

## ANNEX I

### SCHEDULE OF PERU<sup>1</sup>

#### (Existing Non-Conforming Measures for Trade in Services and Establishment)

#### EXPLANATORY NOTES

1. This Schedule sets out, pursuant to Article 8.7 (Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 12.6 (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), existing measures that are not subject to some or all of the obligations imposed by:
  - (a) Article 8.3 (National Treatment) of Chapter 8 (Trade in Services) or Article 12.4 (National Treatment) of Chapter 12 (Establishment and Related Provisions);
  - (b) Article 8.4 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services);
  - (c) Article 8.5 (Market Access) of Chapter 8 (Trade in Services);
  - (d) Article 8.6 (Local Presence) of Chapter 8 (Trade in Services);
  - (e) Article 12.5 (Performance Requirements) of Chapter 12 (Establishment and Related Provisions).
2. Each Schedule entry sets out the following elements:
  - (a) **Sector** refers to the sector for which the entry is made;
  - (b) **Sub-Sector**, where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) To identify the different sectors and sub-sectors in this list, the CPC prov, 1991 is used, which stands for the Central Product Classification according to the definition of the United Nations Statistics Office, Statistical Reports, Series M, No. 77, CPC prov, 1991;
  - (d) **Obligations Concerned** specifies the obligations referred to in paragraph 1 that, pursuant to Article 8.7.1.(a) (Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 12.6.1(a) (Non-Conforming Measures) of

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<sup>1</sup> In case of discrepancy or divergence between the authentic texts, the Spanish text of this Schedule shall prevail.

Chapter 12 (Establishment and Related Provisions), do not apply to the listed measure(s);

- (e) **Level of Government** indicates the level of government maintaining the listed measures;
- (f) **Measures** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **Measures** element:
  - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement; and
  - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
- (g) **Description** provides a general non-binding description of the measure for which the entry is made.

3. Articles 8.3 (National Treatment) and 8.6 (Local Presence) of Chapter 8 (Trade in Services) are separate disciplines and a measure that is only inconsistent with Article 8.6 (Local Presence) of Chapter 8 (Trade in Services) need not be reserved against Article 8.3 (National Treatment) of Chapter 8 (Trade in Services).

4. In accordance with Article 8.7.1 (Non-Conforming Measures) of Chapter 8 (Trade in Services) and Article 12.6.1 (Non-Conforming Measures) of Chapter 12 (Establishment and Related Provisions), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming aspects of the law, regulation or other measure identified in the **Measures** element of that entry.

## **I-PERU-1**

<b>Sector</b>	All
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 12.4)
<b>Level of Government</b>	Central
<b>Measures</b>	Political Constitution of Peru ( <i>Constitución Política del Perú</i> ) (1993), Article 71  Legislative Decree N° 757, “El Peruano” Official Gazette of November 13, 1991, Framework Law for Private Investment Growth ( <i>Ley Marco para el Crecimiento de la Inversión Privada</i> ), Article 13
<b>Description</b>	<u>Establishment</u>  No foreign national, enterprise constituted under foreign law or enterprise constituted under Peruvian law, and owned in whole or part, directly or indirectly, by foreign nationals may acquire or own, directly or indirectly, by any title, land or water (including mines, forest or energy sources) located within 50 kilometres of the Peruvian border. Exceptions may be authorised by Supreme Decree approved by the Council of Ministers in conformity with law in cases of expressly declared public necessity.  For each case of acquisition or possession within the referred area, the investor shall hand in the correspondent request to the relevant Ministry, in accordance with laws in force. For example, authorisations of this kind have been given in the mining sector.

## **I-PERU-2**

<b>Sector</b>	Services Related to Fishing
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 012-2001-PE, “El Peruano” Official Gazette of March 14, 2001, Regulation of the Fisheries Law ( <i>Reglamento de la Ley General de Pesca</i> ), Articles 67, 68, 69 and 70
<b>Description</b>	<u>Trade in Services</u>

Before commencing operations, ship owners of foreign-flagged fishing vessels must present an unconditional, irrevocable letter of guarantee with automatic execution and joint liability, which will be valid for no more than 30 calendar days after the expiry of the fishing permit, issued for the benefit and to the satisfaction of the Ministry of Production by a financial, banking or insurance institution recognised by the Superintendency of Banking, Insurance and Private Administrators of Pension Funds (*Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones (AFP)*). Such letter shall be issued in an amount equal to 25 per cent of the amount that must be paid for fishing rights.

