

ANNEX II
SCHEDULE OF PERU

Sector:	All
Sub-Sector:	
Obligations Concerned:	Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Description:	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>Peru reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>Peru reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreements in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none">(a) aviation;(b) fisheries; or(c) maritime matters,¹ including salvage.
Existing Measures:	

¹ For greater certainty, maritime matters include transport by lakes and rivers.

Sector: All

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4)
Most-Favoured-Nation Treatment (Article 9.5)
Senior Management and Boards of Directors (Article 9.11)

Description: Investment

Peru, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise² or an existing governmental entity, may prohibit or impose limitations on the ownership of such interests or assets, and on the ability of owners of such interests or assets to control any resulting enterprise, by investors of a Party or of a non-Party or their investments. With respect to such a sale or other disposition, Peru may adopt or maintain any measure relating to the nationality of individuals appointed to senior management positions or members of the board of directors.

For the purposes of this entry:

- (a) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition, prohibits or imposes limitations on the ownership of equity interests or assets or imposes nationality requirements described in this entry shall be deemed to be an existing measure subject to Article 9.12.1, Article 9.12.4, Article 9.12.5 and Article 9.12.6 (Non-Conforming Measures) and Article 10.7.1 (Non-Conforming Measures); and
- (b) “state enterprise” means an enterprise owned or controlled through ownership interests by Peru and includes an enterprise established after the date of entry into force of this Agreement solely for the purposes of selling or disposing of equity interests in, or the

² An illustrative list of existing state enterprises in Peru can be found in the following website: www.fonafe.gob.pe.

assets of, an existing state enterprise or governmental entity.

Existing Measures:

Sector: Indigenous Communities, Peasant, Native and Minority Affairs

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities and ethnic groups. For purposes of this entry, “ethnic groups” means indigenous, native, and peasant communities.

Existing Measures:

Sector: Fishing and Services related to Fishing

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to artisanal fishing.

Existing Measures:

Sector: Cultural Industries

Sub-Sector:

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description: Investment and Cross-Border Trade in Services

For purposes of this entry, “cultural industries” means:

- (a) publication, distribution, or sale of books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;
- (b) production, distribution, sale, or display of recordings of movies or videos;
- (c) production, distribution, sale, or display of music recordings in audio or video format;
- (d) production and presentation of theatre arts³;
- (e) production and exhibition of visual arts;
- (f) production, distribution, or sale of printed music scores or scores readable by machines;
- (g) design, production, distribution and sale of handicrafts; or
- (h) radiobroadcasts aimed at the public in general, as well as all radio, television, and cable television-related activities, satellite programming services, and broadcasting networks.

Peru reserves the right to adopt or maintain any measure giving preferential treatment to persons of other countries pursuant to any existing or future bilateral or multilateral international agreement regarding cultural industries, including audio-visual cooperation agreements.

³ The term “theatre arts” means live performances or presentations such as drama, dance or music.

For greater certainty, Article 9.4 (National Treatment) and Article 9.5 (Most-Favoured-Nation Treatment) and Chapter 10 (Cross-Border Trade in Services) shall not apply to government support for the promotion of cultural industries.

Existing Measures:

Sector: Handicraft Industries

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Performance Requirements (Article 9.10)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to the design, distribution, retailing or exhibition of handicrafts that are identified as Peruvian handicrafts.

Performance requirements shall in all cases be consistent with the *WTO Agreement on Trade-Related Investment Measures* (TRIMs Agreement).

Existing Measures:

Sector: Audio-Visual Industry

Sub-Sector:

Obligations Concerned: Performance Requirements (Article 9.10)
National Treatment (Article 10.3)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure whereby a specified percentage (up to 20 per cent) of the total cinematographic works shown on an annual basis in cinemas or exhibition rooms in Peru consist of Peruvian cinematographic works. In establishing such percentage, Peru shall take into account factors including the national cinematographic production, the existing exhibition infrastructure in the country and attendance.

Existing Measures:

Sector: Jewellery Design
Theatre Arts
Visual Arts
Music
Publishing

Sub-Sector:

Obligations Concerned: Performance Requirements (Article 9.10)
National Treatment (Article 10.3)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure conditioning the receipt or continued receipt of government support for the development and production of jewellery design, theatre arts, visual arts, music and publishing on the recipient achieving a given level or percentage of domestic creative content.

Existing Measures:

Sector: Audio-Visual Industry
Publishing
Music

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description: Investment and Cross-Border Trade in Services

Peru may adopt or maintain any measure that affords a person of another Party the treatment that is afforded by that Party to Peruvian persons in the audio-visual, publishing and music sectors.

