ANNEX I

Schedule of Peru

Sector: All Sectors

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures:

Constitución Política del Perú (1993), Artículo 71.


Description:

No foreign national, enterprise organized under foreign law or enterprise organized under Peruvian law and owned in whole or part, directly or indirectly, by foreign nationals may acquire or own by any title, directly or indirectly, land or water (including a mine, forest land, 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 cases of expressly declared public necessity.¹

¹ For example, authorizations have been granted in the mining sector.
Sector: Free-to-Air Radio Communications

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Most Favored Nation Treatment (Article 10.4)
Local Presence (Article 11.5)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

Only Peruvian nationals or juridical persons organized under Peruvian law and domiciled in Peru may be authorized or licensed to offer free-to-air radio communications.

Foreign nationals may not own more than 40 percent of the total shares or equity interest in such a juridical person and must be owners or share-holders or hold an equity interest in a radio or television broadcast enterprise in their country of origin.

No foreign national may receive or hold an authorization or a license directly or through a sole proprietorship.

If a foreign national is, directly or indirectly, a shareholder, partner, or associate in a juridical person, that juridical person may not hold a broadcasting authorization in a zone bordering that foreign national’s country of origin, except in a case of public necessity authorized by the Council of Ministers.

This restriction does not apply to juridical persons with foreign equity which have two or more current authorizations, as long as they are of the same frequency band.
Sector: Audio-Visual Services

Obligations Concerned: National Treatment (Article 11.2)
Performance Requirements (Article 10.9)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

At least 30 percent, on average, of the total weekly programs by free-to-air television broadcasters between the hours of 5:00 and 24:00 must be produced in Peru.
Sector: Notary Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)  
Market Access (Article 11.4)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

Only a Peruvian national by birth may supply notary services.

The number of notary positions is limited as follows:

(a) 200 for the capital;
(b) 40 for each department capital; and
(c) 20 for each provincial capital (including the Constitutional Province of Callao).
Sector: Architecture Services

Obligations Concerned: National Treatment (Articles 10.3 and 11.2) Market Access (Article 11.4)

Level of Government: Central

Measures: 


Ley N° 16053, Diario Oficial “El Peruano” del 14 de febrero de 1966, Ley del Ejercicio Profesional, Autoriza a los Colegios de Arquitectos e Ingenieros del Perú para supervisar a los profesionales de Ingeniería y Arquitectura de la República, Artículo 1.

Acuerdo del Consejo de Arquitectos, del 06 de octubre de 1987.

Description: Investment and Cross-Border Trade in Services

To practice as an architect in Peru, an individual must join the appropriate Colegio de Arquitectos and pay a fee in accordance with the following schedule:

(a) US$250 for a Peruvian national with a degree from a Peruvian university;
(b) US$400 for a Peruvian national with a degree from a foreign university; or
(c) US$3,000 for a foreign national with a degree from a foreign university.

Also, to obtain temporary registration, nonresident foreign architects must have a contract of association with a Peruvian architect residing in Peru.
Sector: Security Services

Obligations Concerned: National Treatment (Article 11.2)  
Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central


Description: Investment and Cross-Border Trade in Services

A security watchman must be a Peruvian national by birth.

A senior manager of an enterprise that supplies security services must be a Peruvian national by birth and be a resident of Peru.
Sector: Bullfighting

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central


Description: Cross-Border Trade in Services

At least one bullfighter of Peruvian nationality must participate in any bullfighting event. At least one apprentice bullfighter of Peruvian nationality must participate in fights involving young bulls.
Sector: Audio-Visual Services

Obligations Concerned: National Treatment (Article 11.2)  
Performance Requirements (Article 10.9)

Level of Government: Central

Measures:  

Description:  
Investment and Cross-Border Trade in Services

A free-to-air radio communications enterprise must dedicate at least ten percent of daily programming to folklore, national music, and series or programs produced in Peru on the history, literature, culture, or current issues in Peru.

For greater certainty, nothing in Chapter 11 (Cross-Border Trade in Services) other than Article 11.2 (National Treatment) prohibits Peru from maintaining this requirement.
Sector: Customs Warehouses Services

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central


Description: Cross-Border Trade in Services

Only natural or juridical persons domiciled in Peru may apply for an authorization to operate a customs warehouse.
Sector: Air Transport
Specialty Air Services

Obligations Concerned:
National Treatment (Articles 10.3 and 11.2)
Local Presence (Article 11.5)
Senior Management and Boards of Directors (Article 10.10)

Level of Government: Central

Measures:


Description:
Investment and Cross-Border Trade in Services

National Commercial Aviation Service is reserved to a Peruvian natural or juridical person. National Commercial Aviation Service includes specialty air services.