A ship owner of a foreign-flagged fishing vessel that is not of large scale (in accordance with the regulation mentioned above) and that operates in Peruvian jurisdictional waters must have a Satellite Tracking System in its vessel, except for ship owners operating in highly migratory fisheries who are excepted from this obligation by a Ministerial Resolution.

Foreign-flagged fishing vessels with a fishing permit must have on board a scientific technical observer appointed by the Sea Institute of Peru (*Instituto del Mar del Perú (IMARPE)*). The ship owner must provide accommodation on board for that representative and a daily stipend, which must be deposited in a special account to be administered by IMARPE.

Ship owners of foreign-flagged fishing vessels that operate in Peruvian jurisdictional waters must hire a minimum of 30 per cent Peruvian crew, subject to its applicable domestic legislation.

### **I-PERU-3**

<b>Sector</b>	Broadcasting Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4) Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 28278, “El Peruano” Official Gazette of July 16, 2004, Radio and Television Law ( <i>Ley de Radio y Televisión</i> ), Article 24
<b>Description</b>	<u>Establishment and Trade in Services</u>  Only Peruvian nationals or juridical persons organised under Peruvian law and domiciled in Peru may be authorised or licensed to offer broadcasting services.  No foreign national may hold an authorisation or a licence directly or through a sole proprietorship.

**I-PERU-4**

<b>Sector</b>	Broadcasting Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3) Performance Requirements (Article 12.5)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 28278, “El Peruano” Official Gazette of July 16, 2004, Radio and Television Law ( <i>Ley de Radio y Televisión</i> ), Eighth Complementary and Final Provision
<b>Description</b>	<u>Establishment and Trade in Services</u>  At least 30 per cent, on average, of the total weekly programs by free-to-air broadcasters must be produced in Peru and broadcasted between the hours of 05:00 and 24:00.

## **I-PERU-5**

<b>Sector</b>	Broadcasting Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4) Most-Favoured-Nation Treatment (Article 8.4)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 005-2005-MTC, “El Peruano” Official Gazette of February 15, 2005, Regulation of the Radio and Television Law ( <i>Reglamento de la Ley de Radio y Televisión</i> ), Article 20
<b>Description</b>	<p><u>Establishment and Trade in Services</u></p> <p>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 authorisation in a zone bordering that foreign national’s country of origin, except in a case of public necessity authorised by the Council of Ministers.</p> <p>This restriction does not apply to juridical persons with foreign equity which have two or more current authorisations, as long as they are of the same frequency band.</p>

## **I-PERU-6**

<b>Sector</b>	All
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3) Most-Favoured-Nation Treatment (Article 8.4)
<b>Level of Government</b>	Central
<b>Measures</b>	Legislative Decree N° 689, “El Peruano” Official Gazette of November 5, 1991, Law for Foreign Workers Recruitment ( <i>Ley para la Contratación de Trabajadores Extranjeros</i> ), Articles 1, 3, 4, 5 (modified by Law N° 26196) and 6
<b>Description</b>	<p><u>Trade in Services</u></p> <p>All employers in Peru, independently of their activity or nationality, shall give preferential treatment to nationals when hiring employees.</p> <p>Foreign natural persons who are service suppliers and who are employed by a service-supplying enterprise may supply services in Peru under a written and time-limited employment contract, which may not exceed three years. The contract may be subsequently extended for like periods of time. Service-supplying enterprises must show proof of the company’s commitment to train national personnel in the same occupation.</p> <p>Foreign natural persons may not represent more than 20 per cent of the total number of employees of an enterprise, and their pay may not exceed 30 per cent of the total payroll for wages and salaries. These percentages will not apply in the following cases:</p> <ul style="list-style-type: none"><li>(a) when the foreign national supplying the service is the spouse, parent, child or sibling of a Peruvian national;</li><li>(b) when personnel work for a foreign enterprise supplying international land, air and water transport services under a foreign flag and registration;</li></ul>

- (c) when foreign personnel work in a multinational bank or an enterprise that supplies multinational services, subject to the laws governing specific cases;
- (d) for a foreign investor, provided that its investment permanently maintains in Peru at least five tax units (*Unidad Impositiva Tributaria* - UIT)<sup>2</sup> during the life of its contract;
- (e) for artists, athletes or other service suppliers engaged in public performances in Peruvian territory, for a maximum of three months a year;
- (f) when a foreign national has an immigrant visa;
- (g) for a foreign national whose country of origin has a labour reciprocity or dual nationality agreement with Peru; and
- (h) when foreign personnel supply services in Peru under a bilateral or multilateral agreement concluded by the Peruvian Government.