Existing Measures:

Sector: Social Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security and insurance, social security, social welfare, public education, public training, health and childcare.

Existing Measures:

Sector: Public Supply of Potable Water

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to the public supply of potable water.

For greater certainty, nothing in this entry shall affect the ability of a foreign enterprise to supply bottled water.

Existing Measures:

Sector: Public Sewage Services

Sub-Sector:

Obligations Concerned: Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure in relation to public sewage services.

Existing Measures:

Sector: Education Services

Sub-Sector:

Obligations Concerned: National Treatment (Article 10.3)
Most-Favoured-Nation Treatment (Article 10.4)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to natural persons who supply educational services, including teachers and auxiliary personnel rendering educational services in basic and superior education including technical and productive training (*educación técnico productiva*) as well as other people who supply services related to education including sponsors of educational institutions of any level or stage of the educational system.

Existing Measures:

Sector: Transportation Services

Sub-Sector: Road Transportation Services

Obligations Concerned: National Treatment (Article 10.3)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure that authorises only Peruvian natural or juridical persons to supply land transportation of persons or merchandise inside the territory of Peru (cabotage). For this, the enterprises shall use vehicles registered in Peru.

Existing Measures:

Sector: Transportation

Sub-Sector: International road transportation services

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to the international land transportation of cargo or passengers in border areas.

Additionally, Peru reserves the right to adopt or maintain the following limitations for the supply of international land transportation from Peru:

- (a) the service supplier must be a Peruvian natural or juridical person;
- (b) the service supplier must have a real an effective domicile in Peru; and
- (c) in the case of juridical persons, the service supplier must be legally constituted in Peru and more than 50 per cent of its capital stock must be owned by Peruvian nationals and its effective control must be by Peruvian nationals.

Existing Measures:

Sector:	Transportation
Sub-Sector:	Air transportation services
Obligations Concerned:	Most-Favoured-Nation Treatment (Article 10.4) Local Presence (Article 10.6)
Description:	<u>Cross-Border Trade in Services</u> Peru reserves the right to adopt or maintain any measure relating to ground-handling services.
Existing Measures:	

Sector:	Transportation
Sub-Sector:	Air transportation services
Obligations Concerned:	National Treatment (Article 10.3) Most-Favoured-Nation Treatment (Article 10.4) Local Presence (Article 10.6)
Description:	<u>Cross-Border Trade in Services</u> Peru reserves the right to adopt or maintain any measure relating to airport operation services.
Existing Measures:	

Sector: All

Sub-Sector:

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

Peru reserves the right to adopt or maintain any measure relating to Article 10.5 (Market Access), except for the following sectors and sub-sectors subject to the limitations and conditions listed below:

Legal services: For (a) and (c): None, except that the number of notary positions depends of the number of inhabitants of each city. For (b): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Integrated engineering services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Urban planning and landscape architectural services: For (a), (b) and (c): None, except that to obtain temporary registration, non-resident foreign architects must have a contract of association with a Peruvian architect residing in Peru. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Veterinary Services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Services provided by midwives, nurses, physiotherapists, and paramedical personnel: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Computer and Related Services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Research and Development services on natural sciences: For (a), (b) and (c): None, except that a permission of operation may be required and the competent authority may require the inclusion to the expedition of one or more representatives of the Peruvian pertinent activities, in order to participate and know the studies and its scope. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Research and Development services on social sciences and humanities: For (a), (b) and (c): None, subject to the respective authorisations of the competent authority. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Interdisciplinary Research and Development services: For (a), (b) and (c): None, except that a permission of operation may be required. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Real Estate Services: Involving owned or leased property or on a fee or contract basis: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Rental/leasing services without crew/operators, related to vessels, aircraft, any other transport equipment, and other machinery and equipment:

For (a), (b) and (c): None, except that:

A “National Shipowner” 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 water transportation services in national traffic or cabotage⁴ 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 Operation Permit from the General Aquatic Transport Directorate (*Dirección General de Transporte Acuático*).

Cabotage is exclusively reserved to Peruvian flagged merchant 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) up to 25 per cent of the transport of hydrocarbons in national waters is reserved for the ships of the Peruvian Navy; and
- (ii) foreign-flagged vessels may be operated exclusively by National Shipowners or National Ship Enterprise for a period of no

⁴ For greater certainty, water transportation includes transportation by lakes and rivers.

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 under the modalities previously mentioned.

