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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

PERU

This report, prepared for the fifth Trade Policy Review of Peru, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Peru on its trade policies and practices.

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Document WT/TPR/G/393 contains the policy statement submitted by Peru.

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Peru. This report was drafted in Spanish.

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SUMMARY

1. Peru has an open economy, characterized by low tariff levels and few restrictions to international trade. The trade (exports and imports)-GDP ratio stood at 48% in 2018. Mining products account for over 60% of exports. Since its previous Trade Policy Review in 2013, Peru has continued to experience sustained economic growth. Real GDP grew at an average annual rate of 4% between 2012 and 2018, reflecting solid macroeconomic fundamentals and sustained domestic demand. Per capita GDP rose from USD 6,393 in 2012 to USD 6,909 in 2018. The extended period of economic growth, reduction of poverty levels and increase in disposable income have bolstered the development process. However, Peru still needs to tackle a number of challenges, including poverty reduction, better governance and the need for greater investment in infrastructure and higher levels of competitiveness. To this end, the authorities have taken a series of measures, including within the framework of the National Competitiveness and Productivity Policy and the National Integrity and Anti-Corruption Plan.

2. The country moved from a situation of fiscal surplus in 2012 and 2013 to one of growing deficits between 2014 and 2017, partly due to diminishing incomes as a result of lower mining product prices and the effects of natural disasters. This situation was reversed in 2018, when the non-financial public sector (NFPS) deficit stood at 2.3% of GDP, a drop compared to the 3% recorded in 2017. To address a worsening fiscal situation, in late 2016 a new fiscal framework was introduced, aimed at ensuring fiscal sustainability, predictability of public expenditure and transparent management of public funds. Peru has a Fiscal Stabilization Fund (FEF), which is made up of resources accumulated in surplus years to deal with emergency situations, such as natural disasters. During the review period, the FEF was used on two occasions, in 2015 and 2017. At the end of 2018, the FEF had risen to USD 5,770 million (2.6% of GDP).

3. To maintain monetary stability, the Central Reserve Bank of Peru (BCRP) pursues a policy of explicit inflation targets. Between 2012 and 2018, the average annual inflation rate, measured as the average annual increase in the consumer price index, stood at 2.8%, thus remaining within the target range (between 1% and 3%). Peru maintains a flexible exchange rate, with some intervention by the BCRP to avoid excessive fluctuations. The balance-of-payments current account was in deficit during the entire review period, due mainly to the negative balance of factor income. After reaching a high of 5% of GDP in 2015, partly owing to the drop in the value of exports, the current account deficit began to shrink and stood at 1.6% of GDP in 2018, largely due to a better trade balance. The balance of services registered a deficit for the whole review period (1.1% of GDP in 2018), due mainly to negative balances for freight, insurance and reinsurance and communications and business services, while travel recorded a surplus.

4. Export of goods totalled USD 47,906 million in 2018. Despite its broad exportable supply, Peru typically exports raw materials, particularly minerals. Exports of mineral products accounted for 61.6% of total exports – 69.8% if metal manufactures are included. The main export is copper, representing 31.2% of total exports in 2018, followed by gold (14.8% of the total). The share of agricultural products in the total amount of goods exported rose from 15.2% in 2012 to 19.1% in 2018. Imports of manufactured goods accounted for over three quarters of all imports of goods in 2018, with the main items being machinery and transport equipment and chemical products. The leading destinations for exports of Peruvian goods in 2018 were China (27.6%), the United States (16.7%) and the European Union (15.1%). These three trading partners were also the main sources of imports, representing 55.8% combined.

5. In the review period, the annual flow of foreign direct investment (FDI) in Peru continued to be significant. FDI inflows in Peru, including contributions and other net capital operations, net loans with the parent company and reinvestment, reached on average USD 7,969 million between 2012 and 2018, compared with an average of USD 8,101 million between 2007 and 2012. The accumulated volume of FDI in Peru rose to USD 106,438 million in 2018, compared with USD 64,281 million in 2012. This increase in FDI stock reflected economic growth and significant investment flows, especially in mining and financial and other services.

6. In keeping with the National Strategic Development Plan 2021, the National Strategic Export Plan 2015-2025 (PENX 2025) seeks to project Peruvian firms into the international arena, increase exports of value-added goods and services in a sustainable and diversified manner, and enhance the competitiveness of the export sector. To achieve these goals, actions have been identified to

diversify markets and the exportable supply, facilitate foreign trade, improve access to logistical services and build capacity for strengthening an export culture.

7. Peru is a founding Member of the WTO, to which it attaches great importance as a forum for agreeing disciplines and commitments aimed at reducing barriers to international trade. The WTO Agreements are part and parcel of Peruvian legislation and may be invoked before national courts. Peru grants at least most-favoured-nation (MFN) tariff treatment to all its trading partners. Peru's trade policies have been reviewed at the WTO four times, the fourth review having taken place in 2013. Peru is a signatory to the Information Technology Agreement (ITA) but did not participate in its recent expansion. It also ratified the WTO's Trade Facilitation Agreement (TFA) in July 2016, which entered into force on 22 February 2017, and scheduled the vast majority of its Category A commitments for immediate implementation. Peru is neither a signatory nor an observer to the Plurilateral Agreement on Government Procurement. Among the main WTO negotiating issues of interest to Peru are: the elimination of subsidies that have a negative effect on fisheries, and the granting of special treatment to small-scale fisheries; the elimination of trade-distorting domestic support for agriculture; and negotiations on new disciplines for domestic regulation. Moreover, Peru is also involved in exploring new issues. During the review period, Peru submitted numerous notifications to the WTO and participated in two cases as the respondent and in three as a third party before the Dispute Settlement Body (DSB).

8. Peru has 19 trade agreements with 53 countries. It is a founding member of the Andean Community of Nations (CAN) and the Pacific Alliance (together with Chile, Colombia and Mexico). It also has agreements with the Southern Common Market (MERCOSUR), the European Free Trade Association (EFTA) and the European Union (EU). At the bilateral level, it has trade agreements in force with Cuba (2001), Chile (2009), the United States (2009), Canada (2009), Singapore (2009), China (2010), Republic of Korea (2011), Thailand (2011), Mexico (2012), Japan (2012), Panama (2012), Costa Rica (2013), the Bolivarian Republic of Venezuela (2013) and Honduras (2017). During the review period, Peru signed five new trade agreements, with: Mexico, Colombia and Chile under the Pacific Alliance (2014); Brazil (2016); Honduras (2017); Australia (2018); and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP – 2018), which brings together 11 countries. The agreements falling under the Pacific Alliance and with Honduras and Australia have been ratified by Peru, while the agreement with Brazil and the CPTPP, like the agreement signed with Guatemala in 2011, still require ratification.

9. Peru maintains a regime open to private investment – both domestic and foreign – which promotes competition and equal treatment. Foreign investments do not require prior authorization and there is no registration obligation. Foreign investors are guaranteed the free repatriation of all the capital, dividends or profits from their investments. Expropriation may only occur for reasons of national security or public necessity, with the payment of compensation. During the review period, the regulatory framework for the promotion of private investment was unified through public-private partnerships and lent greater predictability to those processes by incorporating OECD principles.

10. During the review period, Peru continued to adopt trade facilitation measures, including in the following areas: customs operations, foreign trade logistics, institutional coordination and simplification of administrative formalities. Some of the specific measures adopted to enhance customs operations are: promotion of the use of advance clearance; speeding up of deferred clearance; improved regulations on customs brokers; and the promotion of logistics platforms. With a view to enhancing institutional coordination, the Multisectoral Commission for Foreign Trade Facilitation was established in late 2017. This body serves as the national committee for the purposes of the TFA. Legislation was also passed to strengthen the Single Window for Foreign Trade. Peru has an Authorized Economic Operator (AEO) programme, which was introduced in 2012. Exporters, importers, customs brokers, authorized warehouses and express delivery service companies can all access it. By the end of 2018, 101 companies had obtained AEO certification.

11. The tariff applied by Peru comprises 7,790 ten-digit tariff lines (HS 2017). The average tariff level continued to drop during the review period, such that the average rate of applied MFN duties fell from 3.2% in 2013 to 2.2% in 2019. Peru's tariff includes only *ad valorem* duties, except for the 48 ten-digit tariff lines (0.6% of the entire tariff schedule) that are subject to the Peruvian Price Brand System (SPFP). These tariff duties are made up of two components: an *ad valorem* component and a specific one. The price band applies to imports of certain agricultural products: rice, sugar, maize (corn) and dairy products. *Ad valorem* import duties are calculated according to the c.i.f. value of the goods. The sum total of the *ad valorem* tariff and additional duties on a good should not

exceed 15% of its c.i.f. value, although this ceiling may be temporarily modified by supreme decree, as was the case for rice in 2018, when the ceiling was temporarily raised to 20%. In 2019, Peru maintains three levels of bindings: 68%, 30% and 0%, with the last being the result of the TFA.

12. Peru does not apply tariff quotas to MFN imports; it only uses them under various regional agreements. A 0% tariff is applied to imports within the preferential quota, while the MFN or preferential duty, according to the agreement, is applied to those outside the quota. In the case of tariff quotas for products subject to the SPFP, the preference is granted in respect of both the *ad valorem* and the specific component. During the review period, quotas were used for very few products and were not always filled. Peru has notified the WTO that it does not apply import licences and does not have an administrative procedure in place for such licences.

13. Imports, like domestic production, are subject to the General Sales Tax (IGV) (general rate of 16%) and the Municipal Promotion Tax (IPM) (2%). Some products are also subject to the Selective Consumption Tax (ISC), which affects the domestic production or import of fuels, liqueurs, new and used vehicles, carbonated beverages and cigarettes. Peru applies a special procedure for the advance refund of the IGV (RERA IGV), which consists of refunding the IGV that is applied to new capital and intermediate goods and construction services, whether imported or local, that are used in the pre-production phase of an investment project.

14. Between 2013 and 2018, Peru initiated 15 proceedings relating to anti-dumping duties, less than half of the number initiated during the 2007-12 period (38 investigations). Of those 15 proceedings, only four were new investigations and the rest were reviews of previously imposed anti-dumping measures. At 31 December 2018, eight anti-dumping measures were in effect. Also at that date, four anti-dumping measures had been in force for over ten years. Between 2013 and 2018, four investigations into subsidies were opened, of which two resulted in the application of definitive countervailing measures. In late 2018, Peru had three countervailing measures in place. During the review period, Peru did not initiate any safeguard investigations within the WTO framework.

15. The Duty Drawback Scheme enables the total or partial refund of tariffs paid for imported inputs or for goods manufactured with imported inputs purchased from local suppliers that are to be either incorporated or used in the production of an exported good, excluding traditional exports (291 tariff lines). A percentage of the f.o.b. value of the exported good is refunded and this varied during the review period: between 2013 and 2014, it was 5%; in 2015, it dropped to 4% and in 2016, to 3%, before rising again to 4% in 2017 and 2018. Since 1 January 2019, the refund rate has been 3%.

16. Peru does not apply export licences or taxes. There are various export financing and guarantee mechanisms, mainly intended to support micro, small and medium-sized enterprises (MSMEs). The Programme to Promote Internationalization (PAI), set up in 2016, co-finances studies and activities that allow MSMEs to improve their management capacities. Peru has an Export Credit Insurance Programme for Small and Medium-Sized Enterprises (SEPYMEX) to facilitate access to credit and reduce financing costs for exporting SMEs through a credit insurance policy aimed at backing pre- and post-shipment loans granted to such SMEs.

17. Peru has some general incentive programmes, mainly intended to promote innovation and competition, MSMEs and regional development. The National Innovation Programme for Competitiveness and Productivity (INNÓVATE Perú), set up in 2014, co-finances innovation and start-up programmes to increase business productivity through four funds. In 2018, various funds were amalgamated to form the CRECER Fund, the resources of which can be used through the financial system, up until 2048, to provide loans for the acquisition of fixed assets and/or working capital, and to grant guarantees and/or credit coverage, among other operations. MSMEs and exporting SMEs can benefit from the CRECER Fund. Peru has various regional development mechanisms. Since 2016, what were formerly known as export, processing, industry, marketing and service centres (CETICOS) are now called special development zones (ZEDs). ZEDs are primary customs zones in which manufacturing, in-bond processing, assembly, storage, repair and service activities are carried out. Companies located in these zones are exonerated from income tax, the IGV, tariffs and all other taxes. These advantages will apply until 31 December 2042. The purpose of the ZEDs is to promote investment, competition and innovation in the regions in which they are located.

18. The general framework for the implementation of standards and technical regulations is governed by the principle of avoiding unnecessary barriers to international trade. During the review period, both the National Quality System (SNC) and the National Quality Institute (INACAL) were established. INACAL is the governing body and highest technical and regulatory authority of the SNC, and the agency with responsibility for standard-setting, accreditation and metrology. The development of technical regulations falls within the respective purview of the various ministries. Although there is no general template for developing draft technical regulations, ministries must base them on available scientific and technical evidence and ensure compliance with multilateral and Andean regional provisions. Between 2013 and 2018, Peru notified 64 draft technical regulations, two addenda to draft technical regulations, two emergency technical regulations and eight final technical regulations. Between January and April 2019, five new notifications of draft technical regulations were submitted. The products concerned by these measures are, for the most part, pharmaceuticals, medical devices, sanitary products, food and beverages. In February 2019, 128 technical regulations were in force. Between 2013 and 2018, WTO Members raised three specific trade concerns regarding Peruvian technical regulations.

19. For the development of sanitary and phytosanitary (SPS) measures, a risk analysis is first carried out; a report is then prepared and the draft measure is drawn up indicating the relevant requirements. A notification is then sent to the WTO. Subsequently, a resolution is issued and the measure is published as an approved standard in the Official Journal, after which it is notified to the WTO. Five risk categories have been established for animal and plant health, and the type of action to be taken by the corresponding inspection agency depends on the risk category of the product to be imported; the risk category is also taken into account to determine whether an import permit is required. Between January 2013 and April 2019, Peru submitted 350 substantive notifications relating to the adoption of SPS measures. Most of these measures were adopted to preserve plant health and were ordinary in nature; only ten were emergency measures. No trade concerns were raised in respect of the sanitary and phytosanitary measures adopted by Peru during the review period.

20. Since its previous review, Peru has introduced reforms to its competition regime with a view to improving implementation of the regulatory framework, strengthening the role of the competition authority and promoting better functioning markets. The main changes include the introduction of penalty procedures for persons or companies that facilitate the formation of cartels; the broadening of the scope of the leniency programme; an increase in incentives to make commitments to cease anti-competitive practices; and increased fines for infringements. The Free Competition Commission, which is responsible for ensuring compliance with the law on competition and for settling proceedings concerning anti-competitive conduct in first instance, worked actively over the 2013-18 period, imposing fines totalling over USD 216 million. Yet Peru continues to be one of the few countries in the region that does not have legislation providing for *ex ante* control of concentrations (except in the electricity sector by virtue of the legislation governing that sector). The country would benefit from the adoption of such legislation, since it would help prevent the formation of monopolies and further boost competition. In this regard, the authorities have indicated that a draft law on *ex ante* control of economic concentration operations was before Congress for passage.

21. During the review period, Peru reformed the legal and institutional framework of its government procurement system to bring it in line with international best practices. The new Government Procurement Law, which entered into force in January 2016, places emphasis on results-based management of government procurement and, amongst other things, establishes provisions for simplifying procurement procedures; promotes the use of requirement standardization and other procurement methods (framework agreements, reverse auction, etc.); reclassifies selection procedures; and puts in place a central procurement agency. The Law was subsequently amended to speed up government procurement procedures, combat corruption and strengthen the Supervisory Authority for Government Procurement. The legislation provides for some preferences in order to encourage SMEs to participate in government procurement. In 2018, Peru's state-owned enterprises engaged in procurement to the tune of USD 13,460.7 million, of which 42.5% was through public tender, 18.8% through open competition, 25.7% through the simplified award procedure, 8.3% through direct procurement and the remainder through other procedures such as electronic reverse auction.

22. Peru's legal framework for intellectual property comprises its domestic legislation, the CAN regime, and bilateral and multilateral treaties and agreements. The TRIPS Agreement, along with other international treaties and conventions which Peru has signed, are part and parcel of Peru's

domestic legislation and may be invoked before its courts. Peru is party to 16 conventions and treaties on intellectual property rights administered by the World Intellectual Property Organization. During the review period, Peru joined the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled; the Singapore Treaty on the Law of Trademarks; and the Beijing Treaty on Audiovisual Performances. During this period, minor amendments were introduced to legislation on copyright and related rights. Border measures may be enforced at the request of a party or *ex officio* in respect of goods reasonably suspected of being counterfeit or pirated.

23. Peru produces a wide variety of agricultural products. Agricultural products accounted for 14% of total exports in 2018 (some USD 6,615 million). The major exports in 2018 were grapes, avocados, coffee, blueberries, asparagus, mangoes, cocoa and its by-products, and citrus fruit. During the review period, the tariffs applied to the agricultural sector (WTO definition) dropped from 3.9% in 2013 to 2.9% (3% if *ad valorem* equivalents of the SPFP are included). The National Agrarian Policy sets out a medium- and long-term framework for promoting sustainable agricultural development (with priority given to family farming) and development and social inclusion among the rural population. Peru provides limited support to the agricultural sector. The Rural Agrarian Production Development Programme (AGRORURAL), which recently merged with other programmes, continues to be Peru's principal agricultural support programme, funding public investment projects in less economically developed rural areas. The budget allocated for achieving these objectives in 2018 rose to USD 153.8 million. The Agricultural Bank (AGROBANCO) funds support programmes that provide direct credit to micro and small agricultural producers, under the terms established pursuant to agreements.

24. Peru is a major producer and exporter of fishery products, including fishmeal and fish oil, and aquaculture products. Peru's leading fishery resources are: anchoveta, prawns, turbot, sole and other species. Exports of fishery products have grown considerably in recent years and in 2018 totalled USD 3,306 million. The National Fisheries Development Fund (FONDEPES) provides technical, economic and financial support for the development of small-scale maritime and inland fishing activities, as well as fishing and aquaculture activities. FONDEPES has various credit modalities, each with different products. Peru participates actively in the negotiations on fisheries subsidies at the WTO and is part of the Organization's informal grouping known as "Friends of Fish".

25. The mining and energy sector is of great importance to the Peruvian economy. In 2018, it represented 13.1% of GDP and close to two thirds of exports. That same year, exports of mining products and hydrocarbons totalled USD 31.790 million, of which mining exports accounted for USD 27,589 million. Copper was the leading export (31.3% of the total), followed by gold (14.7%) and zinc (5.4%). Mining activities were carried out under the system of concessions, which are irrevocable and can be granted to private individuals, both foreigners and nationals alike. The marketing of minerals does not require the granting of a concession. Formalization of small-scale and artisanal mining activities is a priority of the mining policy. Mining concessionaires must pay mining royalties, concession fees and the Special Mining Tax. Small-scale and artisanal producers are not subject to the payment of royalties or this tax. The exploration, exploitation, transport and distribution of hydrocarbons are carried out in a competitive context. Peru is a net importer of oil. Supervised oil production has been diminishing over time, whereas that of gas and liquids has been growing. Electricity generation is diversified: there are hydroelectric plants (57.8% of all energy produced in 2018) and thermoelectric and solar power plants, as well as wind farms. The generation, transmission and distribution of electric power are activities that may be conducted by the private sector – both domestic and foreign. Private companies accounted for 80% of the energy produced in 2018.

26. During the review period, progress was made in respect of the expansion of financial services and people's access to and use of such services, although further efforts are needed to ensure greater inclusion. Foreign investment in banking is openly allowed, with no limits on equity participation. Foreign banking firms may set up branch offices or subsidiaries, which enjoy the same rights as domestic firms. Banks may not engage in insurance activities, but may market insurance products if they have signed a marketing agreement with an insurance company. The insurance market, both for commercial insurance and insurance related to social security, is open to foreign investment. To provide insurance services, foreign companies may set up branch offices or subsidiaries. Restrictions are not applied to the participation of foreign investors in Peru's securities markets. The Lima Stock Exchange (BVL) is the country's leading stock market. Its trade in shares in 2018 was worth USD 3,392.5 million.

27. During the review period, Peru implemented a number of measures aimed at fostering development and competition in the telecommunications sector and broadening and improving access to and coverage of services in the country. Notable among these are the adoption of new regulations to facilitate number portability, measures to protect users and new rules to manage the radio-frequency spectrum. The authorities also launched an important public-private investment plan to develop telecommunications infrastructure, improve connectivity and expand services to rural areas.

28. Domestic commercial aviation is reserved for Peruvian natural or legal persons. In order to be considered as such, a Peruvian legal person must have its main domicile in Peru and at least half plus one of its directors must be Peruvian nationals or be permanently domiciled in Peru. Furthermore, at least 51% of the company's share capital must be owned by Peruvian nationals during the first six months of validity of the first operating permit. Beyond these six months, up to 70% of the share capital may be owned by foreigners. Regarding domestic commercial aviation operations, staff performing aeronautical duties on board must be Peruvian nationals or resident foreigners with a Peruvian licence. During the review period, there were several changes to the legislation governing maritime transport, such as the establishment of a legal framework for logistics hubs and the adoption of new regulations to enable the liberalization of maritime cabotage transport for passengers and freight. The new legislation, passed in September 2018 and pending implementation, removes the requirement for at least 51% of equity to be held by Peruvian nationals, the requirement for the board of directors and management of the company to hold Peruvian nationality, and the requirement for ownership of Peruvian-flagged vessels. Management of port infrastructure may be handed over to the private sector (Peruvian or foreign) for up to 30 years for the purposes of developing new port infrastructure or modernizing or improving existing infrastructure. The tourism sector, which has been growing in recent years, is an important source of foreign currency and benefits from incentives and promotional measures.

1 ECONOMIC ENVIRONMENT

1.1 Main features of the economy

1.1. Peru is an open economy with very low tariff levels and few obstacles to international trade. In 2018, the ratio of trade (exports and imports) to GDP was 48.0% – lower than that for 2012 (52.3%), chiefly as a result of changes in international mineral prices. Peru is one of the world's leading mineral producers (copper, zinc, silver, gold, tin, lead, and molybdenum). In 2017, mining and associated activities represented 9.4% of GDP at current prices (13.1% at constant prices), and in 2018 generated 62.2% of income from merchandise exports (Section 1.3.1).

1.2. The services sector continued to grow in importance and consolidated its position as the leading sector of economic activity, representing 54.1% of GDP at current prices in 2017 compared to 49.1% in 2012. In 2017, services accounted for 59% of employment– higher than the figure of 57.6% in 2012 (Table 1.1). Manufacturing contributed 12.8% to real GDP – lower than the 2012 figure of 15.2%, and generated 9.4% of employment. Agriculture and fisheries also continue to make major contributions to real GDP, employment and merchandise exports (Section 4.1).

1.3. Since its last Trade Policy Review in 2013, Peru has maintained a pattern of sustained economic growth, with real GDP growing at an average annual rate of 4% between 2012 and 2018, one of the highest in Latin America, although lower than during the period covered by the last review (2007-12) when it was 6.6%. This lower growth rate is principally due to the unfavourable international economic situation, and the resulting fall in the prices of mineral products. Despite this, underpinned as it was by sound macroeconomic fundamentals and robust domestic demand, particularly in relation to private consumption, the average rate of growth in GDP caused per capita GDP to rise from USD 6,393 in 2012 to USD 6,909 in 2018 (Table 1.2).

Table 1.1 Structure of GDP and employment, 2012-19

	2012	2013	2014	2015	2016[a]	2017[a]	2018[b]	2019 Q1
Real GDP, growth rate (%, at 2007 prices)	6.1	5.9	2.4	3.3	4.0	2.5	4.0	2.3
By branch of economic activity (% of GDP at 2007 prices)								
Value added	90.8	90.6	90.6	90.8	90.8	90.9	90.9	90.6
Agriculture, livestock, hunting and forestry	5.6	5.3	5.3	5.2	5.2	5.2	5.3	4.9
Fisheries and aquaculture	0.4	0.5	0.3	0.4	0.3	0.3	0.4	0.3
Extraction of oil, gas, minerals and related services	12.0	11.9	11.4	12.0	13.0	13.1	12.4	12.2
Manufacturing	15.0	14.9	14.4	13.9	13.3	13.0	13.3	12.4
Electricity, gas and water	1.7	1.7	1.7	1.8	1.9	1.8	1.8	2.0
Construction	6.6	6.8	6.8	6.2	5.8	5.8	5.9	5.5
Services	49.5	49.5	50.6	51.3	51.4	51.7	51.7	53.5
Trade, maintenance and repair of motor vehicles and motorcycles	10.9	10.8	10.8	10.8	10.6	10.5	10.4	9.9
Transport, storage, mail and courier services	5.4	5.4	5.4	5.5	5.5	5.5	5.6	5.9
Accommodation and food services	3.1	3.1	3.2	3.2	3.2	3.2	3.1	3.3
Telecommunications and other information services	3.4	3.5	3.8	4.0	4.2	4.4	4.5	5.0
Financial services, insurance and pensions	3.7	3.8	4.2	4.4	4.5	4.5	4.5	4.9
Business services	4.7	4.8	4.9	4.9	4.9	4.9	4.9	5.2
Public administration and defence	4.9	4.8	5.0	5.0	5.0	5.1	5.1	5.0
Other services	13.3	13.1	13.3	13.5	13.5	13.6	13.6	14.2
Import duties and other taxes	9.2	9.4	9.4	9.2	9.2	9.1	9.1	9.4
Real growth rate by branch of economic activity (%, based on GDP at 2007 prices)								
Agriculture, livestock, hunting and forestry	6.3	1.1	1.3	3.1	2.6	2.1	7.5	4.9
Fisheries and aquaculture	-36.2	23.0	-28.7	18.2	-11.1	5.6	39.9	-20.3
Extraction of oil, gas, minerals and related services	1.8	5.1	-1.6	8.4	12.3	3.5	-1.3	-0.6
Manufacturing	1.3	5.2	-1.1	-0.9	-0.2	0.2	6.2	-0.9
Electricity, gas and water	5.9	3.4	5.2	6.6	7.8	0.9	4.4	5.9
Construction	15.9	9.4	1.8	-5.3	-2.5	2.4	5.4	1.8
Services	7.6	5.8	4.7	4.7	4.1	3.2	4.0	3.6
Trade, maintenance and repair of motor vehicles and motorcycles	8.5	4.9	1.9	3.1	2.8	1.6	2.6	2.4
Transport, storage, mail and courier services	7.0	6.6	2.5	4.3	4.1	3.8	5.0	2.4
Accommodation and food services	10.8	6.8	5.2	3.3	2.7	1.4	3.6	3.6

	2012	2013	2014	2015	2016[a]	2017[a]	2018[b]	2019 Q1
Telecommunications and other information services	12.2	8.7	8.6	9.1	8.8	8.4	5.5	6.3
Financial services, insurance and pensions	9.6	9.7	12.8	9.6	5.4	1.5	5.4	4.8
Business services	7.2	7.3	4.6	4.4	2.6	3.2	3.2	3.4
Public administration and defence	8.1	3.9	5.3	3.6	4.3	3.3	4.5	4.7
Other services	4.6	4.5	4.1	4.4	4.0	3.5	3.9	3.4
Import duties and other taxes	9.5	7.9	2.8	0.6	3.6	1.4	3.9	2.1
National employment								
Unemployment rate (%)	3.7	3.9	3.7	3.5	4.2	4.1	3.9	..
Urban unemployment rate (%)	4.7	4.8	4.5	4.4	5.2	5.0	..	..
Population of working age (PWA) (million)	21.9	22.3	22.7	23.0	23.4	23.8	..	..
Economically active population (EAP) (million)	16.1	16.3	16.4	16.5	16.9	17.2	..	..
Economically active population (EAP) (%)	73.6	73.2	72.3	71.6	72.2	72.4	..	..
EAP in employment by branch of economic activity (%)								
Agriculture	24.2	24.0	24.2	25.0	24.8	24.1	..	..
Fisheries	0.5	0.6	0.6	0.6	0.6	0.6	..	..
Mining	1.3	1.3	1.2	1.3	1.2	1.2	..	..
Manufacturing	10.5	10.1	9.5	9.4	9.5	9.4	..	..
Construction	5.9	6.2	6.4	6.6	6.2	5.8	..	..
Services	57.6	57.8	58.0	57.1	57.8	59.0	..	..
Commerce	18.9	19.2	19.0	18.2	18.3	18.8	..	..
Transport and communications	7.7	7.7	8.0	8.3	8.4	8.6	..	..
Public administration, defence, social security	4.6	4.3	4.5	4.3	4.4	4.3	..	..
Hotels and catering	6.5	6.7	6.9	6.8	6.8	7.2	..	..
Real estate and rentals	4.5	4.7	4.6	4.7	4.8	5.1	..	..
Education	5.8	5.3	5.2	5.1	5.3	5.1	..	..
Other services[c]	9.8	9.9	9.8	9.8	9.8	9.8	..	..
Metropolitan Lima:								
Economically active population (EAP) (million)	4.8	4.9	4.9	5.0	5.1	5.2	5.2	5.3
EAP in employment (million)	4.5	4.6	4.6	4.7	4.8	4.8	4.9	4.8
Unemployment rate (%)	6.8	5.9	5.9	6.5	6.7	6.9	6.6	8.1
Employment coefficient[d]	64.4	64.8	64.3	63.8	63.8	63.8	63.5	62.2

.. Not available.

a Preliminary data.
b Estimates
c "Other services" comprises electricity, gas and water, financial intermediation, social services and health activities, and other service activities (community, social and personal services, and private households with employed persons).
d Ratio between the employed population (EAP in employment) and the population of working age (PWA).

Source: Central Reserve Bank of Peru and National Institute of Statistics and Informatics.

1.4. Unemployment remained low throughout the period under review at around 4% (3.9% of the economically active population in December 2018). Urban unemployment is higher than the national average, especially in Metropolitan Lima. In 2017, 59% of the employed population was working in services, especially in commerce, transport and other services; 24% of the employed workforce was working in agriculture; 9.4% in manufacturing; 5.8% in construction; only 1.2% in mining, the main generator of foreign exchange; and 0.6% in fisheries, another important export sector.

1.5. The prolonged period of economic growth, the fall in poverty and the rise in disposable income have consolidated the development process. However, Peru still faces challenges that must be addressed. For example, although the overall poverty rate fell to 20.8% in 2017 according to national indicators (the extreme poverty rate was 2.8%) and to just 3.4% according to international indicators, there are still significant disparities between rural and urban areas.[1] Additionally, further efforts in terms of human capital and infrastructure are required: Peru ranks 89th out of the

[1] In 2017, the national poverty line stood at PEN 344 per capita per month and the extreme poverty line at PEN 183 per month. The indicator used to calculate international poverty is a daily per capita income of USD 1.90. In 2017, the international poverty rate in urban areas was 1%, while in rural areas it was 13%. Online information from the World Bank. Viewed at: http://povertydata.worldbank.org/poverty/country/PER.

189 countries in the human development index.[2] Further investment is therefore required in infrastructure, where coverage and quality are poor; the country must also address areas where it lags behind, including innovation, technology take-up, the quality of scientific research, and research and development (R+D) spending, as identified in the Government's National Competitiveness and Productivity Policy (PNCP).

1.6. The PNCP is a multi-sectoral proposal coordinated by the National Competitiveness and Formalization Council (CNCF), which lays down objectives and action plans to stimulate and consolidate medium- and long-term economic growth, improve public services, reduce poverty, raise incomes and achieve a sustainable increase in well-being. The PNCP comprises nine priority objectives and 36 objective-linked policy guidelines. The nine objectives are to: (a) provide the country with good-quality economic and social infrastructure; (b) bolster human capital; (c) generate skills development for innovation and the adoption and transfer of technological improvements; (d) stimulate local and external funding arrangements; (e) build a buoyant, competitive labour market environment to generate decent employment; (f) generate the conditions required to develop a productive business environment; (g) facilitate conditions conducive to external trade in goods and services; (h) strengthen the country's institutional framework; and (i) promote environmental sustainability in the performance of economic activities.[3] With regard to facilitating conditions conducive to external trade in goods and services, the aim is to develop a diversified and competitive range of exports, while optimizing access to logistics services, consolidating the system of trade facilitation and coordination across the entities involved, and generating skills in business internationalization and market diversification.[4]

1.7. With respect to infrastructure gaps, a paper drawn up by the Private Investment Promotion Agency (PROINVERSIÓN) calculates the investment gap for the period 2016-25 at USD 159,549 million. The sector that requires greatest investment in order to close the gap is transport, which accounts for 36% of the total (USD 57,499 million). The second is the electricity sector at 19.3% (USD 30,775 million). Third is telecommunications, accounting for 17% of the total (USD 27,036 million), followed by health with 11.9% (USD 18,944 million). The study calculates that the cost of investment to close the estimated gap would account on average for 8.27% of annual GDP, while the total estimated benefits are likely to amount to 15.56% of average annual GDP for the period 2016-25; it is further estimated that the reduction in poverty nationally that would be attributable to closing the infrastructure gap is likely to be around 6% annually.[5]

1.8. In recent years, Peru has prioritized an inclusive development agenda focused among other things on implementing a series of reforms that seek to achieve more effective governance. Accordingly, the Government of Peru has made the all-out campaign against corruption a national priority. To that end a new anti-corruption strategy that fosters integrity has been implemented at national level for the period 2018-21. It includes the National Pro-Integrity and Anti-Corruption Policy, the National Pro-Integrity and Anti-Corruption Plan, and Supreme Decree No. 044-2018-PCM, which lays down a suite of measures to foster integrity and establishes the Public Integrity Secretariat within the Office of the President of the Council of Ministers. Peru has negotiated anti-corruption provisions in its trade agreements that are in line with international conventions on this matter. At international level, during the period under review, Peru also adhered to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and to the OECD Convention on Mutual Administrative Assistance in Tax Matters. Regionally, measures have been adopted to enforce the terms of the Lima Commitment, "Democratic Governance against Corruption", of the Organization of American States (OAS), including the

[2] Online information from the United Nations Development Programme (UNDP). Viewed at: http://hdrstats.undp.org/en/countries/profiles/PER.html and http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update_es.pdf.

[3] Government of Peru, *Política Nacional de Competitividad y Productividad (Documento Resumen)*. Viewed at: https://www.mef.gob.pe/contenidos/archivos-descarga/Politica_Nacional_de_Competitividad_y_Productividad.pdf.

[4] Ministry of Foreign Trade and Tourism (MINCETUR) (2019), fifth TPR of Peru at the WTO. Session 1: Trade Regime. Presentation by Sayuri Bayona, Vice-Minister for Foreign Trade, 5 February 2019.

[5] Association for the Promotion of National Infrastructure (AFIN) and School of Public Administration, University of the Pacific, *Un Plan para salir de la pobreza: Plan Nacional de Infraestructura 2016 – 2025*. Viewed at: https://www.proyectosapp.pe/RepositorioAPS/0/2/JER/SF_HUANCAYO_HUANCAVELICA/plan_nacional_infraestructura_2016_2025_2.pdf.

promotion of cooperative undertakings with international bodies such as the World Bank, the Inter-American Development Bank and the Development Bank of Latin America (CAF).

1.2 Recent economic developments

1.2.1 Real sector

1.9. Throughout the period under review, Peruvian GDP rose steadily (Table 1.2), reaching an average annual growth rate of 4.0% between 2012 and 2018. However, that rise was not uniform across the whole period and was largely dependent upon external demand conditions. After recording rates of around 6% in 2012, growth slowed in 2014 and 2015, reflecting the negative effects of external demand arising both from falls in raw material prices and shrinking investment. These negative effects were attenuated by the continued high level of growth in private consumption and Government expenditure. In 2016, the pace of growth recovered and GDP rose to 4%, mainly as a result of the strong performance of exports. Even though consumption expenditure grew at a rate similar to GDP generally, domestic demand was adversely affected by the contraction in gross fixed capital formation. In 2017, growth in GDP slowed to 2.5%, owing chiefly to weak investment and slower growth in private consumption.[6]

Table 1.2 Economic indicators, 2012-19

	2012	2013	2014	2015	2016[a]	2017[a]	2018[b]	2019 Q1
Gross domestic product (GDP)								
Current GDP (PEN million) (National Institute of Statistics and Informatics (INEI))	508,131	543,556	570,593	604,269	647,707	687,037	730,406	176,934
Current GDP (PEN million) (BCRP)	508,717	546,124	574,302	609,365	656,138	698,457	740,607	176,853
Current GDP (USD million)	192,654	201,143	201,002	189,705	191,889	210,701	222,207	53,241
GDP per capita (USD)	6,393	6,600	6,523	6,090	6,094	6,620	6,909	..
Real GDP, growth rate (%, at 2007 prices)	6.1	5.9	2.4	3.3	4.0	2.5	4.0	2.3
Potential GDP (real growth rate)	6.1	5.4	4.1	3.7	3.6	3.6	3.5	..
GDP by type of expenditure, real growth rate (%, based on GDP at 2007 prices)								
Total consumption	7.6	6.0	4.6	4.6	3.9	3.0	3.7	3.0
Final consumption, private sector	7.4	5.7	3.9	4.0	3.7	2.6	3.8	3.2
Government consumption	8.3	7.5	8.8	7.9	5.2	4.5	3.4	2.0
Gross capital formation	9.5	8.5	-1.3	-3.5	-5.7	0.0	5.3	2.2
Gross fixed capital formation	14.9	5.4	-2.0	-7.2	-4.4	1.0	4.5	1.4
Changes in inventories	-76.8	256.7	16.6	69.1	-19.3	-11.8	18.3	8.3
Exports	3.1	-0.6	-3.8	4.3	11.8	8.1	4.1	-0.7
Imports	10.0	2.9	-1.0	1.0	1.6	7.0	4.5	1.2
Memorandum items								
Population (thousands)								
External public debt (USD million)	30,136	30,475	30,814	31,152	31,489	31,826	32,162	..
External public debt (% of GDP)	20,402	18,778	19,764	23,630	23,762	22,710	22,977	..
Gross international reserves (USD million)	10.6	9.3	9.8	12.5	12.4	10.8	10.3	..
Net international reserves (USD million)	64,049	65,710	62,353	61,537	61,746	63,731	60,288	..
Unemployment rate (%)	3.7	3.9	3.7	3.5	4.2	4.1	3.9	3.9

.. Not available.

a Preliminary data.
b Estimates.

Source: National Institute of Statistics and Informatics and Central Reserve Bank of Peru.

[6] Central Reserve Bank of Peru (BCRP) (2018), *Memoria Anual 2017*. Viewed at: http://www.bcrp.gob.pe/publicaciones/memoria-anual/memoria-2017.html; and BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

1.10. In 2018, growth in GDP was 4%, driven above all by domestic demand, especially the recovery in investment and higher growth in consumption; net exports made a negative contribution to GDP. Investment recorded the highest growth since 2013, chiefly due to investment in copper- and iron-mining projects. Additionally, four years of weak public investment were followed by an increase of 6.8% in 2018 as a result of the launch of road infrastructure works, sanitation works, and works associated with the sports complexes for the Pan American Games.

1.11. Except for 2014 and 2015, during the period under review actual GDP growth outstripped potential GDP growth, which in 2018 was 3.5%. Relatively low investment in relation to other components of domestic demand played a role in restricting potential GDP growth. For example, between 2012 and 2018, private consumption grew at an annual average rate of 4.4%, and Government expenditure at a rate of 6.5%, while the annual rate of growth for gross capital formation was only 1.7%. Moreover, imports and exports of goods and services grew at an average annual rate of 3.7% over the same period.

1.12. With regard to GDP by production sector, agriculture grew at an average annual rate of 3.4% between 2012 and 2018, while fisheries and aquaculture contracted by an average of 2% annually, although that figure masks sharp year-on-year fluctuations caused partly by anchoveta availability. The average annual growth rate over the period in the mining and hydrocarbons sector was 3.7%, while in manufacturing it was 1.5%. Additionally, the construction sector experienced annual average growth of 3.7% from the start of 2012 to the end of 2018, while services as a whole grew by 4.9%; strong performers were telecommunications (8.7%) and financial services (7.7%).

1.13. In 2018, GDP growth drew on the recovery in non-primary sectors, where overall growth was 4% compared to 3.3% in primary sectors.[7] A significant influence on the figure for the primary sectors was the 1.5% contraction in mining and hydrocarbon production. Additionally, in 2018, agriculture grew by 7.5% in response to better weather that was beneficial to crops intended for the domestic and export markets. In 2018, fisheries grew by 39.7% owing chiefly to high anchoveta catches. Metallic mining contracted by 1.5% as a result of a lower output of gold, copper (because of technical issues), silver, lead and molybdenum. In 2018, output in the hydrocarbons sector remained steady compared to 2017; the higher level of petroleum extraction was offset by the lower production of gas and natural gas liquids. Non-primary manufacturing grew by 3.7% in 2018 as a result of the increase in the production of goods tied to investment, inputs and mass consumption, whereas primary manufacturing experienced growth of 13.2% driven by the recovery in the production of fish meal and oil compared to the previous year. The construction sector grew by 5.4%, reflecting the rise in total investment, while services grew by 4.4%.[8]

1.14. In its paper *Marco Macroeconómico Multianual 2019-2022*, drafted in mid-2018, the Ministry of the Economy and Finance (MEF) projected 4.2% growth for 2019 and 4% for 2020, in line with growth in domestic demand in both consumption and private investment. In its *Informe de Actualización de Proyecciones Macroeconómicas 2019-2022*, published in April 2019, the MEF forecasts growth of 4.2% for 2019, in line with its earlier projections and with growth in domestic demand in both consumption and private investment. It predicts that private investment will be a key driver in sustaining economic growth and achieving growth of 7.6% in 2019 as a result of new mining projects that were launched in 2018 (Quellaveco, Mina Justa and expansion of Toromocho) and greater non-mining investment. Notable among non-mining investment is the investment in infrastructure (Line 2 of the Lima and Callao metro and expansion of Jorge Chávez airport and General San Martín and Salaverry port terminals), real estate and retail trade. The authorities anticipate that together with a favourable financial environment, a favourable investment performance will generate formal employment, and that rising family incomes will stimulate private consumption, which is projected to grow by 3.8% in 2019.[9] For the period 2020-22, the projected average annual increase in real GDP in the medium term is 4.8%, sustained by stronger domestic demand in an environment where the Government is working on economic policy measures as part

[7] The primary sectors are agriculture, fisheries, metallic mining, hydrocarbons and primary manufacturing (production of fish meal and oil, refining of minerals and oil). The non-primary sectors are manufacturing, electricity and water, construction, commerce and services.

[8] BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March 2019. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[9] Ministry of the Economy and Finance (MEF) (2019), *Informe de Actualización de Proyecciones Macroeconómicas 2019-2022*. Viewed at: https://www.mef.gob.pe/contenidos/pol_econ/marco_macro/IAPM_2019_2022.pdf.

of its overall strategy to stimulate Peru's competitiveness and productivity. The National Competitiveness and Productivity Policy (PNCP) was published in December 2018. Accordingly, the authorities project stronger growth in potential GDP from 3.5% in 2017 to 4.5% in 2022.

1.15. The Central Reserve Bank of Peru (BCRP) projects GDP growth of 4.0% in 2019 and 2020 driven by ongoing buoyant domestic demand, and external demand fuelled by both an increase in mining output and the upturn in agroindustrial exports. It is anticipated that growth in domestic demand will be supported by private investment, which is projected to rise by 6.0%; private consumption, expected to grow by 3.9%; and public investment, where 5.0% growth is anticipated.[10] Private sector expectations of growth in GDP are 3.9% for 2019 and 4.0% for 2020.[11] The IMF forecasts GDP growth of 3.9% for 2019.[12] The BCRP expects that greater investment and the adoption of measures to increase productivity will result in slightly higher growth in potential GDP of 3.7% in 2019 and 3.8% in 2020, which would help to gradually close the gap between actual and potential GDP (output gap).

1.16. By sector, the authorities are confident that GDP growth in 2019 and 2020 will continue to benefit from the strong performance in non-primary sectors and, from 2020, in the primary sector as well. The BCRP anticipates GDP growth in agriculture of 4.5% in 2019 and 4.0% in 2020 reflecting steady growth in agroexports and poultry. Where fisheries are concerned, it forecasts a 4.5% drop in output in 2019 as a consequence of the return to normal anchoveta catch levels, followed by a 2% rise in 2020. In mining, it projects 3.3% growth for 2019 and 4.3% in 2020 following the projected increase in copper output and iron extraction as a result of projects launched. In non-primary manufacturing, 4.0% growth is projected for 2019 and 3.8% for 2020, while growth in primary manufacturing is expected to be just 0.5% in 2019 and 1.2% in 2020 following a smaller anchoveta catch and the temporary closure of a copper refinery for maintenance.[13]

1.2.2 Fiscal policy

1.17. The Ministry of the Economy and Finance (MEF) is tasked with defining and implementing fiscal policy in Peru. The Fiscal Council is an autonomous body that was created to contribute to the independent technical discussion and analysis of the country's macrofiscal policy.[14] The Fiscal Council was established in 2013 under the Law on Strengthening Fiscal Responsibility and Transparency (Law No. 30099), which entered into effect in January 2016. The MEF draws up a Multiannual Macroeconomic Framework (*Marco Macroeconómico Multianual* - MMM) annually containing four-year macroeconomic forecasts that must be approved by the Council of Ministers and are updated every six months in a report that the MEF publishes every April.[15] The forecasts act as a basis for the Public Sector Budget Law for the fiscal year in question. At the time of writing, the most recent MMM was for the period 2019-22, and was drawn up for the Public Sector Budget Law for the Fiscal Year 2019.[16]

1.18. The Law on Strengthening Fiscal Responsibility and Transparency (Law No. 30099 of 31 October 2013) provides for a Fiscal Rule under which the annual non-financial public sector

[10] According to information from the BCRP, the main private investment project announcements for 2019-20 amount to USD 19,600 million, of which USD 9,700 million will be in mining; USD 3,900 million in infrastructure; USD 1,400 million in hydrocarbons; USD 1,000 million in energy; USD 400 million in industry; and USD 3,300 million in other sectors. BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[11] BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[12] Online information from the IMF. Viewed at: https://www.imf.org/external/country/per/index.htm?pn=11.

[13] BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March 2019. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[14] BCRP (2018), *El Consejo Fiscal Peruano*, by Nikita Céspedes, Roy Huarca and Wilder Ramírez. Revista Moneda, June 2018. Viewed at: Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Revista-Moneda/moneda-167/moneda-167-05.pdf.

[15] The *Informe de Actualización de Proyecciones Macroeconómicas 2019-2022* (IAPM 2019-2022) was published in the Official Journal *El Peruano* on 25 April 2019.

[16] MEF (2018), *Marco Macroeconómico Multianual 2019-2022*. Viewed at: https://www.mef.gob.pe/contenidos/pol_econ/marco_macro/MMM_2019_2022.pdf.

(NFPS) fiscal deficit must not be greater than 1% of GDP. One of the main quantitative targets of fiscal policy is to achieve that aim. During the period under review the provisions that implement the Fiscal Rule were amended in order to clarify their scope of application and more clearly define the circumstances in which it is permissible to depart temporarily from the Rule.

1.19. The Law on Strengthening Fiscal Responsibility and Transparency provides that the limit on non-financial expenditure may be modified only when: (i) the non-financial expenditure in the previous year was below the limit, in which case the modification to expenditure in the current year may not be greater than 0.2% of GDP; (ii) the gap between estimated and potential GDP for the current year is greater than 2%, in which case measures that cover up to 25% of the gap may be adopted; or (iii) measures have been adopted to modify fiscal revenue by at least 0.3% of GDP, in which case measures for an equivalent amount may be adopted.[17] It also provides that when there is a projection of a fall in income from ordinary resources of at least 0.3% of GDP compared to the average for the three preceding years, recourse may be had to the Fiscal Stabilization Fund (FEF) (see below) for an equivalent amount not exceeding 40% of the resources in the Fund. Legislative Decree No. 1276 of 23 December 2016 approving the Non-Financial Public Sector Fiscal Responsibility and Transparency Framework repealed Law No. 30099 and laid down a new fiscal framework in order first, to provide, on an ongoing basis, fiscal sustainability, predictability in public expenditure and transparent management of public finances; and secondly, to allow ongoing evaluation and the timely adoption of remedial measures. Accordingly, it was deemed necessary to accumulate fiscal surpluses in buoyant periods and to allow moderate, temporary fiscal deficits only in periods of lower growth. In order to achieve that objective, the fiscal framework provides that the non-financial public sector is required to comply fully with fiscal rules based on observable variables (Box 1.1).

Box 1.1 Macrofiscal rules for the non-financial public sector

(a) **Debt Rule**: The total gross debt of the NFPS must not exceed 30% of GDP. By way of exception, in circumstances of financial volatility and subject to compliance with the other macrofiscal rules covered by the relevant law, public debt may deviate temporarily by no more than four percentage points of GDP.
(b) **Economic Result Rule**: The annual NFPS fiscal deficit must not exceed 1% of GDP. Higher limits expressed as a percentage of GDP were provided for on a transitional basis, namely 3.5% for 2018; 2.9% for 2019; and 2.1% for 2020, reaching 1.0% for 2021.
(c) **Rule on Non-Financial General Government Spending**: Real annual growth in Non-Financial General Government Spending (GNFGG) must not be more than +/- 1 percentage point outside the ceiling calculated on the basis of the 20-year average rate of real annual GDP growth. The figures used to calculate that average are the rates of real GDP growth for the 15 years before the Multiannual Macroeconomic Framework (MMM) was drawn up, the estimate for the fiscal year in which that MMM was drawn up and the projections for the four subsequent years covered by the MMM. The figures used to determine the rate of real annual growth in GNFGG are the consumer price index (CPI) for Metropolitan Lima as set out in the MMM for the year in which the MMM was drafted. Compliance with this rule assumes compliance with macrofiscal rules (a) and (b) above. This rule applies from 2020.
(d) **Rule on Current General Government Expenditure:** Real annual growth in Current General Government Expenditure (GCGG), excluding upkeep costs, may not exceed the real annual long-term economic growth rate, less 1 percentage point. For 2020 and 2021, the deduction is 1.5 percentage points. The figures used to determine the rate of real annual growth in GCGG are the CPI for Metropolitan Lima as set out in the relevant MMM. For 2018-22, the rates of increase in GCGG, excluding upkeep costs were set at 4.0% for 2018; 4.2% for 2019; 3.7% for 2020; 3.7% for 2021; and 4.1% for 2022, after which date they should remain at that level.
Deviation from compliance with the macrofiscal rules may be offset in the subsequent fiscal year, provided that to do so is consistent with overall compliance with the macrofiscal rules in the deferred year.
In the first seven months of a general election year:
(a) no more than 60% of the annual limit on GNFGG laid down in the MMM drawn up in the year preceding the general election may be accounted for;
(b) no more than 60% of the annual limit on GCGG, excluding upkeep costs, as laid down in the MMM drawn up in the year preceding the general election, may be accounted for;
(c) the annual GNFGG commitment may not exceed 65% of the Opening Budget for the Institutions, excluding expenditure on staff, pensions, public-debt servicing and contingency reserves;

[17] Law on Fiscal Responsibility and Transparency of 31 October 2013. Viewed at: http://www.leyes.congreso.gob.pe/Documentos/Leyes/30099.pdf.

(d) measures involving a rise in staff costs and pensions may not be authorized.
The macrofiscal rules are mandatory and may be modified in exceptional circumstances, namely: (i) in the event of a disaster or significant external shock that adversely affects income; or (ii) where it is necessary to modify the economic result because of the impact of exogenous factors on economic activity. To that end the Executive will forward the relevant draft law to the Congress of the Republic.

Source: Legislative Decree No. 1276, published on 23 December 2016.

1.20. Legislative Decree No. 1275, published on 23 December 2016, introduced fiscal rules for regional and local governments and provided for a fiscal rule on the total debt balance under which the ratio between the total debt balance and the average total current revenue for the previous four years must not be greater than 100%, and a fiscal rule on current account savings, under which the difference between total current revenue and total non-financial current expenditure must not be negative.[18]

1.21. Under the Law on Fiscal Prudence and Transparency of 1999, Peru established a Fiscal Stabilization Fund (FEF) that aims to build up resources when the economy is thriving in order to be able to use them in times of recession or emergency, such as natural disasters.[19] The resources of the FEF comprise: (a) the Treasury's budget surplus at the end of each fiscal year, provided that the savings built up in the FEF do not exceed 4% of GDP; (b) 10% of the liquid receipts arising from each sale of assets in the context of privatization; (c) 10% of the liquid receipts from the initial payment for State concessions; (d) other resources as authorized under an express rule. A fall in the FEF balance is associated with exceptional circumstances or the transfer of interest to the Treasury. FEF resources may be used only in the following circumstances: (i) when the exceptional circumstance clauses in the macrofiscal rules are triggered, as occurs in the event of a disaster or significant external shock that adversely affects fiscal revenue; or where it is necessary to modify the economic result because of the impact of exogenous factors on economic activity; (ii) when the balance of the FEF is greater than 4% of GDP, in which case the resources from new privatizations may be allocated to the Fund for Infrastructure and Public Services; (iii) when the cumulative balance in the FEF exceeds 4% of GDP and the gross public debt is temporarily greater than 30% of GDP, in which case that balance may be used to reduce the debt; or (iv) the revenue is generated by interest, and as such constitutes a resource that is freely available to the Treasury.

1.22. At end-2018, the resources in the Fiscal Stabilization Fund (FEF) stood at USD 5,770 million (2.6% of GDP) – a fall on the figures of USD 6,398 million recorded in 2017 and USD 9,159 million (4.8% of GDP) recorded in 2014. Prior to 2014, the FEF had been building resources. Since then, the contingency clauses have been used effectively twice: in 2015 and in 2017. In December 2015, the Board of the FEF authorized the withdrawal of USD 1,267 million following a drop in fiscal income that was unrelated to taxation measures. In 2017, in response to the serious infrastructure losses caused by the El Niño phenomenon, and pursuant to Legislative Decree No. 1276, the Government ordered the application of the exceptional circumstance clause to the macrofiscal rules in order to deal with the resulting damage. Consequently, in December 2017, the Board of the FEF authorized the withdrawal of USD 1,870 million in order to finance the cost of the subsequent reconstruction works.

1.23. Since 2014, the fiscal surpluses of 2012 and 2013 have become growing deficits, initially as a result of an expansion of current expenditure. The situation was compounded in 2015 by a sharp fall in the price of mining products that led to a revenue drop equivalent to almost two percentage points of GDP, which in turn resulted in an NFPS deficit of 1.9% of GDP. The deficit deepened in 2016 and 2017 against a backdrop of falling revenue and the application of the exceptional circumstance clauses to the macrofiscal rules referred to above (Table 1.3).

[18] Legislative Decree No. 1275, published on 23 December 2016. Viewed at: https://busquedas.elperuano.pe/normaslegales/decreto-legislativo-que-aprueba-el-marco-de-la-responsabilid-decreto-legislativo-n-1275-1466666-1.

[19] The FEF is attached to the MEF and managed by a board comprising the Minister for the Economy and Finance, the Chair of the BCRP, and a representative appointed by the Office of the President of the Council of Ministers. See: BCRP (2018), *El Fondo de Estabilización Fiscal en el Perú*, by Raúl Salas, Diego Camacho and Miguel Alzamora. Revista Moneda, June 2018. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Revista-Moneda/moneda-174/moneda-174-07.pdf.

Table 1.3 Non-financial public sector (NFPS) transactions, 2012-19

(% of GDP)

	2012	2013	2014	2015	2016	2017	2018	2019 Q1
1 Current revenue, general government	**22.4**	**22.2**	**22.3**	**20.2**	**18.7**	**18.1**	**19.3**	**21.7**
1.1 Tax revenues	**16.9**	**16.8**	**17.0**	**15.2**	**14.0**	**13.4**	**14.5**	**16.2**
Tax revenues, national government	16.5	16.4	16.6	14.8	13.6	13.0	14.1	15.6
Income tax	7.3	6.7	7.0	5.7	5.7	5.3	5.6	6.9
- Natural persons	1.8	1.9	1.9	1.7	1.7	1.6	1.7	1.9
- Legal persons	4.6	4.2	4.4	3.4	3.4	2.9	3.1	3.9
- Regularization	0.9	0.6	0.7	0.6	0.6	0.7	0.9	1.1
Import taxes	0.3	0.3	0.3	0.3	0.2	0.2	0.2	0.2
General sales tax (IGV) [a]	8.7	8.8	8.8	8.5	8.0	7.8	8.2	8.9
- Domestic	4.8	5.0	5.0	5.0	4.7	4.6	4.7	5.5
- Imports	3.8	3.8	3.8	3.5	3.3	3.2	3.4	3.5
Selective Consumption Tax (ISC)	1.0	1.0	0.9	0.9	0.9	0.9	0.9	1.1
- Fuels	0.4	0.5	0.4	0.4	0.4	0.4	0.3	0.4
- Other	0.5	0.5	0.5	0.5	0.5	0.5	0.6	0.7
Other tax revenue	1.4	1.7	1.5	1.3	1.3	1.2	1.4	0.8
Tax refunds	-2.1	-2.1	-1.9	-1.9	-2.5	-2.5	-2.2	-2.4
Government tax revenue - Local	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.6
1.2 Non-tax revenue	**5.4**	**5.4**	**5.3**	**5.0**	**4.6**	**4.8**	**4.8**	**5.5**
Government non-tax revenue - National	4.7	4.7	4.7	4.4	4.0	4.2	4.2	4.6
- Social security contributions	2.0	2.1	2.2	2.3	2.2	2.1	2.2	2.3
- Own resources and transfers	0.8	0.9	1.0	0.9	0.8	0.9	0.8	1.1
- Royalties	1.1	1.1	1.0	0.5	0.5	0.6	0.7	0.6
- Other	0.7	0.7	0.6	0.7	0.5	0.6	0.5	0.6
Non-tax revenue, regional government	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Non-tax revenue, local government	0.5	0.5	0.5	0.5	0.5	0.4	0.4	0.7
2. Non-financial expenditure, general government	**19.2**	**20.5**	**21.6**	**21.3**	**19.9**	**20.0**	**20.2**	**16.2**
2.1 Current	**13.6**	**14.3**	**15.6**	**15.9**	**15.3**	**15.3**	**15.3**	**13.7**
Wages and salaries	5.0	5.4	5.9	5.8	6.0	6.1	6.2	6.4
National government	3.0	3.3	3.6	3.6	3.7	3.7	3.6	3.8
Regional government	1.6	1.7	1.9	1.9	2.0	2.1	2.3	2.3
Local government	0.4	0.4	0.4	0.3	0.3	0.3	0.3	0.3
Goods and services[b]	5.6	5.8	6.1	6.6	6.1	6.0	5.7	4.3
Of which: Upkeep	0.7	0.6	0.6	0.7	0.6	0.6	0.6	0.4
National government	3.7	3.8	4.2	4.7	4.2	4.0	3.8	3.2
Regional government	0.6	0.7	0.6	0.8	0.7	0.8	0.7	0.4
Local government	1.3	1.3	1.3	1.2	1.2	1.2	1.2	0.7
Transfers[c]	3.0	3.2	3.5	3.4	3.2	3.2	3.3	2.9
National government	2.3	2.6	2.9	2.8	2.6	2.7	2.8	2.4
Regional government	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Local government	0.2	0.2	0.2	0.2	0.2	0.1	0.1	0.1
2.2 Capital	**5.7**	**6.1**	**6.0**	**5.4**	**4.7**	**4.7**	**4.9**	**2.5**
Gross capital formation	5.2	5.5	5.2	4.5	4.2	4.1	4.3	2.2
National government	1.5	1.6	1.7	1.8	1.5	1.5	1.5	0.9
Regional government	1.3	1.3	1.1	0.9	0.9	0.8	0.9	0.4
Local government	2.4	2.6	2.4	1.8	1.8	1.8	1.9	0.9
Other capital expenditure[c]	0.5	0.7	0.8	1.0	0.5	0.7	0.6	0.3
3 Other[d]	**0.3**	**0.3**	**0.1**	**0.2**	**0.0**	**0.1**	**0.0**	**0.4**
4 Primary balance (=1-2+3)	**3.4**	**2.0**	**0.8**	**-0.9**	**-1.3**	**-1.8**	**-0.9**	**6.0**
5 Interest	**1.1**	**1.1**	**1.1**	**1.0**	**1.1**	**1.2**	**1.4**	**2.4**
6 Economic result (=4-5)	**2.3**	**0.9**	**-0.2**	**-1.9**	**-2.3**	**-3.0**	**-2.3**	**3.6**

a Includes the two percentage points for the municipal promotion tax (IPM).
b Net of commissions.
c Net of intergovernmental transfers.
d Includes capital revenue (general government) and primary balance (state-owned enterprises).

Source: Ministry of the Economy and Finance and Central Reserve Bank of Peru.

1.24. The fiscal deficit recorded in 2018 was 2.3% of GDP, a fall of 0.7 percentage points compared to the figure of 3.0% for 2017. The reduction in the deficit was chiefly a reflection of the increase in current general government revenue, which rose from 18.1% of GDP in 2017 to 19.3% in 2018. The 13% rise in current revenue reflected a higher tax intake by way of general sales tax (IGV) and income tax, which in turn arose from the rebound in domestic demand. In particular, the rise in revenue from income tax chiefly reflected the increase in payments made by mining enterprises on their profits. Moreover in the first two months of 2019, current revenue rose by 10.3%, driven by the growth in receipts from the IGV and the selective consumption tax (ISC) that ensued from improvements to the tax deductions system and the rise in ISC rates in May 2018. Non-financial general government expenditure grew by 5.4% in 2018 as a result both of the rise in current expenditure and of the cost of gross capital formation, which reflected higher expenditure on road infrastructure projects and the cost of hosting the Pan American Games.[20]

1.25. The IMF is of the view that the authorities' strategy to focus the medium-term consolidation effort on the revenue side and on streamlining current expenditure is appropriate. In line with the fiscal rule, the authorities are planning to reduce the deficit to 1% of GDP by 2021. The IMF considers the focus on raising revenue appropriate, given that Peru's tax revenues appear low compared to other countries, and welcomes the recent increase in taxes and the adoption of a decree reducing current spending by 0.3% of GDP relative to the 2018 budget. Its view is that higher raw material prices should also contribute to fiscal consolidation by significantly boosting revenues.[21]

1.26. The MMM 2019-22 projects a gradual path to fiscal consolidation under which the fiscal deficit will converge to 1.0% of GDP by 2021. It projects an NFPS deficit of 2.7% of GDP in 2019 (rule: 2.9% of GDP), 1.9% of GDP in 2020 (rule: 2.1%) and 1.0% of GDP in 2021.[22] In March 2019, the BCRP was projecting a GDP deficit of 2.3% for 2019, a downward revision of the figure of 2.6% projected in December 2018. The change reflects the expected fall in non-financial expenditure from 20.4% to 20.2% of GDP. It is anticipated that by 2020 the deficit will be 2.1% of GDP – the level specified for that year under the Fiscal Rule.[23]

1.27. The total gross public (NFPS) debt amounted to 25.8% of GDP at end-2018 (USD 56,000 million), of which almost 40% is in foreign currency. At that date, external public debt accounted for 33.3% of the total. In terms of GDP, the total public debt rose significantly during the period under review in order to finance the growing fiscal deficit, climbing from 19.2% of GDP in 2013 to 25.8% in 2018. Those figures are nonetheless still below the 30% ceiling set under the fiscal rule.

1.28. The MEF expects the public debt ratio, after initially increasing, to fall gradually until it reaches 26% of GDP in 2022. Peruvian public debt has maintained its credit ratings and has a stable outlook with the three leading risk-rating agencies (S&P and Fitch Rating: BBB+; Moody's: A3).[24]

1.2.3 Monetary policy

1.29. The Central Reserve Bank of Peru (BCRP) is responsible for monetary and exchange policy in Peru. The BCRP is an autonomous public body tasked with maintaining monetary stability; its leading functions are to regulate the supply of money and credit, manage international reserves and report on the state of the national finances.

1.30. In order to maintain monetary stability the BCRP follows a policy of explicit inflation targets that seeks to anchor inflation expectations at a level similar to that of the developed economies and

[20] BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March 2019. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[21] International Monetary Fund (2018), *Peru: 2018 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Peru*. IMF Country Report No. 18/225, July 2018. Viewed at: https://www.imf.org/~/media/Files/Publications/CR/2018/cr18225-PeruBundle.ashx.

[22] MEF (2018), *Marco Macroeconómico Multianual 2019-2022*. Viewed at: https://www.mef.gob.pe/contenidos/pol_econ/marco_macro/MMM_2019_2022.pdf.

[23] BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March 2019. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[24] MEF (2018), *Marco Macroeconómico Multianual 2019-2022*. Viewed at: https://www.mef.gob.pe/contenidos/pol_econ/marco_macro/MMM_2019_2022.pd.

to establish an ongoing commitment to currency stability. The inflation target set by the BCRP is a range of between 1% and 3%.[25]

1.31. The interbank interest rate is the operational target of monetary policy aimed at achieving the target range for inflation. Each month, in line with a schedule already announced, the Board of the BCRP sets the inter-bank lending market reference interest rate. The rate is determined on the basis of projections for inflation and its determinants. Inflation may temporarily deviate from the target range in the event of temporary external shocks such as those caused by imported goods or domestic climatic factors. The BCRP measures the effectiveness of monetary policy by whether inflation expectations remain within the target range. Accordingly, in addition to the intervention rate, the BCRP uses monetary policy instruments that more directly influence credit volumes and composition, such as national and foreign currency reserves. The BCRP also adopts preventive measures to safeguard financial stability and monetary policy transmission mechanisms. For example, it is able to intervene in the foreign-exchange market in order to reduce excessive exchange-rate volatility and increase the stock of international reserves.[26]

1.32. The BCRP is of the view that a neutral monetary policy is equivalent to a certain real benchmark interest rate, currently estimated to be 1.75%.[27] When the rate rises above that level, monetary policy is regarded as contractionary; when it is below that level it is regarded as expansionary. During the period under review, the implementation of monetary policy went through three sub-periods: the first, between 2012 and 2014, was characterized by an expansionary monetary policy and reductions in the monetary policy benchmark rate, which fell from 4.25% to 3.5%; the second, between 2014 and 2016, was contractionary in response to rising inflation when the nominal benchmark rate went back up to 4.25%; and from 2016, there was a further expansionary period to address weak economic growth, when the monetary policy rate reached 2.75%.

1.33. Between 2018 and March 2019, the BCRP's monetary policy interventions continued to focus on maintaining an expansionary position and the nominal benchmark interest rate was held at 2.75%. The real interest rate was around 0.35% in March 2019, below the neutral level of 1.75%. The BCRP Board decided to maintain the expansionary approach to monetary policy while inflation expectations remain anchored in an environment where the level of non-primary economic activity is below its potential level.[28]

1.34. Annual average inflation, measured as the increase in the CPI, was 2.8% during the period 2012-18; in other words, it remained within the inflation target range (between 1% and 3%). The variation in the CPI exceeded the target in 2015 only, when it averaged 4.4%; in 2017, when it was 1.4%, it was close to the lower limit of the range.[29] The IMF is forecasting annual inflation of 2.4% for 2019.[30]

Table 1.4 Monetary indicators 2012-19

(End of period, 12-month variation)

	2012	2013	2014	2015	2016	2017	2018	2019 Q1
Currency	18.3	9.0	11.5	3.8	6.5	6.7	7.9	5.3
Money	17.4	8.7	9.9	4.3	3.5	10.7	12.9	11.1
Near-money in national currency	29.0	14.1	11.3	2.0	13.6	13.9	11.4	11.9

[25] BCRP (2019), *Reporte de Inflación. Panorama actual y proyecciones macroeconómicas 2019-2020*, March 2019. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[26] BCRP (2019), *Reporte de Inflación*, March 2019. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[27] Calculated as the monetary policy benchmark interest rate deflated by expected inflation.

[28] BCRP (2019), *Reporte de Inflación*, March 2019. Viewed at: http://www.bcrp.gob.pe/docs/Publicaciones/Reporte-Inflacion/2019/marzo/reporte-de-inflacion-marzo-2019.pdf.

[29] The Constitution of Peru and the Law on the Organization of the BCRP establish that the purpose of the BCRP is to maintain monetary stability, which is understood as meaning price stability. The BCRP is prohibited from financing the public treasury and from extending guarantees or granting credits to specific sectors. It is also prohibited from establishing multiple exchange rates.

[30] Online information from the IMF. Viewed at: https://www.imf.org/external/country/per/index.htm?pn=11.

	2012	2013	2014	2015	2016	2017	2018	2019 Q1
Liquidity in PEN	23.3	11.6	10.6	3.0	9.0	12.5	12.1	11.6
Liquidity in USD	-0.7	12.5	0.8	13.0	-1.8	5.5	0.1	-0.5
Total broad money (at current exchange rate)	12.5	15.3	9.5	11.5	4.4	8.8	9.5	8.6
Interest rates (end of period)								
Lending rate up to 360 days	10.7	10.5	10.2	10.3	10.5	10.4	10.1	10.0
Lending rate TAMN[a]	19.1	15.9	15.7	16.1	17.2	15.8	14.3	14.5
Corporate preferential lending rate to 90 days	5.0	4.5	4.7	4.9	5.2	3.6	4.3	4.1
Savings deposit rate	0.6	0.5	0.5	0.5	0.5	0.6	0.8	0.8
TIPMN[b] deposit rate	2.4	2.3	2.3	2.4	2.6	2.5	2.4	2.4
Legal interest rate	2.4	2.3	2.3	2.4	2.6	2.5	2.4	2.4
Average interbank rate	4.2	4.1	3.8	3.8	4.4	3.3	2.8	2.8
Monetary policy benchmark rate	4.3	4.0	3.5	3.8	4.3	3.3	2.8	2.8
Inflation								
Consumer Price Index (annual average, % variation)	3.7	2.8	3.2	3.5	3.6	2.8	1.3	2.1
Consumer Price Index (end of period, % variation)	2.6	2.9	3.2	4.4	3.2	1.4	2.2	2.2
Exchange rate								
Exchange rate (PEN/USD)	2.64	2.70	2.84	3.19	3.38	3.26	3.29	3.32
Bilateral real effective exchange rate (2009=100)	86.2	87.1	90.1	97.7	101.3	97.2	99.0	99.5
Multilateral real effective exchange rate (2009=100)	92.5	93.6	96.0	97.9	99.0	95.4	97.5	96.6

a The TAMN is the weighted average market lending rate in national currency, expressed in annual effective terms.
b The TIPMN is the weighted average market deposit rate in national currency, expressed in annual effective terms.

Source: Central Reserve Bank of Peru and National Institute of Statistics and Informatics.

1.35. Peru has a floating exchange rate, with the Central Bank making interventions to prevent excessive fluctuations. In accordance with Article 64 of the Constitution, the State guarantees the freedom to possess and dispose of foreign currency. Supreme Decree No. 068-91-EF provides for the freedom of natural and legal persons resident in the country to possess, use and dispose of foreign currency in Peru and abroad, as well as for the exchange rate for foreign-exchange transactions to be determined by supply and demand. During the period under review, the nominal exchange rate depreciated between 2012 and 2016 and then appreciated slightly. Between 2012 and 2018 the currency experienced a bilateral real depreciation of 12.9% with respect to the US dollar (annual average exchange rate) and a multilateral real depreciation of 4.6%, chiefly as a result of the appreciation of other currencies with respect to the dollar.

1.2.4 Balance of payments

1.36. The current account of the balance of payments was in deficit throughout the review period, mainly owing to the growing negative balance of factor income (Table 1.5). Between 2013 and 2015, the deficit rose to around USD 9,500 million as a result of deterioration in the terms of trade caused by the fall in mineral prices. As a percentage of GDP, the current account deficit rose from 3.2% of GDP in 2012 to 5.0% in 2015. After that date, the current account deficit fell, chiefly because of the improvement in the trade balance, and reached 1.6% of GDP in 2018.

Table 1.5 Balance of payments 2012-19

(USD million)

	2012	2013	2014	2015	2016	2017	2018	2019 Q1
I. Current account balance	**-6,091**	**-10,380**	**-9,086**	**-9,526**	**-5,064**	**-2,669**	**-3,594**	**-1,664**
1. Trade balance	6,393	504	-1,509	-2,916	1,953	6,700	7,197	1,212
Exports f.o.b.[a]	47,411	42,861	39,533	34,414	37,082	45,422	49,066	11,158
Imports f.o.b.	-41,018	-42,356	-41,042	-37,331	-35,128	-38,722	-41,870	-9,947
2. Services	-2,631	-2,157	-2,041	-2,056	-2,002	-1,434	-2,532	-602
Exports	4,928	5,815	5,984	6,324	6,353	7,394	7,365	1,945
Imports	-7,559	-7,973	-8,025	-8,380	-8,355	-8,828	-9,897	-2,547

	2012	2013	2014	2015	2016	2017	2018	2019 Q1
3. Factor income	-13,159	-12,073	-9,907	-7,884	-8,982	-11,523	-11,814	-3,240
Private	-12,429	-11,214	-9,197	-7,153	-8,120	-10,571	-10,694	-2,802
Public	-731	-859	-710	-731	-862	-953	-1,120	-438
4. Current transfers	3,307	3,346	4,372	3,331	3,967	3,589	3,556	966
Of which; remittances from abroad	2,788	2,707	2,637	2,725	2,884	3,051	3,225	800
II. Financial account	**19,623**	**10,341**	**5,895**	**10,427**	**5,533**	**2,982**	**1,537**	**3,462**
1. Private sector	16,170	14,434	7,279	8,817	2,175	884	917	1,055
Assets	-4,076	-1,625	-5,563	19	-2,304	-3,564	-3,558	-2,272
Liabilities	20,246	16,059	12,843	8,798	4,479	4,448	4,476	3,327
2. Public sector	1,466	-1,803	-67	3,110	2,650	3,249	2,122	3,747
Assets	-440	-347	-670	-473	-189	601	-201	429
Liabilities[b]	1,906	-1,456	603	3,583	2,839	2,648	2,323	3,318
3. Short-term capital	1,987	-2,291	-1,318	-1,500	708	-1,152	-1,503	-1,340
Assets	-452	-423	-1,060	-2,021	208	-1,876	-2,323	-412
Liabilities	2,439	-1,867	-258	521	500	724	820	-928
III. Special financing	**19**	**5**	**10**	**0**	**0**	**0**	**0**	**0**
IV. Net errors and omissions	**1,256**	**2,941**	**1,003**	**-829**	**-300**	**1,316**	**-1,573**	**884**
V. Balance of payments performance (V = I + II + III + IV) = (1-2)	**14,806**	**2,907**	**-2,178**	**73**	**168**	**1,629**	**-3,629**	**2,682**
1. Change in NIR balance	15,176	1,672	-3,355	-823	201	1,936	-3,500	2,970
2. Valuation effect	369	-1,235	-1,177	-896	32	307	130	288
Memorandum items								
Current account balance as a % of GDP	-3.2	-5.1	-4.5	-5.0	-2.6	-1.2	-1.6	3.1
Balance of trade in merchandise as a % of GDP	3.3	0.2	-0.7	-1.5	1.0	3.1	3.2	2.2

a Includes an estimate of gold exports not registered by Customs.
b Public sector external liabilities exclude Government bonds that were issued abroad and are held by residents; they include locally issued Government bonds held by non-residents.

Source: Central Reserve Bank of Peru.

1.37. The surplus in the balance of trade in merchandise contracted sharply in 2013 and was followed by a deficit in 2014 and 2015. This was chiefly caused by lower prices for copper and other export products. However, in 2016, the deficit became a surplus and continued to grow, reaching 3.2% of GDP in 2018, reflecting the good performance of mineral exports and the improvement in terms of trade.

1.38. In 2017, Peru was ranked 35th and 40th among global merchandise exporters and importers respectively (where the members of the European Union were regarded as one country, and excluding trade between them). In trade in services, Peru was the 45th largest exporter and 47th largest importer.[31] Historically, trade in services has been in deficit (Section 1.3.1.2).

1.39. The negative balance on the income account largely reflects an increase in private outflows – mainly remittances of profits to other countries and the undistributed earnings of firms with foreign ownership. Remittances received from Peruvians living abroad are a major source of income on the current account and remained relatively stable throughout the review period, representing around 1.5% of GDP in 2018 (Table 1.5).

1.40. The financial account posted a surplus throughout the period under review; however, the surplus gradually fell from its peak of USD 19,623 million in 2012 to USD 1,537 million in 2018, mainly as a result of falling inflows of foreign direct investment (FDI) caused primarily by lower investment in mining (Section 1.3.2). Despite the contraction in the surplus between 2012 and 2018, the balance of international reserves remained high at USD 60,288 million in 2018 (Table 1.2), equivalent to 26.8% of GDP.

1.41. Peru's balance of payment statistics continue to be based on the Fifth Edition of the IMF Balance of Payments Manual, which could give rise to an underestimation of trade in services.[32]

[31] Online information from the WTO. Viewed at: http://stat.wto.org/CountryProfiles/PE_e.htm.
[32] The adoption of the treatment of the Sixth Manual results in an increase in imports or exports of services (equivalent to the amount received or paid for manufacturing services for goods processing) and in reductions in gross goods imports and exports (due to the elimination of imputed transactions in goods that do

In that regard, the authorities stated that Peru is fully engaged in implementing the Sixth Edition of the IMF Balance of Payments Manual and expects to complete the process in 2019.

1.3 Developments in trade and investment

1.3.1 Trends and patterns in merchandise and services trade

1.3.1.1 Merchandise trade

1.42. Total exports reached USD 47,906 million in 2018. Although Peru's range of exports is extensive, the country is chiefly an exporter of raw materials, especially minerals. Exports of mineral products, excluding gold, accounted for 46.8% of total exports in 2018. If gold is included, exports of mineral origin accounted for 61.6% of the total, and if metal manufactures are also included, then the figure rises to 69.8%. The leading export is copper: in 2018, exports of copper totalled USD 14,939 million and accounted for 31.2% of all exports. Exports of gold, the second largest export product, totalled USD 7,094 million (14.8% of the total).

1.43. The share of agricultural products in total merchandise exports rose from 15.2% in 2012 to 19.1% in 2018. Exports of manufactures (excluding metals and agri-food products), chiefly textiles and chemical products, accounted for 7.8% of exports (Table A1.1 and Chart 1.1).

1.44. On the import side, manufactured products accounted for more than three quarters of all merchandise sourced from abroad in 2018; chief among them are transport machinery and equipment, and chemicals (Table A1.2 and Chart 1.1). The share of fuels in total merchandise imports rose from 14.4% in 2012 to 15.9% in 2018. Agricultural and agri-food products accounted for 11.3% of total imports in 2018. The main agricultural imports are maize, oil-cake, wheat and soya bean oil.

1.45. During the period under review there were no major shifts in the chief destinations of exports of Peruvian merchandise, which continued to be China, the United States and the European Union. However, the shares of exports taken by those countries changed somewhat. China's relative importance continued to grow during the period, rising from 16.9% in 2012 to 27.6% in 2018 (Table A1.3 and Chart 1.2), driven primarily by its imports of mining products from Peru.[33] The United States' share rose from 14.4% to 16.7% partly as a result of the effects of the Trade Promotion Agreement that entered into force in 2009 between Peru and the US. In contrast, the European Union's share fell from 17.5% in 2012 to 15.1% in 2018. The Andean Community's share in total exports of merchandise from Peru in 2018 was around 4%.

1.46. If one considers non-traditional exports only, which totalled USD 13,251 million in 2018 (27.7% of total exports), the result is quite different: the United States and the European Union absorbed over 50% of such exports (28% and 25% respectively) whereas China's share was substantially less at barely 4%. The CAN member countries absorbed 15% of non-traditional exports while Chile and the members of MERCOSUR were the destinations for 6% and 4% of non-traditional exports respectively. According to information provided by the Ministry of Trade and Tourism (MINCETUR), the ten leading destinations of non-traditional Peruvian exports are: the United States (28%); Netherlands (8%); Ecuador (6%); Chile (6%); Spain (5%); Colombia (5%); the Plurinational State of Bolivia (4%); China (4%); the United Kingdom (3%); and Brazil (3%). The main non-traditional exports are grapes; avocados; squid; blueberries; asparagus; mangos; t-shirts; cotton apparel; products of wool, fine animal hair and cotton; balanced feed; calcium phosphate; prawns; copper wire; mandarins; bananas; and cocoa.[34]

1.47. China, the United States and the European Union are Peru's main sources of merchandise imports. Overall they accounted in 2018 for 55.5% of the total, an increase on the figure of 45.1% recorded in 2012 (Table A1.4 and Chart 1.2). Imports from the United States increased from 18.8% in 2012 to 21.3% in 2017, while China's share grew from 18.5% in 2012 to 23.3% in 2018, and the

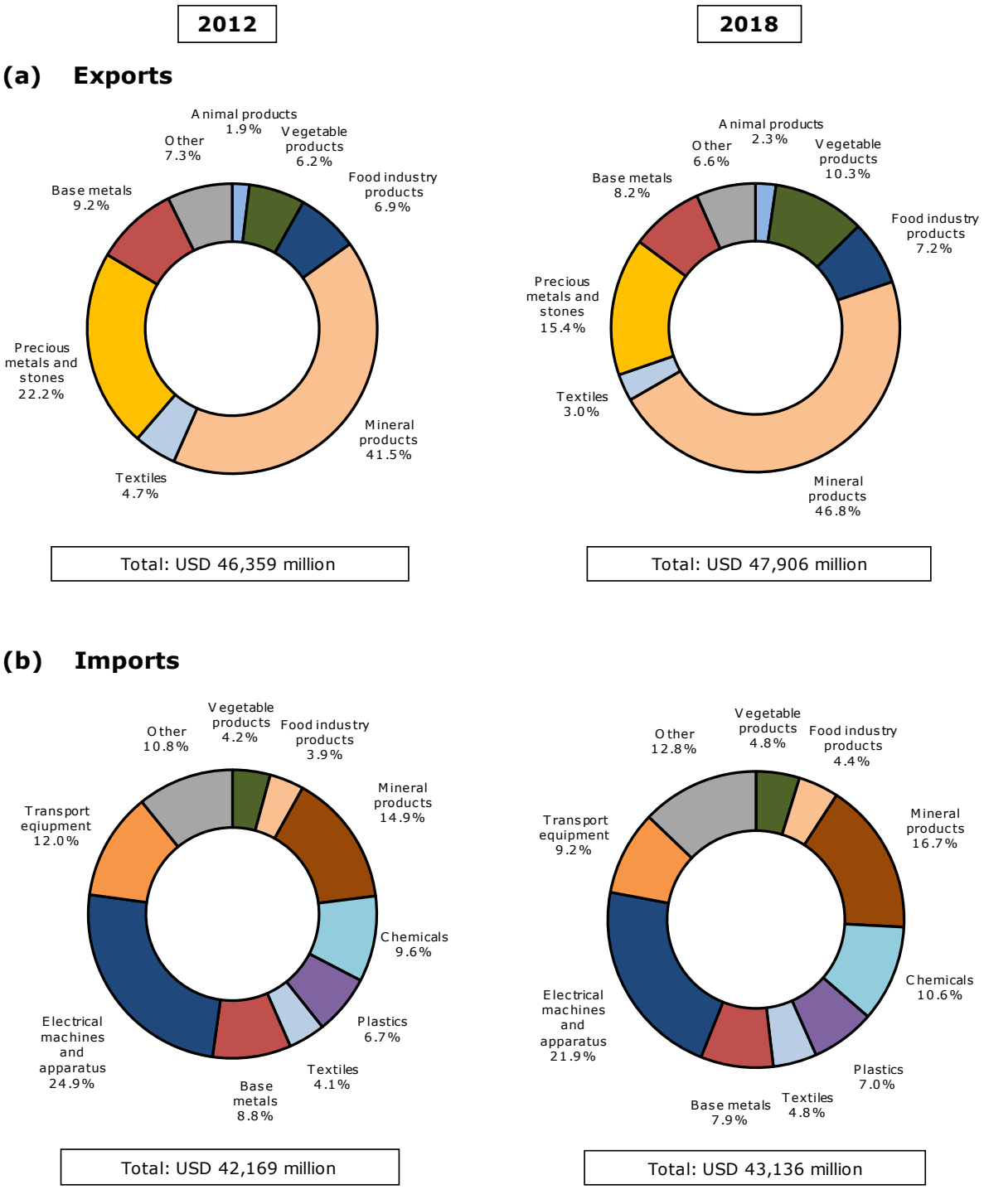
not change ownership), although net trade in goods and services may not be affected. In this regard, see: IMF (2007), *FAQs on Conversion from BPM5 to BPM6 (including FAQs on BPM6 Sign Convention).* Viewed at: https://www.imf.org/external/pubs/ft/bop/2007/bpm6faq.pdf.

[33] Over 96% of exports from Peru to China in 2018 were traditional products, chiefly mining products. Over 40% of that year's mining product exports went to China.

[34] Information provided by MINCETUR.

European Union's fell from 11.9% in 2012 to 10.9% in 2018.The Andean Community's share in Peru's total imports fell slightly from 9.7% to 9.3% over the same period.

Chart 1.1 Merchandise trade by main products, 2012 and 2018

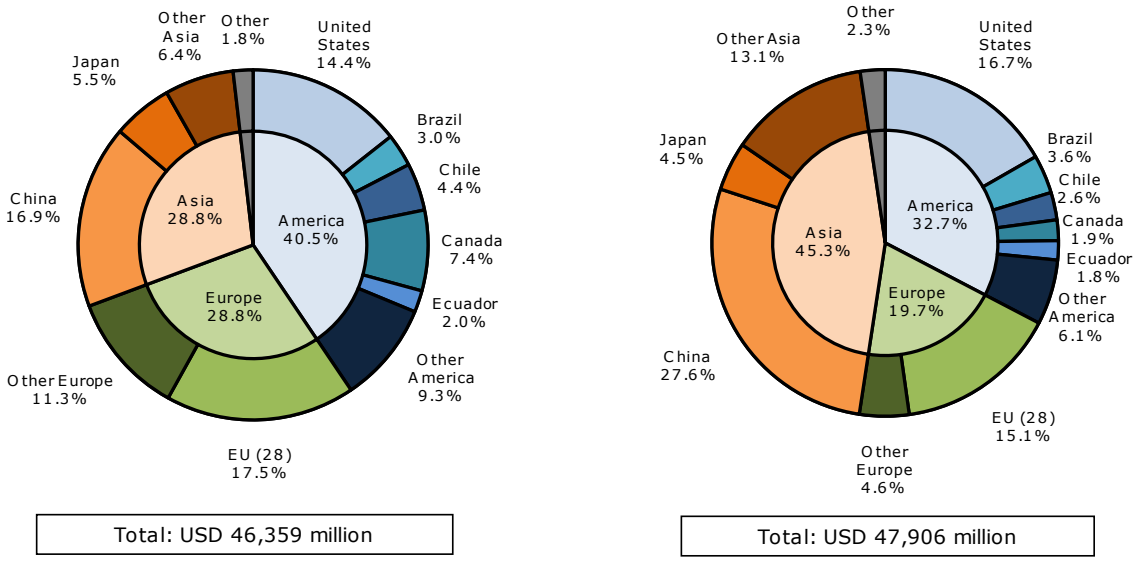


Source: WTO Secretariat calculations, based on data provided by the authorities.

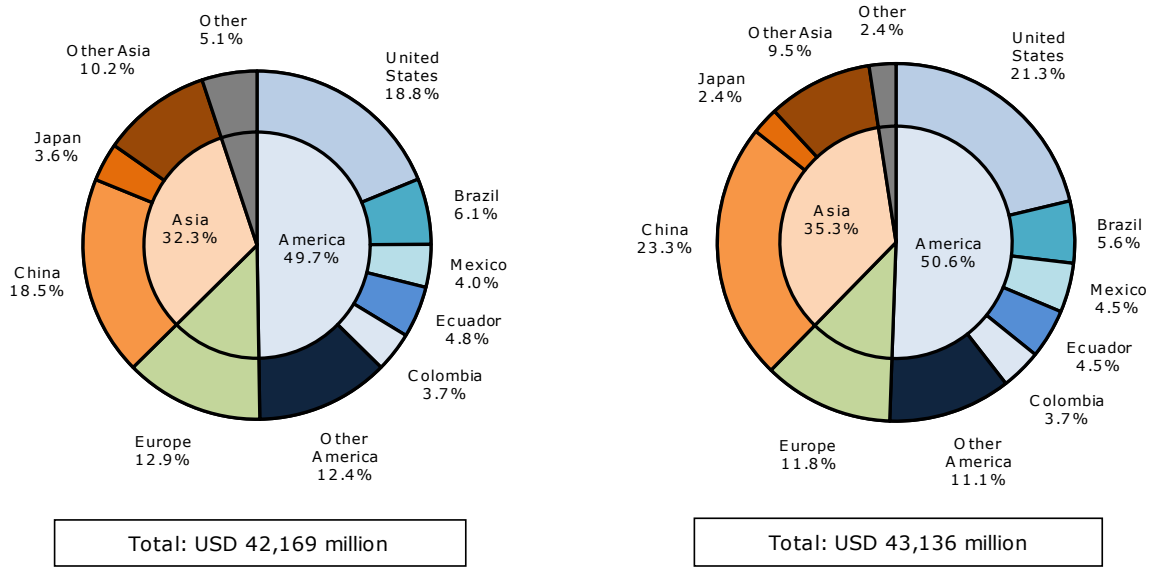
Chart 1.2 Merchandise trade by trading partner, 2012 and 2018

2012 **2018**

(a) Exports



(b) Imports



Source: WTO Secretariat calculations, based on data provided by the authorities.

1.3.1.2 Trade in services

1.48. Peru is running a trade in services deficit that shrank from 1.4% to 1.1% of GDP between 2012 and 2018, largely reflecting the low value of freight debits, and partly reflecting price impact. Insurance and reinsurance services were also in deficit, as were communications and other services, which includes government, financial and computer services as well as royalties, equipment rental and business services. In contrast, as has historically been the case, travel services generated a surplus, which rose from USD 1,004 million in 2012 to USD 1,278 million in 2018 (Table 1.6).

Table 1.6 Trade in services, 2012-19

(USD million)

	2012	2013	2014	2015	2016	2017	2018	2019 Q1
Exports of services	**4,928**	**5,815**	**5,984**	**6,324**	**6,353**	**7,394**	**7,365**	**1,945**
Transport	1,223	1,524	1,380	1,376	1,335	1,483	1,611	410
Freight	46	39	37	31	18	40	52	13
Passengers	631	916	830	831	802	863	947	243
Other[a]	546	569	513	514	515	580	611	154
Travel	2,443	3,000	3,077	3,309	3,486	3,710	3,947	977
Communications	147	131	149	101	92	103	110	26
Insurance and reinsurance	361	400	539	636	568	1,201	681	262
Other services[b]	755	760	838	902	872	897	1,016	270
Imports of services	**-7,559**	**-7,973**	**-8,025**	**-8,380**	**-8,355**	**-8,828**	**-9,897**	**-2,547**
Transport	-2,850	-2,891	-2,819	-2,780	-2,575	-2,763	-2,911	-775
Freight	-2,273	-2,267	-2,180	-1,995	-1,786	-1,908	-2,014	-517
Passengers	-461	-513	-529	-660	-658	-702	-749	-217
Other[a]	-116	-111	-110	-124	-131	-153	-149	-41
Travel	-1,439	-1,592	-1,589	-1,879	-2,042	-2,214	-2,669	-726
Communications	-221	-278	-295	-348	-341	-328	-319	-81
Insurance and reinsurance	-728	-803	-915	-1,028	-975	-991	-1,052	-246
Other services[b]	-2,321	-2,409	-2,406	-2,346	-2,422	-2,532	-2,946	-720
Balance	**-2,631**	**-2,157**	**-2,041**	**-2,056**	**-2,002**	**-1,434**	**-2,532**	**-602**

a Includes, in particular, port charges for ships and aircraft and transport commissions.
b Includes government, financial and computer services, as well as royalties, equipment rental and business services.

Source: Central Reserve Bank of Peru.

1.3.2 Trends and patterns in FDI

1.49. During the period under review, the annual flow of foreign direct investment (FDI) into Peru continued to be considerable although it has trended downwards, especially since 2014. According to the figures from the BCRP, FDI inflows into Peru, which include capital contributions and other net capital transactions, net lending involving the parent company, and reinvestment (retained current earnings), averaged USD 7,969 million between 2012 and 2018, compared to USD 8,101 million between 2007 and 2012. Thus the cumulative volume of FDI in Peru stood at USD 106,438 million in 2018 compared to USD 64,281 million in 2012 (Table 1.7). This significant increase in the stock of FDI reflected economic growth and significant flows of investment, in particular in mining, financial services and other services.

Table 1.7 Foreign direct investment, 2012-18

(USD million)

	2012	2013	2014	2015	2016	2017	2018
FDI inflows	13,622	9,826	3,930	8,314	6,739	6,860	6,488
Hydrocarbons	1,324	638	749	-287	164	474	26
Mining	8,643	4,854	-1,144	1,633	1,051	1,824	2,502
Financial sector	753	711	765	879	861	-253	27
Non-financial services	1,744	2,971	2,022	4,248	3,757	3,292	2,434
Manufacturing	448	431	1,325	1,669	434	771	1,128
Energy and other	710	220	214	172	471	752	371
Inward FDI stock	64,281	74,107	78,037	86,351	93,090	99,950	106,438
Inward FDI stock (% of GDP)	33.3	36.7	38.6	45.1	47.8	46.6	47.2
FDI outflows	1,756	492	1,107	189	1,156	500	19
Outward FDI stock	6,112	6,243	7,431	6,480	8,077	8,995	8,841
Outward FDI stock (% of GDP)	3.2	3.1	3.7	3.4	4.1	4.2	3.9

Note: Direct investment flows include capital contributions and other net capital transactions, net lending involving the parent company, and reinvestment (retained current earnings).

Source: Central Reserve Bank of Peru and information provided by the authorities.

1.50. Tables 1.8 and 1.9 give a more detailed analysis of the stock of investment, in which FDI figures are regarded solely as capital contributions, in other words share reductions and transfers are included, but net lending involving the parent company and reinvestment are excluded.

Using this definition, the balance of FDI stood at USD 25,931 million at end-2018.[35] The FDI contributions were predominantly in the following sectors: mining (22.0%), communications (20.5%), finance (18.1%), energy (13.3%), and industry (12.4%) (Table 1.8).

Table 1.8 Stock of foreign investment as a capital contribution, by sector, 2012-18

(USD million)

	2012	2013	2014	2015	2016	2017	2018
Total	**22,695**	**23,881**	**24,258**	**25,323**	**25,679**	**25,684**	**25,931**
Mining	5,612	5,592	5,638	5,648	5,648	5,648	5,711
Communications	3,932	4,569	4,569	5,119	5,324	5,324	5,324
Finance	4,213	4,257	4,298	4,695	4,695	4,695	4,695
Energy	2,630	3,079	3,287	3,377	3,445	3,446	3,446
Industry	3,127	3,169	3,218	3,219	3,219	3,219	3,216
Commerce	796	797	801	803	851	851	851
Oil	680	680	680	680	680	680	680
Services	658	673	672	672	672	672	677
Construction	360	373	381	382	383	386	521
Transport	362	366	364	364	386	386	397
Fisheries	163	163	163	163	163	163	163
Tourism	82	83	83	83	83	83	83
Agriculture	46	46	70	70	83	83	83
Housing	33	33	33	47	47	47	82
Forestry	1	1	1	1	1	1	1

Note: Contributions from abroad to the equity of Peruvian companies is accounted for.

Source: National Institute of Statistics and Informatics (INEI) and PROINVERSIÓN. Viewed at: https://www.proinversion.gob.pe/RepositorioAPS/0/0/JER/ESTADISTICAS_IED/Saldo%20de%20IED%20en%20el%20Per%C3 per centBA%20por%20Pa%C3 per centADs%20de%20Domicilio_a%20dic%202018.xls.

1.51. In 2018 the main source countries of FDI and capital contributions were Spain (17.6%), the United Kingdom (16.8%), Chile (14.8%), the United States (10.6%) and the Netherlands (7.1%). Peru also receives FDI from a large number of other countries, including Brazil, Colombia, Canada, Panama, Mexico and Switzerland (Table 1.9).

Table 1.9 Stock of foreign investment as a capital contribution, by origin, 2012-18

(USD million)

	2012	2013	2014	2015	2016	2017	2018
Total	**22,695**	**23,881**	**24,258**	**25,323**	**25,679**	**25,684**	**25,931**
Spain	4,441	4,347	4,469	4,513	4,523	4,523	4,568
United Kingdom	4,315	4,315	4,336	4,336	4,336	4,336	4,364
Chile	1,845	2,635	2,661	3,612	3,839	3,839	3,839
United States	2,779	2,801	2,757	2,757	2,757	2,757	2,757
Netherlands	1,533	1,533	1,533	1,533	1,533	1,533	1,576
Brazil	1,147	1,165	1,188	1,188	1,201	1,201	1,201
Colombia	1,054	1,079	1,079	1,124	1,179	1,179	1,179
Canada	1,074	1,074	1,070	1,070	1,070	1,070	1,070
Panama	937	939	945	945	945	945	945
Luxembourg	272	541	543	557	557	557	578
Mexico	477	457	477	487	535	535	562
Switzerland	455	470	488	488	488	488	485
Singapore	366	366	366	366	366	366	366
Other	2,001	2,162	2,348	2,349	2,352	2,356	2,442

Source: PROINVERSIÓN. Viewed at: https://www.proinversion.gob.pe/RepositorioAPS/0/0/JER/ESTADISTICAS_IED/Saldo%20de%20IED%20en%20el%20Per%C3 per centBA%20por%20Pa%C3 per centADs%20de%20Domicilio_a%20dic%202018.xls.

[35] Online information from PROINVERSIÓN. Viewed at: https://www.proinversion.gob.pe/default.aspx?are=0&prf=1&sec=16.

2 TRADE AND INVESTMENT REGIME

2.1 General framework

2.1. The bedrock of the Peruvian legal system is the Political Constitution, which was promulgated in September 1993 and entered into force on 1 January 1994. The Constitution provides that Peru is a democratic, social, independent and sovereign republic.[1] The Government is unitary, representative and decentralized, and organized in accordance with the principle of the separation of powers, with legislative, executive and judicial branches. In addition to these three branches, the Peruvian State comprises the autonomous constitutional bodies[2], regional governments and local governments.[3]

2.2. The executive branch consists of the President of the Republic, the Council of Ministers, the Office of the President of the Council of Ministers, and the public entities of the executive branch.[4] The President of the Republic is the Head of State and personifies the nation. The President is elected along with two Vice-Presidents by direct suffrage and by a majority of votes for a five-year term. Consecutive re-election is not permitted.[5] The President's powers include those of directing overall government policy and the policy of the various bodies of the public administration, directing foreign trade, concluding and ratifying international treaties and regulating tariffs. The President may enact extraordinary economic and financial measures with force of law when such measures are in the national interest and Congress is informed accordingly.

2.3. Legislative power lies with the Congress, which drafts and passes laws and oversees the actions of the executive branch. The Congress is a single chamber body with 130 members. These are elected by direct suffrage for a five-year period that coincides with the presidential term of office.[6] A political reform bill concerning the re-election of Congress members is currently under discussion.

2.4. The Constitution takes precedence over all other legal instruments. International treaties in force for Peru have the status of laws and are therefore part of the domestic legal system and may be invoked before the courts. Treaties are ranked at the second level along with laws and instruments that have the status of laws, namely: legislative decrees, decree-laws, emergency decrees and legislative resolutions. These are followed by supreme, ministerial, vice-ministerial and directorial resolutions, which are directives intended to spell out policies and establish procedures or actions to be performed pursuant to legal provisions. Supreme decrees are instruments of a general nature which regulate instruments having the status of law or regulate sectoral or multisectoral functional activity at the national level.[7]

2.5. The ratification of international treaties can follow two procedures: in some cases, treaties must be approved by Congress prior to presidential ratification, while in others such approval is not necessary and the President may conclude or ratify treaties directly. Congressional approval is required in the case of treaties that contain provisions concerning human rights, sovereignty and national defence, affect constitutional provisions or entail the amendment or repeal of laws. It is also necessary when treaties affect financial obligations of the State or involve the creation, modification or elimination of taxes.[8] Accordingly, the WTO Agreements and some regional and bilateral agreements have to be approved by Congress. The latter, however, does not have the

[1] Political Constitution of Peru, Article 43.

[2] The autonomous constitutional bodies are entities created by the Constitution and endowed with legal personality that carry out specialized functions of the State. They are the following: the National Electoral Board; National Office of Electoral Processes; National Registry of Identity and Civil Status; National Judiciary Council; Constitutional Court; Office of the Attorney General; Ombudsman's Office; Comptroller General of the Republic; Supervisory Authority for Banking, Insurance and Private Pension Fund Managers; and Central Reserve Bank of Peru. Organigram of the Peruvian State, Public Management Department of the Office of the President of the Council of Ministers. Viewed at: http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/92F5739E20DFD56105257BFF00577D02/$FILE/estado.pdf.

[3] There are 25 regional governments, each of which has a Regional Council, a Regional Governor and a Regional Coordination Council. Local governments are divided into provincial and district municipalities.

[4] Law No. 29158, Organic Law of the Executive Branch of 19 December 2007, Article 2.

[5] Political Constitution of Peru, Articles 110, 111 and 112.

[6] Political Constitution of Peru, Article 90.

[7] For further details, see Table 2.1, Regulations, in WTO (2013), Trade Policy of Review of Peru, Geneva. Viewed at: https://www.wto.org/english/tratop_e/tpr_e/tpr_e.htm.

[8] Political Constitution of Peru, Articles 56 and 57.

power to modify an international treaty which the executive branch has signed and submitted to Congress for approval.

2.6. Laws may be tabled in Congress by members of Congress or by the President of the Republic, as well as by the autonomous public institutions, regional and local governments, professional colleges and citizens exercising the statutory right of initiative. Once a law has been adopted, it is sent to the President who must promulgate or comment on it within the next 15 days. The law must be published in the Official Journal, and enters into force on the day following publication (unless otherwise provided in the law itself). If the President does not promulgate the law within the established time, the law is promulgated by the President of Congress or of the Standing Commission.[9]

2.7. The Constitution establishes that the power to administer justice emanates from the people and is exercised through the judicial branch and its hierarchical bodies.[10] The judicial branch consists of the Supreme Court of Justice, which is the highest judicial authority, the Superior Courts, the specialized and/or mixed jurisdiction courts, professional justices of the peace and magistrates' courts. According to the Organic Law of the Judicial Branch, no independent jurisdiction may be established with the exception of arbitral and military tribunals.[11] The judicial branch also includes the Judicial Academy and the military and police courts.

2.2 Trade policy objectives and formulation

2.8. The Ministry of Foreign Trade and Tourism (MINCETUR) is responsible for setting, directing, implementing, coordinating and supervising foreign trade and tourism policies. Its powers include the regulation of foreign trade, other than for tariff matters, which are primarily the responsibility of the Ministry of the Economy and Finance (MEF). MINCETUR is also responsible for export promotion and international trade negotiations, the latter in coordination with the Ministry of Foreign Affairs and the MEF, and is empowered to sign agreements within its sphere of competence.[12] MINCETUR has an extensive network of trade offices (OCEXs) abroad, located in 30 countries or economies.

2.9. MINCETUR's work is aimed at obtaining better conditions of market access and competition in order to enable Peru to become suitably integrated into world markets, by taking advantage of the country's trade agreements as well as the various systems of preference.[13] At the same time, Peru attaches particular importance to strengthening a predictable international trading system based on fair competition, the development of comparative advantages and the lowering of trade barriers, especially those that affect its non-traditional exports.

2.10. Foreign trade policy is an instrument and integral part of Peru's development policy. One of the objectives of the 2021 National Strategic Development Plan is to achieve a dynamic and diversified economy that is competitively integrated into the world economy.[14] Accordingly, the National Strategic Export Plan 2015-2025 (PENX 2025)[15] establishes the following strategic objectives: a deepening of the internationalization of Peruvian enterprises; sustainable and diversified expansion of exports of goods and services with value added; and enhanced competitiveness of the export sector.[16] To attain these objectives, the PENX 2025 establishes four pillars: (1) internationalization of businesses and diversification of markets; (2) diversified, competitive and sustainable exports; (3) foreign trade facilitation and efficiency of the international

[9] Political Constitution of Peru, Articles 107, 108 and 109.
[10] Political Constitution of Peru, Article 138.
[11] The Organic Law of the Judicial Branch emanates from Supreme Decree No. 017-93-JUS, promulgated on 28 May 1993 and published on 2 June 1993.
[12] Law No. 27790, Law on the Organization and Functions of the Ministry of Foreign Trade and Tourism of 23 July 2002. Viewed at: https://www.mincetur.gob.pe/institucional/acerca-del-ministerio/funciones-y-normatividad/1362-2.
[13] Objectives of the Ministry of Foreign Trade and Tourism, set out in Law No. 27790.
[14] National Strategic Development Plan, entitled *Plan Bicentenario: El Perú hacia el 2021*. Adopted by Supreme Decree No. 054-2011-PCM of March 2011. Viewed at: https://www.mef.gob.pe/contenidos/acerc_mins/doc_gestion/PlanBicentenarioversionfinal.pdf.
[15] The PENX 2025 updated and replaced the PENX 2003-2013.
[16] PENX 2025, adopted through Ministerial Resolution No. 377-2015-MINCETUR of 9 December 2015. Viewed at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/comercio_exterior/plan_exportador/Penx_2025/PENX_FINAL_101215.pdf.

logistical chain (Section 3.1.1.2); and (4) capacity building for enterprise internationalization and consolidation of an export culture.

2.11. The PENX 2025 was backed up by the new national competitiveness and productivity policy adopted at the end of 2018, whose priority objectives include facilitating conditions for foreign trade in goods and services (Section 1.1).[17] The Government's aim is thus to strengthen the synergies between foreign trade on the one hand and competitiveness and productivity on the other.

2.12. In the formulation of foreign trade policy, the Government regularly consults the private sector and civil society through various formal channels. One of the main such channels is the Standing Multisectoral Joint Commission of the PENX. For the public sector, the Commission comprises: MINCETUR, which chairs the Commission; the Peruvian Export and Tourism Promotion Commission (PROMPERÚ), which acts as the technical secretariat; the Office of the President of the Council of Ministers; the Ministries of Production, Foreign Affairs, Transport and Communications and Agriculture; and the National Competitiveness Council. Private sector participants include business associations such as the Exporters' Association (ADEX), the National Society of Industry (SNI), the Foreign Trade Association (COMEX) and the Lima Chamber of Commerce (CCL). The International Markets Multisectoral Committee set up under the PENX Multisectoral Commission in March 2009[18], seeks to consolidate, diversify and expand exports of non-traditional goods and services by promoting and coordinating the PENX implementation activities of foreign-trade-related public and private sector institutions.

2.13. Other channels of coordination are the Governing Council of PROMPERÚ, which is in charge of promoting exports and tourism and comprises most public and private sector representatives, and the information meetings on trade agreement negotiations, in the course of which the authorities inform and consult the private sector concerning negotiating issues and positions. Mindful of the importance of working together with the private sector to make the most of the opportunities stemming from trade agreements, the PENX 2025 establishes that the implementation of activities is to be carried out in a participatory manner and in permanent coordination with all the relevant sectors.[19]

2.14. In recent years Peru has continued to modernize its legal framework for trade and investment, partly in order to bring it into line with its international commitments but also to achieve its objective of becoming a more competitive market. The instruments that have been updated include those relating to standardization, sanitary and phytosanitary measures, government procurement, competition policy, investment promotion and administrative procedures concerning intellectual property. Table 2.1 contains a non-exhaustive list of Peru's main legislation on trade, investment and other trade-related policies.

Table 2.1 Main trade and investment legislation, 2019

Area	Legislation
Customs	Legislative Decree No. 1053, adopting the General Customs Law (2008) and amendments thereto; Supreme Decree No. 010-2009-EF, adopting the implementing regulations to the General Customs Law, and amendments thereto
Anti-dumping and countervailing measures	Supreme Decree No. 006-2003-PCM (and amendments thereto) governing rules laid down in the Agreement on Implementation of Article VI of the GATT 1994, the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture; Supreme Decree No. 133-1991-EF, adopting the Regulations on Dumping and Subsidies for non-WTO Members
Safeguards	Supreme Decree No. 020-98-ITINCI (and amendments thereto) adopting regulations for the implementation of the WTO Agreements on Safeguards and Textiles and Clothing; Supreme Decree No. 023-2003-MINCETUR regulating transitional safeguards under the rules and commitments accepted by WTO Members; Supreme Decree No. 008-2009-MINCETUR adopting procedures for implementing bilateral safeguards and safeguards relating to textiles pursuant to the integration agreements signed by Peru

[17] Supreme Decree No. 345-2018-EF of 31 December 2018. Viewed at: https://www.mef.gob.pe/es/por-instrumento/decreto-supremo/18913-decreto-supremo-n-345-2018-ef/file.

[18] Ministerial Resolution No. 097-2009-PCM.

[19] PENX 2025.

Area	Legislation
Technical regulations and standards	Law No. 30224 creating the National Quality System and the National Quality Institute (2014); Regulations on the Organization and Functions of the National Quality Institute – INACAL (Supreme Decree No. 004-2015-PRODUCE) and amendments thereto; Regulations on the preparation and adoption of Peruvian Technical Standards, and handbooks and texts relating to standardization activities (Directorial Resolution No. 037-2017-INACAL/DN); and Regulations on Technical Standardization Committees, Technical Standardization Subcommittees and Working Groups (Directorial Resolution No. 037-2017-INACAL/DN)
Sanitary and phytosanitary measures	Legislative Decree No. 1059 (and amendments thereto) adopting the General Law on Agrarian Health (2008) and its implementing regulations; Supreme Decree No. 018-2008-AG; General Health Law No. 26842 (1997); Supreme Decree No. 007-98-SA adopting the regulations on sanitary surveillance and control of food and beverages (1998); Law No. 30063 establishing the National Fisheries Health Authority (2013); Legislative Decree No. 1222 optimizing administrative procedures and improving the sanitary control and safety of processed foods and fisheries and aquaculture products (2015)
Government procurement	Law No. 30225, Government Procurement Law (2014), as amended by Legislative Decrees Nos. 1341 (2017) and 1444 (2018); Supreme Decree No. 350-2015-EF adopting the implementing regulations to Law No. 30225, Government Procurement Law (2015), as amended by Supreme Decrees Nos. 056-2017-EF (2017) and 1344-2018-EF (2018)
Competition policy	Legislative Decree No. 1034 (2008) adopting the Law on the Suppression of Anti-Competitive Conduct, as amended by Legislative Decree No. 1205 (2015) and Legislative Decree No. 1396 (2018); Supreme Decree No. 030-2019-PCM adopting the Consolidated Text of the Law on the Suppression of Anti-Competitive Conduct adopted by Legislative Decree No. 1034 (2019)
Investment	Legislative Decree No. 622 on the Promotion of Foreign Investment (1991) and amendments thereto; Legislative Decree No. 757 adopting the Framework Law for the Growth of Private Investment (1991); Legislative Decree No. 1224 adopting the Framework for the Promotion of Private Investment through Public-Private Partnerships and Portfolio Projects (2015) and amendments thereto; Law No. 30327, Law on the Promotion of Investment for Economic Growth and Sustainable Development (2015)
Intellectual Property	Legislative Decree No. 822 adopting the Copyright Law (1996) and amendments thereto; Legislative Decree No. 1092 adopting border measures for the protection of copyright or related rights and trademarks (2008); Law No. 29316 amending, incorporating and regulating various provisions for the implementation of the Trade Promotion Agreement between Peru and the United States of America (2009); Legislative Decree No. 1075 adopting supplementary provisions to Andean Community Commission Decision 486 establishing the Common Industrial Property Regime (2008); Legislative Decree No. 1309 on the simplification of administrative procedures relating to intellectual property (2016)

Source: WTO Secretariat and various Peruvian Ministry websites.

2.3 Trade agreements and arrangements

2.15. During the period under review, Peru continued to participate actively in different economic and trade forums and arrangements and pursued its trade negotiations agenda at the multilateral, bilateral and regional levels. From the time of its previous review up to April 2019, Peru signed five new agreements, two of which have been ratified while the others are pending ratification (Section 2.3.2). At the same time, Peru continued to participate constructively in the WTO, which it sees as the foundation and keystone of the multilateral trading system.

2.3.1 WTO

2.16. Peru was a founding Member of the WTO and has therefore been a Member of the Organization since 1 January 1995. It participates in the Organization's work through MINCETUR and the Ministry of Foreign Affairs. The WTO Agreements are part of Peruvian legislation and may be invoked before the courts. Peru grants at least most-favoured-nation tariff treatment (MFN) to WTO Members as well as to non-Member countries. Peru's trade policies have been reviewed at the WTO on four occasions; the fourth review took place in 2013.

2.17. Peru signed the protocols on telecommunications and financial services that were annexed to the General Agreement on Trade in Services, and the 2005 Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Peru has been a signatory

to the Information Technology Agreement (ITA) since 18 February 2009, but did not participate in the recent expansion of the Agreement. In July 2016, Peru ratified the WTO Agreement on Trade Facilitation[20], which entered into force on 22 February 2017 and included the great majority of its commitments in category A for immediate application. Peru is neither a signatory nor an observer to the Plurilateral Agreement on Government Procurement.

2.18. The Peruvian authorities lay great emphasis on the importance of the WTO as the multilateral system's forum for agreeing disciplines and commitments aimed at reducing international barriers to trade. Peru is committed to the multilateral trading system, recognizes the validity of the Organization's objectives and endorses the importance of preserving and strengthening the WTO, including its dispute settlement system.[21] The negotiating topics of greatest interest in Peru include the following: in the regulatory sphere, it supports the elimination of subsidies that adversely affect fishing (illegal, unreported and unregulated fishing (IUU), over-capacity and over-fishing) and the granting of special treatment to small-scale fishing; in agriculture, it seeks the elimination of trade-distorting domestic support in line with the reform process provided for in Article 20 of the Agreement on Agriculture; on TRIPS, it reiterates the importance of continuing discussions and negotiations on outstanding implementation issues such as those relating to traditional knowledge, access to genetic resources and biodiversity; in services, it supports the negotiations on new domestic regulation disciplines. In addition, Peru participates in the exploration of new topics, such as those set out in the joint declarations issued at the Eleventh Ministerial Conference (Buenos Aires, December 2017) on electronic commerce, micro, small and medium-sized enterprises (MSMEs), and trade and the economic empowerment of women.

2.19. During the review period, Peru submitted many notifications to the WTO pursuant to its transparency commitments. Many of these notifications referred to sanitary and phytosanitary measures and technical barriers to trade, in addition to its notifications on agriculture (Table A2.1).

2.20. Since the creation of the WTO in 1995, Peru has participated in 28 cases brought before the Dispute Settlement Body (DSB): in 3 cases as complainant, in 6 as defendant, and in 19 as a third party. During the review period, Peru participated in two cases as defendant (Table 2.2) and in three as a third party. In November 2018, Argentina submitted a request for consultations with Peru before the DSB concerning the anti-dumping and countervailing measures imposed by Peru on imports of biodiesel from Argentina. The parties held consultations on this issue on 23 January 2019.

Table 2.2 Disputes in which Peru participated as defendant, 2013-19

Defendant/ complainant	Description and date of request	Current situation	Reference
Peru/ Guatemala	Additional duty on imports of certain agricultural products; 12 April 2013	The Understanding between Guatemala and Peru regarding procedures under Articles 21 and 22 of the Dispute Settlement Understanding (DSU) was circulated on 12 April 2016	DS457
Peru/Argentina	Anti-dumping and countervailing measures on biodiesel; 29 November 2018	Consultations stage	DS572

Source: WTO Secretariat.

2.3.2 Regional and preferential agreements

2.21. Peru has 19 trade agreements in force with 53 countries (Chart 2.1 and Table A2.2). At the regional level, Peru is a member of the Latin American Integration Association (LAIA), and as such has signed agreements with various countries[22], and is a founding member of the Andean Community of Nations (CAN) and of the Pacific Alliance (together with Chile, Colombia and Mexico). Peru also has agreements with the Southern Common Market (MERCOSUR), the European Free

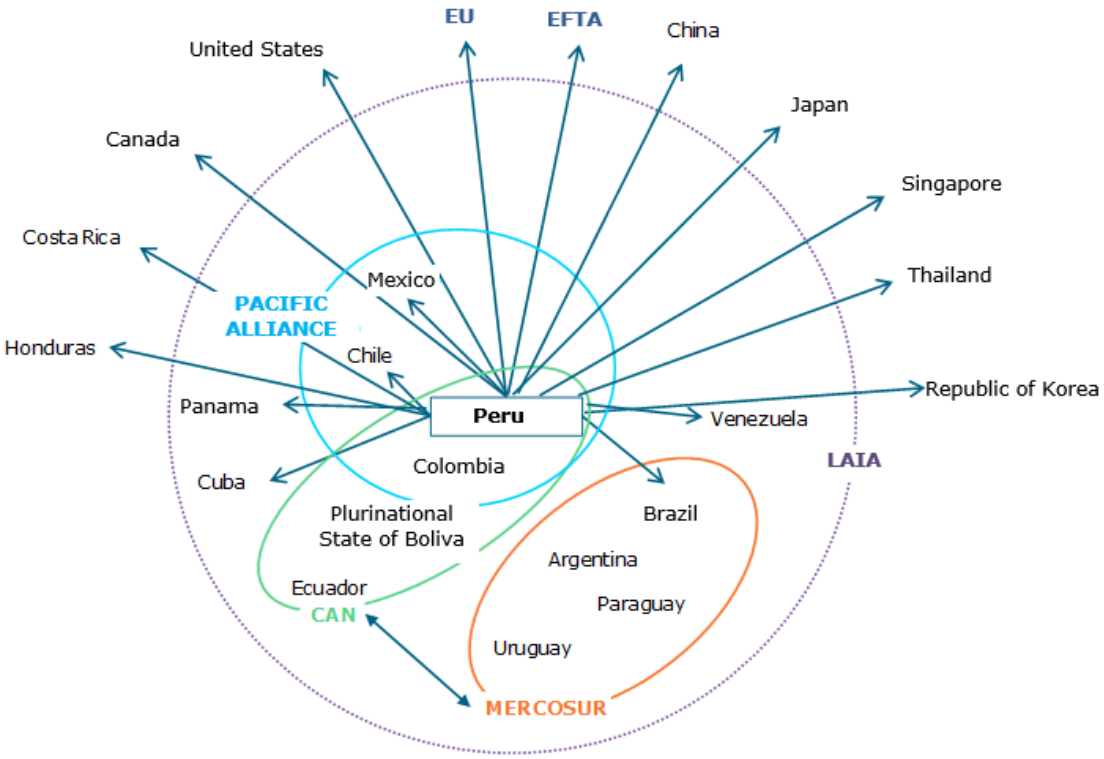
[20] Through Supreme Decree No. 044-2016-RE of 7 July 2016, Peru ratified the Protocol of Amendment for the insertion of the Trade Facilitation Agreement into Annex 1A of the WTO Agreement.

[21] Statement of the Minister of Foreign Trade of Peru, WTO document WT/MIN(17)/ST/111 of 8 January 2018.

[22] The LAIA member countries are Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Panama, Paraguay, Peru, the Bolivarian Republic of Venezuela, and Uruguay.

Trade Association (EFTA) and the European Union (EU). Bilaterally, Peru has trade agreements in force with: Cuba (2001); Chile (2009); United States (2009); Canada (2009); Singapore (2009); China (2010); the Republic of Korea (2011); Thailand (2011); Mexico (2012); Japan (2012); Panama (2012); Costa Rica (2013); the Bolivarian Republic of Venezuela (2013); and Honduras (2017).

Chart 2.1 Peru, current trade agreements, April 2019



Source: WTO RTA database, viewed at: https://rtais.wto.org; and online information from MINCETUR, viewed at: http://www.acuerdoscomerciales.gob.pe.

2.22. At the regional level, the Andean Community[23] is one of the main trading schemes in which Peru participates. The CAN has established a free trade area for all goods produced in the region and has developed common rules governing trade relations among its members; it harmonizes their national legislation in various trade-related areas such as customs, tariff nomenclature, customs valuation, rules of origin, agricultural health, technical regulations, trade defence, intellectual property and services. Peru's trade with the CAN member countries represented 7.7% of its total trade in 2018 (Section 1.3).

2.23. The agreements with China, the European Union and the United States are particularly important for Peruvian trade, as these economies are Peru's three main trading partners (Section 1.3).

2.24. During the review period, Peru signed five new trade agreements: (i) with Mexico, Colombia and Chile, in the framework of the Pacific Alliance (2014); (ii) with Brazil (2016); (iii) with Honduras (2017); (iv) with Australia (2018); and (v) the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (2018), which encompasses 11 countries. The agreements in the Pacific Alliance and with Honduras and Australia have been ratified by Peru, while the agreement with Brazil and the CPTPP, as well as an agreement signed with Guatemala in 2011, are pending ratification. In 2013, Peru ratified the trade agreements with the European Union, Costa Rica and the Bolivarian Republic of Venezuela which it had signed in the period covered by the previous review (Table 2.3). Peru is currently negotiating an agreement with India, the association to the Pacific

[23] Apart from Peru, the other members of the CAN are the Plurinational State of Bolivia, Colombia and Ecuador.

Alliance of four candidate States (Australia, New Zealand, Canada and Singapore), the "optimization" of its agreement with China and the deepening of the agreement with Argentina.

Table 2.3 New trade agreements implemented by Peru since 2013

	Honduras	Pacific Alliance		Bolivarian Rep. of Venezuela	Costa Rica	EU
Entry into force	2017	2016		2013	2013	2013
Coverage	Goods and services	Goods and services		Goods	Goods and services	Goods and services
Foreign trade 2018	(in USD million)					
Peruvian exports	43	2,433		27	67	7,238
Peruvian imports	4	4,880		7	26	4,723
Tariff elimination schedule						
End of tariff elimination period	2031	2028[a]	2030[b]	n.a.	2027	2030
	(% of Peru's total tariff lines)					
Tariff lines covered	99.1	99.5	99.5	52.6	98.8	99.8
Immediate access	82.0	98.4	9.0	n.a.	82.5	76.0
Less than 10 years	8.1	0.7	0.8	n.a.	6.1	9.3
10 years	8.0	0.4	0.4	n.a.	7.4	0.0
More than 10 years	1.0	0.0	0.3	n.a.	2.0	12.9
Quotas or other concessions	0.0	0.0	0.0	n.a.	0.8	1.7
Excluded	0.9	0.5	0.5	47.4	1.2	0.2

n.a. Not applicable. Fixed preference margins negotiated.

a Peru's offer for Chile and Colombia in the framework of the Pacific Alliance.
b Peru's offer for Mexico in the framework of the Pacific Alliance.

Source: WTO Secretariat, based on data provided by the authorities.

2.3.2.1 Pacific Alliance[24]

2.25. The Pacific Alliance was the result of an initiative by the President of Peru in 2010. Mexico, Chile, Colombia and Peru signed the Pacific Alliance Framework Agreement on 6 June 2012, and it entered into force on 3 July 2015. In 2014, the members signed the Additional Protocol to the Framework Agreement, which constitutes the free trade agreement that entered into force for Peru in May 2016. Two Amending Protocols to the Additional Protocol have been signed since then (in July 2015 and July 2016), both of which will enter into force once all parties have ratified them: Colombia and Peru have not yet done so. In 2017, negotiations were launched to include Australia, Canada, New Zealand and Singapore as Associate States. In July 2018, the Republic of Korea was admitted as a new candidate Associate State, and Ecuador expressed its interest in becoming an Associate State.[25]

2.26. As far as trade is concerned, the Pacific Alliance seeks a higher degree of integration in comparison with the bilateral agreements that already exist among its member countries. In addition to the chapters contained in those bilateral agreements, the Pacific Alliance Agreement includes chapters on financial and maritime services, electronic commerce, telecommunications and transparency. About 98% of the products and services traded among the four countries are already duty-free.

2.27. Peru's trade with the Pacific Alliance members represented 7.9% of its total trade in 2018. This trade grew by 11% in 2018, totalling nearly USD 7,300 million. In 2018, exports to the Alliance countries grew by 13.2% (primarily through the increase in sales of molybdenum, sulphuric acid, palm oil and plastics), and reached USD 2,433 million. Peru's exports to the Pacific Alliance countries are chiefly non-traditional goods (70% of the total), in particular plastics, sulphuric acid, palm oil and molybdenum (8%). Over half of these exports go to Chile, a third to Colombia, and the rest to

[24] The Pacific Alliance Framework Agreement was notified to the WTO Committee on Regional Trade Agreements in WTO document WT/REG377/N/1 of 3 November 2016.
[25] Puerto Vallarta Declaration, XIII Summit of the Pacific Alliance, Puerto Vallarta, Jalisco, July 2018. Viewed at: https://alianzapacifico.net/download/declaracion-de-puerto-vallarta.

Mexico. Imports from the Pacific Alliance countries totalled USD 4,880 million in 2018, 9.5% higher than in 2017, owing to the rise in imports of vehicles, televisions, steel bars and wood pulp.[26]

2.3.2.2 Free trade agreement with Australia

2.28. The free trade agreement with Australia was signed on 12 February 2018 and ratified by Peru on 22 February 2019.[27] As at May 2019, ratification by Australia was pending. Under this agreement, Peru undertook to grant duty-free access on 93.3% of its tariff lines for products originating in Australia at the time of entry into force, while Australia offered immediate zero-duty access for 96% of its tariff universe for products originating in Peru. Besides disciplines on trade in goods and services, there are provisions on investment, electronic commerce, competition, government procurement, state-owned enterprises, intellectual property, the environment and labour. Furthermore, this agreement will be the first bilateral agreement signed by Peru that includes chapters on development, SMEs, competitiveness and business facilitation.[28]

2.29. The value of trade between Peru and Australia amounted to about USD 330 million in 2018. Peru exports minerals (49.2% of the 2018 total), natural gas (14.1%), fish meal and oil (12.3%), coffee (2.8%) and asparagus (2.8%) to Australia. Its imports consist primarily of sodium cyanide (45.4%) and machinery and instruments (32.8%).[29]

2.3.2.3 Free trade agreement with Honduras[30]

2.30. The free trade agreement between Peru and Honduras was signed on 29 May 2015 and entered into force on 1 January 2017. The agreement contains disciplines on market access, rules of origin, customs procedures and trade facilitation, customs cooperation, technical barriers to trade, sanitary and phytosanitary measures, trade defence, competition policy, services, investment, intellectual property, government procurement, temporary entry of business persons, dispute settlement and institutional matters.

2.31. Under the agreement, Peru granted immediate duty-free access for 82% of its tariff lines for products originating in Honduras, while Honduras liberalized 77.1% of its tariff lines for Peruvian products on entry into force, and an additional 20.6% will become duty-free over a period of between 5 and 10 years. The deadline for the total elimination of tariffs is 10 years for Peru and 15 years for Honduras.[31] In the first year that the trade agreement between Peru and Honduras was in force, 95.3% of Peruvian exports to Honduras consisted of non-traditional products, primarily agricultural goods. Peruvian imports from Honduras were primarily consumer goods (58%) and raw materials and intermediate products (37%).[32]

2.3.2.4 Trade agreement with the European Union[33]

2.32. The free trade agreement between the European Union (EU), and Peru and Colombia, was signed on 26 June 2012; Ecuador acceded subsequently.[34] Under this agreement, which entered into

[26] MINCETUR (2019), *Comercio Bilateral Perú-Alianza del Pacífico, Anual 2018*. Viewed at: https://www.mincetur.gob.pe/comercio-exterior/reportes-estadisticos/reportes-de-comercio/reportes-de-comercio-bilateral.

[27] Supreme Decree 009-2019-RE of 22 February 2019.

[28] Online information from MINCETUR. Viewed at: http://www.acuerdoscomerciales.gob.pe.

[29] MINCETUR (2019), *Reporte Comercio Bilateral Perú- Australia, Anual 2018*. Viewed at: https://www.mincetur.gob.pe/comercio-exterior/reportes-estadisticos/reportes-de-comercio/reportes-de-comercio-bilateral.

[30] The Agreement between Peru and Honduras was notified to the WTO Committee on Regional Trade Agreements in WTO document WT/REG393/N/1 of 17 October 2018.

[31] Online information from MINCETUR. Viewed at: http://www.acuerdoscomerciales.gob.pe.

[32] MINCETUR (2018), *Estudio de Aprovechamiento del TLC Perú-Honduras, 1° Año de Vigencia*, Directorate-General for Foreign Trade Research and Studies. Viewed at: http://www.acuerdoscomerciales.gob.pe/images/stories/honduras/docs/EstudioAprovPeruHonduras1periodo.pdf.

[33] The agreement between Colombia, the European Union and Peru and was notified to the WTO Committee on Regional Trade Agreements in WTO document WT/REG333/N/1/Rev.1 of 21 March 2013. The Committee circulated a factual presentation of the agreement in WTO document WT/REG333/1/Rev.1 of 2 April 2015.

[34] In November 2016, the parties signed the Protocol of Accession of Ecuador to the EU-Colombia/Peru Trade Agreement of 2012.

force for Peru on 1 March 2013, the EU undertook to eliminate tariffs on 95% of its tariff universe, offering immediate access to 94.9% of its tariff lines for products originating in Peru. In return, Peru granted duty-free access, upon entry into force of the agreement, for 76% of its tariff universe for products originating in the EU, with a tariff-cutting schedule for the other products over a maximum period of 16 years.[35] The EU excluded a total of 43 tariff lines from the tariff-cutting scheme and established tariff quotas for some products such as sugar, poultry meat and rice. Peru excluded 14 tariff lines (including such products as wheat starch, maize starch, potato flour, sorbitol and egg yolks).

2.33. In addition to the provisions on market access for goods, the agreement includes provisions on liberalization of trade in services (for example, cross-border trade, financial services and telecommunications), investment, competition, government procurement, intellectual property, the environment and labour, among others.

2.34. Total trade between Peru and the European Union exceeded USD 11,000 million in 2018. The European Union is the third most important destination for Peruvian products, accounting for 15% of the total. Peru exports to the European Union minerals (37% of the total), agricultural products (35%), natural gas (8%) and fisheries products (8%), among others, and imports from the European Union in particular machinery (50%) and chemical products (25%). In 2018, Peruvian exports to the European Union amounted to USD 7,238 million, an 11% rise over 2017, primarily owing to the increase in exports of fruit (grapes, mangoes, blueberries, avocados) and fish meal. As a result of this agreement, Peru has become the European Union's main source of avocados (with exports totalling USD 446 million in 2018), the second of mangoes and the third of blueberries. Imports from the European Union totalled USD 4,723 million in 2018; the trade balance is in Peru's favour.[36]

2.3.2.5 Free trade agreement with Costa Rica[37]

2.35. The trade agreement between Peru and Costa Rica was signed in May 2011 and entered into force in June 2013. Under this agreement, Costa Rica offered immediate duty-free access to 77.8% of its tariff lines for products originating in Peru. Peru granted Costa Rica immediate duty-free access for 82.5% of its tariff universe. Duties on the remaining negotiated tariff lines will be eliminated over a period of 3 to 15 years, to reach a total of 98.6% of Costa Rica's tariff and 98.8% of Peru's. Costa Rica included 84 tariff lines and Peru 86 lines in the "no liberalization" category, corresponding to their respective sensitive products.[38] In addition to the provisions on market access for goods, the agreement includes disciplines on trade in services, investment, competition, the environment, government procurement, and intellectual property, among other things.

2.36. The value of trade between Peru and Costa Rica was USD 93 million in 2018. Peru's exports to Costa Rica totalled USD 67 million, with a trade balance in Peru's favour.[39]

2.3.2.6 Partial scope agreement with the Bolivarian Republic of Venezuela

2.37. The partial scope agreement relating to trade between the Republic of Peru and the Bolivarian Republic of Venezuela was signed in the LAIA framework on 7 January 2012 and entered into force on 1 August 2013, its aim being to grant reciprocal tariff preferences. The agreement establishes

[35] MINCETUR (2019), *Estudio de Aprovechamiento del TLC Perú-Unión Europea, 5° Año de Vigencia del TLC*. Directorate-General for Foreign Trade Research and Studies. Viewed at: http://www.acuerdoscomerciales.gob.pe/images/stories/union_europea/docs/EstudioAprovPeruUnionEuropea5Periodo.pdf.

[36] Online information from MINCETUR, Bilateral Trade Peru-European Union, 2018. Viewed at: https://www.mincetur.gob.pe/comercio-exterior/reportes-estadisticos/reportes-de-comercio/reportes-de-comercio-bilateral.

[37] The agreement between Peru and Costa Rica was notified to the WTO Committee on Regional Trade Agreements (WTO document WT/REG342/N/1 of 5 June 2013). The Committee circulated a factual presentation of the agreement in WTO document WT/REG342/1/Rev.1 of 26 June 2014.

[38] MINCETUR (2018), *Estudio de Aprovechamiento del TLC Perú-Costa Rica, 5° Año de Vigencia del TLC*. Directorate-General for Foreign Trade Research and Studies, July 2018. Viewed at: http://www.acuerdoscomerciales.gob.pe/images/stories/costa_rica/Aprovechamiento_Peru_CostaRica_5periodoV2.pdf.

[39] Online information from MINCETUR, bilateral trade Peru-Costa Rica, first half 2018. Viewed at: https://www.mincetur.gob.pe/comercio-exterior/reportes-estadisticos/reportes-de-comercio/reportes-de-comercio-bilateral.

tariff preferences for goods originating in both parties, set out in Appendices A and B, with respect to the tariffs in force for imports from third countries. Appendix A contains the tariff subheadings corresponding to traditional trade between the parties on which a tariff preference of 100% is applied. Appendix B refers to tariff subheadings with different preference levels, and in turn comprises an Appendix B1 listing the products of highly sensitive traditional trade with preferences of between 16.7% and 100%, and an Appendix B2 on products with trade potential identified by the Parties, with preference levels of between 40% and 100%.[40] The agreement covers 52.6% of Peru's tariff lines. The provisions on rules of origin follow the criteria set out in Andean Community Decision 416.

2.3.2.7 Agreements pending ratification

2.38. At the end of May 2019, the trade agreements concluded with Guatemala (2011) and Brazil (2016) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) were awaiting ratification by Peru.

2.39. Peru signed a free trade agreement with Guatemala on 6 December 2011. The agreement aims at improving market access and promoting trade in goods and services and investment between Peru and Guatemala, primarily for the benefit of SMEs. On entry into force, 69.3% of Guatemala's tariff universe will become duty-free for products originating in Peru, while Peru will grant duty-free access for 80.6% of its tariff lines to products originating in Guatemala.

2.40. The trade agreement between Peru and Brazil was signed on 29 April 2016. Its provisions cover investment, trade in services and government procurement, and supplement the two countries' commitments in the framework of Economic Complementarity Agreement No. 58 between Peru and MERCOSUR, which covers trade in goods.

2.41. The CPTPP was signed on 8 March 2018 for the purpose of rescuing the benefits of the Trans-Pacific Partnership Treaty (TPP) after the United States withdrew from the TPP. The CPTPP seeks the establishment of a free trade area among its members with a tariff-elimination period of up to 16 years in the case of Peru. The signatory countries are Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, Japan, New Zealand, Peru, Singapore and Viet Nam. With the entry into force of the CPTPP for Peru, the country will obtain preferential access for its products to the markets of four countries with which it does not yet have trade agreements: New Zealand, Brunei Darussalam, Malaysia and Viet Nam, and will deepen the trade benefits in the markets of countries with which it does have trade agreements. In addition to the chapters contained in Peru's other trade agreements, the CPTPP has chapters on cooperation and capacity building, regulatory coherence, competitiveness, small and medium-sized enterprises, and development, among other matters.

2.42. The CPTPP entered into force on 30 December 2018 for Australia, Canada, Japan, Mexico, New Zealand and Singapore, and on 14 January 2019 for Viet Nam. For the other signatory countries it will enter into force 60 days after they notify the depositary of the completion of their internal legal procedures. Peru has not yet ratified this agreement.

2.43. Trade between Peru and the CPTPP countries totalled USD 11,200 million in 2018. 52% of Peru's exports to the CPTPP countries consisted of minerals, primarily copper and gold, while its main imports are televisions and vehicles.[41]

2.3.3 Other agreements and arrangements

2.44. Peru continues to benefit from unilateral tariff preferences granted under the Generalized System of Preferences (GSP) by Australia, Japan, Kazakhstan, New Zealand, the Russian Federation,

[40] Information provided by the authorities; and partial scope agreement relating to trade between the Republic of Peru and the Bolivarian Republic of Venezuela, chapter on preferential tariff treatment, MINCETUR. Viewed at: http://www.acuerdoscomerciales.gob.pe/images/stories/venezuela.

[41] Online information from MINCETUR, Bilateral trade Peru-CPTPP. Viewed at: https://www.mincetur.gob.pe/comercio-exterior/reportes-estadisticos/reportes-de-comercio/reportes-de-comercio-bilateral.

Turkey and, since 2016, Armenia.[42] In 2018, 4.3% of all certificates of origin issued were for Peruvian exports meant to benefit from GSP preferences.

2.4 Investment regime

2.45. The Ministry of the Economy and Finance (MEF) formulates policies for the promotion of domestic and foreign private investment, one of whose main pillars is the creation of a stable and transparent legal framework that promotes the growth of such investment in the country. The Private Investment Promotion Agency (PROINVERSIÓN), a specialized technical body attached to the MEF, implements the national private investment promotion policy. Since 2016, PROINVERSIÓN has also been responsible for the design and oversight of public-private partnership investment projects, as well as for investment by private firms in public works in partial payment of their taxes.[43]

2.46. The Peruvian Constitution establishes that domestic and foreign investment are subject to the same conditions.[44] This guarantees that foreign investors compete on an equal footing with national investors. Besides the Constitution, the general foreign investment regime consists of Legislative Decree No. 622 on the Promotion of Foreign Investment, of 29 August 1991, which establishes the rules and assurances required for the development of foreign investment in the country, and Legislative Decree No. 757 of 13 November 1991 adopting the Framework Law for the Growth of Private Investment. Legislative Decrees Nos. 622 and 757 follow the guidelines of CAN Decision No. 291, which establishes a common regime for the treatment of foreign capital and guarantees national treatment for investors of Andean Community member countries. The regulatory framework for investment also includes the Law on Harmonization with the WTO Agreement on Trade-Related Investment Measures (TRIMs).[45]

2.47. During the period under review, the Government continued to promote private investment through public-private partnerships (PPPs) and strengthened the applicable rules. Legislative Decree No. 1224 of September 2015 unified the regulatory framework for the promotion of private investment through PPPs and portfolio projects, providing greater predictability concerning the processes and incorporating the OECD principles on PPPs. In 2016, the Government enacted Legislative Decree No. 1251, which introduced improvements in the governance and quality of PPP projects and gave PROINVERSION new functions and more autonomy in their management of these projects.

2.48. Legislative Decree No. 1362 of 23 July 2018 improves and consolidates the regulatory framework of the National System for the Promotion of Private Investment, while also facilitating and increasing the predictability of the award of investment projects that contribute to economic recovery and optimize the functioning of the system. The main changes introduced by Legislative Decree No. 1362 include: the creation of the Specialized Body for Project Management, intended for entities that manage a project portfolio of over 300,000 tax units (UIT) (roughly USD 368 million); the introduction of a system of awarding through competitive dialogue, for which PROINVERSION is responsible, in the case of Government-driven national projects; the provision of dedicated support by the MEF for public entities responsible for highly complex projects; and new measures aimed at deterring entities from abandoning their projects.

2.49. With the above regulatory framework, Peru maintains a regime open to domestic and foreign private investment that promotes competition and equality of treatment. Foreign investment does not require prior authorization and need not be registered. Foreign investors are guaranteed free repatriation, in freely convertible foreign exchange, of the entirety of their capital, dividends or profits from their investment, after payment of the statutory taxes. Expropriation is authorized only on grounds of national security or public necessity and against payment of compensation that must include possible damages. The property value set by the Government in expropriation proceedings may be challenged before the courts.[46]

2.50. Very few activities are subject to foreign investment restrictions. These include the acquisition of property at the country's borders, and domestic air transport and broadcasting services. Under

[42] Online information from the WTO. Viewed at: http://ptadb.wto.org/Country.aspx?code=604.
[43] Legislative Decree No. 1251 of 5 December 2016.
[44] Constitution, Article 63.
[45] Legislative Decree No. 1035 of 25 June 2008.
[46] Constitution, Article 70.

the Constitution, foreigners may not acquire or possess, directly or indirectly, mines, land, forests, bodies of water, fuels or energy sources located within 50 km of the country's borders, on pain of surrendering their ownership rights to the State.[47] Exceptions are possible, however, on grounds of public necessity declared by a Supreme Decree adopted by the Council of Ministers.

2.51. Domestic commercial aviation is reserved for Peruvian natural and legal persons. In order to be considered a Peruvian legal person, at least 51% of the company's equity must be Peruvian-owned and under the real and effective control of shareholders or partners of Peruvian nationality who are permanently domiciled in Peru. While foreign ownership is restricted to 49% of the capital at the start-up of an air transport company's operations, after six months this proportion may be increased up to a limit of 70%.[48]

2.52. In the case of broadcasting services, foreign participation in enterprises providing such services cannot exceed 40% of the total holdings, equity shares or number of partners. A foreigner cannot own a broadcasting service either directly or through a one-person business.

2.53. An important development during the review period was the opening up of maritime cabotage services. Until 2018, commercial maritime cabotage was reserved exclusively for Peruvian flagged vessels or Peruvian shipping companies. However, Legislative Decree No. 1413 of 13 September 2018 lifted the restrictions on the provision of cabotage transport services, including: (i) the requirement of a minimum proportion of Peruvian-held equity; (ii) the requirement that the company's board of directors and management be Peruvian nationals; and (iii) ownership of Peruvian-flagged vessels. Legislative Decree No. 1413 will enter into force once its implementing regulations have been published. The authorities were working on the regulations at May 2019. The implementation of this new legislation will help to reduce the high logistical costs of exports and improve the country's competitiveness.

2.54. Cabotage transport of hydrocarbons continues to be legally reserved in a proportion of up to 25% for the Peruvian Navy on grounds of national security and defence.[49] However, this is not the case in practice, since the Navy does not have enough vessels to carry out the transport.

2.55. Under the Constitution, but only on grounds of national security, the law may temporarily impose specific restrictions and prohibitions for the acquisition, possession, exploitation or transfer of specific goods.[50] This power was not used during the period under review.

2.56. The Peruvian legislation allows national and foreign investors who invest in infrastructure works, public services and economic activities such as mining, the possibility of signing legal stability contracts with the Government for the period of the duration of their investment.[51] These agreements guarantee investors stability for: the regulations governing non-discriminatory treatment; income tax treatment; the right to use the most favourable market exchange rate; the guarantee of free availability of foreign exchange; and the freedom to remit profits, dividends and royalties. Since 2013, 36 legal stability agreements have been signed with national and foreign investors, compared with 140 in the period 2007-12.[52] The authorities point out that the use of these agreements has declined in line with the improvement in Peru's investment rating.