Employers may request waivers for the percentages related to the number of foreign employees and their share of the company's payroll in cases involving:

- (a) specialised professional or technical personnel;
- (b) directors or management personnel for a new business activity or reconverted business activity;
- (c) teachers hired for post-secondary education, for foreign private elementary and high schools, for language teaching in local private schools, or for specialised language centres;
- (d) personnel working for public or private enterprises with contractual agreements with public organisations, institutions or enterprises; and

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<sup>2</sup> The UIT is an amount used as a reference in taxation rules in order to maintain in constant values the tax basis, deductions, affectation limits and other aspects of the tax that the legislator considers convenient.

- (e) in any other case determined by Supreme Decree pursuant to specialisation, qualification or experience criteria.

**I-PERU-7**

<b>Sector</b>	Professional Services
<b>Sub-Sector</b>	Legal services
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4)
<b>Level of Government</b>	Central
<b>Measures</b>	Legislative Decree N° 1049, “El Peruano” Official Gazette of June 26, 2008, Notaries Law ( <i>Ley del Notariado</i> ), Article 10
<b>Description</b>	<u>Establishment and Trade in Services</u>  Only a Peruvian national by birth may supply notary services.

## **I-PERU-8**

<b>Sector</b>	Professional Services
<b>Sub-Sector</b>	Architectural services
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4)
<b>Level of Government</b>	Central
<b>Measures</b>	<p>Law N° 14085, “El Peruano” Official Gazette of June 30, 1962, Law establishing the Peruvian Association of Architects (<i>Ley de Creación del Colegio de Arquitectos del Perú</i>)</p> <p>Law N° 16053, “El Peruano” Official Gazette of February 14, 1966, Professional Practice Law, authorising the Peruvian Associations of Architects and Engineers to supervise Engineering and Architecture professionals of the Nation (<i>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</i>), Article 1</p> <p>National Architects Council Agreement (<i>Acuerdo del Consejo Nacional de Arquitectos</i>), approved in Session N° 04-2009 of December 15, 2009</p>
<b>Description</b>	<p><u>Establishment and Trade in Services</u></p> <p>To practice as an architect in Peru, an individual must join the Peruvian Association of Architects (<i>Colegio de Arquitectos del Perú</i>). The enrolment fees are different for Peruvians and foreigners, and subject to review by the Peruvian Association of Architects (<i>Colegio de Arquitectos del Perú</i>).</p> <p>Also, to obtain temporary registration, non-resident foreign architects must have a contract of association with a Peruvian architect residing in Peru.</p>

**I-PERU-9**

<b>Sector</b>	Professional Services
<b>Sub-Sector</b>	Auditing services
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4) Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Rules of the Association of Public Accountants of Lima ( <i>Reglamento Interno del Colegio de Contadores Públicos de Lima</i> ), Articles 145 and 146
<b>Description</b>	<u>Establishment and Trade in Services</u>  Auditing societies shall be constituted only and exclusively by public accountants licensed and resident in the country and duly qualified by the Association of Public Accountants of Lima ( <i>Colegio de Contadores Públicos de Lima</i> ).

## **I-PERU-10**

<b>Sector</b>	Security Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4) Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 003-2011-IN, “El Peruano” Official Gazette of March 31, 2011, Regulation of Private Security Services ( <i>Reglamento de Servicios de Seguridad Privada</i> ), Articles 12, 18, 22, 36, 40, 41, 46, 47 and 48
<b>Description</b>	<p><u>Establishment and Trade in Services</u></p> <p>The supply of personal and heritage security services by natural persons is reserved to Peruvian nationals.</p> <p>Only juridical persons constituted in Peru may apply for an authorisation to supply security services. It must prove its constitution in Peru by a copy of the registration form of the constitution for the enterprise.</p>

