

GENERAL NOTES
TARIFF SCHEDULE OF THE UNITED STATES

1. Relation to the Harmonized Tariff Schedule of the United States (HTSUS). The provisions of this Schedule are generally expressed in terms of the HTSUS, and the interpretation of the provisions of this Schedule, including the product coverage of subheadings of this Schedule, shall be governed by the General Notes, Section Notes, and Chapter Notes of the HTSUS. To the extent that provisions of this Schedule are identical to the corresponding provisions of the HTSUS, the provisions of this Schedule shall have the same meaning as the corresponding provisions of the HTSUS.
2. Base Rates of Customs Duty. The base rates of customs duty set forth in this Schedule reflect the HTSUS Column 1 General rates of duty in effect on January 1, 2004.
3. Staging. In addition to the staging categories listed in Annex 2.3, this Schedule contains staging categories **Q**, **R**, and **S**:
 - (a) duties on originating goods provided for in the items in staging category Q shall be removed in seventeen equal annual stages beginning on the date this Agreement enters into force, and such goods shall be duty-free, effective January 1 of year 17;
 - (b) for goods provided for in the items in staging category R, at the time of importation the duty imposed upon the assembled article to be applied in accordance with the procedures specified in U.S. note 3 of subchapter II, chapter 98, of the HTSUS, shall be the rate applicable to the full value of the article itself under the staging obligations set forth for the appropriate provision in Chapters 1 through 97 of this Schedule, until January 1 of year ten, at which time such goods shall be duty-free; and
 - (c) duties on originating goods provided for in the items in staging category S shall be eliminated entirely and such goods shall be duty-free on the date this Agreement enters into force. For goods in tariff items 98120020, 98120040, 98130005, 98130010, 98130015, 98130020, 98130025, 98130030, 98130035, 98130040, 98130045, 98130050, 98130055, 98130060, 98130070, 98130075, and 98140050 duty-free means free without bond.
4. During the transition period, only a qualifying good is eligible for the in-quota tariff rate for each good specified in Appendix I; originating goods that are not qualifying goods shall be subject to the over-quota tariff rate for the good specified in Appendix I. For purposes of this note, “qualifying good” means a good that satisfies the requirements of Chapter Four (Rules of Origin and Origin Procedures), except that operations performed in or materials obtained from a Party other than Peru shall be considered as if the operations were performed in a non-Party and the material was obtained from a non-Party.

5. Originating goods shall not be subject to any duty provided for in heading 9901 of the HTSUS, provided that (a) the goods are imported directly from Peru into the customs territory of the United States and (b) the sum of the cost or value of the materials produced in the territory of Peru plus the direct costs of processing operations performed in the territory of Peru is not less than 35 percent of the appraised value of such goods at the time they are entered.

Appendix I

Notes

1. This Appendix contains modifications of the provisions of the HTSUS. Subject to Note 4 of the General Notes of the United States, originating goods included in this Appendix are subject to the rates of duty set out in this Appendix in lieu of the rates of duty set out in Chapters 1 through 97 of the HTSUS. Notwithstanding any tariff-rate quota provisions provided for elsewhere in the HTSUS, originating goods shall be permitted entry into the United States as provided in this Appendix. Furthermore, any quantity of goods imported from Peru under a tariff-rate quota provided in this Appendix shall not be counted toward the in-quota amount of any tariff-rate quota provided for such goods elsewhere in the HTSUS.

Cheese

2. (a) The aggregate quantity of goods entered under the provisions listed in subparagraph (c) shall be free of duty in any calendar year specified herein, and shall not exceed the quantity specified below for Peru in each such year:

Year	Quantity (Metric tons)
1	2,000
2	2,800
3	3,136
4	3,512
5	3,934
6	4,406
7	4,935
8	5,527
9	6,190
10	6,933
11	7,765
12	8,696
13	9,740
14	10,909
15	12,218
16	13,684
17	unlimited

The quantities shall enter on a first-come, first-served basis.