2.57. Peru has continued to expand and strengthen its foreign investment promotion and protection system by signing various international instruments with the purpose of creating a suitable, stable and predictable environment that promotes the attraction and establishment of foreign investment in the country. At May 2019, Peru had Reciprocal Investment Promotion and Protection Agreements (APPRIs) with 27 countries.[53] The main standards of treatment and protection included in these

[47] Constitution, Article 71.
[48] Law No. 27261, Civil Aviation Law (2000), Article 79.
[49] Law No. 28583, Law on the Revival of the Peruvian Merchant Navy (2005), Article 7.
[50] Constitution, Article 72.
[51] The legal framework governing legal stability agreements includes Legislative Decree No. 662, Legislative Decree No. 757 and Law No. 27342.
[52] Information provided by the authorities.
[53] Peru has APPRIs with Germany (1997), Argentina (1996), Australia (1997), Belgium (2008), Canada (2006), China (1995), Colombia (2010), Cuba (2001), Denmark (1995), El Salvador (1996), Spain (1996), Finland (1996), France (1996), Italy (1995), Luxembourg (2008), Malaysia (1995), the Netherlands (1996), Norway (1995), Paraguay (1994), Portugal (1995), the United Kingdom (1994), the Czech Republic

agreements are: the right to a minimum level of treatment in accordance with customary international law; national treatment; compensation in case of expropriation; free transfer of income; most-favoured-nation treatment; and access (but not automatic referral) to international arbitration in the event of a dispute.[54]

2.58. Another instrument of policy in this area has been the inclusion of the investment chapters in free trade agreements, which in some cases have replaced the APPRIs; currently 13 of Peru's trade agreements include a chapter on investment.[55] This chapter usually contains provisions on *inter alia* pre-establishment, performance requirements, national treatment, including in cases of conflict or civil unrest, settlement of disputes between investors and the State, and corporate social responsibility, as well as an annex on the adoption of temporary measures in the case of external financial difficulties.

2.59. In addition, Peru has seven bilateral agreements to prevent double taxation, four of which entered into force during the period under review. These agreements are with Chile (2004), Canada (2004), Brazil (2010), Mexico (2015), Portugal (2015), the Republic of Korea (2015) and Switzerland (2015).[56] Andean Community Decision 578 of 2005 also establishes a system to avoid double taxation and tax evasion among CAN member countries. The authorities intend to negotiate more double taxation agreements in the near future.

2.60. Peru has also advanced in the implementation of the international taxation standards promoted by the OECD, specifically with regard to the exchange of information for tax purposes, both automatically and on request, and the implementation of the recommendations and minimum standards of the Action Plan on Base Erosion and Profit Shifting (BEPS).[57] Peru has been a member of the Global Forum since October 2014, has joined the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, in force since September 2018, and has undertaken to exchange information on financial accounts as from 2020.

2.61. With regard to international investment disputes, Law No. 28933 of 16 December 2006 established the State Coordination and Response System for International Investment Disputes (SICRECI). The System consists of an alert mechanism and procedures for a coordinated response by the State in the case of disputes with foreign investors. To this end, it establishes a Special Commission to represent the State in such disputes, which is headed by the MEF with representatives of the Ministries of Foreign Affairs, Justice and Foreign Trade and Tourism as well as the public entity involved in the dispute.

2.62. Peru is a member of the World Bank's International Centre for Settlement of Investment Disputes (ICSID), to which investors from a State that belongs to ICSID have recourse in order to settle disputes with the Peruvian State. Peru is also a member of the Multilateral Investment Guarantee Agency (MIGA).

2.63. To date, Peru has participated in 17 international arbitration cases concerning investment, most of them before ICSID, of which 14 have been resolved favourably for the Peruvian State. Ten other international arbitration cases are still pending.[58]

(1995), Romania (1995), Sweden (1994), Switzerland (1993), Thailand (1993), and the Bolivarian Republic of Venezuela (1997).

[54] Peru Business and Investment Guide. Viewed at: http://www.investinperu.pe/RepositorioAPS/0/0/JER/GUIA_INVERSION/GUIA_NEGOCIOS_INVERSION_PERU_2016_2017.pdf.

[55] These are the agreements with the Pacific Alliance (Chile, Colombia, Mexico and Peru) (2016); the European Free Trade Association (Switzerland, Norway, Liechtenstein and Iceland) (2011); Canada (2009); Chile (2009); China (2010); the United States (2009); the Republic of Korea (2011); Costa Rica (2013); Honduras (2017); Japan (2012); Mexico (2012); Panama (2012); and Singapore (2009).

[56] Information available on the MEF website. Viewed at: https://www.mef.gob.pe/es/convenio-para-evitar-la-doble-imposicion.

[57] As an Associate Member of the BEPS inclusive framework, Peru is in the process of implementing the minimum standards of actions 5 (Combating harmful tax practices); 6 (Prevention of abuse of double taxation agreements); 13 (Revision of transfer pricing documentation) and 14 (Making dispute resolution mechanisms more effective).

[58] Information provided by the authorities.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Customs procedures and requirements; customs valuation

3.1.1.1 Customs procedures and requirements

3.1. The General Customs Law (hereinafter LGA)[1], its implementing regulations[2] and the LGA Penalties Table[3] are the main instruments governing customs procedures. The LGA was most recently updated by Legislative Decree No. 1433, of 16 September 2018, with the aim of adapting the law to international standards, streamlining foreign trade and increasing the efficiency of security for the logistical chain (Section 3.1.2). The regulations implementing the LGA have been amended on several occasions. The latest amendment was made by Supreme Decree No. 270-2017-EF, published on 13 September 2017, with a view to encouraging advance customs clearance, reducing related costs and simplifying the implementation of additional facilities for authorized economic operators.[4] At the time of writing of this report, work on new LGA implementing regulations was yet to be completed.

3.2. The Customs Administration, within the National Supervisory Authority for Customs and Tax Administration (SUNAT), is the agency responsible for applying customs legislation, collecting customs duties and other taxes on imports, applying other customs rules and exercising customs authority.

3.3. The import regimes provided for in the LGA include import for consumption; reimport in the same state; and temporary admission for re-export in the same state. There are also regimes for exports, inward processing, customs warehousing and transit, as well as special or exceptional customs regimes.[5] The customs regime to be followed must be specified at the time the goods are declared.

3.4. The importer, owner or consignee must be in possession of a single taxpayers' registration number (RUC) for the goods to be processed under the import-for-consumption regime. Natural persons importing goods on an occasional basis (up to three operations per year) the f.o.b. value of which does not exceed USD 1,000 per operation, or effecting a single import the value of which is between USD 1,000 and USD 3,000, are not required to have an RUC; nor are national or foreign diplomats or officials of international organizations.

3.5. Requests as to the specific customs regime (customs destination) to be applied are made by presenting or electronically transmitting a customs declaration for goods (DAM) to SUNAT within 15 calendar days prior to the arrival of the mode of transport. From 31 December 2019, the DAM is to be submitted prior to arrival of the mode of transport or, exceptionally, within 15 calendar days following the completion of unloading.[6] Once SUNAT's electronic system has verified the information received, it generates the DAM number and the tax (customs duties and other charges) to be paid. A simplified import declaration (DSI) can be presented for the importation of samples without commercial value, gifts whose value does not exceed USD 1,000, goods not exceeding USD 2,000 in value or medicines for the treatment of cancer, HIV/AIDS and diabetes, the f.o.b. value of which does not exceed USD 10,000, imported by a natural person for duly accredited medical treatment.

3.6. The following supporting documents must be presented together with the DAM: the commercial invoice or equivalent document; the transport document (the bill of lading, air waybill or freight bill); the certificate of origin, where appropriate; and the required control documents. The latter refer mainly to restricted goods, which may only be imported if they have the requisite authorization from

[1] Legislative Decree No. 1053 of 27 June 2008.
[2] Supreme Decree No. 010-2009-EF of 16 January 2009.
[3] Supreme Decree No. 031-2009-EF of 11 February 2009, as amended by Supreme Decree No. 335-2018-EF of 30 December 2018.
[4] Amendments to the LGA and its implementing regulations can be viewed at: http://www.sunat.gob.pe/legislacion/procedim/normasadua/gja-03/ctrlCambios/index.htm.
[5] Section 3 of the LGA.
[6] Article 130 of the LGA, as amended by Article 3 of Legislative Decree No. 1433, of 16 September 2018, which will enter into force on 31 December 2019.

the competent bodies according to the nature of the goods. Most of these documents are issued online through the single window for foreign trade (VUCE), in which case they need not be presented separately.The carrier or its representative in Peru must forward the cargo manifest and other documents to SUNAT electronically, within the time-limit laid down in the regulations implementing the LGA.[7]

3.7. Clearance of goods under the import-for-consumption regime requires the participation of a customs broker, who can be the owner or consignee of the goods, an official broker or a customs agent. If the value of the goods to be imported exceeds USD 2,000, they must be cleared by a customs agent, who must obtain a mandate to do so, which can be electronic, from the importer. Customs clearance can also be performed by transport carriers and by postal service and express delivery service companies, provided that the shipments do not exceed prescribed amounts.

3.8. There are three customs clearance modalities: (i) advance clearance; (ii) deferred clearance (for goods of a nature requiring special treatment and temporary warehousing); and (iii) urgent clearance (for aid and emergency relief imports). An importer may choose advance clearance provided that the DAM is numbered within 30 calendar days prior to arrival of the mode of transport and the goods arrive no more than 30 calendar days from the day following the date on which the DAM is numbered. The advantages of advance clearance include: less time required for the release of goods; examination of the documents prior to arrival; inspection by scanner; and the opportunity for prior acceptance and electronic release of the goods. The authorities have indicated that in the case of advance clearance the goods are released within about 12 hours after their arrival (date of moorage of the ship at port), while in the case of deferred clearance, processing may take between 120 and 150 hours. In 2018, maritime customs at Callao, the country's main port, completed 45% of its clearances using the advance clearance procedure. The Customs Administration encourages greater use of advance clearance to streamline and facilitate trade. A recent amendment to the LGA makes advance clearance mandatory as of 31 December 2019.

3.9. Under the import-for-consumption regime, once the DAM has been numbered and the taxes paid or guaranteed, the SUNAT computer system assigns it to the appropriate control channel based on the criteria of randomness, risk (applying risk management techniques) and the regulations. In 2018, the control channels assigned to DAMs submitted at national level for processing under the import-for-consumption regime were as follows: the green channel (free availability), 87%; the amber channel (the documents are examined), 6%; and the red channel (physical inspection), 7%.

3.10. The special customs regime for express delivery shipments has been regulated since 2009.[8] Shipments are classified into the following categories: (1) correspondence, documents, newspapers or periodicals, not for commercial purposes; (2) goods up to a value of USD 200 f.o.b. per shipment; (3) goods whose f.o.b. value exceeds USD 200, up to a maximum of USD 2,000, per shipment; and (4) goods whose f.o.b. value: (a) exceeds USD 2,000 per shipment, and (b) is less than or equal to USD 2,000 per shipment and the goods are affected by the 14 circumstances indicated in the regulation (being subject, for instance, to the selective consumption tax (ISC) or to surcharges; benefitting from tax concessions; being restricted items; or being part of a diplomatic pouch, among others). Express delivery service companies, customs brokers, and the owners or consignees of the goods can request clearance for such shipments by presenting a simplified declaration.

3.11. Peru has an Authorized Economic Operator (AEO) programme that was officially introduced in 2012, based on the SAFE Framework of Standards of the World Customs Organization (WCO). The programme is governed by regulations on AEO certification[9] and the General Procedure for "Certification as an Authorized Economic Operator".[10] SUNAT grants AEO certification to foreign trade operators that are in compliance with current regulations, that have proper accounting and logistical systems to ensure the traceability of operations and that enjoy duly confirmed financial solvency

[7] The time-limits for forwarding the information contained in the detailed cargo manifest are 48 hours before arrival of the ship in the case of maritime transport, two hours before arrival of the aircraft in the case of air transport, and prior to the arrival of other means of transport.

[8] Supreme Decree No. 011-2009-EF of 16 January 2009; Law No. 29774 of 27 July 2011; and General Procedure for Express Delivery Shipments DESPA-PG.28 (Resolution No. 467-2011-SUNAT/A of 16 December 2011).

[9] Supreme Decree No. 184-2016-EF of 5 July 2016.

[10] National Customs Department Resolution (RIN) No. 035-2016-SUNAT/5F0000 of 7 September 2016, as amended by RIN No. 10-2017-SUNAT/5F0000 of 5 July 2017 and RIN No. 07-2017-SUNAT/310000 of 13 September 2017.

and adequate security. Exporters, importers, customs agents, authorized warehouses and express delivery service companies can all obtain AEO certification.

3.12. AEOs benefit from the following customs facilities: reduced customs control in the clearance of imports and exports; preferential attention and reduced waiting times for customs formalities; direct involvement by importers and exporters as customs brokers; possibility of presenting a nominal guarantee for import clearance; guidance and assistance from a specialist in AEO procedures; and access to the benefits of mutual recognition agreements (MRAs) under AEO programmes. By early 2019, Peru had signed four MRAs – with the Republic of Korea (2017), Uruguay (2018), the Pacific Alliance (2018) and the United States (2018) – and was in the process of negotiating an MRA with the member States of CAN. The number of businesses having received AEO certification rose from 10 in 2013 to 101 at the end of 2018.

3.13. SUNAT issues advance rulings in respect of tariff classification, value, tariff quotas, drawback, suspensions and exemptions from customs duties, and the reimport of repaired or altered goods. It also issues rulings regarding origin, but only in the context of the free trade agreement between Peru and China. SUNAT's rulings are binding and remain in effect so long as the conditions giving rise to them do not change. Requests can be made electronically on the Customs Administration website. At the time of writing of this report, the authorities had only received requests for advance rulings with respect to tariff classification. Legislative Decree No. 1433 of 16 September 2018 amended the LGA to reduce the waiting time for the issuance of advance rulings from 150 to 90 days.

3.14. Peru's single window for foreign trade (VUCE) has been operating since July 2010 and is administered by the Ministry of Foreign Trade and Tourism (MINCETUR). The VUCE has three components: restricted goods, port services and origin.[11] The restricted goods component allows foreign trade operators to complete electronically the formalities required to obtain permits, certificates, licences and other authorizations required by the relevant authorities for the goods to enter, transit or exit national territory. The port services component allows all the formalities required of a cargo transport vessel to be received, stay and obtain clearance at ports, to be completed electronically. The origin component allows for the issuance of certificates of origin that are binding on producers, exporters and competent authorities.[12] The VUCE can also be used to complete the trade and international transport formalities required by 19 public entities and 22 entities engaged in certifying origin.

3.15. Law No. 30860 was approved in October 2018 with a view to strengthening the VUCE, expanding its scope to new services and improving the processes connected with foreign trade.[13] Under this new legislation, the competent entities participating in the VUCE are required to establish and apply risk management criteria in their evaluation or approval procedures, giving preference to subsequent controls and, where appropriate, replacing physical inspection with controls by electronic means. Another innovation is that, at users' request, the competent entities that make up the VUCE will have the obligation to issue binding advance rulings on the treatment applicable to restricted goods and the requirements for their entry into, transit within or exit from the country. In addition, among the new services to be offered by the VUCE is the creation of an information module on shipping rates and other logistical costs, the aim being to increase the transparency and efficiency of such operations. The VUCE will also offer the country's special economic zones an integrated system for dealing with the formalities required of investors in those zones and for the administration and control of arrivals, stays, and departures of goods in those zones. Law No. 30860 will enter into force as soon as its implementing regulations, which need to be approved by MINCETUR, take effect. At the time of writing of this report, those regulations had not yet been approved.

3.1.1.2 Trade facilitation

3.16. In 2007, Peru adopted the Foreign Trade Facilitation Law and its respective implementing regulations.[14] The Law was amended in 2018 partly to increase the transparency of logistical cargo

[11] The VUCE was created by Supreme Decree No. 165-2006-EF of 3 November 2006. The origin component was established by Supreme Decree No. 006-2013-MINCETUR of 7 June 2013.
[12] Online information from the VUCE. Viewed at https://www.vuce.gob.pe.
[13] Law on Strengthening the Single Window for Foreign Trade, Law No. 30860 of 23 October 2018.
[14] Law No. 28977 of 9 February 2007 and Supreme Decree No. 022-2008-EF of 16 July 2008.

services in foreign trade operations and to incorporate provisions on the creation of logistical platforms.[15]

3.17. During the review period, Peru has continued adopting measures to facilitate trade within the framework of the National Strategic Export Plan 2025 (PENX 2025). One of the pillars of PENX 2025 is "trade facilitation and international supply chain efficiency", which has the strategic objective of improving the competitiveness of the foreign trade sector. An initial package of measures to achieve that aim includes action in the following areas: (i) functionality of customs operations, (ii) foreign trade logistics, (iii) institutional coordination and (iv) administrative simplification.

3.18. Among the measures adopted to improve the functionality of customs operations are the following: the encouragement of advance custom clearance so that most operations are cleared upon arrival of the cargo at port; the streamlining of deferred clearance; improved regulation of customs brokers and international cargo agents; expanded facilities for customs brokers with AEO certification; review of the criteria for determining customs offences and penalties, including the introduction of acts not subject to penalties (such as transcription and code errors on customs declarations); and improvements in the functionality of express delivery services.

3.19. The measures taken to improve the logistics of foreign trade include support for the creation of logistical platforms in the country and the establishment of the Logistical Observatory, which is expected to begin operations in the second half of 2019. The aim of the Observatory is to gather information from public and private sources with a view to monitoring in real time the country's logistical competitiveness and the cost of services. Efforts can thus be focused on clearing trade bottlenecks that affect competitiveness and on providing useful information to exporters and importers on how to contract services and make investment decisions more efficiently.

3.20. In late 2017, the Multisectoral Commission for Foreign Trade Facilitation was created to improve institutional coordination. This Commission, chaired by MINCETUR, is composed of representatives of the public agencies concerned with foreign trade.[16] It performs the role of national committee for the purposes of the WTO Trade Facilitation Agreement (TFA). Its aim is to propose mechanisms and actions to facilitate trade and reduce logistical costs through increased transparency, predictability in foreign trade operations and the implementation of a cargo logistics policy, as well as to contribute to compliance with the TFA. A working group on trade facilitation was created within the framework of the Commission to monitor actions taken to fulfil Peru's Category B and C commitments under the TFA.[17] Another working group deals with logistical and infrastructure-related issues.

3.21. in terms of administrative simplification, Law No. 30860 of 23 October 2018 was adopted with a view to strengthening the VUCE and expanding its services to provide a platform for the exchange of information among public and private agents concerned with trade and international transport.

3.22. A second group of measures to improve competitiveness in the foreign trade sector include support for the participation of micro and small enterprises in the export sector by expanding the benefits provided by the MSME Fund; the adoption of regulations to open maritime cabotage to foreign vessels to help relieve congestion at the port of Callao (Section 4.4.5.2); and the updating of rules on multimodal transport to bring them into line with customs legislation.

3.23. In addition, changes were made to the LGA by Legislative Decree No. 1433 of 16 September 2018. Most of the changes will enter into force between 31 December 2019 and 31 December 2020. The main changes are as follows: definitions will be included for "arrival of the mode of transport" and "international multimodal transport"; the obligations and requirements for categories of foreign trade operator are defined more succinctly, with new actors now covered (such as international multimodal transport operator); the benefits provided to authorized economic

[15] Law No. 30809, "Law amending Law No. 28977, the Foreign Trade Facilitation Law, and Law No. 30264, Law establishing measures to promote economic growth", of 7 July 2018.

[16] The Commission was established by Supreme Decree No. 122-2017-PCM of 20 December 2017 and is composed of the Minister of Foreign Trade and Tourism, the Minister of the Economy and Finance, the Minister of Foreign Affairs, the Minister of Transport and Communications, the Minister of Health, the Minister of Agriculture and Irrigation, the Minister of Production, and representatives of SUNAT, the National Port Authority (APN) and the Private Investment Promotion Agency (PROINVERSIÓN).

[17] WTO document G/TFA/N/PER/1 of 5 March 2018.

operators (AEOs) are clarified; clarifications are provided on the customs responsibilities of carriers with respect to the delivery and movement of goods (importation) and delivery and loading (exportation), as well as those pertaining to the rectification and inclusion of documents; the application of penalties has been reviewed to take into account facts and circumstances; the waiting time for the issuance of advance rulings has been reduced to 90 days; and a specific article has been included on the Customs Convention on the ATA Carnet for the Temporary Admission of Goods.

3.24. Another important change introduced by Legislative Decree No. 1433 concerns customs clearance modalities, which are now defined according to whether the DAM is numbered before or after arrival of the mode of transport.[18] Furthermore, as of 31 December 2019, the customs regime (customs destination) to be applied must be requested before the arrival of the mode of transport and up to 15 calendar days after the completion of unloading, following which the goods will be considered legally as abandoned and subject only to the customs regimes specified in the Regulations.

3.1.1.3 Customs valuation

3.25. The WTO Agreement on Customs Valuation was incorporated into Peruvian law by Legislative Resolution No. 26407 of 16 December 1994. Customs valuation is also subject to the regulations on the valuation of goods in accordance with the WTO Agreement on Customs Valuation (Supreme Decree No. 186-99-EF of 29 December 1999), amendments thereto[19], and the special procedure for "the valuation of goods in accordance with the WTO Agreement on Customs Valuation", DESPA-PE.01.10a (Resolution No. 400-2012-SUNAT/A), and amendments thereto.[20] Peru also adheres to the decisions of the WTO Committee on Customs Valuation and the instruments of the Technical Committee on Customs Valuation of the World Customs Organization. Peru has responded to the checklist of issues on the implementation and administration of the WTO Agreement on Customs Valuation.[21] At regional level, Peru is governed by the regulations of the Andean Community in this area.[22]

3.26. During the period under review, the legislation on customs valuation was updated but without introducing fundamental changes. In recent years, according to the authorities, steps have been taken to make it compulsory to pay for imported goods through the financial system (to increase use of banks), and there have been advances in the use of electronic and digital media for notification as to "reasonable doubt" and related acts, including consultations with the importer in applying the second and third valuation method.

3.27. SUNAT is the authority responsible for verifying and determining the customs value of goods imported into Peru. That determination is made according to the valuation methods set out in the WTO Agreement on Customs Valuation. It is the obligation of the importer to prove that the value declared corresponds to the amount actually paid for the goods to be imported. If this is not the case, SUNAT applies the other valuation methods indicated in the WTO Agreement to verify the declared value.

3.28. In cases of simplified import clearance, and only in such cases, the importer can request that the customs value be determined according to the list of reference values approved by SUNAT. The most recent list was approved in April 2018[23] and includes food, beverages, articles of personal hygiene, cosmetics, clothing, footwear, electrical home appliances, and office and communication equipment.

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[18] Types of clearance: advance (the DAM is numbered prior to the arrival of the mode of transport); deferred (the DAM is numbered after the arrival of the mode of transport); and urgent: in accordance with the Regulations. Article 3 of Legislative Decree No. 1433.

[19] The last amendment was made by Supreme Decree No. 119-2010-EF of 26 May 2010.

[20] Legislation on customs valuation can be viewed at: http://www.sunat.gob.pe/legislacion/aduanera/valoracionadua.

[21] WTO document G/VAL/N/2/PER/1 of 3 November 2010.

[22] Decision No. 571 on the customs value of imported goods; Community Regulation on Decision No. 571, as updated by Resolution No. 1684 of 28 May 2014; Resolution No. 1456 of 2 March 2012 on special cases of customs valuation; and Resolution No. 1952 of 9 October 2017 on adoption of the Andean declaration of value.

[23] Resolution No. 08-2018-SUNAT/310000 of 13 April 2018. The list can be viewed at: http://www.sunat.gob.pe/legislacion/procedim/despacho/resoluciones/2018/RIN-08-2018-SUNAT-310000.pdf.

3.29. If SUNAT has any reason to doubt the declared value or the exactitude of the documents submitted as proof of the declaration, it may request the importer to provide additional explanations or to substantiate the declaration with documents or other evidence proving that the value declared represents the total amount actually paid or payable for the goods imported, adjusted as applicable. Once the additional information has been received, if SUNAT still entertains reasonable doubts regarding the veracity or exactitude of the declared value, it may employ the other methods of valuation successively and in order.[24]

3.30. The importer has the option of withdrawing the goods before their value has been definitively determined by SUNAT, by presenting a guarantee equivalent to the difference between the amount of taxes paid and the amount that may be payable for the goods if the value determined by Customs is applied.[25] Once the value has been determined, SUNAT informs the importer of the reasons for rejecting the use of the transaction value as the valuation method. If the importer disagrees with the decision, he may begin proceedings against SUNAT, which are governed by provisions in the Tax Code.

3.31. The legal time-limit for processing claims submitted to SUNAT is nine months. The authorities have indicated that 98% of such claims are resolved within eight months. SUNAT decisions may be appealed before the Fiscal Tribunal, an administrative body under the Ministry of the Economy and Finance (MEF). Administrative litigation may also be pursued in the courts.

3.1.2 Rules of origin

3.32. Peru applies preferential and non-preferential rules of origin. There were no substantial changes in the provisions governing either during the review period.

3.33. Non-preferential rules of origin are used to determine the origin of goods imported subject to anti-dumping or countervailing duties, as governed by Supreme Decree No. 005-2011-MINCETUR.[26] This decree provides that the importer must provide the Customs Administration with a sworn, signed declaration of origin. Non-preferential criteria of origin are approved by MINCETUR Ministerial Resolution.

3.34. Preferential rules of origin are used to determine the origin of goods for the purposes of granting preferential treatment under the trade agreements signed by Peru or other preferential regimes. During the review period, Peru notified the WTO of the preferential rules of origin it was applying pursuant to new trade agreements, and modifications made to existing preferential rules of origin.[27]

3.35. Peru's trade agreements generally treat a good as originating if it is wholly obtained in the territory of a party, produced exclusively from originating materials or produced from non-originating materials. In the latter case, product-specific rules of origin (PSR) are applied and the basic criteria used to determine origin are change of tariff classification or the value of the regional content, mainly using the build-down method with a threshold of 50% (Table A3.1). Most agreements establish a *de minimis* threshold of 10% in respect of the value of the good for non-originating materials not meeting the change of tariff classification criterion (in the textiles/clothing sector the *de minimis* threshold is calculated according to the weight of the goods); there are also provisions on cumulation that vary from one agreement to the next.

3.36. It is the responsibility of the Origin Unit of the Vice-Ministry of Foreign Trade of MINCETUR to issue certificates of origin under preferential agreements or regimes. This function has been delegated to the relevant agencies concerned with industry and trade, but subject to compliance with the requirements established by MINCETUR, and to MINCETUR's supervision.[28] Importers must

[24] Article 2 of Supreme Decree No. 119-2010-EF.
[25] Article 12 of Supreme Decree No. 186-99-EF.
[26] Notified to the WTO in WTO document G/RO/N/77 of 12 March 2012.
[27] WTO documents G/RO/N/94 of 9 April 2013; G/RO/N/105 of 19 September 2013; G/RO/N/154 of 21 July 2017; G/RO/N/157 of 21 July 2017; G/RO/N/181 of 15 May 2019; and G/RO/N/183 of 15 May 2019.
[28] The list of entities authorized to issue certificates of origin can be viewed on the MINCETUR website at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/comercio_exterior/certificacion_de_origen/certificacion_por_entidades/Entidades_Delegadas.pdf.

present proof of origin (certificate or declaration of origin) in accordance with the requirements, procedures and formats specified in the agreement or regime under which preferential treatment is being requested. Certification systems vary from one agreement to the next and may include certification by authorized entities, self-certification or the issuance of declarations of origin by "Authorized Exporters" having qualified as such (Table 3.1).

Table 3.1 Certification-of-origin systems in Peru's regional agreements

Type of certification	Agreement
By an agency (delegated authority)	• Guatemala[a], Honduras, Pacific Alliance, Venezuela, Costa Rica, EU, Panama, Japan, Thailand, EFTA, China, Singapore, MERCOSUR and CAN
By an Authorized Exporter	• Guatemala[a], Honduras, Costa Rica, EU, Panama, Japan and EFTA
Self-certification	• Exporter: Korea, Singapore[b] and Canada • Exporter or producer: Australia[a] • Producer, exporter or importer: CPTPP[c] and the United States

a This agreement is not yet in force.
b There are also provisions for self-certification by exporters and producers, but they are not yet in force.
c For Peru, the implementation of self-certification by importers should start within five years of this agreement (still not in effect) entering into force.

Source: MINCETUR.

3.1.3 Tariffs

3.1.3.1 General characteristics

3.37. The MEF is responsible for designing and administering tariff policy in Peru. The authorities consider that it is a useful tariff policy measure, particularly for small economies, to reduce tariffs and their distorting effect on the efficiency of resource allocation. They also consider that promoting sectors through discretionary tariff exemptions can distort the allocation of resources. They consider that as a small developing economy, Peru should gradually reduce tariffs and thereby lower the operating costs of the economy and improve the standard of living, thanks to lower costs for consumers and producers, and enhanced access to a greater variety of goods of a higher quality for final consumers and for users of inputs and capital goods. For the latter, the wide disparities as to effective protection are reduced, and the arbitrary differences in the degree to which value is added between productive activities, caused by different tariff levels for consumer goods, inputs and capital goods, are limited.[29]

3.38. Peru's tariff in 2019 includes 7,790 tariff lines at the ten-digit level (HS 2017). As a result of adopting the 2017 Harmonized System nomenclature, the number of tariff lines is greater than that observed during the last Trade Policy Review of Peru in 2013 (7,554 lines). Peru's customs tariff is based on the Common Tariff Nomenclature of the Member Countries of the Andean Community (NANDINA), with the inclusion of additional subheadings. The national subheading is obtained by adding two digits to the NANDINA subheading, so that all products are identified with ten digits.[30] Decision No. 812 of the Commission of the Andean Community incorporates the various changes made to the Harmonized Commodity Description and Coding System (HS).

3.39. Later during the review period, the average tariff applied by Peru was reduced, so that the average rate for applied MFN duties fell from 3.2% in 2013 to 2.2% in 2019, one of the lowest rates of any WTO Member (Table 3.2).

[29] Ministry of the Economy and Finance, *Lineamientos de Política Arancelaria*. Viewed at: https://www.mef.gob.pe/contenidos/pol_econ/econ_internac/resoluciones/Anexo_RM005_2006EF15.pdf.
[30] Online information from SUNAT. Viewed at: http://www.sunat.gob.pe/orientacionaduanera/aranceles/estructura.html.

Table 3.2 MFN tariff structure, 2013 and 2019

(Percentage)

		2013 (HS 12)		2019 (HS 17)	
		excl. AVE[a]	incl. AVE[b]	excl. AVE[a]	incl. AVE[b]
1.	Total number of lines	7,554	7,554	7,790	7,790
2.	Non-*ad valorem* tariffs (% of tariff lines)	0.6	0.6	0.6	0.6
3.	Non-*ad valorem* tariffs without *ad valorem* equivalents (AVE) (% of tariff lines)	0.6	0.0	0.6	0.0
4.	Tariff quotas (% of tariff lines)	0.0	0.0	0.0	0.0
5.	Duty-free tariff lines (% of tariff lines)	55.9	55.3	70.4	69.9
6.	Average of lines exceeding zero (%)	7.2	7.2	7.3	7.4
7.	Simple average	3.2	3.2	2.2	2.2
8.	Agricultural products (WTO definition)	3.9	4.3	2.9	3.0
9.	Non-agricultural products (including petroleum, WTO definition)	3.1	3.1	2.1	2.1
10.	National tariff peaks (% of tariff lines)[c]	10.5	10.8	8.8	8.9
11.	International tariff peaks (% of tariff lines)[d]	0.0	0.1	0.0	0.1
12.	Overall standard deviation of applied rates	3.8	3.9	3.6	3.7
13.	Bound tariff lines (% of tariff lines)	100.0	100.0	100.0	100.0

a For the 48 lines subject to the price band, only the *ad valorem* component of the band has been taken into account.
b For the 48 lines subject to the price band, both the *ad valorem* component and the specific duty obtained by applying the price band have been taken into account.
c National tariff peaks are defined as tariffs that are higher than three times the simple average of all the rates applied.
d International tariff peaks are defined as rates that exceed 15%.

Source: WTO Secretariat estimates based on data provided by the authorities.

3.40. Peru's tariff includes only *ad valorem* duties, except for the 48 ten-digit tariff lines for 2019 (0.6% of the tariff universe) that are subject to the Peruvian Price Band System (SPFP). Those tariffs have two components: one *ad valorem* and the other specific. The price band is applied to imports of certain agricultural products: rice, sugar, maize and dairy products. *Ad valorem* import duties are calculated according to the c.i.f. value of the goods.

3.41. Within the framework of SPFP, tariffs are determined according to the price observed for each product on an international reference market compared to the "band" composed of "floor" and "ceiling" prices fixed on the basis of historical prices.[31] When the c.i.f. price for the product is below the floor of the price band, specific duties of varying amounts are added to the *ad valorem* tariff. According to Supreme Decree No. 371-2017-EF, in no case may the sum of the *ad valorem* tariff and the additional duties for a product exceed 15% of its c.i.f. value.[32] However, that ceiling can be temporarily altered by a Supreme Decree, as happened in 2018 in the case of rice, for which the ceiling was temporarily raised to 20%.[33] When the c.i.f. price rises above the price band ceiling, tariffs are reduced to a level no lower than the *ad valorem* tariff applicable to the product. If the c.i.f. price lies within the price band (between floor and ceiling), only the corresponding *ad valorem* tariff applies. Surcharges and reductions apply according to customs tables approved every six months by a Supreme Decree endorsed by the MEF and the Ministry of Agriculture and Irrigation.

[31] Online information from the Ministry of the Economy and Finance (MEF). Viewed at: https://www.mef.gob.pe/es/economia-internacional/politica-arancelaria/franja-de-precios.

[32] The text of the Decree can be viewed at: https://cdn.www.gob.pe/uploads/document/file/255047/229196_file20181218-16260-8j1nqx.pdf. Supreme Decree No. 103-2015-EF of 1 May 2015 had previously set the limit for application of the appropriate specific duty at 20% of the c.i.f. value of the goods as declared by the importer. Viewed at: https://www.mef.gob.pe/es/economia-internacional/politica-arancelaria/franja-de-precios.

[33] Supreme Decree No. 152-2018-EF of 5 July 2018 raised this ceiling from 15% to 20% for rice for the period between 5 July and 31 December 2018. Supreme Decree No. 342-2018-EF, published on 30 December 2018, updated the customs tables for maize, sugar and dairy products and extended the customs table for rice approved by Supreme Decree No. 152-2018-EF, until 30 June 2019. Furthermore, for the national subheadings included in the customs table for rice, it established that additional variable duties resulting from the application of the price band system, added to the *ad valorem* duties, may not exceed 20% of the c.i.f. value up until 30 June 2019 and 15% of the c.i.f. value as of 1 July 2019. However, Supreme Decree No. 199-2019-EF extended the 20% limit for rice until 30 June 2020.

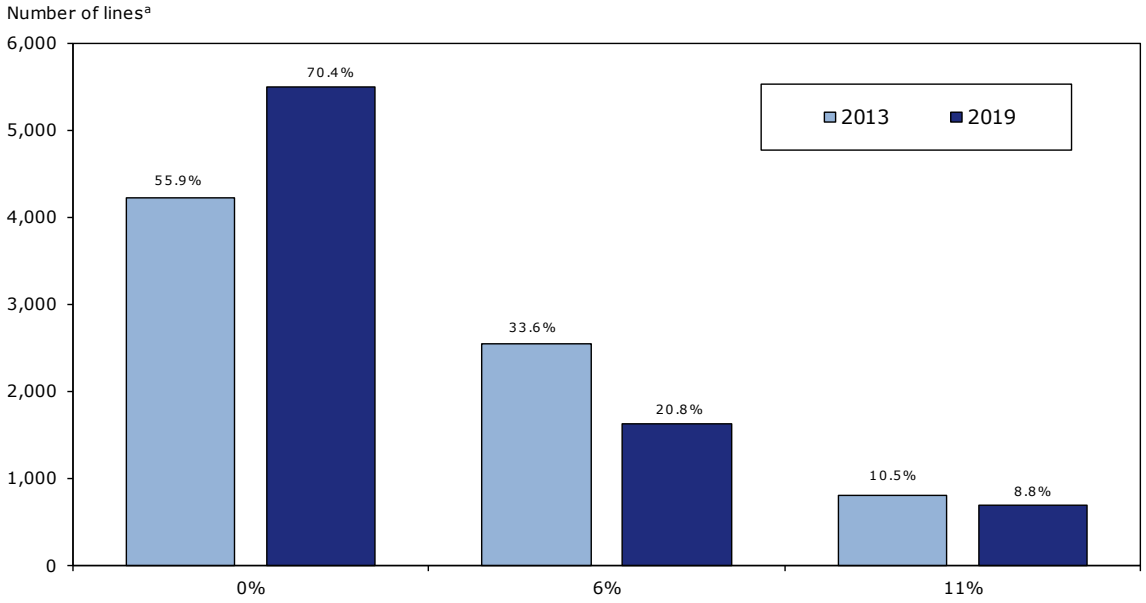
The reference prices are published monthly in a resolution issued by the Vice-Ministry of the Economy. The customs tables and reference prices are provided by the Central Reserve Bank of Peru, based on the methodology, markets and reference sources indicated in Annexes II, III and IV of the SPFP.[34]

3.42. Peru has a simple and nearly horizontal tariff structure. Peru's tariff in 2019 includes the same three tariff rates as in 2013: 0%, 6% and 11%, excluding tariffs that may result from the application of the price band. There were also three rates in 2007, but they were 0%, 12% and 20%. During the period under review, the percentage of 0% tariff lines rose from 55.9% (55.3% if *ad valorem* equivalents (AVEs) resulting from application of the SPFP are included) to 69.9% (Chart 3.1). The highest rate, 11%, applies primarily to products such as textiles and clothing. About 20.8% of the lines were subject to the 6% rate (compared to 33.6% in 2013) and about 8.8% to the 11% rate (10.5% in 2013).

3.43. The average tariff applied to agricultural products (WTO definition) fell from 3.9% in 2013 to 2.9% in 2019. The tariff applied to non-agricultural products (2.1%) remains lower than that applied to agricultural products, but with less and less of a difference over the course of the review period (Table 3.3). If the tariffs resulting from the application of the *ad valorem* equivalent of the specific price band duty are factored into the calculation of average tariffs, the protection for agricultural products would increase only slightly, to 3%. This is because the maximum tariff resulting from the application of the corresponding price band to maize, sugar and dairy products has been limited to 15%. For rice the limit is 20%.[35] By WTO category, the highest average tariff is for clothing (11%), followed by textiles (6.2%), beverages (5.2%) and animals and animal products (5.2%). The lowest averages are for petroleum (0%), fish (0.1%), dairy products (0.3%), non-electrical machinery (0.5%) and other agricultural products (0.5%).

Chart 3.1 Breakdown of MFN tariffs, 2013 and 2019

(a) Excluding AVEs resulting from the application of the SPFP



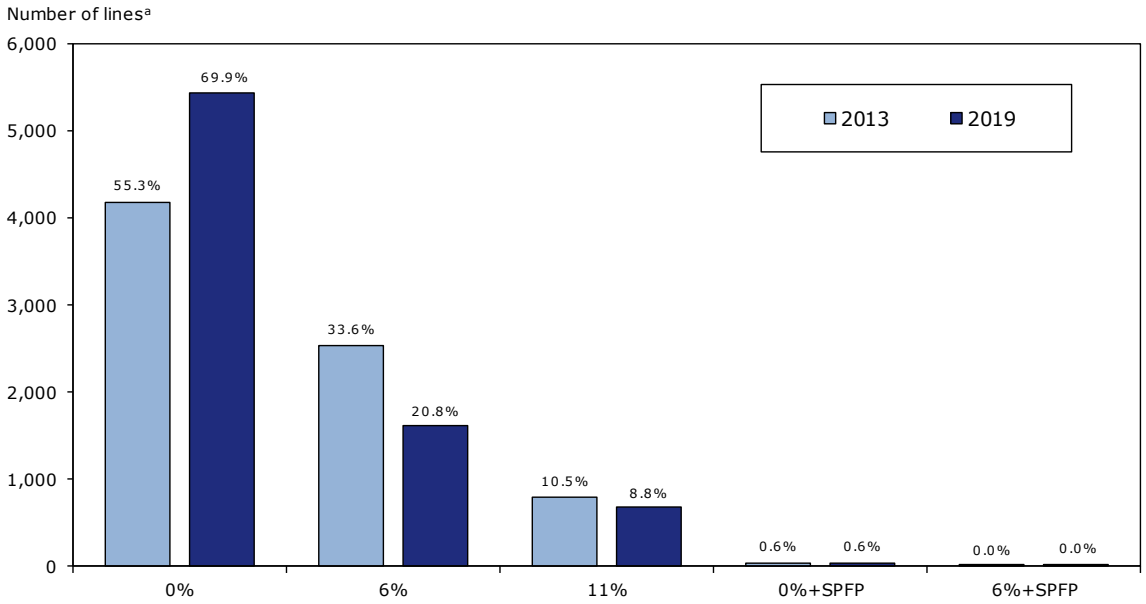
a The total number of lines in 2013 and 2019 was 7,554 and 7,790, respectively.

Source: WTO Secretariat calculations based on data provided by the authorities.

[34] Online information from the Ministry of the Economy and Finance. Viewed at: https://www.mef.gob.pe/es/economia-internacional/politica-arancelaria/franja-de-precios.

[35] The *ad valorem* equivalents for the specific component of the price band were calculated by the Secretariat on the basis of unit prices by volume and value of imports from January to December 2018.

(b) Including AVEs resulting from the application of the SPFP



a The total number of lines in 2013 and 2019 was 7,554 and 7,790, respectively.

Source: WTO Secretariat calculations based on data provided by the authorities.

Table 3.3 Summary analysis of the MFN tariff, 2019

Product description	MFN						Bound tariff
	No. of lines	Average (%)	Average[a] (%)	Range (%)	Range[a] (%)	Coefficient of variation (CV)	Range[b] (%)
Total	7,790	2.2	2.2	0 - 11	0 - 17.47	1.6	0 - 68
HS 01-24	1,284	2.3	2.5	0 - 11	0 - 17.47	1.3	30 - 68
HS 25-97	6,506	2.2	2.2	0 - 11	0 - 11	1.7	0 - 30
By WTO category							
Agricultural products	1,059	2.9	3.0	0 - 11	0 - 17.47	1.1	30 - 68
- Animals and animal products	142	5.2	5.2	0 - 11	0 - 11	0.6	30 - 30
- Dairy products	38	0.0	0.3	0 - 0	0 - 1.58	1.3	30 - 68
- Fruit, vegetables and garden produce	303	4.1	4.1	0 - 11	0 - 11	0.7	30 - 30
- Coffee and tea	32	4.3	4.3	0 - 11	0 - 11	1.0	30 - 30
- Cereals and cereal preparations	138	1.8	2.4	0 - 6	0 - 15.52	1.4	30 - 68
- Oilseeds, fats and oils and their products	117	1.1	1.1	0 - 6	0 - 6	2.1	30 - 30
- Sugar and confectionery	28	0.9	4.1	0 - 6	0 - 17.47	1.4	30 - 68
- Beverages, alcohol and tobacco	76	5.2	5.2	0 - 6	0 - 6	0.4	30 - 30
- Cotton	8	3.8	3.8	0 - 6	0 - 6	0.8	30 - 30
- Other agricultural products n.e.s.	177	0.5	0.5	0 - 6	0 - 6.8	3.4	30 - 30
Non-agricultural products (including petroleum)	6,731	2.1	2.1	0 - 11	0 - 11	1.7	0 - 30
- Non-agricultural products (excluding petroleum)	6,683	2.1	2.1	0 - 11	0 - 11	1.7	0 - 30
- - Fish and fish products	310	0.1	0.1	0 - 6	0 - 6	7.8	30 - 30
- - Mineral products and metals	1,107	0.8	0.8	0 - 6	0 - 6	2.6	15 - 30
- - Chemicals and photographic products	1,647	0.9	0.9	0 - 6	0 - 6	2.3	0 - 30
- - Wood, wood pulp, paper and furniture	415	2.4	2.4	0 - 6	0 - 6	1.2	30 - 30

Product description	MFN						Bound tariff
	No. of lines	Average (%)	Average[a] (%)	Range (%)	Range[a] (%)	Coefficient of variation (CV)	Range[b] (%)
- - Textiles	698	6.2	6.2	0 - 11	0 - 11	0.8	30 - 30
- - Clothing	285	11.0	11.0	6 - 11	6 - 11	0.0	30 - 30
- - Leather, rubber, footwear and travel articles	210	2.7	2.7	0 - 11	0 - 11	1.5	30 - 30
- - Non-electrical machinery	784	0.5	0.5	0 - 11	0 - 11	4.4	0 - 30
- - Electrical machinery	399	1.1	1.1	0 - 6	0 - 6	2.1	0 - 30
- - Transport equipment	255	1.4	1.4	0 - 6	0 - 6	1.8	30 - 30
- - Non-agricultural products n.e.s.	573	2.7	2.7	0 - 6	0 - 6	1.1	0 - 30
- Petroleum	48	0	0	0 - 0	0 - 0	0.0,	30 - 30
By ISIC sector[b]							
Agriculture and fishing	516	1.8	1.8	0 - 11	0 - 11	1.5	30 - 68
Mining	113	0.3	0.3	0 - 6	0 - 6	4.2	30 - 30
Manufacturing	7,160	2.3	2.3	0 - 11	0 - 17.47	1.6	0 - 68
By HS section							
01 Live animals; animal products	460	1.5	1.5	0 - 11	0 - 11	1.9	30 - 68
02 Vegetable products	432	2.8	3.0	0 - 11	0 - 15.52	1.1	30 - 68
03 Fats and oils	70	1.7	1.7	0 - 6	0 - 6	1.6	30 - 30
04 Prepared foodstuffs, etc.	322	2.9	3.2	0 - 11	0 - 17.47	1.1	30 - 68
05 Mineral products	214	0.2	0.2	0 - 6	0 - 6	5.9	30 - 30
06 Products of the chemical or allied industries	1,554	0.8	0.8	0 - 6	0 - 6.8	2.5	0 - 30
07 Plastics and rubber	311	1.8	1.8	0 - 6	0 - 6	1.6	30 - 30
08 Hides, skins and leather	79	2.1	2.1	0 - 6	0 - 6	1.4	30 - 30
09 Wood and articles of wood	149	2.3	2.3	0 - 6	0 - 6	1.3	30 - 30
10 Pulp of wood, paper, etc.	241	2.2	2.2	0 - 6	0 - 6	1.3	30 - 30
11 Textiles and textile articles	972	7.5	7.5	0 - 11	0 - 11	0.6	30 - 30
12 Footwear and headgear	55	7.9	7.9	0 - 11	0 - 11	0.5	30 - 30
13 Articles of stone	174	1.5	1.5	0 - 6	0 - 6	1.7	15 - 30
14 Precious stones, etc.	59	1.4	1.4	0 - 6	0 - 6	1.8	30 - 30
15 Base metals and articles thereof	698	0.8	0.8	0 - 6	0 - 6	2.6	30 - 30
16 Machinery and mechanical appliances	1,207	0.7	0.7	0 - 11	0 - 11	3.1	0 - 30
17 Transport equipment	267	1.5	1.5	0 - 6	0 - 6	1.8	30 - 30
18 Precision instruments	288	1.5	1.5	0 - 6	0 - 6	1.8	0 - 30
19 Arms and ammunition	69	4.2	4.2	0 - 6	0 - 6	0.7	30 - 30
20 Miscellaneous manufactured articles	162	4.6	4.6	0 - 6	0 - 6	0.6	30 - 30
21 Works of art, etc.	7	6.0	6.0	6 - 6	6 - 6	0.0	30 - 30
By stage of production							
First stage of production	972	1.2	1.3	0 - 11	0 - 15.52	2.0	30 - 68
Semi-finished products	2,611	1.6	1.6	0 - 11	0 - 17.47	2.2	0 - 68
Finished products	4,207	2.8	2.8	0 - 11	0 - 11	1.4	0 - 68

a Includes the *ad valorem* equivalents of duties applied under the price band system. The *ad valorem* equivalents for the specific component of the price band were calculated by the Secretariat based on the prices per unit according to the volumes and value of imports from January to December 2018.

b The bindings are provided on the basis of the HS 2012 classification, and the rates applied on the basis of HS 2017; there may therefore be discrepancies as to the number of lines that are included in the analysis.

Source: WTO Secretariat calculations based on data provided by the authorities.

3.44. Tariffs of 0% or 4% are applied to express delivery shipments and postal items: 0% is applied to goods valued f.o.b at up to USD 200 per shipment, while 4% is applied to goods whose f.o.b. value exceeds USD 200 up to a maximum of USD 2,000 per shipment.

3.1.3.2 Tariff bindings

3.45. During the Uruguay Round, Peru bound all its tariffs at two levels: 30% and 68%. In 2019, it maintains three levels: 68%, 30% and 0%; the latter results from the ITA Agreement. The lines bound at 68% are for agricultural products such as dairy produce, maize, rice and sugar. Some of these products (48 tariff lines) are also subject to the SPFP. The tariffs applied by Peru in 2019 have all been below the bound levels. Historically, according to the authorities, all the tariffs applied by Peru have been below the bound levels. That includes tariffs resulting from the application of the price band, since they are subject to a 15% ceiling, and in no case can an MFN tariff higher than the bound level be applied.[36]

3.1.3.3 Preferential tariffs

3.46. Within the framework of the Andean Community (CAN), Peru grants preferential treatment to imports from the Plurinational State of Bolivia, Colombia and Ecuador. Peru also has preferential agreements in force with member countries of the European Free Trade Association (EFTA) (Iceland, Liechtenstein, Norway and Switzerland); member countries of the Pacific Alliance; Canada; Chile; China; Costa Rica; Cuba; the United States; Honduras; Japan; the member countries of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay); Mexico; Panama; the Republic of Korea; Singapore; Thailand (Early Harvest Protocol); the European Union; and the Bolivarian Republic of Venezuela. Peru also grants preferential treatment to imports from countries that have signed agreements within the framework of the Latin American Integration Association (LAIA). The lowest average preferential tariffs are applied within the frameworks of the Pacific Alliance, MERCOSUR and the agreements with Canada, the United States and Singapore; those are followed by the preferences granted to member countries of the EFTA. In the great majority of cases, the average preferential tariff applied to agricultural products is higher than the one applied to non-agricultural products (Table 3.4).

Table 3.4 Analysis of preferential tariffs applied to countries with which Peru has negotiated trade agreements, 2018 (excluding SPFP AVEs)

	Number of lines	Total		WTO categories			
				Agricultural products		Non-agricultural products (excluding petroleum)	
		Average (%)	Duty-free lines (%)[a]	Average (%)	Duty-free lines (%)[a]	Average (%)	Duty-free lines (%)[a]
MFN	**7,790**	**2.2**	**69.9**	**2.9**	**50.6**	**2.1**	**72.7**
Bilateral agreements							
Canada	7,790	0.1	98.4	0.5	89.1	0.0	99.8
Chile	7,790	0.6	92.0	0.7	85.3	0.6	93.0
China	7,790	1.0	81.0	0.3	88.4	1.1	79.7
Korea, Rep. of	7,790	0.4	84.2	0.5	86.6	0.4	83.7
Costa Rica	7,790	0.4	90.9	0.6	85.7	0.3	91.7
Cuba	7,790	2.2	69.9	2.8	50.8	2.1	72.7
United States	7,790	0.0	99.6	0.1	97.6	0.0	99.9
Honduras	7,790	0.9	84.3	2.1	62.3	0.7	87.7
Japan	7,790	0.4	90.0	1.3	72.8	0.2	92.6
Mexico	7,790	0.3	92.5	1.3	69.4	0.2	96.1
Panama	7,790	0.7	83.7	1.1	72.9	0.6	85.3
Singapore	7,790	0.1	98.8	0.4	92.1	0.0	99.9
Switzerland	7,790	0.3	92.2	0.9	83.0	0.2	93.6
Thailand	7,790	1.5	81.5	1.4	75.4	1.5	82.4
European Union	7,790	0.6	87.6	1.2	78.0	0.5	89.0
Venezuela, Bolivarian Republic of	7,790	0.7	87.5	1.6	66.8	0.6	90.8
Mercosur							
Argentina	7,790	0.1	96.3	0.2	81.3	0.0	98.7
Brazil[b]	7,790	0.1	96.4	0.2	81.5	0.0	98.8
Paraguay	7,790	1.3	81.5	1.7	71.4	1.2	82.9

[36] Supreme Decree No. 153-2002-EF of 1 July 2002.

	Number of lines	Total		WTO categories			
				Agricultural products		Non-agricultural products (excluding petroleum)	
		Average (%)	Duty-free lines (%)[a]	Average (%)	Duty-free lines (%)[a]	Average (%)	Duty-free lines (%)[a]
Uruguay	7,790	0.9	91.1	0.1	97.5	1.0	90.0
Andean Community	7.790	0,0	100.0	0.0	100.0	0.0	100.0
EFTA							
Iceland	7,790	0.3	92.3	0.8	83.6	0.2	93.6
Liechtenstein	7,790	0.3	92.1	0.9	82.5	0.2	93.6
Norway	7,790	0.4	91.5	1.2	77.6	0.2	93.6
Pacific Alliance							
Chile	7,790	0.0	98.8	0.2	94.2	0.0	99.5
Colombia	7,790	0.0	98.7	0.2	93.7	0.0	99.5
Mexico	7,790	0.1	98.5	0.3	92.4	0.0	99.5

a The duty-free lines include those negotiated under the agreement, in addition to those provided for in the MFN tariff.
b Excluding products originating in free zones.

Note: Where the preferential tariff is higher than the MFN tariff, the MFN tariff has been used to calculate the averages. For the 48 lines subject to the price band, only the *ad valorem* component of the band has been taken into account.

Source: WTO Secretariat calculations based on data provided by the authorities.

3.47. Peru does not apply tariff quotas to MFN imports. It does, however, apply preferential tariff quotas, having negotiated and applied them under agreements with EFTA (Switzerland only), Canada, Costa Rica, the United States, Mexico, Panama, the European Union and Uruguay (MERCOSUR). A rate of 0% applies to in-quota imports under preferential tariff quotas; the MFN or preferential tariff, depending on the agreement, applies to out-of-quota imports. For tariff quotas applicable to products subject to the price band, preferential treatment is granted to both the *ad valorem* and specific components. There was limited use of quotas during the review period. For example, in 2018, the preferential quotas for pork imported from Canada, yellow maize from the United States and ice cream and milk from the European Union were the only ones to be filled. In other cases, quotas were put in place but not filled (as in the case of butter and cheese from the European Union, chicken leg quarters from the United States and beans and footwear from Mexico). In most cases the quota has not been used (Table 3.5).

Table 3.5 Preferential quotas by country, 2018

	Number of lines	HS code	In-quota tariff	Out-of-quota tariff	Quota volume	Volume imported
Country and product						
Canada	**35**					
Sugar	8	1701, 1702	0	0	4,654	0
Meat, boneless, rib cut	2	0201, 0202	0	11	122	0
Meat of swine	22	0203, 0206, 0209, 0210	0	6	504	504
Offal	3	0206	0	0	7,387	0
Costa Rica	**17**					
Meat of bovine animals	8	0201, 0202	0	11	1,014	0
Food supplements	7	2106	0	0/0+SPFP	3,200	0
Dairy products	2	0402	0	0	2,000	0
United States	**56**					
Refined soya-bean oil	2	1507	0	0	10,342	0
Rice	4	1006	0	0	132,523	34
Standard quality meat of bovine animals	5	0201, 0202	0	11	1,352	56
Chicken leg quarters (with bone in)	4	0207, 1602	0	6	23,988	19,791
Offal of bovine animals	4	0206, 0504	0	0	15,938	13
Ice cream	2	2105	0	0	707	89
Powdered milk	14	0402	0	0	12,839	11,242
Yellow maize (corn)	1	1005	0	0	844,739	844,739
Butter	4	0405	0	0	1,179	160
Processed dairy products	6	0403, 1901	0	0	4,716	0
Cheese	8	0406	0	0	6,933	243
Yogurt	2	0403	0	0	165	0
Mexico	**44**					
Avocados	1	0804	0	6	8,000	0

	Number of lines	HS code	In-quota tariff	Out-of-quota tariff	Quota volume	Volume imported
Cocoa beans	3	1801	0	0	1,000	0
Footwear	7	6402, 6404, 6405	0	11	200,000	27,948
Dried chillies (paprika)	5	0904	0	0	4,900	0
Beans	3	0713	0	6	4,000	2,062
Evaporated milk and dulce de leche	2	0402, 1901	0	0	2,000	0
Maize (corn)	7	1005	0	0	100,000	0
Oranges	1	0805	0	6	2,550	0
Cocoa paste, butter, fat, oil and powder	7	1803, 1804, 1805	0	6	2,000	0
Bananas	1	0803	0	6	2,000	0
Dairy preparations	3	1901	0	0	4,716	0
Grapefruit and lemons	4	0805	0	6	1,700	64
Panama	**15**					
Food for animals	1	2309	0	0/0+SPFP	5,000	0
Meat of bovine animals	8	0201, 0202	0	11	1,037	0
Maize and potato starch	3	1103, 1108	0	0+SPFP/ 6+SPFP	100	0
Ham	1	0210	0	6	100	0
Condensed milk	1	0402	0	0+SPFP	200	0
Dulce de leche	1	1901	0	0+SPFP	50	0
Switzerland	**9**					
Meat of bovine animals	1	0210	0	11	100	0
Cheese	8	0406	0	0	500	0
European Union	**201**					
Garlic	2	0703	0	6	560	0
Rice	5	1006	0	0/0+SPFP	25,500	1
Sugar	22	1701, 1702	0	0/0+SPFP	12,650	0
Cocoa powder	1	1805	0	0	450	0
Meat of bovine animals	13	0201, 0202, 0206, 0210, 1602	0	11	1,610	0
Meat of swine	12	0203	0	6	6,000	0
Meat and edible offal of poultry and other animals	38	0207, 0210, 1602	0	6	5,625	5
Ice cream	2	2105	0	0/6	105	105
Mushrooms of the genus *Agaricus*	2	0711, 2003	0	0/6	75	0
Milk	14	0402	0	0	4,500	4,500
Maize (corn)	7	1005	0	0/0+SPFP	15,000	0
Sweet corn	6	0710, 0711, 2001, 2004, 2005, 2008	0	0	525	4
Butter	4	0405	0	0/0+SPFP	375	373
Preparations suitable for infants	3	1901	0	0	750	0
High sugar content products	62	1704, 1806, 1901, 2006, 2007, 2009, 2101, 2106, 3302	0	6	5,750	125
Cheese	8	0406	0	0	3,750	201
Rum	1	2208	0	6	75,000	20,930
Uruguay	**1**					
Wool tops	1	5105	0	6	150	76

Source: Information provided by the authorities.

3.1.3.4 Tariff concessions

3.48. The number of tariff concessions is limited. The regime of temporary admission for re-export in the same state and that of temporary admission for inward processing allow for the payment of customs duties and other taxes applicable to imports for consumption and other surcharges to be suspended so that goods are exported within a determined period of time after undergoing inward processing.[37] In 2018, the f.o.b value of imports under the temporary admission regimes for re-export in the same state and for inward processing was USD 2,525.5 million and USD 320.9 million, respectively.

3.49. According to Article 147 of the Customs Law, imports for certain institutions and for certain uses are exempt from customs duties. Noteworthy among these are samples without commercial value; medicines and inputs for treating cancer, HIV/AIDS and diabetes; and goods imported by

[37] Inward-processing operations are those in which the good is transformed, processed (including mounting, assembly or incorporation into other goods) and/or repaired.

universities, higher education institutes and educational centres solely for teaching purposes.[38] Imports of certain capital goods for use in "productive" activities in the High Andean and Amazon regions are exempt from the general sales tax (IGV) and from tariffs.[39]

3.1.4 Other charges that affect imports

3.50. Imports, like domestically produced goods, are subject to the IGV[40] and the municipal promotion tax (IPM). Certain products may also be subject to the selective consumption tax (ISC) (Table 3.6). On 1 January 2015, the customs clearance charge for processing the DAM was eliminated for the import-for-consumption and customs warehousing regimes.

Table 3.6 Import taxes, 2019

Tax	Type of tax	Rate	Tax base	Observations
General sales tax (IGV)	*Ad valorem*	16%	Customs value plus tariffs and other import taxes	The goods listed in Appendix I to the Single Harmonized Text of the Law on the IGV and the ISC are exempt from the IGV.
Municipal promotion tax (IPM)	*Ad valorem*	2%	Customs value plus tariffs and other import taxes, except for the IGV	Applies to goods subject to the IGV.
Selective consumption tax (ISC)				
Products subject to the value system				
	Ad valorem	0%; 10%; 17%; 20%; 25%; 30%; 40%; 50%.	Customs value plus corresponding import duties	The following goods are taxed under this system: new or used motor vehicles, mineral waters, alcoholic beverages of more than 6°, cigars and cheroots, and tobacco.
Products subject to application of a fixed amount				
	Specific	PEN per unit of measurement: PEN 1.27/gallon of gasoline; PEN 51.72/tonne of anthracite; PEN 1.25/litre of spirits	According to the volume imported, expressed in units of measurement: unit, litre, tonne or gallon.	The following goods are taxed: alcoholic beverages, cigarettes of dark or blond tobacco, gasoline for engines, kerosene, gas oil, anthracite for energy use and bituminous coal for energy use.
Products subject to the retail selling price scheme				
	Ad valorem	35%	The retail selling price suggested by the producer or importer multiplied by the factor obtained by dividing the unit by the sum of the IGV and IPM rates plus one (0.847)	Only alcoholic beverages of 0° to 6° are taxed.

Source: Ministry of the Economy and Finance (2018), Single Harmonized Text of the Law on the IGV and ISC, Lima (Supreme Decree No. 055-99-EF); Payments and Guarantees: Customs Taxation. Online information viewed at: http://www.sunat.gob.pe/orientacionaduanera/pagosgarantias; and Appendices to the Single Harmonized Text of the Law on the IGV and ISC. Online information viewed at: https://www.mef.gob.pe/es/por-instrumento/decreto-supremo/826-d-s-n-055-99-ef/file.

3.51. The tax base for the IGV and the IPM is the value determined by customs plus the customs duty and other taxes applicable to the import. Imported goods subject to the IGV are also subject to the IPM, for which the tax base is the same as for the IGV (Table 3.6). The IGV is not cumulative: it applies only to the value added at each stage of the economic cycle, deducting the tax paid at earlier stages. It is structured according to the tax-against-tax (debit-against-credit) method, that

[38] Law No. 27450 of 11 May 2001 and Supreme Decree No. 004-2011-SA of 11 April 2011.

[39] The capital goods eligible for this exemption are listed in Annex 2 to Supreme Decree No. 051-2010-EF (Regulations implementing the Law promoting the development of production activities in high-Andean areas) and in Law No. 27037, Law on the promotion of investment in the Amazon region and amending regulations thereto. See WTO document G/SCM/N/315/PER of 6 July 2017.

[40] Law No. 29666 of 20 February 2011.

is, value added is determined by subtracting from the sales value the tax levied on purchases of goods related to the line of business.[41]

3.52. The IGV on imports is paid in advance in accordance with the IGV collection regime for domestic sales and, under Law No. 29173, which approved the collection regime for the IGV (Box 3.1), is subject to the payment of an additional percentage of the IGV: 3.5%, 5% or 10% depending on the product concerned. This results in a tax credit affecting the balance actually owed. Goods considered sensitive to fraud (mainly clothing) are subject to an adjusted collection regime in accordance with provisions set out in the Annex to Supreme Decree No. 034-2018-EF (Table A3.3).

Box 3.1 The IGV collection regime for domestic sales

Scope of application: The collection regime consists of a system for advance payment of the IGV applicable to definitive imports of goods subject to that tax, in which the importer pays an additional percentage of the IGV corresponding to subsequent operations. SUNAT acts as withholding agent and issues an assessment of the amount of IGV payable.

Amount of the operation: consists of the customs value determined in accordance with the value system in effect, plus the customs duties and other taxes applying to the goods import, in addition to anti-dumping and countervailing duties as the case may be. The amount collected, the methods for determining it, the exchange rate used for the payment, and the operations that are excluded from the regime are provided for in Law No. 28053, as amended, and in Supervisory Authority Resolution No. 203-2003/SUNAT.

Changes to the customs value or those resulting from a change in the national subheadings declared in the customs declaration for goods (DAM) or simplified import declaration (DSI) will be taken into account to determine the amount of the operation, even if challenged, so long as they are made prior to release of the goods and provided that the additional amount to be collected from the importer for such changes exceeds PEN 100.00.

Percentages applied to the amount of the operation:

10%: When the importer is affected by any of the following circumstances on the date on which the DAM or DSI is numbered:

- Having no duly confirmed tax residence.
- Having been notified by SUNAT that its single taxpayers' registration (RUC) has been cancelled.
- Having had its activities temporarily suspended.
- Having no RUC or having failed to indicate it in the DAM or DSI.
- Is engaging for the first time in a customs operation, or doing so under the customs regime concerned.
- Having RUC registration but not being subject to the IGV.

5%: When the importer is bringing used goods into the country.

3.5%: When the importer is not affected by any of the above circumstances.

For certain goods indicated in the Supervisory Authority Resolution, SUNAT may rule that the amount to be collected will be based on whichever of the following calculations results in the highest amount:

- Multiplying a fixed amount by the number of units of the imported good indicated in the DAM and applying a weighted average selling exchange rate.
- Applying the appropriate percentage (10%, 5% or 3.5%) to the amount of the operation.

For the definitive import of goods by means of a DSI, the amount of IGV to be collected will be determined according to the percentages, and not the fixed amount.

For imports sensitive to valuation fraud:

The IGV to be collected will be determined by whichever of the following methods results in the higher amount:

- Applying the percentage established in the appropriate paragraph above to the amount of the operation.
- Multiplying a fixed amount, which must be expressed in national currency, by the number of units of the imported good, regardless of the unit of measurement, indicated in the DAM.

The national subheadings that include goods sensitive to fraud and the fixed amounts to be applied in calculating the amount to be collected are listed in the Annex to Supreme Decree No. 034-2018-EF (Table A3.3).

Source: SUNAT.

[41] Online information from SUNAT. Viewed at: http://www.sunat.gob.pe/orientacionaduanera/pagosgarantias.

3.53. The ISC is an indirect tax on the domestic production or importation of certain goods, such as fuels, spirits, new and used vehicles, aerated beverages and cigarettes (Table 3.7). The ISC is applied by means of three systems: (a) a value system, for the goods indicated in Section A of new Appendix IV of the Single Harmonized Text (TUO)-IGV, with the tax base consisting of the value of the sale or, in the case of imports, the customs value plus import-for-consumption duties; (b) a specific system (fixed amount), for the goods indicated in new Appendix III and Section B of new Appendix IV of the TUO-IGV, as well as gambling, with the tax base consisting of the volume sold or imported, expressed in terms of quantity and units of measurement depending on the product concerned (the national subheading indicated in the DAM for imports); and (c) a value system based on retail selling price for the goods indicated in Section C of new Appendix IV of the TUO-IGV, with the tax base consisting of the retail selling price suggested by the producer or importer multiplied by a factor obtained by dividing the unit by the sum, rounded to three decimal places, of the IGV rate, including the IPM rate, plus one (0.847). The goods indicated in Section D of new Appendix IV of the TUO-IGV are subject alternatively to section A (value system), Section B (specific system based on fixed amount) or Section C (value system based on retail selling price) of new Appendix IV of the TUO-IGV. The tax to be paid is the higher of those obtained by applying the rate or fixed amount. The goods indicated in Section D of new Appendix IV consist of alcoholic beverages (Table 3.7).[42]

Table 3.7 Selective consumption tax (ISC) on certain alcoholic beverages, 2019

Goods (Alcoholic Beverage)			Methods	
Tariff heading	Degree of alcohol	Section B of new Appendix IV – specific system (fixed amount) (PEN per litre)	Section A of new Appendix IV – value system (rate) (%)	Section C of new Appendix IV – value system based on retail selling price (rate) (%)
2203.00.00.00	0° to 6°	1.25	n.a.	35
2204.10.00.00 2204.29.90.00 2205.10.00.00 2205.90.00.00	More than 6° up to 20°	2.50	25	n.a.
2206.00.00.00	More than 12° up to 20°	2.70	30	n.a.
2208.20.22.00 2208.70.90.00 2208.90.20.00 2208.90.90.00	More than 20°	3.40	40	n.a.

n.a. Not applicable.

Source: SUNAT.

3.1.5 Import prohibitions, restrictions and licensing

3.54. The importation of certain goods into Peru may be banned or restricted in order to preserve or protect human life and health, public morals, natural resources and the environment, or in compliance with international agreements signed by Peru, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Peru does not apply quantitative import restrictions.

3.55. Only a handful of products are subject to an import ban (Table 3.8). They have not changed since the previous trade policy review in 2013, except that imports of used tyres are no longer banned or suspended but are now restricted and must comply with the sectoral regulations issued by the Ministry of the Environment.[43]

[42] Supreme Decree No. 093-2018-EF. Viewed at: https://busquedas.elperuano.pe/normaslegales/modifican-la-tabla-del-literal-d-del-nuevo-apendice-iv-del-t-decreto-supremo-n-093-2018-ef-1646369-4/.

[43] Legislative Decree No. 1278, Law on Integral Solid Waste Management and its implementing regulations adopted through Supreme Decree No. 014-2017-MINAM.

Table 3.8 Prohibited imports, 2019

Product	Reason	Legal instrument
Used clothing and footwear for commercial purposes	Health protection	Law No. 28514 of 25 May 2005
Used goods, machinery or equipment that use radioactive sources	Safety	Law No. 27757 of 19 June 2002 Supreme Decree No. 001-2004-EM of 25 March 2004
Used engines, components and spare parts for road vehicles	Safety	Supreme Decree No. 053-2010-MTC of 11 November 2010
Toy known as "Yoyo loco"	Health protection	Supreme Decree No. 003-2004-SA of 19 February 2004

Source: Information provided by the authorities.

3.56. Imports of several other products are restricted by law and must be authorized by one or more competent bodies in order to be assigned to a particular customs regime.[44] They include live animals, certain products and by-products of animal origin; veterinary products; products of plant origin; substances that deplete the ozone layer; nuclear material; pharmaceuticals; narcotics; ethyl and methyl alcohol; agricultural and household pesticides; chrysotile asbestos and its by-products; and weapons, ammunition and explosives (the last three are prohibited under the customs warehousing regime).[45]

3.57. During the review period, Peru notified the WTO that it does not apply import licensing and that the country has no administrative procedure relating to import licensing.[46]

3.1.6 Anti-dumping, countervailing and safeguard measures

3.1.6.1 Anti-dumping and countervailing measures

3.58. The WTO Agreements on Anti-Dumping, Subsidies and Countervailing Measures and Safeguards are part of Peruvian legislation. In addition, the procedures for the application of anti-dumping and countervailing measures are governed by Supreme Decree No. 006-2003-PCM, as amended by Supreme Decree No. 004-2009-PCM. Non-Members of the WTO are subject to Supreme Decree No. 133-91-EF, as amended by Supreme Decree No. 051-92-EF, supplemented by Supreme Decree No. 006-2003-PCM. None of these decrees has been amended since the preceding review in 2013.

3.59. In essence the institutional framework remains the same. The Commission on Dumping, Subsidies and the Elimination of Non-Tariff Trade Barriers (CDB) of the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI)[47] is the authority tasked with applying trade defence measures to avert and correct injury in the market caused by dumping practices or subsidies.[48] The CDB is empowered to launch and conduct investigations into such practices and to apply anti-dumping or countervailing duties in keeping with Peru's WTO commitments, existing free trade agreements and supranational and domestic regulations on the matter.[49] The INDECOPI Tribunal's Chamber for the Defence of Competition is responsible for

[44] The list of bodies that issue entry/exit authorization for restricted goods is available on the SUNAT website at: http://www.sunat.gob.pe/orientacionaduanera/mercanciasrestringidas/cuadroEntidades.html.