## **I-PERU-11**

<b>Sector</b>	Recreational, Cultural and Sporting Services
<b>Sub-Sector</b>	National artistic audio-visual production services
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 28131, “El Peruano” Official Gazette of December 18, 2003, Law of the Artist and Performer ( <i>Ley del Artista, Intérprete y Ejecutante</i> ), Articles 23 and 25
<b>Description</b>	<p><u>Trade in Services</u></p> <p>Any domestic artistic audio-visual production must be comprised of at least 80 per cent Peruvian national artists.</p> <p>Any domestic artistic live performances must be comprised of at least 80 per cent Peruvian national artists.</p> <p>In any domestic artistic audio-visual production and any domestic artistic live performance, Peruvian national artists shall receive no less than 60 per cent the total payroll for wages and salaries paid to artists.</p> <p>The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in artistic activities.</p>

## **I-PERU-12**

<b>Sector</b>	Recreational, Cultural and Sporting Services
<b>Sub-Sector</b>	Circus services
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 28131, “El Peruano” Official Gazette of December 18, 2003, Law of the Artist and Performer ( <i>Ley del Artista, Intérprete y Ejecutante</i> ), Article 26
<b>Description</b>	<p><u>Trade in Services</u></p> <p>A foreign circus may stay in Peru with its original cast for a maximum of 90 days. This period may be extended for the same period of time. If it is extended, the foreign circus will include a minimum of 30 per cent Peruvian nationals as artists and 15 per cent Peruvian nationals as technicians. The same percentages shall apply to the payroll of salaries and wages.</p>

**I-PERU-13**

<b>Sector</b>	Commercial Advertising Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 28131, “El Peruano” Official Gazette of December 18, 2003, Law of the Artist and Performer ( <i>Ley del Artista, Intérprete y Ejecutante</i> ), Articles 25 and 27.2
<b>Description</b>	<p><u>Trade in Services</u></p> <p>Commercial advertising produced in Peru must have at least 80 per cent Peruvian national artists.</p> <p>In any commercial advertising produced in Peru, Peruvian national artists shall receive no less than 60 per cent of the total payroll for wages and salaries paid to artists.</p> <p>The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in commercial advertising.</p>

**I-PERU-14**

<b>Sector</b>	Recreational, Cultural and Sporting Services
<b>Sub-Sector</b>	Bullfighting
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 28131, “El Peruano” Official Gazette of December 18, 2003, Law of the Artist and Performer ( <i>Ley del Artista, Intérprete y Ejecutante</i> ), Article 28
<b>Description</b>	<u>Trade in Services</u>  At least one bullfighter of Peruvian nationality must participate in any bullfighting fair. At least one apprentice bullfighter of Peruvian nationality must participate in fights involving young bulls.

**I-PERU-15**

<b>Sector</b>	Radio and Television Broadcasting Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3) Performance Requirements (Article 12.5)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 28131, “El Peruano” Official Gazette of December 18, 2003, Law of the Artist and Performer ( <i>Ley del Artista, Intérprete y Ejecutante</i> ), Articles 25 and 45
<b>Description</b>	<p><u>Establishment and Trade in Services</u></p> <p>Free to air radio and television broadcast companies must dedicate at least 10 per cent of their daily programming to folklore and national music and to series or programs produced in Peru on Peruvian history, literature, culture or current issues with artists hired in the following percentages:</p> <ul style="list-style-type: none"><li>(a) a minimum of 80 per cent Peruvian national artists;</li><li>(b) Peruvian national artists shall receive no less than 60 per cent of the total payroll for wages and salaries paid to artists; and</li><li>(c) the same percentages established in the preceding subparagraphs shall govern the work of technical personnel involved in artistic activities.</li></ul>

**I-PERU-16**

<b>Sector</b>	Customs Warehouses Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 08-95-EF, “El Peruano” Official Gazette of February 5, 1995, Approve the Regulation of Customs Warehouses ( <i>Aprueban el Reglamento de Almacenes Aduaneros</i> ), Article 7
<b>Description</b>	<u>Trade in Services</u>  Only natural or juridical persons domiciled in Peru may apply for an authorisation to operate a customs warehouse.

