



**Asia-Pacific
Economic Cooperation**

2016/SOM2/CTI/TPD/007

Session 2

Transpacific Partnership Agreement – WTO-Plus Provisions - Intellectual Property

Submitted by: Peru



**Trade Policy Dialogue on WTO-Plus Elements of
Regional Trade Agreements and Free Trade
Agreements
Arequipa, Peru
7 May 2016**



PERÚ Ministerio de Comercio Exterior y Turismo @peru

TRANSPACIF PARTNERSHIP AGREEMENT

- Is the most comprehensive and ambitious trade agreement ever signed.
- 12 economies are members: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, Vietnam.
- The treaty aims to deepen economic ties among its members, slashing tariffs and fostering trade to boost growth.

Asia

América

Oceanía

PERÚ Ministerio de Comercio Exterior y Turismo @peru



- Represents a potential market of 805 millions of consumers.
 - 7 members of TPP has a income per capita over US\$37 000
- Those economies represents around 40 % of the worlds GDP
- Exports from TPP members represent around 25% of global exports and imports are around 27%




PERÚ Ministerio de Comercio Exterior y Turismo @peru

- Being part of the TPP means improving trade conditions of each of the economies that belong to this exclusive group constituted by the most dynamic economies of the world with a promising potential for further trade developments.



PERÚ Ministerio de Comercio Exterior y Turismo @peru

TPP a 21st Century Agreement

- TPP is a 21st Century agreement which has the objective to deal with new trade challenges derive from many aspects, as innovation and digital economy and seek to facilitate comprehensive market access.
- This objective was reflected in 30 chapters that are part of the TPP
 - Traditional trade topics
 - New trade topics
- Is important to note that the TPP is a “living” agreement, which will allow for updates as new trade issues emerge and will enable other countries to be part of TPP



PERÚ Ministerio de Comercio Exterior y Turismo @peru

TPP chapters

<ul style="list-style-type: none"> • Technical barriers to trade • Rules of origin • Market Access • Sanitary and phytosanitary measures • Regulatory coherence • Government procurement • Intellectual Property ☆ • Environment ☆ • Competitiveness and business facilitation • General provisions and definitions 	<ul style="list-style-type: none"> • Financial Services • Labor • Cross border services • Telecommunications • Cooperation and capacity building ☆ • SMEs ☆ • Temporary entry • Electronic Commerce • Investment
---	---

PERÚ Ministerio de Comercio Exterior y Turismo @peru



- Textiles and apparel
- Customs and trade facilitation
- Competence
- Trade Remedies
- Development ★
- Transparency and anti corruption ★
- Institutional provisions
- Dispute settlement
- Exceptions and general provisions
- Final provisions





PERÚ Ministerio de Comercio Exterior y Turismo @peru

INTELLECTUAL PROPERTY OVERVIEW

- TRIPS Agreement is in force since 1995 for developed countries and 2000 for developing countries.
- TRIPS Agreement was considered a big step forward in the establishment of **minimum standards** on Intellectual Property among the WTO members
 - Members are free to establish higher standards of protection of IP
- However innovation and the enhancement of technology in many fields became a challenge for the protection of IP.




































































- In some cases countries proposed to amend multilateral agreements on IP or to negotiate new ones on specific subjects.
 - However dynamics of multilateral negotiations make this possibility very complex
- As an alternative, bilateral negotiations became a way to move forward

INTELLECTUAL PROPERTY CHAPTER


- **In this context**
 - IP chapter includes elements that are TRIPS Plus in the different disciplines of IP
- **The chapter includes provisions on**
 - Procedural aspects
 - Substantive aspects
 - Enforcement
- Those provisions are mainly focused on trademarks, patents, geographical indications and copyright and related rights.




PERÚ Ministerio de Comercio Exterior y Turismo @peru

Procedural Aspects

- **International Agreements**
 - Trademark Law Treaty
 - Singapore Treaty
 - Patent Cooperation Treaty
 - UPOV
- **Minimum requirement of formalities**
 - For the registration and enforcement of IPRs
 - To provide transparency and predictability
 - To reduce protection of IP costs for foreign and domestic stakeholders
 - To foster modernization and to speed procedures
 - However domestic legal tradition and systems should be consider in the implementation









PERÚ Ministerio de Comercio Exterior y Turismo @peru

Substantive Aspects



- **Trademarks**
 - Scope of protection: scents/sounds
 - Certification and collective marks
 - Well-known marks
 - Term of protection: 10 years (TRIPS: 7)
 - Domain names
 - Transparency and access to information
 - Dispute settlement rules based on the dispute resolution policy of ICANN






- **Health issues**
- **Measures related to the commercialization of certain pharmaceutical products**
 - Relationship between patent and sanitary systems
- **Data protection for pharmaceutical products**
 - Term of protection 5 or 8 years (TRIPS does not specified term)
 - Specific provisions on biologics

- **Copyright and related rights**
- Relationship between moral and economic rights
- Term of protection: 70 (TRIPS: 50)
- Aspects related to new technologies
 - Technological protection measures (TPMs)
 - Rights management information (RMIs)
 - Internet Service Providers (ISPs)
 - Satellite and Cable
- Flexibilities
 - In addition to analog environment, precisions were made for the use of protected rights in the new technological environment



copyright
all rights reserved

PERÚ Ministerio de Comercio Exterior y Turismo @peru

Enforcement

- Provisions to regulated new ways of illegal use of IP rights:
 - Trademarks labelling
 - Ex officio actions
 - damages
- Border measures
 - Apply to in transit and export products
 - Ex officio measures
 - Small consignments

PIRACY



PERÚ Ministerio de Comercio Exterior y Turismo @peru

FINAL REMARKS

- IP chapter establishes comprehensive provisions regarding IP elements to reaffirm certain provisions already established in the multilateral fora and to regulate new situations in particular those derive from innovation and technology.
- Those provisions have the objective to establish common standards among TPP members that ensure effective protection of IP and to promote innovation.
- The chapter also includes flexibilities that allows to apply exceptions and limitations to the conferred protection in certain circumstances, in order to get a balance set of provisions.
- Despite the Agreement has a Cooperation chapter, IP chapter also includes specific provisions on cooperation on issues of mutual interest, including genetic resources and traditional knowledge.