For purposes of this entry, a Peruvian juridical person is an enterprise that fulfils the following requirements:

(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;

(b) at least half plus one of the directors, managers, and persons who control or manage the enterprise are Peruvian nationals or have permanent domicile or are normally resident in Peru; and

(c) at least 51 percent of the capital must be owned by Peruvian nationals and be under the real and effective control of Peruvian shareholders or partners permanently domiciled in Peru. (This limitation shall not apply to the

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enterprises constituted under law Nº 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 or foreign citizens may own up to 70 percent of the capital of the enterprise.
**Sector:** Specialty Air Services

**Obligations Concerned:** National Treatment (Article 11.2)

**Level of Government:** Central

**Measures:** Ley N° 27261, Diario Oficial “El Peruano” del 10 de mayo de 2000, Ley de Aeronáutica Civil, Artículo 75.

**Description:** Cross-Border Trade in Services

Only Peruvian nationals may perform aeronautical functions on board of national commercial aviation suppliers’ aircraft (“explotadores nacionales”), which are suppliers that hold an Operating Permit or Flight Permit.

For greater certainty, an individual is not a senior manager for purposes of Article 10.10 (Senior Management and Boards of Directors) if the individual’s sole duties are as an aircraft pilot or captain.
Sector: Merchant Marine

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Market Access (Article 11.4)
Local Presence (Article 11.5)
Senior Management and Boards of Directors (Article 10.10)

Level of Government Central

Measures: 


Description: Investment and Cross-Border Trade in Services

1. Only a “National shipowner” or “National Ship Enterprise” may supply maritime cabotage services. A “National shipowner” or “National Ship Enterprise” means a Peruvian national or juridical person organized under Peruvian law, with its principal domicile and real and effective headquarters in Peru, whose business is to provide water transportation services for cabotage or international traffic and which 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 ship and that has obtained the relevant Operation Permit from the General Aquatic Transport Directorate.

2. At least 51 percent of the subscribed and paid-in capital must be owned by Peruvian citizens.

3. The chairman of the board of directors, a majority of the directors, and the General Manager of a National Ship Enterprise must be nationals and resident in Peru.

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2 For greater certainty, maritime cabotage services includes transport by lakes and rivers.

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4. The captain of the Peruvian-flagged vessels must be a Peruvian national. In cases where there is no duly qualified Peruvian captain, a foreign national may be authorized to serve as captain.

5. Only a Peruvian national may be a licensed harbor pilot.

6. Cabotage is exclusively reserved to Peruvian flagged 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) Twenty-five per cent of the transport of hydrocarbons in national waters is reserved for the boats of the Peruvian Navy; and

(ii) Foreign-flagged vessels may be used by a National Shipowner 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.

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Sector: Maritime Transport and Related Services

Obligations Concerned: National Treatment (Article 11.2)
Local Presence (Article 11.5)

Level of Government: Central


Description: 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:

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.
Sector: Maritime Tourist Transport

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central


Description: 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.
Sector: Port Services

Obligations Concerned: National Treatment (Article 11.2)

Level of Government: Central


Description: Cross-Border Trade in Services

Only a Peruvian national may register in the Registry of Port Workers. For greater certainty, measures relating to landside aspects of port activities are subject to the application of Article 22.2 (Essential Security).
Sector: Land Transport of Passengers

Obligations Concerned: Market Access (Article 11.4)

Level of Government: Central

Measures:  


*Decreto Supremo N° 035-2002-MTC, Diario Oficial “El Peruano” del 01 de julio de 2003, Amplían suspensión de otorgamiento de nuevas concesiones a que se refiere el Decreto Supremo N° 032-2002-MTC y modifican artículo del Reglamento Nacional de Administración de Transportes, Artículo 1.*


Description: Cross-Border Trade in Services

The granting of new concessions for inter-provincial passenger transport along specific routes is suspended.
Sector: Land Transport

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central


Description: Cross-Border Trade in Services

A supplier of land transport services in Peru must certify in writing that it maintains ground terminals, offices, 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.
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Archaeological research projects headed by foreign archaeologists must employ a Peruvian archaeologist registered with the National Registry of Archaeologists as scientific co-director or sub-director of the project. The co-director and sub-director shall participate in all aspects of the project in the field and in the office.
Sector: Services Related to Energy Services

Obligations Concerned:
- National Treatment (Article 11.2)
- Local Presence (Article 11.5)

Level of Government: Central

Measures:


Description: Cross-Border Trade in Services

In order to enter into an exploration contract in Peru, foreign enterprises must establish a branch or organize under the “Ley General de Sociedades”, be domiciled in Lima, and appoint a Peruvian national as an executive agent. Foreign nationals must register in the Public Registry and provide a power of attorney to a Peruvian national resident in Lima, Peru.