**I-PERU-17**

<b>Sector</b>	Telecommunications Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 020-2007-MTC, “El Peruano” Official Gazette of July 04, 2007, Consolidated Text of the General Rules of the Telecommunications Law ( <i>Texto Único Ordenado del Reglamento General de la Ley de Telecomunicaciones</i> ), Article 258
<b>Description</b>	<u>Trade in Services</u>  Call-back, understood as being the offer of telephone services for the realisation of attempts to make calls originating in Peru with the objective of obtaining a return call with an invitation to dial, coming from a basic telecommunications network located outside the national territory, is prohibited.

## **I-PERU-18**

<b>Sector</b>	Transportation
<b>Sub-Sector</b>	Air Transportation and Specialty Air Services
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4) Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 27261, “El Peruano” Official Gazette of May 10, 2000, Civil Aviation Law ( <i>Ley de Aeronáutica Civil</i> ), Articles 75 (modified by Legislative Decree N° 999, April 19, 2008) and 79  Peruvian Aviation Regulation N° 61 ( <i>Regulación Aeronáutica del Perú – RAP N° 61</i> ), “El Peruano” Official Gazette of December 14, 2013  Supreme Decree N° 050-2001-MTC, “El Peruano” Official Gazette of December 26, 2001, Regulation of the Civil Aviation Law ( <i>Reglamento de la Ley de Aeronáutica Civil</i> ), Articles 159, 160 and VI Complementary Provision
<b>Description</b>	<u>Establishment and Trade in Services</u>  1. National Commercial Aviation <sup>3</sup> is reserved to a Peruvian natural or juridical person.  2. For the purposes of this entry, a Peruvian juridical person is an enterprise that fulfils the following requirements:  (a) it 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 and manage the enterprise are Peruvian nationals, have permanent domicile or are resident in Peru; and

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<sup>3</sup> For greater certainty, National Commercial Aviation includes Specialty Air Services.

(c) at least 51 per cent of the capital stock 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 authorisation of the enterprise to provide commercial air transportation services, foreign nationals may own up to 70 per cent of the capital stock of the enterprise.

3. In those operations conducted by national commercial aviation operators (*explotadores nacionales*), personnel performing aeronautical functions on board must be Peruvian nationals or foreign residents with a Peruvian licence.

4. In order to perform activities as a pilot of a Peruvian juridical person, the foreign pilot must prove, at least, two years of residence in Peru. This requirement is not applicable to the foreign resident who has the immigration category of “spouse” of a Peruvian national.

5. Notwithstanding the preceding paragraphs, the General Directorate of Civil Aviation (*Dirección General de Aeronáutica Civil*) may, for technical reasons, authorise foreign personnel without a Peruvian licence to perform these functions for a period not to exceed six months from the date on which the authorisation was granted, extendable due to ascertained non-existence of such skilled personnel.

## **I-PERU-19**

<b>Sector</b>	Transportation
<b>Sub-Sector</b>	Aquatic transportation
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4) Local Presence (Article 8.6) Performance Requirements (Article 12.5)
<b>Level of Government</b>	Central
<b>Measures</b>	<p>Law N° 28583, “El Peruano” Official Gazette of July 22, 2005, Law of the Reactivation and Promotion of the National Merchant Marine (<i>Ley de Reactivación y Promoción de la Marina Mercante Nacional</i>), Articles 4.1, 6.1, 7.1, 7.2, 7.4 and 13.6</p> <p>Law N° 29475, Law that modifies Law N° 28583, “El Peruano” Official Gazette of December 17, 2009, Law of the Reactivation and Promotion of the National Merchant Marine (<i>Ley de Reactivación y Promoción de la Marina Mercante Nacional</i>), Article 13.6 and Tenth Transitory and Final Provision</p> <p>Law N° 30580, Law that modifies Law N° 29475, Law of the Reactivation and Promotion of the National Merchant Marine, for Promoting Cabotage in Foreign Trade Operations (<i>Ley de Reactivación y Promoción de la Marina Mercante Nacional, para Promover el Cabotaje en las Operaciones de Comercio Exterior</i>), Articles 1 and 2</p> <p>Supreme Decree N° 028 DE/MGP, “El Peruano” Official Gazette of May 25, 2001, Regulation of the Law N° 26620 (<i>Reglamento de la Ley N° 26620</i>), Article I-010106, paragraph a)</p> <p>Supreme Decree N° 015-2014-DE, “El Peruano” Official Gazette of November 28, 2014. Supreme Decree that approves the Legislative Decree N° 1147, that regulates the strengthening of the Armed Forces in the faculties of the National Maritime Authority-General Directorate of Captaincies and Coast Guard, Article 517</p>
<b>Description</b>	<u>Establishment and Trade in Services</u>

