x	x
			Border clearance	Customs and other formalities	x	x
			Payment systems	Payment	x	x
To What Extent Are High-Quality Logistics Services Trade Facilitating? OECD Trade Policy Papers	OECD	"For the purposes of this study, trade logistics is defined to include the range of services and processes that are involved in moving goods from one country to another. It includes customs and administrative procedures, organization and management of international shipment operations, tracking and tracing, and the quality of transport and information technology infrastructure. Only logistics services that are directly related to international trade and the transport of goods from the economy to another are covered; the analysis does not pertain, for example, to logistics that are directly related to end-user distribution subsequent the goods arrival in the destination country".	Customs and administrative procedures	Customs and other formalities	x	x
			Organization and management of international	Carriage	Management of transport	x

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
			shipment operations		operations	
			Tracking and tracing	Track and trace	x	x
			Information technology infrastructure	Information services	x	x
			Quality of transport	Management of transport operations	x	x
Managing the request-offer negotiation under the GATS	UNCTAD	Logistics can be defined as the management of global supply chains. The services provided by logistics companies include: management of customs procedures, setting up of assembly and manufacturing plants; groupage; warehousing, information logistics services; and transportation with selection of carriers and negotiations of tariffs. Some value added services include management of warranty support programs, return and repair as well as global logistics services	Management of customs procedures	Customs and other formalities	x	x
			Setting up of assembly and manufacturing plants	Assembly	x	x
			Groupage	Consolidation	Handling	x
			Warehousing	Warehouse	x	x
			Information logistics services	Information	x	x
			Transportation with a selection of carriers	Carriage	Selection of carriers	Negotiations of tariffs
			Management of warranty support programs	Custom service	x	x
			Return and repair	Custom service	Repair	Value added service

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
			International services	Value added services	x	x
		3 PL firms specialize in integrated logistics services. They address the logistics needs of their clients by integrating, transportation, warehousing, inventory control, order processing, customs brokerage and other logistics activities in processing a comprehensive and seamless supply chain management system. Firms in the 3 PL sub-sector provide a designed set of customized logistics services, tailored to the exact needs and specifications of their clients.	Transportation	Carriage	x	x
			Warehousing	Warehouse	x	x
			Inventory control	Inventory	x	x
			Order processing	Order processing	x	x
			Customs brokerage	Customs and other formalities	x	x
			Customized logistics services	Customized logistics services	x	x
			Integration of services	Integration of suppliers	x	x
		Fourth-party logistics (4PLs) goes one step further than 3PL and involves the integration of all companies involved in the supply chain. This guarantees that planning, steering and controlling of all logistics procedures will be done by a simple service provider with a long-term strategic objective.	Integration of all companies involved in the supply chain	Integration of suppliers	x	x
			Planning all procedures	Design of supply chain	x	x
			Steering and controlling of all logistics procedures	Management of supply chain	x	x
Terminology on combined	UNECE	Logistics: "The process of designing and managing the supply chain in the wider sense."	Delivery of supplies for manufacturing	Delivery (inbound)	x	x



Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
transport		"The chain can extend from the delivery of supplies for manufacturing, through the management of materials at the plant, delivery to warehouses and distribution centers, sorting, handling, packaging and final distribution to point of consumption."				
			Management of materials at the plant	Inventory	x	x
			Delivery to warehouses and distribution centers	Delivery (outbound)	x	x
			Sorting	Processing of goods	x	x
			Handling	Handling	x	x
			Packaging	Packaging	x	x
			Final distribution to point of consumption	Distribution	x	x
			Designing the supply chain	Design of supply chain	x	x
			Managing the supply chain	Management of supply chain	x	x
Supply Chain Challenges for National Competitiveness through Transport (Informative document for the 73rd session of the ITC, Agenda	UNECE	Quoting Council of Supply Chain Management Professionals (CSCMP): Logistics is "The process of planning, implementing, and controlling procedures for the efficient and effective transportation and storage of goods including services, and information from the point of origin to the point of consumption for the requirements. This definition includes inbound, outbound, internal and external movements." "Supply Chain is 1) Starting with unprocessed raw materials and ending with the final customers using the finished goods, the supply chain links many companies together. 2) The material and informational interchanges in the logistical process stretching from the acquisition of raw material delivery of finished products to end user. All vendors,	Planning procedures for transportation	Design of transport operations	x	x

