

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.*
Decreto Legislativo N° 757, Diario Oficial “El Peruano” del 13 de noviembre de 1991, Ley Marco para el Crecimiento de la Inversión Privada, Artículo 13.

Description: Investment

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
Measures:	<i>Ley N° 28278, Diario Oficial “El Peruano” del 16 de julio de 2004, Ley de Radio y Televisión, Artículo 24.</i> <i>Decreto Supremo N° 005-2005-MTC, Diario Oficial “El Peruano” del 15 de febrero de 2005, Reglamento de la Ley de Radio y Televisión, Artículo 20.</i>
Description:	<u>Investment and Cross-Border Trade in Services</u> 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

Measures: *Ley N° 28278, Diario Oficial “El Peruano” del 16 de julio de 2004, Ley de Radio y Televisión, Octava Disposición Complementaria y Final.*

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
Measures:	<i>Decreto Ley N° 26002, Diario Oficial El Peruano del 27 de Diciembre de 1992, Ley del Notariado, Artículos 5 (modificado por Ley N° 26741) y Artículo 10 (modificado por Ley N° 27094).</i>
Description:	<u>Investment and Cross-Border Trade in Services</u> 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:	<p><i>Ley N° 14085, Diario Oficial “El Peruano” del 30 de junio de 1962, Ley de Creación del Colegio de Arquitectos del Perú.</i></p> <p><i>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.</i></p> <p><i>Acuerdo del Consejo de Arquitectos, del 06 de octubre de 1987.</i></p>
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>To practice as an architect in Peru, an individual must join the appropriate <i>Colegio de Arquitectos</i> and pay a fee in accordance with the following schedule:</p> <ul style="list-style-type: none"> (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. <p>Also, to obtain temporary registration, nonresident foreign architects must have a contract of association with a Peruvian architect residing in Peru.</p>

Sector:	Security Services
Obligations Concerned:	National Treatment (Article 11.2) Senior Management and Boards of Directors (Article 10.10)
Level of Government:	Central
Measures:	<i>Decreto Supremo N° 005-94-IN, Diario Oficial “El Peruano” del 12 de mayo de 1994, Reglamento de Servicios de Seguridad Privada, Artículos 81 y 83.</i>
Description:	<u>Investment and Cross-Border Trade in Services</u> 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
Measures:	<i>Ley N° 28131, Diario Oficial “El Peruano” del 18 de diciembre de 2003, Ley del Artista, Intérprete y Ejecutante, Artículo 28.</i>
Description:	<u>Cross-Border Trade in Services</u> 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:	<i>Ley N° 28131, Diario Oficial “El Peruano” del 18 de diciembre de 2003, Ley del Artista, Intérprete y Ejecutante, Artículos 25 y 45.</i>
Description	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>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.</p> <p>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.</p>

Sector: Customs Warehouses Services

Obligations Concerned: Local Presence (Article 11.5)

Level of Government: Central

Measures: *Decreto Supremo N° 08-95-EF, Diario Oficial “El Peruano” del 5 de febrero de 1995, Aprueban el Reglamento de Almacenes Aduaneros, Artículo 7.*

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:	<i>Ley N° 27261, Diario Oficial “El Peruano” del 10 de mayo del 2000, Ley de Aeronáutica Civil, Artículo 79.</i> <i>Decreto Supremo N° 050-2001-MTC, Diario Oficial “El Peruano” del 26 de diciembre de 2001, Reglamento de la Ley de Aeronáutica Civil, Artículos 159, 160 y VI Disposición Complementaria.</i>
Description:	<u>Investment and Cross-Border Trade in Services</u> 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

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 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:	<i>Ley N° 28583, Ley de Reactivación y Promoción de la Marina Mercante Nacional, Diario Oficial “EL Peruano” del 22 de julio de 2005, Artículos 4.1, 6.1, 7.1, 7.2., 7.4 y 13.6.</i> <i>Decreto Supremo N° 028 DE/MGP, Diario Oficial “El Peruano” de 25 de mayo de 2001, Reglamento de la Ley N° 26620, Artículo I-010106, literal a).</i>
Description:	<u>Investment and Cross-Border Trade in Services</u> 1. Only a “National shipowner” or “National Ship Enterprise” may supply maritime cabotage services. ² 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.

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

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.

Sector: Maritime Transport and Related Services

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

Level of Government: Central

Measures: *Decreto Supremo N° 056-2000-MTC, Diario Oficial “El Peruano” del 31 de diciembre de 2000, Disponen que servicios de transporte marítimo y conexos realizados en bahías y áreas portuarias deberán ser prestados por personas naturales y jurídicas autorizadas, con embarcaciones y artefactos de bandera nacional, Artículo 1.*

Resolución Ministerial N° 259-2003-MTC/02, Diario Oficial “El Peruano” del 4 de abril de 2003, Aprueban Reglamento de los servicios de Transporte Acuático y Conexos Prestados en Tráfico de Bahía y Areas Portuarias, Artículos 5 y 7.

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
Measures:	<i>Resolución Suprema N° 011-78-TC-DS, 6 de febrero de 1978, Reglamento de Empresas de Transporte Turístico, Artículo 13.</i>
Description:	<u>Cross-Border Trade in Services</u> 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
Measures:	<i>Ley N° 27866, Diario Oficial “El Peruano” del 16 de noviembre de 2002, Ley del Trabajo Portuario, Artículo 3.</i>
Description:	<u>Cross-Border Trade in Services</u> 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° 032-2002-MTC, Diario Oficial “El Peruano” del 12 de julio de 2002, Modifican artículos del Reglamento Nacional de Administración de Transporte y suspenden incremento de flota vehicular para el Servicio Público de Transporte Nacional de Pasajeros, Artículo 2.*

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.

Decreto Supremo N° 009-2004-MTC, Diario Oficial “El Peruano” del 3 de marzo de 2004, Reglamento Nacional de administración de transporte terrestre, Décimo Cuarta Disposición Transitoria.

Decreto Supremo N° 038-2004-MTC, Diario Oficial “El Peruano” del 13 de noviembre de 2004, Modifican artículos y anexos I y II del Reglamento Nacional de Administración de Transportes, Artículo 5.

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
Measures:	<i>Decreto Supremo N° 009-2004-MTC, Diario Oficial “El Peruano” del 27 de febrero de 2004, Reglamento Nacional de Administración de Transportes, Artículos 47 y 48.</i>
Description	<p><u>Cross-Border Trade in Services</u></p> <p>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.</p> <p>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.</p>

Sector	Archaeological Services
Obligations Concerned:	National Treatment (Article 11.2)
Level of Government:	Central
Measures:	<i>Resolución Suprema N° 004-2000-ED, Diario Oficial "El Peruano" del 25 de Enero de 2000, Reglamento de Investigaciones Arqueológicas, Artículo 30.</i>
Description	<p><u>Cross-Border Trade in Services</u></p> <p>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.</p>

Sector: Services Related to Energy Services

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

Level of Government: Central

Measures: *Ley N° 26221, Diario Oficial "El Peruano" del 19 de agosto de 1993, Ley General de Hidrocarburos, Artículo 15.*

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.