A “national ship owner” or “national ship enterprise” is understood as a natural person of Peruvian nationality or juridical person constituted in Peru, with its principal domicile and real and effective headquarters in Peru, whose business is to provide services in water transportation in national traffic or cabotage<sup>4</sup> or international traffic and who is the owner or lessee under a financial lease or a bareboat charter, with an obligatory purchase option, of at least one Peruvian flag merchant vessel, and that has obtained the relevant Operating Permit from the General Aquatic Transport Directorate (*Dirección de Transporte Acuático*).

At least 51 per cent of the subscribed and paid-in capital stock must be owned by Peruvian citizens.

The Chair of the Board of Directors, the majority of the directors, and the General Manager must be Peruvian nationals and residents in Peru.

The captain and crew of Peruvian-flagged vessels must be entirely Peruvian nationals authorised by the General Directorate of Captaincy and Coastguards (*Dirección General de Capitanías y Guardacostas*). In exceptional cases and after ascertaining that there is no Peruvian qualified personnel with experience in that type of vessel available, foreign nationals may be hired to a maximum of 15 per cent of the total crew, and for a limited period of time. The latter exception does not include the captain of the vessel.

Only a Peruvian national may be a licensed harbour pilot.

Cabotage is exclusively reserved to Peruvian-flagged merchant vessels owned by a national ship owner or national ship enterprise or leased under a financial lease or a bareboat charter, with an obligatory purchase option, except that:

- (a) the transport of hydrocarbons in national waters is reserved up to 25 per cent for ships of the Peruvian Navy; and
- (b) foreign-flagged vessels may be operated exclusively by national ship owners or national ship enterprises for a period of three years for water transportation

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<sup>4</sup> For greater certainty, water transportation includes transportation by lakes and rivers.

exclusively between Peruvian ports or cabotage when such an entity does not own its own vessels or lease vessels under a financial leasing or bareboat charter with purchase obligation. This period may be renewed up to one year.

The national ship owner or national ship enterprise who signs a contract for the construction or repair of a vessel with a national shipyard may lease a foreign flag vessel for a period equivalent to the period of construction or reparation. That period may not exceed five years.

## **I-PERU-20**

<b>Sector</b>	Transportation
<b>Sub-Sector</b>	Aquatic transportation
<b>Obligations Concerned</b>	National Treatment (Article 8.3 and Article 12.4) Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	<p>Supreme Decree N° 056-2000-MTC, “El Peruano” Official Gazette of December 31, 2000, Provides that aquatic transportation services and related services conducted in bays and port areas must be provided by authorised natural and juridical persons, with vessels and artifacts of national flag (<i>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</i>), Article 1</p> <p>Ministerial Resolution N° 259-2003-MTC/02, “El Peruano” Official Gazette of April 4, 2003, Approve Regulation of Aquatic Transportation services and related services rendered in bay traffic and port areas (<i>Aprueban Reglamento de los servicios de Transporte Acuático y Conexos Prestados en Tráfico de Bahía y Áreas Portuarias</i>), Articles 5 and 7</p>
<b>Description</b>	<p><u>Establishment and Trade in Services</u></p> <p>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 authorised with Peruvian flag vessels and equipment, including:</p> <ul style="list-style-type: none"><li>(a) fuel replenishment services;</li><li>(b) mooring and unmooring services;</li><li>(c) diving services;</li><li>(d) victualing services;</li><li>(e) dredging services;</li></ul>

- (f) harbour pilotage services;
- (g) waste collection services;
- (h) tug boat services; and
- (i) transport of persons.

## **I-PERU-21**

<b>Sector</b>	Transportation
<b>Sub-Sector</b>	Aquatic transportation
<b>Obligations Concerned</b>	National Treatment (Article 8.3) Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 006-2011-MTC, “El Peruano” Official Gazette of February 4, 2011, Supreme Decree that approves the Regulation of Tourist Water Transportation ( <i>Decreto Supremo que aprueba el Reglamento de Transporte Turístico Acuático</i> ), Article 1
<b>Description</b>	<u>Trade in Services</u>  The tourist water transport service will be provided by natural or juridical persons, domiciled and constituted in Peru. At the regional and national level, the tourist water transport service is reserved to be provided exclusively with owned or chartered Peruvian flagged ships or in the form of financial lease or a bareboat charter, with purchase option mandatory.