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
item 10 (g))		service providers and customers are links in the supply chain."				
		"Based on the definition of supply chain and logistics, the role of logistics can be divided into the transportation and the storage of the goods. It consists of the planning, implementation and the control of these tasks."	Implementing and controlling procedures for transportation	Carriage	Management of transport operations	x
			Planning procedures for storage of goods	Design of warehousing	x	x
			Implementing and controlling procedures for storage of goods	Warehouse	Management of warehousing	
			Planning, implementing, and controlling procedures for related information	Information services	x	x
Logistics Performance Index 2012	World Bank	"Logistics: organizing the movement of goods over time and space has evolved from its 19th century military roots to today's international supply chains. AS the backbone of international trade, logistics encompasses freight transportation, warehousing, border clearance, payment system, and many other functions."	Freight transportation	Carriage	x	x
			Warehousing	Warehouse	x	x
			Border clearance	Customs and other formalities	x	x
			Payment systems	Payment	x	x
To What Extent Are High-Quality Logistics Services Trade Facilitating?	OECD	"For the purposes of this study, trade logistics is defined to include the range of services and processes that are involved in moving goods from one country to another. It includes customs and administrative procedures, organization and management of international shipment operations, tracking and tracing, and the quality of transport and information technology infrastructure. Only logistics services that are	Customs and administrative procedures	Customs and other formalities	x	x

Document	Organization	Scope of sector	Described services	Services ID 1	Services ID 2	Services ID 3
OECD Trade Policy Papers		directly related to international trade and the transport of goods from the economy to another are covered; the analysis does not pertain, for example, to logistics that are directly related to end-user distribution subsequent the goods arrival in the destination country".				
			Organization and management of international shipment operations	Carriage	Management of transport operations	x
			Tracking and tracing	Track and trace	x	x
			Information technology infrastructure	Information services	x	x
			Quality of transport	Management of transport operations	x	x

Source: Guide to Key Issues in Development of Logistics Policy UNESCAPE

## ANNEX 02 – CANADA-PERU TRANSPORT SERVICES NEGATIVE LIST

Sector	Reservation/Commitment	Obligations	Modes covered	Applied Measure
			*	*
<b>Horizontal</b>				
All sectors	"Investment and Cross-Border Trade in Services. All employers in Peru, independently of their activity or nationality, shall give preferential treatment to nationals when hiring its employees. Foreign natural persons who are service providers and who are employed by a service-providing enterprise may provide services in Peru under a written and time-limited employment contract, which may not exceed 3 years. Foreign natural persons may not represent more than 20 per cent of the total number of employees of an enterprise, and their pay may not exceed 30 per cent of the total payroll for wages and salaries.	NT	1, 2, 3, 4	X
All sectors	"Investment and Cross-Border Trade in Services. Peru reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreements in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters[*], including salvage."	MFN	1, 2, 3, 4	
All sectors	"Cross-Border Trade in Services Cross-Border Trade in Services Peru reserves the right to adopt or maintain any measure relating to ...Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment: For (a), (b) and (c): None, except that: A 'National Shipowner' or 'National Ship Enterprise' is understood as a natural person of Peruvian nationality or juridical person constituted in Peru, with its principal domicile and real and effective headquarters in Peru, whose business is to provide water transportation services in national traffic or cabotage [*] and/or international traffic and who is the owner or lessee under a financial lease or a bareboat charter, with an obligatory purchase option, of at least one Peruvian flag merchant vessel and that has obtained the relevant Operation Permit from the General Aquatic Transport Directorate. Cabotage is exclusively reserved to Peruvian flagged merchant vessels owned by a National Shipowner or National Ship Enterprise or leased under a financial lease or a bareboat charter, with an obligatory purchase option, except that: (i) up to 25 per cent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy, and (ii) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprise for a period of no more than six months for water transportation exclusively between Peruvian ports or cabotage when such an entity does not own its own vessels or lease vessels under the modalities previously mentioned. For (d): No commitments, except as indicated in the 'Ley para la Contratación de Trabajadores Extranjeros'	MA	1, 2, 3, 4	
	...Road Transport: rental of commercial vehicles with operator, maintenance and repair of road transport equipment, and exploitation of roads, bridges and tunnels services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the 'Ley para la Contratación de Trabajadores Extranjeros'. Services auxiliary to all transport: cargo handling services; storage and warehouse services; freight transport agency services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the 'Ley para la Contratación de Trabajadores Extranjeros'.			

Sector	Reservation/Commitment	Obligations	Modes covered	Applied Measure
	<p>...Aircraft repair and maintenance services: For (a): No commitments. For (b) and (c): None. For (d): No commitments, except as indicated in the 'Ley para la Contratación de Trabajadores Extranjeros'. Selling and marketing of air transport services, and computer reservation system services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the 'Ley para la Contratación de Trabajadores Extranjeros'.</p> <p>...Pipeline transport services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the 'Ley para la Contratación de Trabajadores Extranjeros'.</p>			
All sectors	"Cross-Border Trade in Services Peru reserves the right to adopt or maintain any measure affecting the supply of a service supplied in the exercise of governmental authority. A 'service supplied in the exercise of governmental authority' means a service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers."	NT MFN MA Local Pres.	1, 2, 3, 4	
All sectors	Investment no foreign national, enterprise constituted under foreign law or enterprise constituted under Peruvian law, and owned in whole or part, directly or indirectly, by foreign nationals may acquire or own, directly or indirectly, by any title, land or water (including mines, forest or energy sources) located within 50 kilometers of the Peruvian border. Exceptions may be authorized by Supreme Decree approved by the Council of Ministers in conformity with law in cases of expressly declared public necessity.	NT	3	X
All sectors	Depending each Free Trade Agreement it is negotiated Temporary entry for business persons	Mode 4 chapter	4	
<b>11.A Maritime Transport Services</b>				
<b>- sector-specific reservations on:</b>				

Sector	Reservation/Commitment	Obligations	Modes covered	Applied Measure
Aquatic transport	<p>"Investment and Cross-Border Trade in Services</p> <p>1. A 'National shipowner' or 'National Ship Enterprise' is understood as a natural person of Peruvian nationality or juridical person constituted in Peru, with its principal domicile and real and effective headquarters in Peru, whose business is to provide services in water transportation in national traffic or cabotage[*] and/or international traffic and who is the owner or lessee under a financial lease or a bareboat charter, with an obligatory purchase option, of at least one Peruvian flag merchant vessel and that has obtained the relevant Operation Permit from the General Aquatic Transport Directorate.</p> <p>2. At least 51 per cent of the subscribed and paid-in capital stock must be owned by Peruvian citizens.</p> <p>3. The chairman of the board of directors, the majority of the directors, and the General Manager must be Peruvian nationals and residents in Peru.</p> <p>4. Peruvian-flagged vessels must have a Peruvian captain and the crew must have at least 80 per cent of Peruvian nationals authorized by the 'Dirección General de Capitanías y Guardacostas'. In exceptional cases and after ascertaining that there is no Peruvian qualified captain with experience in that type of vessel available, a foreign national may be authorized to serve as captain.</p> <p>5. Only a Peruvian national may be a licensed harbor pilot. 6. Cabotage is exclusively reserved to Peruvian flagged merchant vessels owned by a National Shipowner or National Ship Enterprise or leased under a financial lease or a bareboat charter, with an obligatory purchase option, except that: (a) up to 25 per cent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy; and (b) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprises for a period of no more than six months for water transportation exclusively between Peruvian ports or cabotage when such an entity does not own its own vessels or lease vessels under the modalities previously mentioned."</p>	NT and Local Presence	1, 2, 3, 4	X
Aquatic transport	<p>"Investment and Cross-Border Trade in Services The following water transport and related services supplied in bay and port areas must be supplied by natural persons domiciled in Peru, and juridical persons constituted and domiciled in Peru, properly authorized with Peruvian flag vessels and equipment:</p> <p>Fuel replenishment services;  Mooring and unmooring services;  Diving services;  Victualing services;  Dredging services;  Harbor pilotage services;  Waste collection services;  Tug boat services; and  Transport of persons."</p>	NT and Local Presence	1, 2, 3, 4	X

Sector	Reservation/Commitment	Obligations	Modes covered	Applied Measure
Aquatic transport	"Cross-Border Trade in Services Cross-Border Trade in Services only natural persons domiciled in Peru or juridical persons constituted and domiciled in Peru may provide tourist water transportation services	Local Pres.	1, 2, 4	X
<b>11.B Internal Waterways Transport</b>				
<b>- sector-specific reservations on:</b>				
Aquatic transport	<p>"Investment and Cross-Border Trade in Services Investment and Cross-Border Trade in Services</p> <p>1. A 'National shipowner' or 'National Ship Enterprise' is understood as a natural person of Peruvian nationality or juridical person constituted in Peru, with its principal domicile and real and effective headquarters in Peru, whose business is to provide services in water transportation in national traffic or cabotage[*] and/or international traffic and who is the owner or lessee under a financial lease or a bareboat charter, with an obligatory purchase option, of at least one Peruvian flag merchant vessel and that has obtained the relevant Operation Permit from the General Aquatic Transport Directorate.</p> <p>2. At least 51 per cent of the subscribed and paid-in capital stock must be owned by Peruvian citizens.</p> <p>3. The chairman of the board of directors, the majority of the directors, and the General Manager must be Peruvian nationals and residents in Peru.</p> <p>4. Peruvian-flagged vessels must have a Peruvian captain and the crew must have at least 80 per cent of Peruvian nationals authorized by the 'Dirección General de Capitanías y Guardacostas'. In exceptional cases and after ascertaining that there is no Peruvian qualified captain with experience in that type of vessel available, a foreign national may be authorized to serve as captain.</p> <p>5. Only a Peruvian national may be a licensed harbor pilot. 6. Cabotage is exclusively reserved to Peruvian flagged merchant vessels owned by a National Shipowner or National Ship Enterprise or leased under a financial lease or a bareboat charter, with an obligatory purchase option, except that: (a) up to 25 per cent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy; and (b) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprises for a period of no more than six months for water transportation exclusively between Peruvian ports or cabotage when such an entity does not own its own vessels or lease vessels under the modalities previously mentioned."</p>	NT and Local Presence	1, 2, 3, 4	X

Sector	Reservation/Commitment	Obligations	Modes covered	Applied Measure
Aquatic transport	<p>"Investment and Cross-Border Trade in Services The following water transport and related services supplied in bay and port areas must be supplied by natural persons domiciled in Peru, and juridical persons constituted and domiciled in Peru, properly authorized with Peruvian flag vessels and equipment:</p> <p>Fuel replenishment services;  Mooring and unmooring services;  Diving services;  Victualing services;  Dredging services;  Harbor pilotage services;  Waste collection services;  Tug boat services; and  Transport of persons."</p>	NT and Local Presence	1, 2, 3, 4	X
Aquatic transport	"Cross-Border Trade in Services Only natural persons domiciled in Peru or juridical persons constituted and domiciled in Peru may provide tourist water transportation services.	Local Pres.	1, 2, 4	X
<b>11.C Air Transport Services</b>				
<b>- sector-specific reservations on:</b>				
Air transport	<p>"Investment National Commercial Aviation is reserved to a Peruvian natural or juridical person. For purposes of this entry, a Peruvian juridical person is an enterprise that fulfils the following requirements:</p> <p>(a) is constituted under Peruvian law, specifies commercial aviation as its corporate purpose, is domiciled in Peru, and has its principal activities and administration located in Peru;</p> <p>(b) at least half plus one of the directors, managers and persons who control and manage the enterprise are Peruvian nationals or have permanent domicile or are normally resident in Peru; and effective control of Peruvian shareholders or partners permanently domiciled in Peru. (This limitation shall not apply to the enterprises constituted under Law N° 24882, which may maintain the ownership percentages set in such law). Six months after the date of authorization of the enterprise to provide commercial air transportation services, foreign nationals may own up to 70 per cent of the capital stock of the enterprise. In those operations conducted by Peruvian service providers ('explotadores nacionales'), personnel performing aeronautical functions on board must be Peruvian nationals.</p> <p>The Directorate General of Civil Aviation may, for technical reasons, authorize foreign personnel to perform these functions for a period not to exceed six months from the date on which the authorization was granted. This time period may be extended if there is proof of a shortage of trained personnel. The General Directorate of Civil Aviation, upon providing proof of a shortage of Peruvian aviation personnel, may authorize non-resident foreign personnel to pilot airplanes and to train Peruvian aviation personnel for a period of up to six months, which may be extended if there is proof of a shortage of Peruvian personnel.</p>	NT	3	X
<b>11.D Space Transport</b>				
<b>- no sector-specific reservations</b>				