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) shall be removed in accordance with the provisions of staging category E in Annex 2.3, paragraph 1(e).
- (c) Subparagraphs (a) and (b) apply to the following Table 1 provisions:
AG04061008, AG04061018, AG04061028, AG04061038, AG04061048,

AG04061058, AG04061068, AG04061078, AG04061088, AG04062028, AG04062033, AG04062039, AG04062048, AG04062053, AG04062063, AG04062067, AG04062071, AG04062075, AG04062079, AG04062083, AG04062087, AG04062091, AG04063018, AG04063028, AG04063038, AG04063048, AG04063053, AG04063063, AG04063067, AG04063071, AG04063075, AG04063079, AG04063083, AG04063087, AG04063091, AG04064070, AG04069012, AG04069018, AG04069032, AG04069037, AG04069042, AG04069048, AG04069054, AG04069068, AG04069074, AG04069078, AG04069084, AG04069088, AG04069092, AG04069094, AG04069097, and AG19019036.

Condensed and Evaporated Milk

3. (a) The aggregate quantity of goods entered under the provisions listed in subparagraph (c) shall be free of duty in any calendar year specified herein, and shall not exceed the quantity specified below for Peru in each such year:

Year	Quantity (Metric tons)
1	6,000
2	6,720
3	7,526
4	8,430
5	9,441
6	10,574
7	11,843
8	13,264
9	14,856
10	16,638
11	18,635
12	20,871
13	23,376
14	26,181
15	29,323
16	32,841
17	unlimited

The quantities shall enter on a first-come, first-served basis.

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) and duties on goods of Peru entered under the provisions listed in subparagraph (c) shall be removed in accordance with the provisions of staging category E in Annex 2.3, paragraph 1(e).
- (c) Subparagraphs (a) and (b) apply to the following Table 1 provisions: AG04029170, AG04029190, AG04029945, and AG04029955.

Processed Dairy Products

4. (a) The aggregate quantity of goods entered under the provisions listed in subparagraph (c) shall be free of duty in any calendar year specified herein, and shall not exceed the quantity specified below for Peru in each such year:

Year	Quantity (Metric tons)
1	2,000
2	2,200
3	2,420
4	2,662
5	2,928
6	3,221
7	3,543
8	3,897
9	4,287
10	4,716
11	5,187
12	5,706
13	6,277
14	6,905
15	unlimited

The quantities shall enter on a first-come, first-served basis.

- (b) Duties on goods entered in aggregate quantities in excess of the quantities listed in subparagraph (a) and duties on goods of Peru entered under the provisions listed in subparagraph (c) shall be removed in accordance with the provisions of staging category D in Annex 2.3, paragraph 1(d).
- (c) Subparagraphs (a) and (b) apply to the following Table 1 provisions:
AG04022950, AG04029990, AG04031050, AG04039095, AG04041015,
AG04049050, AG04052070, AG15179060, AG17049058, AG18062082,
AG18062083, AG18063270, AG18063280, AG18069008, AG18069010,
AG19011040, AG19011085, AG19012015, AG19012050, AG19019043,
AG19019047, AG21050040, AG21069009, AG21069066, AG21069087, and
AG22029028.

Sugar

5. (a) Subject to subparagraph (d), the aggregate quantity of goods entered under the provisions listed in subparagraph (c) shall be free of duty in any calendar year specified herein, and shall not exceed the quantity specified below for Peru in each such year:

Year	Quantity
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	(Metric tons)
1	9,000
2	9,180
3	9,360
4	9,540
5	9,720
6	9,900
7	10,080
8	10,260
9	10,440
10	10,620
11	10,800
12	10,980
13	11,160
14	11,340
15	11,520

After year 15, the in-quota quantity grows at 180 MT per year.

The quantities of goods under the following tariff items shall be entered on a raw-value equivalent basis: AG17011150, AG17011250, AG17019130, AG17019950, AG17029020, and AG21069046. Raw-value equivalents for sugar goods are contained in Chapter 17, U.S. Additional Note 5(c) to the HTSUS.

The United States may administer the duty-free quantities established in this subparagraph through regulations, including licenses.

- (b) Goods entered in aggregate quantities in excess of the quantities provided under subparagraph (a) shall continue to receive most-favored-nation treatment.
- (c) Subparagraphs (a) and (b) apply to the following Table 1 provisions:
AG17011150, AG17011250, AG17019130, AG17019148, AG17019158, AG17019950, AG17022028, AG17023028, AG17024028, AG17026028, AG17029020, AG17029058, AG17029068, AG17049068, AG17049078, AG18061015, AG18061028, AG18061038, AG18061055, AG18061075, AG18062073, AG18062077, AG18062094, AG18062098, AG18069039, AG18069049, AG18069059, AG19012025, AG19012035, AG19012060, AG19012070, AG19019054, AG19019058, AG21011238, AG21011248, AG21011258, AG21012038, AG21012048, AG21012058, AG21039078, AG21069046, AG21069072, AG21069076, AG21069080, AG21069091, AG21069094, and AG21069097.
- (d) In any year, duty-free tariff treatment under subparagraph (a) for Peru shall be accorded to the lesser of (i) the aggregate quantity set out in subparagraph (a) for Peru, or (ii) a quantity equal to the amount by which Peru's exports to all destinations exceeds its imports from all sources ("trade surplus") for goods classified under the following subheadings: HS1701.11, HS1701.12, HS1701.91,

HS1701.99, HS1702.40, and HS1702.60, except that Peru's exports to the United States of goods classified under subheadings HS1701.11, HS1701.12, HS1701.91, and HS1701.99 and its imports of originating goods of the United States classified under HS1702.40 and HS1702.60 shall not be included in the calculation of its trade surplus. Peru's trade surplus shall be calculated using the most recent annual data available.

- (e) The aggregate quantity of goods of Peru entered under the provisions listed in subparagraph (g) shall be free of duty in any calendar year and shall not exceed 2,000 metric tons in any year. The quantities shall enter on a first-come, first-served basis.
- (f) Goods of Peru entered in aggregate quantities in excess of the quantities provided in subparagraph (e) shall continue to receive most-favored-nation treatment.
- (g) Subparagraphs (e) and (f) apply to specialty sugars as provided for in Additional U.S. Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States and classified in the following Table 1 provisions: AG17011110, AG17011210, AG17019110, AG17019910, AG17029010, and AG21069044.

Table 1

<u>Heading</u>	<u>Article Description</u>
AG04022950	Provided for in tariff item 04022950
AG04029170	Provided for in tariff item 04029170
AG04029190	Provided for in tariff item 04029190
AG04029945	Provided for in tariff item 04029945
AG04029955	Provided for in tariff item 04029955
AG04029990	Provided for in tariff item 04029990
AG04031050	Provided for in tariff item 04031050
AG04039095	Provided for in tariff item 04039095
AG04041015	Provided for in tariff item 04041015
AG04049050	Provided for in tariff item 04049050
AG04052070	Provided for in tariff item 04052070
AG04061008	Provided for in tariff item 04061008
AG04061018	Provided for in tariff item 04061018
AG04061028	Provided for in tariff item 04061028
AG04061038	Provided for in tariff item 04061038
AG04061048	Provided for in tariff item 04061048
AG04061058	Provided for in tariff item 04061058
AG04061068	Provided for in tariff item 04061068
AG04061078	Provided for in tariff item 04061078
AG04061088	Provided for in tariff item 04061088
AG04062028	Provided for in tariff item 04062028
AG04062033	Provided for in tariff item 04062033
AG04062039	Provided for in tariff item 04062039
AG04062048	Provided for in tariff item 04062048
AG04062053	Provided for in tariff item 04062053
AG04062063	Provided for in tariff item 04062063
AG04062067	Provided for in tariff item 04062067
AG04062071	Provided for in tariff item 04062071
AG04062075	Provided for in tariff item 04062075
AG04062079	Provided for in tariff item 04062079
AG04062083	Provided for in tariff item 04062083
AG04062087	Provided for in tariff item 04062087
AG04062091	Provided for in tariff item 04062091
AG04063018	Provided for in tariff item 04063018
AG04063028	Provided for in tariff item 04063028
AG04063038	Provided for in tariff item 04063038
AG04063048	Provided for in tariff item 04063048
AG04063053	Provided for in tariff item 04063053
AG04063063	Provided for in tariff item 04063063
AG04063067	Provided for in tariff item 04063067
AG04063071	Provided for in tariff item 04063071
AG04063075	Provided for in tariff item 04063075
AG04063079	Provided for in tariff item 04063079

AG04063083 Provided for in tariff item 04063083
AG04063087 Provided for in tariff item 04063087
AG04063091 Provided for in tariff item 04063091
AG04064070 Provided for in tariff item 04064070
AG04069012 Provided for in tariff item 04069012
AG04069018 Provided for in tariff item 04069018
AG04069032 Provided for in tariff item 04069032
AG04069037 Provided for in tariff item 04069037
AG04069042 Provided for in tariff item 04069042
AG04069048 Provided for in tariff item 04069048
AG04069054 Provided for in tariff item 04069054
AG04069068 Provided for in tariff item 04069068
AG04069074 Provided for in tariff item 04069074
AG04069078 Provided for in tariff item 04069078
AG04069084 Provided for in tariff item 04069084
AG04069088 Provided for in tariff item 04069088
AG04069092 Provided for in tariff item 04069092
AG04069094 Provided for in tariff item 04069094
AG04069097 Provided for in tariff item 04069097
AG15179060 Provided for in tariff item 15179060
AG17011110 Provided for in tariff item 17011110
AG17011150 Provided for in tariff item 17011150
AG17011210 Provided for in tariff item 17011210
AG17011250 Provided for in tariff item 17011250
AG17019110 Provided for in tariff item 17019110
AG17019130 Provided for in tariff item 17019130
AG17019148 Provided for in tariff item 17019148
AG17019158 Provided for in tariff item 17019158
AG17019910 Provided for in tariff item 17019910
AG17019950 Provided for in tariff item 17019950
AG17022028 Provided for in tariff item 17022028
AG17023028 Provided for in tariff item 17023028
AG17024028 Provided for in tariff item 17024028
AG17026028 Provided for in tariff item 17026028
AG17029010 Provided for in tariff item 17029010
AG17029020 Provided for in tariff item 17029020
AG17029058 Provided for in tariff item 17029058
AG17029068 Provided for in tariff item 17029068
AG17049058 Provided for in tariff item 17049058
AG17049068 Provided for in tariff item 17049068
AG17049078 Provided for in tariff item 17049078
AG18061015 Provided for in tariff item 18061015
AG18061028 Provided for in tariff item 18061028
AG18061038 Provided for in tariff item 18061038
AG18061055 Provided for in tariff item 18061055
AG18061075 Provided for in tariff item 18061075

AG18062073 Provided for in tariff item 18062073
AG18062077 Provided for in tariff item 18062077
AG18062082 Provided for in tariff item 18062082
AG18062083 Provided for in tariff item 18062083
AG18062094 Provided for in tariff item 18062094
AG18062098 Provided for in tariff item 18062098
AG18063270 Provided for in tariff item 18063270
AG18063280 Provided for in tariff item 18063280
AG18069008 Provided for in tariff item 18069008
AG18069010 Provided for in tariff item 18069010
AG18069039 Provided for in tariff item 18069039
AG18069049 Provided for in tariff item 18069049
AG18069059 Provided for in tariff item 18069059
AG19011040 Provided for in tariff item 19011040
AG19011085 Provided for in tariff item 19011085
AG19012015 Provided for in tariff item 19012015
AG19012025 Provided for in tariff item 19012025
AG19012035 Provided for in tariff item 19012035
AG19012050 Provided for in tariff item 19012050
AG19012060 Provided for in tariff item 19012060
AG19012070 Provided for in tariff item 19012070
AG19019036 Provided for in tariff item 19019036
AG19019043 Provided for in tariff item 19019043
AG19019047 Provided for in tariff item 19019047
AG19019054 Provided for in tariff item 19019054
AG19019058 Provided for in tariff item 19019058
AG21011238 Provided for in tariff item 21011238
AG21011248 Provided for in tariff item 21011248
AG21011258 Provided for in tariff item 21011258
AG21012038 Provided for in tariff item 21012038
AG21012048 Provided for in tariff item 21012048
AG21012058 Provided for in tariff item 21012058
AG21039078 Provided for in tariff item 21039078
AG21050040 Provided for in tariff item 21050040
AG21069009 Provided for in tariff item 21069009
AG21069044 Provided for in tariff item 21069044
AG21069046 Provided for in tariff item 21069046
AG21069066 Provided for in tariff item 21069066
AG21069072 Provided for in tariff item 21069072
AG21069076 Provided for in tariff item 21069076
AG21069080 Provided for in tariff item 21069080
AG21069087 Provided for in tariff item 21069087
AG21069091 Provided for in tariff item 21069091
AG21069094 Provided for in tariff item 21069094
AG21069097 Provided for in tariff item 21069097
AG22029028 Provided for in tariff item 22029028

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:	<i>Ley N° 14085, Diario Oficial “El Peruano” del 30 de junio de 1962, Ley de Creación del Colegio de Arquitectos del Perú.</i> <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> <i>Acuerdo del Consejo de Arquitectos, del 06 de octubre de 1987.</i>
Description:	<u>Investment and Cross-Border Trade in Services</u> 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: (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
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	<u>Investment and Cross-Border Trade in Services</u> 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
Measures:	<i>Decreto Supremo N° 08-95-EF, Diario Oficial “El Peruano” del 5 de febrero de 1995, Aprueban el Reglamento de Almacenes Aduaneros, Artículo 7.</i>
Description:	<u>Cross-Border Trade in Services</u> 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:	<i>Ley N° 27261, Diario Oficial “El Peruano” del 10 de mayo de 2000, Ley de Aeronáutica Civil, Artículo 75.</i>
Description:	<u>Cross-Border Trade in Services</u> 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:	<i>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.</i> <i>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.</i>
Description:	<u>Cross-Border Trade in Services</u> 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	<u>Cross-Border Trade in Services</u> 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.

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	<u>Cross-Border Trade in Services</u> 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:	<i>Ley N° 26221, Diario Oficial "El Peruano" del 19 de agosto de 1993, Ley General de Hidrocarburos, Artículo 15.</i>
Description:	<u>Cross-Border Trade in Services</u> In order to enter into an exploration contract in Peru, foreign enterprises must establish a branch or organize under the “<i>Ley General de Sociedades</i>”, 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.

ANNEX I

Schedule of the United States

Sector: Atomic Energy

Obligations Concerned: National Treatment (Article 10.3)

Level of Government: Central

Measures: *Atomic Energy Act of 1954*, 42 U.S.C. §§ 2011 *et seq.*

Description: Investment

A license issued by the United States Nuclear Regulatory Commission is required for any person in the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, use, import, or export any nuclear “utilization or production facilities” for commercial or industrial purposes. Such a license may not be issued to any entity known or believed to be owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government (42 U.S.C. § 2133(d)). A license issued by the United States Nuclear Regulatory Commission is also required for nuclear “utilization and production facilities,” for use in medical therapy, or for research and development activities. The issuance of such a license to any entity known or believed to be owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government is also prohibited (42 U.S.C. § 2134(d)).

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 11.2) Local Presence (Article 11.5)
Level of Government:	Central
Measures:	<i>Export Trading Company Act of 1982</i> , 15 U.S.C. §§ 4011-4021 15 C.F.R. Part 325
Description:	<u>Cross-Border Services</u> Title III of the <i>Export Trading Company Act of 1982</i> authorizes the Secretary of Commerce to issue “certificates of review” with respect to export conduct. The Act provides for the issuance of a certificate of review where the Secretary determines, and the Attorney General concurs, that the export conduct specified in an application will not have the anticompetitive effects proscribed by the Act. A certificate of review limits the liability under federal and state antitrust laws in engaging in the export conduct certified. Only a “person” as defined by the Act can apply for a certificate of review. “Person” means “an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local government entity; a corporation, whether organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between such persons.” A foreign national or enterprise may receive the protection provided by a certificate of review by becoming a “member” of a qualified applicant. The regulations define “member” to mean “an entity (U.S. or foreign) that is seeking protection under the certificate with the applicant. A member may be a partner in a partnership or a joint venture; a shareholder of a corporation; or a participant in an association, cooperative, or other form of profit or nonprofit organization or relationship, by contract or other arrangement.”

Sector:	Business Services
Obligations Concerned:	National Treatment (Article 11.2) Local Presence (Article 11.5)
Level of Government:	Central
Measures:	<i>Export Administration Act of 1979, as amended</i> , 50 U.S.C. App. §§ 2401-2420 <i>International Emergency Economic Powers Act</i> , 50 U.S.C. §§ 1701-1706 <i>Export Administration Regulations</i> , 15 C.F.R. Parts 730-774
Description:	<u>Cross-Border Services</u> With some limited exceptions, exports and re-exports of commodities, software, and technology subject to the Export Administration Regulations require a license from the Bureau of Industry and Security, U.S. Department of Commerce (BIS). Certain activities of U.S. persons, wherever located, also require a license from BIS. An application for a license must be made by a person in the United States. In addition, release of controlled technology to a foreign national in the United States is deemed to be an export to the home country of the foreign national and requires the same written authorization from BIS as an export from the territory of the United States.

Sector:	Mining
Obligations Concerned:	National Treatment (Article 10.3) Most-Favored-Nation Treatment (Article 10.4)
Level of Government:	Central
Measures:	<i>Mineral Lands Leasing Act of 1920</i> , 30 U.S.C. Chapter 3A 10 U.S.C. § 7435
Description:	<u>Investment</u> Under the Mineral Lands Leasing Act of 1920, aliens and foreign corporations may not acquire rights-of-way for oil or gas pipelines, or pipelines carrying products refined from oil and gas, across on-shore federal lands or acquire leases or interests in certain minerals on on-shore federal lands, such as coal or oil. Non-U.S. citizens may own a 100 percent interest in a domestic corporation that acquires a right-of-way for oil or gas pipelines across on-shore federal lands, or that acquires a lease to develop mineral resources on on-shore federal lands, unless the foreign investor's home country denies similar or like privileges for the mineral or access in question to U.S. citizens or corporations, as compared with the privileges it accords to its own citizens or corporations or to the citizens or corporations of other countries (30 U.S.C. §§ 181, 185(a)). Nationalization is not considered to be denial of similar or like privileges. Foreign citizens, or corporations controlled by them, are restricted from obtaining access to federal leases on Naval Petroleum Reserves if the laws, customs, or regulations of their country deny the privilege of leasing public lands to citizens or corporations of the United States (10 U.S.C. § 7435).

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 10.3) Most-Favored-Nation Treatment (Article 10.4)
Level of Government:	Central
Measures:	22 U.S.C. §§ 2194 and 2198(c)
Description:	<u>Investment</u> The Overseas Private Investment Corporation insurance and loan guarantees are not available to certain aliens, foreign enterprises, or foreign-controlled domestic enterprises.

Sector:	Air Transportation
Obligations Concerned:	National Treatment (Article 10.3) Most-Favored-Nation Treatment (Article 10.4) Senior Management and Boards of Directors (Article 10.10)
Level of Government:	Central
Measures:	49 U.S.C. Subtitle VII, <i>Aviation Programs</i> 14 C.F.R. Part 297 (foreign freight forwarders); 14 C.F.R. Part 380, Subpart E (registration of foreign (passenger) charter operators)
Description:	<u>Investment</u> Only air carriers that are “citizens of the United States” may operate aircraft in domestic air service (cabotage) and may provide international scheduled and non-scheduled air service as U.S. air carriers. U.S. citizens also have blanket authority to engage in indirect air transportation activities (air freight forwarding and passenger charter activities other than as actual operators of the aircraft). In order to conduct such activities, non-U.S. citizens must obtain authority from the Department of Transportation. Applications for such authority may be rejected for reasons relating to the failure of effective reciprocity, or if the Department of Transportation finds that it is in the public interest to do so. Under 49 U.S.C. § 40102(a)(15), a citizen of the United States means an individual who is a U.S. citizen; a partnership in which each member is a U.S. citizen; or a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, which is under the actual control of U.S. citizens, and in which at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens.

Sector:	Air Transportation
Obligations Concerned:	National Treatment (Articles 10.3 and 11.2) Most-Favored-Nation Treatment (Articles 10.4 and 11.3) Local Presence (Article 11.5) Senior Management and Boards of Directors (Article 10.10)
Level of Government:	Central
Measures:	49 U.S.C. Subtitle VII, <i>Aviation Programs</i> 49 U.S.C. § 41703 14 C.F.R. Part 375
Description:	<u>Cross-Border Services</u> 1. Authorization from the Department of Transportation is required for the provision of specialty air services in the territory of the United States.* <u>Investment</u> 2. “Foreign civil aircraft” require authority from the Department of Transportation to conduct specialty air services in the territory of the United States. In determining whether to grant a particular application, the Department will consider, among other factors, the extent to which the country of the applicant’s nationality accords U.S. civil aircraft operators effective reciprocity. “Foreign civil aircraft” are aircraft of foreign registry or aircraft of U.S. registry that are owned, controlled, or operated by persons who are not citizens or permanent residents of the United States (14 C.F.R. § 375.1). Under 49 U.S.C. § 40102(a)(15), a citizen of the United States means an individual who is a U.S. citizen; a partnership in which each member is a U.S. citizen; or a U.S. corporation of which the president and at least two-thirds of the board of directors and other managing officers are U.S. citizens, which is under the actual control of U.S. citizens, and in which at least seventy-five percent of the voting interest in the corporation is owned or controlled by U.S. citizens.

*A person of Peru will be able to obtain such an authorization given Peru's acceptance of the U.S. definition of specialty air services in Chapter Eleven (Cross-Border Trade in Services).

Sector: Transportation Services – Customs Brokers

Obligations Concerned: National Treatment (Articles 10.3 and 11.2)
Local Presence (Article 11.5)

Level of Government: Central

Measures: 19 U.S.C. § 1641(b)

Description: Cross-Border Services and Investment

A customs broker's license is required to conduct customs business on behalf of another person. Only U.S. citizens may obtain such a license. A corporation, association, or partnership established under the law of any state may receive a customs broker's license if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license.

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 10.3) Most-Favored-Nation Treatment (Article 10.4)
Level of Government:	Central
Measures:	<i>Securities Act of 1933</i>, 15 U.S.C. §§ 77C(b), 77f, 77g, 77h, 77j, and 77s(a) 17 C.F.R. §§ 230.251 and 230.405 <i>Securities Exchange Act of 1934</i>, 15 U.S.C. §§ 78l, 78m, 78o(d), and 78w(a) 17 C.F.R. § 240.12b-2
Description:	<u>Investment</u> Foreign firms, except for certain Canadian issuers, may not use the small business registration forms under the Securities Act of 1933 to register public offerings of securities or the small business registration forms under the Securities Exchange Act of 1934 to register a class of securities or file annual reports.

Sector:	Communications – Radiocommunications
Obligations Concerned:	National Treatment (Article 10.3)
Level of Government:	Central
Measures:	47 U.S.C. § 310 Foreign Participation Order 12 FCC Rcd 23891 (1997)
Description:	<u>Investment</u> The United States reserves the right to restrict ownership of radio licenses in accordance with the above statutory and regulatory provisions. Radiocommunications consists of all communications by radio, including broadcasting.

Sector:	Professional Services – Patent Attorneys, Patent Agents, and Other Practice before the Patent and Trademark Office
Obligations Concerned:	National Treatment (Article 11.2) Most-Favored-Nation Treatment (Article 11.3) Local Presence (Article 11.5)
Level of Government:	Central
Measures:	35 U.S.C. Chapter 3 (practice before the U.S. Patent and Trademark Office) 37 C.F.R. Part 10 (representation of others before the U.S. Patent and Trademark Office)
Description:	<u>Cross-Border Services</u> As a condition to be registered to practice for others before the U.S. Patent and Trademark Office (USPTO): (a) a patent attorney must be a U.S. citizen or an alien lawfully residing in the United States (37 C.F.R. § 10.6(a)); (b) a patent agent must be a U.S. citizen, an alien lawfully residing in the United States, or a non-resident who is registered to practice in a country that permits patent agents registered to practice before the USPTO to practice in that country; the latter is permitted to practice for the limited purpose of presenting and prosecuting patent applications of applicants located in the country in which he or she resides (37 C.F.R. § 10.6(c)); and (c) a practitioner in trademark and non-patent cases must be an attorney licensed in the United States, a “grandfathered” agent, an attorney licensed to practice in a country that accords equivalent treatment to attorneys licensed in the United States, or an agent registered to practice in such a country; the latter two are permitted to practice for the limited purpose of representing parties located in the country in which he or she resides (37 C.F.R. § 10.14(a)-(c)).

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 10.3 and 11.2) Most-Favored-Nation Treatment (Articles 10.4 and 11.3) Local Presence (Article 11.5) Performance Requirements (Article 10.9) Senior Management and Boards of Directors (Article 10.10)
Level of Government:	Regional
Measures:	All existing non-conforming measures of all states of the United States, the District of Columbia, and Puerto Rico
Description:	<u>Cross-Border Services and Investment</u>