**I-PERU-22**

<b>Sector</b>	Transportation
<b>Sub-Sector</b>	Aquatic transportation
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 27866, “El Peruano” Official Gazette of November 16, 2002, Port Labour Law ( <i>Ley del Trabajo Portuario</i> ), Articles 3 and 7
<b>Description</b>	<u>Trade in Services</u>  Only Peruvian citizens may register in the Registry of Port Workers.

## **I-PERU-23**

<b>Sector</b>	Transportation
<b>Sub-Sector</b>	Land transportation of passengers
<b>Obligations Concerned</b>	Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 017-2009-MTC, “El Peruano” Official Gazette of April 22, 2009, National Regulation of Transport Management ( <i>Reglamento Nacional de Administración de Transportes</i> ), Article 33, modified by Supreme Decree N° 006-2010-MTC of 22 January 2010
<b>Description</b>	<u>Trade in Services</u>  To supply land transport services, it is necessary to have adequate physical infrastructure, which includes, when appropriate: offices; bus terminals for persons or goods; route stations; bus stops; all other infrastructure used as a place for loading, unloading and storage of goods; maintenance workshops; and any other infrastructure necessary for the supply of the service.

## **I-PERU-24**

<b>Sector</b>	Transportation
<b>Sub-Sector</b>	Land transportation
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Agreement on International Land Transport ( <i>Acuerdo sobre Transporte Internacional Terrestre - ATIT</i> ), signed between the Governments of the Republic of Chile, the Republic of Argentina, the Republic of Bolivia, the Federal Republic of Brazil, the Republic of Paraguay, the Republic of Peru and the Oriental Republic of Uruguay, signed in Montevideo on January 1, 1990
<b>Description</b>	<u>Trade in Services</u>  Foreign vehicles allowed by Peru, in conformity with the ATIT <sup>5</sup> , which carry out international transportation by road, are not able to supply local transport (cabotage) in the Peruvian territory.

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<sup>5</sup> The ATIT applies to international land transport between signatory countries (the Governments of the Republic of Chile, the Republic of Argentina, the Republic of Bolivia, the Federal Republic of Brazil, the Republic of Paraguay, the Republic of Peru and the Oriental Republic of Uruguay) for the purposes of land transportation between two signatory countries as well as transit to a third country.

## **I-PERU-25**

<b>Sector</b>	Research and Development Services
<b>Sub-Sector</b>	Archaeological services
<b>Obligations Concerned</b>	National Treatment (Article 8.3)
<b>Level of Government</b>	Central
<b>Measures</b>	Supreme Decree N° 003-2014-MC, “El Peruano” Official Gazette of October 3, 2014, Regulation of Archaeological Interventions ( <i>Reglamento de Intervenciones Arqueológicas</i> ), Article 30
<b>Description</b>	<p><u>Trade in Services</u></p> <p>Archaeological research programmes and projects headed by a foreign archaeologist, who does not reside in Peru, must have a Peruvian director.</p> <p>Both directors shall be registered in the National Registry of Archaeologists and shall assume the same responsibilities in the formulation and the integral execution of the project (field and office work), and in the elaboration of the final report.</p>

## **I-PERU-26**

<b>Sector</b>	Services related to Energy Services
<b>Sub-Sector</b>	
<b>Obligations Concerned</b>	National Treatment (Article 8.3) Local Presence (Article 8.6)
<b>Level of Government</b>	Central
<b>Measures</b>	Law N° 26221, “El Peruano” Official Gazette of August 19, 1993, General Law of Hydrocarbons ( <i>Ley General de Hidrocarburos</i> ), Article 15
<b>Description</b>	<p><u>Trade in Services</u></p> <p>In order to enter into an exploration contract in Peru, foreign natural persons must register in the Public Registry and provide a power of attorney to a Peruvian national resident in the capital of the Republic of Peru.</p> <p>Foreign enterprises must establish a branch or constitute a society under the General Law of Corporations (<i>Ley General de Sociedades</i>), be domiciled in the capital of the Republic of Peru, and appoint a Peruvian national as an executive agent.</p>