Sector	Reservation/Commitment	Obligations	Modes covered	Applied Measure
<b>11.E Rail Transport Services</b>				
<b>- sector-specific reservations on:</b>				
Land transport of passengers	"Cross-Border Trade in Services A supplier of land transport services in Peru must certify in writing that it maintains ground terminals, route stations, stops, and administrative offices in the territory of Peru, according to the corresponding transport services. The transport enterprise must have its own installations, or those of third parties, properly maintained for the management of the enterprise, which will constitute its legal domicile, where the competent authority can conduct the inspections and verifications it deems necessary.	Local Pres.	1, 2, 4	X
<b>11.F Road Transport Services</b>				
<b>- sector-specific reservations on:</b>				
International road transport	"Investment and Cross-Border Trade in Services Peru reserves the right to adopt or maintain any measure relating to the international land transportation of cargo or passengers in border areas. Additionally, Peru reserves the right to adopt or maintain the following limitations for the supply of international land transportation from Peru: 1. the service supplier must be a Peruvian natural or juridical person; 2. the service supplier must have a real an effective domicile in Peru; and 3. in the case of juridical persons, the service supplier must be legally constituted in Peru and more than 50 percent of its capital stock must be owned by Peruvian nationals and its effective control must be by Peruvian nationals.	NT, MFN, and Local Presence	1, 2, 3, 4	
Land transport of passengers	"Cross-Border Trade in Services A supplier of land transport services in Peru must certify in writing that it maintains ground terminals, route stations, stops, and administrative offices in the territory of Peru, according to the corresponding transport services. The transport enterprise must have its own installations, or those of third parties, properly maintained for the management of the enterprise, which will constitute its legal domicile, where the competent authority can conduct the inspections and verifications it deems necessary	Local Pres.	1, 2, 4	X
Land transport	"Cross-Border Trade in Services Foreign vehicles allowed by Peru, in conformity with the ATIT, which carry out international transportation by road, will not be able to provide local transport (cabotage) in the Peruvian territory.	NT	1, 2, 4	X
Road transport services	"Cross-Border Trade in Services Peru reserves the right to adopt or maintain any measure that authorizes only Peruvian natural or juridical persons to supply land transportation of persons or merchandise inside the territory of Peru ('cabotage'). For this, the enterprises shall use vehicles registered in Peru	NT	1, 2, 4	
<b>11.G Pipeline Transport</b>				
<b>- no sector-specific reservations</b>				
<b>11.H Services auxiliary to all modes of transport</b>				
<b>- sector-specific reservations on:</b>				
Customs warehouses services	"Cross-Border Trade in Services Only natural or juridical persons domiciled in Peru may apply for an authorization to operate a customs warehouse	Local Pres.	1, 2, 4	X
Aquatic transport	"Cross-Border Trade in Services Only Peruvian citizens may register in the Registry of Port Workers	NT	1, 2, 4	X
<b>11.I Other Transport Services</b>				
<b>- no sector-specific reservations</b>				

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