For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Advertising services: For (a), (b) and (c): None, except that: Commercial advertising produced in Peru, must use at least 80 per cent national artists. National artists shall receive no less than 60 per cent of the total payroll for wages and salaries paid to artists. The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in commercial advertising. For (d): No commitments, except as indicated in the Law of the Artist and Performer (*Ley del Artista, Intérprete y Ejecutante*) and Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Market research and public opinion polling services, management consulting services, services related to management consulting, and technical testing and analysis services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Services related to agriculture, hunting, and forestry: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Services incidental to fishing: solely advisory and consulting services relating to fishing: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Services related to mining, placement and supply services of personnel, and investigation and security services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Related scientific and technical consulting services: For (a),

(b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Maintenance and repair of equipment (not including vessels, aircraft, or other transport equipment), building-cleaning services, photographic services, packing services and convention services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Printing and publishing services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Other (CPC 8790) except: credit rating services (CPC 87901); jewellery design services; design services of handicrafts that are identified as Peruvian handicrafts; and other business services non elsewhere classified (CPC 87909): For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Express delivery services: For (a) and (b): No commitments. For (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Advisory services on telecommunications: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

National or international long-distance telecommunications services: For (a), (b), (c) and (d): Peru reserves the right to adopt or maintain any measure that is not inconsistent with Peru's obligations under Article XVI of GATS.

*Carrier telecommunications services, private telecommunications services and value added services*⁵:

For (a), (b), (c):

⁵ Value added services shall be defined in accordance with Peruvian legislation.

None, except for the obligation of obtaining a concession, authorisation, registry or any other title which Peru considers convenient to grant in order to habilitate the suppliers to provide these services. The juridical persons constituted under Peruvian law can be eligible for a concession.

Call-back, understood as being the offer of telephone services for the realisation of attempts to make calls originating in the country 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.

International traffic shall be routed through the installations of a company holding a concession or other permission for operation granted by the Ministry of Transport and Communications (*Ministerio de Transportes y Comunicaciones*).

Interconnection among private services is prohibited.

For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Commission agents services (except hydrocarbons): For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Retailing services, except alcohol and tobacco: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Wholesale trade services (except hydrocarbons): For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Franchising: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Construction services: solely consulting services related to construction: For (a), (b) and (c): None. For (d): No

commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

*Higher Education Services*⁶: For (a): No commitments, except for subjects that are part of a program that mainly takes place outside Peru. For (b): None. For (c) and (d): No commitments.

Environmental services: solely consulting services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Hotels and restaurants (including catering), travel agencies and tour operators services, and tourist guide services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Entertainment services (including theatre, live bands, and circus services), news agencies services, libraries, archives, museums, and other cultural and sporting services: For (a), (b) and (c): None, except that:

- (i) any domestic theatre⁷ and visual arts production and any domestic artistic live performance must be comprised of at least 80 per cent national artists. National artists shall receive no less than 60 per cent of the total payroll for wages and salaries paid to artists. The same percentages established in the preceding paragraphs shall govern the work of technical personnel involved in artistic activities.
- (ii) a foreign circus may stay in Peru with the 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

⁶ For greater certainty, these commitments do not affect any regulation or mandatory requirements related to the recognition of certificates or degrees and they shall not be construed to exempt any student from meeting any applicable requirement to practice a profession or otherwise engage in business activities.

⁷ The term “theatre arts” means live performances or presentations such as drama, dance or music.

Peruvian nationals as technicians. The same percentages shall apply to the payroll of salaries and wages.

For (d): No commitments, except as indicated in the Law of the Artist and Performer (*Ley del Artista, Intérprete y Ejecutante*) and Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Exploitation of facilities for competitive and recreational sports: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Recreational parks services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Road Transport: rental of commercial vehicles with operator, maintenance and repair of road transport equipment, and exploitation of roads, bridges and tunnels services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Services auxiliary to all transport: cargo handling services; storage and warehouse services; freight transport agency services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Aircraft repair and maintenance services: For (a): No commitments. For (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Selling and marketing of air transport services, and computer reservation system services: For (a), (b) and (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

Airport operation and ground handling services: For (a) and

(b) No commitments. For (c): None. For (d): No commitments, except as indicated in the Law for Foreign Workers Recruitment (*Ley para la Contratación de Trabajadores Extranjeros*).

For greater certainty, nothing in this entry shall be inconsistent with Peru's commitments under Article XVI of GATS.

For purposes of this entry:

1. “(a)” refers to the supply of a service from the territory of one Party into the territory of Peru;
2. “(b)” refers to the supply of a service in the territory of a Party by one person of that Party to a person of Peru;
3. “(c)” refers to the supply of a service in the territory of Peru by an investor of another Party or by a covered investment; and
4. “(d)” refers to the supply of a service by a national of a Party in the territory of Peru.
5. “None” means no limitations or conditions on the application of Article 10.5 (Market Access).

Existing Measures: