

CHAPTER 8: COMPETITION POLICY

Objective:

APEC economies will enhance the competitive environment in order to increase consumer welfare in the Asia-Pacific region, taking into account the benefits and challenges of globalization, the developments in the New Economy and the need to bridge the digital divide through better access by ICT. This objective will be achieved by:

- a. introducing or maintaining effective and adequate competition policy and/or laws and associated enforcement policies;*
- b. promoting co-operation among APEC economies, thereby maximizing, inter-alia, the efficient operation of markets, competition among producers and traders, and consumer benefits; and*
- c. improving the capability of competition authorities, through enhanced capacity building and technical assistance, to better understand the impact of globalization and the New Economy.*

Guidelines

Each APEC economy will:

- a. review its respective competition policy and/or laws and the enforcement thereof, taking into account the “APEC Principles to Enhance Competition and Regulatory Reform”;*
- b. enforce competition policies and/or laws (including those prohibiting anticompetitive practices that prevent access to ICT and other new technologies) in order to ensure protection of the competitive process and promotion of consumer welfare, innovation, economic efficiency and open markets;*
- c. implement and maintain standards which are consistent with the APEC Transparency Standards;*
- d. inform about any pro-competitive efforts undertaken (e.g. enactment of competition laws, whether comprehensive or sectoral);*
- e. implement as appropriate technical assistance in regard to policy development, legislative drafting, and the constitution, powers and functions of appropriate enforcement agencies;*
- f. establish appropriate co-operation arrangements with other APEC economies, including those intended to address the digital divide; and*
- g. undertake additional step as appropriate to support the development of the New Economy and to ensure the efficient functioning of markets.*

Collective Actions

APEC economies will:

- a. collect information and promote dialogue on and study;*
 - (i) the objectives, necessity, role and operation of each APEC economy's competition policy and/or laws and administrative procedures, thereby establishing a database on*

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competition policy;

- (ii) competition policy issues that impact on trade and investment flows in the Asia-Pacific region;*
 - (iii) exemptions and exceptions from the coverage of each APEC economy's competition policy and/or laws in an effort to ensure that each of them is no broader than necessary to achieve a legitimate and explicitly identified objective;*
 - (iv) areas for technical assistance and the modalities thereof, including exchange and training programs for officials in charge of competition policy, taking into account the availability of resources; and*
 - (v) the inter-relationship between competition policy and/or laws and other policies related to trade and investment;*
- b. deepen dialogue about competition policies among APEC economies and relevant international organizations;*
 - c. continue to develop understanding in the APEC business community of competition policy and/or laws and administrative procedures;*
 - d. continue to develop an understanding of competition policies and/or laws within their respective governments and within relevant domestic constituencies, thereby fostering a culture of competition;*
 - e. encourage cooperation among the competition authorities of APEC economies with regard to information exchange, notification and consultation;*
 - f. contribute to the use of trade and competition laws, policies and measures that promote free and open trade, investment and competition;*
 - g. encourage all APEC economies to implement the "APEC Principles to Enhance Competition and Regulatory Reform and the APEC Transparency Standards on Competition Law and Policy; and*
 - h. undertake capacity building programs to assist economies in implementing the "APEC Principles to Enhance Competition and Regulatory Reform".*

The current CAP relating to competition policy can be found in the Competition Policy Collective Action Plan

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Peru's Approach to Competition Policy in 2009

The Peruvian legal framework on competition policy is comprised by Legislative Decree 1034 —Repression of Anticompetitive Conducts Law —, Legislative Decree 807 — INDECOPi's competence and proceedings Law —, Law 26876 — Antimonopoly and Antioligopoly Law for the Electricity Sector —Law 27444 — General Administrative Procedure Law and Decision 608 of the Andean Community.

In early 90's, Peru undertook important social and economic reforms which have meant a significant impact on the country's development. Most of this reforms were related to the establishment of condition concerning to a regimen of social market economy of the Constitution (e.g. liberalization of sectors, free fixing of prices, privatizations, etc.). Thus, this process required a mediator who, without intervening in or distorting the marketplace, ensured the adequate enforcement of competition rules in order to guarantee the effectiveness of the economic system.

Despite its prosecution powers assigned by law, Peru's National Institute of Defense of Competition and of Protection of Intellectual Property - INDECOPi viewed itself, since its establishment in 1992, as an institution with an arbitration or mediation role in competition controversies among individuals and enterprises (public or private). However, this first approach has been changed to a more assertive and even holistic understanding of the market phenomena. Nowadays, this new conception is reflected on initiatives undertaken to properly enforce the Peruvian Competition Law by means of corrective actions such as the revision of precedents set during the past decade and a broader use of prosecution powers by the competition authority.

On the other hand, Osiptel, the National Telecommunication Regulatory Agency, which is in charge of Competition Policy in the Telecommunication sector, have had an important task in the enforcement and implementation of the Competition Legal Framework. OSIPTEL issued guidelines regarding the evaluation of anticompetitive practices in these markets, which have improved the legal system and the predictability of the authority procedures.

One of the main objectives for the year 2009 has been to seek for cooperation arrangements with other APEC members or other economies with the aim to promote cooperation with other competition agencies, including through the negotiation of competition chapters in FTAs. This activity will enforce the capacities of the officials and will help the competition authority in investigations of competition-related proceedings.

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Section	Improvements Implemented Since Last IAP	Current Competition Policies / Arrangements	Further Improvements Planned
General Policy Framework, including Implementation of APEC Leaders' Transparency Standards on Competition Law and Policy*		<p>In June 2008, the new Law for Repression of Anticompetitive Conducts - Legislative Decree 1034 (here and after, LRAC) - was enacted and published, repealing the old Legislative Decree 701.</p> <p>By virtue of LRAC, the anticompetitive conducts are prohibited and sanctioned in order to promote the economic efficiency in the market for consumer welfare (Article 1).</p> <p>The LRAC is applicable to all natural or juridical person; irregular corporations; autonomous patrimonies; or any other entities of public or private law, state ownership or not, with or without profit purposes; which supply or demand goods or services. It also applies to persons who execute the direction, management and representation of the entity, if they participate in planning and/or performing the anticompetitive conduct (article 2)</p> <p>Under the LRAC, the anticompetitive conducts are:</p> <ul style="list-style-type: none"> - Abuse of a dominant position (article 10) - Horizontal (article 11) and vertical (article 12) collusion practices. <p>By virtue of Law of antitrust and antioligopoly of electricity sector – Law 26876 –, Indecopi is also in charge of providing an <i>ex-ante</i> evaluation of mergers in the</p>	

* Economies should report against the actual language in the APEC Leaders' Transparency Standards on Competition Law and Policy, which can be found in the Appendix at the end of this document.

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		<p>electricity sector which is the only economic activity under such a control.</p> <p>http://www.indecopi.gob.pe/destacado-competencia-comisiones-clc-jurisLineam.jsp</p> <p>In march 2005, the Defense of Competition Chamber issued the Resolution 328-2005/TDC-INDECOPI, which contains a Precedent of Mandatory Compliance regarding some guidelines for issuing and answering to information requests in a procedure started by the Commission of Free Competition Defense (CLC for its Spanish acronym).</p> <p>Contact point:</p> <p><i>Enrique Pasquel, Technical Secretary of the Defense of Competition Chamber.</i> epasquel@indecopi.gob.pe</p> <p><i>Miguel Ángel Luque, Technical Secretary of the Defense of Free Competition Commission.</i> maluque@indecopi.gob.pe</p> <p>Additionally, according to article 17 of LRAC, OSIPTEL (competition agency in the telecommunications market) is the body in charge of enforcing the mentioned Law against any conflict related to anticompetitive conducts affecting the market of public services in the Telecommunication sector (e.g. fixed telephone, mobile phones, cable, etc.).</p>	

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		<p>Through Resolution N° 075-2002-CD/OSIPTTEL, OSIPTTEL issued guidelines related to the application of competition policy in the telecommunications sector.</p> <p>www.osiptel.gob.pe</p> <p>More details regarding Telecommunication legislation may be found at: www.osiptel.gob.pe/Index.ASP?T=P&P=2728</p> <p>In March 2005, Decision 608 of the Andean Community was issued. This law seeks the protection and promotion of free competition in the Andean Community. This decision substitutes Decision 285, which was issued in March 1991.</p> <p>Decision 608 punishes anticompetitive practices such as:</p> <ul style="list-style-type: none"> • To fix prices -direct or indirectly- or other terms of trade. • To restraint the offer of sale and the demand for purchase of goods or services. • The division of the market of goods or services. • To impede or to limit the access or permanency of current or potential competitors in the market. • Establishment of, agreement on, or coordination of bids, lack of bids or results in public auctions, competitions, and sales. • To fix predatory prices. • To fix, to impose or to establish the exclusive distribution of goods or services. 	<p>OSIPTTEL would update its guidelines to take into account the continuous technological change in the industry, in particular the impact of services convergence.</p>

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<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<ul style="list-style-type: none"> • Making contracts contingent upon acceptance of supplementary obligations which by their nature and in comparison with business custom are not related to the purpose of those contracts. • Application of discriminatory terms, which place some competitors at a disadvantage with regard to others. • Unjustified refusal to satisfy demands for purchase or acquisition, or offers of sale or provision of goods or services. • To incite third persons not to accept the delivery of goods or to render services, or to impede the acquisition of goods, or not to sale raw material or inputs. <p>http://www.comunidadandina.org/normativa/dec/D608.htm</p>	
<i>Reviews of Competition Policies and/or Laws</i>		<p>Currently, the Defense of Competition Chamber shall review some of its Precedents of Mandatory Compliance in order to harmonize those criterions with the substantive and adjective content of the LRCA.</p> <p>Contact point:</p> <p><i>Enrique Pasquel, Technical Secretary of the Defense of Competition Chamber.</i> epasquel@indecopi.gob.pe</p> <p><i>Miguel Ángel Luque, Technical Secretary of the Defense of Free Competition Commission.</i> maluque@indecopi.gob.pe</p> <p>OSIPTEL (competition agency in the telecommunications</p>	

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		<p>market) has been working in a normative framework in order to promote competition in the telecommunication sector. For instance this institution has issued the following laws:</p> <p>Thought Resolution N° 004-2004-CD/OSIPTEL, OSIPTEL has issued a regulation related to the interchange of consumer's information among fix-line and long distance telecommunication operators.</p> <p>OSIPTEL has issued the regulations of the "Public Infrastructure Sharing Law" to enhance policies regarding Bottleneck Infrastructure or Essential Facilities.</p> <p>Contact point: Ana Rosa Martinelli, Technical Secretary of the Decisor Body regarding Competition in the Telecommunication sector. amartinelli@osiptel.gob.pe</p>	
<p>Competition Institutions (Including Enforcement Agencies)</p>		<p>According to the Law of Indecopi's Organization and Functions – Legislative Decree 1033 –, Indecopi is a specialized public entity that belongs to the Executive Power, reporting to the Presidency of Ministers Council. It has functional, technical, economic, financial, and administrative autonomy.</p> <p>The Competition Commission (CLC) is a technical and functional autonomous body that is part of Indecopi. It is in charge of enforcing the LRAC by resolving anticompetitive prosecutions into an administrative proceeding.</p>	

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		<p>The CLC is compound by four (4) members that are appointed by Indecopi's Directors Council and that should prove well known reliability and professional suitability. Each member may work part-time or full-time at the Commission, depending on the criterion of the Directors Council.</p> <p>Contact point: Miguel Ángel Luque, Technical Secretary of the Defense of Free Competition Commission. maluque@indecopi.gob.pe</p> <p>The Defense of Competition Chamber is the second and final administrative instance for cases involving infractions of LRAC. It is compound by five (5) members that are appointed by Supreme Resolution (signed by the President of the Republic and countersigned by the President of Ministers Council). Each member may work part-time or full-time at the Chamber, depending on the criterion of the Directors Council.</p> <p>Contact point: <i>Enrique Pasquel, Technical Secretary of the Defense of Competition Chamber.</i> epasquel@indecopi.gob.pe</p> <p>OSIPTEL, as the competition agency in the telecommunications market, is the administrative body in charge of all matters related to the telecommunications sector, including the resolution of any conflict related to conducts affecting the market of public services in this</p>	

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		<p>sector.</p> <p>http://www.osiptel.gob.pe/Index.ASP?T=T&IDBase=0&P=%2FOsiptelDocs%2FGRE%2FSERV%5FEMPRESAS%2FSolucionControversias%5FRCD%2Ehtm</p> <p>The enforcement of the competition law is in charge of an ad-hoc Professional Body, whose members are selected from an established list of the most prominent academics and professionals related to the telecommunication sector or to the competition and regulatory network infrastructure policies in Peru. The Professional Body is designated by the Board of Directors of OSIPTEL.</p> <p>Contact point: Ana Rosa Martinelli, Technical Secretary of the Decisor Body regarding Competition in the Telecommunication sector. amartinelli@osiptel.gob.pe</p>	
Measures to Deal with Horizontal Restraints	<p>Indecopi has requested a permanent active role of its Economic Studies Department in order to analyze markets and to collect information for future and current procedures.</p>	<p>According to article 11 of the LRAC, the horizontal collusion practices are the agreements, decisions, recommendations or concerted practices carried out by competitor economic agents, which have as their object or effect to restrict, prevent, or distort the free competition.</p> <p>Unlike the Legislative Decree 701, this article considers no longer the "parallel actions" as a horizontal collusion.</p> <p>The following are examples of conducts that may be considered a type of horizontal collusion:</p>	

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		<ul style="list-style-type: none"> a. Concerted fixing, directly or indirectly, of prices or other commercial conditions. b. Concerted control or limitation of the production, sales, technical development or investment. c. Concerted sharing of clients, suppliers or geographic areas. d. Collusion of quality of products when are not based on national or international technical rules and it affects negatively to consumers. e. Concerted application of unequal terms for equivalent provisions, which place unjustifiably at disadvantage to some competitors in comparison with others. f. To unjustifiably concert the celebration of a contract being subordinated to the acceptance of other conditions which, by their nature and in comparison with business custom, are not in accordance with the object of such a contract. g. Concerted and unjustified refusal to satisfy demand for purchase or acquisition of goods or services, or offer of sale or provision thereof h. To impede concertedly and unjustifiably the entrance or permanence of a competitor to a market, association, or organization. i. To unjustifiably concert exclusive distribution. j. To coordinate offers and propositions or to abstain to make offers and propositions in public or private tendering or another form of public auction. k. Other practices with equivalent effect which look for obtaining benefits because of reasons not based on a major economic efficiency. 	

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		<p>Unlike Legislative Decree 701, article 11 of the LRAC disposes the following:</p> <ul style="list-style-type: none"> - The conducts mentioned in letters "a", "b", "c" and "j" constitute "absolute prohibitions". This means that the competition authority only has to prove the existence of the conduct in order to conclude the infraction has occurred. It is almost like the "per se rule" (article 8). <p>The rest of the mentioned conducts constitute "Relative prohibition" which means that the competition authority has to prove (i) the existence of the conduct under investigation; and (ii) that it has, or may have, negative effects for the competition and the consumer's welfare. It is almost the same than "rule of reason" (article 9).</p>	
<i>Measures to Deal with Vertical Restraints</i>		<p>Unlike the Legislative Decree 701, the LRAC has innovations related to the treatment and the classification of the vertical collusion practices. As a matter of fact, it is contemplated independently from other anticompetitive conducts in article 12.</p> <p>According to that article, vertical collusion practices are the agreements, decisions, recommendations o concerted practices carried out by economic agents that has operations in different stages of the production, distribution o commercialization chain and which have as their object or effect to restrict, prevent, or distort the free competition.</p> <p>In order to legally configure an infraction, it is also required that at least one of the parties enjoys, previously to the</p>	

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		<p>execution of the conduct, a dominant position into one of the related markets of the value chain.</p> <p>The vertical collusion practices constitute "relative prohibitions" as it was explained above.</p> <p>They are examples of vertical collusion practices the modalities describe in the point 10.2 of the article 10 and the point 11.1 of the article 11.</p>	
<p>Measures to Deal with Abuse of Dominant Position</p>		<p>First of all, it is important to mention that the article 6 of LRAC defines what is understood as a product and geographic relevant market.</p> <p>According to article 7 of LRAC, an agent enjoys of dominant position in a relevant market when has the capability to substantially restrict, affect or distort the conditions of the supply and demand in the market and its competitors, providers or clients are not able counteract those possibilities, in that moment or a near future.</p> <p>In this sense, article 10 disposes that an abuse exists when an agent with dominant position uses that status to illegally and improperly restrict the competition, obtaining benefits so and in detrimental of existing and potential competitors which could not have been possible without that dominant position.</p> <p>Examples of abuse of a dominant position are the following:</p>	

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		<ul style="list-style-type: none"> a. Unjustified refusal to satisfy demand for purchase or acquisition of goods or services, or to accept offers of sale or provision thereof; b. Application in business practices of unequal terms for equivalent provisions, which place unjustifiably at disadvantage to some competitors in comparison with others; c. Making celebration of contracts to be subordinated to the acceptance of other conditions which, by their nature and in comparison with business custom, are not in accordance with the object of such a contract; d. Unjustifiably impede the competitor's entrance or permanence in an association or organization of intermediation; e. To establish, impose and suggest contracts of exclusive distribution, clauses of "no competition" and similar others, that result unjustifiable; f. Abusively and repeatedly use judicial procedures and administrative proceedings which their effects are to restrict the competition; g. To incite third parts not to supply goods or provide services, or not to accept them. h. In general, other conducts which impede or restrict the access or permanence to the market of existing or potential competitors because of reasons other than a major economic efficiency. <p>The abuse of dominant position constitutes "relative prohibitions" as it was explained above.</p> <p>Unlike Legislative Decree 701, article 10 of LRAC only considers unilateral abuses of dominant position.</p>	

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		<p>Therefore, the figure of "abuse of joint dominant position" does not constitute an infraction for our law.</p> <p>Article 10 states that it is only applicable to exclusionary abuses of dominant position that directly affect to potential and existing competitors. So, It has been repealed the Defense of Competition Chamber's criterion which considered that abuse of dominant position, under Legislative Decree 701, comprised exploitative conducts, too.</p> <p>Contact point: <i>Miguel Ángel Luque, Technical Secretary of the Defense of Free Competition Commission.</i> maluque@indecopi.gob.pe</p> <p>Contact point: <i>Enrique Pasquel, Technical Secretary of the Defense of Competition Chamber.</i> epasquel@indecopi.gob.pe</p> <p>OSIPTEL, as competition agency for telecommunications market, has been improving the analysis' framework regarding predatory practices in the telecommunication markets, taking into account this sector is changing due the technological convergence, which will promote the establishment of tying strategies in the markets.</p> <p>Contact point: <i>Ana Rosa Martinelli, Technical Secretary of the Decisor Body regarding Competition in the Telecommunication sector.</i> amartinelli@osiptel.gob.pe</p>	

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<p>Measures to Deal with Mergers and Acquisitions</p>		<p>The electricity sector is the only one which needs a prior authorization for mergers operations.</p> <p>According to the Law 26876, all companies, directly or indirectly involved in a merger operation, shall notify it before performing it. This law is applicable to vertical or horizontal mergers among operators in the generation, transmission, and distribution activities. In this sense, the competition authority shall consider the market share in the electricity's activities in the Peruvian territory.</p> <p>This Law has the following Regulations:</p> <ul style="list-style-type: none"> - Supreme Decree 017-98-ITINCI which contains the general rules and proceedings for all notifications of mergers. - Supreme Decree 087-2002-EF, as exceptional and particular regulation which contains special rules of proceedings for concentrations taking place as a result of a concession process by the Agency of Promotion of Investment - PROINVERSION <p>Regarding this law, the CLC has prepared some guidelines in order to determine the criteria related to the interpretation of the Law.</p> <p>Based on previous experience with merger notifications in the electricity sector, in April 2002, the CLC elaborated a new questionnaire in order to improve the request of information within a merger notification procedure. This new questionnaire takes into account the Peruvian Electricity sector's way of operation and requests more</p>	

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		<p>direct and specific information. It also considers the different relevant markets in the Peruvian electricity sector:</p> <ul style="list-style-type: none"> - The non franchise customer. - The transmission market. - The distribution market. <p>http://www.indecopi.gob.pe/destacado-competencia-comisiones-clc-jurisLineam.jsp</p> <p>Contact point: <i>Miguel Ángel Luque, Technical Secretary of the Defense of Free Competition Commission.</i> maluque@indecopi.gob.pe</p> <p>Even though there is not an explicit merger control policy, the current telecommunications legal framework establishes that any transfer of licenses and concessions among telecommunication operators should be evaluated under the scope of its competitive effects on the industry. Depending on the results of this evaluation, a transfer could be approved, conditioned or potentially denied. The Technical Secretary has already analyzed two cases.</p> <p>Contact point: Ana Rosa Martinelli, Technical Secretary of the Decisor Body regarding Competition in the Telecommunication sector. amartinelli@osiptel.gob.pe</p>	
Other Issues Addressed by Competition Policy		<p>In order to investigate possible restraints to free competition, Indecopi has established a coordination relationship with CONSUCODE which is the competent</p>	

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		<p>entity for supervising process of public tendering organized by public organisations.</p> <p>OSIPTTEL as Regulatory and Competition Agency in the telecommunication sector has issued a legal framework according to the promotion of competition in this sector:</p> <p>By Resolution N° 049-2006-CD/OSIPTTEL, the dominant operator, Telefonica del Peru, is subject to the "Imputation Test" for the long distance telecommunication service in order to guarantee and promote competition in this market.</p> <p>Through OSIPTTEL legislation, consumers of long distance telecommunications may use different operators call by call, in order to promote competition between long distance operator and the incumbent local firm.</p>	
<i>Co-operation Arrangements with other Member Economies</i>	<p>Two Officials participated in the APEC Training Course on Competition Policy held in November 2008, in Bali, Indonesia.</p> <p>Two Officials participated in APEC Training Course on Competition Policy held in July 2009.</p> <p>Peru's FTAs with US, Chile, Canada and Singapore which include competition policy chapters entered into force in 2009.</p>	<p>Transparency is one of APEC's important principles enshrined in APEC's 1995 Osaka Action Agenda. In this sense, there are specific principles, which APEC member economies should pursue. One of them is the APEC Principle to Enhance Competition and Regulatory Reform, which has been undertaken by Peru when it held the Convenorship of the CPD Working Group (from 1999 to May 2002). Peru held the Vice Convenorship, until December 2002.</p> <p>Peru has included competition policy chapters in its Free Trade Agreements with Chile, Singapore, US and Canada.</p>	<p>Peru is seeking for cooperation arrangements with other APEC Member Economies aiming to promote capacity building for the officials of competition agencies and technical co-operation.</p> <p>Peru is negotiating competition policy chapters in its FTAs with Korea and Japan.</p>

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			The Peruvian Competition Authority is negotiating a cooperation agreement with the Canadian Competition Authority.
<i>Activities with other APEC Economies and in other International Fora</i>		<p>Peru is member of the Iberoamerican Competition Forum; which promotes cooperation on competition issues among Iberoamerican countries.</p> <p>Peru is also member of the International Competition Network (ICN), and it also participates in many of its most important subgroups.</p> <p>Also, Peru is beneficiary of the COMPAL Programme, which is a Technical Assistance Programme on Competition and Consumer Protection Policies for Latin America supported by SECO (Switzerland).</p> <p>Peru is a member of the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) and participates in the activities carried out by this organization.</p> <p>Since 1996 the OECD (Organization for Economic Co-operation and development of the World Trade Organization) has been in active co-operation with the countries of Central and South America in promoting the development of competition policy in the region. The 2003 and 2004 events organized by the OECD featured</p>	Peru is negotiating competition policy chapters in its FTA with European Union.

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		<p>respectively a peer review of Chile's and Peru's competition institutions. Peru also participated in Chile's Peer Review.</p> <p>In February 2006, INDECOPI participated in the "Regional Seminar on competition policy in Latin America and the Caribbean", which took place in Bogota, Colombia and was organized by UNCTAD and INDECOPI.</p> <p>In February 2006, INDECOPI participated in the "OECD Global Forum on Competition" and the "OECD Global Forum on Trade and Competition" which took place in Paris, France.</p> <p>INDECOPI participated in the Seminar on Competition Policy and Regulation in the Commercial Liberalization Context, which took place in Mexico DF, Mexico, in March 2006. This seminar was organized by the ECLAC and the CIDA (Canadian International Development Agency).</p> <p>In April 2006, the Peruvian Congress approved the Free Trade Agreement (FTA) with the USA. This agreement includes a chapter on competition policy.</p> <p>In April 2006, INDECOPI organized the "Investigation contest on competition and consumer protection topics". This event was carried out in Lima and was part of the activities of INDECOPI and the COMPAL Programme (the COMPAL Programme is a three-year Technical Assistance Programme on Competition and Consumer Protection Policies for Latin America supported by Switzerland).</p> <p>In May 2006, INDECOPI participated in the 5th Annual</p>	

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		<p>Conference of the ICN, which took place in Cape City, South Africa.</p> <p>In May and June 2006, INDECOPI participated in the Competition Policy Workshop for Ibero American countries and the Annual Meeting of the Ibero American Competition Forum, which took place in Lisbon, Portugal.</p> <p>In July 2006 the "Seminary on new dimensions of competition policy in emergent markets" was carried out in Lima, Peru. This event was part of the activities of the COMPAL Programme - INDECOPI.</p> <p>In July 2006, INDECOPI participated in the fourth meeting of the Latin American Competition Forum, which took place in San Salvador, El Salvador.</p> <p>In February 2007, INDECOPI participated in the course "Merger Control in Competition Policy" in Cartagena de Indias, Colombia. It was organized by the Spanish Court of Defense of the Competition and AECl.</p> <p>In April 2007, INDECOPI participated in the seminary "Persecution of Anticompetitive Conducts: The control of the prohibited conduct" which took place in Antigua, Barbuda. It was organized by the Spanish Court of Defense of the Competition and AECl.</p> <p>INDECOPI organized, through the COMPAL Programme, the Seminar "Capacity building for university professors in Competition Policy and Consumer Protection issues", which took place in Lima, Peru, in March 2007.</p>	

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		<p>Peru hosted APEC meetings in the year 2008. Peru participated in the Friends of the Chair Groups of Competition and Regulatory Reform in the Economic Committee.</p> <p>Finally, Peru drafted the second chapter of the APEC Economic Policy Report in 2008, related to competition policy.</p>	
Collective Actions			

<i>Improvements in Peru's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year 1996</i>	<i>Cumulative Improvements Implemented to Date</i>
<i>General Policy Position, including Implementation of APEC Leaders' Transparency Standards on Competition Law and Policy*</i>	<p>Legislative Decree 701 looked for the elimination of monopolistic practices, controls, and restraints on free competition in the production and marketing of goods and the provision of services, so that free private enterprise can flourish for the greatest benefit of users and consumers. (Article 1).</p> <p>The law applied to all persons and entities under public or private law that undertook economic activities. It also applied to all persons who direct or represent corporations, institutions, or entities when they took part in the acts or practices prohibited by this law (Article 2).</p> <p>According to the provisions of that law, acts or behavior involving economic activities that constituted abuse of a dominant market position or limit, restrain, or distort free competition in a manner that injures the common economic interest in the national territory were prohibited and should be punished.</p> <p>Regarding merger control, it only applied to the electricity sector. INDECOPI is in charge of supervising mergers in the electricity sector (Law N°26876: antitrust and anti-oligopoly of the electricity sector). The Competition Commission of INDECOPI has to be notified of mergers and acquisitions and after the analysis and investigation, give authorization to the interested parties.</p>	<p>In June 2008, Legislative Decree 701 was repealed by virtue of the LRAC.</p> <p>The LRAC promote the economic efficiency in the market for consumer welfare by prohibiting and sanctioning anticompetitive conducts (Article 1).</p> <p>The LRAC is applicable to all natural or juridical person; irregular corporations; autonomous patrimonies; or any other entities of public or private law, state or not, with or without profit purposes; which supply or demand goods or services. It also applies to persons who execute the direction, management and representation of the entity, if they participate in planning and/or performing the anticompetitive conduct (article 2)</p> <p>The LRAC stated that anticompetitive conducts that are prohibited and shall be punished are: (i) abuse of a dominant position, (ii) horizontal collusion practices and (iii) vertical collusion practices.</p> <p>Unlike the Legislative Decree 701, LRAC does not consider the "parallel actions" as a horizontal collusion.</p> <p>Unlike Legislative Decree 701, LRAC only considers unilateral abuses of dominant position. Therefore, the figure of "abuse of joint dominant position" does not constitute an infraction for our law.</p>

* Economies should report against the actual language in the APEC Leaders' Transparency Standards on Competition Law and Policy, which can be found in the Appendix at the end of this document. Economies should continue to use 1996 as the base year for previously raised IAP transparency issues, but may use 2003 as the base year for reporting on new transparency commitments per the APEC Leaders' Transparency Standards.

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	<p>OSIPTEL is the administrative body in charge of all matters related to the telecommunications sector, including the resolution of any conflict related to conducts affecting the market of public services in this sector (abuse of dominant position and cartels).</p> <p>http://www.osiptel.gob.pe/Index.ASP?T=T&IDBase=0&P=%2Fosipteldocs%2Fgl%2Fel%5Fsector%2Fmarco%5Flegal%2Flegislaci%F3n%5Ftelecomunicaciones%2Fost%5F01%5F04%2Ehtm</p> <p>More details regarding Telecommunication legislation may be found at: www.osiptel.gob.pe/Index.ASP?T=P&P=2728</p>	<p>By virtue of Law 26876, CLC is in charge of providing an <i>ex-ante</i> evaluation of mergers in the electricity sector which is the only economic activity under such a control. CLC has to be notified of mergers in order to award its authorization.</p> <p>In March 2005, the Decision 608 of the Andean Community was issued. This law seeks the protection and promotion of free competition in the Andean Community. This decision substitutes the Decision 285 which was issued in March 1991.</p> <p>In March 2005 the Defense of Competition Chamber issued the Resolution 328-2005/TDC, which contains a Precedent of Mandatory Compliance regarding some guidelines for issuing and answering to information requests in a procedure started by the Free Competition Commission (CLC for its Spanish acronym).</p> <p>On October 11, 2001, Administrative Procedures General Law, established the general framework to regulate the administrative procedures, including the CLC's procedures.</p> <p>http://www.indecopi.gob.pe/destacado-competencia-comisiones-clc-jurisLineam.jsp</p> <p>http://www.indecopi.gob.pe/destacado-competencia-comisiones-cco-Legis.jsp</p>
Reviews of Competition Policies and/or Laws	There were two precedents of mandatory compliance concerning Competition issues.	The LRAC states that there are some horizontal collusion practices that constitute "absolute prohibitions" (e.g. concerted

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	<p>The Defense of Competition Chamber of INDECOPI's Tribunal approved the Resolution 224-2003/TDC-INDECOPI of mandatory compliance. This resolution establishes a precedent for all antitrust cases to be treated in the future. Articles 3 and 6 of Legislative Decree 701 did not apply sanctions based only on the existence of collusive agreements that restrain trade (as was mentioned above). According to this decision, it was also necessary to put the agreements into execution, and to have a negative effect in the economy, to declare a practice illegal. This analysis had to be carried out on a case-by-case basis.</p> <p>http://www.indecopi.gob.pe/destacado-competencia-comisiones-SDC-clc-jurisLineam.jsp</p> <p>Also, the Defense of Competition Chamber of INDECOPI issued the Resolution 225-2004/TDC, which stated that abuse of dominant position comprises not only exclusionary, but also exploitative conducts.</p>	<p>fixing price). This means that the competition authority only has to prove the existence of the conduct in order to conclude the infraction has happened. It is almost like the “per se rule” (article 8).</p> <p>There are other horizontal and vertical collusion that constitute “relative prohibition” (e.g. concerted discrimination) which means that the competition authority has to prove (i) the existence of the conduct under investigation; and (ii) that it has, or may have, negative effects for the competition and the consumer's welfare. It is almost the same than “rule of reason” (article 9).</p> <p>The LRAC states that it is only applicable to exclusionary abuses of dominant position that directly affect to potential and existing competitors. So, it has been repealed the Defense of Competition Chamber's criterion which considered that abuse of dominant position, under Legislative Decree 701, comprised exploitative conducts as well.</p> <p>In March 2005, Decision 608 of the Andean Community was issued. This law seeks the protection and promotion of free competition in the Andean Community. This decision substitutes Decision 285, which was issued in March 1991.</p> <p>On December 15th 2005, the General Secretariat of the Andean Community issued the Resolution 984. This resolution ordered the application of measures to reverse the damages caused by anticompetitive practices fulfilled by Colombian enterprises. To resolve this case, the Andean Community applied the recent Decision 608.</p> <p>In October 2007, the General Secretary of The Andean Community published the Guideline for the application of</p>

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		Decision 608 (Document SG/dt 396). http://www.indecopi.gob.pe/destacado-competencia-comisiones-SDC-clc-jurisLineam.jsp
Competition Institutions (Including Enforcement Agencies)	<p>The Defense of Free Competition Commission (CLC) is an agency with technical and administrative autonomy, responsible for ensuring compliance with the law against practices that are monopolistic, or designed to control or restrict free competition.</p> <p>The CLC has a Technical Secretariat that serves as a liaison with the administrative structure of INDECOPI. (Article 44 of the Law Decree 25868)</p> <p>The Defense of Competition Chamber 1 of INDECOPI has the second and final administrative jurisdiction for cases involving violations of Decree 701.</p> <p>INDECOPI, in charge of Antitrust Policy in Peru, through its CLC has been able to improve co-operation mechanisms with sector regulators such as OSIPTEL – Telecommunications- and OSITRAN –Transport Infrastructure-. For instance, during 2000, OSITRAN sent to the CLC an investigation for its evaluation. This investigation was related to discriminatory practices in seaport services. In addition, CLC has asked OSIPTEL's opinion about the merger among two electric firms, which could affect the telecommunication market.</p>	<p>According to article 36° in Law N° 27336 -Law of enforcement of the functions and faculties of the Telecommunications Regulator (OSIPTEL), OSIPTEL is the administrative body in charge of the resolution of any conflict related to the telecommunications sector.</p> <p>The CLC is a technical and functional autonomous body that forms part of Indecopi. It is in charge of enforcing the LRAC by resolving anticompetitive prosecutions into an administrative proceeding.</p> <p>The Technical Secretariat of CLC in the organism with technical autonomy which plays a prosecutor role during the investigation proceeding. Its functions are (i) issuing technical reports about the existence of a infraction, (ii) initiate secretarial – appointed proceedings; (iii) deciding to initiate a proceeding because of a private complaint; etc.</p> <p>Contact point: <i>Miguel Ángel Luque, Technical Secretary of the Defense of Free Competition Commission.</i> maluque@indecopi.gob.pe</p> <p>The Defense of Competition Chamber is the second and final administrative instance for cases involving infractions of Legislative Decree 1034. It is compound by five (5) members that are appointed by Supreme Resolution (signed by the President of the Republic and countersigned by the President</p>

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		<p>of Ministers Council). Each member may work part-time or full-time at the Chamber, depending on the criterion of the Directors Council.</p> <p><i>Contact point:</i> <i>Enrique Pasquel, Technical Secretary of the Defense of Competition Chamber.</i> epasquel@indecopi.gob.pe</p>
Measures to Deal with Horizontal Restraints	<p>Articles 3 and 6 of Legislative Decree 701 punished agreements which restrain trade, no matter if they impose horizontal or vertical restraints. In this sense, agreements such as price fixing, distribution of market shares, supply limitation, unjustified refusal to deal, discrimination among competitors and tying arrangements, may be declared illegal under Legislative Decree N° 701 provisions.</p> <p>The above mentioned articles were understood as an enactment of the <i>per se rule</i> and the <i>rule of reason</i>. These rules were firmly adopted in Peru by two decisions established by the Defense of Competition Chamber of the Tribunal of INDECOPI in 1997. This interpretation was revised by the Resolution 224-2003/TDC-INDECOPI (July, 2003) of mandatory compliance, which revoked those previous decisions</p>	<p>Please, see above in sections "Measures to Deal with Horizontal Restraints" and "Measures To Deal with Vertical Restraints"</p> <p>Please, see above in section "Reviews of Competition Policies and/or Laws"</p> <p>The CLC elaborated a guideline for the Decentralized Offices of INDECOPI (ODIs) with recommendations about collusive agreements. This document is for exclusive use of the ODIs.</p>
Measures to Deal with Vertical Restraints	Legislative Decree 701 did not prohibit per se vertical restraints such as:	Please, see above in section " Measures To Deal with Vertical Restraints "

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	<ul style="list-style-type: none"> - exclusive dealing, and; - resale price maintenance. <p>The anti-competitive nature of these practices is analyzed case by case.</p>	
Measures to Deal with Abuse of Dominant Position	<p>Legislative Decree 701 punished the abuse of dominant position such as:</p> <ul style="list-style-type: none"> • Unjustified refusal to satisfy demand for purchase or acquisition of goods or services, or offer of sale or provision thereof. • Application in business practices of discriminatory terms for similar services, which place some competitors at a disadvantage with regard to others. • Making contracts contingent upon acceptance of supplementary payments that by their nature and in comparison with business custom are not related to the purpose of the contracts. • Other cases of a similar nature. <p>In June 2004, the Defense of Competition Chamber of Indecopi issued the Resolution 225-2004/TDC, which stated that abuse of dominant position comprises not only exclusionary, but also exploitative conducts.</p> <p>http://www.indecopi.gob.pe/destacado-competencia-comisiones-SDC-clc-jurisLineam.jsp</p>	<p>Please, see above in section "Measures to Deal with Abuse of Dominant Position"</p> <p>Regarding the telecommunication sector, OSIPTEL, as the competition agency in the telecommunications market, has punished the implementation of anticompetitive practices in the cable television, internet, mobile telecommunication and long distance telecommunication markets. The practices were related to vertical restrains, arbitrary refusal to deal, discriminatory practices, predatory practices and raising rivals costs.</p> <p>OSIPTEL has imposed the largest fines in the Peru to one firm, Telefonica del Peru.</p>
Measures to Deal with Mergers and Acquisitions	The only sector which requires a prior notification mechanism for concentration operations is the electricity	The last pre-authorization of merger proceeding was resolved in 2006 between two power generators (Case 011-2005/CI C.)

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	<p>mechanism for concentration operations is the electricity sector.</p> <p>According to the Law (Antitrust and Antioligopoly Law for the Electricity Sector), all companies directly or indirectly involved in merger operations shall notify such operations before performing them, considering their market share in the activities of electric power generation, and/or transmission, and/or distribution in the Peruvian territory.</p> <p>http://www.indecopi.gob.pe/destacado-competencia-comisiones-clc-jurisLineam.jsp</p>	<p>in 2006 between two power generators (Case 011-2005/CLC). The merger operation was finally authorized without conditions by the CLC.</p> <p>Please, see above in section "<i>Measures to Deal with Mergers and Acquisitions</i>"</p>
Other Issues Addressed by Competition Policy	<p>Between 2001 and 2002, State enterprises under jurisdiction of the National Fund of State Entrepreneurial Activity (FONAFE) were studied in order to evaluate their subsidiary role within the market.</p> <p>The first step was related to the evaluation of the nature of the activities carried out by these enterprises, in order to conclude whether or not they were economic activities. Secondly, the legality of those activities was evaluated. Finally, the situation of the private supply and the competition conditions of the market were analyzed in order to evaluate the subsidiary character of these activities.</p> <p>The following companies were analyzed:</p> <ul style="list-style-type: none"> - Financial Development Corporation (Cofide). - Perupetro (oil market). - Serpost (postal services). - Tans (commercial air services). - Editora Perú (legal norms publication). - Sima Perú (Naval construction and metal-mechanic 	

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	<p>industry).</p> <ul style="list-style-type: none"> - Enaco (Control of Coca leaf production and commercialization). - Adinelsa (Rural electric power services). - Inmisa (Real Estate business). <p>In 2002, the following were also analyzed:</p> <ul style="list-style-type: none"> - Banco de la Nación (bank in charge of State Accounts) - Banco de Materiales (Bank which promotes construction) <p>Some of these documents can be find in the followed link: http://www.indecopi.gob.pe/destacado-competencia-comisiones-clc-inforPub.jsp?pldldioma=1</p>	
<p>Co-operation Arrangements with other Member Economies</p>		<p>In April 2006, the Peruvian Congress approved the Free Trade Agreement (FTA) with USA, which includes a chapter on competition policy. This agreement entered into force in February 2009.</p> <p>In August 2006, a Free Trade Agreement between Peru and Chile was signed. A chapter of competition policy in this agreement was negotiated. This agreement entered into force in March 2009.</p> <p>In May 2008, two Free Trade Agreement were signed. The first one between Peru and Singapore and the second between Peru and Canada. Chapters of competition policy were negotiated and were included to each of the agreements. Both agreements entered into force in August 2009.</p>

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<p>Activities with other APEC Economies and in other International Forum</p>		<p>“APEC/OECD Cooperative Initiative on Regulatory Reform”, has been the first Peruvian Project presented and approved, since Peru’s entry to this forum on November 1998.</p> <p>From February 21st to 22nd, 2001, INDECOPI organized the "First Meeting of the APEC/OECD Co-operative Initiative on Regulatory Reform", in Singapore. This conference allowed the economies to share experiences on regulatory policy.</p> <p>From September 19th to 20th, 2001, INDECOPI organized the “First Workshop of the APEC/OECD Co-operative Initiative on Regulatory Reform” in Beijing, China</p> <p>From April 24th to 25th, 2002, INDECOPI organized the "Second Workshop of the APEC/OECD Co-operative Initiative on Regulatory Reform", in Merida, Mexico.</p> <p>"The Third Workshop and High Level Conference of the APEC/OECD Co-operative Initiative on Regulatory Reform" was held in Cheju Island, Korea, from October 17th to 18th, 2002.</p> <p>Transparency is one of APEC's important principles enshrined in APEC's 1995 Osaka Action Agenda. In this sense, there are specific principles, which APEC member economies should pursue. One of them is the APEC Principle to Enhance Competition and Regulatory Reform, which has been undertaken by Peru when it held the Convenorship of the CPD Working Group (from 1999 to May 2002). At this time, Peru held the Vice Convenorship, until December 2002.</p> <p>In December 2004 the "Seminary of Investigations Techniques</p>

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		<p>in the concentrations matter" was carried out in Lima, Peru. This seminary was offered by representatives of the U.S. Department Of Justice and the Federal Trade Commission of the USA. Several representative of INDECOPI participated.</p> <p>In December 2004 the "Seminary on Identification of efficiencies in the economy as the result of mergers of competitors, joint ventures and other agreements" was carried out in Lima, Peru. This seminary was offered by representatives of the U.S. Department Of Justice and the Federal Trade Commission of the USA. Several representative of INDECOPI participated.</p> <p>Since 1996 the OECD (Organization for Economic Co-operation and development of the World Trade Organization) has been in active co-operation with the countries of Central and South America in promoting the development of competition policy in the region. The 2003 and 2004 events organized by the OECD featured respectively a peer review of Chile's and Peru's competition institutions. Peru also participated in the elaboration of Chile's Peer Review.</p> <p>In February 2005 the "Seminary of the Abuse of Dominant Position in Oligopolical Markets and Regulated Markets", was carried out in Bogota - Colombia. USAID-CAN. This seminary was offered by representatives of the U.S. Department Of Justice and the Federal Trade Commission of the USA. Several representative of INDECOPI participated.</p> <p>In March 2005 it was carried out an internship in the Superintendencia de Industria y Comercio of Colombia, in order to know the transaction processes of control of economic concentrations in Bogota, Colombia. This event was part of the</p>

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		<p>activities of the Competition Project of the UE-CAN. Two representatives of INDECOPi participated.</p> <p>In February 2006, INDECOPi participated in the "OECD Global Forum on Competition" and the "OECD Global Forum on Trade and Competition" which took place in Paris, France.</p> <p>In February 2006, INDECOPi participated in the "Regional Seminar on competition policy in Latin America and the Caribbean", which took place in Bogota, Colombia and was organized by UNCTAD and INDECOPi.</p> <p>INDECOPi participated in the Seminar on Competition Policy and Regulation in the Commercial Liberalization Context, which took place in Mexico DF, Mexico, in March 2006. This seminar was organized by the ECLAC and the CIDA (Canadian International Development Agency).</p> <p>In April 2006, INDECOPi organized the "Investigation contest on competition and consumer protection topics". This event was carried out in Lima and was part of the activities of the COMPAL Programme - INDECOPi.</p> <p>In May 2006, INDECOPi participated in the 5th Annual Conference of the ICN, which took place in Cape City, South Africa.</p> <p>In May and June 2006, INDECOPi participated in the Competition Policy Workshop for Ibero American countries and the Annual Meeting of the Ibero American Competition Forum, which took place in Lisbon, Portugal.</p> <p>In July 2006 the "Seminary on new dimensions of competition policy economy in emergent markets" was carried out in Lima,</p>

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		<p>Peru. This event was part of the activities of the COMPAL Programme - INDECOPI.</p> <p>In July 2006, INDECOPI participated in the fourth meeting of the Latin American Competition Forum, which took place in San Salvador, El Salvador.</p> <p>In February 2007, INDECOPI participated in the course "Merger Control in Competition Policy" in Cartagena de Indias, Colombia. It was organized by the Spanish Court of Defense of the Competition and AECI.</p> <p>In April 2007, INDECOPI participated in the seminary "Persecution of Anticompetitive Conducts: The control of the prohibited conduct" which took place in Antigua, Barbuda. It was organized by the Spanish Court of Defense of the Competition and AECI. Peru is a member of the International Competition Network (ICN), and it also participates in many of its most important subgroups.</p> <p>Peru is part of the Iberoamerican Competition Forum; this Forum promotes co-operation on competition issues among Iberoamerican countries.</p> <p>Peru participated on a Project carried out by the European Union and the Andean Community General Secretariat on Competition issues (2003-2005).</p> <p>Also, Peru is beneficiary of the COMPAL Programme, which is a Technical Assistance Programme on Competition and Consumer Protection Policies for Latin America supported by SECO (Switzerland).</p> <p>Peru is a member of the United Nations Economic Commission</p>

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		<p>for Latin America and the Caribbean (ECLAC) and participates in the activities developed by this organization.</p> <p>Peru hosted APEC meetings in the year 2008. Peru participated in the Friends of the Chair Groups of Competition and Regulatory Reform in the Economic Committee.</p> <p>Finally, Peru drafted the second chapter of the APEC Economic Policy Report in 2008, related to competition policy.</p>

Appendix – APEC Leaders’ Transparency Standards on Competition Law and Policy and Regulatory Reform

Introduction

In October 2002, in Los Cabos, Mexico, APEC Leaders adopted the Statement to Implement APEC Transparency Standards (“Leaders’ Statement”), and directed that these standards be implemented as soon as possible, and in no case later than January 2005.

In paragraph 8 of the Leaders’ Statement, APEC Leaders instructed that APEC sub- fora that have not developed specific transparency provisions should do so, and further instructed that such new transparency provisions should be presented to Leaders upon completion for incorporation into the Leaders’ Statement. Accordingly, the following set of transparency standards on competition and deregulation for incorporation into the Leaders’ Statement were developed.

These principles flow from the General Principles on Transparency agreed to by APEC Leaders at Los Cabos, and provide specific guidance for implementation within the context of competition law and policy and regulatory reform.

Transparency Standards on Competition Law and Policy:

1. In furtherance of paragraph 1 of the General Principles of the Leaders’ Statement, each Economy will ensure that its competition laws, regulations, and progressively, procedures, administrative rulings of general application and judicial decisions of general application are promptly published or otherwise made available in such a manner as to enable interested persons and other Economies to become acquainted with them.
2. In furtherance of paragraphs 4 and 5 of the General Principles of the Leaders’ Statement, each Economy will ensure that before it imposes a sanction or remedy against any person for violating its national competition law, it affords the person the right to be heard and to present evidence, except that it may provide for the person to be heard and present evidence within a reasonable time after it imposes an interim sanction or remedy; and that an independent court or tribunal imposes or, at the persons request, reviews any such sanction or remedy. Proceedings subject to this paragraph are to be in accordance with domestic law.

Transparency Standards on Regulatory Reform:

1. In furtherance of paragraph 1 of the General Principles of the Leaders’ Statement, each Economy will ensure that its laws, regulations, procedural rules and administrative rulings of general application relating to regulatory reform are promptly published or otherwise made available in such a manner as to enable interested persons and other economies to become acquainted with them.
2. In furtherance of paragraphs 2 and 3 of the Leaders’ Statement, Economies recognize the importance of ensuring transparency in the regulatory reform process and of soliciting and responding to inquiries from interested persons and other Economies. Accordingly, each Economy will, where possible (a) publish in advance regulatory reform measures that it proposes to adopt, and (b) provide where applicable interested persons a reasonable opportunity to comment on such proposed measures. In addition, upon request from an interested person or another Economy, each Economy will endeavor to promptly provide information and respond to questions pertaining to any actual or proposed regulatory reform measure.

Confidential Information

Economies agree that nothing in these standards requires any Economy to disclose confidential information. (Note: The Leaders’ Statement includes a provision for the protection of confidential information. This statement is included here to emphasize the importance of the protection of confidential information in the contexts of both competition law and policy and regulatory reform.)