[45] The list of banned and restricted imports is available on the SUNAT website at: http://www.sunat.gob.pe/orientacionaduanera/mercanciasrestringidas/listas/listaMercanciaProhibida-Importa.pdf.

[46] WTO documents G/LIC/N/1/PER/3 - G/LIC/N/3/PER/9 of 14 August 2013; G/LIC/N/1/PER/4 - G/LIC/N/3/PER/10 of 11 June 2014; G/LIC/N/1/PER/5 - G/LIC/N/3/PER/11 of 13 July 2015; G/LIC/N/3/PER/12 of 14 August of 2018; and G/LIC/N/3/PER/13 of 15 August 2018.

[47] INDECOPI is a specialized public body attached to the Office of the President of the Council of Ministers.

[48] Legislative Decree No. 1212, published on 24 September 2015, replaced all references to the Dumping and Subsidies Commission (CFD) in existing legislation with the name Commission on Dumping, Subsidies and the Elimination of Non-Tariff Trade Barriers (*Comisión de Dumping, Subsidios y Eliminación de Barreras Comerciales No Arancelarias* (CDB)).

[49] Article 26.1 of Law on the Organization and Functions of INDECOPI (Legislative Decree No. 1033).

reviewing the decisions of the CDB regarding dumping and subsidies investigations at the second instance.[50] The Tribunal's rulings may be subject to judicial challenge.

3.60. Peruvian producers who consider that they have suffered injury or threat of injury as a result of the import of like products that have allegedly been subsidized or imported at dumped prices may request the CDB to initiate an investigation to determine whether or not dumping or subsidization has occurred. If it determines that the relevant conditions are fulfilled, the CDB launches an administrative procedure to determine whether the investigated goods have been imported at a price lower than their normal value or have been subsidized, and if this has caused injury or threatens to cause injury or retardation in a domestic industry over a particular period. Besides these investigations, the CDB also conducts other administrative procedures such as sunset reviews and interim or changed circumstances reviews. It also deals with matters raised regarding the collection of duties by the Customs Administration.

3.61. During the 2013-18 period, the CDB initiated 15 anti-dumping proceedings, less than half as many as in the 2007-12 period (38 investigations). Only four of the 15 proceedings were initial investigations[51], the others being reviews of existing anti-dumping measures (Table 3.9). During 2013-18, four definitive anti-dumping duties and one provisional measure were applied, while six measures expired and two others were revoked. Peru has regularly submitted its semi-annual reports to the WTO Committee on Anti-Dumping Practices. According to the latest notification, there were eight anti-dumping measures in place as at 31 December 2018, of which four applied to China (sandals, other types of footwear, fasteners and stainless steel cutlery), one to Argentina (biodiesel), one to India (textiles), one to Pakistan (textiles) and one to the United States (biodiesel). At the same date, four anti-dumping measures had been in place for over ten years.[52]

Table 3.9 Trends in anti-dumping and countervailing measures, 2013-18

	2013	2014	2015	2016	2017	2018
Anti-dumping measures						
Initiations	1	6	3	3	2	0
Initial investigations	1	0	1	0	2	0
Reviews	0	6	2	3	0	0
Sunset reviews	0	3	1	3	0	0
Changed circumstances	0	3	1	0	0	0
Provisional measures imposed	0	0	0	0	1	0
Definitive anti-dumping measures	1	0	1	1	0	1
Expiry	0	2	3	0	1	0
Expiry of time-limit	0	1	3	0	1	0
During review	0	1	0	0	0	0
Sunset reviews	0	0	0	0	0	0
Changed circumstances	0	1	0	0	0	0
Revocations	0	0	1	0	1	0
Countervailing measures						
Initiations	0	1	1	0	1	1
Provisional measures imposed	0	0	0	0	0	0
Definitive countervailing measures	0	0	0	1	0	1
Expiry	0	0	0	0	0	0
Revocations	1	0	0	0	0	0

Source: Information provided by the authorities.

3.62. During the period 2013-18, the CDB initiated four subsidy investigations of which two resulted in the application of definitive countervailing measures; no provisional measures were applied (Table 3.9). No reviews were started during this period, but one countervailing measure was revoked. According to Peru's most recent notification to the Committee on Subsidies and Countervailing Measures, the country had three countervailing measures in place at the end of 2018, on biodiesel imports from Argentina and biodiesel and ethanol from the United States.[53] An

[50] The authorities indicated that the 44 resolutions issued by the Chamber for the Defence of Competition adjudicating on appeals against decisions of the CBD have either fully or partially upheld 93% of the CBD's rulings.

[51] One of those investigations ended without the application of duties.

[52] WTO document G/ADP/N/322/PER of 12 March 2019.

[53] WTO document G/SCM/342/PER of 18 February 2019.

investigation is currently underway into alleged subsidy practices relating to exports to Peru of yellow maize originating in the United States.

3.63. During the review period, the CDB effectively shortened the time needed to complete its procedures. For example, requests from producers for the initiation of investigations and reviews were resolved on average within 84 calendar days, whereas the maximum legal time-frame is 90 calendar days. In addition, dumping and subsidy investigations and reviews were completed in 14.9 months on average, which is shorter than the period stipulated under the WTO Agreements.

3.1.6.2 Safeguard Measures

3.64. Under domestic legislation, the application of safeguard measures in the WTO framework is governed by Supreme Decree No. 020-1998-ITINCI, as amended by Supreme Decree No. 017-2004-MINCETUR. In addition, there is legislation regulating procedures for the application of bilateral safeguards under trade agreements signed by Peru.[54] In the Andean Community, Decision 452 of 1999 governs the application of safeguards on third-country imports, while Chapters IX and XI of the Cartagena Agreement and Decision 563 of 2003 regulate the application of safeguards to intra-community imports.

3.65. The CDB acts as the investigating authority in proceedings for the imposition of safeguard measures. Investigations are initiated at the request of a party with a legitimate interest, or *ex officio*. Should the CDB decide to initiate a safeguard investigation in the WTO framework, it must publish the notification of initiation in the Official Journal *El Peruano* and conduct an investigation within six months as from the date of that publication in order to determine whether increased imports of a product are causing or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. At the end of the investigation the CDB issues a technical report stating whether or not it recommends the application of the safeguard measure. If there are critical circumstances in which delay would cause damage to the domestic industry that is difficult to repair, and should the applicant so request, the CDB issues a preliminary technical report assessing whether provisional safeguard measures are needed. In either case, the decision regarding the application of a measure rests with a multisectoral commission comprising MINCETUR and the MEF and the Minister with responsibility for the domestic industry concerned.

3.66. No safeguard investigations were initiated by Peru in the WTO framework during the 2013-18 period. The most recent investigation took place in 2009 and ended without the application of a measure.

3.67. Within the Andean Community, Peru maintains provisional remedial duties of 29% on the c.i.f. value of imports of fats (NANDINA subheadings 1516.20.00, 1511.90.00 and 1517.90.00) from Colombia.[55]

3.1.7 Other measures affecting imports

3.68. Peru does not apply local content requirements.

3.2 Measures directly affecting exports

3.2.1 Customs procedures and requirements

3.69. Export procedures have not changed substantially since Peru's last review in 2013; the General Procedure for Definitive Exportation DESPA-PG.02 (version 6), as amended, remains in force.[56]

3.70. Natural or legal persons wishing to export must have a single taxpayers' registration number (RUC). Exceptionally, natural persons not required to have a RUC may export using a personal identity document (national identity document, foreign identity card or passport) provided that the

[54] Supreme Decree No. 006-2009-MINCETUR of 16 January 2009 and Supreme Decree No. 008-2009-MINCETUR of 16 January 2009.

[55] Ministerial Resolution No. 226-2005-MINCETUR/DM.

[56] Resolution No. 0137-2009-SUNAT/A of the National Deputy Customs Supervisory Authority.

exports are occasional (up to three operations per year) and do not exceed a f.o.b. value of USD 1,000 per operation; or it is a one-off export valued at between USD 1,000 and USD 3,000.

3.71. Under the General Customs Law, exports must fall under a specific regime (customs destination), which may be: definitive export; temporary export for reimport in the same state; and temporary export for outward processing.[57] The customs destination must be requested in the customs declaration for goods (DAM).

3.72. The definitive export procedure is automated. The transmission and processing of the DAM and other export documents take place entirely by digital means via the "teledespacho" system. For exports with a f.o.b. value higher than USD 5,000, the formalities must be handled by a customs broker who must obtain authorization from the exporter (before the numbering of the DAM), which may be electronic. If the f.o.b. value of the exports does not exceed USD 5,000, the exporter may undertake the formalities directly by submitting a simplified export declaration, which may also be processed electronically via the Internet or directly at Customs Administration windows.

3.73. The documents that must accompany the export declaration are: a copy of the transport document (bill of lading, air waybill or land transport waybill) or hard copies in the case of international air waybills issued electronically (CPAIE); the invoice or sales voucher or other proof of the transfer of goods to a customer domiciled abroad; the authorization given to the customs broker, if applicable; and permits and certificates required by the competent authority depending on the nature of the merchandise (e.g. works of art, weapons, ammunition, etc.).

3.74. The customs broker requests the definitive export regime by electronically transmitting the DAM (code 40) to SUNAT. Once the Customs Administration's computer system has validated and numbered the DAM, the exporter must place the goods in a temporary warehouse under the authority of Customs so that a control channel can be assigned to the declaration.[58] The Customs Administration uses risk management techniques to determine the control channel, which may be amber or red. If the amber channel is assigned, immediate shipment of the merchandise is authorized. If the red channel is assigned, the DAM will be examined and a physical inspection will be carried out. In 2018, 90% of definitive export declarations passed through the amber channel and the remaining 10% through the red channel. According to the authorities, the proportion of perishable goods that passed through the red channel was 1%-2%.

3.75. Goods must be shipped within 30 calendar days as from the day following the numbering of the DAM.

3.2.2 Taxes, charges and levies

3.76. No taxes are levied on exports of goods (and services).

3.2.3 Export prohibitions, restrictions and licensing

3.77. Exports of certain goods are prohibited or restricted in order to preserve or protect human life and health, public morals, natural resources, the environment and historical and cultural heritage, or to comply with international agreements signed by Peru, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). There is a ban on the export of wild species, vicunas and guanacos and hybrids thereof; hides, skins and furskin articles made from wild animals protected by the Ministry of Agriculture and Irrigation; all species of wild orchid; cedar and mahogany; maca in its natural state; specimens of camu camu berries *(Myrciaria dubia)*; cat's claw *(Uncaria tomentosa* and *Uncaria guianensis)* and pijuayo (*Bactris gasipaes*). It is

[57] Title III (Export regimes) and Title IV (Processing regimes) of the General Customs Law.

[58] The temporary storage requirement is waived for perishable goods requiring special packaging and for live animals, as well as for dangerous goods, heavy and/or large machines and products to be exported in bulk. In such cases, after processing the DAM, the customs broker must forward the request for direct loading to the warehouse designated by the exporter.

also forbidden to export certain organic chemicals; products containing asbestos; and archaeological, historical and artistic objects.[59]

3.78. Exports of alpacas and llamas are subject to quotas set by the Ministry of Agriculture and Irrigation so as ensure the conservation of the genetic material of these species and foster economic, social and environmental sustainability in the Andean region and among farming communities and agricultural firms involved in this activity. In 2018, the export quota for alpacas was set at 600 animals and that for llamas at 100.[60] The quotas were not used during the review period and the authorities are therefore considering a review of them.

3.79. Peru does not use export licences.

3.2.4 Export support and promotion

3.2.4.1 Promotion

3.80. The Ministry of Foreign Trade and Tourism (MINCETUR) is responsible for formulating export promotion policy. For its part, the Peruvian Commission for the Promotion of Exports and Tourism (PROMPERÚ) is attached to MINCETUR and is the body responsible for implementing that policy. Its functions include formulating, approving, implementing and evaluating strategies and plans to promote exportable goods and services in accordance with sectoral policies and objectives. PROMPERÚ performs its task of promoting Peruvian exports in coordination with the Network of Trade Offices Abroad (OCEX), of which there are now 35, spread across 30 countries.

3.81. The activities of MINCETUR and PROMPERÚ are guided by the National Strategic Export Plan 2015-2025 (PENX 2025), the aims of which include to sustainably expand and diversify exports of goods and services with added value and to make the export sector more competitive.[61] The Plan consists of four main pillars for achieving those aims, with actions specific to each pillar.

3.82. Under pillar 1 entitled "Internationalization of business and market diversification", PROMPERÚ undertakes promotional activities such as trade missions, business conferences and organizing and supporting the participation of Peruvian companies in international fairs.[62] To promote exports through digital channels, the E-Commerce Programme was introduced in August 2018 to assist small and medium-sized enterprises in formulating their e-commerce strategies and linking up with international digital trade platforms and logistics platforms.

3.83. In pillar 2, "Developing diversified, competitive and sustainable exportable supply", the focus has been on meeting and certifying international standards in order to differentiate Peru's exportable supply. Accordingly, since 2016, more than 3,000 producers have received training and 2,100 producers have been certified in respect of good agricultural practices, organic production and fair trade. Furthermore, 865 enterprises have benefitted from training and certification programmes on good manufacturing practices and sustainability. In addition, sectoral brands have been created (e.g. Super Foods, Cafés del Perú, Alpaca del Perú), as well as collective brands per product (Zicuyo: white cocoa; Aynoca: quinoa; Ecochira: organic bananas, etc.) with a view to improving the positioning of Peruvian products on international markets.

3.84. Pillar 3, "Trade Facilitation and efficiency of the international logistics chain", consists of measures to simplify export-related customs procedures, as well as export insurance and financing schemes, these two latter components being addressed in Section 3.2.5. As pertains to simplification, one standout feature is the *Exporta Fácil* mechanism, under which export formalities can be completed without any need for a customs broker and using a simplified procedure. To stimulate exports by SMEs, the maximum value of goods that may be exported under this

[59] The list of banned exports can be viewed on the SUNAT website at: http://www.sunat.gob.pe/orientacionaduanera/mercanciasrestringidas/listas/listaMercanciaProhibida-Exporta.pdf.

[60] Ministerial Resolution No. 0003-2018-MINAGRI of 8 January 2018.

[61] National Strategic Export Plan 2025 approved by means of Ministerial Resolution No. 377-2015-MINCETUR of 9 December 2015.

[62] Some 231 trade promotion events were held during the period 2016-18 with 5,500 participating companies and generating business worth more than USD 5,700 million.

mechanism was raised from USD 5,000 to USD 7,500 as of January 2018.[63] Another facilitation measure was the adoption of the legal amendments needed for the Istanbul Convention (ATA Carnet) to enter into effect for Peru, allowing for the temporary import of goods for international events such as trade fairs and trade missions.[64] With those amendments, all that will be required is the posting of a single annual guarantee and the submission of a simple form in order to complete the import procedure with the customs authorities of the 78 countries that are party to the Convention. There are also plans to introduce a module for simultaneous inspection by the control authorities (SUNAT, National Agrarian Health Service (SENASA), etc.) through the single window for foreign trade (VUCE) in order to shorten export times for perishable goods in the cold chain.

3.85. Pillar 4 is entitled "Generating capacities for the internationalization and consolidation of an export culture". In this framework, capacity-building activities are organized for public and private sector representatives. Such activities provided support to entrepreneurs, civil servants and users in general in over 40,000 instances between 2016 and 2018. They include the provision of guidance and information on foreign trade, together with specialized workshops and technical assistance in this area. A virtual classroom for training on foreign trade was recently inaugurated so as to reach a greater number of users. These activities have been carried out through the National Network of Regional Export Trade Offices (OCER) in different parts of the country. Another export promotion mechanism is the *Ruta Exportadora* programme designed to boost the competitiveness of companies pursuing internationalization by enhancing their managerial capacity and giving them tools for differentiating their exportable supply. The mechanism provides companies with consultancy and technical assistance services covering the spectrum from traditional export routes to more specialized product routes and product-market routes. With the support of the *Ruta Exportadora* scheme, 16 export consortia have been set up in sectors such as agribusiness, textiles and wood, which in 2018 generated exports to the tune of USD 30 million, benefitting 59 enterprises.[65]

3.2.4.2 Duty drawback

3.86. Peru maintains a duty drawback scheme under which producers and exporters of goods may secure the full or partial refund of tariffs paid on imported inputs or on goods produced using imported inputs bought from local suppliers, which are incorporated into or used in the production of an export product. To be eligible for this benefit, the c.i.f. value of the imported inputs used may not exceed 50% of the f.o.b. value of the exported product, and exports of the product may not surpass USD 20 million annually per tariff subheading and per unrelated beneficiary company. Moreover, 291 tariff lines are excluded from this scheme, including some of Peru's main traditional exports.[66]

3.87. The scheme allows for the refund of a percentage of the f.o.b. value of the exported product. The amount of the refund may not exceed 50% of the production cost of that product. The refund rate varied throughout the review period in response to tariff changes made by Peru. Between 2013 and 2014 the rate was 5%; it was subsequently lowered to 4% in 2015 and to 3% in 2016, only to be raised again (4%) in 2017 and 2018. The rate has been 3% since 1 January 2019.[67]

3.88. The drawback scheme does not cover exports of products incorporating foreign inputs that were imported into Peru under suspensive customs procedures (temporary admission and/or import), or which have been the subject of inward clearance under the replacement of duty-free goods regime, inward clearance with tariff exemption, or inward clearance with preferences or duty-free treatment under trade agreements. Neither can the refund be requested for the use of imported fuel or any other energy source where it serves to generate heat or power to obtain the

[63] Supreme Decree No. 420-2017-EF, published on 30 December 2017.

[64] Peru ratified the Istanbul Convention through Supreme Decree No. 031-2018-RE. As at the end of May 2019, Peru had yet to ratify the Addenda to the Convention.

[65] The data on the outcomes of the promotional activities described in this section were provided by the authorities.

[66] The excluded products include copper ores and concentrates; raw gold; fresh edible offal of bovine animals and fish waste; oilseed cake; and coffee. The list is contained in the Annex to Supreme Decree No. 127-2002-EF of 25 August 2002 and was amended by Supreme Decrees No. 056-2003-EF of 6 May 2003 and No. 098-2006-EF of 6 July 2006.

[67] Supreme Decree No. 282-2016-EF of 15 October 2016.

exported good, nor for the spare parts and replacement tools that are used to produce the said good.[68]

3.2.5 Export finance, insurance and guarantees

3.89. Peru has a range of export finance and guarantee mechanisms designed mainly to support micro, small and medium-sized enterprises (MSMEs). These mechanisms fall under pillar 3 of the National Strategic Export Plan 2025 (PENX 2025) and some are recent creations.

3.90. The Programme to Promote Internationalization (PAI) was set up in 2016 by MINCETUR and aims to encourage the internationalization of MSMEs through the co-funding of studies and activities designed to boost their management capacities. The PAI is a non-repayable competitive fund endowed with PEN 25 million from the MSME Fund to provide support to exporting companies over a four-year period. There are four modalities for participation in the PAI: (i) boosting the exports of companies that are still not regular exporters; (ii) consolidating export activity and international strategic alliances for enterprises that are already regular exporters and striving to increase their exports by developing markets and/or products through participation in international tenders; (iii) franchises, to support the commercial expansion of enterprises already consolidated on the domestic market and keen to replicate their business model abroad through franchises; and (iv) establishing a commercial presence, whereby exporting companies with extensive experience in serving international markets are assisted in establishing commercial footholds abroad.[69] A competition is announced through one of the programme's operators, proposals are evaluated and the winning enterprises selected. By the end of May 2019, 115 enterprises had benefited under this programme, and it is hoped that the number will reach 200 by the end of the year.

3.91. The Export Credit Insurance Scheme for Small and Medium-Sized Enterprises (SEPYMEX), created in 2002 by the MEF and managed by the Development Finance Corporation (COFIDE), is still in operation. COFIDE is Peru's development bank and operates as a second-tier bank that channels its programmes and lines of credit for Peruvian enterprises through financial intermediaries. The SEPYMEX scheme seeks to facilitate access to credit and cut the costs of funding for exporting SMEs through a credit insurance policy issued to financial intermediaries as security for pre- and post-shipment loans granted by them to exporting SMEs. The policy insures loans with a term not exceeding 180 days and covers 50% of the amount of the loan (or 75% in the case of enterprises that are first-time users of SEPYMEX) up to a maximum of USD 6 million per enterprise. Since the launch of SEPYMEX and up to December 2018, security had been provided for 40,627 credit operations worth USD 2,999 million in total. At the close of 2018, the asset value of SEPYMEX was USD 38.4 million.[70]

3.92. Legislative Decree No. 1399 was published in September 2018 to further stimulate the productive development of MSMEs and exporting companies by creating the CRECER Fund, which is administered by COFIDE. This fund's regulations were approved in January 2019.[71] The CRECER Fund will consolidate other existing funds (including the MSME Fund and the SEPYMEX Fund) and will absorb their resources (see below). Hedging instruments and investment funds will be used in the export sector. Export credit guarantees will cover as much as 75% of the amount of a loan, and coverage per beneficiary export company will be capped at USD 6 million.[72]

3.93. Another new export financing mechanism operates through Municipal Savings and Loans Funds (CMACs). Supported by the Government, the federation of these funds has created a product for providing pre-and post-shipment credit to finance exports. Bearing in mind that CMACs specialize in microfinance, the intention is for such credit to meet primarily the needs of exporting MSMEs. The financial product was launched in March 2019 and is offered by five CMACs. Projections are for 600 operations worth a total of USD 17.7 million during the first year of implementation.

[68] The General Drawback Procedure is included in document DESPA-PG.07 (Version 4), Resolution No. 0118-2014-SUNAT/300000 of 26 March 2014.
[69] Online information from the PAI. Viewed at: http://pai.org.pe/es/modalidades.
[70] Information provided by the authorities.
[71] Supreme Decree No. 007-2019-EF of 11 January 2019.
[72] Articles 15 and 18 of Supreme Decree No. 007-2019-EF.

3.3 Measures affecting production and trade

3.3.1 Incentives

3.94. Peru operates a limited number of incentive programmes. SUNAT estimates that for 2019, tax expenditure on incentives will account for 2.13% of GDP (the immediate impact is estimated at 1.5% of GDP (Table A3.2)). The principal beneficiary is the agricultural sector, thanks to the effect of the deferral of the IGV for agricultural products.

3.95. In its most recent notification to the WTO Committee on Subsidies and Countervailing Measures in 2017, Peru notified five programmes: four regional programmes (Special Development Zones (ZEDs) of Ilo, Matarani, Paita and Tumbes, Tacna Free Zone and Trade Zone (ZOFRATACNA), Promotion of the Amazon Region, and Promotion of High Andean Areas) and a sectoral fisheries programme designed to promote aquaculture and small scale-fishing (FONDEPES).[73]

3.3.1.1 General support programmes

3.96. Since 2007, Peru has applied a special procedure for the advance refund of the IGV (RERA IGV), which involves refunding the IGV on the purchase of new capital and intermediate goods, and construction services, whether imported or purchased locally, used during the pre-production stage of an investment project in economic activities subject to the IGV, or for export.[74] RERA beneficiaries must use imports and/or domestic purchases directly to implement the investment commitment under the project.

3.97. A second special procedure for the advance refund of the IGV was set up in 2014 through Law No. 30296 published on 30 December 2014. Its aim is to encourage the purchase, renewal or replacement of capital goods. The procedure entails refunding the tax credit generated on imports and/or local purchases of new capital goods by taxpayers with annual sales of up to 300 tax units (UIT) who produce goods and services subject to the IGV or for export. RERA tax credit is credit that has not been exhausted for a period of at least three consecutive months following the date of the entry in the register of purchases. To benefit under the RERA, taxpayers must have been present in the Single Taxpayers' Register for a prescribed minimum period and must fulfil their tax obligations. Under Legislative Decree No. 1259, published on 8 December 2016, the RERA will remain in place until 31 December 2020 and applies to imports and/or purchases made during the time it remains in effect.

3.98. The National Innovation Programme for Competitiveness and Productivity (INNÓVATE Perú), run by the Ministry of Production (PRODUCE), was established on 24 July 2014 by Supreme Decree No. 003-2014-PRODUCE to act as an executive arm of that Ministry, and enjoys economic, administrative, financial and technical autonomy. The INNÓVATE Perú programme seeks to boost business productivity by strengthening enterprises and entrepreneurs in all branches of economic activity and facilitating linkages among them. Its specific aims are to enhance innovation in company production processes, foster innovative entrepreneurship, and facilitate the incorporation and adaptation of technologies for enterprises. The INNÓVATE Perú programme co-finances innovation and entrepreneurial projects in order to boost business productivity through national competitions in the four portfolios of business innovation; entrepreneurship; productive development; and ecosystem institutions.[75] In pursuit of its objectives, INNÓVATE Perú currently manages the following funds that cover four major areas of financing: (i) the FINCyT 3 fund for implementing the Project for Improving Levels of Productive Innovation at the Domestic Level (INNÓVATE 1.0, successor to the Project on Innovation for Competitiveness (FINCyT 2)); (ii) the Research and Development Fund for Competitiveness (FIDECOM); (iii) the Framework Fund for Innovation, Science and Technology (FOMITEC); and (iv) the MSME Fund. The funds administered by INNÓVATE Perú are allocated through nationwide competitions for the non-repayable co-funding of scientific research, development and technological innovation projects across all sectors of production.[76]

[73] WTO document G/SCM/N/315/PER of 6 July 2017.
[74] Legislative Decree No. 973 of 9 March 2007.
[75] Online information from INNÓVATE Perú. Viewed at: https://www.innovateperu.gob.pe.
[76] Information provided by the authorities and online information from INNÓVATE Perú. Viewed at: https://www.innovateperu.gob.pe/quienes-somos/nuestros-fondos.

3.3.1.2 Sectoral support programmes

3.99. In 2017, Peru notified the WTO of the activities of the National Fisheries Development Fund (FONDEPES), a public implementing agency for the production sector, the purpose of which is to promote aquaculture and small-scale fishing, especially aspects of basic infrastructure for the development and distribution of fisheries resources.[77] FONDEPES finances credit programmes for the small-scale fisheries and aquaculture sector aimed at infrastructure development, business consultancy and ensuring supplies of materials, equipment, gear and tackle, as well as education, training, research and technology transfer programmes. The beneficiaries are natural or legal persons engaged in aquaculture and small-scale maritime and continental fishing (Section 4.2).

3.100. Peru's most recent notification on domestic support in agriculture, submitted in May 2019, included a series of programmes such as those of the National Agricultural Innovation Institute (INA), among other things on technology generation, transfer and adaptation, and seed production; the Payments for Competitiveness Programme; AGRORURAL programmes; the Andean Highlands and Wilderness Export Programme; the Agrarian Health Development Programme (PRODESA); the Guarantee Fund For Rural Areas and Agricultural Insurance (FOGASA); the Special Rural Transport Infrastructure Project (PROVIAS); the "Qali Warma" National School Nutrition Programme; and the loans granted by the Agricultural Bank (AGROBANCO).[78] Farmers benefit from a preferential 15% income tax rate and the advance refund of the IGV.[79]

3.101. As a second-tier development bank, the Development Finance Corporation (COFIDE) offers credit lines and programmes to finance various sectors, thereby facilitating their access to credit.

3.3.1.3 Support for micro and small enterprises (MSEs)

3.102. The Ministry of Production (PRODUCE) lays down national policies for promoting MSEs and coordinates sectoral policy coherence and complementarity with public and private sector bodies. The National Council for the Development of Micro and Small Enterprises (CODEMYPE) approves the National Plan for Promoting and Formalizing the Competitiveness and Development of MSEs.

3.103. MSEs are eligible to benefit from a series of promotional instruments designed principally to boost their competitiveness.[80]

3.104. The MSME Fund was created by Law No 30230, published on 12 July 2014, which prescribes tax measures and the simplification of procedures and permits relating to the promotion and stimulation of investment in the country. The purpose of the Fund is to buttress the productive development of micro, small and medium-sized enterprises (MSMEs) by improving the terms and conditions of access to funding and raising their levels of productivity. To that end the MSME Fund offers financial and non-financial mechanisms. The Fund is managed by COFIDE; its managing committee comprises representatives of MEF, PRODUCE, the Ministry of Agriculture and Irrigation, MINCETUR, and the National Competitiveness Council. Originally, the life of the MSME Fund was to be ten years up to 2024. Legislative Decree No. 1223 of 25 September 2015 augmented the MSME Fund and expanded its life to 30 years, until 2044.

3.105. Funds totalling PEN 600 million (about USD 182 million) were allocated to the MSME Fund. They consisted of PEN 500 million in financial instruments intended for funds that provide guarantees or securities to enterprises in the financial system or stock markets, and non-financial instruments worth PEN 100 million to be used for boosting the productivity of SMEs through instruments for technological dissemination, business innovation and management optimization, as well as production chains and market access. INNÓVATE Peru operates the Supplier Development Programme (PDP) and the Cluster Support Programme (PAC), which are non-financial MSME Fund

[77] WTO document G/SCM/N/315/PER of 6 July 2017.
[78] WTO documents G/AG/N/PER/19, G/AG/N/PER/20 and G/AG/N/PER/21 of 14 May 2019.
[79] Law No. 27360 (approving the regulations on promotion of the agricultural sector) of 20 October 2000.
[80] Supreme Decree No. 013-2013-PRODUCE defines micro, small and medium-sized enterprises in terms of their annual sales levels. A microenterprise is one with annual sales of up to 150 UIT. One UIT was equivalent to PEN 4,200 in June 2019. A small enterprise is one with annual sales ranging from 150 to 1,700 UITs, while a medium-sized company has annual sales of between 1,700 and 2,300 UITs. The raising of the ceiling for annual sales may be reviewed every two years.

instruments. At present, only funds earmarked for non-financial instruments (PEN 100 million) remain in the MSME Fund, as the PEN 500 million were transferred to the CRECER Fund (see below).

3.106. The PDP is designed to facilitate vertical linkage among enterprises by improving supplier capacities and their relations with anchor companies (purchasers). Entities eligible to apply are anchor companies and coordinating entities in any sector of the economy.[81] There are two modes of participation: (a) mode 1 entails the participation of an anchor company and at least five suppliers (ten in the case of the agricultural sector); (b) mode 2 involves the participation of a coordinating body, the anchor company and at least five suppliers (ten in the case of the agricultural sector). Foreign companies not domiciled in Peru may only participate under mode 2. Eligible projects are those designed to enhance the quality and productivity of suppliers to an anchor company. The improvements may be associated, *inter alia,* with product quality, timeliness of delivery, costs, and inputs and/or services. Applications may be submitted for two types of project: category 1 relates to the implementation of the improvement plan, in which connection the applicant company must already have a diagnosis and an improvement plan with respect to its suppliers; category 2 concerns the diagnosis, formulation and implementation of the improvement plan, where the applicant company does not yet have a diagnosis or an improvement plan pertaining to its suppliers and is applying in order to obtain co-funding for the preparation of the said diagnosis and plan.

3.107. For category 2 projects, INNÓVATE Perú co-funding may be as much as 80% of the project cost for the diagnosis and formulation of improvement plans but may not exceed PEN 50,000; the applicant is also required to make a minimum monetary contribution of 18% of the cost of the project, while the non-monetary contribution may be as much as 2%. For category 1 projects, the maximum contribution by INNÓVATE Perú is 70% of the value of the project, but is capped at PEN 600,000; a minimum monetary contribution of 10% is required, while the non-monetary contribution may be as much as 20%. The project may only be presented through the online system of the INNÓVATE Perú programme (http://sistemaenlinea.innovateperu.gob.pe).[82] Up until April 2019, three competitions had been held in this respect.

3.108. The Cluster Support Programme (PAC) seeks to strengthen ties between enterprises (especially MSMEs) in the same geographical area and/or value chain in order to enhance their productivity and competitiveness. Non-repayable co-funding is provided in two phases: the initial phase or Component I, and the project implementation phase or Component II. Cluster initiative proposals submitted under Component I must comprise an applicant institution and at least five MSMEs representing the cluster initiative.[83] The duration of the Component I aspect of proposals may not be more than 12 months or less than six months. The maximum possible contribution to the project is PEN 650,000; the maximum percentage for the non-repayable contribution in relation to the overall cost of the project is 70%; the minimum percentage for the monetary contribution by the applicant is 18% of the said cost, and the maximum percentage for the non-monetary contribution in relation to the overall project cost is 12%. INNÓVATE Perú assesses and approves the results of the implementation of Component I before setting the budget for implementing Component II. The duration of the latter will be 24-36 months as from the signing until the closure of the contract for the allocation of non-repayable funds. The maximum amount of the contribution to the project is PEN 1,350,000; the maximum percentage for the non-repayable contribution must be between 50% and 70% of the overall project cost; the minimum percentage for the applicant's monetary contribution must be between 18% and 30% of the overall project cost and the maximum

[81] Anchor companies must be private companies capable of catalysing the rest of the economy and generating multiplier effects by mobilizing a broad range of companies around their production chain; priority is given to exporting companies. Their annual sales volume for the preceding fiscal year must be above or equal to that of a medium enterprise (>1,700 UITs in 2019). Foreign companies that are not domiciled in Peru may participate in a project under the Supplier Development Programme as anchor companies, provided that the entity applying for the project is a coordinating entity. Coordinating entities must be specialized public or private, for-profit or non-profit legal persons established in the country, with prior experience in the implementation and management of production and business development projects and with a minimum of three years of uninterrupted operation and minimum experience of two years in the implementation and/or management of development projects with MSMEs.

[82] Online information from INNÓVATE Perú. Viewed at: https://www.innovateperu.gob.pe.

[83] The applicant institution is the one tasked with submitting a cluster initiative proposal to the PAC competition, and in the Component I phase it represents the companies and support institutions participating in the cluster. Online information from INNÓVATE Perú. Viewed at: https://www.innovateperu.gob.pe/convocatorias/por-tipo-de-concurso/concursos-para-instituciones-del-ecosistema/178-programa-de-apoyo-a-clusters.

percentage for the non-monetary contribution must be between 12% and 20% of the total project cost.[84]

3.109. MSMEs may also benefit from initiatives to facilitate their access to funding. For example, COFIDE supports MSEs through financial intermediation, since, as a second-tier bank it channels funds through financial intermediaries whose end beneficiaries are MSEs. COFIDE also endeavours to remove obstacles in the way of funding for MSEs through the administration of trusts.[85] In 2017, the last year for which data are available, COFIDE approved credit for MSEs under its credit lines and programmes totalling USD 498.9 million (up 66.1% on 2016).[86]

3.110. In collaboration with MEF and the Bank of the Nation and pursuant to Emergency Decree No. 008-2017, COFIDE administered the Fund to Increase the Production Capacity of MSEs (FORPRO), a trust fund worth PEN 707.8 million, until 31 December 2018 when it ceased to exist. The purpose of FORPRO was to encourage the formalization of MSEs by funding fixed assets and working capital, especially for those affected by the El Niño phenomenon. FORPRO also granted a subsidy for working capital loans for enterprises with net annual income of less than 1,700 UITs. FORPRO was absorbed by the CRECER Fund at the end of 2018 (see below).

3.111. Legislative Decree No. 1399 of 12 September 2018 promoting the strengthening of micro, small and medium-sized enterprises and establishing the CRECER Fund, amalgamated some of the above-mentioned funds to create the CRECER Fund. The purpose of this latter fund is to finance and provide guarantees and other financial products to MSMEs and exporting companies with a view to fostering their productive and entrepreneurial development. The funds that were amalgamated included the MSME Fund, the Support Fund for Small and Medium-Sized Enterprises (created by Emergency Decree No. 050-2002), the Business Guarantee Fund (FOGEM, created by Emergency Decree No. 024-2009) and FORPRO. CRECER Fund resources are managed by COFIDE and may be utilized through financial system companies to: grant credit for the purchase of fixed assets and/or as working capital; provide guarantees and/or cover for credit; secure operations carried out by bonding and guarantee companies; and grant loans, guarantees and/or cover for factoring operations or the discounting of credit instruments, among other things. The beneficiaries of the CRECER Fund are MSMEs[87] and small and medium-sized exporting companies.[88] The life of the CRECER Fund is 30 years (until 2048).

3.112. COFIDE also manages the FONDEMI Trust, the resources of which also belong to PRODUCE. The FONDEMI serves to provide financial services to assist MSEs by channelling its funds through financial intermediaries. PEN 10.3 million were disbursed from FONDEMI funds during 2017; by the close of that year, the lending balance amounted to PEN 32.5 million and cumulative approvals since the launch of the trust stood at PEN 374.1 million.[89]

3.113. The Credit Support Programme for Small and Microenterprises (PAME), implemented by the Cooperation for Social Development Fund (FONCODES), is a national programme run by the Ministry of Development and Social Inclusion (MIDIS). Its overarching goal is to promote the development of micro-financing services and financial inclusion for rural small enterprises and microenterprises, which are cut off from the financial system.[90] The PAME finances lines of credit and other financial products via financial intermediaries. The PAME has two components: (i) the Bank of the Nation Trust, and (ii) the COFIDE Trust. The Bank of the Nation Trust in turn comprises two components: the Loan Fund, which serves to provide funding for institutions specialized in micro-financing for production, commerce and services, preferably in rural areas and with a special focus on persons or

[84] The maximum percentage funded by INNÓVATE Perú is 70% for structuring projects, open projects, inter-cluster projects and projects for the institutional strengthening of the cluster. That percentage is 50% for closed projects. Online information from INNÓVATE Perú. Viewed at: https://www.innovateperu.gob.pe/convocatorias/por-tipo-de-concurso/concursos-para-instituciones-del-ecosistema/178-programa-de-apoyo-a-clusters.

[85] Online information from COFIDE. Viewed at: http://www.cofide.com.pe/COFIDE/productos.

[86] COFIDE (2018), *Memoria Anual 2017*. Viewed at: http://www.cofide.com.pe/COFIDE/images/home/MEMORIA-ANUAL-consolidado-VF.pdf.

[87] In accordance with the definition given in Supreme Decree No. 013-2013-PRODUCE.

[88] As defined in Emergency Decree No. 050-2002 and Supreme Decree No. 171-2002-EF.

[89] COFIDE (2018), *Memoria Anual 2017*. Viewed at: http://www.cofide.com.pe/COFIDE/images/home/MEMORIA-ANUAL-consolidado-VF.pdf.

[90] Online information from FONCODES. Viewed at: http://www.foncodes.gob.pe/portal/index.php/nosotros/lineas-de-accion.

enterprises that have no access to credit within the formal financial system; and the Training and Technical Assistance Fund. The COFIDE Trust also has two programmes: (i) the Loan Programme, under which loans are granted to financial institutions for subsequent channelling towards rural micro and small enterprises (RMSEs); and (ii) the Guarantee Programme, which serves to provide cover for loans granted by financial intermediaries to RMSEs.

3.114. MSEs can also benefit under the PROMYPE line of credit operated by the Special Financial Support Programme for Micro and Small Enterprises (PROMYPE) created by Supreme Decree No. 134-2006-EF. The line of credit is managed by the Bank of the Nation, which grants funding to entities specializing in MSE financing.[91] The purpose of the line of credit is to enable financial institutions to fund working capital and fixed asset purchases for MSEs. The loans are denominated in national currency and are granted for a maximum term of 720 days (for working capital) and 1,800 days (for fixed assets). Loans extended to MSEs may be as much as PEN 6,000.

3.3.1.4 Regional development programmes

3.115. Peru has a range of regional development mechanisms, including Special Development Zones (ZEDs) and free zones. ZEDs are clearly circumscribed geographical areas that may be considered primary customs areas (encompassing customs premises, water and land areas for loading and unloading, moving and storing goods) for special treatment. ZEDS are export, processing, industry, marketing and service centres.

3.116. Law No. 30446 of 12 May 2016 establishing the complementary legal framework for Special Development Zones and the Tacna Free Zone and Trade Zone prescribed renaming the export, processing, industry, marketing and service centres (CETICOS) as Special Development Zones (ZEDs) and establishes their operations to be in the national interest so as to foster investment stability, stimulate employment, contribute to sustainable socio-economic development and promote competitiveness and innovation in the regions concerned. The Law further extended up to 31 December 2042 the time-frames for the validity of benefits, exemptions and the periods for which goods may remain in the ZEDs of Ilo, Matarani y Paita. Previously those benefits were to run until 31 December 2022, except in the Tumbes Zone (at the implementation stage) where they were available until the end of 2042. The Law stipulates that ZEDs constitute a "point of arrival", without prejudice to their status as primary customs zones for special treatment. The entry of goods destined for ZEDs annuls the temporary customs regimes.

3.117. The activities permitted in the ZEDs are goods manufacturing or production; in-bond processing *(maquila)* or assembly; warehousing, distribution and marketing of inputs, raw materials, intermediate products, components and spare parts, sub-assemblies or assemblies; warehousing of goods for re-export; repairs to machinery and equipment; and service activities such as packaging, crating and labelling. All goods may enter the ZEDs, except for: (a) goods subject to an import prohibition; (b) weapons and their accessories; and (c) goods that are harmful to health, the environment, safety or public morals. Companies located in the ZEDs are exempt from income tax, IGV, tariffs, and all charges, rates and contributions. The benefits are accorded to any Peruvian or foreign natural or legal person with the status of a user authorized to engage in the permitted activities, who enters into a contract for the assignment for consideration of physical space (land) with the general management of the ZED; or who acquires such property through a purchase-sale contract. ZEDs may use as much as 30% of the land assigned to them for activities other than those permitted in those zones; such activities enjoy no tax benefits whatsoever.

3.118. Peru has notified the Committee on Subsidies and Countervailing Measures of the activities of the ZEDs of Ilo, Matarani, Paita and Tumbes for the period 2015-16. The Tumbes ZED was being set up during that time.[92] Exports by ZEDs amounted to USD 35,290 million in 2015 and USD 35,250 million in 2016; imports were worth USD 10,647 million and USD 11,711 million, respectively.[93]

3.119. The purpose of the Tacna Free Zone and Trade Zone, created by the Law Governing the Tacna Free Zone and Trade Zone (Law No. 27688 of 28 March 2002, as amended), is to develop

[91] Online information from the Bank of the Nation. Viewed at: https://www.bn.com.pe/clientes/programa-microfinanzas/linea-credito-promype.asp.
[92] WTO document G/SCM/N/315/PER of 6 July 2017.
[93] WTO document G/SCM/N/315/PER of 6 July 2017.

Peru's southern region (Tacna) by promoting private investment in infrastructure for goods production and services activities. Goods coming from abroad are not subject to the payment of customs duties; only a special 6% tariff will be levied if they are stored in the Tacna Trade Zone. The benefits will be in force until 31 December 2041. Until 31 December 2042, authorized users engaging in industrial, agro-industrial, in-bond processing and assembly activities, and service activities including warehousing, distribution, unpacking, packing, crating, marking and labelling, in companies incorporated or established in the ZOFRATACNA, are exempt from income tax, IGV, ISC and IPM and from all taxes including Central Government, regional and municipal taxes, except for contributions to the Social Health Insurance (ESSALUD) scheme. Warehoused goods (coming from abroad) and goods manufactured in the ZOFRATACNA may enter the rest of Peruvian territory under the warehousing, importation for consumption, temporary importation for inward processing and temporary admission for re-export in the same state regimes.[94] The estimated tax expenditure for benefits to ZOFRATACNA was USD 2.73 million in 2015 and USD 3.5 million in 2016. ZOFRATACNA exports totalled USD 2.36 million in 2015 and USD 1.13 million in 2016, while imports were worth USD 225.9 million and USD 208.5 million, respectively.[95] Law No. 30446 amended Law No. 27688 and declared it a public need and in the national interest to develop the ZOFRATACNA for the conduct of industrial, agro-industrial, in-bond processing and service activities, as well as the Tacna Trade Zone.[96]

3.120. The Ministry of Foreign Trade and Tourism (MINCETUR) is the agency tasked with overseeing ZEDs and the ZOFRATACNA. Products exported to Peruvian territory from the special zones pay the lowest tariff rate negotiated by Peru in a trade agreement, and products definitively exported from Peruvian territory to a special zone are eligible for the drawback regime and refund of the IGV.

3.121. The Programme for the Promotion of Investment in the Amazon Region, created in 1999 and governed by Law No. 27037 of 30 December 1998 on the promotion of investment in the Amazon region, as extended and amended, grants subsidies to companies located in the Amazon region, which encompasses the regions of Loreto, Madre de Dios, Ucayali, Amazonas and San Martín, as well as the Amazon provinces and districts in the regions of Ayacucho, Cajamarca, Cuzco, Huánuco, Junín, Pasco, Puno, Huancavelica, La Libertad and Piura.[97] This programme is designed to promote the sustainable and overall development of the Amazon region through public and private investment. The tax concessions provided are only available to companies located in this area. They are granted for 50 years as of 1999. Taxpayers living in the Amazon region are given income tax exemption or reduction, depending on their activity; exemption from the IGV for sales of goods in the area for consumption there; exemption for services provided in the region and for construction contracts or the first sale of real estate by constructors in the region; and exemption from the IGV and the ISC on sales to dealers and end consumers of petroleum, natural gas and their by-products.[98] The estimated tax expenditure for this programme in 2015 and 2016 was 0.55% and 0.5% of GDP, respectively; the estimate for 2019 is 0.37% of GDP (Table A3.2).

3.122. The purpose of the Programme for the Promotion of High Andean Areas, established under Law No. 29482 of 2009 on the promotion of production development in high Andean areas, is to promote and encourage the development of production and services activities that generate value-added and the use of local labour in these areas. The beneficiaries of the programme are natural persons, MSEs, cooperative associations, communal and multi-communal companies that have their tax domicile, place of business and production premises in Andean areas at an altitude of 2,500 metres or more above sea level, and companies in general established at an altitude of 3,200 metres or more above sea level and engaged in any of the following activities: fish farming, aquaculture, meat processing, forestry plantations for commercial or industrial purposes, milk production, breeding of South American camelids and ovine animals and processing of their fibres

[94] Online information from ZOFRATACNA. Viewed at: http://www.zofratacna.com.pe/contenido.aspx?id=0100000013185D88D9C568A6241DED9A475711E618D34BFD8FE10556.

[95] WTO document G/SCM/N/315/PER of 6 July 2017.

[96] The Tacna Trade Zone is the geographical area comprising the district of Tacna and the commercial centres of the Alto de la Alianza district. Goods brought in from ZOFRATACNA free warehouses are exempt from the IGV, IPM, ISC and any other tax, and will pay only a special tariff of 6%.

[97] Law No. 27037 was regulated by Supreme Decree No. 103-99-EF, as amended.

[98] WTO document G/SMC/N/315/PER of 6 July 2017; Law No. 27037 on the promotion of investment in the Amazon region; and implementing regulations for the tax provisions contained in the Law on the promotion of investment in the Amazon region (Supreme Decree No. 103-99-EF).

and fleeces, agribusiness, handicrafts or textile production.[99] The concessions, which include exemption from income tax, tariffs and IGV on imports of capital goods, are in effect for ten years as of 19 December 2009, the date of publication of Law No. 29482.[100]

3.123. The Fund for the Promotion of Regional and Local Public Investment (FONIPREL) is a competitive fund intended mainly to co-finance Public Investment Projects (PIP) and pre-investment studies geared towards improving the delivery of services and basic infrastructure.

3.124. Until 2018, a tax refund programme had been in effect in the department of Loreto in the Selva region, which entailed refunding the IGV paid on purchases made by business people in that department from people in the rest of the country subject to the tax. To be eligible under the programme, the goods purchased must have been marketed and consumed in the same region. In addition, the company was required to have its tax domicile and administrative seat in Loreto; legal persons were required to be incorporated and registered in Loreto public registers and to conduct at least 75% of their operations in Loreto.[101] Law No. 30897 published on 28 December 2018 annulled the tax refund benefit for the department of Loreto as of 1 January 2019.

3.3.1.5 Programmes to promote research and development

3.125. The National Innovation Programme for Competitiveness and Productivity (INNÓVATE Perú) administers the FIDECOM and FOMITEC funds and the Project for Improving Levels of Productive Innovation at the Domestic Level (INNÓVATE 1.0), with a view to promoting innovation, the development of business ventures, and the absorption and adaptation of technology. The funds managed by INNÓVATE Perú are allocated through nationwide competitions for non-repayable co-funding of R+D+I projects across all sectors of production.

3.126. The Fund for Innovation, Science and Technology (FINCyT) existed from 2006 to 2012 and co-funded technological innovation projects in enterprises, and research and technological development at universities and research centres. The estimated cost of the second phase of FINCyT, called FINCyT 2, is USD 100 million; as at mid-2019, it was engaged in project closures, a process that was expected to be completed in August.

3.127. Implementation of the public investment project entitled Project for Improving Levels of Productive Innovation at the Domestic Level (INNÓVATE 1.0) began in 2016. Its overarching aim is to help drive the growth of business productivity by raising levels of innovation. The project is being implemented under the INNÓVATE Perú Programme. The total cost of the project is USD 100 million. The project consists of two components: boosting innovative capacities in industry and services (USD 82.2 million), and improving the environment for productive innovation (USD 13.6 million). The funds are allocated mainly on a competitive basis. The terms and conditions of each competition set out in detail the types of fundable projects, beneficiary eligibility, eligible costs and maximum percentages for the subsidization of eligible items that are deemed relevant, the requisite documentation of eligibility, and evaluation criteria, among other things.

3.128. The Research and Development Fund for Competitiveness (FIDECOM) spearheaded by PRODUCE, is endowed with PEN 200 million for promoting research and development in respect of productive innovation projects of practical use to enterprises. FIDECOM is a competitive fund available to industrial firms and civil associations legally established in Peru, as well as to formal microenterprises and their workers and managers, in association with academic institutions. FIDECOM may co-finance up to 75% of the total cost of projects pertaining to productive innovation and knowledge transfer for productive innovation and business management. The implementation period for FIDECOM projects may not exceed 24 months, and the ceiling for non-repayable funding is PEN 404,100.[102]

[99] Law No. 29482 of 19 December 2009 on the promotion of production development in high Andean areas and Supreme Decree No. 051-2010-EF, Regulations implementing the Law on the promotion of production development in high Andean areas.

[100] WTO document G/SCM/N/315/PER of 6 July 2017.

[101] Online information from SUNAT. Viewed at: http://orientacion.sunat.gob.pe/index.php/empresas-menu/devoluciones-empresas/reintegro-de-la-region-selva.

[102] FIDECOM is governed by Law No. 28939, which approves supplementary credit and the transfer of items in the public sector budget for fiscal year 2006, provides for the creation of funds, and stipulates other

3.129. The Framework Fund for Innovation, Science and Technology (FOMITEC), set up in 2013 and administered by INNÓVATE Perú, funds five programmes: (a) Dynamic and High-Impact Enterprises (PEN 50 million), developed by PRODUCE to provide seed capital for start-ups and entrepreneurs with a view to the launch and consolidation of technology- and innovation-based products and services; (b) Centres of Excellence (PEN 80 million), developed by the National Council for Science, Technology and Innovation (CONCYTEC), which funds the creation of advanced research centres in fields of strategic importance to the country's development; (c) Research Communities (PEN 19 million), developed by CONCYTEC to finance lines of research by 12 groups of researchers that will impact production sectors; (d) *Ideas Audaces* ("Bold Ideas" programme) (PEN 29 million), developed by CONCYTEC to fund research on, and the bringing to market of, innovations in the fields of health, agriculture and the environment; and (e) Advanced Human Capital Formation (PEN 85 million), also developed by CONCYTEC.[103]

3.3.2 Standards and other technical requirements

3.3.2.1 General framework

3.130. The general framework for implementing technical standards and regulations mirrors multilateral rules. During the period under review, significant legal and institutional changes took place, including the repeal of Legislative Decree No. 1030, the Law on National Standardization and Accreditation Systems. This was replaced by Law No. 30224, the Law creating the National Quality System (SNC) and the National Quality Institute (INACAL), of 11 July 2014.

3.131. Following the adoption of the new law, the main institutional change regarding standardization during the period under review was the formation of INACAL in 2014, which Law No. 30224 of 11 July 2014 created along with the SNC and the National Quality Council (CONACAL). INACAL is the SNC's governing body and highest technical and regulatory authority, and is responsible for the latter's operation according to the provisions of the Law. As part of its work, INACAL seeks to promote and enforce the National Quality Policy (PNC) with a view to fostering the development and competitiveness of economic activities and promoting consumer protection. The Institute is specifically responsible for standardization, accreditation and metrology activities, which its founding law requires it to undertake pursuant to both the Agreement on Technical Barriers to Trade and the international conventions and integration agreements on the subject to which Peru is party (see below).[104]

3.132. Law No. 30224 is governed by the principle of non-obstruction of trade and stipulates that its provisions should not be construed as justifying measures that have the purpose or effect of creating unnecessary barriers to international trade. The Law also guarantees national treatment to imported products and most-favoured-nation (MFN) treatment in the preparation, adoption or application of technical standards. It also provides that public and private entities in stakeholding sectors must be able to participate in the preparation and updating of the PNC, and that the members of the SNC must ensure compliance with transparency procedures pursuant to the international agreements signed by Peru.[105]

3.133. According to Law No. 30224, the SNC comprises CONACAL and INACAL, along with their technical and standing committees, and the public and private entities that make up the quality infrastructure. The SNC's purpose is to promote and enforce the PNC with a view to the development and competitiveness of economic activities and consumer protection.[106] The Law provides that the

measures (creation of FIDECOM); Law No. 29152 on the establishment and functioning of the Research and Development Fund for Competitiveness (FIDECOM); and Supreme Decree No. 003-2009-PRODUCE regulating Law No. 29152. Online information from INNÓVATE Perú. Viewed at: https://www.innovateperu.gob.pe/quienes-somos/nuestros-fondos/fomitec.

[103] Online information from INNÓVATE Perú. Viewed at: https://www.innovateperu.gob.pe/quienes-somos/nuestros-fondos/fomitec.

[104] Online information from INACAL. Viewed at: https://www.inacal.gob.pe/principal/categoria/acerca-de-inacal.

[105] Law No. 30224 of 11 July 2014, Article 4. Viewed at: https://www.inacal.gob.pe/repositorioaps/data/1/1/6/jer/legislacion/files/PLAN_14310_2015_LEY_CREACION_INACAL.PDF.

[106] Article 3 of Law No. 30224 of 11 July 2014. Viewed at: https://www.inacal.gob.pe/repositorioaps/data/1/1/6/jer/legislacion/files/PLAN_14310_2015_LEY_CREACION_INACAL.PDF.

SNC will be governed by the principle of harmonization, i.e. its activities must be carried out on the basis of the relevant international guidelines, directives and/or recommendations, or elements thereof, where they exist, with a view to facilitating trade in goods and services. The SNC must also: harmonize sectoral quality policies, as well as those of the different levels of government; steer and coordinate standardization, accreditation, metrology and conformity assessment activities, in accordance with international standards; and promote and facilitate the adoption and certification of quality standards.

3.134. CONOCAL is a coordinating body on quality issues, attached to the Ministry of Production (PRODUCE), consisting of representatives from both the public and the private sectors.[107] Its main functions are to: (a) submit the PNC for approval by the Council of Ministers; (b) promote sectoral quality policies within the PNC framework; (c) monitor PNC implementation; (d) promote and disseminate the development of national standardization, conformity assessment, accreditation and metrology programmes and/or plans; and (e) build consensuses on quality policy.[108]

3.135. The National Quality Institute (INACAL) is a specialized technical public body, also attached to PRODUCE, with legal status under public law; it has administrative, functional, technical, economic and financial autonomy.[109] The Institute is subject to the regulatory framework, plans and objectives approved by CONACAL. Its main general functions are to: (a) operate the National Quality System pursuant to the provisions of Law No. 30224; (b) prepare the PNC proposal and advocate for it before CONACAL; (c) manage, promote and monitor implementation of the PNC; (d) regulate and rule on standardization, accreditation and metrology issues; (e) administer and manage standardization, metrology and accreditation, with the possibility of delegating specific tasks to SNC members; (f) administer the national information service on technical standards and conformity assessment procedures, as provided for in the Agreement on Technical Barriers to Trade; and (g) represent Peru internationally and participate actively in standardization, metrology and accreditation activities, with the possibility of entering into agreements.

3.136. The legal framework regulating the standardization process in Peru consists of both national legislation and international and supranational regulations (Table 3.10).

Table 3.10 Legal framework governing the standardization process, 2019

Legal instrument	Description
International agreements:	
Legislative Resolution No. 26407	Approves the Agreement Establishing the WTO and the multilateral trade agreements contained in the Final Act of the Uruguay Round (December 1994)
ISO/IEC Guide 59:1994	Code of Good Practice for Standardization
Supranational standards:	
CAN Decision No. 376	Andean system of standardization, accreditation, testing, certification, technical regulations and metrology (currently under review)
CAN Decision No. 419	Amendment of Decision 376 (Andean system of standardization, accreditation, testing, certification, technical regulations and metrology) (currently under review)
CAN Decision No. 615	Notification information and technical regulation system of the CAN
CAN Decision No. 827	Guidelines for the preparation, adoption and application of technical regulations and conformity assessment procedures in CAN member countries and at the Community level
CAN Resolution No. 1685	Updating of the regulations of the Andean Standardization Network

[107] CONACAL is chaired by a representative of the Ministry of Production and has one representative from each of the following ministries: Economy and Finance, Foreign Trade and Tourism, Agriculture and Irrigation, Health, Environment, Energy and Mines, and Labour and Employment Promotion. It also has a representative from each of the following institutions: National Competitiveness Council, National Council for Science, Technology and Technological Innovation (CONCYTEC), National Assembly of Regional Governments, Association of Municipalities of Peru, National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI), consumer associations accredited to INDECOPI, and universities. Lastly, it includes two representatives from business associations (one of large firms and one of micro and small enterprises) and the Executive President of INACAL.

[108] Article 8 of Law No. 30224 of 11 July 2014. Viewed at: https://www.inacal.gob.pe/repositorioaps/data/1/1/6/jer/legislacion/files/PLAN_14310_2015_LEY_CREACION_INACAL.PDF.

[109] Online information from INACAL. Viewed at: https://www.inacal.gob.pe/principal/categoria/acerca-de-inacal.

Legal instrument	Description
National legal rules:	
Law No. 30224	Law creating the National Quality System and the National Quality Institute
Supreme Decree 046-2014-PCM	Supreme Decree approving the National Quality Policy
Supreme Decree 004-2015-PRODUCE	Supreme Decree approving the regulations governing the organization and functions of the National Quality Institute
Legislative Decree No. 668	Measures aimed at guaranteeing foreign and domestic free trade as a fundamental condition for the country's development (September 1991)
Supreme Decree No. 149-2005-EF	Regulatory provisions for the WTO Agreement on Technical Barriers to Trade in relation to goods and the WTO General Agreement on Trade in Services in relation to services
INACAL regulations:	
Directorial Resolution No. 037-2017 INACAL/DN	Regulation on the Development and Approval of Technical Standards, Guidelines and Standardization-Related Texts in Peru
Directorial Resolution No. 037-2017 INACAL/DN	Regulation on Technical Committees, Subcommittees and Working Groups on Standardization
Standardization guides:	
GP 001:2016	Principles and rules for the design and drafting of Peruvian technical standards
GP 002:2016	Guidelines for the presentation of texts on schemas, projects and Peruvian technical standards
GP-ISO/IEC 2:2013	Standardization and related activities. General vocabulary.
GP-ISO/IEC 21-1:2013 (revised in 2018)	Regional or national adoption of international standards and other outcomes of international standardization. Part 1: Adoption of international standards
GP-ISO/IEC 21-2:2013 (revised in 2018)	Regional or national adoption of international technical standards and other outcomes of international standardization. Part 2: Adoption of documents resulting from international standardization other than international technical standards

Source: Information provided by the authorities.

3.3.2.2 Standardization

3.137. Standardization activities are the exclusive responsibility of INACAL, in its capacity as governing body, and of the SNC. INACAL is a full member of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC); it also participates in the CODEX Alimentarius. At the regional level, INACAL is a member of the Pan American Standards Commission (COPANT), the Pacific Area Standards Congress (PASC) and the Andean Community (CAN). It also participates in the Sub-Committee on Standards and Conformance (SCSC) in the framework of Asia-Pacific Economic Cooperation (APEC). INACAL's Directorate of Standardization is responsible for standardization activities at the national level, supported by its Standing Committee on Standardization. The Directorate's main function is to promote the development and approval of Peruvian technical standards (NTPs) for all economic sectors. It enjoys technical and functional autonomy, and it adheres to the provisions of the WTO Agreement on Technical Barriers to Trade and international agreements on standardization.

3.138. The Directorate of Standardization has a Standing Committee on Standardization that sets up technical standardization committees (CTNs) tasked with executing the Standardization Programme that results in the preparation of NTPs. The CTNs may be subdivided into technical standardization subcommittees (SCs). [110] The Directorate directs the NTP standardization process, puts standards forward for approval, and manages and coordinates the regional and international harmonization process. It also prepares standardization programmes and updates them on a regular basis, taking into account demands from both the public and the private sectors. It also administers the national enquiry point for technical standards under the Agreement on Technical Barriers to Trade, and issues technical opinions on technical barriers to trade insofar as they relate to technical standardization activities.

3.139. NTPs are the main focus of standardization activities. The process of developing standards within the CTNs or of adopting those standards takes into account the level of protection, the state of the art in the country and the corresponding geographical and climatic conditions. The adoption of standards that could raise those applied by a particular economic agent to the level of a national benchmark is avoided. NTPs are reviewed every five years. Supervised by the Directorate, each CTN prepares work programmes, NTP projects, guidelines and texts related to standardization

[110] Regulation on Technical Committees, Subcommittees and Working Groups on Standardization, Directorial Resolution No. 037-2017-INACAL/DN, published in the Official Journal *El Peruano* on 21 September 2017.

activities in its sphere of activity, and is also responsible for the revision of NTPs, guidelines and texts on standardization activities that have been in existence for five years or more.

3.140. The standardization process involves the preparation of a technical document known as a "draft technical standard", which recommends that the preparation or revision of an NTP be included in the technical committee's work programme. The draft NTP is also submitted for stakeholder review. This process is announced in the Official Journal *El Peruano*. A deadline for submitting comments on the draft NTP is set at 60 days from its publication date, after which 30 days are provided for comments to be considered. The NTP must be approved through a resolution published in "El Peruano". The content of NTPs can relate to the following: terminology and definitions; classification; requirements; test methods; sampling and inspection; packaging; labelling; and good practices and management systems. These items are not mutually exclusive, and some NTPs may naturally correspond to more than one category.[111]

3.141. As at April 2019, INACAL had 157 technical committees. There were also 4,912 NTPs, guidelines and texts on standardization activities[112], of which 1,147 were identical to international standards. Of these, 242 were technical regulations (RTs) and became mandatory as part of an RT.[113]

3.142. At the CAN level, technical standardization takes place within the framework of the Andean Standardization Network (RAN), the regulations and operating guidelines for which are contained in Resolution 1685. Priority sectors include food, textiles and clothing, leather articles and footwear, and wood and furniture. Technical standards are harmonized at the Community level through the RAN, pursuant to the recommendations of the Code of Good Practice for the Preparation, Adoption and Application of Standards in Annex 3 of the Agreement on Technical Barriers to Trade. Although Andean technical standards (NTAs) are voluntary, they are the main reference both in intra-community trade and in trade with third countries. Technical standards are harmonized in the Andean technical standardization committees.

3.143. The list of approved NTAs is published periodically by the CAN General Secretariat in the Official Gazette of the Cartagena Agreement. In April 2019, there were 143 NTAs in force.[114] The Andean Standardization Plan (PAN) is prepared on the basis of the member countries' trade policy, and is approved by the members of the RAN and ratified by the Andean Quality Committee (CAC).

3.3.2.3 Technical regulations

3.144. Mandatory technical regulations (RTs) are drafted by the various central Government ministries in their respective areas of competency. Although there is no general template, ministries should draw on available scientific and technical evidence when preparing draft RTs. In addition, ministries preparing RTs are required to comply with Andean Decision 827, which contains guidelines for the development, adoption and implementation of RTs and conformity assessment procedures, both in CAN member countries and at the Community level. According to Supreme Decree No. 001-2009 of the Ministry of Justice, general regulations (including RTs) must be published in the Official Journal *El Peruano*, on the websites of the ministries in question or else through some other medium, allowing at least 30 calendar days for comments to be received from any interested party. The ministries that prepare RTs must also send them to MINCETUR, which notifies the WTO and CAN, allowing at least 60 days for comments to be received. At least six months must elapse between the publication of the final RT and its entry into force.[115] RTs must be approved by Supreme Decree and countersigned by the MEF, which ensures that the draft RT does not include measures that unnecessarily hinder trade, whether domestic or external. When an RT is approved that is based on, or otherwise refers to, an NTP, INACAL publishes the standard on its website under the heading "List

[111] Online information from INACAL. Viewed at: https://www.inacal.gob.pe/principal/categoria/preguntas-frecuentes-normalizacion.
[112] Online information from INACAL. Viewed at: https://servicios.inacal.gob.pe/datos_abiertos/NormaTecnica; and information provided by the authorities.
[113] Online information from INACAL. Viewed at: https://www.inacal.gob.pe/repositorioaps/data/1/1/1/jer/reglamentosobligatorios/files/listado%20ntp%20obligatorios%20abril%202019v1.pdf.
[114] Online information from the Andean Community. Viewed at: http://www.comunidadandina.org/Seccion.aspx?id=303&tipo=TE&title=sistema-andino-de-la-calidad.
[115] CAN Decision No. 827 of 18 July 2018.

of Technical Standards cited in Mandatory Regulations", indicating the number of the NTP and the RT that makes it mandatory.[116]

3.145. Peru's legislation also allows for emergency RTs to be issued, and these must be notified within three working days after their publication or entry into effect. They may be adopted without observing the deadline for comments and are issued only when national safety, health or environmental protection issues arise or are likely to do so. Emergency RTs are valid for one year and can be renewed for up to six months. The legislation provides that, if it is in the national interest and if circumstances so warrant, the emergency RT may be converted into a regular one before it expires, after having undergone the approval procedure required of any RT. Only two emergency RTs were issued during the review period.

3.146. In order to confirm compliance with an RT, the products covered by it must be certified by specialized public or private institutions designated by the ministries responsible for the RT in question. The importer and the domestic manufacturer of goods regulated by an RT must apply to the competent ministries for a "Statement of Compliance", which is valid for one year and renewable for further one-year periods. Importers may use this statement for all customs clearance procedures and it must be submitted to the National Supervisory Authority for Customs and Tax Administration (SUNAT) before the goods are absorbed into the domestic economy.[117]

3.147. Between 2013 and 2018, Peru, through MINCETUR, submitted 64 draft RTs, two addenda to draft RTs, two emergency RTs and eight final RTs. Between January and April 2019, five new notifications were made concerning draft RTs. The products affected by all of these measures are mostly pharmaceuticals, medical devices, health-care products and food and beverages.[118] As at February 2019, there were 128 RTs in force, of which 29 were issued by the Ministry of Agriculture and Irrigation, ten by the Ministry of the Environment, 15 by the Ministry of Energy and Mining, 2 by the Ministry of the Interior, 24 by the Ministry of Health, 14 by the Ministry of Transport and Communications, 15 by PRODUCE, 1 by MINCETUR and 18 by INACAL (metrological standards). Of these, 32 were approved during the period under review (2013-19), 8 of which being the same as international standards and the remainder based on them.

3.148. Peru has notified that MINCETUR is the body designated to serve as the national enquiry point for mandatory technical regulations and conformity assessment procedures, and that INACAL will serve as the national enquiry point for voluntary standards and conformity assessment procedures.[119]

3.149. Between 2013 and 2018, WTO Members raised three specific trade concerns regarding Peruvian technical regulations in relation to the following: the Act to Promote Healthy Eating among Children and Adolescents (Argentina; Brazil; Canada; Colombia; Costa Rica; Guatemala; the United States; Mexico; Switzerland; and the European Union); the Implementing Regulations of 14 November 2012 for Moratorium on Planting Genetically Engineered Crops (Mexico and the United States); and the Draft Supreme Decree Approving the Regulations Governing the Labelling of Genetically Modified Foods.[120] For its part, Peru raised three concerns, relating to Ecuador's food labelling, a draft reform of Chile's food regulations and a resolution establishing a new regulatory framework for conformity assessment in Ecuador.

3.150. At the Andean Community level, RTs are harmonized through the Andean system of standardization, accreditation, testing, certification, technical regulations and metrology, mainly

[116] Online information from INACAL. Viewed at: https://www.inacal.gob.pe/repositorioaps/data/1/1/1/jer/reglamentosobligatorios/files/listado%20ntp%20obligatorios%20abril%202019v1.pdf.

[117] Supreme Decree No. 149-2005-EF of 23 November 2005.

[118] WTO Documents G/TBT/N/PER/45 to G/TBT/N/PER/113, submitted between 30 April 2013 and 7 March 2019.

[119] Online information from the WTO. Viewed at: http://tbtims.wto.org/en/NationalEnquiryPoints/Search.

[120] Online information from the WTO. Viewed at: http://tbtims.wto.org/es/SpecificTradeConcerns/Search?ProductsCoveredHSCodes=&ProductsCoveredICSCodes=&Dates=2019-**%7C2018-**%7C2017-**%7C2016-**%7C2015-**%7C2014-**%7C2013-**&DoSearch=True&ExpandSearchMoreFields=False&NumberOfSpecificTradeConcern=&NewStc=true&NewStc=false&RecurringStc=true&RecurringStc=false&MembersSubjectToConcern=Peru&MembersRaisingConcern=&SearchTerm=&Title=&ProductsCovered=&DescriptionOfContent=.

through the Andean Technical Regulation Plan. RTs are prepared at the national level or, for some products, at the Andean regional level (Andean Technical Regulations). These exist in the areas of cosmetics and domestic and personal hygiene products. In addition, Andean Technical Regulations are being developed on the labelling of clothing and of footwear and leather articles. Decision 827 contains guidelines on the preparation, adoption and application of RTs and conformity assessment procedures in CAN member countries and at the Community level, to prevent them from becoming unnecessary technical barriers to intra-community trade. The Notification and Technical Regulation Information System (SIRT), established by Decision 615, gathers notifications concerning members' RTs. This system provides a free service to inform subscriber users about the draft RTs pertaining to the sector or sectors in which they have an interest. [121]

3.3.2.4 Accreditation and conformity assessment

3.151. INACAL is responsible for the accreditation of conformity assessment bodies (CABs) in Peru, with its Directorate of Accreditation administering accreditation policy and management. The Directorate enjoys technical and functional autonomy and operates at the national level. INACAL accredits the following CABs subject to compliance with their corresponding ISO/IEC International Technical Standards, which have been adopted as Andean Technical Standards: (a) testing laboratories (NTP-ISO/IEC 17025); (b) calibration laboratories (NTP-ISO/IEC 17025); (c) clinical laboratories (NTP/ISO 15189); (d) product certification bodies (ISO/IEC 17065); (e) management system certification bodies (NTP-ISO/IEC 17021); (f) certification bodies for persons (NTP-ISO/IEC 17024); and (g) inspection bodies (NTP-ISO/IEC 17020).

3.152. After an application for accreditation has been submitted to INACAL, the latter conducts a documentary review and an onsite evaluation of the CAB to be accredited. If non-conformities are identified, they must be corrected. The evaluation report is then forwarded to the Standing Committee on Accreditation for consideration, which, if no other non-conformities are detected, grants accreditation for a three-year period, which may be renewed for four years upon request. Once accreditation has been granted, INACAL evaluates the CAB periodically to verify that the conditions for accreditation are maintained.

3.153. Laboratories or inspection bodies seeking INACAL accreditation must demonstrate technical competency in carrying out testing, calibrations and inspections. Laboratories applying for accreditation for the first time must submit records of their satisfactory participation in at least one "proficiency trial" in each discipline. The report on this participation must not have been issued more than two years before the application for accreditation is made. In the case of follow-up evaluations, at least one participation is required in each sub-discipline within the scope of the accreditation of the laboratory or inspection body in question, over a two-year period. [122]

3.154. INACAL's Directorate of Accreditation is recognized by two international organizations and a regional one. INACAL has a multilateral recognition agreement with the Inter-American Accreditation Cooperation, which relates to the following: testing laboratories (ISO/IEC 17025); calibration laboratories (ISO/IEC 17025); inspection bodies (ISO/IEC 17020); product certification (ISO/IEC 17065); and certification of quality management systems (ISO/IEC 17021). The multilateral recognition agreement with the International Accreditation Forum covers product certification and quality management systems. The mutual recognition arrangement with the International Laboratory Accreditation Cooperation concerns testing and calibration laboratories and inspection bodies.

3.155. Conformity assessment in Peru is performed by CABs accredited by INACAL, by an accreditation body that has signed a recognition agreement with any of the accredited national institutions, or else by CABs authorized or recognized by the corresponding regulatory authority. For instance, in the case of PRODUCE RTs, conformity is assessed by the CABs authorized by this sector, but certificates from CABs accredited by the national authority of the certifying country are also accepted. Depending on the level of risk associated with the products in question, the regulatory authority may conduct border checks of compliance with the RTs. As at July 2019, Peru had the following conformity assessment bodies: 106 testing laboratories; 2 clinical laboratories; 33

[121] Online information from the Andean Community. Viewed at: http://www.comunidadandina.org/Seccion.aspx?id=303&tipo=TE&title=sistema-andino-de-la-calidad.

[122] Online information from INACAL. Viewed at: https://www.inacal.gob.pe/acreditacion/categoria/eda.

calibration laboratories; 9 product certification bodies; 4 management system accreditation bodies; and 58 inspection bodies. [123]

3.156. At the Andean Community level, accreditation is performed in the framework of the Andean Network of National Accreditation Bodies, which accredit applicants after evaluating their technical competency to carry out specific conformity assessment activities. There is also an agreement on the recognition of certificates of conformity for regulated products in CAN member countries (Decision 506). The activities of the Andean Network are regulated by JUNAC Resolution 502. Resolution 1885 harmonized the regional requirements to be satisfied by evaluators and technical experts in testing and calibration laboratories that perform accreditation activities under ISO/IEC 17025. Pursuant to Decision 506, since June 2001, CAN member countries have been automatically recognizing and accepting the Certificates of Product Conformity with the Technical Regulations or with the Mandatory Technical Standard of the destination country, issued by the accredited or recognized certification bodies included in a register administered for this purpose by the CAN General Secretariat.

3.3.2.5 Metrology

3.157. The INACAL Directorate of Metrology is the technically and functionally autonomous national authority tasked with administering metrology policy and management. The Directorate has custody of and maintains national measurement standards, and provides calibration and verification services, while respecting the subsidiary role of the State. In the field of legal metrology, it evaluates and recognizes authorized bodies called Metrological Verification Units (UVMs), which are tasked with verifying instruments subject to metrological control, such as water, gas and electricity meters; scales; clinical thermometers; and sphygmomanometers. In addition, the Directorate of Metrology prepares Peruvian Metrological Standards (NMPs) on the measurement instruments used in commercial transactions and in the fields of health and safety. These standards usually become RTs and are enforceable through the metrological controls that are established. INACAL is a member of the Inter-American Metrology System (SIM) and the International Organization of Legal Metrology (OIML). It is also an associate member of the General Conference on Weights and Measures (CGPM) and a signatory of the Mutual Recognition Arrangement of the International Committee of Weights and Measures (CIPM MRA).

3.158. At the Andean Community level, the general objectives of the Andean Metrology Network (RAM) are to harmonize national metrology systems to make member countries' standards and calibration systems traceable at the Andean level. Decision 817 of 2017 establishes special customs treatment for measurement standards and instruments, reference materials and proficiency testing items, to facilitate the entry and circulation of these materials in CAN member countries.

3.3.3 Sanitary and phytosanitary requirements

3.159. Sanitary and phytosanitary policy in Peru is formulated and implemented by three different authorities that operate in their respective spheres of competency (health certification, authorizations, surveillance, control, inspection and sanitary regulation). The National Agrarian Health Service (SENASA), attached to the Ministry of Agriculture and Irrigation (MINAGRI), deals with animal and plant health and the safety of agricultural and livestock food products at the production and primary processing stages; the National Fisheries Health Service (SANIPES), attached to the Ministry of Production (PRODUCE), is the sanitary authority in the fishery and aquaculture sector (primary production, primary processing and processed products); and the Directorate-General of Environmental Health and Food Safety (DIGESA), attached to the Ministry of Health (MINSA), is the health authority responsible for industrially processed foods, except for fishery and aquaculture products. The policies and activities of these three institutions are coordinated by the Standing Multisectoral Commission on Food Safety (COMPIAL), attached to and

[123] The full list can be viewed at: https://www.inacal.gob.pe/repositorioaps/data/1/1/4/jer/acreditados/files/OI%202019%2F00%20Directorio%20de%20Org.%20Inspeccion%20%20(2019-04-10).pdf.

chaired by MINSA, in which SENASA, DIGESA and SANIPES all participate.[124] The entities in question also have sector-specific policies.[125]

3.160. The main regulations governing sanitary and phytosanitary policy are the General Law on Agrarian Health, which lays down the legal framework for providing the official animal and plant health services that are essential for the protection of human, animal and plant health[126], along with Legislative Decree No. 1062, the Law on Food Safety[127], and Law No. 26842, the General Health Law (Table 3.11).[128] Several legislative amendments were made during the period under review, including implementation of the Law on strengthening the leadership role of the Health Ministry.[129] In addition, a very important step was taken to simplify procedures, by implementing the Inter-Agency Collaboration Agreement between MINAGRI, MINSA and SENASA.[130]

Table 3.11 SPS legal framework, 2019

Institution and legal instrument	Description	Date of publication
SENASA		
Legislative Decree No. 1059	General Law on Agrarian Health	28 June 2008
Supreme Decree No. 018-2008-AG	Regulations implementing the General Law on Agrarian Health	31 August 2008
Legislative Decree No. 1080	Amends the General Law on Seeds (Law No. 27262), which specifies the functions of the National Agrarian Innovation Institute (INIA); the amendment is regulated by Supreme Decree No. 006-2012-AG	28 June 2008
Legislative Decree No. 1387	Legislative Decree that strengthens the competencies, supervision, inspection and sanctioning functions and the governing role of the National Agrarian Health Service (SENASA), and establishes SENASA as the seed authority, with scope and competencies to be specified in the regulations to said Legislative Decree (Fifth Final Supplementary Provision)	4 September 2018
Supreme Decree No. 032-2003-AG	Regulations on plant quarantine	24 August 2003
Law No. 29196	Law on the Promotion of Organic or Ecological Production	29 January 2008
Supreme Decree No. 010-2012-AG	Approves the regulations implementing Law No. 29196, Law on the Promotion of Organic or Ecological Production	24 July 2012
Legislative Decree No. 1062	Approves the Law on Food Safety	28 June 2008
Supreme Decree No. 006-2016-AG	Amends and supplements the regulations implementing the Agri-Food Safety Law	4 June 2016
Supreme Decree No. 004-2011-AG	Agri-Food Safety Regulations	27 April 2011
Supreme Decree No. 015-2015-MINAGRI	Amends and supplements regulatory standards to strengthen the SENASA regulatory framework	19 September 2015
Agreement No. 0004-2016-MINAGRI-DM	Inter-agency collaboration agreement between MINAGRI, MINSA and SENASA	
SANIPES		
Law No. 30063	Law establishing the National Fisheries Health Service (SANIPES)	3 July 2013
Legislative Decree No. 1402	Amends various articles of Law No. 30063 establishing the National Fisheries Health Service (SANIPES)	10 September 2018
Supreme Decree No. 012-2013-PRODUCE	Approves the regulations implementing Law No. 30063 establishing the National Fisheries Health Service (SANIPES)	26 December 2013
Supreme Decree No. 009-2014-PRODUCE	Approves the rules of organization and functions of the National Fisheries Health Service (SANIPES)	5 November 2014
Legislative Decree No. 1195	Approves the General Law on Aquaculture	29 August 2015
Supreme Decree No. 003-2016	Approves the regulations implementing the General Law on Aquaculture	24 March 2016
Supreme Decree No. 020-2016-PRODUCE	Supreme Decree amending Article 27 of the Sanitary Standard for Live Bivalve Molluscs, approved by Supreme Decree No. 07-2004-PRODUCE	16 October 2016
Supreme Decree No. 004-2018-PRODUCE	Amends Article 14 of the Sanitary Standard for Live Bivalve Molluscs, approved by Supreme Decree No. 07-2004-PRODUCE	26 August 2018

[124] Article 13 of Legislative Decree No. 1062, Law on Food Safety, of 28 June 2008.
[125] Online information from DIGESA, Environmental Health Policy (No. 3 Food Safety). Viewed at: http://www.digesa.minsa.gob.pe/publicaciones/descargas/POLITICA-DIGESA-MINSA.pdf.
[126] Legislative Decree No. 1059 of 28 June 2008.
[127] Legislative Decree No. 1062 of 28 June 2008.
[128] Law No. 26842 of 20 July 1997.
[129] Law No. 30895 of 28 December 2015.
[130] Agreement No. 0004-2016-MINAGRI-DM of 13 January 2016. Viewed at: http://www.digesa.minsa.gob.pe/convenios/CONVENIO_0004_2016_MINAGRI_DM.pdf.

Institution and legal instrument	Description	Date of publication
Supreme Decree No. 002-2019-PRODUCE	Supreme Decree amending the Sanitary Standard for Live Bivalve Molluscs, approved by Supreme Decree No. 07-2004-PRODUCE	29 March 2019
Supreme Decree No. 005-2017-PRODUCE	Regulation on the organization of the fishing of anchoveta for direct human consumption	12 April 2017
DIGESA		
Law No. 26842	General Health Law	20 July 1997
Legislative Decree No. 1062	Approves the Law on Food Safety	28 June 2008
Supreme Decree No. 034-2008-AG	Approves the regulations implementing the Law on Food Safety	17 December 2008
Supreme Decree No. 007-98 SA	Regulation on the sanitary surveillance and control of food and beverages	25 September 1998
Supreme Decree No. 004-2014	Amends articles of Supreme Decree No. 007-98 SA	30 March 2014
Ministerial Resolution No. 449-2006/MINSA	Sanitary standard for application of the HACCP system in the production of food and beverages	27 August 2008
Ministerial Resolution No. 591-2008/MINSA	Sanitary standard establishing microbiological criteria for the sanitary quality and safety of food and beverages for human consumption	29 August 2008
Law No. 30895	Law on strengthening the leadership role of the Ministry of Health	28 December 2015
Supreme Decree No. 008-2017-SA, ROF	Process-based organization	5 March 2017

Source: WTO Secretariat.

3.161. The preparation of a sanitary and phytosanitary (SPS) measure starts with a risk analysis (questionnaire and on-site visit). If this results in a favourable report, the provisional measure is then drafted with its requirements and notified to the WTO (consultation period). A decision is then issued, and the measure is published as an approved standard in "El Peruano" and notified to the WTO. The SPS measures issued by the three institutions with jurisdiction are based on international standards, guidelines and recommendations drawn up by the competent international organizations, namely, the International Plant Protection Convention (IPPC), the World Organisation for Animal Health (OIE) and the Codex Alimentarius.

3.162. Applications for the various zoosanitary and phytosanitary permits (sanitary or phytosanitary import permit or amendment thereof; inspection report, post-entry quarantine registration, sanitary or phytosanitary export certificate, and sanitary authorization for an export establishment) are processed through the single window for foreign trade (VUCE) by all institutions except for SANIPES.

3.163. SENASA's mission is to manage the Agrarian Health and Agri-Food Safety System for agricultural producers, agents in the agri-food chain, consumers and subnational governments.[131] SENASA's Plant Health Directorate determines the phytosanitary requirements for importation, based on the product, the country of origin and/or provenance and its proposed use, after carrying out a pest risk analysis (PRA).[132] A PRA is performed in the following situations: when a pest entry route is identified; when a plant product is imported from a new country or part thereof; when a previously unimported plant product starts to be imported; or when a pest is identified. In the latter case, the phytosanitary regulations are revised.[133] PRAs can also be performed in response to changes in a country's phytosanitary situation or changes in political boundaries. The studies in question can be based on requests and technical information provided by the national plant protection organizations (NPPOs) of the countries of origin, and importers and exporters, as well as using relevant databases.[134]

3.164. SENASA issues the Phytosanitary Import Permit (PFI), which authorizes the importation of plants, plant products and other items that are regulated, and is a mandatory requirement before such products may enter Peru.[135] The importer needs the PFI to be able to bring plants, plant products and other regulated items into the country. The document must be issued before official certification in the country of origin and/or source and shipment to Peru, regardless of volume, use

[131] Online information from SENASA. Viewed at: https://www.senasa.gob.pe/senasa/mision.
[132] Directorial Resolution No. 044-2006-AG-SENASA-DSV of 6 January 2007.
[133] The authorities reported that phytosanitary regulations, requirements or operations may be revised by official decision; or following a revision proposed by a country or international organization; or because of inconsistencies with international measures.
[134] Online information from SENASA. Viewed at: https://www.senasa.gob.pe/senasa/estudio-de-arp.
[135] Phytosanitary import permit (PFI). Online information viewed at: https://www.senasa.gob.pe/senasa/permiso-fitosanitario-de-importacion.

or mode of importation. To process a new PFI, a fee is payable equivalent to 1.7% of the official tax unit (UIT); while amendment or duplication of a PFI costs the equivalent of 1.2% of a UIT.[136] Once the original PFI has been obtained, it must be sent to the supplier in the country of origin for cognizance and to obtain the respective phytosanitary certificate from that country's health authority, indicating compliance with the relevant phytosanitary requirements. The PFI is valid for a single shipment and for 90 calendar days from its date of issue. SENASA has defined five phytosanitary risk categories in which plants, plant products and other regulated items are grouped (see below). The phytosanitary requirements are related to the phytosanitary risk categories approved by SENASA.

3.165. The importation into Peru of any plant, plant product or other regulated item is subject to mandatory inspection by SENASA at the health authority's authorized border control points (PCEs).[137] Certain products are also subject to a post-entry quarantine requirement.[138] SENASA established the Post-Entry Quarantine Procedure Manual through General Directive No. 043-2000-AG-SENASA-DGSV-DDF. The following are considered materials subject to this procedure: plants and their parts destined for propagation and/or sowing; sexual seed germplasm; biological control entities and organisms that arrive in special culture media or in pest organisms; and plants and parts thereof to be exhibited at conferences or festivals.[139]

3.166. In the period 2013-18, 272 new phytosanitary import requirements and 86 sanitary import requirements were issued. The agricultural and livestock imports that were suspended in the period 2013-18 are listed in Table 3.12.

Table 3.12 Suspension of imports for sanitary and phytosanitary reasons, 2013-18

Legal instrument	Description	Date of publication
Plant Health Directorate		
Directorial Resolution (DR) No. 0037-2013-MINAGRI-SENASA-DSV	Suspension of the issuance of phytosanitary import permits for strawberry seedlings of Chilean origin and provenance.	28 October 2013
DR No. 0011-2015-MINAGRI-SENASA-DSV	Phytosanitary requirements to be met when importing strawberry plants of Chilean origin and provenance.	26 February 2015
DR No. 0032-2016-MINAGRI-SENASA-DSV	Amendment of phytosanitary requirements for importing strawberry plants of Chilean origin and provenance.	17 August 2016
DR No. 0027-2017-MINAGRI-SENASA-DSV	Phytosanitary requirements for importing strawberry plants of Chilean origin and provenance.	12 August 2017
Animal Health Directorate		
DR No. 0012-2013-AG-SENASA-DSA	Temporary suspension of the issuance of sanitary permits for the importation of poultry products and by-products from Chile.	25 July 2013
DR No. 0022-2013-MINAGRI-SENASA-DSA	Extended suspension period for the issuance of sanitary permits for the importation of poultry products and by-products from Chile.	25 October 2013
DR No. 008-2014-MINAGRI-SENASA-DSA	Suspension of the importation of certain livestock products from Brazil for 180 calendar days.	7 May 2014
DR No. 019-2014-MINAGRI-SENASA-DSA	Suspension of the importation of various livestock products from Brazil.	28 November 2014
DR No. 007-2015-MINAGRI-SENASA-DSA	Suspension of the importation of various livestock products from Canada.	20 February 2015
DR No. 0010-2015-MINAGRI-SENASA-DSA	Suspension of the importation of live birds, fertile eggs, specific pathogen-free (SPF) eggs, poultry meat, and other products capable of transmitting or serving as vehicles for avian influenza, from various US states.	29 April 2015
DR No. 0017-2015-MINAGRI-SENASA-DSA	Extension of the import suspension for live birds, fertile eggs, SPF eggs, poultry meat, and other products capable of transmitting or serving as vehicles for avian influenza from the States of Minnesota, South Dakota, Iowa, and Nebraska.	30 October 2015

[136] Online information from SENASA. Viewed at: https://www.senasa.gob.pe/senasa/permiso-fitosanitario-de-importacion.

[137] Phytosanitary import inspection. Online information viewed at: https://www.senasa.gob.pe/senasa/inspeccion-fitosanitaria-para-importaciones.

[138] Post-entry quarantine is the procedure by which plant propagation material is subject to containment actions at one of the importer's places of production, but authorized by SENASA, for a specified period. The purpose of this procedure is to rule out the presence of potential pests that may have been transported on imported material and that are difficult to intercept at points of entry.

[139] Online information from SENASA. Viewed at: https://www.senasa.gob.pe/senasa/cuarentena-posentrada.

Legal instrument	Description	Date of publication
DR No. 0004-2016-MINAGRI-SENASA-DSA	Suspension of the importation of live birds, fertile eggs, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from various departments of France and the state of Indiana in the United States.	9 February 2016
DR No. 0010-2016-MINAGRI-SENASA-DSA	Suspension of imports of chilled or frozen beef and edible offal from the United States.	16 March 2016
DR No. 021-2016-MINAGRI-SENASA-DSA	Extension of the suspension period for imports of live birds, fertile eggs, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from various departments in France; and suspension of imports of live birds, fertile eggs, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from the department of Tarn.	9 August 2016
DR No. 001-2017-MINAGRI-SENASA-DSA	Suspension of the importation of live birds, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from Chile.	5 January 2017
DR N° 0006-2017-MINAGRI-SENASA-DSA	Extension of the suspension period for imports of live birds, fertile eggs, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from various departments of France.	3 February 2017
DR No. 010-2017-MINAGRI-SENASA-DSA	Suspension of the importation of live birds, fertile eggs, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from Catalonia (Spain).	13 March 2017
DR No. 0012-2017-MINAGRI-SENASA-DSA	Suspension of the importation of live birds, fertile eggs, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from the states of Tennessee and Wisconsin in the United States.	29 March 2017
DR No. 0016-2017-MINAGRI-SENASA-DSA	Suspension of the importation of species and products of animal origin from Colombia.	27 June 2017
DR No. 0022-2017-MINAGRI-SENASA-DSA	Suspension of the importation of live birds, fertile eggs, SPF eggs, poultry meat and other products capable of transmitting or serving as vehicles for avian influenza from various departments in France.	28 August 2017
DR No. 0018-2018-MINAGRI-SENASA-DSA	Suspension of the importation of various species and products of animal origin from Colombia.	8 May 2018

Source: Information provided by the authorities.

3.167. SENASA, as the body responsible for establishing sanitary and phytosanitary import requirements, issued Departmental Resolution (*Resolución Jefatural*) No. 0162-2017-MINAGRI-SENASA defining five animal and plant health risk categories in respect of livestock products, depending on their level of processing, proposed use and ability to carry disease pathogens and quarantine pests that pose a risk to agrarian and animal health and public health. The action taken by SENASA depends on the risk category of the product to be imported. The risk categories are:

- Risk category 1: products and by-products of animal or plant origin that have undergone a process that eliminates the possibility of carriage of pathogens or pests of quarantine importance. SENASA reserves the right to inspect them when it deems it necessary, but they are not subject to mandatory control.
- Risk category 2: products and by-products of animal or plant origin that have undergone a process that lessens the possibility of carriage of pathogens and pests of quarantine importance.
- Risk category 3: products and by-products of animal origin that have undergone processing or industrialization, and semi-processed products of plant origin or primary natural products, whose processes do not guarantee the destruction of pathogens and pests of quarantine importance.[140]
- Risk category 4: primary products of animal origin and seeds, plants or parts thereof intended for propagation, capable of transporting pathogens and pests of quarantine importance.
- Risk category 5: animals, reproductive material or any other product of animal, plant, or non-plant origin deemed to pose a high risk of introducing pathogens, diseases and pests of quarantine importance.

[140] The industrial processes that correspond to risk categories 1, 2 and 3 are specified in Departmental Resolution No. 0162-2017-MINAGRI-SENASA.

3.168. The sanitary and phytosanitary risk category listing of agricultural goods that are regulated by SENASA through Departmental Resolution No. 0162-2017-MINAGRI-SENASA, specifies the agricultural or livestock products of risk categories 1 and 2 that do not require a sanitary/phytosanitary import permit to enter Peru.[141]

3.169. Pursuant to Article 4 of Departmental Resolution No. 0162-2017-MINAGRI-SENASA, agricultural goods entering Peru must satisfy the requirements set out in Table 3.13 according to their risk category. For international transit, agricultural goods classified in risk categories 2 to 4 must have an International Transit Permit and submit to mandatory inspection/verification at the point of entry.

Table 3.13 Requirements for the importation of agricultural goods according to risk category, 2019

Requirement		DSA / DSV SCA / SCV					SIA	DIAIA-SIP	SIAG
		Risk categories							
		1	2	3	4	5			
01	Import permit[a] (phytosanitary or zoosanitary)/Authorization to import unregistered agricultural inputs	No	No	Yes[b]	Yes[b]	Yes[c]	Yes[d]	Yes[d]	No
02	Laboratory analysis	No	No	Yes[b]	Yes[b]	Yes[b]	Yes[b]	Yes[b]	Yes[b]
03	Treatment	No	No	Yes[b]	Yes[b]	Yes[b]	No	No	Yes[b]
04	Authorization/Post-entry quarantine registration	No	No	No	Yes[b]	Yes[b, c]	No	No	No
05	Registration of agricultural inputs and importer's authorization	No	No	No	No	No	Yes[b]	Yes[b]	No
06	Mandatory inspection at point of entry	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
07	Inspection and verification report	No	Yes[b]	Yes	Yes	Yes	Yes[b]	Yes[b]	Yes[b]

a The established SPS requirements must be complied with.
b As established by the competent body.
c Sanitary authorization required according to regulation.
d Except for dogs and cats.

Note: DSA: Animal Health Directorate. DSV: Plant Health Directorate. SCA: Sub-Directorate of Animal Quarantine. SCV: Sub-Directorate of Plant Quarantine. DIAIA: Directorate of Agricultural Inputs and Agri-Food Safety. SIA: Sub-Directorate of Agricultural Inputs. SIP: Sub-Directorate of Livestock Inputs. SIAG: Sub-Directorate of Agri-Food Safety.

Source: SENASA.

3.170. An important step has been taken to facilitate procedures and trade through the implementation of Agreement No. 0004-2016-MINAGRI-DM, the inter-agency collaboration agreement between MINAGRI, MINSA and SENASA.[142] The objective of this agreement is to establish a relationship of collaboration and mutual support to provide a correct and efficient procedure for importing industrially processed food of animal origin (except for fish and aquaculture products) intended for human consumption, as listed in the Annex to the agreement.[143] The key points of the agreement include: (a) the inclusion of the animal health requirements established by SENASA in the sanitary authorization for industrially processed foods of animal origin destined for human consumption under DIGESA jurisdiction, as listed in the agreement; such requirements must be included in the Single Official Export Certificate issued by the country of origin; (b) SENASA and DIGESA to conduct joint inspections of imports of the foods covered by the agreement at the points of entry into Peru, establishing a single inspection procedure. SENASA is in charge of the animal

[141] This list can be viewed at: https://www.senasa.gob.pe/senasa/descargasarchivos/2018/02/Listado-de-mercancias-SENASA.pdf.

[142] Online information from DIGESA. Viewed at: http://www.digesa.minsa.gob.pe/Orientacion/CONVENIO_0004_2016_MINAGRI_DM.pdf.

[143] The text of the agreement can be viewed at: http://www.digesa.minsa.gob.pe/convenios/CONVENIO_0004_2016_MINAGRI_DM.pdf. The annex to the agreement lists 73 tariff subheadings, which include products such as bacon, beef, milk and cream, egg yolks, meat and chicken preparations and preserves, honey, and ham and sausages.

health inspection, and DIGESA is responsible for sanitary inspection. The process for implementing the agreement is described in Box 3.2.

Box 3.2 Guidelines for the importation of industrially processed food of animal origin under the MINAGRI – MINSA – SENASA agreement

1. The importer presents a document at the DIGESA reception desk stating interest in importing processed products of animal origin.

2. DIGESA consults MINCETUR (by email), with copy to the Ministry of Foreign Affairs, as to whether there is a trade agreement in force with the country of origin.

3. DIGESA checks whether the products in question are envisaged in the agreement with SENASA (Annex); if they appear in the list annexed to the agreement, DIGESA asks SENASA for the relevant animal health requirements and, in coordination with SENASA, prepares the official country of origin health certificate form for exports (CSOE), which includes the sanitary (safety) and animal health requirements.

4. DIGESA sends the CSOE form to the corresponding ministry.

4.1. If a trade agreement exists, DIGESA sends a document enclosing the CSOE form to MINCETUR (with copy to the Ministry of Foreign Affairs).

4.2. If no trade agreement exists, DIGESA sends a document enclosing the CSOE form to the Ministry of Foreign Affairs (with copy to MINCETUR).

5. The relevant ministry forwards the CSOE to the country of origin (with copy to the other ministry for information purposes).

6. The relevant ministry forwards the country of origin's response to DIGESA.

6.1 When the competent authority in the country of origin replies accepting the CSOE form:

(a) DIGESA instructs SENASA to publish the animal health requirements. SENASA publishes the animal health requirements in the Official Journal.

(b) DIGESA uploads the CSOE to the Internet.

6.2 If the competent authority in the country of origin does not reply accepting the CSOE form, the product cannot be imported.

6.3 Any comments received from the authority of the country of origin are analysed by the competent Peruvian health authorities for the purpose of preparing a revised version of the CSOE.

7. Control at point of entry:

SENASA checks that the certificate corresponds to the merchandise at the point of entry.

Source: Online information from DIGESA. Viewed at: http://www.digesa.minsa.gob.pe/Orientacion/Lineamientos.asp.

3.171. DIGESA uses Ministerial Resolution No. 850-2016, Standards for the Preparation of Ministry of Health Regulatory Documents, as a basis for preparing health regulations and notifying the WTO. During the period under review, DIGESA's health-related notifications to the WTO included the following: Ministerial Resolution No. 372-2016/MINSA, Health Standard establishing the maximum residue limits (MRLs) for veterinary drugs in food for human consumption (G/SPS/N/PER/446), and Ministerial Resolution 1006-2016/MINSA, Health Standard establishing the maximum residue limits (MRLs) for agricultural pesticides in food for human consumption (G/SPS/N/PER/447).

3.172. The aim of the Law on Food Safety, administered by DIGESA, is to guarantee the safety of food for human consumption using a preventive and comprehensive approach throughout the food chain, also covering animal feed. In order to be sold on the domestic market, processed foods, whether produced locally or imported, require an official document, issued by DIGESA and processed through the VUCE, confirming their inclusion on the Sanitary Register of Food and Beverages for Human Consumption.[144] Imported processed foods also need a certificate of sanitary registration for imported products.[145] In order to export food and beverages under DIGESA jurisdiction, the goods must have been produced in establishments that have obtained sanitary authorization,

[144] Single Text of Administrative Procedures (TUPA): Registration or re-registration in the Sanitary Register of Food and Beverages for Human Consumption. Information viewed online at: http://www.digesa.minsa.gob.pe/expedientes/tupas.aspx.

[145] Single Text of Administrative Procedures (TUPA): Certificate of sanitary registration for imported products. Information viewed online at: http://www.digesa.minsa.gob.pe/expedientes/tupas.aspx.

i.e. establishments that implement the Hazard Analysis and Critical Control Point (HACCP) system.[146] The food or beverages are inspected and analysed for sanitary surveillance purposes. DIGESA also monitors the storage and distribution of food for human consumption to ensure that the products in question are safe and of appropriate quality, and that they meet the relevant sanitary requirements.

3.173. DIGESA's sanitary projects for 2019 include the following: preparation of general principles of food-product traceability along the food chain, for food safety purposes (in collaboration with SANIPES); drafting of a supreme decree to organize and specify certification of the General Principles of Hygiene (PGH) and HACCP for industrially processed foods, which bases the mandatory nature of these sanitary self-control systems on risk; development of sanitary guidelines that specify methods, techniques and procedures for inspection, sampling and analysis for official sanitary certification for the exportation of industrially processed food products intended for human consumption; preparation of a sanitary standard for the production of wine-based alcoholic beverages and by-products; and development of a sanitary standard for table olives.[147]

3.174. SENASA's competencies in relation to the safety of primary agricultural food and feedstuffs are regulated by Supreme Decree No. 004-2011-AG approving the Agri-Food Safety Regulations, published on 27 April 2011; and by Supreme Decree No. 006-2016-MINAGRI amending and supplementing the Agri-Food Safety Regulations, published in the Official Journal *El Peruano* on 4 June 2016. The purpose of these legal instruments is to establish provisions to guarantee the safety of primary agricultural food and feedstuffs, with the aims of protecting human life and health, recognizing and securing the rights and interests of consumers, and promoting the competitiveness of national agriculture. Article 40 of Supreme Decree No. 004-2011-AG establishes requirements for the entry or international transit of primary agricultural food and feedstuffs, which include sanitary certification or its equivalent, issued by the country of origin or by a recognized certification body, and inspection at the border. It also provides that the sanitary and phytosanitary requirements must be the same whether the product is of domestic origin or imported. Article 40A of the Decree provides details of the custody procedure. The products regulated by SENASA's Food Safety Sub-Directorate (SIAG) are listed in Departmental Resolution No. 0162-2017-MINAGRI-SENASA.

3.175. The National Fisheries Health Service (SANIPES) regulates and oversees health and safety services at the national level for fish and aquaculture products and feedstuffs and ingredients thereof of hydrobiological origin that are intended for hydrobiological species, as well as complementary and related services provided by public or private agents related to the fishery and aquaculture sector. SANIPES approves fishery and aquaculture sanitary regulations in conformity with national regulations and international sanitary and phytosanitary measures and standards, including the provisions of the Codex Alimentarius and those of the World Organisation for Animal Health (OIE), within its sphere of competency. It also issues certificates of compliance with sanitary regulations on fishery and aquaculture infrastructures, and the health, safety and traceability of hydrobiological products and veterinary and food products for use in aquaculture. To this end, inspections are carried out to verify compliance with national and international sanitary regulations (if applicable) and those contained in good practice manuals, descriptive reports, hygiene and sanitation manuals and the HACCP plan, among others. SANIPES also applies preventive administrative measures in respect of a danger or risk to public health and/or the health status of the aquatic zones and/or compartments where the hydrobiological resources are located.

3.176. Between January 2013 and April 2019, Peru submitted 350 substantive notifications through SENASA, relating to the adoption of SPS measures (495 including additions). Most of these measures were adopted to protect plant health. Nearly all were regular notifications, with only 10 emergency measures being notified (relating to beef, poultry, eggs, canned fish and ruminants).

3.177. During the period under review, no trade concerns were raised regarding sanitary or phytosanitary measures adopted by Peru. On the other hand, Peru did raise concerns regarding measures adopted by other Members.[148]

[146] Single Text of Administrative Procedures (TUPA): Official technical validation of the HACCP plan. Information viewed online at: http://www.digesa.minsa.gob.pe/expedientes/tupas.aspx.

[147] Information provided by the authorities.

[148] WTO, Sanitary and Phytosanitary Information Management System. Viewed at: http://spsims.wto.org/en/SpecificTradeConcerns/Search?ProductsCoveredHSCodes=&DoSearch=True&NumberOfSpecificTradeConcern=&FirstDateRaised=true&FirstDateRaised=false&DateSubsequentlyRaised=true&DateS

3.3.4 Competition policy and price controls

3.3.4.1 Competition policy

3.178. During the period under review, Peru reformed its competition regime in order to improve implementation of the regulatory framework, strengthen the role of the competition authority and make markets more efficient.

3.179. The main rules governing competition are set forth in the Constitution and the Law on the Suppression of Anti-Competitive Conduct (Legislative Decree No. 1034 of 2008), which was amended by Legislative Decrees No. 1205 (published on 23 September 2015) and No. 1396 (published on 7 September 2018). These amendments are consolidated in the Single Harmonized Text of the Law on the Suppression of Anti-Competitive Conduct, approved by Supreme Decree No. 030-2019-PCM and published on 19 February 2019. In addition to general legislation, Peru has provisions regulating mergers in the electricity sector.[149] The Constitution requires the Government to facilitate and oversee free competition, and to combat any practice that acts as a restraint to it or that represents an abuse of dominant or monopolistic positions. The Constitution also prohibits the authorization or establishment of monopolies by law or collusion.[150]

3.180. The Law on the Suppression of Anti-Competitive Conduct applies to all economic sectors and covers all practices likely to produce anti-competitive effects. It prohibits the abuse of a dominant position (although not the exercise of such a position *per se*), as well as horizontal[151] and vertical collusive practices[152] when they have anti-competitive effects. The Law also prohibits intrinsically harmful cartels irrespective of their effects on competition.

3.181. Nonetheless, the Law does not provide for *ex ante* control of concentration, which applies only in the electricity sector under sector-specific legislation. This makes Peru one of the few countries in Latin America without such provisions. The country would benefit from the adoption of legislation to control mergers *ex ante*, since it would help to prevent the formation of monopolies and to increase incentives for competition. In this connection, the authorities stated that a draft law on *ex-ante* control of economic concentration operations was making its way through Congress.

3.182. The Law on the Suppression of Anti-Competitive Conduct is applicable to natural or legal persons, governed by public or private law, whether or not state-owned, and whether or not for profit. It also covers the directors or representatives of firms that have participated in the planning or execution of an administrative violation.[153] Legislative Decree No. 1205 of 2015 extended the scope of application to persons who facilitate cartels, including civil servants. The Law punishes conduct that has or could have anti-competitive effects throughout national territory or in any part of it, even if originating abroad.

3.183. The Ministry of the Economy and Finance is responsible for formulating competition policy.[154] The institutional framework for the defence of competition comprises the National Institute for the Defence of Competition and Protection of Intellectual Property (INDECOPI) and the Supervisory Authority for Private Investment in Telecommunications (OSIPTEL). The latter regulates competition exclusively in the telecommunications sector (Section 4.4.2).

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ubsequentlyRaised=false&MarchApril=true&MarchApril=false&JuneJuly=true&JuneJuly=false&October=true&October=false&YearFrom=2013&YearTo=2018&Participation=101&Members=Peru&Title=&Keywords=&DateReportedAsResolvedFrom=&DateReportedAsResolvedTo=&DescriptionOfContent=.

[149] Law No. 26876, Law against Monopolies and Oligopolies in the Electric Power Sector, 1997.

[150] Article 61 of the Constitution.

[151] Certain horizontal practices such as price fixing, output restriction, market sharing and collusion in public tenders are subject to absolute prohibition, provided that they are not complementary or ancillary to other lawful agreements. Article 11.2 of Legislative Decree No. 1034.

[152] Vertical collusive practices are subject to relative prohibition. The determination of a prohibited vertical collusive practice requires at least one of the parties to have previously held a dominant position in the relevant market and evidence that the conduct has, or potentially could have, negative effects on competition and consumer well-being. Article 12 of Legislative Decree No. 1034.

[153] Article 2 of Supreme Decree No. 030-2019-PCM.

[154] Article 3(v) of Supreme Decree No. 117-2014-EF, which approves the Regulation on the Organization and Functions of the Ministry of the Economy and Finance.

3.184. INDECOPI is tasked with promoting and protecting free competition, in order to foster economic market efficiency and enhance social welfare. It exercises its mandate on matters of free competition through three of its internal bodies:

- The Free Competition Commission (CLC) is a collegiate body responsible for enforcing competition law and for hearing cases of anti-competitive conduct at the first administrative level; it is empowered to declare the existence of such conduct, impose the corresponding sanctions and order interim measures, as well as measures to remedy such conduct.
- The Technical Secretariat is the technically autonomous body responsible for investigating and sanctioning anti-competitive behaviour and for issuing opinions on the existence of anti-competitive conduct; its other functions include market research, training and dissemination activities.[155]
- The Chamber for the Defence of Competition at the INDECOPI Tribunal for the Defence of Competition and Intellectual Property (the Tribunal) is the collegiate administrative body of second and last instance that hears appeals filed against CLC decisions.

3.185. Investigation proceedings may be initiated by the Technical Secretariat or in response to a party's complaint to the CLC. In the latter case, the Technical Secretariat decides whether the complaint is admissible, considering the existence or otherwise of reasonable signs of the alleged anti-competitive conduct. If the Technical Secretariat declares a complaint inadmissible or unfounded, its decision may be appealed to the Tribunal.

3.186. The formal investigation starts with the decision to file charges issued by the Technical Secretariat against the accused parties. The Law sets time limits for the different stages of the administrative procedure of first instance, including deadlines for defendants to present arguments and evidence. The whole procedure lasts about 13 months. After the end of the period for providing evidence, the Technical Secretariat has 30 working days to issue a technical report setting out the proven facts, the determination of the offence, the identification of those responsible, the proposal for graduation of the sanction and the proposal of appropriate remedial measures. The CLC has 60 working days to issue its ruling, counted from the expiry of the deadline for the parties to file their final arguments. This period was extended from 30 to 60 working days by Legislative Decree No. 1396 of 2018.

3.187. Where a violation exists, the CLC has the power to impose administrative sanctions. The sanctions (fines) are established in terms of tax units (UIT)[156] and vary according to the seriousness of the violation.[157] If the offence is classified as very serious, the fine may be more than 1,000 UIT, provided that it does not exceed 12% of the sales or gross income received by the offender or its economic group, derived from all economic activities during the fiscal year immediately preceding issuance of the Commission's ruling. In the case of a legal person, autonomous estate or entity, a fine of up to 100 UIT may also be imposed on each of its legal representatives or directors, insofar as they are found responsible for the violations. With the 2015 legal reform, the fine for unjustified non-compliance with reporting requirements or hindering exercise of the functions of the competent INDECOPI bodies was substantially increased (up to 1,000 UIT or about USD 1.1 million).

3.188. In addition to the sanction for violation, the CLC may order remedial measures to restore the competitive process, including the cessation of activities or the obligation to contract, among others.[158] Under the 2015 reform, the CLC was also empowered to order remedial measures to reverse the direct and immediate harmful effects of the offending conduct. The Tribunal has the same powers as the CLC to order remedial measures. If a person who is required to comply with an interim or remedial measure fails to do so, he or she shall automatically be subject to a fine. If non-compliance persists, the Commission may impose a new, coercive fine, doubling the previous coercive fines imposed successively until the remedial measure ordered is implemented, up to a limit of 16 times the amount of the coercive fine originally imposed.

[155] Articles 14 and 15 of Supreme Decree No. 030-2019-PCM.

[156] The UIT in force on the actual date of payment of the fine is used to calculate the amount of the fine. In 2019, one UIT corresponds to PEN 4,200 (Supreme Decree No. 298-2018-EF).

[157] Articles 46 and 47 of Supreme Decree No. 030-2019-PCM.

[158] Article 49 of Supreme Decree No. 030-2019-PCM.

3.189. The legislation provides mechanisms that help INDECOPI to detect and gather evidence, as well as to initiate and terminate investigations, such as the Leniency Programme and undertakings to desist. These mechanisms were strengthened through amendments made to the Law on the Suppression of Anti-Competitive Conduct in 2015 and 2018, among other reforms aimed at strengthening the regulatory framework and the CLC's powers to promote free competition in markets (Box 3.3).

Box 3.3 Main amendments to the Law on the Suppression of Anti-Competitive Conduct in 2015 and 2018

The Law on the Suppression of Anti-Competitive Conduct (Legislative Decree No. 1034 of 2008) was amended by Legislative Decrees No. 1205 of 2015 and No. 1396 of 2018.

The main changes introduced by Legislative Decree No. 1205 of 2015 include the following:

- The power of INDECOPI to initiate a sanctioning procedure against firms that have a decisive participation in the planning or execution of a cartel, even if they do not participate in the collusive structure itself, is extended. This also applies to civil servants who promote or facilitate the creation of cartels.
- INDECOPI is authorized to request permission from an administrative judge (instead of a criminal judge) to conduct an unannounced inspection or obtain the lifting of communications secrecy with respect to a person or firm under investigation.
- The cease and desist procedure is amended so as not to restrict it exclusively to minor anti-competitive conduct; and the parties under investigation are required to offer remedial measures to restore the competitive process and reverse the harmful effects of the violation.
- The characteristics of the Leniency Programme are clearly defined in terms of scope, requirements, benefits, deadlines and the responsibilities of the INDECOPI bodies that operate it.
- Incentives (reduction of the fine) are introduced for firms to admit responsibility for the violation, thereby allowing a rapid conclusion of the procedure.
- Fines are substantially increased for unjustified non-compliance with reporting requirements and for hindering the exercise of INDECOPI's functions.
- INDECOPI is empowered to file lawsuits on behalf of consumers in order to obtain redress for damage caused by a cartel.
- Public bodies are required to respond within 90 working days to INDECOPI's opinions or recommendations for the application of measures to restore or promote competition, such as the elimination of entry barriers.
- A provision is introduced allowing for publication of the Technical Reports issued by the Technical Secretariat and the final CLC rulings, once the final ruling has been notified to the parties.

The main changes introduced by Legislative Decree No. 1396 of 2018 include the following:

- Incorporation of a programme of economic rewards for persons who provide information that is decisive for the detection, investigation and sanctioning of violations subject to absolute prohibition (cartels), keeping their identity confidential.
- The power to initiate legal proceedings to obtain compensation for damage caused by sanctioned anti-competitive conduct, in defence of consumers' interests, is transferred from the INDECOPI Board of Directors to the CLC.
- Incorporation of the possibility for investigated parties to offer remedial measures that contribute to research, advocacy and competition activities, including their funding, as part of an undertaking to desist.
- The deadline for the CLC to issue its final ruling is extended from 30 to 60 working days from the parties' deadline for filing final arguments.
- The deadline for parties to make their arguments is extended from 15 to 30 working days, once the Technical Secretariat's technical report has been notified to them.
- On an exceptional basis, INDECOPI is authorized to suspend the deadlines (for up to 90 days) of the administrative sanctioning procedure for causes attributable to the parties, or when it is temporarily impossible to continue the procedure in the cases established by law.

Source: Legislative Decrees No. 1205 of 2015 and No. 1396 of 2018; OECD, *Annual Report on Competition Policy Developments in Peru 2015*, DAF/COMP/AR(2016)48, 18 October 2016. Document submitted by Peru to the OECD Competition Committee.

3.190. In the case of the Leniency Programme[159], the 2015 reform clarified the programme's characteristics in terms of its scope, requirements, procedure, terms, ranges for exemption or reduction of the fine, and the responsibilities of the INDECOPI bodies that operate the programme. In addition, August 2017 saw publication of the Leniency Programme Guide, which specifies in detail the requirements, conditions, procedures and benefits of the Programme, to promote its effective

[159] Article 26 of Supreme Decree No. 030-2019-PCM.

use and help combat cartels.[160] The first procedure resolved through the application of the Leniency Programme took place in 2017.

3.191. The provisions on undertakings to desist were amended in 2015 and 2018 with a view to establishing an effective way to bring the investigation procedure to an early conclusion.[161] Following the 2015 reform, the application of this mechanism is no longer limited to anti-competitive conduct that has only a minor impact on consumer welfare, but requires the parties investigated to offer remedial measures to restore the competitive process and reverse the harmful effects of the offending conduct. The 2018 reform incorporates the possibility for parties under investigation also to offer measures that contribute to research, promotion and advocacy activities, including through funding.

3.192. The defendant, the plaintiff, or third parties with a legitimate interest who have appeared in the proceedings have 15 working days to appeal the CLC's final ruling to the Tribunal. The Technical Secretariat may also appeal a ruling that exonerates those investigated, and it may also contest the fine imposed. Once the administrative instances before INDECOPI have been exhausted, it is possible to appeal to the judiciary.

3.193. Since the last review, the CLC has maintained an active defence of free competition, based on legislative reforms, the strengthening of its powers and the buoyancy of the Peruvian economy. From 2013 to 2018, the CLC launched 63 proceedings, of which 35 were initiated *ex officio*.[162] Data on proceedings concluded during the same period show that nearly half (49.2%) concerned horizontal collusive practices, 26.8% related to abuse of dominant position and 23.8% were violations for a refusal to submit information.[163]

3.194. The fines imposed by the CLC in the period 2013-18 totalled more than USD 216 million. The proceedings that resulted in the imposition of fines covered various economic sectors and products (Table 3.14). The CLC also conducted studies on the conditions of competition in various markets, including notary services, port services and private health insurance.[164]

Table 3.14 Fines imposed by the Free Competition Commission, 2013-18

Year	Files	Sector	Conduct	Fine[a] (USD)
2013	2	Construction; land transport	VC; HC	2,292,795.78
2014	5	Land transport; professional services; tourism agencies	HC	2,713,797.33
2015	4	Notary services; land transport; food (bread)	HC	157,589.56
2016	3	Health; medicines; food (mango)	HC	4,687,027.68
2017	5	Land transport; toilet paper[b]; fuel (liquefied petroleum gas)	HC	46,011,382.29
2018	4	Maritime transport; fuel	HC	160,249,647.46

a The fines may have been amended at the second administrative instance.
b The data shown includes the discount for collaboration in the Leniency Programme.

Note: HC: Horizontal collusion.
VC: Vertical collusion.

Source: Information provided by the authorities.

3.3.4.2 Price control

3.195. Peru does not apply price controls on goods. On the other hand, the rates charged for certain public utilities, declared by the State as priorities for improving their users' quality of life (water and sewerage services, electricity and natural gas, public transport and telecommunications infrastructure) are regulated by specialized agencies. For example, tariffs for electricity and for pipeline transportation of liquefied petroleum gas (LPG) are set by the Supervisory Body for

[160] The Guide is available on the INDECOPI website. Viewed at: https://www.indecopi.gob.pe/documents/20182/438150/Gu%C3%ADa+del+Programa+de+Clemencia/bacfcc6a-4637-6581-e9fd-de2271646a5c.

[161] Article 25 of Supreme Decree No. 030-2019-PCM.

[162] Reported *ex officio* proceedings include cases of alleged breaches of competition law as well as breaches of the duty to provide information. Proceedings initiated at the request of a party include complaints of alleged competition law violations and requests to authorize mergers in the electricity sector.

[163] Information provided by the authorities. See also INDECOPI, *Anuario de Estadísticas Institucionales*, years 2013 to 2018. Viewed at: https://www.indecopi.gob.pe/estadisticas.

[164] OECD (2018), OECD-IDB Peer Reviews of Competition Law and Policy: Peru, Paris.

Investment in Energy and Mining (OSINERGMIN). The State is also empowered to set minimum and maximum prices for domestic and international air transport, for reasons of national interest or public need.[165] This provision was not applied during the period under review, however.

3.196. In addition, the Price Stabilization Fund for Petroleum-Based Fuels (FEPC), created in 2004, serves to prevent the high volatility of international petroleum and petroleum-product prices from being passed on to domestic consumers.[166] Given the increase in the average international price of crude oil since the creation of the FEPC, the State has accumulated substantial debts with hydrocarbon producers and importers.[167] To meet the corresponding fiscal cost, measures have been adopted to optimize the FEPC, by targeting its benefits on the most vulnerable population groups and excluding most fuels (mainly gasoline) from the list of products covered by the Fund.[168] Certain products, such as LPG, have also been treated differently in order to benefit the poorer segments of the population that use bottled LPG.[169] In addition, Legislative Decree No. 1379 of August 2018 allowed the Government to alter the parameters for updating the FEPC price bands by supreme decree, with a view to reducing debts and making the Fund more sustainable.

3.3.5 State trading, state-owned enterprises and privatization

3.197. Peru has notified the WTO that, during the period 2013-17, it had no state-trading enterprises within the meaning of Article XVII of the GATT 1994 and paragraph 1 of the Understanding on the Interpretation of Article XVII.[170]

3.198. The Peruvian State engages in economic activity through national and municipal state-owned enterprises that operate in several economic sectors. In accordance with the Constitution (Article 60), the State may only carry out business activities in an ancillary capacity, if it is in the public interest or for national convenience, and when expressly authorized by law. The equal legal treatment of public and private enterprises is also enshrined in the Constitution.

3.199. In addition to the Constitution, state-enterprise activity is governed primarily by Legislative Decree No. 1031 of 24 June 2008 and its implementing regulations[171], which lay down standards to promote efficiency in state business activity, particularly with regard to its principles, nature, organization, functions, management and resources, and its relationship with the State's administrative systems. According to the guidelines regulating their activities, state-owned enterprises must: use their resources exclusively to achieve the objectives set out in their statutes, strategic plans, programmes and annual budgets; ensure the suitability and independence of their managerial staff; establish policies that guarantee the fair treatment of minority shareholders; and receive private equity contributions subject to the regulations in force.

3.200. The National Fund for the Financing of State Business Activity (FONAFE), a public law enterprise attached to the Ministry of the Economy and Finance (MEF), is the entity responsible for regulating and managing the business activity of the Peruvian State. FONAFE operates under Law No. 27170, of 8 September 1999 and its implementing regulations. This law was amended in 2013 in order to optimize implementation of the processes to incorporate private capital into the state-owned enterprises subject to FONAFE supervision.[172] In particular, the powers of the members of the board of directors of FONAFE were strengthened[173] to enable it to establish procedures that

[165] Peruvian Civil Aviation Law, Law No. 27261, published on 9 May 2000.
[166] Emergency Decree No. 010-2004 of 15 September 2004.
[167] The accumulated fiscal cost of the FEPC from its creation in 2004 to June 2018 is estimated at PEN 8,905 million.
[168] Emergency Decrees No. 027-2010, No. 057-2011 and No. 005-2012. These decrees reduced FEPC coverage from 98% of total fuel sales in 2005 to 41% in 2018.
[169] Currently only three products are subject to the FEPC: bottled LPG, diesel for vehicle use and industrial oils for electricity generation in isolated systems.
[170] WTO documents G/STR/N/15/PER of 2 July 2014 and G/STR/N/16/PER - G/STR/N/17/PER of 25 May 2018.
[171] Supreme Decree No. 176-2010-EF of 19 August 2010, as amended by Supreme Decree No. 162-2013-EF of 30 June 2013.
[172] Supreme Decree No. 162-2013-EF, published on 30 June 2013, amending Supreme Decree No. 071-2000-EF.
[173] The board is composed of the Minister of the Economy and Finance (Chairperson); the President of the Council of Ministers; the Minister of Transport and Communications; the Minister of Housing, Construction and Sanitation; the Minister of Energy and Mines; and the Minister whose sector is attached to PROINVERSION.

state-owned enterprises are required to follow in order to encourage private equity investment, and to decide on the dissolution and liquidation of those enterprises. There are currently 34 state-owned enterprises under the supervision of FONAFE. The FONAFE board of directors determines which of these enterprises is required to register a minimum of 20% of its capital stock in the Public Registry of Securities.

3.201. Law No. 30469, promulgated on 22 June 2016, created the state-owned enterprise Maintenance Service of Peru (SEMAN PERU SAC), whose purpose is to develop the aeronautical industry and complementary and related industries; it is a maintenance and repair centre for domestic and foreign civil, commercial, police and military aircraft and aviation systems.[174] FONAFE owns the shares representing the capital stock of SEMAN PERU SAC on behalf of the State.

3.202. No privatizations have taken place since 2001. At the end of 2018, the State maintained a majority shareholding in 35 companies, 16 of which were operating in the electricity sector (Table 3.15). On the same date, the State had a minority shareholding in 17 companies, while another four state-owned enterprises were in the process of being liquidated.[175]

Table 3.15 State-owned enterprises by sector, number of workers and income, 2018

Enterprises and sectors	No. of enterprises	No. of workers	Income 2017 (PEN million)[a]
FONAFE			
Electricity	16	3,828	8,692
Financial	4	5,388	12,774
Hydrocarbons and remediation	2	173	3,853
Infrastructure and transport	4	3,351	970
Miscellaneous services	7	2,938	1,408
Sanitation	1	2,395	2,207
Total FONAFE	**34**	**18,073**	**29,904**
PETROPERÚ			
Hydrocarbons	1	2,600	16,330
TOTAL	**35**	**20,673**	**46,234**

a Cash flow (FONAFE enterprises).

Source: Prepared by the MEF with data from FONAFE and PETROPERÚ.

3.203. The largest state-owned enterprise is PETROPERÚ S.A., whose registered capital is 100% owned by the State. The enterprise operates throughout every phase of industry and trade in respect of hydrocarbons (oil and oil derivatives), petrochemicals and other forms of energy, and holds around 50% of the country's fuel market. In the period 2015-17, PETROPERÚ total expenditure accounted for an average of 2.7% of national GDP. Through its regular operations and investment projects, the enterprise contributes to employment by generating 2,600 direct jobs. PETROPERÚ is not subject to FONAFE supervision. In the pursuit of its corporate aims, PETROPERÚ has economic, financial and administrative autonomy, and operates in accordance with the annual and five-year objectives approved by the Ministry of Energy.

3.3.6 Government procurement

3.204. During the period 2013-18, the value of Peru's government procurement market amounted on average to PEN 41,405.5 million per year, representing 6.6% of GDP. In 2018, procurement by state-owned entities accounted for a total of PEN 45,099.3 million (USD 13,460.7 million), 45.9% of which related to the execution of works, 35.5% to the provision of services (including consultancy services for works) and 18.6% to the procurement of goods (Table 3.16). Some 36.8% of procurement was undertaken by central government entities, 30.5% by local government entities and the remainder by regional governments and state-owned enterprises.

[174] SEMAN PERU SAC was created by transferring the assets and resources of the Peruvian Air Force Maintenance Service.

[175] Online information from FONAFE. Viewed at: https://www.fonafe.gob.pe/empresasdelacorporacion.

Table 3.16 Award value according to the contractual object, 2013-18

(PEN million)

Object						
Goods	17,697.8	18,790.3	12,111.6	8,703.6	7,634.7	8,377.2
Services	9,463.9	10,696.0	15,692.5	10,280.8	13,408.0	16,009.4
Works	17,480.4	15,288.1	13,569.2	12,963.3	18,770.6	20,706.7
Framework agreement	-	-	-	-	789.1	-
Total	**44,642.1**	**44,774.4**	**41,373.3**	**31,947.7**	**40,602.4**	**45,093.3**

Source: Information provided by the authorities.

3.205. The Constitution serves as the basis for the Peruvian legal system for government procurement and provides that the "execution of works and the procurement of supplies using public funds or resources shall be subject to contract and public tender".[176] Since its previous review, Peru has introduced reforms in the government procurement legal and institutional framework, in order to improve the efficiency, transparency, integrity and accountability of the system, as well as to adapt the framework to best international practices, including OECD recommendations[177], and to comply with the commitments adopted by the country in its trade agreements.[178] The reform process began with the promulgation of the new Government Procurement Law (No. 30225)[179] and its implementing regulations, which entered into force in January 2016. Since then, the law has been amended by Legislative Decrees No. 1341 (2017) and No. 1444 (2018).[180] The implementing regulations were updated by Supreme Decree No. 344 2018-EF, which entered into force on 30 January 2019.

Box 3.4 Main changes introduced by Law No. 30225

The following are the main changes introduced by Law No. 30225, the Government Procurement Law:

- a new classification of procurement methods has been established, and the framework agreement has been recognized as a special procurement method;
- purchases below 8 UIT[a] (the previous threshold was 3 UIT) are excluded from the scope of the law;
- the concept of "estimated value" for the procurement of goods and services has been introduced, in order to determine how the law is applied and the applicable procurement method, but the "reference value" has been maintained in the case of consultancy services for work and the execution of works;
- with the introduction of homologation, executive branch entities that formulate national and sectoral policies can standardize the technical characteristics of the goods and services that they need. The use of "homologation sheets" is mandatory for all entities, and they must use the simplified award procedure;
- the percentage of prepayment to suppliers and contractors has been reduced and can no longer exceed 30% of the contract value;
- the types of penalties have been redefined (fines, temporary and permanent disqualification);
- the jurisdiction of the Government Procurement Tribunal has been extended;
- the mandatory use of the Dispute Settlement Board has been established for disputes relating to the procurement of high-value works; and
- the National Register of Arbitrators (RNA) and the certification of arbitration institutions have been established.

a In 2019, the UIT is equivalent to PEN 4,200.

Source: Prepared by the WTO Secretariat.

3.206. Law No. 30225 emphasizes the need to take a results-based management approach to government procurement, with the overall aim of maximizing public resources, achieving optimum prices, quality and timeliness in procurement, and ensuring compliance with public service aims.[181] The specific objectives of the new law include, in particular, the simplification of government procurement procedures, homologation for requirements for goods, services or works, increased competition, and institutional reorganization with the launch of Perú Compras, the central

[176] Article 76 of the Constitution.
[177] OECD (2017), *Public Procurement in Peru: Reinforcing Capacity and Co-ordination*, Paris.
[178] Peru has 11 existing trade agreements that include provisions on government procurement with the members of the Pacific Alliance, the European Free Trade Association, Canada, the Republic of Korea, Costa Rica, the United States, Honduras, Japan, Panama, Singapore and the European Union.
[179] Law No. 30225 was published on 11 July 2014, repealing the Government Procurement Law of 2009 (Legislative Decree No. 1017).
[180] The Single Harmonized Text of Law No. 30225 was published through Supreme Decree No. 082-2019-EF on 13 March 2019.
[181] Article 1 of Law No. 30225.

government procurement agency. Box 3.4 sets out the main changes to government procurement regulations introduced by Law No. 30225.

3.207. Legislative Decree No. 1341, published on 7 January 2017, introduced provisions aimed at further simplifying government procurement processes and combating corruption. For example, new provisions were added on impediments to procurement (including prohibiting the hiring of natural persons or representatives of enterprises convicted of corruption offences) and on the grounds for annulling contracts in the event of corruption. In addition, Legislative Decree No. 1341 set out the criteria for rejecting tenders, reinforced the homologation process for technical requirements to be met by procuring entities, and incorporated new administrative infringements and provisions on dispute settlement.

3.208. New amendments to Law No. 30225 were introduced through Legislative Decree No. 1444, published on 16 September 2018 and in force since 30 January 2019, with the express aim of streamlining government procurement processes and strengthening the institutions that operate and monitor the system. Some of those amendments are as follows: exceptionally, the national health system is allowed to procure goods from non-domiciled suppliers, provided that it is more advantageous to do so; provision is made for the use of the Electronic Government Procurement System (SEACE) at every stage of the process; the role of the supervisory body has been extended to cover the entire procurement process (preparatory steps, selection procedure and contract execution); Perú Compras has been strengthened to promote the use of homologation and other procurement methods (framework agreements and reverse auction); and the progressive requirement to use the digital modelling tool during the whole life cycle of works has been introduced.

3.209. The institutional framework for government procurement is composed of the Ministry of the Economy and Finance (MEF), the Supervisory Authority for Government Procurement (OSCE), whose structure includes the Government Procurement Tribunal, and the new central government procurement agency (Perú Compras). Both the OSCE and Perú Compras are attached to the MEF. The MEF issues rules and guidelines on government procurement policies in accordance with its Regulation on Organization and Functions.[182] The OSCE is responsible for overseeing government procurement processes, issuing directives, strategies and other tools for implementing the law, responding to enquiries, and providing information on government procurement procedures. In addition, it is responsible for administering and operating the National Register of Suppliers (RNP)[183] and other registers, operating the SEACE, organizing and administering arbitrations, and settling disputes relating to selection procedures.[184] The Government Procurement Tribunal, as the highest administrative authority, is responsible for settling disputes arising between state-owned entities and bidders during the selection process, as well as fining or disqualifying suppliers, bidders and contractors for infringements of the regulations. The tribunal enjoys autonomy and independence in the exercise of its functions.

3.210. Perú Compras, created in 2008, became operational in 2016 through Supreme Decree No. 364-2015-EF. The agency's objective is to optimize government procurement procedures by using tools such as reverse auction, framework agreements (including electronic catalogues) and centralized procurement (corporate procurement). It is also responsible for issuing opinions on homologation processes.

3.211. Law No. 30225 applies to the procurement of goods, services and works by central government entities (ministries and their public institutions, legislative and judicial branches and constitutionally autonomous bodies), regional and local governments, and state-owned enterprises. The law does not apply to banking and financial contracts, procurement by the Peruvian Foreign Service, the procurement of public notaries, conciliation and arbitration services, and contracts carried out in accordance with the procedures of international organizations or cooperating states or entities awarded as a result of their donations.

[182] Supreme Decree No. 117-2014-EF.

[183] In mid-May 2019, the RNP had 2,875 foreign suppliers (including branches of foreign enterprises and suppliers not domiciled in Peru).

[184] Article 4 of the Regulation on Organization and Functions of the Supervisory Authority for Government Procurement, approved by Supreme Decree No. 076-2016-EF.

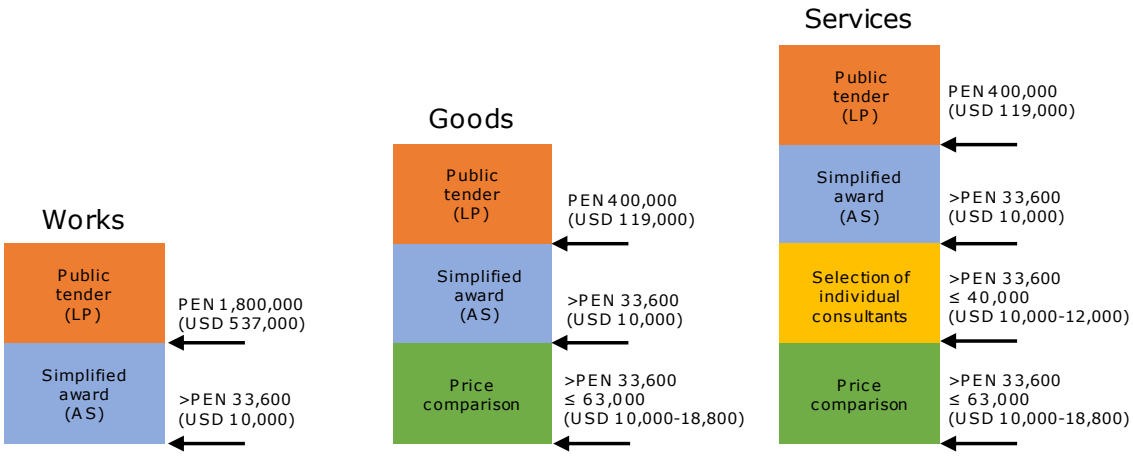
3.212. Contracts worth less than 8 UIT or PEN 33,600[185] (around USD 10,000), public service procurement, and partnership agreements between entities remain outside the scope of the law, but subject to OSCE supervision.[186] Furthermore, Law No. 30225 does not apply to procurement by certain enterprises or public entities that are governed by their own laws, such as PETROPERÚ, commodity exchanges, charities and municipal savings and credit funds.[187] At the beginning of 2019, there were 27 special procurement schemes. Plans are in place to consolidate these schemes into one single procurement system, partly in order to facilitate implementation of the free trade agreements signed by Peru.

3.213. A key amendment to Law No. 30225 was the reclassification of procurement procedures (previously known as selection criteria) and the introduction of new procedures, namely a simplified award procedure, the selection of individual consultants and price comparison. The simplified award procedure is the result of consolidating the previous methods for awarding direct contracts, selective direct contracts and small contracts. In addition, the new law seeks to promote the use of modern and efficient government procurement tools and procedures, such as electronic auction, framework agreements and homologation of the requirements of contracting entities.

3.214. According to Law No. 30225, a state entity can award contracts using the following selection procedures: public tender, open competition, simplified award procedure, selection of individual consultants, price comparison, electronic reverse auction and direct procurement.[188] The use of one or other procedure depends on the object of the contract and the thresholds established in the Public Sector Budget Law (Chart 3.2). Separating the procurement of goods, services or works in order to avoid having to undergo the relevant selection procedure, apply certain regulations by awarding contracts for less than 8 UIT and/or comply with international treaties or commitments on the subject is prohibited.

Chart 3.2 Amounts for procurement procedures for goods, services and works

Pursuant to Law No. 30225, the Government Procurement Law



Notes: Exchange rate: PEN 3.35 per USD 1 (February 2019). Procurement between PEN 0 and 33,600 fall outside the scope of the Government Procurement Law.

Source: Information provided by the authorities.

3.215. Public tenders are used for the procurement of goods and works, while open competitions are used for the procurement of services. The simplified award procedure is used for the procurement of goods, services (except those provided by individual consultants) and low-value works, following the scales set for this purpose. The selection of individual consultants is used to procure consultancy services where no teams of personnel or additional professional support are required. Price comparison is used for the procurement of goods and services, other than consultancy services, that are immediately available, easy to obtain or have a standard established in the market, and whose

[185] In 2019, the UIT is worth PEN 4,200 (Supreme Decree No. 298-2018-EF).
[186] Articles 3, 4 and 5 of Law No. 30225. Legislative Decree No. 1444 excluded government procurement with another State from OSCE supervision.
[187] The special scheme with the highest award value is that of PETROPERÚ (PEN 4,126 million in 2018).
[188] Article 21 of Law No. 30225.

estimated value is equal to or less than 15 UIT or PEN 63,000 (around USD 18,800). Electronic auction applies to the procurement of common goods and services that have a technical data sheet and appear on the list of common goods and services. Current legislation allows entities to opt for individual or corporate procurement; some entities make optional corporate purchases.[189]

3.216. According to 2018 data, open tender accounted for 42.5% of the total value of contracts awarded, competitive public tender for 18.8% and the simplified award system for 25.7%. Direct procurement accounted for 8.3% of acquisitions. In addition, 4.3% of the value of acquisitions was made using the electronic reverse auction method, primarily for fuel purchases. Individual consultant selection procedures and price comparison accounted for 0.4% of the total value of contracts awarded.[190]

3.217. Law No. 30225 extended the exceptional circumstances in which an entity may use direct procurement. The exceptions provided for under the previous law have been maintained (Legislative Decree No. 1017): contracts between state entities; emergency or shortage situations; procurement of a secret nature or for reasons of domestic order by the Armed Forces, national police and national intelligence system agencies; procurement of goods or services that can only be obtained from a certain supplier; and highly specialized services provided by natural persons. The new law also includes the following exceptions: advertising services; consultancy services that are the continuation of previous work undertaken by an individual consultant; goods and services for scientific or technological research or development purposes; acquisition and lease of existing real estate; legal services for the protection of public officials; where there is an urgent need to continue the provision of services not delivered because of a contract being terminated or declared null and void; and training services following an admission process.[191] Direct procurement must be approved by a decision taken by the head of the entity or agreed by the regional or municipal council, as appropriate.

3.218. Any national or foreign natural or legal person interested in becoming a state bidder, contractor or subcontractor must be registered in the RNP.[192] Bidders or contractors for public works are assigned a maximum procurement capacity calculated according to their registered paid-up capital in Peru and their experience. In the case of non-domiciled and domiciled foreign legal entities (parent organizations and branch offices, respectively), the maximum procurement capacity is assigned based on their experience and registered paid-up capital, registered with the competent authority in their country of origin.[193]

3.219. The SEACE, administrated by the OSCE, enables information on government procurement to be exchanged and disseminated, as well as electronic transactions to be made. All state entities must use the SEACE to register their annual procurement plan and the documents connected with their procurement processes (including those relating to preparatory steps, selection procedures, contract execution, arbitration awards, conciliations, and purchase and service orders). Entities must also register procurements excluded from the scope of the law but subject to OSCE supervision.

3.220. In all selection procedures (except for price comparison) the invitation to tender must be published in the SEACE. Bid submission deadlines are decided primarily based on the procurement value. In public tenders and open competitions, the bid submission deadline cannot be less than 22 working days (from the day following the invitation to tender), and the period between replying to queries and comments/setting the selection procedure rules and the submission of bids cannot be less than seven working days (from the day following the publication of the selection procedure rules in the SEACE). In the simplified award procedure, bid submission is made within seven working days from the publication of the invitation to tender in the case of the procurement of general goods and services, and nine working days for the execution of works.

3.221. State entities must prepare technical specifications and objective terms of reference that do not have the effect of creating obstacles to competition. They should not refer to a specific make or

[189] These are *Perú Compras*, the Ministry of Health and FONAFE.
[190] WTO Secretariat calculations based on information provided by the authorities.
[191] Article 27 of Law No. 30225.
[192] Registration in the RNP is carried out online. The register can be viewed on the OSCE website at: http://portal.osce.gob.pe/rnp.
[193] As at May 2019, the RNP had 2,875 foreign suppliers (including enterprises domiciled and not domiciled in Peru).

source, or a particular process that characterizes the goods or services provided by a specific supplier, or to trademarks, patents, or a specific origin, for the purpose of favouring or eliminating certain suppliers. The new law empowers ministries to standardize their requirements for goods, services and works through a homologation process. Homologation certificates are mandatory for all state entities and in such cases procurement takes place through the simplified award procedure irrespective of the amount.

3.222. Any practices that affect competition in procurement processes are prohibited. Under the principle of truthfulness, bidders must declare that they are engaging in the process independently, without any consultation, communication, agreement, arrangement or accord with any supplier. Where an entity, the OSCE or the Government Procurement Tribunal finds any indication of anti-competitive conduct in a selection procedure, it must send all relevant information to INDECOPI, which, if appropriate, will initiate administrative penalty proceedings against the alleged offenders.

3.223. The method for evaluating bids is based on a points scoring system. For the procurement of goods, services and works, a selection committee verifies that documents have been submitted that prove compliance with the functional characteristics and/or requirements and other conditions outlined in the rules. In a subsequent step, the committee assigns a score according to the evaluation factors set out in the rules, with price possibly being the only criterion. Once the evaluation is completed, the committee verifies compliance with the qualification requirements set out in the rules. In the case of consultancy services, the evaluation is carried out in two stages, one technical and one financial. Only bidders who meet the qualification requirements and achieve the minimum score during the technical evaluation continue on to the phase of having their financial bids evaluated.

3.224. Legislation provides for a degree of preferential treatment to encourage the participation of MSEs in government procurement. The implementing regulations for Law No. 30225 provide that in the event of tie bids in a simplified award, priority will be given in the following order to: (i) MSEs composed of disabled persons or associations composed entirely of such enterprises; and (ii) MSEs in general or associations composed entirely of such enterprises. In addition, for regular contracts for the supply of general goods or services, and for contracts for the execution of works or consultancy services for works, MSEs may opt for the withholding of 10% of the amount of the original contract, instead of submitting a performance bond for the amount. In contracts for the execution of works, this benefit only applies when it is a simplified award and the conditions set out in the implementing regulations are met. Supreme Decree No.013-2013-PRODUCE requires public entities to schedule the provision of at least 40% of their annual procurement by small and medium-sized enterprises and to give priority to regional and local enterprises in the location where the procurement is being undertaken.[194] According to an OSCE study, in the period 2014-16, the amount awarded to MSEs each year was PEN 11,000 million on average.[195]

3.225. The participation in government procurement of regional and local enterprises outside the provinces of Lima and Callao is also encouraged. Pursuant to the implementing regulations, in the simplified award procedure for services and consultancy services, an additional 10% is awarded on top of the total score obtained by bidders domiciled in the province where the service is to be provided or the works carried out, or in neighbouring provinces. In general, where specified by the entity's selection procedure rules, additional points are assigned to the bids of enterprises that meet evaluation criteria in respect of environmental or social sustainability (for example, responsible water use), human development (stamp certifying an "enterprise free from violence and discrimination against women") and integrity (accredited anti-bribery management system). Up to seven additional points can be accumulated.

3.226. The regulations provide for dispute settlement and appeal mechanisms against the actions of public entities, both during the selection procedure (from the invitation to tender until the contract is awarded) and during the execution of the contract. In selection procedures, if the contract value is equal to or less than 50 UIT, an appeal can be filed directly with the head of the inviting entity. Where the contract value exceeds that amount, or in the case of procedures relating to a framework agreement's electronic catalogues, the appeal is filed with the OSCE's Government Procurement

[194] Article 22 of the Single Harmonized Text of the Law to Promote Productive Development and Business Growth, approved through Supreme Decree No. 013-2013-PRODUCE.

[195] OSCE (2017), *Estimación de la Participación de las Micro y Pequeñas Empresas (MYPE) en el Mercado Estatal-Año 2016*, Lima.

Tribunal. Appeals may not be filed in the case of direct procurement. The deadlines for filing appeals may be five or eight days, depending on the decision being challenged, the procurement method and the estimated value or reference value. The filing of an appeal causes the selection procedure to be suspended. The head of the entity or the Tribunal may declare the appeal unfounded or inadmissible, or declare it founded and revoke the contested decision. The decisions of the head of the entity and the Tribunal exhaust administrative channels of appeal; thereafter, administrative litigation proceedings can be initiated against those decisions.

3.227. In addition to ruling on appeals, the Government Procurement Tribunal has the power to sanction suppliers, bidders and contractors for violation of the provisions of the law. According to data provided by the authorities (Table 3.17), the number of rulings by the Tribunal on appeals has been increasing in recent years.[196] On the other hand, the number of rulings relating to the imposition of penalties has fallen by more than half since 2014.[197] The most frequent type of infringement committed by suppliers is the submission of false and inaccurate documentation (60% of the sanctioned suppliers).

Table 3.17 Rulings of the Government Procurement Tribunal, 2014-18

Year	Sanctions imposed[a]	Appeals[b]	Total
2014	2,834	651	3,485
2015	2,367	557	2,924
2016	2,442	605	3,047
2017	1,927	824	2,751
2018	1,305	965	2,270
Total	**10,875**	**3,602**	**14,477**

a Includes review rulings.
b Includes appeal review rulings.

Source: Government Procurement Tribunal information system (SITCE).

3.228. Disputes arising at the contract execution stage are settled by conciliation or arbitration with the consent of the parties. To expedite the settlement of disputes relating to the execution of works, Law No. 30225 introduced the Dispute Settlement Board, recourse to which is mandatory for works with a reference value greater than PEN 20 million. Law No. 30225 also created the National Register of Arbitrators, administered by the OSCE, and the certification of arbitration institutions.

3.3.7 Intellectual property rights

3.3.7.1 General features

3.229. The Peruvian legal framework governing intellectual property is composed of domestic legislation, the Andean Community (CAN) regime, and bilateral and multilateral treaties and agreements. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as well as other international treaties and conventions to which Peru has acceded, form part of Peruvian legislation and can be invoked before the national courts.

3.230. Peru is a party to 16 conventions and treaties on intellectual property rights (IPRs) administered by the World Intellectual Property Organization (WIPO) (Table 3.18). During the review period, it joined the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled; the Singapore Treaty on the Law of Trademarks; and the Beijing Treaty on Audiovisual Performances.

[196] This increase can be explained, on the one hand, by regulatory changes extending the Tribunal's power to handle disputes involving selection procedures with a reference value above 50 UIT (it was previously 65 UIT) and, on the other hand, by the public's greater trust in the Tribunal's rulings.

[197] This fall would appear to be explained by the introduction, in recent years, of a preliminary investigation stage, conducted by an examining body, which caused a delay in proceedings. The stage in question was eliminated in 2019 and the investigation is once again conducted by the secretariat of the Government Procurement Tribunal.

Table 3.18 Peru's membership of WIPO-administered treaties

Treaty/Convention	Date	Entry into force
Convention Establishing the World Intellectual Property Organization	Signed: 14 July 1967 Ratification: 4 June 1980	4 September 1980
Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite	Accession: 7 May 1985	7 August 1985
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations	Accession: 7 May 1985	7 August 1985
Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms	Accession: 7 May 1985	24 August 1985
Berne Convention for the Protection of Literary and Artistic Works	Accession: 20 May 1988	20 August 1988
Paris Convention for the Protection of Industrial Property	Accession: 11 January 1995	11 April 1995
WIPO Copyright Treaty	Accession: 30 July 2001	6 March 2002
WIPO Performances and Phonograms Treaty	Accession: 18 April 2002	18 July 2002
Lisbon Agreement for the Protection of Appellations of Origin and their International Registration	Accession: 16 February 2005	16 May 2005
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure	Accession: 20 October 2008	20 January 2009
Patent Cooperation Treaty	Accession: 6 March 2009	6 June 2009
Trademark Law Treaty	Accession: 6 August 2009	6 November 2009
International Convention for the Protection of New Varieties of Plants (UPOV)	Accession: 8 July 2011	8 August 2011
Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled	Signed: 28 June 2013 Ratification: 2 February 2016	30 September 2016
Singapore Treaty on the Law of Trademarks	Accession: 27 September 2018	27 December 2018
Beijing Treaty on Audiovisual Performances	Signed: 26 June 2012 Ratification: 27 September 2018	Not yet entered into force

Source: WIPO. Viewed at: https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=137C.

3.231. Peru, through INDECOPI, took the decision in 2018 to draft a national intellectual property policy (PNPI) that would enable intellectual property to be included in the country's economic development agenda. According to the authorities, this policy will seek to establish general directives and guidelines to achieve greater respect, appreciation and use of the intellectual property system as a whole. The authorities consider it particularly important to promote respect for IPRs in the framework of creative activities and entrepreneurship and innovation as, in their view, this will lead to increased competitiveness and to the country's cultural, social and economic development. The PNPI is being developed with WIPO support and the involvement of more than 45 institutions linked to the various fields of intellectual property. It is expected that the PNPI will be formulated in the second half of 2019.

3.232. Key national IPR legislation includes: Legislative Decree No. 822 and amendments thereto[198], governing copyright and related rights; CAN Decision No. 486, governing the protection of industrial property; and CAN Decision No. 345, governing the protection of plant breeders' rights. As a member of CAN, Peru directly implements the Cartagena Agreement decisions governing intellectual property.

3.233. INDECOPI is responsible for implementing the legal provisions protecting IPRs in Peru, and for applications to register those rights. Through its various directorates, INDECOPI coordinates the implementation of, and monitors compliance with, national and international intellectual property commitments. The Copyright Directorate (DDA) is the national authority responsible for protecting copyright and related rights, and is the first administrative instance for deciding on cases submitted to its jurisdiction.[199] The DDA is also responsible for administering the National Copyright and Related Rights Register, and for setting up collective management organizations. The Inventions and New Technologies Directorate (DIN) is responsible for receiving and deciding on applications for patents

[198] Legislative Decree No. 822, Copyright Law, published in April 1996.
[199] Article 1 of Legislative Decree No. 822.

for inventions, utility models, industrial designs, protection certificates, the collective knowledge of indigenous peoples, certificates for new plant variety breeders and other new technologies. DIN is also the first administrative instance for settling disputes. Lastly, the Distinctive Signs Directorate (DSD) registers trademarks, trade names and trade slogans, appellations of origin, geographical indications and traditional specialties guaranteed. The DSD is the first administrative instance for settling registration opposition proceedings, as well as for the cancellation and annulment of registrations and the assertion of rights. In addition, as a second administrative instance, it receives and decides on appeals in non-contentious proceedings.

3.234. In 2018, 55,376 registration files were opened with INDECOPI's intellectual property directorates. In the DDA, 3,203 registration applications were filed and 3,217 were concluded; in the DIN, 3,371 files were opened and 3,125 were concluded; and in the DSD 48,802 applications were filed and 48,097 were concluded (Table 3.19).

Table 3.19 Intellectual property indicators in Peru, 2013-18

	2013	2014	2015	2016	2017	2018[a]
Copyright Directorate						
Applications filed	2,922	3,050	2,957	3,050	3,503	3,203
Applications concluded	2,639	3,143	3,099	3,139	3,351	3,217
Inventions and New Technologies Directorate						
Files opened	2,978	2,565	2,695	2,811	2,877	3,371
Applications concluded	2,146	2,414	2,373	2,357	2,723	3,125
Distinctive Signs Directorate						
Applications filed	40,687	42,119	44,221	43,364	42,627	46,802
Applications concluded	39,291	48,536	48,012	43,386	47,497	48,097

a Preliminary data.

Source: INDECOPI, *Anuario de Estadísticas Institucionales*, 2013 to 2018.

3.235. INDECOPI is implementing the "INDECOPI Digital Project" with a view to digitizing document processing and the services and procedures it offers. In this connection, the Online Industrial Property Gazette has also been launched, which is a digital platform where trademark or patent registration applications are published, thereby eliminating publication costs and significantly reducing trademark registration time.[200] The Online Gazette has been in use since the beginning of the third quarter of 2017, and led to an estimated saving by the authorities of PEN 16.86 million in trademark and patent application publishing costs between July 2017 and March 2019.

3.3.7.2 Copyright and related rights

3.236. Copyright and related rights in Peru are governed by Legislative Decree No. 822, the Copyright Law. This law protects all artistic and literary works, irrespective of genre, form of expression, merit or purpose, provided that they are original and can be disclosed or reproduced. The law does not protect ideas, official texts, news or simple facts and data.[201] Both economic and moral rights are protected.[202] Economic rights can be transferred by legal mandate or presumption and are protected throughout the lifetime of copyright holders plus 70 years after their death. Collective works, computer programs and audiovisual works are protected for 70 years from the date of first publication.

3.237. Collective management organizations manage the collection of royalties or fees in connection with copyright or related rights on behalf of several authors and holders of such rights. These

[200] Statement by Peru at the WIPO Assemblies. Geneva, October 2017. Viewed at: https://www.wipo.int/edocs/mdocs/govbody/es/a_57/a_57_p06.pdf.

[201] Articles 3, 5 and 9 of Legislative Decree No. 822.

[202] Moral rights are the rights of disclosure, paternity, integrity, modification or variation, withdrawal from the market, and access. These rights are perpetual, inalienable, unattachable, unrenounceable and imprescriptible. Economic rights encompass the exclusive right that authors have to use their work, which includes the right to engage in, authorize or prohibit the reproduction, communication or distribution to the public and the translation or transformation of the work, the importation of unauthorized copies and any other form of unauthorized use.

organizations need authorization from the INDECOPI to perform their functions. There are currently six authorized collective management organizations in Peru.[203]

3.238. During the review period, minor amendments were made to legislation on copyright and related rights. Legislative Decree No. 1309, published on 30 December 2016, amended some articles of the Copyright Law, including Article 191, which provides that successive periodic penalty payments of up to 180 UIT may be imposed on copyright infringers until they comply with the terms of the final rulings of the INDECOPI Tribunal.[204] Supreme Decree No. 053-2017-PCM approves the Regulations on the National Copyright and Related Rights Register.[205] This register is optional and does not generate rights; however, it constitutes a means of advertising and proof of precedence for the right holder.

3.239. In 2018, applications for a total of 2,132 copyright registrations were filed and 2,109 registration files were concluded (Table 3.20). The highest proportion of registrations concluded related to literary works, at 53.25%, while phonograms accounted for 17.31% of the total registrations concluded.[206]

Table 3.20 DDA files by type of procedure, 2013-18

Type of procedure		2013	2014	2015	2016	2017	2018[a]
Registrations	Applications filed	1,684	1,558	1,570	1,694	2,066	2,132
	Concluded	1,505	1,715	1,584	1,701	2,020	2,109
Complaints	Applications filed	470	502	585	422	570	333
	Concluded	405	467	596	494	616	363
Inspections	Applications filed	617	776	642	741	566	514
	Concluded	595	750	734	743	430	507
Preventive measures	Applications filed	81	117	103	108	213	178
	Concluded	70	101	116	111	212	178
Amendments	Applications filed	62	81	37	80	78	21
	Concluded	60	98	41	85	68	35
Cancellation	Applications filed	3	8	3	1	6	20
	Concluded	2	6	7	2	4	18
Mediation	Applications filed	5	8	15	1	3	3
	Concluded	2	6	19	3	1	4
Arbitration	Applications filed	0	0	1	0	1	1
	Concluded	0	0	1	0	0	2

a Preliminary data.

Source: INDECOPI, *Anuario de Estadísticas Institucionales*, 2013 to 2018.

3.3.7.3 Industrial property

3.3.7.3.1 Overview

3.240. In Peru, CAN's Common Industrial Property Regime is implemented to protect industrial property rights. This regime is governed by Decision No. 486 of 2000, and No. 632 and No. 689 of 2008. Decision No. 345 of 1993 is implemented to ensure the protection of plant breeders' rights. In addition, Legislative Decree No. 1075 on Supplementary Provisions to CAN Decision No. 486, as amended by Legislative Decrees No. 1309, published on 30 December 2016, and No. 1397, published

[203] The collective management organizations authorized by the INDECOPI are: the APDAYC, for authors and composers of musical works; UNIMPRO, for phonographic producers; SONIEM, for audivisual performers; INTER ARTIS, for audiovisual performers; EGEDA PERÚ, for audiovisual producers; and APSAV, for visual artists. Online information from INDECOPI. Viewed at: https://www.indecopi.gob.pe/en/web/derecho-de-autor/informacion-util.

[204] Legislative Decree No. 1309 on the simplification of administrative procedures in intellectual property matters handled by the dispute settlement bodies of INDECOPI, published in December 2016.

[205] Supreme Decree No. 053-2017-PCM, approving the Regulations on the National Copyright and Related Rights Register, published on 21 May 2017.

[206] INDECOPI (2019), *Anuario de Estadísticas Institucionales 2018*. Viewed at: https://www.indecopi.gob.pe/documents/20182/1651242/Anuario+2018+GEE+%281%29.pdf/f94d1524-e7e8-2fee-ff8a-ae4d90b23133.

on 7 September 2018, was adopted in 2008 in order to comply with the trade commitments under the Peru-United States Trade Agreement.

3.241. Pursuant to CAN Decision No. 486, Peru must accord treatment no less favourable than it accords to its own nationals to other CAN member States, WTO Members and the Contracting States to the Paris Convention for the Protection of Industrial Property. In addition, Decision No. 486 incorporates the principle of MFN treatment, providing that any advantage, favour, privilege or immunity with respect to the protection of industrial property granted to a CAN member State must be extended to all WTO Members and the Contracting States to the Paris Convention. It also incorporates the principle of priority claim, which grants the holder making a first application for an industrial design or trademark patent and registration, duly filed in a member State, a right of priority to file an application in another member State for a patent or registration of the same item.[207] The deadline for benefiting from this right of priority is 12 months for invention and utility model patents and six months for industrial design and trademark registrations.

3.242. The CAN Common Industrial Property Regime recognizes the rights and power of indigenous, Afro-American or local communities to decide on their collective knowledge.[208] This has been incorporated into Peruvian domestic legislation through Law No. 27811 of 2002, which establishes the special protection regime for the collective knowledge of indigenous peoples relating to biological resources in Peru.[209] The unauthorized disclosure, acquisition or use of the accumulated and transgenerational knowledge developed by indigenous communities concerning the properties, uses and characteristics of biological diversity is protected. These rights are inalienable and imprescriptible.[210]

3.243. In September 2018, through Legislative Decree No. 1397, several articles of Legislative Decree No. 1075 were amended, in order to specify provisions for the administrative procedures for which INDECOPI is responsible, in particular with respect to geographical indications and traditional specialities guaranteed.[211]

3.244. The DIN and the DSD are the INDECOPI directorates responsible for industrial property and other forms of intellectual property, such as breeders' certificates and the collective knowledge of indigenous peoples. In 2018, 3,240 applications for registration were filed with the DIN, and 44.8% of all registrations were filed by foreigners, primarily for the registration of patents (92.8%), industrial designs (64.8%) and breeders' certificates (80.8%). Some 32.7% of the applications for patent registration were filed by US citizens, followed by Germans, accounting for 10.7% of the applications, and Peruvians, accounting for 7.2% (Table 3.21).[212]

Table 3.21 DIN files by type of procedure, 2013-18

Procedure	Description		2013	2014	2015	2016	2017	2018[a]
Registrations	Invention patents	Applications filed	1,266	1,287	1,249	1,164	1,219	1,220
		Concluded	722	929	914	970	1,264	1,314
		Granted	287	332	362	402	510	625
	Collective knowledge	Applications filed	690	578	689	788	841	1,316
		Concluded	649	690	689	699	701	776
		Granted	643	680	689	691	700	776
	Industrial designs	Applications filed	499	319	358	303	349	381
		Concluded	415	481	427	211	302	508
		Granted	372	427	381	169	266	453
	Utility models	Applications filed	140	203	215	246	280	257
		Concluded	58	136	170	177	234	329
		Granted	17	45	75	83	128	207

[207] Article 9 of Decision No. 486.
[208] Article 3 of CAN Decision No. 486.
[209] Law No. 27811 establishing the Regime for Protection of the Collective Knowledge of Indigenous Peoples Relating to Biological Resources, published in August 2002.
[210] Law No. 27811.
[211] Legislative Decree No. 1397, amending Legislative Decree No. 1075, approving Supplementary Provisions to CAN Decision No. 486, published on 7 September 2018.
[212] INDECOPI (2019), *Anuario de Estadísticas Institucionales 2018*. Viewed at: https://www.indecopi.gob.pe/documents/20182/1651242/Anuario+2018+GEE+%281%29.pdf/f94d1524-e7e8-2fee-ff8a-ae4d90b23133.

Procedure	Description		2013	2014	2015	2016	2017	2018[a]
	Breeders' certificates	Applications filed	137	56	62	29	38	52
		Concluded	76	44	48	15	77	66
		Granted	10	22	20	7	68	53
	Protection certificates	Applications filed	2	3	6	11	21	14
		Concluded	4	3	6	11	16	17
		Granted	3	3	6	9	16	16
Other procedures	Amendments	Applications filed	234	97	102	251	105	98
		Concluded	206	112	99	260	105	74
	Infringements	Applications filed	5	15	8	9	12	16
		Concluded	9	10	15	6	10	23
	Annulments	Applications filed	5	7	6	6	6	5
		Concluded	7	9	5	5	10	5
	Inspection visits	Applications filed	-	-	-	1	4	8
		Concluded	-	-	-	1	3	8
	Sanctions	Applications filed	-	-	-	2	2	2
		Concluded	-	-	-	1	1	3

a Preliminary data.

Source: INDECOPI, *Anuario de Estadísticas Institucionales*, 2013 to 2018.

3.245. In 2018, a total of 46,802 applications were filed, 29,972 of which were applications for the registration of distinctive signs. Some 28.7% of applications for the registration of distinctive signs were filed by foreign citizens (Table 3.22).

Table 3.22 DSD files by type of procedure, 2013-18

Procedure		2013	2014	2015	2016	2017	2018
Registration	Applications filed	25,258	25,258	26,354	25,577	26,996	29,972
	Concluded	24,473	28,750	27,581	26,874	30,469	31,145
Product trademark	Applications filed	15,287	15,143	15,702	4,989	15,419	16,712
	Granted	11,866	13,245	12,504	12,602	14,849	14,341
Service trademark	Applications filed	6,842	6,981	7,232	7,124	7,771	8,470
	Granted	5,191	5,952	5,504	6,022	7,609	7,546
Multi-class	Applications filed	2,459	2,526	2,924	2,890	3,141	3,278
	Granted	1,992	2,328	2,606	2,727	4,029	3,249
Trade slogan	Applications filed	314	274	228	269	345	303
	Granted	137	158	147	157	307	255
Trade name	Applications filed	353	322	255	255	259	237
	Granted	190	197	147	189	175	175
Collective mark	Applications filed	3	10	11	42	59	908
	Granted	12	3	9	17	55	823
Certification mark	Applications filed	-	2	2	8	2	62
	Granted	2	2	9	8	8	67
Renewal	Applications filed	8,817	9,622	11,682	11,745	9,419	10,209
	Concluded	8,577	11,372	13,162	10,698	10,515	10,144
Amendments	Applications filed	5,069	5,466	4,232	3,997	4,052	4,079
	Concluded	4,710	6,404	5,152	3,676	4,421	4,078
Infringements	Applications filed	474	622	813	979	904	1,162
	Concluded	477	635	875	1,118	928	1,304
Cancellations	Applications filed	607	676	710	656	820	877
	Concluded	573	826	696	644	721	965
Annulments	Applications filed	218	213	182	176	234	295
	Concluded	208	272	223	179	211	270
Renunciation	Applications filed	132	151	146	118	138	152
	Concluded	98	167	173	132	164	136
National appellations of origin	Applications filed	2	4	2	40	0	0
	Concluded	0	4	3	3	4	0
Authorizations for use	Applications filed	108	100	98	50	61	54
	Concluded	113	90	140	47	56	53
	Granted	67	48	69	31	45	38
Ownership claims	Applications filed	0	1	0	13	2	2
	Concluded	0	0	0	7	4	1
Technology transfer	Applications filed	0	1	0	0	1	0
	Concluded	0	1	0	0	2	1
Authorizations to operate as a regulatory board	Applications filed	0	0	1	0	0	0
	Concluded	0	1	1	0	1	0

Procedure		2013	2014	2015	2016	2017	2018
Foreign appellations of origin	Applications filed	2	5	1	13	0	0
	Concluded	62	14	6	0	1	0
	Granted	1	7	6	1	1	0

Source: INDECOPI, *Anuario de Estadísticas Institucionales*, 2013 to 2018.

3.3.7.3.2 Invention and utility model patents

3.246. Invention patents are granted for products or processes that are new, have an inventive step and are capable of industrial application, for a period of 20 years from the application date.[213] Utility models are all new forms, configurations or arrangements of any object that result in better or different functioning and endow it with some use, advantage or effect that it did not previously have. Utility models are protected through patents.[214] The right to a patent belongs to the inventor, who can be a natural or legal person, and may be assigned *inter vivos* or by succession. Inventions developed during an employment or service relationship belong to the employer provided that they are created during the period of a contract drawn up specifically for inventive activities or when the invention is created as part of the worker's job and using means provided by the employer. When the invention belongs to the employer, adequate compensation must be paid to the worker if his/her contribution or the economic value of the invention exceed the targets set in the contract.[215] To maintain the validity of an invention patent, the corresponding annual fees must be paid. Failure to pay results in the legal lapsing of the patent or the patent application.[216]

3.247. Patent owners have the right to prevent third parties from manufacturing or marketing the patented product or the product obtained through a patented process, and that right also prevents the use of a patented process without the owner's consent.[217] Patents may also be licensed for the use of the respective invention. These licences must be in writing and must be registered with the DIN. Peruvian legislation provides for the granting of compulsory licences: in the event of failure to use (three years following the granting of the patent, or four years following application); for reasons of public interest and national emergency or security; when there is abuse of dominant position; or when there is a reliance on the use of another patent. Compulsory licences are not exclusive and must be properly remunerated; no sub-licences may be granted.[218] No compulsory licence has been granted to date.

3.248. During the review period, Law No. 30018 was adopted with the aim of implementing open-access and free patent databases in order to promote innovation and technology transfer in Peru.[219] The Law entrusts DIN with the task of implementing databases that contain information on patents included in national and international registers that do not have existing rights. According to the implementing regulations for Law No. 30018, the database containing information on patents included in the national register must be updated on a daily basis.[220]

3.3.7.3.3 Industrial designs

3.249. An industrial design is considered as the particular appearance of a product resulting from any arrangement of lines or combination of colours, or any two-dimensional or three-dimensional external shape, line, outline, form, texture or material, without the intended use or purpose of the product being changed.[221] The protection of industrial designs in Peru is governed by Title V of CAN Decision No. 486. The right to registration belongs to the designer (natural or legal person) and only new industrial designs may be registered. Once the requirements laid down in the regulations have been met, registration is granted and a certificate is issued for a term of ten years from the

[213] Articles 14 and 50 of Decision No. 486.
[214] Article 81 of Decision No. 486.
[215] Article 36 of Legislative Decree No. 1075.
[216] Article 80 of Decision No. 486.
[217] Article 52 of Decision No. 486.
[218] Chapter VII of Decision No. 486.
[219] Law No. 30018 on promoting the use of patent information to foster innovation and technology transfer, published on 13 May 2013.
[220] Supreme Decree No. 019-2016-PCM approving the implementing regulations for Law No. 30018 on promoting the use of patent information to foster innovation and technology transfer, published on 20 March 2016.
[221] Article 113 of Decision No. 486.

application filing date. This registration confers on the holder the right to prevent third parties from making use of the design.

3.3.7.3.4 Appellations of origin

3.250. Appellations of origin in Peru are governed by the provisions of CAN Decision No. 486 and Legislative Decree No. 1075, published on 7 September 2018. Under the regulations, an appellation of origin is defined as a geographical indication consisting of the name of a particular country, region or locality used to identify a product originating from that location, the qualities, reputation and other characteristics of which are essentially attributable to the geographical environment in which it is produced.[222]

3.251. In Peru, the declaration of protection of an appellation of origin may be requested *ex officio* or by any natural or legal person directly engaged in the extraction, production or preparation of the products to be protected. The period of validity of the declaration is subject to the continuing existence of the conditions on which it was based, and the protection begins with the declaration issued to that effect by the competent national office, which in this case is the DSD.

3.252. The Peruvian State is the holder of Peruvian appellations of origin and grants authorization to use them. There are currently ten national appellations of origin: *Pisco* (type of brandy); *Maíz Blanco Gigante Cusco* (giant white corn); *Chulucanas* (type of pottery); *Pallar de Ica* (lima beans from Ica); *Café Villa Rica* (coffee); *Loche de Lambayeque* (type of squash from Lambayeque); *Café Machu Picchu-Huadquiña* (coffee); *Maca Junín-Pasco* (maca root from Junín-Pasco); *Aceituna de Tacna* (olives); and *Cacao Amazonas Perú* (cocoa). Peru has ensured the protection of its appellations of origin through the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (Lisbon Agreement), to which it became a party on 16 May 2005, and under different agreements concluded with other countries and trade blocs (as is the case, for example, in the agreements concluded with the European Union and in the Free Trade Agreement with Canada).[223] According to the authorities, 1,059 geographical indications and foreign appellations of origin are protected in Peru, 945 of them through the Lisbon Agreement and 114 through various other agreements. This is the case, for example, with some European appellations of origin, such as *Champagne* and *Prosciutto di Parma*, which are protected under the Free Trade Agreement between the European Union and Peru, and with *Porto*, protected under the Lisbon Agreement.

3.3.7.3.5 Trademarks, trade slogans, trade names and collective marks

3.253. In Peru, a trademark is any sign serving to distinguish products or services in the market.[224] Legislation provides that signs capable of graphical representation are eligible for registration as trademarks. Signs may not be registered as trademarks when they contravene outright prohibitions on registration, or if their use for trade purposes constitutes an impediment to the rights of third parties.

3.254. A trademark registration remains valid for a term of ten years from the grant date and may be renewed for successive ten-year periods. Renewal must be requested within the six months preceding the expiry of the registration, and proof of trademark use is not required.[225] In the case of trade slogans, the period of validity is also ten years; however, the validity of the registration is subject to the validity of the registration of the trademark that the slogan publicizes. The trademark lapses de jure if renewal is not requested.

3.255. Trade names constitute any sign that identifies an economic activity, a business or a commercial establishment. They are independent of the names or trading names of legal persons, and exclusive right to a trade name is acquired through its first commercial use; its registration is

[222] Article 201 of Decision No. 486.
[223] Online information from INDECOPI. Viewed at: https://www.indecopi.gob.pe/documents/20795/200046/Lisboa-ListadoDOsProtegidas_Oct.2016.pdf/735747b2-d30c-40c4-b1b1-06bff9549e14.
[224] Article 134 of Decision No. 486.
[225] Articles 152 and 153 of Decision No. 486.

therefore of a purely declaratory nature. Trade name registrations remain valid for ten years, renewable for successive equal periods.[226]

3.256. In August 2017, Supreme Decree No. 086-2017-PCM waived the registration fee for applications for the registration of collective marks filed by producer organizations, craft workers and micro and small entrepreneurs, domiciled and/or with an economic activity within the geographical areas where a state of emergency had been declared because of the El Niño Costero phenomenon, in order to help boost economic recovery in the regions affected. Registration procedures were also simplified. Although Supreme Decree No. 086-2017-PCM remained in force only until August 2018, owing to the success of the programme, Supreme Decree No. 092-2018-PCM extended its scope nationwide to include collective mark applications for producer organizations and service providers operating in the agricultural, livestock, fisheries, aquaculture, manufacturing, crafts, textiles, tourism and creative industries sectors. The latter supreme decree also provided for a temporary regime to simplify procedures. The waiver and simplification regime are valid for one year from the date of publication of this latest decree.[227] Thanks to the implementation of these measures, 823 collective marks were granted in 2018, whereas from 1993 to June 2017, INDECOPI had only granted 215 collective marks.

3.3.7.3.6 Plant variety protection

3.257. CAN Decision No. 345 provides for a common regime on the protection of the rights of breeders of new plant varieties, and its scope encompasses all botanical genera and species, provided that they are not prohibited for health reasons. The Regulations for the Protection of Plant Breeders' Rights were approved under Supreme Decree No. 035-2011-PCM, supplementing Decision No. 345. DIN is the authority responsible for performing the administrative functions contained in the decision and the regulations.

3.258. Under Decision No. 345, breeders' certificates are granted to persons who have created[228] new, uniform, distinct and stable plant varieties that have been given a denomination constituting their generic designation. The breeders' certificate is valid for 20 to 25 years in the case of grape vines, forest trees, and fruit trees including their root-stocks. For all other species, the period of validity is 15 to 20 years.[229] The holder of a variety has the obligation to maintain and replace the live sample of the variety during the lifetime of the breeders' certificate, and may grant licences for its use.

3.3.7.3.7 Industrial secrets

3.259. Under the provisions of CAN Decision No. 486, an industrial secret is defined as any undisclosed information legitimately held, which may be used in any productive, industrial or commercial activity, and that is secret, has commercial value and has been subject to reasonable steps taken to keep it secret.[230] Such information is protected against disclosure, acquisition or use by third parties in a manner contrary to fair trade practices for an indefinite period, as long as the conditions set out in the decision continue to exist.[231]

3.3.7.4 Enforcement

3.260. Legislative Decree No. 822 of 23 April 1996 establishes administrative, civil and criminal protection standards for copyright and related rights. Under this legislation, the violation of any of its provisions is considered an infringement, and the DDA has the power to impose sanctions based on, among other factors, the seriousness of the infringement, the conduct of the infringer and any financial loss.[232]

[226] Title X of Decision No. 486.
[227] Supreme Decree No. 092-2018-PCM approving exemption from the collection of fees for processing rights and the regime for simplifying INDECOPI registration procedures, published on 5 September 2018.
[228] "Creating" means the production of a new variety through the application of scientific knowledge to the inheritable improvement of plants. Article 4 of Decision No. 345.
[229] Article 21 of Decision No. 345.
[230] Article 260 of Decision No. 486.
[231] Articles 262 and 263 of Decision No. 486.
[232] Article 186 of Legislative Decree No. 822.

3.261. Legislative Decree No. 1092, published on 28 June 2008, sets out the legal framework for the implementation of border measures to protect copyright, related rights and trademark rights.[233] This decree is applicable in cases where it is suspected that goods intended for import, export or transit are pirated or counterfeit goods.[234] Border measures can be implemented by SUNAT at the request of a party or ex officio. In the first instance, the right holder files an application for the suspension of the release of the goods with SUNAT, which verifies ownership of the right and may require the applicant to pay a security to cover potential damages.[235] The security must be a sum equivalent to 20% of the f.o.b. value of the goods and 100% in the case of perishable goods.[236] The applicant must institute infringement proceedings with the relevant authority within three days, or the customs authority will cancel the measure. Alternatively, SUNAT can initiate ex officio measures when there are reasonable suspicions that the goods have been counterfeited or pirated, and must notify the right holder to initiate appropriate proceedings within three days.[237]

3.262. Action to be taken in the event of infringement of industrial property rights is contained in Title XV of CAN Decision No. 486, pursuant to which the holder of a right protected by the decision may initiate proceedings against any person who infringes their right. The limitation period for initiating proceedings for infringement is two years from the date on which the right holder was informed of the infringement, or five years from when the infringement last occurred. Border measures for trademark rights have also been introduced, and were included in Legislative Decree No. 1092. In cases of IPR infringements, the authorities may grant provisional measures for the purpose of preventing an infringement from occurring, avoiding its consequences, obtaining or preserving evidence, or ensuring the effectiveness of the action.

3.263. INDECOPI has an Annual Monitoring Plan, the objective of which is to plan its monitoring activities to ensure compliance with legal obligations and to prevent infringements from occurring in areas within its competence, including intellectual property.[238] Without prejudice to any civil and criminal proceedings that may be brought before the courts, INDECOPI's directorates are responsible for handling in first administrative instance any IPR infringements within their jurisdiction. The Special Intellectual Property Chamber (SPI), which is part of the INDECOPI Tribunal, handles in the second and final instance cases brought before the DDA, DIN and the DSD. The chamber establishes precedents for mandatory enforcement through the rulings it hands down and has five members. In 2018, a total of 2,293 cases were brought before the SPI and 2,237 were concluded (Table 3.23).

Table 3.23 Cases before the INDECOPI Special Intellectual Property Chamber, 2013-18

	2013	2014	2015	2016	2017	2018[a]
Cases opened	**3,517**	**5,084**	**4,307**	**3,704**	**1,808**	**2,262**
Appeals (total)	3,399	4,401	3,784	3,634	1,743	2,217
Distinctive Signs Directorate	2,994	3,934	3,462	3,276	1,351	1,826
Copyright Directorate	202	300	205	257	316	306
Inventions and New Technologies Directorate	203	167	117	101	76	85
Complaints	81	66	78	70	65	45
Abstentions	32	613	445	-	-	
Challenges	5	4	-	-	-	
Cases concluded	**3,846**	**4,410**	**4,354**	**4,291**	**2,896**	**2,237**
Appeals (total)	3,728	3,784	3,788	4,218	2,835	2,186
Distinctive Signs Directorate	3,393	3,380	3,216	3,953	2,388	1,656
Copyright Directorate	138	213	360	185	360	386
Inventions and New Technologies Directorate	197	191	212	80	87	97
Complaints	81	68	76	73	61	51
Abstentions	32	554	490	-	-	-
Challenges	5	4	-	-	-	-

a Preliminary data.

Source: INDECOPI, *Anuario de Estadísticas Institucionales*, 2013 to 2018.

[233] Legislative Decree No. 1092 approving border measures to protect copyright and related rights and trademark rights, published in June 2008.
[234] Article 3.1 of Legislative Decree No. 1092.
[235] Title II of Legislative Decree No. 1092.
[236] Online information from LEXLATIN. Viewed at: https://lexlatin.com/opinion/peru-medidas-en-fronteras-para-derechos-intelectuales.
[237] Article 9 of Legislative Decree No. 1092.
[238] INDECOPI Annual Monitoring Plan, 2018. Viewed at: https://www.indecopi.gob.pe/documents/20182/2507390/Plan+Anual+de+Supervisión+2018.pdf/dd4591e3-6c19-aad9-fea6-da2d3af792a9.

4 TRADE POLICIES BY SECTOR

4.1 Agriculture, forestry and fisheries

4.1.1 General characteristics and policy objectives

4.1. Agriculture plays an important role in the Peruvian economy, especially in terms of employment and through its linkage with other economic activities, such as tourism and the hotels and restaurants sector. Data from the National Institute of Statistics and Informatics (INEI) show that the sector as a whole (crop farming, livestock, hunting and forestry) contributed 6.1% of total current GDP in 2018, and 5.3% of GDP measured in soles at constant 2007 prices. During the period from 2012 (inclusive) to 2018, agricultural GDP (including hunting and forestry, but not fishing) grew by an average of 3.4% per year, compared to overall GDP growth averaging 4% in that period. The sector's contribution to employment was, however, much greater than its contribution to GDP: in 2017, agriculture absorbed 24.1% of the employed economically active population.[1]

4.2. Peru produces a wide variety of agricultural goods, with sugar cane, oil palm, grapes and coffee among the leading agribusiness products. The main fruits are banana, orange, pineapple, mandarin and mango (Table 4.1). The key products serving the domestic market are rice, potatoes, starchy maize, wheat and bananas, while yellow flint maize, wheat, soybeans, sugar, rice and milk in powder form are the main agricultural products sourced from abroad.

Table 4.1 Agricultural output by main product, 2012-18

(Thousands of metric tonnes)

Main products	2012	2013	2014	2015	2016	2017[a]	2018[a]
Agricultural subsector							
Agribusiness							
Sugar cane	10,368.9	10,992.2	11,389.6	10,211.9	9,832.5	9,399.6	10,343.2
Coffee	320.2	256.8	222.0	258	281	337.3	364.6
Grapes	361.9	439.2	507.1	597.9	690.0	645.0	639.1
Olives	92.5	57.8	151.9	38.4	56.2	80.3	189.4
Cocoa	62.5	71.8	81.7	92.6	107.9	121.8	135.3
Oil palm	518.1	566.6	617.6	684.3	736.3	852.0	896.4
Cereals							
Rice in the husk	3,043,3	3,046.8	2,896.6	3,151.4	3,165.7	3,038.8	3,507.8
Yellow flint maize	1,393.0	1,364.7	1,227.6	1,438.6	1,232.4	1,249.6	1,262.3
Starchy maize	280.9	307.5	302.1	307.9	277.4	273.9	303.7
Wheat	226.2	230.1	218.9	214.8	191.1	192.1	194.5
Barley grain	214.5	224.5	226.3	227.2	204.5	203.0	205.3
Quinoa	44.2	52.1	114.7	105.7	79.3	78.7	85.9
Tubers							
Potatoes	4,474.7	4,569.6	4,705.0	4,715.9	4,514.2	4,776.3	5,101.5
Yucca	1,118.5	1,191.6	1,195.9	1,230.0	1,181.0	1,196.4	1,235.6
Sweet potatoes	304.0	292.1	278.3	288.2	269.7	256.4	272.9
Oca	92.9	94.7	90.9	94.7	92.8	97.2	99.8
Olluco	180.7	186.2	189.9	193.4	184.7	184.3	192.2
Pasture							
Alfalfa	6,696.4	6,986.8	6,605.1	6,821.8	6,636.7	6,503.6	6,515.3
Fruit					,		
Bananas	2,082.1	2,113.8	2,125.8	2,056.3	2,074.0	1,982.8	2,173.6
Oranges	428.8	441.1	450.4	456.2	490.9	498.5	502.4
Mangos	185.2	458.8	376.0	346.0	373.5	380.9	378.0
Pineapples	436.8	448.9	455.3	450.6	461.3	494.6	549.4
Papayas	123.8	152.1	148.3	144.7	169.4	177.2	176.7
Mandarins	281.1	313.8	339.6	357.9	403.9	408.0	481.6
Avocados	268.5	288.9	349.3	376.6	455.4	466.8	501.2
Passion fruit (maracuja)	50.1	39.2	39.1	59.6	55.8	56.3	53.8
Strawberries	30.5	30.8	35.0	25.3	25.7	24.7	23.1
Passion fruit (granadilla)	30.8	45.2	47.5	49.3	50.8	56.7	55.7
Vegetables							
Asparagus	376.0	383.1	377.7	370.8	378.3	383.1	360.7
Choclo maize	361.6	399.4	403.4	396.2	398.7	388.1	429.4
Tomatoes	229.4	253.6	265.9	236.3	232.9	220.6	252.2

[1] According to information from the National Institute of Statistics and Informatics. Viewed at: https://www1.inei.gob.pe.

Main products	2012	2013	2014	2015	2016	2017[a]	2018[a]
Onions	751.8	747.9	758.2	760.2	705.6	722.4	642.6
Pumpkins	209.9	219.5	237.2	239.6	206.9	183.6	206.5
Carrots	179.7	178.2	173.3	176.2	172.2	176.9	177.4
Artichokes	141.7	112.9	103.3	90.0	108.8	145.1	154.8
Beans and legumes							
Dry beans	92.5	93.0	89.5	89.6	80.9	75.7	85.9
Green peas	117.4	130.1	133.7	135.3	120.1	131.5	132.6
Livestock subsector							
Poultry	1,477.0	1,529.7	1,606.6	1,736.1	1,846.3	1,913.8	2,058.1
Pork	163.8	170.2	180.5	190.6	199.2	210.3	213.5
Beef	365.9	378.6	384.8	384.3	373.0	370.1	373.6
Alpaca meat	26.7	27.0	28.0	26.5	27.7	28.3	28.0
Llama meat	9.7	9.3	9.3	8.8	8.8	8.9	8.7
Eggs	314.0	349.8	358.6	386.3	401.0	415.3	452.2
Fresh milk	1,790.7	1,807.8	1,840.2	1,903.2	1,954.2	2,013.7	2,066.4

a Preliminary data.

Source: Ministry of Agriculture and Irrigation - General Policy Evaluation and Monitoring Directorate - Agrarian Statistics Directorate.

4.3. Peru's agricultural exports accounted for 14% of the country's total exports in 2018 (around USD 6,615 million). The main products exported were grapes (1.7% of total exports), avocados (1.7%), coffee (1.4%), blueberries (1.2%), asparagus (1.1%), mangos (0.7%), cocoa and its derivatives (0.6%) and citrus fruits (0.4%).[2] A total of 624 agricultural products were exported in 2018, of which the most dynamic were: fine hair, not carded; ginger not ground or crushed; other fruits and fresh fruit; sugar cane; sugar; oregano; achiote colourants; Brazil nuts, unshelled; and citrus fruits, preserved or prepared.[3] The main destinations for Peru's agricultural exports that same year were the European Union (which absorbed nearly 40% of the total); the United States (31%); Ecuador (4%); China (4%); and Canada, Chile, Colombia, Mexico and the Republic of Korea (2% each). In 2018, Peru sold agricultural products in 144 markets.

4.4. Although Peru has 7.6 million hectares of land with direct agricultural potential, less than 3.6 million hectares are in use. The 2015-2021 Multi-Year Strategic Sector Plan for the agriculture sector (PESEM MINAGRI) envisages the incorporation of 300,000 hectares of new cropland in Peru by 2021, to increase the production of both traditional and non-traditional agricultural products.[4]

4.5. The 2015-2021 Sector Plan identifies factors that hinder the sector's development. These include increased soil depletion, the inefficient and unsustainable use of water resources, the high variability of food prices, scant use of quality seeds by small-scale producers and lack of access to them, and inadequate infrastructure maintenance. Also, according to the fourth Agrarian Census (CENAGRO) 2012, the area of irrigated land used for crops amounts to 1.8 million hectares and represents 70.1% of the total irrigated agricultural area, while the other 29.9% lies fallow and unworked. Irrigation is one of the problems addressed by the National Agrarian Policy (see below).

4.6. The Ministry of Agriculture and Irrigation (MINAGRI) oversees the agriculture sector in Peru, acting pursuant to the provisions of Law No. 30048, which was published on 25 June 2013. This Law requires MINAGRI to design, establish, execute and supervise national and sectoral policies on agrarian matters; and play a steering role in relation to those policies and oversee their mandatory compliance by the three levels of government.[5] MINAGRI has the following areas of competency: (a) crop farming and grazing lands, forestry lands and undeveloped land areas suitable for agriculture; (b) forest resources and their exploitation; (c) flora and fauna; (d) water resources; (e) agrarian infrastructure; (f) irrigation and water use for agrarian purposes; (g) crops and animal

[2] Ministry of Foreign Trade and Tourism (MINCETUR) (2019), *Reporte Mensual de Comercio diciembre, 2018*. Viewed at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/comercio_exterior/estadisticas_y_publicaciones/estadisticas/exportaciones/2018/RMC_Diciembre_2018.pdf.

[3] Ministry of Agriculture and Irrigation (MINAGRI), PowerPoint presentation for Peru's fifth Trade Policy Review, by William Arteaga Donayre, Vice Minister of Agrarian Policies, February 2019.

[4] MINAGRI (2016), *Plan Estratégico Sectorial Multianual CEPLAN-MINAGRI 2015-2021*. Viewed at: https://www.ceplan.gob.pe/documentos_/plan-estrategico-sectorial-multianual-pesem-minagri-2015-2021.

[5] Law No. 30048, published on 25 June 2013. Viewed at: https://busquedas.elperuano.pe/normaslegales/ley-que-modifica-el-decreto-legislativo-997-que-aprueba-la-ley-n-30048-954578-1.

husbandry; and (h) health, research, extension, technology transfer and other services related to agrarian activity. MINAGRI's mission is to lead, encourage and promote the agriculture sector's competitive, sustainable and decentralized development, integrating it into domestic and international markets. It also aims to contribute to economic growth, food security and the reduction of rural poverty in Peru, by making sustainable use of natural resources and securing the supply of quality agricultural goods and services.[6]

4.7. Through its 2015-2021 PESEM, published in December 2016, MINAGRI seeks to develop a prosperous, competitive agriculture sector that is integrated into domestic and international markets, and, to that end, strives to foster the modernization of the sector and improve farmers' living conditions. The strategic sectoral objectives specified in the PESEM are to: (i) sustainably manage the natural resources and biological diversity of the agriculture sector; and (ii) increase agricultural productivity and competitive engagement in domestic and international markets. In order to achieve the first objective, the following strategic actions are proposed: (a) foster the efficient use of water resources for agricultural purposes; (b) promote soil conservation and the recovery of depleted agricultural soils; (c) develop land-use planning for agricultural purposes; (d) strengthen the sustainable management of forest and wild fauna resources; (e) improve the management and conservation of native, naturalized and domesticated species; (f) protect agro-biodiversity, forest ecosystems, genetic resources and intellectual property; (g) restore the value of ancestral agrarian practices and knowledge; (h) improve disaster risk management; and (i) strengthen climate change adaptation and mitigation measures. To achieve the second objective (increased productivity), PESEM MINAGRI proposes to: (a) strengthen the governance of the agriculture sector; (b) improve the quality of services to producers at the national level; (c) support the development of agricultural value chains; (d) improve agricultural and irrigation productive infrastructure; (e) strengthen agricultural genetic improvement; (f) improve the generation, availability, accessibility and adoption of agricultural technologies; (g) strengthen the agrarian agrifood health and safety system; (h) expand the coverage of financial services for farmers and improve access to such services; (i) promote legal physical sanitation and the formalization of agrarian land tenure; (j) promote public-private partnerships for agrarian development; (k) develop an integrated agrarian sector information system; and (l) promote the productive restructuring and diversification of crops and animal husbandry, while maintaining biodiversity.[7]

4.8. The National Agrarian Policy, Supreme Decree No. 002-2016-MINAGRI, consists of 12 policy pillars that form a medium- and long-term framework for promoting the sustainable development of agriculture, prioritizing family farming and fostering development and social inclusion among the rural population, thereby contributing to food and nutritional security.[8] The 12 pillars are: (i) sustainable management of water and soil resources; (ii) forest and wild fauna development; (iii) legal security of land tenure; (iv) irrigation infrastructure and technological upgrading; (v) agricultural financing and insurance; (vi) agrarian innovation and technological upgrading; (vii) risk and disaster management; (viii) capacity building; (ix) productive restructuring and diversification; (x) market access; (xi) food safety and health; and (xii) institutional development.

4.9. Sectoral initiatives that complement the National Agrarian Policy include: the National Crop Plan (to provide guidance to economic agents involved in crop farming at the national level); the Crop Information System (to monitor the sowing of prioritized products); the National Livestock Development Plan (PNDG) (which includes an Animal Genetic Improvement Programme and a Cultivated Pasture Installation Programme); the National Agrarian Innovation Programme (extension, research, business development and training); and the Agrarian Health and Agri-Food Safety Development Programme (Phase II).[9] There are also initiatives to modernize irrigation infrastructure nationally; to improve the land titling system by introducing new mechanisms such as the Registry System for Rural Immovable Property (SICAR) and the Registry System for Campesino and Indigenous Communities (SIC Communities); to study the effects of climate change on agriculture through the Technological Research Laboratory on Climate Change for the Agrarian

[6] Online information from MINAGRI. Viewed at: http://minagri.gob.pe/portal/nosotros/mision-vision.

[7] Online information from MINAGRI. Viewed at: http://minagri.gob.pe/portal/nosotros/p-nacional-agraria.

[8] This policy was designed by MINAGRI following consultations with agents involved in the agrarian sector (both public and private sector), experts, boards of professionals, and producer organizations. Online information from MINAGRI. Viewed at: http://minagri.gob.pe/portal/nosotros/p-nacional-agraria.

[9] This programme aims to eradicate fruit flies, combat and eradicate diseases affecting pigs, and improve food safety in primary production and processing.

Sector; and to assist in placing agricultural products on the international market by strengthening the National Agrarian Health Service (SENASA).[10]

4.1.2 Border measures

4.10. During the period under review, the tariffs applied to the agriculture sector (as defined by the WTO) were lowered from their 2013 level of 3.9% to 2.9% in 2019 (Table 3.3), which is still somewhat higher than the average most-favoured-nation (MFN) applied tariff of 2.2%. If the *ad valorem* equivalents of the Peruvian Price Band System (SPFP) are included, the average tariff for the agriculture sector rises slightly to 3% (Table 4.2). The highest tariff rate is 11%, or 17.47% if the SPFP *ad valorem* equivalents are included. The product groups with the highest levels of tariff protection are animals and animal products (5.2%) and beverages, alcohol and tobacco (5.2%). Most dairy products enter Peru duty-free (Table 4.2).

Table 4.2 Tariff protection in the agriculture sector, 2019

Product	Number of lines	Average	Average, including SPFP	Range	Range, including SPFP
Agricultural products	1,059	2.9	3.0	0 - 11	0 - 17.47
- Animals and animal products	142	5.2	5.2	0 - 11	0 - 11
- Dairy products	38	0.0	0.3	0 - 0	0 - 1.58
- Fruit, vegetables and garden produce	303	4.1	4.1	0 - 11	0 - 11
- Coffee and tea	32	4.3	4.3	0 - 11	0 - 11
- Cereals and cereal preparations	138	1.8	2.4	0 - 6	0 - 15.52
- Oilseeds, fats and oils and their products	117	1.1	1.1	0 - 6	0 - 6
- Sugar and confectionery	28	0.9	4.1	0 - 6	0 - 17.47
- Beverages, alcohol and tobacco	76	5.2	5.2	0 - 6	0 - 6
- Cotton	8	3.8	3.8	0 - 6	0 - 6
- Other agricultural products n.e.s.	177	0.5	0.5	0 - 6	0 - 6.8

n.e.s.: Not elsewhere specified.

Source: WTO Secretariat calculations, based on data provided by the authorities.

4.11. The SPFP continued to be applied during the period under review. Under this system, Peru maintains specific tariffs on 48 subheadings at the HS 2017 ten-digit level for four product groups: rice, sugar, maize and dairy products (Section 3.1.3). In some of the preferential trade agreements signed by Peru, the *ad valorem* component for these subheadings has been eliminated (in some cases it is also zero at the MFN level), with only the specific component of the SPFP being maintained.

4.12. In the WTO framework, Peru has bound the tariff applied to agricultural products at rates between 30% and 68%. The latter rate is applicable to some dairy products, cereals and cereal preparations, and also to sugar and confectionery (Section 3.1.3.2). The maximum applied rate on agricultural products is lower than the minimum bound rate (30%), even when the SPFP (17.47%) is taken into account; so Peru has ample room to reduce its MFN bindings, especially considering that nearly all of its agricultural trade involves countries with which it has signed preferential agreements.

4.13. Peru does not apply tariff quotas in the WTO framework and did not include any product in Section I-B of its schedule of commitments. Peru does not require licences to import agricultural products, nor does it impose quantitative restrictions on them.

4.1.3 Domestic support and other measures

4.14. Central and regional government budget spending on the agriculture sector totalled PEN 5,007 million (USD 1,500 million) in 2019.[11] The National Supervisory Authority for Customs

[10] Information provided by the authorities, and online information from MINAGRI. Viewed at: http://minagri.gob.pe/portal/nosotros/p-nacional-agraria.

[11] Online information from the Ministry of the Economy and Finance. Viewed at: https://www.mef.gob.pe/contenidos/presu_publ/sectr_publ/proye_2019/Anexos/Anexo3.PDF.

and Tax Administration (SUNAT) estimates the value of tax expenditure for the agriculture sector at 0.14% of GDP in 2019. This arises mainly from the exemptions from General Sales Tax (IGV) given to agricultural inputs and products, and the deferral of corporate income tax (IRPJ) (depreciation of up to 20% on water and irrigation infrastructure works).

4.15. Peru has notified the WTO that it did not grant export subsidies for agricultural products between 2013 and 2017.[12] In its latest domestic support notification (for calendar years 2015, 2016 and 2017), dated May 2019, Peru included the programmes shown in Table 4.3.[13]

Table 4.3 Main domestic support measures notified by Peru, 2017

Measurements
Measures exempt from the reduction commitment –"Green Box"
General services: research and extension
National Agricultural Innovation Institute (INIA). Programmes for technology generation, transfer and adaptation; production of seeds, plantlets, seedlings and animals of high genetic value; training and transfer of technology; and training in fruit production.
Payments for Competitiveness Programme. Approved by Legislative Decree No. 1077 on 28 June 2008. The programme meets part of the investment costs related to the adoption of technologies aimed at boosting the competitiveness of the agricultural production of small and medium-sized producers. It also seeks to promote partnerships by means of measures designed to cover expenditure related to the creation of agricultural associations..
Innovation and competitiveness projects and measures. Agricultural planning and promotion projects, with a view to boosting production and profitability.
General services: pest and disease control
National Agrarian Health Service (SENASA). Plant and Animal Health Monitoring System: programmes to prevent and control pests and diseases, control quality and promote the proper handling of pesticides and biological agents in the context of the National Biological Control Programme.
Agricultural Health Development Programme (PRODESA). Agricultural diagnostic laboratory, biological control, institutional strengthening, agricultural health monitoring for the control and eradication of pests and diseases.
General services: extension and advisory services
Measures to improve market access for rural agricultural producers. Provision of services such as information and business training, as well as the modernization of public agricultural sector management.
General services: marketing and promotional services
Measures to improve market access for rural agricultural producers. Provision of services, such as information and business training, as well as the modernization of public agricultural sector management.
Andean Highlands and Wilderness Export Programme. Established pursuant to Law No. 28890 of 7 October 2006 and amended by Law No. 30495 to extend its scope of application to wilderness areas, the programme aims to promote, encourage and develop rural economic activities in the Andean highlands and wilderness, with a focus on crop and livestock farming, aquaculture, production of crafts, textiles and jewellery, reforestation, agroforestry and tourism, as well as the processing and industrialization of the related products, thereby using the domestic and export markets as tools for poverty reduction and productive job creation.
Agricultural promotion at regional and local government level. Agricultural organizational activities; promotion of agricultural and livestock production; conservation of renewable natural resources; and rural promotion and extension.
General services: infrastructure services
Subsector Irrigation Programme (PSI). Rehabilitation and upgrading of irrigation and drainage infrastructure in order to make greater efficiency in water management standard practice for sustainable development.
Special Decentralized Transport Infrastructure Project - *Provias Decentralizado*. Maintenance and upgrading of rural and secondary roads.
Other rural transport infrastructure works. Transport infrastructure works and maintenance and upgrading of the national, departmental and neighbourhood road network.
Works to protect against the El Niño phenomenon. The aim is to make better use of available water resources, carrying out activities to offset possible damage caused by floods and overflowing rivers and ensuring the irrigation of crops in various valleys in Peru. El Niño rehabilitation and reconstruction.
AGRORURAL - Irrigation infrastructure component. Measures geared towards the management and maintenance of water resource infrastructure works with the aim of achieving sustainable agriculture, as part of an integrated rural development strategy for micro-catchment areas in the high Andes.
Irrigation infrastructure programmes by regional and local governments. Measures geared towards the management and maintenance of water resource infrastructure works, with the aim of achieving sustainable agriculture.

[12] WTO Documents G/AG/N/PER/13 of 19 June 2014; G/AG/N/PER/14 of 6 July 2015; G/AG/N/PER/17 of 31 May 2017; and G/AG/N/PER/18 of 3 August 2018.

[13] WTO Documents G/AG/N/PER/19, G/AG/N/PER/20 and G/AG/N/PER/21 of 14 May 2019.

Measurements
Irrigation infrastructure management. Promotes measures geared towards the management and maintenance of water resource infrastructure works, with the aim of achieving sustainable agriculture.
Domestic food support
"Qali Warma" National School Nutrition Programme. Implementation of measures designed to guarantee a food service for children in State educational establishments.
Government financial participation in income insurance and safety net programmes
Agricultural funds. Market strengthening through the promotion of competitiveness and access to guarantees. Includes the Guarantee Fund for Rural Areas and Agricultural Insurance (FOGASA).
Other measures
National Water Authority (ANA). Implements measures with a view to the multi-sectoral and sustainable use of catchment area water resources and establishes strategic alliances with regional and local authorities and all relevant social and economic actors.
National Forest and Wild Fauna Service (SERFOR). Responsible for promoting the sustainable use, conservation and protection of forest and wildlife resources, managing access to genetic resources, and implementing Peru's international commitments in respect of forests and wildlife.
Actions for the management and protection of natural resources. Operate in two principal areas: protection of flora and fauna and soil conservation. Flora and fauna protection measures include the management and development of protected natural areas; wild flora and fauna management; forestry management; environmental monitoring and control; utilization of the rural environment; and studies and projects relating to natural resources. Also include natural resource protection measures.
Transfers and financial intermediation. Measures applied in the context of the special binational Puyango-Tumbes project, which involves the transfer of resources to entities or organizations for the development of social activities.
Measures exempt from the reduction commitment - Special and differential treatment - "Development programmes"
Investment grants that are generally available for agriculture
Agricultural Bank (AGROBANCO): Credits extended to agricultural producers benefitting from an interest rate differential. The interest rate differential corresponds to the difference between the lending rate applied by the Agricultural Bank and the average interest rate on loans charged by the banking system.
Subsidies for agricultural inputs that are generally available to low-income or resource-poor producers
Rural Agrarian Production Development Programme (AGRORURAL) - Special Projects: Agricultural input assistance to ensure farmers' production as a preventive measure against disasters. Delivery of agricultural and livestock inputs to farmers in rural areas as a preventive measure against growing climate change.
Support to encourage diversification from growing illicit narcotic crops
National Commission for Development and a Drug-Free Life (DEVIDA). Seeks to establish credibility to recover communities and valleys under the influence of drug trafficking. Includes post-eradication measures (socialization, community organization, productive promotion and other immediate relief actions), partnership building, financing, registration and basic infrastructure.
Conversion of production in the Valley of the Apurímac, Ene and Mantaro rivers (VRAEM): Measures that seek to raise the level of rural development using a territorial approach, in a competitive, sustainable, inclusive, coordinated and multisectoral manner, involving the relevant public and private actors.

Source: WTO Document G/AG/N/PER/21, 14 May 2019.

4.16. In its most recent (December 2016) notification of domestic support measures exempt from the reduction commitment (Green Box), Peru listed the following programmes: the Payments for Competitiveness Programme (AGROIDEAS); the Agricultural and Agro-Industrial Machinery Programme (PMAA), already terminated[14]; the National Food Assistance Programme (PRONAA), terminated in 2012; the Agricultural Research and Extension Project (INCAGRO), also terminated; the "Qali Warma" National School Nutrition Programme; the Special Project for the Provinces of Datem del Marañón, Alto Amazonas, Loreto and Condorcanqui (PEDAMAALC); and the National Forestry and Wildlife Service (SERFOR).

4.17. AGROIDEAS, created for an initial five-year period by Legislative Decree No. 1077 of 22 June 2008, provides funding to support business management, the creation of producer associations and the adoption of technology, to sustainable businesses that involve small and medium-sized agricultural, livestock or forest producers forming part of an organization, with a view to enhancing their competitiveness and strengthening their market share. Its non-reimbursable financing must be used to manage the business, set up its organization or improve production technology. To benefit from the programme, an agricultural organization must provide a monetary counterpart, since the co-financing provided by AGROIDEAS generally varies between 60% and 80% depending on the total amount of resources requested; only in cases of support for producer associations are organizations exempted from the co-financing requirements. The Programme was

[14] WTO Document G/AG/N/PER/16 of 15 December 2016.

extended for three years by Law No. 30049 of 25 June 2013, and again for a further three years by Law No. 30462 of 16 June 2016, in order to benefit small- and medium-scale farmers across the country who operate in sustainable production units. The budget to achieve these objectives in 2018 was USD 18.4 million. Law No. 30975 of 24 June of 2019 extended the AGROIDEAS programme for three more years until 2022.

4.18. The "Qali Warma" National School Nutrition Programme, established for an unlimited period by Supreme Decree No. 008-2012-MIDIS of 31 May 2012, aims to provide a meal service for pre-school and primary school children attending State educational establishments throughout Peru. Under this programme, pupils who attend schools located in areas with high poverty levels are provided with two meals per day (breakfast and lunch); and pupils who attend schools located in areas with lower poverty levels are provided with one meal per day (breakfast). The budget to meet these objectives in 2018 was USD 453.6 million.

4.19. The Rural Agrarian Production Development Programme (AGRORURAL), created by Legislative Decree No. 997 of 13 March 2008, remains the main agricultural support programme. As an executing unit attached to MINAGRI, AGRORURAL aims to promote rural agrarian development by financing public investment projects in relatively less developed rural areas.[15] AGRORURAL was formed by merging the following programmes[16]: the Coordination Unit of the Southern Sierra Natural Resources Management Programme (MARENASS); the Special Project to Promote the Use of Fertilizer from Seabirds (PROABONOS); the Rural Market Access Support Services Programme (PROSAAMER); and the National Programme for Managing Catchment Areas and Soil Conservation (PRONAMACHCS). In 2019, AGRORURAL also included the Sustainable Territorial Development Project of the Valley of the Apurímac, Ene and Mantaro Rivers (PDTS-VRAEM), the Highlands and Wilderness Project (PSSA) and ALIADOS II, the Sierra Norte Project and the Peruvian Highlands Small and Medium-Scale Irrigation Infrastructure Programme (PIPMIRS).

4.20. AGRORURAL's functions include the following: (a) propose and implement lines of intervention through programmes, projects and activities targeting rural agrarian development; (b) promote improvement in the productive and institutional capacities of farmers and their access to local, regional and national markets; (c) contribute to the efficient management of water resources for crop purposes; (d) contribute to the sustainable use of natural resources via a territorial approach; (e) contribute to the competitiveness of agrarian production by small- and medium-sized producers, by promoting partnership and the adoption of agricultural technology; and (f) articulate measures to align sectoral policies and plans with regional and local development plans, across the three levels of government.[17] The budget to meet these objectives in 2018 was USD 153.8 million (PEN 505.3 million).

4.21. The PIPMIRS, a programme being implemented jointly by Peru and the Japan International Cooperation Agency (JICA), seeks to increase agricultural production by rural families in the Amazonas, Ancash, Ayacucho, Cajamarca, Huancavelica, Huánuco, Junín, La Libertad and Piura regions, by improving irrigation systems and strengthening institutional capacity for water management in micro-catchment basins. The implementation of this project will benefit 10,556 families and cover 17,055 hectares of land. The programme's total cost is PEN 227.86 million, of which 59.8% will be invested by JICA.

4.22. Co-financed by the International Fund for Agricultural Development (IFAD), with an implementation period of five years, the PSSA aims to improve incomes and living standards among small-scale rural producers in Peru's highland and wilderness areas, by strengthening their organizational levels and entrepreneurial capacity. It has a budget of PEN 110.78 million, of which IFAD provides 49.65%, users 9.61%, local governments 4.53%, and the national government 36.21%. The project is expected to directly benefit 55,500 families in the 85 selected districts.

4.23. Peru has also introduced programmes to promote social inclusion. The Cooperation for Social Development Fund (FONCODES), which was created in 1991 and has been attached to the Ministry of Development and Social Inclusion (MIDIS) since 2012, is the Ministry's national programme to expand economic opportunities for households living in poverty and extreme poverty. The programme finances and manages projects under the National Strategy for Development and Social

[15] Online information from AGRORURAL. Viewed at: https://www.agrorural.gob.pe.
[16] Through Supreme Decree No. 014-2008-AG.
[17] Online information from AGRORURAL. Viewed at: https://www.agrorural.gob.pe.

Inclusion (ENDIS), in conjunction with local governments and communities organized into implementing units.[18] FONCODES manages the "Mi Chacra Emprendedora" (Haku Wiñay) project, which seeks to generate economic opportunities for rural households in extreme poverty (subsistence economies), by helping them to improve their technical capacities, endowing them with productive assets and strengthening human and social capital. The Haku Wiñay Project seeks to enhance the productive capacities of rural households and provide them with training in good practices and production technologies that can be applied in family subsistence production systems. It also provides technical assistance to incorporate simple and low-cost innovations in production technology. The project also seeks to foster rural entrepreneurship, local exchange mechanisms and financial capacity-building for rural households.[19] Each household receives support for three years and is required to provide local materials and labour, while the local government provides logistical support. By 31 December 2017, 49,666 households had benefited from the project. PEN 162.5 million was executed from the budget in 2017.[20]

4.24. Farmers can also obtain technical support through the National Agricultural Innovation Institute (INIA), a specialized technical agency attached to MINAGRI and the governing body of the National Agricultural Innovation System (SNIA). INIA's mission is to lead research and contribute to inclusive and sustainable agricultural innovation in coordination with SNIA actors, in order to promote the production sector with food security and foster the social inclusion of small- and medium-sized producers. INIA formulates, proposes and implements the national policy and the agricultural innovation plan. It carries out research activities, and activities related to technology transfer, the conservation and use of genetic resources, and the production of seeds, seedlings and reproducers of high genetic value. It also coordinates and regulates research, development and innovation with SNIA actors.[21] INIA's strategic institutional objectives include promoting agricultural innovation, encouraging research aimed at increasing productivity and competitiveness, and improving food security and climate change adaptation. In 2017, the Institute managed resources totalling PEN 230.1 million (about USD 76 million), compared to PEN 193.1 million in 2016.[22] The authorities reported that in 2018 INIA used USD 44.9 million of its budget to meet its objectives.

4.25. The National Agrarian Health Service (SENASA), a specialized technical agency attached to MINAGRI, serves as official authority on matters of agrarian health, input quality, organic production and agrifood safety. SENASA runs the Plant and Animal Health Monitoring System; it also provides plant and animal health inspection, verification and certification services and diagnostic assessments, and identifies and provides biological controllers that protect the country from the entry of pests and diseases not found in Peru (Section 3.3.3). The Agricultural Health Development Programme (PRODESA), financed by the Inter-American Development Bank (IDB), has been implemented since 1998 with strategies to achieve appropriate plant and animal health and safety conditions aligned with the growth of national agricultural and livestock production and the agro-export process. These strategies include modernization of administrative, programming and monitoring systems; upgrading of laboratory infrastructure, production centres, and quarantine control posts; and the construction of operation centres for the eradication of fruit fly. In 2018, this project had funding of USD 900,000.

4.26. Sierra y Selva Exportadora (SSE) is a public agency attached to MINAGRI, established under Law No. 28890 of 2006. It aims to promote competitive and sustainable market access for organized small and medium-sized agricultural producers in Peru's highland and wilderness areas.[23] SSE also seeks to foster business partnerships among such producers, and develops its strategies and actions in coordination with the competent sectors and both regional and local governments. Its budget for

[18] FONCODES (2018), *Memoria Anual 2017*. Viewed at: http://www.foncodes.gob.pe/portal/index.php/comunicacion-e-imagen/publicaciones?download=17384:memoria-institucional-2017.

[19] FONCODES, *El ABC del Proyecto "Mi Chacra Emprendedora" - Haku Wiñay*. Viewed at: https://centroderecursos.cultura.pe/sites/default/files/rb/pdf/CARTILLA%201HAKU%20WINAY.pdf.

[20] FONCODES (2018), *Memoria Anual 2017*. Viewed at: http://www.foncodes.gob.pe/portal/index.php/comunicacion-e-imagen/publicaciones?download=17384:memoria-institucional-2017.

[21] Online information from INIA. Viewed at: http://www.inia.gob.pe/quienes-somos.

[22] INIA (2018), *Memoria Anual 2017*. Viewed at: http://www.inia.gob.pe/wp-content/uploads/Transparencia/Planeamiento_Org/MemoriaAnual/MEMORIA_ANUAL_2017.pdf.

[23] Online information from the SSE. Viewed at: https://www.sierraexportadora.gob.pe.

2019 is PEN 13.1 million.[24] In addition, SSE offers training and technical assistance services for participation in trade fairs, business roadshows, missions and other promotional activities, to enable small and medium-sized agricultural producers to access new markets. The authorities indicated that in 2019 SSE will be renamed "AGROMERCADO" and that the agency's functions will be upgraded to improve the services it provides. A further aim is to promote the creation of agricultural economic corridors to foster territorial competitiveness and development. In 2018, this service cost USD 1.7 million.

4.27. Small- and medium-scale farmers can benefit from the Guarantee Fund for Rural Areas and Agricultural Insurance (FOGASA), which was established by Law No. 29148 of 12 December 2007 (Law Establishing the Implementation and Operation of the Guarantee Fund for Rural Areas and Agricultural Insurance).[25] The Fund's aims are to underwrite loans extended by financial institutions to small and medium-sized agricultural producers that serve the domestic and/or international markets and present viable projects; and to finance agricultural insurance mechanisms.

4.28. The National Forestry and Wildlife Service (SERFOR), created by Law No. 29763, the Forestry and Wildlife Law of 22 July 2011, is a public body attached to MINAGRI that is responsible for promoting the National Forestry and Wildlife Policy by articulating actions with national and regional authorities, indigenous and campesino organizations, the private sector and civil society. SERFOR promotes the sustainable use, conservation, and protection of forest and wildlife resources, managing access to genetic resources, and implementing Peru's international commitments on its forest and wildlife wealth. SERFOR started operations on 18 July 2013, for an indefinite period, with the approval and publication of its Regulation on Organization and Functions contained in Supreme Decree No. 084-2013-MINAGRI. In 2018, this service cost an estimated USD 26.2 million.

4.29. The National Water Authority (ANA), created by Supreme Decree No. 997 on 13 March 2008 and attached to MINAGRI, is in charge of the General Water Resources Management System. The Authority is tasked with managing, conserving, protecting and ensuring the sustainable use of the water resources held in the country's different catchment basins. The budget for this service for 2018 was USD 41.3 million.

4.30. AGROBANCO, a publicly-owned entity created in 2001, provides financial products and services to small-scale crop, livestock and forestry producers and fish farmers, either directly or through other financial institutions.[26] It is a rural-development bank authorized to carry out all types of banking activities, in accordance with the provisions of the General Law on the Financial System and the Insurance System and on the Organization of the Supervisory Authority for Banking and Insurance (Law No. 26702). It has resources allocated to it by the National Fund for the Financing of State Business Activity (FONAFE) (Section 3.3.5), as well as appropriations assigned by MINAGRI and other budgetary sources.

4.31. AGROBANCO finances support programmes that extend direct or indirect credit to micro and small-scale farmers, either individually or in organizations such as cooperatives, producer associations, campesino and indigenous communities, water-user organizations and so forth. The conditions and terms of these programmes are defined in agreements. AGROBANCO can lend either directly or through credit lines granted to multiple-service institutions in the financial system. The financial products offered by AGROBANCO are intended for the agricultural, livestock, forestry and aquaculture subsectors, with loans for working capital and credit for marketing and investment.

4.32. AGROBANCO offers different types of credit depending on the activity in question, but mainly the following: (a) collective-user credit granted to small-scale producers in an irrigation users association; the financing is short-term and destined for working capital; and the objective is to foment partnership, capitalize the small-scale producer and extend the service on a large-scale basis to the habitual client[27]; (b) agricultural credit, granted to natural or legal persons to finance working

[24] Sierra Exportadora (2019), Work Plan 2019. Viewed at: https://www.sierraexportadora.gob.pe/descargas/plan-operativo/2019/POI-2019.pdf.

[25] The Guarantee Fund for Rural Areas and Agricultural Insurance was created by Law No. 28939 and amended by Law No. 28995.

[26] Law No. 27603 of 21 December 2001. Although AGROBANCO's articles of association allow for private capital participation, the authorities have stated that it is currently 100% publicly owned.

[27] Starting in 2018, a new lending model was developed based on collective credits, which aims to foster financial inclusion among small-scale farmers. See: AGROBANCO (2019), *Informe de Gestión,*

capital for agricultural activities or beekeeping, or for output marketing; financing is also provided for investments in irrigation infrastructure, machinery and equipment and expansion of plantations; (c) livestock credit, granted to small- and medium-scale individual producers and/or producer partnerships, breeders of cattle, sheep, pigs, camelids, small animals and birds; depending on the activity, the financing may be medium-term, destined for working capital or investment; (d) forestry credit, aimed at financing forest concessions, forest plantations and agroforestry; (e) aquaculture credit, which finances the purchase of fry (juvenile fish) and food; and (f) green loans, intended to finance working capital, marketing, investments in irrigation infrastructure, machinery and equipment, and the expansion of plantations for crops, animal husbandry, forestry systems and aquaculture that incorporate green or sustainable practices (efficient management of water, soil, biodiversity, climate and pollution).[28]

4.33. AGROBANCO's credit policy fosters the diversification of crops and livestock species. The distribution of the credit provided may vary from year to year. As at December 2017, the distribution of credit across the major crops was as follows: coffee, 20.7%; cattle fattening, 18.7%; cocoa, 13.1%; bananas, 8%; potatoes, 5.2%; rice, 2.5%; timber, 1.3%; and grapes, 0.6%. The remaining 30% was distributed among other crops and livestock activities. At the end of 2018, the distribution was as follows: cattle fattening, which represented 11% of the portfolio, followed by cocoa (5%), rice (4%), avocados (3%), bananas (3%), potatoes (2%), milk (1%), and pineapples (1%), with the remaining 70% distributed among more than 90 crops and livestock activities.

4.34. AGROBANCO administers the AGROPERÚ Fund, which is resourced by MINAGRI. The Fund finances special programmes that promote partnership and organizational strengthening in the production of coffee, cotton and alpaca fibre, among other items. It has also administered, or administers, other special programmes, such as the Coffee Programme, which seeks to implement the National Plan for the Renewal of Coffee Plantations with a view to mitigating the damage caused by yellow rust. In 2018, this required an investment of PEN 50 million in order to rehabilitate, recover or renovate affected crop areas. The National Plan for the Renewal of Coffee Plantations, under implementation since 2013, has benefited nearly 40,000 coffee farmers and has enabled the renewal of more than 41,000 hectares of coffee plantations. Under the provisions of Law No. 30893, and with a view to strengthening AGROBANCO, facilities were established in late 2018 for the payment of coffee growers' debts, and it was decided that the AGROPERÚ Fund would use FONAFE resources to acquire the coffee grower credit portfolio held by AGROBANCO, up to an amount of PEN 165 million. Credits totalling PEN 146.6 million were transferred during the course of 2018, which benefited nearly 13,000 small-scale coffee-grower customers. Their debt was reduced by an average of 39% as a result of the forgiveness of interest on debts below PEN 10,000 and the lowering of the interest rate to 5% for debts exceeding that amount.[29]

4.35. AGROBANCO also administers the Special Camelid Fibre Financing Programme (also known as the Alpaca Programme), which promotes partnership among fibre producers living in high-altitude Andean communities.[30] The Programme has formalized 313 small-scale producer associations, through a revolving credit line of PEN 22 million; and, between its inception in 2009 and December 2018, it disbursed 733 credits totalling PEN 103 million, and recovered PEN 89 million. AGROBANCO also administers the Productive Restructuring Fund for the redeployment of land devoted to illicit crops, which has approved 242 restructuring plans for a total amount of PEN 169.6 million, to cover 3,359 hectares benefiting 2,582 producers. By May 2019, PEN 133.7 million had been disbursed. AGROBANCO also administers the Special Agrarian Restructuring Programme (RAES), created by Law No. 30573 of 2 June 2017. This consists of a PEN 20 million fund to provide financial facilities to farmers affected by natural disasters who are located in areas declared to be in a state of emergency as a result of the coastal El Niño phenomenon. In 2018, 2,253 direct and indirect credits totalling PEN 10 million were granted under the Programme.

4.36. AGROBANCO funds its activities from two sources: domestic and international institutions that set certain conditions and are regularly used to finance its clients; and funds assigned by the

julio-diciembre 2018. Viewed at: https://www.agrobanco.com.pe/wp-content/uploads/2019/03/Informe_de_Gestion_2018.pdf.

[28] Online infomation from AGROBANCO. Viewed at: https://www.agrobanco.com.pe.

[29] AGROBANCO (2019), *Informe de Gestión, julio-diciembre 2018*. Viewed at: https://www.agrobanco.com.pe/wp-content/uploads/2019/03/Informe_de_Gestion_2018.pdf.

[30] AGROBANCO (2018), *Memoria Institucional 2017*. Viewed at: https://www.agrobanco.com.pe/wp-content/uploads/2017/07/MEMORIA-INSTITUCIONAL-2017.pdf.

Peruvian State, which are channelled through MINAGRI to producers affected by climate events or pests. These funds are administered by AGROBANCO, which applies preferential conditions and charges a management fee.

4.37. In 2017, AGROBANCO had 61,000 customers, loans outstanding of PEN 1,446 million (equivalent to around USD 438 million) and a net worth of PEN 1,712 million. The medium- and long-term portfolios (up to 36 months and longer than 36 months, respectively) represented 82% of all credits. As at 31 December 2017, the AGROPERÚ Fund had granted some 40,000 loans, mainly to coffee farmers, cotton growers and camelid breeders, for a total of PEN 579 million, and had a net worth of PEN 850 million. At the same date, the Agricultural Production Restructuring Fund had more than 2,500 beneficiaries, with loans totalling PEN 99 million for the conversion of 3,300 hectares of illicit crops, and a net worth of PEN 162 million.[31] AGROBANCO has suffered substantial losses in recent years. By the end of December 2017, the balance sheet showed a net loss of PEN 339.6 million, and the overdue portfolio stood at PEN 478 million, mainly representing overdue payments by producers engaged in coffee and cocoa cultivation and cattle fattening.[32] Its net worth by the end of 2018 was PEN 268 million - PEN 48 million less than in 2017 owing mainly to the losses incurred during the year, despite a capital increase of PEN 80 million in April 2018. These results were influenced by damage from the El Niño phenomenon, which caused many farmers to lose their crops and fall into payment arrears.

4.38. In response to the impact of the El Niño phenomenon, in April 2017 the Government issued Emergency Decree No. 007-2017, to remain in effect until 31 December of that year, establishing special measures for the reactivation of agricultural and fishery production. The approved measures include the following: (a) payment by FOGASA of a special benefit for agricultural mitigation in the event of an emergency, of PEN 1,000 per hectare, up to a maximum of four hectares, in areas declared to be in a state of emergency; (b) non-reimbursable co-financing of up to 50% of the Catastrophic Agricultural Insurance, prioritizing areas declared to be in emergency; (c) channelling of resources to FOGASA for the co-financing of commercial agricultural insurance in areas declared to be in a state of emergency (PEN 23 million, of which PEN 20 million for the benefit and PEN 3 million for the co-financing of the Catastrophic Agricultural Insurance premium for disadvantaged agricultural producers); (d) the refinancing and rescheduling of obligations arising from agricultural credits for farmers affected by the rains and associated hazards in areas declared to be in a state of emergency; and (e) up to PEN 25 million in funding to the AGROPERU Fund to implement the Programme for the Promotion of Seasonal Crops and the Recovery of Fruit Plantations.

4.39. In addition, the Agricultural Finance Fund (FFA) was created for a seven-year period (ending 2024) to provide a line of credit to national financial institutions for: (i) the refinancing and/or rescheduling of obligations arising from agricultural credits extended to producers in areas declared to be in a state of emergency; and (ii) the financing of working capital for farmers who have lost all or part of their production as a result of natural phenomena and who are in areas declared to be in a state of emergency. To this end, authorization was given to transfer PEN 100 million to AGROBANCO, which administers the FFA. Credits financed through the FFA are intended for affected producers farming an area of up to 20 hectares.

4.40. Complementing the above, Law No. 30893 of 27 December 2018, which amends various articles of Law No. 29064, the Law to Strengthen the Agricultural Bank - AGROBANCO and Establish Payment Facilities, created the Fund for the Financial Inclusion of Small Agricultural Producers (FIFPPA), under MINAGRI auspices, with the aim of encouraging appropriate credit behaviour and promoting the financial inclusion of small-scale farmers who are debtors of AGROBANCO. The FIFPPA was set up with initial funding of PEN 100 million from the Public Treasury, together with donations from private legal entities, resources from non-reimbursable international technical and/or financial cooperation agreements, and the funds transferred by MINAGRI. The FIFPPA provides an incentive to small-scale farmers who owe money to AGROBANCO and are not in arrears. This is intended to bridge the gap between the interest rate that guarantees the entity's financial sustainability,

[31] AGROBANCO (2018), *Memoria Institucional 2017*. Viewed at: https://www.agrobanco.com.pe/wp-content/uploads/2017/07/MEMORIA-INSTITUCIONAL-2017.pdf.

[32] AGROBANCO (2018), *Memoria Institucional 2017*. Viewed at: https://www.agrobanco.com.pe/wp-content/uploads/2017/07/MEMORIA-INSTITUCIONAL-2017.pdf.

considering criteria of risk coverage and total costs, and the preferential interest rate that small-scale farmers would be charged.

4.41. The agriculture sector in Peru is eligible for a preferential income tax rate of 15% under Law No. 27360 and also for the special procedure for advance refund of the General Sales Tax (IGV), pursuant to the provisions of Legislative Decree No. 973. The 15% income tax rate is also granted to natural or legal persons engaged in agribusiness activities[33], provided that they mainly use agricultural products outside the provinces of Lima and El Callao and are engaged in the production, processing and conservation of meat and meat products; the production and conservation of fruits, legumes and vegetables; and sugar production. The rate in question applies until 31 December 2021.[34] The agriculture sector also enjoys other tax benefits, such as those provided for in the Law on the Promotion of Production Development in High Andean Regions[35] (fish farming, aquaculture, meat processing in general, forestry plantations for commercial or industrial purposes, dairy production, animal husbandry and exploitation of South American camelid fibre and bovine wool, agribusiness, crafts and textiles) and in the Law on the Promotion of Investment in the Amazon Region, as amended.[36]

4.42. Imports and the first definitive sale of pounded rice[37] are subject to the Sales Tax on the Sale of Pounded Rice (IVAP), assessed at 4% of the sales value (the c.i.f. value in the case of imports), but are not subject to IGV or the Municipal Promotion Tax.

4.1.4 Fisheries

4.43. Fishing is another important activity for Peru. The country's main marine fishery resources are anchoveta, prawns, turbot, squid, sea bream, sole, abalone, bonito, hake, mullet, scallops and oysters. In addition, there are trout in lakes and lagoons, as well as the tropical species of Amazonia. Peru is also a major producer and exporter of fishmeal and fish oil, and is starting to develop aquaculture production. In 2018, fishery activity was worth PEN 2,353 million, up by 39.8% over the previous year and equivalent to 0.4% of GDP. In the same year, the GDP of fish processing amounted to PEN 3,171 million. Both activities jointly accounted for 1% of GDP in 2018.[38]

4.44. In 2018, the fishery sector contributed 0.5% of all jobs created in Peru, and the economically active population (EAP) employed in this sector totalled 91,937. Microenterprises accounted for 70.5% of sector employment, followed by small businesses with 16.9%, and medium-sized and large enterprises with 12.5%. In 2018, the tax revenue collected by SUNAT from fishery activity totalled PEN 524.8 million, of which extractive fishing generated 62.7%.

4.45. The anchoveta species, which accounts for the majority of fishing activity, is used to produce fishmeal and fish oil (indirect human consumption). In 2018, 6.05 million metric tonnes of anchoveta were landed (nearly 84% of the total catch); and 1.14 million metric tonnes of hydrobiological resources were extracted for direct human consumption (16% of the total catch, by volume). Peru is the world's largest producer and exporter of fishmeal, which it sells primarily to China. In 2018, it produced 1,415.4 metric tonnes of fishmeal and 241.8 metric tonnes of crude fish oil.

4.46. Fishery exports (including industrial fishery products) have grown considerably in recent years, and accounted for 6.9% of total exports in 2018. In that year, a total of 1.64 million gross metric tonnes of fishery products were sold abroad, 2.1% more than in 2017; this generated revenues of USD 3,313 million, up by 15.1% over the previous year. Peru's fishery exports are sent to a wide range of markets, primarily China (45.1% of the total in 2018), the United States (8.1%), Spain (7.9%), the Republic of Korea (5.1%), Japan (4.5%), Viet Nam (2.6%), Canada (2.4%),

[33] Except those related to wheat, tobacco, oilseeds, oils and beer.
[34] Law No. 27360 of 31 October 2000.
[35] Law No. 29482 of 18 December 2009.
[36] Law No. 27037 of 30 December 1998.
[37] The tariff headings for pounded rice imports subject to IVAP are: 1006.20.00.00 (husked rice), 1006.30.00.00 (semi-milled rice, whether or not polished or glazed), 1006.40.00.00 (broken rice), and 2302.20.00.00 (bran, sharps and other residues, whether or not in the form of rice pellets, derived from the sifting, milling or other working of cereals or of leguminous plants). Source: SUNAT.
[38] Online information from the National Institute of Statistics and Informatics (2018). Viewed at: https://www.inei.gob.pe/media/principales_indicadores/CalculoPBI_68.zip; and Ministry of Production (2018), *Anuario Estadístico Pesquero y Acuícola 2017.* Viewed at: http://ogeiee.produce.gob.pe/images/Anuario/Pesca_2017.pdf.

Denmark (2.4%), Chinese Taipei (2.1%) and Italy (1.9%). Fishmeal exports totalled USD 1,563.5 million in 2018 (USD 1,458.7 million in the previous year), thereby amounting to 47.2% of total fishery exports, while exports of fish oil amounted to USD 375 million. Peru also imported fishery products worth USD 337 million in 2018 - mainly in frozen, cured and canned formats.

4.47. Aquaculture production totalled 103,600 metric tonnes in 2018, the main species being trout (53.1%), prawns (28.7%) and scallops (12.0%). Exports totalled USD 311.9 million that year, of which USD 219.6 million corresponded to prawns and USD 73.9 million to scallops. The main markets were the United States, Spain, France, Viet Nam, Canada, Japan and the Russian Federation.[39]

4.48. The average MFN tariff applied to fish and fish products is 0.1%, with a maximum rate of 6%; bound rates stand at 30% (Table 3.3).

4.49. The Ministry of Production (PRODUCE) is responsible for formulating the fisheries and aquaculture sector policy[40] and receives advisory input on the management of fishery resources from the Peruvian Marine Institute (IMARPE). The National Fisheries Health Service (SANIPES)[41], attached to PRODUCE, regulates and oversees health and safety services in respect of fisheries, aquaculture, and feed and ingredients thereof of hydrobiological origin, intended for hydrobiological species, at the national level. It is also responsible for complementary and related services provided by public or private agents related to the fisheries and aquaculture sector. The aim of the National Aquaculture System (SINACUI), created by Decree-Law No. 1195 and involving institutions from the three levels of government, is to guide, integrate, coordinate, execute, supervise, evaluate and ensure the nationwide implementation and enforcement of public policy on aquaculture.

4.50. IMARPE is a specialized technical agency attached to PRODUCE, dedicated to scientific research and the study of the Peruvian sea and its resources. The Institute assists the Government in making decisions regarding the rational use of fishery resources and the conservation of the marine environment. It also investigates the relationship between fishery resources, the environment and fishing activity, and provides advice on the management of resources and the marine environment, with a view to promoting sustainable development, the conservation of marine biodiversity, environmental protection and responsible fishing.[42] IMARPE has coastal laboratories which monitor fisheries and the main resources of economic and social importance, such as pelagic fish resources (anchoveta, sardine, mackerel, tuna and others), demersal fish resources (for example, hake) and marine invertebrates (squid, scallops, Chilean abalone (*chanque*), clams, mussels and others).

4.51. According to the Multi-Year Strategic Plan for the Production Sector 2017-2021, the main objectives of the fisheries policy are to promote the sustained development of fishery activity, in order to contribute to food security, employment and income, and to make sure hydrobiological resources are used consistently with the preservation of the environment and the conservation of biodiversity. This forms part of the general strategic objectives, which are to: (i) make economic agents more competitive; (ii) strengthen the business development of micro, small and medium-sized enterprises (MSMEs); and (iii) upgrade the product value chain.

4.52. Fishing is regulated by Decree-Law No. 25977, the General Law on Fisheries, and its implementing regulations, Supreme Decree No. 012-2001-PE. The aim of the Law is to promote the sustained development of fishing as a source of food, employment and income, and to ensure the responsible use of hydrobiological resources, optimizing economic benefits in harmony with environmental protection and the conservation of biodiversity. According to the Law, the hydrobiological resources contained in Peru's jurisdictional waters are national patrimony, so it is up to the Government to regulate their integrated management and exploitation, since fishing activity is considered to be of national interest. This does not preclude the State from encouraging

[39] Ministry of Production (2018), *Anuario Estadístico Pesquero y Acuícola 2017.* Viewed at: http://ogeiee.produce.gob.pe/images/Anuario/Pesca_2017.pdf.

[40] Supreme Decree No. 02-2017-PRODUCE, Regulation Governing the Organization and Functions of the Ministry of Production, Article 10.

[41] Law No. 30063, Law establishing the National Fisheries Health Service (SANIPES).

[42] Online information from IMARPE: Viewed at: http://www.imarpe.gob.pe/imarpe/index.php?id_seccion=I01690000000000000000000000.

wide-ranging participation in fishing activity by Peruvian natural or legal persons, or from encouraging foreign investment, subject to the relevant provisions of Peruvian law. In this connection, the Law requires the State to provide the support needed for the development of the artisanal fishing activity and the training of artisanal fisherfolk.

4.53. According to the General Law on Fisheries, to engage in fishing activities, natural and legal persons require one of the following: (a) a concession, for the administration of the State's fishing infrastructure and for aquaculture practised on public lands, seafloors or marine or inland waters; (b) an authorization to practise aquaculture on privately owned land, to carry out research activities, to increase the size of the fishing fleet, and to install industrial fishery establishments; (c) a fishing permit, for the operation of national- or foreign-flag fishing vessels; or (d) a license to operate fish product processing plants. The concessions, authorizations and permits are specific rights granted at the national level for a defined period of time.

4.54. The extraction of fishery resources is subject to a fee[43], the amount of which applied to foreign-flag tuna vessels is USD 65 per net tonnage for a three-month period. For vessels flying the national flag, the extraction of hydrobiological resources intended for direct human consumption is subject to a fee of 0.058% of a tax unit (UIT) per tonne extracted. In the case of hydrobiological resources extracted for indirect human consumption, such as fishmeal, the duty is 0.25% of the f.o.b. value per tonne. Natural or legal persons carrying out research activities or engaged in small-scale and subsistence fishing activities are exempt from the payment of these fees.

4.55. Foreign-flag vessels operating in Peruvian jurisdictional waters may only extract hydrobiological resources within the quota not taken up by the national fishing fleet.[44] The General Law on Fisheries defines the ways in which foreign-registered vessels can access such resources.[45] These include fishing for occasional, highly migratory or under-exploited resources, and the signing of a contract with a national company to exploit specific resources or for research fishing.[46] Foreign shipowners must prove domicile and legal representation in Peru. Foreign-flag vessels may also fish in Peruvian waters under agreements signed by Peru with other States, or groupings thereof, with respect to the fishing of surplus fishery resources not claimed by the existing Peruvian fleet[47], or by signing framework agreements between PRODUCE and foreign private entities, for the extraction of highly migratory, occasional or under-fished species.

4.56. The fishing regulations do not impose restrictions on the participation of foreign capital in Peruvian-registered vessels or aquaculture activities. Nor do they restrict the marketing of fishery products on domestic and international markets.[48] The import and export of hydrobiological resources must comply with the relevant sanitary regulations (Section 3.1.9).

4.57. Fishing permits for foreign vessels are not transferable. Under Peruvian law, all foreign-flag fishing vessels operating under a fishing permit must carry an IMARPE-appointed technical-scientific observer on board. In addition, at least 30% of the crew of foreign-flag fishing vessels operating in jurisdictional waters must be Peruvian nationals.[49] Before the start of their operations, the owners of foreign-flag vessels must deposit a letter of guarantee in favour of PRODUCE, valid for at least 30 days after the expiry of the fishing permit, for an amount equivalent to 25% of the permit fee. This requirement does not apply to Peruvian-flag vessels.

4.58. Legislative Decree No. 1084 of 2008, the Law on the Maximum Catch Limit per Vessel and Fishing Quotas, regulates the fishing of anchoveta and white anchoveta resources intended for indirect human consumption, that is for fishmeal manufacture.[50] The Vice-Ministry of Fisheries and Aquaculture, attached to PRODUCE, sets the maximum total allowable catch of anchoveta for indirect human consumption for each fishing season, based on the scientific report on the biomass of this

[43] Article 40 of the regulations implementing the General Law on Fisheries.
[44] Article 47 of Decree-Law No. 25977 of 22 December 1992.
[45] Article 48 of Decree-Law No. 25977.
[46] Such contracts may take the form of leasing, finance leasing, partnership or joint ventures. There is also the possibility of entering into mixed contracts, which include supplying fish, the payment of fees and other compensation, such as contributions in research, training and fishery infrastructure.
[47] Such agreements shall consider, *inter alia*, non-discriminatory access for Peruvian fishery products to the markets of the country or grouping of States that is signatory to the agreement in question.
[48] Article 30 of Decree-Law No. 25977.
[49] Article 70 of the regulations implementing the General Law on Fisheries.
[50] Legislative Decree No. 1084.

resource prepared by IMARPE. The limit is set per vessel or fishing permit holder for each fishing season, in accordance with the maximum catch limit for anchoveta and white anchoveta per vessel.[51]

4.59. The National Fisheries Development Fund (FONDEPES), created by Supreme Decree No. 010-92-PE of 5 June 1992, as amended, is a public agency attached to PRODUCE, governed by the rules applicable to State Enterprises. Ministerial Resolution No. 346-2012-PRODUCE approved its current Rules of Organization and Functions.[52] Peru has notified the WTO of FONDEPES, pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures; the most recent notification corresponds to the 2015-2016 biennium.[53] FONDEPES seeks to foster, implement and provide technical, economic and financial support for the development of artisanal maritime and inland fishing and of fishery and aquaculture activities, particularly in terms of basic infrastructure for the development and distribution of fishery resources. To this end, it finances credit programmes for the artisanal fisheries and aquaculture sector, aimed at infrastructure development, business consultancy and the supply of materials, equipment, gear and tackle. It also organizes training and technical assistance activities for the country's artisanal fisherfolk and fish farmers, and implements investment projects aimed at the construction and/or modernization of artisanal fishery landing stages (see below). The duration of FONDEPES is indefinite.

4.60. FONDEPES operates two credit programmes, each covering several products. The Artisanal Fishing Credit programme targets artisanal fisherfolk and boatowners, and encompasses two products: Product 1, which finances fishing tackle and equipment, artisanal processing and isothermal chambers; and Product 2, which finances the hiring of auxiliary systems services, repairs, thermal insulation of hold and deck, and other services related to artisanal fishing activity. The Aquaculture Credit programme covers three products: Product 1, for the purchase of balanced feed for the fattening stage and the procurement of materials and equipment; Product 2, which finances the expansion of aquaculture infrastructure; and Product 3, which finances hatcheries and/or the purchase of eggs and/or fry.

4.61. As part of its role in supporting the basic infrastructure of the fishery sector, FONDEPES is responsible for the programme to modernize artisanal fishery landing stages (DPAs), which consists of implementing public investment projects and Investments in Optimization, Marginal Expansion, Replenishment and Rehabilitation (IOARR). These aim to upgrade artisanal fishery infrastructure to meet the current health standard, and thus provide artisanal fisherfolk with better working conditions and ensure the quality and safety of hydrobiological resources extracted for direct human consumption. By late 2018, ten DPAs had been completed: in Huacho, Supe, Yacila, Quilca, Cabo Blanco, Cancas Acapulco, San Juan de Marcona, Ilo (landside works) and San José, and complementary or completion works were being executed in five DPAs: in Máncora, Morro Sama, Atico, Matarani (landside works) and Bahía Blanca. In addition, 16 infrastructure optimization interventions had been carried out.

4.62. The beneficiaries of FONDEPES are natural or legal persons engaged in artisanal aquaculture and maritime and inland fishing activities. The authorities reported that only certain FONDEPES activities and projects have a subsidy component, but expenditures are not differentiated accordingly.[54] Expenditure for the period 2012-18, amounting to PEN 560.42 million, is presented

[51] The Maximum Catch Limit per Vessel (LMCE) for each fishing season is calculated by multiplying the index or quota assigned to each vessel - Maximum Catch Percentage per Vessel (PMCE) - by the maximum total allowable catch limit of anchoveta for indirect human consumption determined for the corresponding fishing season.

[52] Online information from FONDEPES. Viewed at: https://www.fondepes.gob.pe/Portal2018/index.php/pages/partida-legal.

[53] WTO Document G/SCM/N/315/PER of 6 July 2017.

[54] In its notification to the WTO, Peru notes that this expenditure includes: (i) payroll expenditure; (ii) expenditure related to the purchase of goods and services; (iii) project expenditure; (iv) financial investment expenditure; and (v) other current and capital expenditure; and is financed by: (i) ordinary resources (income from tax revenue and other sources) and (ii) direct resources (income generated and administered directly by FONDEPES itself, such as property revenue, fees, provision of services, *inter alia*). WTO Document G/SCM/N/315/PER of 6 July 2017.

in Table 4.4. Following a drop in 2015, expenditure increased in 2017 before stabilizing in 2018 at a level of PEN 121.26 million.[55]

Table 4.4 FONDEPES expenditure, 2012-18

Millions of PEN and USD

	2012	2013	2014	2015	2016	2017	2018
PEN	33.00	52.91	70.99	100.3	47.36	121.26	121.26
USD	12.50	19.59	25.00	31.55	14.01	37.19	36.86

Source: Online information from FONDEPES. Viewed at: http://www.transparencia.gob.pe/reportes_directos/pte_transparencia_info_finan.aspx?id_entidad=102&id_tema=19&ver=#.XKtDE6AzYdU.

4.63. Sales of fuel to foreign-flag vessels with fishing permits granted by Peru or other countries, which extract "highly migratory" hydrobiological resources, are not liable for IGV, Municipal Promotion Tax (IPM) or Selective Consumption Tax (ISC), provided that the vessel lands at least 30% of its hold cargo at a national industrial fishery plant.[56] The vessel owner must apply for these benefits.

4.64. The National Programme for Innovation in Fisheries and Aquaculture (PNIPA) seeks to promote innovation in the fisheries and aquaculture sector and thus exert a major impact on technological, economic, social, environmental and institutional development. The PNIPA has funds totalling USD 75.2 million for two projects: the National Fisheries Innovation Project (PNIPA-PESCA), which includes the financing of 73 fishery subprojects; and the National Aquaculture Innovation Project (PNIPA-ACUICULTURA), which includes financing for 192 aquaculture subprojects.

4.65. Aquaculture is regulated by Legislative Decree No. 1195 of 29 August 2015, which approves the General Law on Aquaculture (LGA). The latter seeks to promote, develop and regulate aquaculture in its various production phases and in the marine, estuarine and inland environments. It also declares the promotion and fostering of the development of sustainable aquaculture to be of national interest, as an economic activity that contributes to productive diversification and competitiveness, in harmony with environmental protection, the conservation of biodiversity and the health and safety of hydrobiological resources and products. The Law stresses its importance in obtaining quality products for food and industry, job creation, income and production chains, among other benefits. The State thus promotes the sustainable growth and strengthening of this activity, providing support through the different governing bodies and by establishing a regulatory framework that encourages private investment.

4.66. The Vice-Ministry of Fisheries and Aquaculture prepares technical studies to identify areas suitable for the development of aquaculture activity, for which it may convene public or private institutions. These studies, are used to update the National Aquaculture Registry. The latter is not exclusive, since concessions may be requested in other areas that the interested party considers suitable for aquaculture, subject to a favourable report from the Vice-Ministry of Fisheries and Aquaculture.

4.67. The development of aquaculture on public lands, sea floors or marine and inland waters, requires a concession; but if the activity is carried out on privately owned land and for research, settlement and restocking activities, an authorization is required. In the case of the concession, sea areas, rivers and navigable lakes are enabled for aquaculture purposes. In areas designated for aquaculture purposes, under concession by the Vice-Ministry of Fisheries and Aquaculture, the corresponding water authority automatically grants rights of use, at a preferential rate. The terms of concessions in public domain areas are specified in the Agreement on Conservation, Investment and Production in the Aquaculture Sector, which is signed by the applicant and the Vice-Ministry of Fisheries and Aquaculture. Among other provisions, this agreement must contain a clear statement of the programme of activities to be undertaken, an environmental management programme and the corresponding production goals and investments, and may include a legal stability clause in the aquaculture regulations. Concessions may be granted either through public tenders or bids, or else directly. The holders of the concessions and authorizations own the hydrobiological resources they

[55] Online information from FONDEPES. Viewed at: http://www.transparencia.gob.pe/reportes_directos/pte_transparencia_info_finan.aspx?id_entidad=102&id_tema=19&ver=#.XKtDE6AzYdU.

[56] Article 2 of Law No. 28965 of 24 January 2007.

cultivate, at all stages. Concessions are granted for up to 30 years and are renewable for equal periods, but only on the areas effectively worked. Concessions and authorizations for the development of aquaculture may be transferred to third parties by signing a new agreement, subject to authorization from the Vice-Ministry of Fisheries and Aquaculture.

4.68. Legislative Decree No. 1431, which incorporates aquaculture activities into the scope of Article 4 of the Law Approving Standards for the Promotion of the Agrarian Sector and which entered into force on 1 January 2019, provides that aquaculture is subject to a preferential income tax rate of 15% (as opposed to the 30% paid by companies in general) and permits temporary employment for indeterminate periods of time.

4.69. Peru is an active participant in the WTO negotiations on fisheries subsidies and is part of the informal "Friends of Fish" coalition at the WTO, which is lobbying for a significant reduction in fisheries subsidies.[57] Peru has advocated a comprehensive ban on fisheries subsidies, including effective and appropriate special and differential treatment for artisanal fisheries for developing countries.[58] It has also put forward proposals for effective disciplines on artisanal fisheries subsidies[59], as well as several other proposals, both individually and as part of the "Friends of Fish" coalition and the informal group of Latin-American countries. Peru supports the mandate agreed upon at the Buenos Aires Ministerial Conference, to adopt an agreement on fisheries subsidies by the next Ministerial Conference.

4.2 Mining and energy

4.2.1 Overview

4.70. The mining and energy industry is one of the leading sectors of the Peruvian economy. In 2018, it contributed 13.1% of GDP in constant terms (9.4% at current prices) and accounted for some two-thirds of exports. In that same year, mining and hydrocarbon exports amounted to USD 31,790 million, of which USD 27,589 million came from mining exports. According to MINCETUR data, mining exports represented 57.8% of the total. Copper was the principal export (31.3% of the total), which was worth USD 14,925 million; next came gold (14.7%), worth USD 7,006 million, and zinc (5.4%), exports of which amounted to USD 2,563 million. Iron exports accounted for 1.0% of the total. Petroleum and natural gas exports totalled USD 4,201 million (8.8% of the total), of which USD 2,338 million represented petroleum and by-products (4.9% of total exports), USD 1,042 million natural gas (2.2%) and USD 822 million naphtha (1.7%).[60]

4.71. The Ministry of Energy and Mining (MINEM) is the body with responsibility for regulations and policies on the sustainable development of mining and electrical energy. The mining and energy sector's Multi-Year Strategic Sector Plan (PESEM) 2016-2021 prioritizes the promotion of investment in the sector, which positively impacts local development by helping to improve infrastructure, generating employment and driving technology transfer and tax collection. The PESEM also attaches importance to promoting investment in improving and expanding electricity coverage so as to meet the country's needs.[61] The following prioritization criteria were laid down in December 2018 for the allocation of resources to be invested in the energy and mining sector in accordance with PESEM guidelines: closing infrastructure gaps; alignment with institutional strategic planning; poverty rate of the geographical setting; beneficiaries; and efficient resource utilization.[62]

4.72. The Supervisory Authority for Investment in Energy and Mining (Osinergmin) is the public institution charged with regulating companies in the electricity, hydrocarbon and mining industry and with ensuring that these companies comply with the legal provisions governing their activities.

[57] Along with Argentina, Australia, Chile, Colombia, Ecuador, Iceland, New Zealand, Norway, Pakistan and the United States.

[58] See, for example, WTO document TN/RL/W/243 of 7 October 2009.

[59] WTO Documents TN/RL/GEN/17 of 19 January 2011; TN/RL/W/258 of 19 June 2015; TN/RL/GEN/187/Rev.1 of 17 July 2017; and TN/RL/GEN/187/Rev.2 of 25 July 2017.

[60] MINCETUR (2019), *Reporte Mensual de Comercio - Diciembre 2018.* Viewed at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/comercio_exterior/estadisticas_y_publicaciones/estadisticas/exportaciones/2018/RMC_Diciembre_2018.pdf.

[61] Ministry of Energy and Mining (MINEM), *Plan Estratégico Sectorial Multianual (PESEM) 2016-2021.* Viewed at: https://www.ceplan.gob.pe/wp-content/uploads/2017/01/PESEM-MINEM.pdf.

[62] Ministerial Resolution No. 493-2018-MEM/DM of 11 December 2018.

The institution was created by Law No. 26734 of 1996 and was initially tasked only with overseeing electricity and hydrocarbon companies. As of 2007, Law No. 28964 expanded its field of action to the mining subsector and it was renamed Osinergmin. The institution sets electricity prices and natural gas transportation rates.[63]

4.73. Mining and energy industry companies and entities falling within the sphere of competence of Osinergmin must pay a contribution for regulation *(aporte por regulación)*. This contribution is a monthly levy intended to help maintain Osinergmin. It has its basis in Article 10 of the Framework Law on Investment Regulation Agencies (Law No. 27332)[64], Supreme Decree No. 098-2016-PCM approving the Energy Sector Contribution for Regulation and Supreme Decree No. 099-2016-PCM approving the Mining Sector Contribution for Regulation. The Tax Administration and Collections Management Unit of the Finance and Administration Department of Osinergmin is responsible for administering, collecting and overseeing the contribution for regulation, which is calculated based on the value of monthly invoicing for activities under the competence of Osinergmin.

4.2.2 Energy

4.74. Responsibility for the implementation and discharge of other functions relating to the energy sector rests with the Directorate-General of Electricity (DGE); the Directorate-General of Energy Efficiency (DGEE); the Directorate-General of Energy-Related Environmental Affairs (DGAAE); the Directorate-General of Rural Electrification (DGER); and the Directorate-General of Hydrocarbons (DGH). Policy decisions in the electricity sector are incumbent on the Vice-Ministry of Electricity, which is attached to MINEM.

4.75. Peru's total energy consumption for 2017 was 846,331 terajoules (TJ). The main items of consumption were B5 diesel (26.5%), electricity (19.8%) and distributed gas (10.6%). The transport sector recorded the highest consumption with 45.5% of the total, followed by the mining industry with 27.7%, the residential, commercial and public sector with 25.7%, and agriculture and livestock with 1.1%.[65]

4.2.2.1 Electricity

4.76. The electricity sector is closely bound to the performance of the Peruvian economy, as all branches of the economy use electricity for production processes and the provision of services. In 2018, the sector accounted for 2.4% of GDP (together with water) and attracted USD 1,673.0 million in investment. Per capita electricity consumption for that year was 1,503 kilowatts per hour (kWh). The industrial sector was the biggest consumer of electricity in 2017, with a share of 58.8%, followed by the residential sector with 21.7% and the commercial and services sector with 19.4%.[66] The national electrification coefficient was 94.2% in 2016, the last year for which data are available.

4.77. Electricity generation in Peru is diversified: there are hydroelectric plants (57.8% of all electric energy produced in 2018), thermoelectric and solar power plants, as well as wind farms. In 2018, electricity production in Peru was 54,882.58 gigawatt hours (GWh), up 4.1% from 2017, while consumption was 48,325.87 GWh (Table 4.5). Installed capacity was 15,014.78 megawatts (MW) in 2018, and effective output was 14,129.1 MW. In 2017, the last year for which data are in available, the average price of electricity was USD 0.1013/kWh.

Table 4.5 Selected electricity indicators, 2013-18

	2013	2014	2015	2016	2017	2018[p]
Electricity production[b]	43,330.18	45,549.82	48,270.40	51,686.83	52,700.05	54,882.58
Electricity consumption[b]	38,275.16	40,031.35	42,333.76	45,519.75	46,578.44	48,325.87
Installed capacity[c]	11,050.72	11,202.62	12,188.63	14,517.72	14,734.77	15,014.78

[63] Online information from Osinergmin. Viewed at: http://www.osinergmin.gob.pe/seccion/institucional/regulacion-tarifaria.

[64] Framework law on agencies regulating private investment in public services (Law No. 27332), published on 29 July 2000.

[65] MINEM, Directorate-General for Energy Efficiency, *Balance Nacional de Energía 2017.* Viewed at: http://www.minem.gob.pe.

[66] MINEM, *Anuario Estadístico de Electricidad 2017*. Viewed at: http://www.minem.gob.pe/minem/archivos/Capitulo%205%20Distribucion%20de%20energia%20electrica%202017.pdf.

	2013	2014	2015	2016	2017	2018[p]
Power effectively generated[c]	9,885.3	10,269.3	11,230.4	13,642.5	13,852.10	14,129.14
Average price of electricity[d]	9.93	10.78	10.49	10.26	10.13	..
Percentage of electricity production by type of technology[e]						
Thermoelectric power plants	45.5	59.2	57.4	57.0	56.6	57.8
Hydroelectric power plants	51.4	38.0	40.0	40.2	37.2	37.2
Wind farms	1.1	1.7	1.5	2.0	2.2	2.9
Solar power plants	0.5	1.1	1.0	0.8	0.6	1.5

a Preliminary.
b Gigawatt hours (GWh).
c Megawatts (MW).
d USD cents per kWh.
e Only output from the National Interconnected Electricity System (SEIN, the national electricity grid) is taken into account.

.. Not available.

Source: Ministry of Energy and Mining, and operating statistics from the Economic Operation Committee of the national electricity grid (SEIN).

4.78. In 2018, 95% of production and 99% of electricity sales in Peru took place through the national electricity grid (SEIN), which comprises transmission lines, interconnected electricity substations and load dispatch centres. The SEIN is divided into northern, central and southern regions. Besides the SEIN, there are also off-grid systems covering the rest of the country and not connected to the SEIN. The Economic Operation Committee of the System (COES) manages the operations of the national grid and ensures the supply of electricity.[67] The COES comprises all the agents of the SEIN, namely generation, transmission and distribution companies, as well as free users.

4.79. Electricity market users are divided into regulated users (consumption below 0.2 MW), which are supplied by an electricity distribution operator at rates set by Osinergmin, and free users (consumption above 2.5 MW), which can choose whether to be supplied by distribution companies or directly by a generator. Users consuming between 0.2 MW and 2.5 MW may choose whether to be free or regulated. In 2017, 56% of electricity was sold on the open market and 44% on the regulated market. Besides, 96% of all electricity generated came from companies in the electricity market, and 4% from companies that generate power for their own use (mainly industrial companies). Some 17 GWh were imported from Ecuador, the equivalent of 0.03% of the total amount of energy generated in the country. In that same year, 88.2% of all electricity produced for national consumption reached the end consumer, while 10.5% was recorded as lost and 1.3% was used for the auxiliary services of generating plants.

4.80. Peruvian or foreign natural persons or legal entities may engage in electricity generation, transmission and distribution. Legal entities must be incorporated in Peru.[68] Electricity generation and distribution is currently undertaken by various private business groups as well as state-run companies, while power transmission is the domain of private companies only. In respect of generation, private companies control a majority share of the market and in 2018 accounted for 79.9% of all the energy produced in the national grid; companies with State participation contributed the remaining 20.1%. The private sector provided 88.4% of the investment in the industry for that year. The bulk of the investment went into electricity generation and over 65 companies are engaged in power generation for the electricity market.[69]

4.81. A definitive concession is required for electricity generation with installed capacity of more than 500 KW using hydraulic or renewable energy resources, as well as for electricity transmission when the facilities affect State property, and for distributing electric power as a public electricity

[67] Online information from the COES. Viewed at: http://www.coes.org.pe/Portal/Organizacion/QuienesSomos.
[68] Article 1 of Decree-Law No. 25844 on Electricity Concessions, published on 19 November 1992. Viewed at: http://www2.osinerg.gob.pe/MarcoLegal/docrev/D-LEY%2025844-CONCORDADO.pdf.
[69] Information provided by the authorities.

service[70] when demand exceeds 500 KW.[71] Authorization is required in order to engage in thermoelectric power generation when the installed capacity exceeds 500 KW. Concessions and authorizations are issued by MINEM for an indefinite period, and in the case of concessions granted by public tender, the time-frame is established in the tender itself, the maximum being 30 years. A temporary two-year concession may be granted for the conduct of feasibility studies and may be extended for one more year.[72]

4.82. There is a system of free pricing for supplies provided under competitive conditions, and contracts must separate power generation prices from transmission and distribution tariffs. A system of regulated prices exists for supplies that by their nature require this.[73] Price regulation covers: power and energy transfers among generators, power and energy sales within the COES by distributors and free users, tariffs and compensations under transmission and distribution systems, energy sales by generators to distribution operators intended for the public electricity service (except where there has been a bidding procedure for the provision of that service), and sales to users of the public electricity service.[74]

4.83. The maximum tariffs applied to regulated users include: (a) generation prices (including energy and power); (b) the unit tolls of the corresponding transmission systems; and (c) value added for distribution (maximum distribution price).[75] These tariffs are proposed to the Osinergmin Board of Directors by the Tariff Regulation Department.

4.84. Concession-holding or authorized companies engaged in generation, transmission and distribution and those that charge for the use of secondary transmission systems for their own activities are liable for the Osinergmin contribution for regulation, which is calculated on the basis of the amount of their monthly invoicing, with the following percentages being applied: 0.52% for 2017; 0.51% for 2018; and 0.50% for 2019.[76]

4.85. The law provides incentives for generation using renewable energy resources, as promoting the use of these resources forms part of Peru's energy policy guidelines. Legislative Decree No. 1002 of 1 May 2008 establishes the following as incentives for the use of renewable energy resources for electricity generation: priority in the SEIN daily load dispatch; contract prices guaranteed for 20 years; purchase of the energy produced; and preferential connection to the grid for energy generated from renewable resources. Renewable energy resources are also VAT-exempt.[77]

4.86. At the end of March 2019, there were projects for the construction of 19 mini hydroelectric plants using renewable energy resources, one hydroelectric power plant, two wind farms and one biomass power plant. It is estimated that these projects will increase installed generation capacity by 497.3 MW between 2019 and 2022, for a total investment of USD 1,074 million. It is hoped that with most of these projects using more competitive and efficient renewable energy sources, the reliability of supply from the national grid will be enhanced by the injection of electricity at various locations around the country.

4.87. In March 2019, three regional interconnection projects were either being implemented or studied: (a) the Peru-Ecuador Interconnection, with a total length of approximately 635 km and an investment of USD 522.2 million, expected to come on stream in the first half of 2023; (b) the Bolivia-Peru Interconnection, which was being studied; and (c) the Peru-Chile Interconnection, which was at the design stage.

[70] The provision of electricity is a public utility service encompassing the regular supply of electric power for collective use or intended for collective use and the transmission and distribution of electricity. Article 2 of Decree-Law No. 25844.

[71] Article 3 of Decree-Law No. 25844.

[72] Articles 22 and 23 of Decree-Law No. 25844.

[73] Articles 7 and 8 of Decree-Law No. 25844.

[74] Article 44 of Decree-Law No. 25844.

[75] Article 63 of Decree-Law No. 25844.

[76] Article 1 of Supreme Decree No. 098-2016-PCM adopting the Osinergmin contribution for regulation – Energy Sector. Viewed at: https://busquedas.elperuano.pe/normaslegales/aprueban-aporte-por-regulacion-del-osinergmin-sector-energ-decreto-supremo-n-098-2016-pcm-1469406-5.

[77] MINEM, *Anuario Estadístico de Electricidad 2016*. Viewed at: http://www.minem.gob.pe/minem/archivos/1%20INDICE_2016.pdf.

4.2.2.2 Hydrocarbons

4.88. The Directorate-General for Hydrocarbons (DGH), which is under the responsibility of the Vice-Ministry for Hydrocarbons in MINEM, is the body tasked with formulating energy policy and regulations for the hydrocarbons sector in Peru. It is also responsible for promoting hydrocarbon exploration, exploitation, transport, storage, refining, processing, distribution and marketing.[78] The DGH also grants concessions on behalf of the State for hydrocarbon-related activities, where appropriate.

4.89. PERUPETRO is the State enterprise under private law created by the Law on Hydrocarbons. It is responsible for promoting, negotiating, concluding and overseeing contracts for hydrocarbon exploration and exploitation.[79] PERUPETRO assumes the rights and obligations of the contracting entity and makes the relevant mining fee and income share payments.[80] PETROPERÚ, a state-owned and private law company operates in the areas of transport, refining, distribution and marketing of fuel and other oil-based products.[81] Regarding the transportation of oil, PETROPERÚ operates two pipelines: the *Oleoducto Norperuano* and the *Oleoducto Ramal Norte*, and uses a contracted maritime and river fleet. It uses the latter and a contracted fleet of tanker lorries and trains for distribution purposes. PETROPERÚ has four refineries: Talara, Conchán, Iquitos and El Milagro and uses a fifth on a rental basis (Pucallpa refinery).

4.90. There are 18 potentially hydrocarbon-bearing sedimentary basins in Peru, of which just five are being worked, namely the Talara, Tumbes-Progreso, Marañón, Ucayali and Sechura basins.[82] In December 2017, the country had 18 exploration contracts and 26 exploitation contracts. According to the 2017 Hydrocarbons Statistical Yearbook (*Anuario Estadístico de Hidrocarburos de 2017*), interest has grown in exploring and exploiting off-shore areas, given their potential for oil and gas reserves.

4.91. Peru is a net oil importer. In 2018, the country's oil production covered less than 30% of daily needs, which had to be covered through imports. Supervised oil production has been declining over time owing to the small amount of exploratory drilling, low investment in oil projects, the ending of company contracts, defects in the northern Peruvian oil pipeline, and social challenges. In early 2019, Block 192, the country's biggest producer, was affected by labour disputes which hampered repairs to the oil pipeline. Meanwhile, the production of gas and liquids has declined in some places but is growing on average; the bulk of the output can be attributed to Camisea.

4.92. Peru's main refined product is diesel. In 2018, national installed refining capacity was 214,800 barrels per day. Supervised oil production was 48,900 barrels per day and that of natural gas liquids 85,500. Natural gas production was 1,230.8 million cubic feet per day. Refining output was 240,300 barrels per day and fuel sales amounted to 268,000 barrels per day. The sector attracted USD 602 million in investment, while the hydrocarbon trade balance showed a deficit of USD 2,625 million (Table 4.6).[83]

[78] Online information from MINEM. Viewed at: http://www.minem.gob.pe.

[79] Article 6 of the Single Harmonized Text of the Organic Law on Hydrocarbons adopted by Supreme Decree No. 042-2005-EM.

[80] Law No. 26225 on the Organization and Functions of PERUPETRO S.A., published in 1993. Viewed at: http://extwprlegs1.fao.org/docs/pdf/per66518.pdf.

[81] PETROPERÚ was created by Decree-Law No. 17753 of 24 July 1969 and is organized and functions as a corporation in accordance with Legislative Decree No. 043, Law on the Peruvian Oil Company – PETROPERÚ S.A., published on 4 March 1981, and the amendments thereto (Law No. 26224, published on 23 August 1993; Law No. 29163 – Law on State Business Activity, adopted on 2 December 1988; Law No. 28840 – Law on the Strengthening and Modernization of the Peruvian Oil Company – PETROPERÚ S.A.; and Law No. 30114 of 2 December 2013). Its contracting activities are governed by the Regulations on the Procurement and Contracting Activities of PETROPERÚ S.A., adopted by Directorial Decision No. 056-2017 of 29 May 2017 (in effect since 4 July 2017).

[82] MINEM, Directorate-General of Hydrocarbons, *Plan de Desarrollo de los Recursos de Hidrocarburos, 2017-2021.* Viewed at: http://www.minem.gob.pe/_publicacionesDownload.php?idPublicacion=556.

[83] Information provided by the authorities and MINEM, Directorate-General of Hydrocarbons, *Anuario Estadístico de Hidrocarburos 2017*. Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=5&idPublicacion=580.

Table 4.6 Selected hydrocarbon indicators, 2013-18

	2013	2014	2015	2016	2017	2018
Supervised oil production[a]	62.9	69.3	58.0	40.4	43.6	48.9
Supervised production of natural gas liquids[a]	104.6	103.4	91.4	94.7	90.8	85.5
Supervised production of natural gas[b]	1,179.6	1,250.4	1,208.9	1,350.9	1,252.2	1,230.8
Refinery output[a]	188.3	194.1	204.6	219.1	250.6	240.3
Sales of fuel[a]	220.9	218.8	233.6	247.9	252.6	268.0
Investment in hydrocarbon exploration and exploitation (USD million)						
Exploration	492	502	317	47	17	41
Exploitation	952	688	438	288	470	561
Hydrocarbon trade balance (USD million)						
Exports	5,094.9	4,371.0	2,312.7	2,243.5	3,231.2	4,137.2
Imports	6,469.2	5,900.7	3,864.5	3,961.4	5,451.3	6,762.4
Balance	-1,347.3	-1,529.7	-1,551.8	-1,717.9	-2,220.1	-2,625.2

a Thousand barrels per day.
b Million cubic feet per day.

Source: Information provided by the authorities, and MINEM, *Anuario Estadístico de Hidrocarburos 2017.* Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=5&idPublicacion=580.

4.93. Despite being a net importer, Peru exports oil (crude, naphtha and diesel) and natural gas (liquefied gas and naphtha). In 2018, exports of these products were worth USD 4,216 million, led by exports of liquefied natural gas (USD 1,042 million), naphtha (USD 1,197 million) and petroleum products (USD 2,199 million). The naphtha exported by Peru is obtained from two sources: 70% from natural gas liquids and 30% from petroleum. The year 2018 saw imports of petroleum and petroleum products worth USD 6,752 million, of which 48% represented imports of crude and 52% petroleum products (diesel, naphtha and others).

4.94. In Peru, hydrocarbon exploration, exploitation, transport and distribution are governed by supply and demand and take place in a competitive environment involving a range of agents throughout the chain. Under the Law on Hydrocarbons, the prices of crude oil and oil by-products are not controlled by Osinergmin but regulated by supply and demand. However, Osinergmin publishes reference prices reflecting the efficient price at which to import fuel from the world market and updates of the fuel price band.[84] In addition, natural gas transport and distribution by pipeline is regulated by tariffs set by contract (transport) and maximum tariffs by category (distribution). Fuel importing and producing companies and operators transporting hydrocarbons by pipeline and distributing natural gas by pipeline are required to pay Osinergmin the contribution for regulation.[85] This contribution is calculated on the basis of the value of monthly invoicing, to which the following percentages have been applied: 0.36% for 2017; 0.35% for 2018; and 0.34% for 2019.[86]

4.95. Hydrocarbon exploration and exploitation activities may take place through licence contracts, service contracts or other forms of contracting authorized by MINEM, and must be approved by supreme decree endorsed by the Ministries of the Economy and Finance, and Energy and Mining, within a period of 60 days. Under licence contracts, the right of ownership of the extracted hydrocarbons is transferred to the contractor, which in turn pays a royalty to the State, while under service contracts, the contractor is remunerated according to the output of hydrocarbons. Both forms of contract are governed by private law.[87] The contractor may freely dispose of the hydrocarbons corresponding to it under the contract and may export them free of duty.[88] State revenue from licence and service contracts totalled USD 830 million in 2017 and USD 1,093 million in 2018.

4.96. Hydrocarbon contracts consist of two phases when they cover exploration and exploitation, and a single phase when they cover exploitation only. The exploration phase lasts seven years and

[84] Osinergmin, *Memorial Anual 2017*. Viewed at: http://www.osinergmin.gob.pe/seccion/centro_documental/Institucional/Institucional/Memoria-Institucional-Osinergmin-2017.pdf.
[85] Online information from Osinergmin. Viewed at: http://www.osinergmin.gob.pe/seccion/institucional/acerca_osinergmin/aporte-por-regulacion/que-es-el-aporte-por-regulacion.
[86] Article 2 of Supreme Decree No. 098-2016-PCM.
[87] Articles 10, 11 and 12 of Supreme Decree No. 042-2005-EM.
[88] Article 39 of Supreme Decree No. 042-2005-EM.

may be extended for a further three years in exceptional cases, while the exploitation phase has a 30-year duration for crude oil and a 40-year duration for natural gas.[89] Hydrocarbon contracts may be concluded throughout the national territory (even in areas within 50 km of borders, with prior authorization) by Peruvian or foreign natural or legal persons possessing the requisite technical, economic and financial capacity. Enterprises are qualified by PERUPETRO to be able to enter into such contracts, in accordance with the Regulations on the Qualification of Petroleum Companies, approved by Supreme Decree No. 047-93-EM. To enter into contracts in the hydrocarbon sector, foreign companies must set up a subsidiary or incorporate a company in accordance with Peruvian law, electing domicile in Lima and appointing a Peruvian agent. Foreign natural persons must be inscribed in public registers and appoint a Peruvian representative domiciled in Lima.[90]

4.97. Imports of goods and inputs required for the exploration phase under each contract are entirely duty-free for the duration of that phase. In the case of goods and inputs for exploitation and for exploration during the exploitation phase, the taxes will be borne by the importer.[91] Contractors are permitted to import goods temporarily for their activities, with suspension of import taxes, for a period of two years. Temporary importation may be extended for one year, up to two times.[92]

4.98. Royalties from licence contracts and remuneration under service contracts are paid on the basis of supervised hydrocarbon production in the area covered by the contract, and in accordance with the payment mechanisms established in the contract; liquid hydrocarbons are valued on the basis of international prices, and natural gas on the basis of sales prices on the domestic or export market.[93]

4.99. The DGH has a Hydrocarbon Resources Development Plan 2017-2021, which contains projections for the sector. The main exploitation activities during the period 2017-21 are the drilling of 1,057 development wells and 965 workover operations. In terms of exploration, 31 exploratory and five confirmation wells are to be drilled.[94] The authorities foresee total investment of USD 3,990.8 million in hydrocarbon exploration and exploitation between 2019 and 2023.

4.100. A reform of the law on the hydrocarbons sector was tabled in Congress in 2017 with a view to boosting investment, strengthening protection of the environment and closing the gap between oil output and demand. The main changes proposed include standardizing the life of contracts to 40 years, together with an exploration period of ten years, and creating a hydrocarbons single window in order to facilitate formalities. In addition, regulations governing royalties will be more flexible so as to make allowance for the geological challenges posed by hydrocarbon blocks. The reform also includes a review of tax incentives in order to improve tax waivers and facilitate the temporary import of capital goods.[95] In June 2019, the draft law was being assessed by the working group of the Energy and Mining Commission of the Congress of the Republic. Besides the proposed reform, the Talara Refinery Modernization Project is currently under way to enhance quality and boost production in the sector, and will entail expanding and upgrading PETROPERU's Talara refinery. The aim of this upgrading process is to produce cleaner fuels and expand the production capacity of the Talara refinery by more than 45% (from 65,000 to 95,000 barrels per day).

4.101. In 2018, an amendment to the Regulations on Environmental Protection in Hydrocarbon Activities was introduced through Supreme Decree No. 023-2018-EM. The Regulations establish the environmental responsibility of the right-holder in hydrocarbon activities and stipulate that any party wishing to engage in hydrocarbon activities must obtain environmental certification from the competent authority. The amendment to the original 2006 Regulations stipulates, among other things, that environmental monitoring must take place using methods accredited by INACAL. Supreme Decree No. 002-2019-EM of 5 January 2019 approved the new Regulations on Citizen Participation in the Execution of Hydrocarbon Activities, which set new rules on calls for tenders,

[89] Article 22 of Supreme Decree No. 042-2005-EM.
[90] Article 15 of Supreme Decree No. 042-2005-EM.
[91] Articles 56, 57 and 58 of Supreme Decree No. 042-2005-EM.
[92] Articles 60 and 61 of Supreme Decree No. 042-2005-EM.
[93] Articles 45 and 46 of Supreme Decree No. 042-2005-EM.
[94] MINEM, Directorate-General of Hydrocarbons, *Plan de Desarrollo de los Recursos de Hidrocarburos, 2017-2021.* Viewed at: http://www.minem.gob.pe/_publicacionesDownload.php?idPublicacion=556.
[95] Online information from the Oxford Business Group. Viewed at: https://oxfordbusinessgroup.com/news/reforma-legislativa-en-perú-atraería-nuevas-inversiones-en-el-sector-energético-por-65-mil.

communication and citizen participation in procedures for the award of new blocks and on mechanisms for citizen participation in the various environmental management instruments.

4.102. According to SUNAT estimates, the tax expenditure arising from incentives to the hydrocarbon sector for 2019 is PEN 401.1 million (0.06% of GDP), which breaks down as follows: PEN 134.0 million for the waiver of the IGV and PEN 216.8 million for that of the ISC on fuel sales by oil companies to marketers and end consumers located in the Amazon region; PEN 1.8 million and PEN 3.6 million, respectively, for the waiver of customs duties and of the IGV on imports for activities relating to hydrocarbon exploration; and PEN 44.9 million for the reimbursement of the IGV on exploration-related purchases made on the domestic market (Table A3.2).

4.2.3 Mining

4.103. Peru is a country with a mining tradition. The mining sector is one of the principal components of the Peruvian economy: it represented 9.4% of GDP (13.1% at constant prices) in 2017, and accounted for 61.60% of all Peruvian exports in 2018. In addition, mining employs (directly and indirectly) almost 1.4 million people, of which 190,000 are employed directly in the industry.

4.104. Peruvian territory is home to several of the world's largest mines and occupies second place in copper, silver and zinc production worldwide. The country ranks first in Latin America in gold, lead and zinc production.[96] Furthermore, Peru possesses the world's largest reserves of silver and its third largest reserves of copper, and tops the ranking for lead, zinc and molybdenum reserves in Latin America. The main market for Peruvian mining products in 2018 was China, with 41% of exports, followed by the United States and India with 9% each; Switzerland with 7%; and South Korea and Japan with 6% each.[97]

4.105. In 2017, investment in the mining sector amounted to USD 3,928 million and mining exports totalled USD 27,745 million (USD 27,589 million in 2018). The sector generated 189,962 direct jobs, representing an increase of 10.5% over 2016 (Table 4.7).

Table 4.7 Selected Peruvian mining indicators, 2013-18

	2013	2014	2015	2016	2017	2018
Total investment (USD million)	8,864	8,079	6,825	3,334	3,928	4,947
Direct employment	183,251	174,213	183,952	171,981	189,962	201,547
Production						
Copper[a]	1.38	1.38	1.70	2.35	2.45	4.44
Gold[b]	151.49	140.10	146.82	153.01	151.10	142.64
Zinc[a]	1.35	1.32	1.42	1.34	1.47	1.47
Silver[b]	3,674	3,768	4,102	4,375	4,418	4,163
Lead[b]	266,472	277,294	315,525	314,422	306,784	289,195
Iron[a]	6.68	7.19	7.32	7.66	8.81	9.53
Tin[b]	23,668	23,105	19,511	18,789	17,790	18,601
Molybdenum[b]	18,140	17,018	20,153	25,757	28,141	28,034
Exports (USD million)						
Metal ores	23,789	20,545	18,950	21,777	27,159	28,823
Non-metallic minerals	722	664	698	640	586	628
Total	24,511	21,209	19,649	22,417	27,745	29,451

a Millions of fine metric tonnes.
b Fine metric tonnes.

Source: Ministry of Energy and Mining, Directorate-General for Mining Promotion and Sustainability.

4.106. Peruvian mining breaks down into three categories, namely large- and medium-scale mining, small-scale mining, and artisanal mining. In 2018, MINEM had a total of 12,224 registered mining right-holders, of which 1,532 were engaged in small-scale mining, 175 in artisanal mining

[96] MINEM, Mining Promotion Directorate, *Anuario Minero 2018.* Viewed at: http://www.minem.gob.pe/minem/archivos/file/Mineria/PUBLICACIONES/ANUARIOS/2018/AM2018(VF).pdf.

[97] MINCETUR (2019), *Reporte Mensual de Comercio, Diciembre 2018.* Viewed at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/comercio_exterior/estadisticas_y_publicaciones/estadisticas/exportaciones/2018/RMC_Diciembre_2018.pdf.

and 10,517 in large and medium-scale mining.[98] The operations entailed in large-scale mining include searching, prospecting, exploration, development, extraction, concentration, smelting, refining and shipping, while medium-scale mining operations are limited to mineral extraction and concentration. Large- and medium-scale mining is marked by a high degree of mechanization. Small-scale mining consists mainly of underground and alluvial gold mining and the extraction and processing of non-metallic minerals. Artisanal mining is usually a means of subsistence and involves the use of manual methods and/or basic or very rudimentary equipment. Searching and prospecting may be freely undertaken throughout the national territory. Such activities may not, however, be executed by unauthorized third parties in areas where mining concessions exist, where no new mining right claims are admissible, or on enclosed land. Moreover, these activities are prohibited in urban areas, areas reserved for national defence, archaeological areas or on public property.[99]

4.107. In 2018, Peru had a portfolio of 48 mine construction projects encompassing the building of new mines, the expansion of already existing ones and the reuse of tailings. The amount invested in such projects was USD 59,134 million. The investment in the mine-building project portfolio comes from 11 countries, the biggest share being held by the United Kingdom with 20.2%, followed by China with 17.2%, Canada with 15.3%, Mexico with 15.1%, and the United States with 12.7%.[100] The year 2018 witnessed the incorporation of two new projects and the conclusion of the Macona expansion project (iron, USD 1,100 million) and the Shahuindo expansion project (gold and silver, USD 109 million). There were six projects under construction at the end of the first half of 2019, the Toquepala expansion phase[101] having ended during the first quarter of the year. Three construction projects were set to begin in 2019.[102]

4.108. The Directorate-General for Mining Promotion and Sustainability is the body responsible for proposing, evaluating and overseeing mining policy and regulations. The aims of the current mining promotion policy for 2021 are to encourage new exploration, facilitate portfolio projects by working with communities, ensure the continuity of current operations, promote the formalization of mining operations and comprehensively manage environmental liabilities.[103] The Directorate-General of Mining (DGM) is responsible for authorizing exploration and exploitation activities as well as granting concessions for processing[104], mining transport and general work and approving investment programmes and ensuring the observance of tax stability contracts, among other things.[105] The Mining and Metallurgical Geological Institute (INGEMMET) is the public body tasked with granting mining concessions as well as managing the national mining cadastre and payments made by mining right-holders to keep their mining rights current. At the close of 2017 there were 43,738 mining rights in effect covering an area of 17.93 million hectares, or 14% of Peruvian territory; this notwithstanding, the area effectively under mining production or exploration represents a mere 1.29% of the territory.[106]

4.109. Under the Single Harmonized Text of the General Law on Mining, approved by Supreme Decree No. 014-92-EM, mineral resources are state property and that ownership is inalienable and

[98] MINEM, Mining Promotion Directorate, *Anuario Minero 2017*. Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=1&idPublicacion=573.

[99] Article 2 of Supreme Decree No. 014-92-EM.

[100] MINEM, Directorate-General for Mining Promotion and Sustainability, Peru, *Cartera de Proyectos de Construcción de Mina 2018*. Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=1&idPublicacion=579.

[101] MINEM Official Platform. Viewed at: http://proyecta.minem.gob.pe/Home/Ficha/1/80?idioma=Espa%C3 per centB1ol&id_version=3&version=V03%20Abril%202019.

[102] MINEM Official Platform. Viewed at: http://proyecta.minem.gob.pe/Home/Proyecciones/1?idioma=Espa%C3 per centB1ol&id_version=3&version=V03%20Abril%202019

[103] Online information from MINEM. Viewed at: http://www.minem.gob.pe/_detalle.php?idSector=1&idTitular=8667&idMenu=sub149&idCateg=1576

[104] The General Law on Mining defines "processing" in the mining context as the set of physical, chemical and/or physico-chemical processes that are performed to extract or concentrate the valuable parts of mineral aggregates and/or to purify, smelt or refine metals; it comprises the stages of: (i) mechanical preparation (process by which an ore is reduced in size, classified and/or washed); (ii) metallurgy; and (iii) refining.

[105] Article 101 of the Single Harmonized Text of the General Law on Mining, adopted by Supreme Decree No. 014-92-EM.

[106] MINEM, Mining Promotion Directorate, *Anuario Minero 2017*. Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=1&idPublicacion=573.

imprescriptible. The State's function is to evaluate and preserve natural resources, foster investment and regulate and oversee mining activity throughout the country. Mineral resources are exploited through State and private entrepreneurship based on the system of concessions. The law further requires the State to safeguard small-scale and artisanal mining, for which regional governments are responsible, and to promote medium- and large-scale mining as well as declare the mining industry to be of public interest, and investment promotion to be a matter of national interest.

4.110. Pursuant to the General Law on Mining, except for searching, prospecting and marketing, mining activities take place exclusively under the system of concessions, which is accessed through public procedures. Concessions are granted for both state and individual entrepreneurship, without distinction or privilege.[107] The General Law on Mining further prescribes equal treatment for foreign and domestic investors and a free-market policy. The marketing of minerals is unrestricted and does not require the grant of a concession. The State may by law declare certain areas to be of national interest by means of a mining and energy sector supreme decree issued for the purpose. Mining concessions do not confer rights over the land surface covered by the concession; this is a separate and independent right.[108] Accordingly, to engage in any kind of mining activity, prior authorization must be obtained for the use of the land surface by means of an agreement between the parties concerned. In the event of disagreement, it falls to the DGM to decide on the admissibility of applications for easements and/or expropriation.[109] Concessions are irrevocable, provided that the holders fulfil their obligations.[110]

4.111. Besides the concession and the authorization to use the land, approval must also be obtained for the environmental management tools for mineral exploration, exploitation and/or processing. In 2017, the new Regulations on Environmental Protection for Mining Exploration Activities were published, replacing the previous 2008 regulations. The new regulations introduce novel approaches and advances relating to administrative simplification, the optimization of evaluation periods and the adaptation of the regulations to the complexity and dynamism of the activity.[111]

4.112. Mining activities are restricted on some 64% of Peruvian territory on account of such land having protected-area status.[112] The establishment of protected natural areas does not affect the exercise of the rights previously granted in those areas; the law does however require that such activities be adapted to the provisions of the Environment Code.[113]

4.113. A Mining Operating Certificate (COM) must be obtained in order to engage in mining activities that require the use of explosives and blasting accessories and agents. This document is issued by MINEM or the Regional Energy and Mining Directorate, whichever is competent, upon application by the interested party. With the COM in hand, an application for blanket authorization to acquire and use explosives can then be made to the National Supervisory Authority for the Control of Security Services, and Firearms, Ammunition and Explosives for Civilian Use. A total of 379 COMs were issued in 2017 both for the launch of new activities and the expansion of existing ones.[114]

4.114. The obligations of mining operators are laid out in the General Law on Mining. For mining concessions issued as of 2009, the output of metallic mineral substances may not be less than the equivalent of one UIT per year and per hectare, and 10% of a UIT per year and per hectare in the case of non-metallic substances. For small-scale producers it may not be less than 10% of a UIT per year and per hectare for metallic substances and 5% for non-metallic substances. The output of artisanal miners may not be below 5% of a UIT per year and per hectare, irrespective of the substance.[115]

[107] Article 7 of Supreme Decree No. 014-94-EM.
[108] Article 9 of Supreme Decree No. 014-94-EM.
[109] Article 101, paragraph Q of Supreme Decree No. 014-94-EM.
[110] Article 10 of Supreme Decree No. 014-94-EM.
[111] MINEM, Mining Promotion Directorate, *Anuario Minero 2017*. Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=1&idPublicacion=573.
[112] MINEM, Mining Promotion Directorate, *Anuario Minero 2017*. Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=1&idPublicacion=573.
[113] Article 219 of Supreme Decree No. 014-94-EM.
[114] MINEM, Mining Promotion Directorate, *Anuario Minero 2017*. Viewed at: http://www.minem.gob.pe/_publicacion.php?idSector=1&idPublicacion=573.
[115] Article 38 of Supreme Decree No. 014-94-EM and Article 2 of Supreme Decree No. 011-2017-EM.

4.115. Legislative Decree No. 1293 of 29 December 2016 declares of national interest the formalization of small-scale and artisanal mining activities, which is a mining policy priority. The Peruvian Government has taken various steps to attain this goal, such as simplifying the formalization process, offering economic incentives and providing technical assistance to miners in the process of formalizing their status. In addition, the Standing Multisectoral Commission was established in 2012 to monitor government action on illegal mining and the evolution of the formalization process. Furthermore, a series of regulatory innovations were introduced during the review period in regard to the formalization of informal mining. Noteworthy among them was Legislative Decree No. 1293 declaring the formalization of small-scale and artisanal mining to be of national interest; Legislative Decree No. 1336 of 5 January 2017 containing provisions on the comprehensive mining formalization process; Supreme Decree No. 003-2013-EM of 5 February 2013 setting out stipulations for nationwide mining formalization; Supreme Decree No. 032-2013-EM of 23 August 2013 strengthening the process of formalizing small-scale and artisanal mining pursuant to Legislative Decree No. 1105; and Supreme Decree No. 029-2014-PCM of 5 September 2014, or the Strategy for the Reorganization of Small-Scale and Artisanal Mining.

4.116. New legislation was also enacted to promote mining and encourage new exploration, which is another mining policy goal. That legislation includes Law No. 30056 of 1 July 2013, which amends various laws to facilitate investment and foster productive development and business growth; Law No. 30230 of 11 July 2014 prescribing tax measures and the simplification of procedures and permits for the promotion and stimulation of investment in Peru; and Law No. 30404 of 29 December 2015 extending the validity of tax benefits and waivers. The regulations introduced to manage environmental liabilities caused by mining, another mining policy objective, included Supreme Decree No. 040-2014-EM of 5 November 2014 containing the Environmental Protection and Management Regulations for Mineral Exploitation and Processing, General Work, and Mineral Transport and Storage; Supreme Decree No. 038-2017-EM of 27 October 2017 setting out regulatory provisions on the Environmental Management Instrument for the Formalization of Small-Scale and Artisanal Mining Activities; and Supreme Decree No. 042-2017-EM of 21 December 2017 or the Regulations on Environmental Protection for mining exploration activities described above.

4.117. Mining operators are required to pay mining royalties, which are the financial compensation paid to the State for the exploitation of (metallic and non-metallic) non-renewable natural resources. Royalties are calculated by applying an effective rate to quarterly operating profit (January-March, April-June, July-September, October-December) in keeping with the annex to Law No. 29788 (ranging from 1%-12%), and determined on the basis of the operating margin for the quarter. The amount payable will be the higher figure resulting from a comparison of the aforementioned result and 1% of the income generated from sales for the calendar quarter.[116] Small-scale producers and artisanal miners are not required to pay royalties or the Special Mining Tax (IEM) (see below).[117]

4.118. Besides royalties, mining companies must pay a concession fee *(derecho de vigencia)* as of the year in which the concession request is filed. The amount of this fee is USD 3 per year and per hectare requested or granted. The amount is USD 1 for small-scale producers and USD 0.50 for artisanal producers.[118] As regards mineral processing concessions, the concession fee is paid in relation to installed capacity: (i) up to 350 metric tonnes/day[119], 0.0014 of a UIT per metric tonne/day; (ii) more than 350 and up to 1,000 metric tonnes/day, 1 UIT; (iii) more than 1,000 and up to 5,000 metric tonnes/day, 1.5 UIT and (iv) for every 5,000 metric tonnes/day in excess, 2 UIT. In the case of concessions for general work or mining transport, the concession fee will be 0.003% of a UIT per linear metre of work projected.[120]

4.119. Mining concession holders and assignees engaged in the exploitation of metallic mineral resources are also liable for the Special Mining Tax (IEM), and companies that have signed

[116] Law No. 29788, Mining Royalty Law, published on 28 September 2011.

[117] Online information from SUNAT. Viewed at: http://orientacion.sunat.gob.pe/index.php/empresas-menu/otros-procedimientos-y-tramites-empresas/tributacion-minera. In the case of the IEM, except for those that become related companies as a result of business reorganization processes. For this purpose, the applicable definition of related companies will be that given in Article 32.A(b) of the Income Tax Law, the Single Harmonized Text of which was approved by Supreme Decree No. 179-2004-EF and amending regulations.

[118] Article 39 of Supreme Decree No. 014-94-EM.

[119] Metric tonnes/day refers to installed processing capacity.

[120] Articles 46 and 47 of Supreme Decree No. 014-94-EM.

Investment Guarantee and Promotion Contracts pursuant to the Single Harmonized Text (TUO) of the General Law on Mining (Supreme Decree No. 014-92-EM) are subject to a Special Mining Levy (GEM). These taxes are determined on the basis of the quarterly operating profit, calculated in accordance with Annexes II of Laws No. 29789 and No. 29790, respectively, and result in an effective rate ranging from 2% to 8.40% for the IEM. The amounts effectively paid for these taxes will be considered expenditures for income tax purposes.[121] The mining fee *(canon minero)* comprises 50% of the income tax collected from mining companies. The mining fee goes to regional and local governments. In 2017, a total of PEN 3,303 million was transferred to the regions, consisting of the mining fee, mining royalties and concession fee and penalty payments.

4.120. Companies engaged in mining activities under the supervision and oversight of Osinergmin must pay to this latter body a contribution for regulation *(aporte por regulación)*, arrived at by applying the following percentages to the value of their monthly invoicing, after deduction of the General Sales Tax and the Municipal Promotion Tax: 0.15% for 2017; 0.14% for 2018; and 0.13% for 2019.[122]

4.121. Peru offers guarantees and incentives for private investment in mining. The benefits granted to all persons engaged in mining, irrespective of their form of business organization, include: tax, administrative and foreign exchange stability; deduction of domestic taxes that affect production whether for export or sale in Peru; deduction from taxable income of investments in public service infrastructure; and freedom to remit profits and dividends, as well as unrestricted availability of foreign currency. Exploration costs may also be deducted or written off once the concession reaches the minimum production level.[123] By SUNAT estimates, the tax expenditure arising from incentives to the mining sector for 2019 is PEN 28.7 million for the refund of the IGV to mining right-holders in the exploration phase, and PEN 1.3 million for income tax deductions for depreciation of up to 20% of fixed assets (Table A3.2).

4.122. Tax stability contracts may be signed for a term of ten years by mining right-holders with operations of more than 350 metric tonnes/day and up to 5,000 metric tonnes/day or those presenting investment programmes worth the equivalent of at least USD 20 million in local currency. The term must be 12 years for mining right-holders with an initial capacity or planned expansion to a capacity of at least 5,000 metric tonnes/day and those with an investment programme of USD 100 million or more for the start of activities, and for existing companies with investment programmes of at least USD 250 million. Projects with an initial capacity of no less than 15,000 metric tonnes/day, or being expanded to a capacity of at least 20,000 metric tonnes/day and those with an investment programme of at least USD 500 million may sign tax stability contracts for a term of 15 years.[124] Small-scale producers and artisanal producers may sign legal stability contracts if they invest at least USD 500,000 and USD 50,000, respectively.[125]

4.123. The benefits of the IGV and Municipal Promotion Tax refund to mining right-holders for activities during the exploration phase, granted under Law No. 27623 and valid until December 2015, were extended until 31 December 2019 by Law No. 30899 of 28 December 2018.

4.3 Manufacturing

4.124. Peru has a relatively diversified manufacturing industry, which nonetheless registered a further contraction of its relative GDP share during the review period. The GDP share of manufacturing declined from 15% in 2012 to 13.0% (at constant prices) in 2017. The manufacturing industry grew modestly during the period under review at an average annual rate of 1.6%. It contracted between 2014 and 2016, recovering only mildly in 2017 before bouncing back in 2018 with an annual growth rate of 6.2%. Manufacturing GDP growth lagged behind global GDP growth every year from 2012 to 2018, except in 2018.

4.125. Peru's principal manufactures include: products from the precious metals and non-ferrous metals industry; non-metallic mineral products; food and beverages; textiles and clothing; and

[121] Online information from SUNAT. Viewed at: http://orientacion.sunat.gob.pe/index.php/empresas-menu/otros-procedimientos-y-tramites-empresas/tributacion-minera.
[122] Article 1 of Supreme Decree No. 099-2016-PCM adopting the Osinergmin contribution for regulation.
[123] Articles 72 and 75 of Supreme Decree No. 014-94-EM.
[124] Articles 78 to 83 of Supreme Decree No. 014-94-EM.
[125] Article 92 of Supreme Decree No. 014-94-EM.

chemicals (Table 4.8). The paper, oil-refining, metallic and non-metallic product, and machinery and equipment industries posted higher production values during the review period.

Table 4.8 Manufacturing GDP, 2012-17

(PEN million)

Economic activity	2012	2013	2014	2015	2016	2017
Manufacturing industry	64,758	68,155	67,436	66,831	66,730	66,881
Processing and preserving of meat	1,765	1,855	1,914	1,975	2,028	2,073
Preparation and preserving of fish	1,177	1,161	1,241	1,096	986	964
Processing of fish meal and fish oil	1,032	1,295	656	998	782	897
Processing and preserving of fruit and vegetable	1,076	1,070	1,134	1,090	1,148	1,165
Manufacture of vegetable and animal oils and fats	997	1,034	1,096	1,159	1,188	1,274
Manufacture of dairy products	1,169	1,225	1,250	1,265	1,221	1,189
Milling, noodle-making, baking and others	3,320	3,392	3,408	3,419	3,486	3,540
Sugar processing and refining	572	607	620	587	605	575
Manufacture of other food products	1,165	1,119	1,047	1,057	1,065	1,200
Manufacture of prepared animal feedstuffs	422	451	448	456	463	481
Manufacture of beverages and tobacco products	2,331	2,356	2,415	2,481	2,544	2,507
Manufacture of textiles	2,435	2,537	2,499	2,368	2,208	2,348
Garment manufacturing	3,949	3,992	3,808	3,465	3,309	3,297
Leather and footwear manufacturing	939	918	897	908	907	1,022
Manufacture of wood and wood products	1,563	1,527	1,474	1,370	1,307	906
Manufacture of paper and paper products	1,765	1,862	1,921	2,028	1,970	2,159
Printing and reproduction of recorded media	2,311	2,547	2,602	2,509	2,564	2,258
Oil refining	2,992	2,952	3,034	3,040	3,147	3,409
Manufacture of basic chemicals and fertilizers	573	602	689	694	679	713
Manufacture of chemical products	3,448	3,720	3,662	3,722	3,909	3,609
Manufacture of pharmaceutical products and medicines	1,025	929	887	755	815	761
Manufacture of rubber and plastic products	2,423	2,534	2,518	2,437	2,423	2,477
Manufacture of non-metallic mineral products	5,327	5,754	5,966	5,788	5,670	5,642
Basic iron and steel industry	1,247	1,383	1,420	1,370	1,395	1,455
Precious metals and non-ferrous metals industry	6,069	6,563	6,467	6,510	6,535	6,387
Manufacture of various metal products	2,900	3,605	3,576	3,588	3,286	3,087
Manufacture of computer, electronic and optical products	172	194	183	182	167	158
Manufacture of machinery and equipment	2,370	2,607	2,672	2,771	2,830	2,650
Manufacture of transport equipment	1,481	1,617	1,671	1,677	1,695	2,036
Manufacture of furniture	1,778	1,841	1,800	1,903	1,938	1,898
Other manufacturing industries	4,965	4,906	4,461	4,163	4,460	4,744

Source: National Institute of Statistics and Informatics.

4.126. The performance of manufacturing activity during the review period was influenced by the slowdown in the export-oriented textile industry and in the production of inputs and capital goods for the domestic market. Manufacturing by primary resource processors on the other hand trended positively as reflected by the increased output of flour and fish oil as well as refined petroleum.

4.127. Manufactures accounted for 10.3% of all goods exports in 2017 (14% if the agri-food industry is included), the leading ones being clothing and accessories, chemicals, plastic products, non-ferrous metal castings and other semi-manufactures (Table A1.1). China and the United States are the principal markets for Peruvian manufactured exports (Table A1.3). The bulk of Peru's goods imports are manufactures, and come mainly from China (Table A1.4). Capital goods made up some 28% of imports in 2018, and consumer manufactures 21%.[126]

4.128. The average MFN tariff applied to the manufacturing sector (ISIC classification) was 2.3% in 2018, with a maximum rate of 11% for textiles and clothing, among other products.

4.129. The Ministry of Production (PRODUCE) is the body responsible for formulating and implementing manufacturing industry policy.[127] The industry's main goals are set out in the

[126] MINCETUR (2019), *Reporte Mensual de Comercio, Diciembre 2018*. Viewed at: https://www.mincetur.gob.pe/wp-content/uploads/documentos/comercio_exterior/estadisticas_y_publicaciones/estadisticas/exportaciones/2018/RMC_Diciembre_2018.pdf.

[127] Articles 2 and 3 of the Regulations on the Organization and Functions of the Ministry of Production, approved by Ministerial Resolution No. 343-2012-PRODUCE of 23 July 2012.

Multi-Year Strategic Sector Plan for the Production Sector 2017-2021.[128] They include: raising the percentage of companies investing in R&D from 18.7% in 2014 to 39.9% by 2021; raising the percentage of exporting micro, small and medium-sized enterprises (MSMEs) accessing new international markets from 19.5% in 2015 to 23.1% by 2021; increasing the percentage of MSMEs within the financial system from 7.2% in 2015 to 10.3% by 2021; and raising the percentage of formal micro and small enterprises (MSEs) in the overall number of companies from 46.7% in 2015 to 62.1% by 2021.

4.130. PRODUCE implements the *Tu Empresa* (Your Enterprise) programme to help boost productivity and sales.[129] The national *Tu Empresa* programme benefits micro and small enterprises and entrepreneurs, including micro and small enterprises headed by women, people with disabilities, elderly people and families with children and adolescents at risk. *Tu Empresa* offers advice on the process of setting up and modelling enterprises, guidance on accessing trade fairs and business round tables, and services for the digitalization of companies, including orientation on the benefits and possibilities of turning to e-commerce and the advantages of electronic financial services. The programme also offers advice on INNÓVATE Peru competitive funds.

4.131. PRODUCE manages the National Innovation Programme for Competitiveness and Productivity (INNÓVATE Perú), created on 24 July 2014 by Supreme Decree No. 003-2014-PRODUCE. The programme aims to boost business productivity by buttressing enterprises, entrepreneurs and support entities and facilitating linkages among them. The programme is open to all branches of economic activity, including manufacturing. In the pursuit of its objectives, INNÓVATE Perú currently manages several funds. The resources administered by INNÓVATE Perú are allocated by means of nationwide competitions (Section 3.3.1).

4.132. Among the funds administered by INNÓVATE Perú, the MSME Fund is of particular interest for the manufacturing sector as its goal is to bolster the productive development of micro, small and medium-sized enterprises by improving conditions of access to funding and raising their levels of productivity. To this end, the MSME Fund offers financial and non-financial mechanisms. It is administered by the Development Finance Corporation (COFIDE). Another fund of interest to the manufacturing industry is the Research and Development Fund for Competitiveness (FIDECOM) run by PRODUCE and endowed with PEN 200 million for promoting research and development relating to productive innovation projects of practical use to enterprises; FIDECOM may co-fund up to 75% of the total cost of projects.[130]

4.133. Manufacturing companies are eligible for the Special Procedure for Advance Refund (RERA) of the IGV.[131] Similarly, manufacturing companies setting up operations in the Special Development Zones (ZEDs) (previously called Export, Processing, Industry, Marketing and Service Centres (CETICOS)) of Ilo, Matarani, Paita and Tumbes or in ZOFRATACNA can enjoy tax benefits until 2042 (Section 3.3.2). (COFIDE) provides various programmes and lines of credit to support micro, small and medium-sized enterprises (Section 3.3.1.2), many of them in the manufacturing sector.

4.134. According to SUNAT estimates, tax expenditure arising from incentives to the manufacturing sector for 2019 is PEN 158.0 million (0.02% of GDP) which breaks down as follows: PEN 9.5 million in tax credit for publishing companies, pursuant to the Law on Books; PEN 52.9 million in IGV refunds under the National Plan for the Democratization of Books; PEN 57.0 million for the waiver of the IGV on the importation and sale of books and publishing products; and PEN 38.6 million in IGV waivers for naval unit construction and repairs carried out by the Industrial Marine Services (Table A3.2).

4.135. During the review period, Peru applied or renewed definitive anti-dumping measures with respect to some manufactured goods, including biodiesel from Argentina and the United States, zippers and parts thereof from China, fabrics of polyester staple fibres from India, poplin fabrics from Pakistan, sandals and flip-flops from China and stainless steel cutlery from China.[132] Peru also

[128] Ministry of Production (2015), *Plan Estratégico Multisectorial (PESEM) 2017-2021*. *Sector Producción*. Viewed at: https://www.produce.gob.pe/produce/descarga/dispositivos-legales/76485_1.pdf.

[129] Online information from PRODUCE. Viewed at: http://www.tuempresa.gob.pe/conoce-tu-empresa.

[130] Online information from FIDECOM. Viewed at: https://www.innovateperu.gob.pe/quienes-somos/nuestros-fondos/fidecom.

[131] The RERA was established by Legislative Decree No. 973 and covers any productive activity, for investment projects that fulfil certain conditions.

[132] WTO Document G/ADP/N/322/PER of 12 March 2019.

applied countervailing measures to biodiesel imports from Argentina and the United States and to ethanol from the United States.[133]

4.4 Services

4.4.1 Main features

4.136. Between 2013 and 2018, Peru's services sector grew at an average real rate of 4.1% per year, which exceeds the overall GDP growth rate. In 2018, the sector accounted for 51.7% of GDP (at constant prices). According to balance-of-payments data, Peru ran a trade deficit in the services sector during the review period, amounting to USD 2,532 million in 2018.

4.137. Peru adopted specific commitments in seven of the 12 sectors of the General Agreement on Trade in Services (GATS), namely: business services; communications; financial services; tourism and travel-related services; distribution services; recreational and sporting services; and transport services.[134] Peru participated in the post-Uruguay Round negotiations on telecommunications (Fourth Protocol to the GATS) and financial services (Fifth Protocol), through which it adopted additional commitments in both sectors.[135]

4.138. Peru abides by the rules of the Andean Community (CAN) on free trade in services, which follow national treatment and MFN principles and apply in principle to all CAN members and all service subsectors. There are exceptions, however, such those concerning financial services and the minimum percentages of nationally produced programmes on over-the-air television.[136]

4.139. Most of the bilateral and regional trade agreements signed by Peru contain provisions on financial services, telecommunications, maritime and land transport services, and air transport support services, among others. The commitments made by Peru under these agreements are varied in scope, but generally go beyond those made under the GATS.

4.140. During the review period, in addition to specific legislative changes affecting each of the service subsectors discussed below, Peru enacted the Law Promoting Service Exports and Tourism, Law No. 30641, published on 17 August 2017. This law amends the Law on the General Sales Tax (IGV) to expand the range of service exports eligible for reduction of or exemption from the IGV. The new activities include various tourism-related services, support services for freight transport in primary customs areas, and the supplying of electric power to Special Development Zones (ZEDs). To be eligible for this benefit, the services concerned must meet the requirements set out in the Law on the IGV (Article 33), and the exporter must be enrolled in the Register of Service Exporters administered by the National Tax Administration Supervisory Authority (SUNAT).

4.4.2 Financial services

4.141. The Supervisory Authority for Banking, Insurance and Private Pension Fund Managers (SBS) regulates and supervises the financial, insurance and private pension systems in Peru. The financial system supervised by the SBS is made up of institutions engaging in multiple operations, including state-owned entities, specialized firms and other entities. At the end of 2018, there were 54 institutions engaging in multiple operations (16 banks and 38 non-banking institutions), four state-owned entities, seven specialized institutions, one investment bank, 20 insurance companies and four private pension fund management companies (Table 4.9).

[133] WTO Document G/ADP/SCM/342/PER of 18 February 2019.
[134] WTO document GATS/SC/69 of 15 April 1994.
[135] WTO documents GATS/SC/69/Suppl.1 and GATS/SC/69/Suppl.2 of 11 April 1997 and 26 February 1998, respectively.
[136] Decisions No. 439, General Framework of Principles and Rules for the Liberalization of Trade in Services in the Andean Community, and No. 659, Services Sectors Subject to the Development of Liberalization or Regulatory Harmonization.

Table 4.9 Structure of the financial sector, December 2018

Institution	Number	Amount of assets (PEN million)	Assets (%)
Institutions engaging in multiple operations	**54**	**431,309**	**62.8**
Banking institutions	16	385,344	56.1
Financing institutions	11	14,829	2.2
Municipal funds	12	26,727	3.9
Rural savings and loan funds	6	1,921	0.3
Small and micro-enterprise development institutions	9	2,488	0.4
State-owned entities	**4**	**52,170**	**7.6**
Bank of the Nation	1	30,102	4.4
Development Finance Corporation (COFIDE)	1	11,117	1.6
Agricultural Bank (AGROBANCO)	1	686	0.1
MIVIVIENDA fund	1	10,265	1.5
Specialized institutions[a]	**7**	**900**	**0.1**
Investment banks	**1**	**226**	**0.0**
Insurance companies	**20**	**48,868**	**7.1**
Pension funds	**4**	**153,414**	**22.3**

a Includes companies engaged in financial leasing, factoring and fiduciary services, mortgage management companies and bonding and guarantee companies.

Source: Information provided by the Supervisory Authority for Banking, Insurance and Private Pension Fund Managers (SBS).

4.142. Together, at the end of 2018, the financial system's 54 institutions engaging in multiple operations owned assets valued at PEN 431,309 million (around USD 128,000 million), that is, around 58.3% of GDP. By comparison, at the end of 2013, there were 59 such entities with assets valued at PEN 293,514 million. The change in the number of entities results mainly from mergers. Banking institutions continue to be the main players in the financial system, with 62.8% of the assets of the supervised financial system and 89.34% of the assets of institutions engaging in multiple operations. Insurance companies and pension funds owned assets amounting to PEN 48,868 million and PEN 153,414 million, respectively, at the end of 2018. As at December 2018, direct lending by the financial system amounted to PEN 308,700 million (equivalent to USD 91,521 million), which represents an increase of 10.3% in relation to December 2017. Loans outstanding in domestic and foreign currency stood at PEN 221,010 million and USD 25,997 million as at December 2018, with annual increases of 11.6% and 2.8%, respectively.

4.143. During the review period, the level of financial intermediation continued to rise, a product of the increasing volume of loans and deposits in relation to GDP. Average annual lending as a percentage of GDP rose from 32.3% in December 2012 to 40.6% in December 2018, while deposits increased from 33.9% to 38.6% over the same period.[137] Overall, the financial, insurance and private pension systems have made important strides with regard to financial inclusion, understood as the population's access to and use of financial services. Between December 2013 and December 2018, the number of service points, including branch offices, automated teller machines (ATMs), banking agents and basic transaction establishments, rose by 139,133, representing a rise from 240 to 917 service points per 100,000 adult inhabitants. By December 2018, the Peruvian financial system offered 186,250 service points: 4,697 branch offices, 26,741 ATMs, 158,948 banking agents and 94 basic transaction establishments.

4.144. Despite the progress made, levels of financial inclusion remain relatively low. Between 2013 and 2018, 1.2 million debtors entered the financial system; the number of natural persons with credit reached 6.9 million (December 2018) and the proportion of the adult population with credit rose from about 30% in December 2013 to about 33% in December 2018.[138] This progress towards greater inclusion, while still relatively modest, has been accompanied by greater depth in terms of lower-income customers entering the financial system. One example has been the addition of 615,000 micro and small business entrepreneurs between 2013 and 2018, which brought the

[137] Supervisory Authority for Banking, Insurance and Private Pension Fund Managers (SBS) (2018), *Perú: Reporte de Indicadores de Inclusión Financiera de los Sistemas Financiero, de Seguros y de Pensiones*, December 2018. Viewed at: https://intranet2.sbs.gob.pe/estadistica/financiera/2018/Diciembre/CIIF-0001-di2018.PDF.

[138] SBS (2018), *Perú: Reporte de Indicadores de Inclusión Financiera de los Sistemas Financiero, de Seguros y de Pensiones*, December 2018. Viewed at: https://intranet2.sbs.gob.pe/estadistica/financiera/2018/Diciembre/CIIF-0001-di2018.PDF.

number of MSME debtors in the system to around 2.5 million by December 2018, thanks in part to the increased participation in the market of microfinancing institutions.[139]

4.145. The supervision conducted by the SBS is aimed primarily at ensuring the financial stability of financial institutions, and the financial system as a whole. Steps taken to that end during the review period included continuing improvement of the risk-based supervision model for financial companies in accordance with the Core Principles for Effective Banking Supervision (Basel Committee on Banking Supervision, September 2012). The SBS undertook to improve the capital supervision process at the consolidated group level for key local conglomerates, so that consideration would be given to the capital requirements of banking institutions and all companies forming part of the economic group at aggregate level. Increased emphasis has also been given to the evaluation of stress scenarios, enabling companies to understand the potential impact of different risks. In keeping with Peru's adoption of the Basel III rules on capital, the Regulations on the Additional Regulatory Capital Requirement (SBS Resolution No. 8425-2011) provide for financial institutions accumulating capital beyond the statutory requirement, depending on the risk profile of each institution, with cyclical capital representing the greatest percentage of this buffer.

4.146. The General Law on the Financial System and the Insurance System and on the Organization of the Supervisory Authority for Banking and Insurance (Law No. 26702) contains the main provisions regulating the financial and insurance systems and activities related to or complementing the corporate purpose of persons or companies operating within those systems. It was amended at several points during the review period. Law No. 26702 stipulates that the State may not participate in the Peruvian financial system except through its investments in COFIDE (as a second-tier development bank), in the Bank of the Nation, in the Agricultural Bank and in the MIVIVIENDA housing fund. It also guarantees national treatment, although not without conditions. Foreign investment in the companies receives the same treatment as Peruvian capital, subject to international conventions on the matter. As appropriate, however, the SBS may consider criteria based on the reciprocity principle where the public interest is affected.

4.147. Law No. 26702 allows institutions operating within the financial system to freely determine the interest rates, commissions and fees for their lending and borrowing transactions and for their services. When setting interest rates, they must respect such limits as may be indicated on an exceptional basis by the Banco Central de Reserva del Perú (BCRP), under its Organic Law. According to the authorities, however, no such limits have been applied in practice. Insurance companies also freely determine the terms of their policies, their rates and other commissions.

4.148. SBS authorization is required to engage in the activities performed by companies in the financial and insurance systems. Companies in both systems must be established in the form of a limited company, except for those whose nature makes it unfeasible to do so. To commence operations the organizers must first have obtained SBS permits to organize and operate. Companies wishing to undertake processes of transformation or conversion, or mergers or splits, must also request such permits, to engage in the new type of activity. There are minimum capital requirements for each type of financial institution, which are updated regularly (Table 4.10).

Table 4.10 Minimum capital requirements for financial institutions, 2019

(S/)

Type of institution	Minimum Registered Capital
A. Institutions engaging in multiple operations	
1. Banking institutions	27,498,321
2. Financing institutions	13,828,443
3. Municipal Savings and Loan Funds	13,828,443
4. Municipal Popular Loan Funds	7,375,170
5. Small and microenterprise development agency (EDPYME)	1,250,091
6. Savings and loan cooperatives authorized to take deposits from the general public	1,250,091
7. Rural savings and loan funds	1,250,091

[139] At December 2018, microfinancing institutions directed 49.5% of their retail lending to, and took 29.0% of their deposits from, the three lowest-income segments; for institutions not specialized in microfinance, the figures were 21.4% and 9.5%, respectively. See: SBS (2018), *Perú: Reporte de Indicadores de Inclusión Financiera de los Sistemas Financiero, de Seguros y de Pensiones*, December 2018. Viewed at: https://intranet2.sbs.gob.pe/estadistica/financiera/2018/Diciembre/CIIF-0001-di2018.PDF.

Type of institution	Minimum Registered Capital
B. Specialized firms	
1. Real estate capitalization companies	7,375,170
2. Financial leasing companies	4,498,854
3. Factoring companies	2,500,183
4. Bonding and guarantee companies	2,500,183
5. Fiduciary service firms	2,500,183
6. Mortgage management companies	4,513,336
C. Investment banks	27,498,321
D. Insurance companies	
1. Companies operating in a single branch (general risk or life insurance)	5,000,365
2. Companies operating in both branches (general risk and life insurance)	6,873,658
3. Insurance and reinsurance companies	17,499,434
4. Reinsurance companies	10,625,776
E. Institutions offering auxiliary and related services	
1. General bonded warehouse	4,498,854
2. Companies providing safe deposit, transport and cash management services	18,437,925
3. Credit and/or debit card-issuing companies	1,250,091
4. Electronic money-issuing companies	2,500,183
5. Fund transfer companies	1,250,091

Source: SBS Circular No. G-200-2019 of 9 January 2019.

4.149. Institutions in the financial and insurance systems incorporated as public limited companies must at all times maintain a minimum number of shareholders as established in the General Companies Law. Any natural or legal person who acquires shares in a company, directly or indirectly, in an amount equal to 1% of the equity capital within a 12-month period, or who gains ownership through such acquisitions of 3% or more of equity capital, is required to provide the SBS, at the latter's request, with information to ascertain the main economic activities of the company and structure of its assets.

4.150. Financial and insurance companies are permitted to set up subsidiaries, provided the total investment in subsidiaries does not exceed 40% of the company's assets, except in the case of subsidiaries of life insurance companies. In addition, the share of the financial or insurance company in the equity capital of a subsidiary may not be less than three-fifths. Foreign financial and insurance institutions wishing to establish a branch in the country must obtain prior authorization from the SBS. In the case of financial institutions, the SBS must request the opinion of the BCRP within the prescribed time period. In the event that a foreign financial or insurance company's branch in Peru, or the company itself, is liquidated, creditors domiciled in Peru have preferential rights over the branch's assets.

4.151. The shareholdings of financial and insurance institutions are subject to limits set by law. One financial or insurance company may not be a shareholder of another of the same nature, except in the case of a merger. However, if the merger is not completed within six months, the owner of the shares acquired for the purpose of merging is required to dispose of them and is prohibited from exercising the voting rights attached to them. Public officials and workers in a financial or insurance company, as well as their spouses, are prohibited from owning shares in any financial or insurance company amounting to more than 5% of the company's capital. In addition, direct or indirect majority shareholders in a financial or insurance institution may not directly or indirectly own more than 5% of the shares of another company of the same nature, unless it is a foreign banking institution included on the List of First-Class Banks published by the BCRP, or a company in the Peruvian banking system that meets the criteria used by the BCRP for inclusion on that list.[140] The transfer of shares in a company representing more than 10% of its capital to a single person requires SBS authorization.

4.152. Article 224 of Law No. 26702 provides that domestic and foreign companies in the financial system wishing to conduct certain activities listed in the law must establish subsidiaries for that purpose and must not engage in more than one such activity.[141]

[140] Amendment to the General Law on the Financial System and the Insurance System and on the Organization of the Supervisory Authority for Banking and Insurance pursuant to Legislative Decree No. 1321 of 4 January 2017, which promotes investments by banks in the Peruvian financial system.

[141] These activities are those of: real estate capitalization companies; general deposit warehouses; brokerage firms, subject to the Law on the Securities Market; mutual fund and investment fund programmes; companies that provide safe deposit, transport and management services for cash and securities, provided that

4.153. During the review period, several legislative provisions were approved to modify the legal framework for the financial sector. These include Legislative Decree No. 1321 of 4 January 2017, which encourages banking institutions to invest in the Peruvian financial system; Law No. 30822, published on 19 July 2018, concerning the regulation and supervision of savings and loan cooperatives; Legislative Decree No. 1434, published on 15 September 2018, which amends provisions on banking secrecy; Law No. 30741 of 7 March 2018 on reverse mortgages; and Law No. 30607, published on 13 July 2017, which modifies and strengthens the operation of Municipal Savings and Loan Funds. A series of resolutions and other sub-legal documents were also issued.[142]

4.154. Legislative Decree No. 1321 of 4 January 2017 amended Law No. 26702 to lift its restriction on shareholding in the case of banking institutions established by: (a) a foreign banking institution that appears on the List of First-Class Banks published by the BCRP; or (b) a Peruvian banking institution meeting the criteria used by the BCRP to compile that list. The majority shareholder in such cases can be a shareholder in another institution of the same nature only if the latter meets those criteria or if the entities concerned have been established in accordance with the characteristics mentioned above.

4.155. Law No. 30607 makes a number of modifications concerning Municipal Savings and Loan Funds, which include raising the minimum level of equity capital required to establish a Municipal Savings and Loan Fund and expanding the range of permitted operations accordingly. The Law also: strengthens the mechanisms for reinvesting the profits of Municipal Savings and Loan Funds, establishing differential treatment according to the quality of their management and need for capital strengthening; permits the entry of minority shareholders into the ownership structure of Municipal Savings and Loan Funds; and improves the mechanisms for preserving the Municipal Savings and Loan Fund system, by facilitating the execution of capital injections into Funds that require them. The authorities say that Law No. 30607 will establish conditions for the Municipal Savings and Loan Funds similar to those governing micro-finance institutions.[143]

4.156. Regulatory changes with respect to supervision included the following: SBS Resolution No. 464-2017 of 4 February 2017, which amended the Investment Bank Regulations to include interbank operations on the list of authorized transactions; SBS Resolution No. 3593-2017 of 16 September 2017, which changed the methodology for calculating the regulatory capital requirement for credit risk applicable to mutual fund exposures; and SBS Resolution No. 4906-2017 of 16 December 2017, which amended the Regulations on Market Risk Management to ensure consistency with new international standards and to take account of recent related developments.

4.157. The SBS is responsible for monitoring and regulating all aspects pertaining to money laundering (ML) and the financing of terrorism (FT) in relation to the natural and legal persons within its sphere of competence. It is also empowered to coordinate with other supervisory agencies to regulate other persons subject to its competence. The Department of ML/FT Risk Supervision is the unit within the SBS responsible for supervision in this area, in cooperation with Peru's Financial Intelligence Unit (UIF Perú).[144] UIF-Perú is a specialized unit within the SBS that receives, analyses, investigates, processes, evaluates and transmits financial intelligence information for the detection of ML/FT. It also establishes and coordinates regulations on the requirements applicable to the System for the Prevention of Money Laundering and the Financing of Terrorism (SPLAFT).[145] UIF-Perú performs a supervisory role in this area for persons assigned obligations under the system but not otherwise subject to a supervisory authority. SBS Resolution No. 369-2018 of

they have authorization from the SBS and the Ministry of the Interior; and securitization trustees, subject to the provisions of the Law on the Securities Market.

[142] For example, SBS Resolution No. 6523-2013, Regulations on Credit and Debit Cards; SBS Resolution No. 2660-2015, Regulations on the Risks of Money Laundering; SBS Resolution No. 5780-2015, Special rules on linkage and economic group; SBS Resolution No. 1041-2016, Regulations on Investments by Insurance Companies; SBS Resolution No. 1121-2017, Regulations on the Marketing of Insurance Products; SBS Resolution No. 3544-2015, Investment Bank Regulations; SBS Resolution No. 4906-2017, Regulations on Market Risk Management; SBS Resolution No. 3930-2017, Provisions pertaining to subsidiaries that may establish insurance companies; and SBS Resolution No. 4706-2017, Regulations on the Purchase and Management of Reinsurance and Co-insurance.

[143] SBS (2018), *Memoria Anual 2017*. Viewed at: http://www.sbs.gob.pe/Portals/0/jer/PUB_MEMORIAS/Memoria_2017_new_2018.pdf.

[144] The Financial Intelligence Unit was created by Law No. 27693 of 12 April 2002, subject to the implementing regulations established by Supreme Decree No. 020-2017-JUS, (new) implementing regulations for Law No. 27693 creating the Financial Intelligence Unit (UIF-Perú).

[145] Law No. 29038 incorporated UIF-Perú into the SBS.

31 January 2018 approved a new provision for the prevention of ML/FT (SPLAFT Acotado), which designated an additional series of persons performing various targeted functions.[146] SPLAFT Acotado is aimed at preventing and avoiding the functions performed by such persons being used for illicit, ML/FT-related purposes; the only obligations it imposes on those targeted is to designate a compliance officer (who may also have other functions) to prevent and detect ML/FT and inform Peru's Financial Intelligence Unit about suspicious transactions.

4.158. The Multisectoral Executive Committee for the Prevention of ML/FT (CONTRALAFT), currently attached to the Ministry of Justice and Human Rights and with UIF-Perú serving as its Technical Secretariat, coordinates and designs state policy on the guiding criteria for these agencies, keeping state interventions focused on priority areas to achieve effective results in the fight against ML/FT. Implementation of Peru's National Policy for the Prevention of ML/FT, the country's first such public policy, began in 2018 with one general objective, seven principles, three strategic pillars (prevention, detection and investigation/punishment), plus a crosscutting element (coordination). These activities are aimed at four specific objectives, each with a specific target, subject to 16 guidelines and 18 compulsory national standards.[147]

4.159. Peru took part in the WTO negotiations on financial services and adopted the Fifth Protocol to the GATS. According to Peru's Schedule, the banking service of taking deposits and other funds refundable to the public, provided through a commercial presence in the country, is not subject to limitations as to market access, except that financial system companies may not accept deposits on behalf of financial institutions not authorized to operate in Peru.

4.4.2.1 Banks

4.160. As at the end of 2018, there were 16 banks, 12 with significant foreign shareholdings. Their total assets amounted to PEN 385,344 million in 2018, reflecting annual growth of 3.78% in relation to 2017.[148] The banking system in Peru is relatively concentrated: the share of total loans held by the four largest banks (Banco de Crédito, BBVA Continental, Scotiabank and Interbank) in terms of assets, was 72.79% at the end of 2018. In 2018, Peru's commercial ("multiservice") banks reported an outstanding balance of direct loans amounting to PEN 270,662 million, of which PEN 184,282 million (68.1%) were in Peruvian currency and USD 25,609 million were in foreign currency, representing an annual variation in currency loans of 11.88% and 2.67%, respectively. Accordingly, as at December 2018, the dollarization ratio of bank loans had fallen to 31.9%.

4.161. Total deposits in the country's commercial banks as at December 2018 stood at PEN 243,860 million. Deposits in Peruvian currency stood at PEN 147,559 million (+12.62% in relation to 2017), while deposits in foreign currency totalled USD 28,551 million (-5.90% in relation to 2017). These figures amount to a 39.49% decrease in the dollarization ratio for deposits. At December 2018, the foreign obligations reported by Peru's commercial banks totalled USD 5,730 million, representing an annual increase of 9.14%.

4.162. In 2018, the balance of corporate loans to large and medium-sized enterprises stood at PEN 157,010 million, accounting for 58.01% of the total portfolio, compared to PEN 18,682 million and 6.90%, respectively, in the case of small and microenterprises. Mortgage loans stood at PEN 45,282 million (16.73% of the total portfolio) and consumer loans at PEN 49,689 million (18.36%).[149] Loans for business activities amounted to PEN 175,692 million as at December 2018, accounting for 64.91% of all loans at that date; the balance of consumer and mortgage loans stood at PEN 67,695 million and PEN 47,440 million (20.8% and 15.1%), respectively. Broken down by economic sector, loans to the trade and commerce sector accounted for 23.5% of the total portfolio;

[146] These are as follows: persons engaged in the antiques trade; lobbyists; auctioneers; credit and debit card processors; travel and tourism agencies and accommodation establishments; non-profit organizations engaged in raising, transferring and disbursing funds; state-owned enterprises; the National Elections Panel; the National Elections Office; the Supervisory Authority for State Contracts; regional governments and provincial municipalities; Perú Compras; and professional football clubs.

[147] CONTRALAFT (2018), National Policy for Combating Money Laundering and the Financing of Terrorism. Viewed at: http://www.sbs.gob.pe/Portals/5/jer/LIST_INTERES/files/P%C3%B3litica_Plan_CONTRALAFT.pdf.

[148] SBS (2019), Evolución del Sistema Financiero a diciembre de 2018. Viewed at: http://www.sbs.gob.pe.

[149] SBS (2019), Evolución del Sistema Financiero a diciembre de 2018. Viewed at: http://www.sbs.gob.pe.

manufacturing 22.2%; transport, storage and communications 7.6%; agriculture, livestock, hunting and forestry 4.3%; mining 5.3% and construction 2.6%, as at December 2018.

4.163. Commercial bank lending interest rates vary considerably according to the type of borrower and type of loan. The rates charged by commercial banks for corporate loans, in Peruvian and foreign currency, were 4.90% and 3.97%, respectively, at year end 2018. The rate for loans to medium-sized enterprises averaged 9.84% for loans in Peruvian currency and 6.86% for those in foreign exchange. For loans in Peruvian currency to microenterprises, the average rate was 32.7%, significantly higher than for other business segments. The average rate for consumer loans (Peruvian currency) was even higher: 44.94%. For mortgage loans the rates were 7.60% (Peruvian currency) and 6.11% (foreign exchange). The interest rates offered by commercial banks for savings deposits in Peruvian and foreign currency were extremely low in 2018, standing at 0.30% and 0.14%, respectively; while rates for time deposits averaged 3.25% and 1.87%, respectively.

4.164. Banking indicators remained at acceptable levels throughout the review period. Capital ratios – capital to risk-weighted assets (weighted for credit, market and operational risk) – stood at 14.66% as at December 2018, which is higher than that required by the General Law on the Financial System (10%) or than the Basel standard (8%). The surplus relative to the level required by the General Law on the Financial System amounted to PEN 16,577 million. In December 2018, the liquidity ratios stood at 27.02% (Peruvian currency) and 44.46% (foreign exchange), well in excess of the minimum levels required by the regulations (8% and 20%, respectively). The commercial bank default rate (arrears as a percentage of the direct loan portfolio), based on SBS standards[150], stood at 2.95% at year-end 2018, 0.09 percentage points lower than at year-end 2017. If international standards for default (90 days) are applied, the rate was 2.55%. Refinanced and restructured loans accounted for 1.49% of total direct lending, 0.14 percentage points higher than the year before. The coverage ratio for the portfolio in arrears stood at 153.58% in December 2018 and the ratio of reserves to the portfolio of past-due, refinanced and restructured loans at 102.03%. Return on Equity (ROE) (annual profit/average equity) stood at 18.41% and Return on Assets (ROA) (annualized profit/average assets) at 2.21%.

4.165. Under the General Law on the Financial System, to establish and operate a bank in Peru, including a subsidiary of a foreign bank, an application and relevant documentation must be submitted to the SBS. These are evaluated by the BCRP, which must make its opinion known within 30 days. The SBS then issues the decision authorizing or rejecting the application within 90 days of having received the BCRP's opinion. In the case of rejection, at the applicant's request and if feasible, the SBS must explain the reasons for rejection.

4.166. Foreign investment in banks is freely permitted. There are no limitations on private capital participation in commercial banks, and this applies to foreign capital as well. Foreign banking institutions can establish branches or subsidiaries to provide commercial banking services. There are no legal limitations on the number of agencies that a bank established in Peru can open. In April 2019, the minimum capital required to establish a bank in Peru was PEN 27.5 million (Table 4.10).[151] Branches of foreign banks are required to place capital in Peru in order to operate on the basis of that capital. Such branches have the same rights and obligations as national businesses. The services that banks can offer do not vary according to the origin of their capital.[152]

4.167. Residents of Peru may make deposits in foreign banks without any official authorization or registration. Both companies and individuals may maintain and operate foreign bank accounts. There are no limits on the amount of transactions performed with entities abroad. However, agents of foreign banks not established in Peru are not authorized to solicit business from residents in the country.

4.168. Like other financial institutions, banks are authorized by the law to freely determine the interest rates, commissions and fees for their transactions. When setting interest rates, however,

[150] Loans to corporations and to large and medium-sized enterprises are considered past due after 15 days of non-payment (30 days in the case of micro and small enterprises). Consumer and mortgage loans are considered past due after 30 days and in arrears after 90 days. See: SBS (2019), *Evolución del Sistema Financiero a diciembre de 2018.* Viewed at: http://www.sbs.gob.pe.

[151] The minimum capital required is updated quarterly.

[152] Article 22 of Law No. 26702.

they must respect such exceptional limits as the BCRP may indicate in accordance with its Organic Law (which has never occurred in practice).

4.169. Banks may not engage in insurance activities on their own account but may market insurance products, provided that they have a signed marketing agreement with an insurance company. Investors, on the other hand, may simultaneously hold shares in both banking and insurance companies.

4.170. The Deposit Insurance Fund (FSD) protects the savings and compensation-for-time-of-service payments (CTS) deposited in entities supervised by the SBS: banks, financial companies, and municipal and rural savings and loan funds. In the event of a financial entity closing, the FSD will return the money deposited by savers up to a maximum coverage amount that is updated quarterly according to the wholesale price index.[153] For the quarter March-May 2019 that amount was PEN 99,949[154], sufficient to cover all insured deposits in an FSD member entity. The insurance covers all types of nominative deposits by private non-profit natural or legal persons, as well as demand deposits by other legal persons, except for those corresponding to companies operating within the financial system. The FSD is governed by provisions contained in Law No. 26702 (Articles 144-157), as amended by Law No. 27008, which expands the FSD's coverage and the powers of the SBS; by Law No. 27102, which amends various articles of the General Law on the Financial System and the Insurance System and on the Organization of the Supervisory Authority for Banking and Insurance; and by its Regulations, Statute and other provisions issued by the SBS.[155]

4.4.2.2 Insurance

4.171. As at December 2018, there were 20 insurance companies active in Peru, seven in both the general and life branches (mixed), eight in the general branch only and five in the life branch. Foreigners held stakes in the capital of 18 of those 20 companies and majority holdings in 16 (100% in 11 cases). In 2018, insurance companies had assets worth PEN 48,867 million, more than twice the amount recorded in 2007. The net value of insurance premiums stood at PEN 12,869 million, of which PEN 4,765 million were for general insurance, PEN 1,831 million for accident and health insurance, and PEN 6,272 million for life insurance. Although the insurance industry increased its presence in Peru considerably during the review period, it remains a market in development. In 2018, insurance premiums amounted to only 1.8% of GDP, compared with 1.5% in 2012, and to PEN 747 per economically active person.[156]

4.172. As at December 2018, insurance companies appear to have appropriately covered their technical obligations, with a liquidity index (total assets/total liabilities) of 1.23; a solvency index (capital/capital requirements) of 1.42; an ROE of 15.03% and an ROA of 2.23%.[157]

4.173. The number of insurance brokerage companies at 31 December 2017 was 326, with total assets of PEN 315.1 million.[158] There were also 11 reinsurance brokers, with total assets of PEN 152.5 million.[159]

4.174. Insurance companies are required to submit at least semi-annually to a risk classification review by independent rating firms, to evaluate their obligations towards policyholders. Insurance

[153] Online information from the Deposit Insurance Fund. Viewed at: http://www.fsd.org.pe/index.html.
[154] Online information from the Deposit Insurance Fund. Viewed at: http://www.fsd.org.pe/paginas/06-Monto-maximo.html.
[155] These include SBS Resolution No. 455-99, Regulations on Special Regimes and Regimes for the Liquidation of Financial and Insurance Companies; SBS Resolution No. 657-99, Rules on the coverage, resources and tax payments of the Deposit Insurance Fund; and SBS Resolution No. 1005-2005 amending Article 14 of the rules on the coverage, resources and tax payments of the Deposit Insurance Fund, approved by SBS Resolution No. 657-99.
[156] SBS (2018), *Sistema de Seguros,* December 2018. Viewed at: https://intranet2.sbs.gob.pe/estadistica/financiera/2018/Diciembre/SS-0003-di2018.PDF.
[157] SBS (2018), *Carpeta de Información del Sistema Asegurador*, December 2018. Viewed at: http://www.sbs.gob.pe/app/stats_net/stats/EstadisticaBoletinEstadistico.aspx?p=28#.
[158] Online information from the SBS. Viewed at: http://intranet2.sbs.gob.pe/estadistica/financiera/2017/Diciembre/S-326-di2017.XLS.
[159] Online information from the SBS. Viewed at: http://intranet2.sbs.gob.pe/estadistica/financiera/2017/Diciembre/S-328-di2017.XLS.

and/or reinsurance companies are required at all times to maintain a sufficient level of capital in terms of the solvency ratio and to cover the guarantee fund, the regulatory capital requirement for credit risk and the additional capital requirement per economic cycle. These last two requirements are applicable to operations subject to credit risk. The capital factored into the solvency calculation is determined according to the highest figure that results from application of the solvency margin and the minimum capital required of insurance companies. The solvency margin is determined according to the annual amount of premiums and average losses for the last three years, following methodology established by the SBS. Insurance and/or reinsurance companies may borrow within the country or abroad only in amounts that do not exceed their capital. If their capital is insufficient to cover all capital requirements, the insurance company must present a programme for achieving capital adequacy.

4.175. Insurance companies are required to establish a guarantee fund to cover the various technical insurance risks and the credit risk of operations. There are limits on the investments they can make. For example, the investments that can be applied to backing up technical obligations for assets issued or secured by a single entity may not exceed 7% of the company's technical obligations and, in the case of assets issued or secured by companies forming part of a single economic group or financial and/or mixed conglomerate, may not exceed 15% of the insurance company's technical obligations. That limit is lowered to 7% when the issuer (or issuers) belongs to the same economic group or conglomerate as the one to which the insurance and/or reinsurance company belongs.

4.176. The insurance market in Peru, including commercial as well as social security insurance activities, is open to foreign investment. There are no limits on the participation of domestic or foreign private capital in insurance companies. Residents in Peru can obtain insurance and reinsurance abroad. To provide insurance services, foreign companies can establish branches or subsidiaries. SBS authorization is required to open insurance company branches or subsidiaries.

4.177. The Law does not limit the number of insurance companies that can operate at a particular time or the number of agencies or points of sale that can be opened. On the other hand, the relocation and closing of agencies or branches offering services to the public require prior authorization from the SBS. Foreign-owned insurance companies can offer the same services as domestically owned ones. Insurance companies can establish insurance companies as subsidiaries to operate in the same branch as their parent company or in a different branch, provided they cover different risks than their parent company. Parent companies and subsidiaries can cover the same risks only in the case of life insurance companies that also offer accident and health insurance, which can have general insurance companies that cover those risks as subsidiaries and vice versa. Insurance companies can also establish as subsidiaries financing institutions, health care-providing companies and mortgage management companies. Insurance companies freely determine their policy conditions, rates and other commissions but must comply with the legal provisions of the Law on the Insurance Contract.

4.178. Insurance companies are required to maintain minimum amounts of capital: PEN 5 million for those operating in a single branch (general or life insurance); PEN 6.87 million for those operating in both branches (general and life); PEN 17.5 million for insurance and reinsurance companies; and PEN 10.6 million for reinsurance companies (Table 4.10).[160] The legal provisions concerning capital requirements and technical reserves apply equally to companies with Peruvian and foreign capital.

4.179. Insurance companies are free to purchase reinsurance in the country or abroad. They can also form associations as legal persons for the sole purpose of creating reinsurance systems, as risk-ceding and reinsurance companies, for all or particular branches of insurance. To do so, they need to obtain the necessary organizational and operating permits from the SBS, which will establish the minimum percentage of catastrophic risk that must be reinsured abroad. Foreign reinsurance companies operating in Peru are required to register with the SBS, which maintains a registry of reinsurers and supervises their representatives. As at April 2019, 18 reinsurance companies had registered. Insurance companies may also take out reinsurance with reinsurance companies not registered with the SBS, provided that the latter have a "non-vulnerable" risk classification at the time.[161]

[160] Corresponding to the January-March 2019 quarter.

[161] The minimum rating classifications correspond to those issued by the various risk rating firms as follows: Standard & Poor's: BBB; Moody's: Baa2; Fitch Ratings: BBB; and A. M. Best: B+. In the event that

4.180. There is a range of compulsory insurance in Peru that is required by law: (i) workers' life insurance[162]; (ii) supplementary occupational risk insurance[163]; and (iii) traffic accident insurance.[164] Under the Law on the Insurance Contract (Law No. 29946), compulsory insurance must be taken out with insurance companies established in Peru and duly authorized by the SBS.[165]

4.4.3 Securities market

4.181. The securities market in Peru is regulated and supervised by the Supervisory Authority for the Securities Market (SMV).[166] A specialized technical agency under the Ministry of the Economy and Finance (MEF), the SMV performs regulatory, supervisory and promotional activities to ensure the protection of investors, the efficiency and transparency of markets under its supervision, proper price formation, and the dissemination of all the information necessary for these purposes. The SMV has legal status under domestic public law; enjoys functional, administrative, economic, technical and budgetary autonomy; and occupies a full section of the budget.[167] The SMV establishes the legal rules for the securities market, the market for products and the system of collective funds, supervising compliance with those rules by natural and legal persons engaged in those markets.[168] It also studies and promotes the securities market, the market for products and the system of collective funds.

4.182. The legal framework for the securities market is set out in various texts: the Organic Law on the SMV, Decree-Law No. 26126-1992, published on 30 December 1992; the Law on the Securities Market, Legislative Decree No. 861 as amended[169]; and the Law on Promotion of the Securities Market, Law No. 30050, of 26 June 2013. The latter created a special regime for public offerings of securities or financial instruments for institutional investors. It authorizes the SMV to establish a special public offering regime for small and medium-sized enterprises.[170] In addition, it strengthens the prudential requirements for entities that participate as intermediaries in the securities market in various ways: raising the minimum capital by 33%, requiring contributions to the guarantee fund in order to commence operations[171], and requiring persons authorized by the SMV to set up a comprehensive risk management system. Legislative Decree No. 1262 of

there are reinsurance companies with different classifications as on the date on which minimum classifications must be reported, the companies must consider the international risk classification that corresponds to greatest risk according to a table of equivalences furnished by the SBS.

[162] The employer must insure the worker or employee. Legislative Decree No. 688, Law on the Consolidation of Social Benefits of 1 November 1991.

[163] Law No. 26790, Modernization of Social Security in respect of Health, and its implementing regulations, approved by Supreme Decree No. 03-98-SA, of 13 April 1998 provides work-related accident and vocational health coverage for workers or employees enrolled in the Social Security Health programme in cases where the employer engages in the activities described in Annex 5 of Supreme Decree No. 009-97-SA.

[164] General Law on Transport and Transit (Law No. 27181).

[165] According to the authorities, this provision is not intended to affect the regional trade agreements Peru has signed in respect of cross-border trade in financial services.

[166] Article 1 of Law No. 29782, the Law on Strengthening Supervision of the Securities Market, which entered into force on 29 July 2011, changed the name National Companies and Securities Supervisory Commission (CONASEV) to that of Supervisory Authority for the Securities Market (SMV).

[167] Online information from the SMV. Viewed at: http://www.smv.gob.pe/Frm_VerArticulo?data=17B15B848FCE8F37FA86E13166C6752043C6DCB32142B823F43909D41274C8008858C8. See also Article 1 of the Organic Law on the SMV.

[168] Natural and legal persons subject to SBS oversight are also subject to oversight by the SMV in respect of matters representing participation in the securities market under the latter's supervision. Online information from the SMV. Viewed at: http://www.smv.gob.pe/Frm_VerArticulo?data=17B15B848FCE8F37FA86E13166C6752043C6DCB32142B823F43909D41274C8008858C8.

[169] Law No. 26702, published on 9 December 1996; Law No. 27287, published on 19 June 2000; Law No. 27649, published on 23 January 2002; Law No. 28306, published on 29 July 2004; Law No. 28655, published on 29 December 2005; Legislative Decree No. 1061, published on 28 June 2008; Law No. 29638, published on 24 December 2010; Law No. 29660, published on 4 February 2011; Law No. 29782, published on 28 July 2011; Law No. 29720, published on 25 June 2011; Law No. 30050, published on 26 June 2013; and Law No. 30708, published on 24 December 2017.

[170] In both cases, the special regime entails fewer requirements with regard to the registration and formulation of the offer, as well as fewer requirements regarding the provision of information during and after the offer.

[171] The guarantee fund is an autonomous fund for protecting investors carrying out operations on the securities market. Its sole purpose is to guarantee agent obligations to clients with respect only to transactions conducted within or outside of the centralized mechanisms operating in stock markets subject to such limits and criteria as the SMV may determine by means of general rules.

10 December 2016[172] introduced Securitization Trusts for Investments in Real Estate Income Securities (FIBRA) and the Real Estate Income Securities Investment Fund (FIRBI)[173], which led to the creation of FIBRA and FIRBI shares. Income generated by the disposal of these instruments is exempt from income tax.

4.183. Law No. 30708 of 24 December 2017 on the promotion of capital market development modified the legal framework for the securities market, allowing mutual fund management companies to hire third parties to manage assets and including structured return financial instruments as a permissible investment for their funds. It introduced mutual fund distributors as new participants in the securities market and provided that the SMV can establish differentiated capital requirements, guarantees and/or requirements for intermediation agents according to the size and complexity of their operations. It also allowed intermediaries to act as securitization trustees and manage mutual funds and investment funds without the need to establish subsidiaries.

4.184. The SMV keeps the Securities Market Public Registry (RPMV), which includes sections on the following: (a) marketable securities and issuance programmes; (b) intermediation agents in the securities market; (c) mutual funds; (d) investment funds; (e) special purpose entities; (f) investment fund management companies; (g) mutual fund management companies; (h) securitization companies; (i) risk rating agencies; (j) publicly held corporations; (k) securities clearing and settlement institutions; (l) stock exchanges and other entities in charge of operating centralized trading mechanisms; (m) arbitrators; (n) custodians; (o) price providers; (p) structuring specialists; and (q) valuation specialists.

4.185. In 2017, the value of securities placed through Initial Public Offerings (IPOs), as recorded in the RPMV, was USD 2,930.5 million. Placements via IPOs in the local market (mainly corporate bonds and negotiable certificates of deposit) totalled USD 2,206 million. In terms of instruments, corporate bonds accounted for 73.6% of total placements, followed by negotiable certificates of deposit (10.6%). In terms of investors, pension funds accounted for 35.2% of the placements, followed by insurance companies (18.3%) and mutual funds (12.2%).[174] In 2018, the value of IPO securities, again per the RPMV, rose to USD 4,504 million, with local market placements via IPOs amounting to USD 1,447 million. At 31 December 2018, assets administered by the mutual fund industry, with 167 funds participating, totalled USD 8,851 million. Assets administered by investment funds totalled USD 1,160 million, with 45 public investment funds participating[175], while those administered by collective fund management companies, with seven participating, amounted to USD 281.2 million.[176]

4.186. The Lima Stock Exchange, the country's main stock market, facilitates registered security trades, providing the services, systems and mechanisms required for the intermediation of publicly offered securities, derivatives and instruments that are not issued en masse but traded through centralized mechanisms other than the stock exchange. The average daily trading volume in 2018 was USD 24.73 million – less than in 2017 (USD 35.63 million). Trading in variable return securities (stock) came to USD 3,392.5 million in 2018, compared to USD 6,292.7 million in 2017. This was in part the reflection of a larger downward trend for major stock exchanges worldwide at that time. Stock market capitalization, as a result in particular of a drop in mining stock prices, fell from USD 162,354.8 million in 2017 to USD 142,373.7 million in 2018, equal to 64% of GDP. The number of companies listed fell from 284 in 2017 to 273 in 2018 (Table 4.11).[177]

[172] Amends Article 2 of Law No. 30341 on the promotion of liquidity and integration in securities markets.

[173] Capital shares placed by means of initial public offerings for the purchase of construction of real estate to be leased or otherwise disposed of profitably. By purchasing shares in FIBRAs and FIRBIs, investors gain a diversified real estate portfolio.

[174] SMV (2018), *Memoria Anual 2017*. Viewed at: http://www.smv.gob.pe/ConsultasP8/temp/2018019251-Memoria_SMV__2017.pdf.

[175] SMV (2018), Reporte Mensual del Mercado de Valores. Viewed at: http://www.smv.gob.pe/Frm_RptMensual?data=A443A60E1EA5C448E79AFA74965ACDF1A19F66CAB9.

[176] Online information from the SMV. Viewed at: www.smv.gob.pe.

[177] Lima Stock Exchange (2019), *Memoria Anual 2018*. Viewed at: http://www.smv.gob.pe/ConsultasP8/temp/MEMORIA2018BVL.PDF.

Table 4.11 The Lima Stock Exchange, activity in 2017 and 2018

	2017	2018
Average daily trading (PEN million)	116.52	81.15
Average daily trading (USD million)	35.63	24.73
Variable return (PEN million)	20,602.98	11,146.16
Variable return (USD million)	6,292.73	3,392.49
Debt instruments (PEN million)	6,244.95	6,784.51
Debt instruments (USD million)	1,914.78	2,072.58
Repurchase agreement and lending transactions (PEN million)	2,274.76	2,277.01
Repurchase agreement and lending transactions (USD million)	698.07	693.95
Primary placement (PEN million)	123.91	160.84
Primary placement (USD million)	38.11	48.58
Listed companies	284	273
Market capitalization (PEN million)	526,354.17	479,301.15
Market capitalization (USD million)	162,354.77	142,373.73

Source: Lima Stock Exchange, *Memoria Anual 2018*. Viewed at: http://www.smv.gob.pe/ConsultasP8/temp/MEMORIA2018BVL.PDF.

4.187. No restrictions are applied to the participation of foreign investors in Peru's securities markets.

4.4.4 Telecommunications

4.188. Telecommunications is one of the most dynamic economic sectors in Peru. Between 2013 and 2017, the sector grew at an average annual rate of 10%, with earnings increasing by 22%. In 2017, the sector attracted investments totalling USD 1,383 million.[178] The most dynamic market segments during the 2013-17 period were fixed Internet (9.9% average annual growth), mobile service (5.8%) and paid television (8.3%), just as fixed telephony was slowing down.[179]

4.189. In terms of information and communication technology (ICT), Peru ranked 96th out of 176 countries on the ICT Development Index in 2017, compared to 105th in 2013.[180] According to data from the International Telecommunication Union (ITU), penetration rates rose for most services during the 2013-17 period (Table 4.12). The number of mobile telephony subscriptions rose from 98.1 per 100 inhabitants in 2013 to 121 in 2017, reflecting the dynamic character of that market segment, with penetration reaching 127.6% in 2018. Penetration rose fastest for mobile broadband: from 3% in 2013 to 64.2% in 2017 (and subsequently to 70.1% in 2018), a consequence of the exponential growth in Internet traffic via mobile lines in recent years. In terms of the technology used, there was a significant increase in 4G mobile Internet connections, from 0.7 million in 2014 to 11.2 million in 2018, surpassing as of that year the number of 3G connections.[181] Penetration by broadband Internet services during the 2013-17 period increased from 5.2% to 5.7%. Penetration by fixed telephony, on the other hand, remains one of the region's lowest, because of various factors, such as the substitution of mobile for fixed telephony and the difficulty of reaching certain geographical areas in Peru.

4.190. Peru implemented various measures during the review period to promote the development of and competition within the telecommunications sector and to expand and improve conditions of access and service coverage in the country. These measures included the adoption of new rules to facilitate number portability[182]; amendments to laws governing the expansion of telecommunications infrastructure[183]; measures to protect users[184]; and new rules for administering the radio spectrum,

[178] Information provided by the authorities.
[179] Supervisory Authority for Private Investment in Telecommunications (OSIPTEL), *Memoria Institucional 2017*. Viewed at: https://www.osiptel.gob.pe/documentos/memorias-anuales.
[180] ITU (2017), *Measuring the Information Society Report 2017*. Viewed at: https://www.itu.int/en/ITU-D/Statistics/Pages/publications/mis2014.aspx.
[181] Information provided by the authorities.
[182] Supreme Decree No. 016-2013-MTC of December 2013.
[183] Law No. 30228 of July 2014 amending Law No. 29022, Law for the Expansion of Telecommunications Infrastructure, and its implementing regulations (Supreme Decree No. 003-2015-MTC).
[184] Supreme Decree No. 003-2016-MTC on the use of biometrics to validate subscriber identity for pre-paid mobile public services.

promoting its use and regulating its allocation.[185] The authorities also initiated an important public-private investment plan for the development of telecommunications infrastructure, the improvement of connectivity, and the expansion of services to rural areas and places of priority social interest. These measures and increased competition in the sector have helped to improve and diversify the supply of services, close the connectivity gap and lower the prices paid by users.[186]

Table 4.12 Selected telecommunications indicators, 2013-17

	2013	2014	2015	2016	2017
Fixed-telephony subscriptions[a]	11.3	9.9	9.3	9.7	9.6
Mobile-cellular telephony subscriptions[a]	98.1	103.6	109.9	117.1	121.0
Mobile-broadband subscriptions[a]	3.0	28.5	36.7	62.0	64.2
Fixed-broadband subscriptions[a]	5.2	5.7	6.4	6.7	5.7
Households with Internet access (%)	22.1	23.5	23.2	26.4	28.2
Individuals using the Internet (%)	39.2	40.2	40.9	45.5	48.7

a Per 100 inhabitants.

Source: ITU, *Measuring the Information Society Report* (several years).

4.191. The governing body for the telecommunications sector is the Ministry of Transport and Communications (MTC). Among other things, it formulates policy and regulations for the sector, including rules and plans for the various services; approves the National Telecommunications Plan; grants, renews and cancels concessions, authorizations, permits and licences; administers and oversees the frequency spectrum and numbering; approves telecommunications equipment; and represents the State in relevant international organizations. The MTC coordinates its activities with other ministries and public and private sector entities and adheres to State Policy No. 35, approved in August 2017, which establishes the commitment to promoting an information society and universal access to knowledge through the use of ICT; the generation of digital content, services and goods; and the development of capacity and connectivity in the country's various regions.[187] At the time of writing, the authorities are preparing a new sectoral policy.

4.192. The Supervisory Authority for Private Investment in Telecommunications (OSIPTEL) is a specialized public agency, attached to the Office of the President of the Council of Ministers, that regulates and generally governs the telecommunications sector. Among its functions, OSIPTEL regulates rates for public services, interconnection, service quality and the rights and obligations of operators and users; supervises the conduct of operators; and investigates and sanctions violations, requiring those responsible to take corrective measures. It also settles disputes between companies and deals with user complaints.

4.193. The basic regulatory framework for the Peruvian telecommunications sector is contained in the Single Harmonized Text of the Telecommunications Law (Supreme Decree No. 013-93-TCC) and its implementing regulations (Supreme Decree No. 020-2007-MTC).[188] These texts classify telecommunications services into: (a) carrier services; (b) teleservices or final services (such as fixed and mobile telephony); (c) distribution services (such as radio and television); and (d) value-added services. Telecommunications are classified according to their use and nature as public services, private services or private services of public interest (radio and television broadcasting).[189]

4.194. A concession contract is required to provide carrier services, public teleservices or final services and public distribution services.[190] Operators must also be listed in the public

[185] Supreme Decree No. 009-2018-MTC of 23 June 2018; Ministerial Resolution No. 687-2018-MTC/01.03 of 30 August 2018; and Supreme Decree No. 016-2018-MTC of 31 October 2018, among others.

[186] For example, the implicit rate for use of 1MB of mobile Internet service fell by 92% between 2014 and 2017, and the implicit rate for 1Mbps of downloading speed for fixed Internet service fell by 72.6% between 2012 and 2017. OSIPTEL, *Memoria Institucional, 2017*.

[187] National Agreement. Viewed at: http://acuerdonacional.pe/politicas-de-estado-del-acuerdo-nacional/politicas-de-estado per cente2 per cent80 per cent8b/politicas-de-estado-castellano.

[188] Both instruments have been amended on repeated occasions; the texts as amended are available on the OSIPTEL website. Viewed at: https://www.osiptel.gob.pe/documentos/legislacion-basica-osiptel.

[189] Articles 8 and 9 of Supreme Decree No. 013-93-TCC.

[190] Articles 10, 14 and 22 of Supreme Decree No. 013-93-TCC.

telecommunications services register. An authorization, a permit and a licence are required to operate private final and radio communication services and private distribution and broadcasting services.[191] Value-added services do not require prior authorization; service providers need simply enrol in the relevant MTC registry – unless they require their own networks, in which case special authorization must be obtained from the MTC.[192]

4.195. As in the allocation of the radio spectrum, concessions are granted at the request of a party or following an open competition. Among other things, the concession contracts set out the concessionaires' rights and obligations, the concession period and the grounds for termination. Exclusive concession contracts grant concessionaires the rights to provide all public telecommunications services.[193] Permits to provide private teleservices and private distribution services are issued upon request by means of an MTC resolution, with a maximum duration of five years. In the case of private radio broadcasting services of public interest, permits may be issued upon request or based on competitive selection, with validity for ten years renewable for equal periods. Concessions and permits are totally or partially non-transferrable unless the transfer is expressly approved in advance by the MTC.[194] To operate commercially, telecom operators having obtained concessions are required to pay an annual fee of 0.5% of their gross income.[195] Concessionaires and permit holders are also required to pay royalties for use of the radio spectrum, in amounts determined by the MTC that vary according to the type of service.

4.196. There are no restrictions on foreign capital participation in companies providing telecommunications services, with the exception of radio broadcasting. To operate or provide telecommunications services, foreign companies must establish their domicile in Peru or appoint a legal representative domiciled in the country.[196]

4.197. To obtain authorization to provide broadcasting services, persons must be Peruvian nationals or domiciled and established in Peru. The involvement of foreign nationals in legal persons that have obtained broadcasting authorizations and licenses may not exceed 40% of total holdings or shares in equity. They must also be owners or shareholders of radio broadcasting companies in their countries of origin. A foreign national cannot own a radio broadcasting service.[197]

4.198. The Telecommunications Law requires telecommunications to be provided under a regime of free and fair competition and prohibits business practices that restrain competition, such as agreements, extra-legal activities, or concerted practices between companies that have or could have the effect of restraining, impeding or distorting competition.[198]

4.199. According to the principle of neutrality enshrined in the Telecommunications Law, the concessionaire of a telecommunications service that supports other services or that has a dominant position in the market is prohibited from exploiting such situations to simultaneously provide other telecommunications services under advantageous conditions that are detrimental to the concessionaire's competitors, through practices restricting competition, such as limiting access to interconnection or affecting the quality of service.[199] The Telecommunications Law also applies the neutrality principle in requiring operators that offer more than one public telecommunications service, and whose income for the last two years has exceeded 1% of the total annual income of all operators of public telecommunications services, to keep separate accounts.[200]

4.200. Interconnection between public telecommunications service networks is mandatory and subject to the principle of equal access. Operators of public telecommunications services are required to interconnect with each other, agreeing inter alia on technical and economic aspects and rates, on

[191] An authorization is required to set up a telecommunication service that does not require a concession. Permits are required to install radiocommunication equipment in particular places, while licences are required to operate an authorized radiocommunication service.

[192] Article 31 of Supreme Decree No. 013-93-TCC.

[193] Article 53 of Supreme Decree No. 013-93-TCC.

[194] Article 117 of Supreme Decree No. 020-2007-MTC.

[195] The rate for independent operators is 0.2% of total gross income invoiced and collected each year in rural areas and places of priority social interest.

[196] Article 119 of Supreme Decree No. 020-2007-MTC.

[197] Article 24 of Law No. 28278, Radio and Television Law, of 16 July 2004.

[198] Article 6 of Supreme Decree No. 020-2007-MTC.

[199] Article 11 of Supreme Decree No. 020-2007-MTC.

[200] Article 253 of Supreme Decree No. 020-2007-MTC.

equal terms for all operators of services of the same nature that so request. Operators of public networks must negotiate and sign interconnection contracts within 60 calendar days. Once signed, the contracts must be presented to OSIPTEL for approval or for stipulations to be incorporated into the contract, within a maximum of 30 calendar days. If the parties do not reach an agreement on the terms of interconnection, it is up to OSIPTEL to issue the specific rules that will apply to the operators, including interconnection charges.[201] OSIPTEL exercised its regulatory power during the review period with respect to interconnection charges. In 2015, it established ceiling interconnection charges for termination of calls on mobile networks. At the start of 2018, it lowered those interconnection charges and converted them into a single charge. It subsequently updated the single charge using the mechanism established for that purpose, which brought the current charge to USD 0.00302.[202] The charges apply on a differentiated basis in urban versus rural areas.

4.201. With the aim of stimulating competition in the telecommunications market, OSIPTEL has updated the number portability regime. That regime was introduced in 2007 for mobile telephony and expanded in 2012 to fixed telephony.[203] Approval of the Regulations on Mobile and Fixed Telephone Number Portability in 2013 established the conditions and procedures for portability and reduced the waiting time from seven days to 24 hours.[204] By February 2019, 16 million mobile lines and 161,169 fixed lines had availed themselves of the number portability mechanism.[205]

4.202. Regulations were approved in 2015 to implement Law No. 30083 on strengthening competition in the public service market (2013), which governs the market entry of Mobile Virtual Network Operators (MVNOs).[206] Mobile Network Operators (MNOs) are required to provide remunerated access to MVNOs; to operate, MVNOs are required to obtain a concession and authorization from the MTC. To promote competition, Law No. 30083 provides that MNOs must offer MVNOs the same wholesale services that they themselves provide on non-discriminatory and no less favourable terms, so that MVNOs can replicate the MNOs' retail services. At the time of writing, a number of MVNOs are in the process of executing their contracts, while others are still negotiating.

4.203. The structure of the telecommunications market, and the mobile telephony and mobile Internet segments in particular, became less concentrated during the review period, thanks to the entry of new operators. Such leading companies as Spain's Telefónica del Perú S.A.A. (under the brand name "Movistar")[207] and Mexico's América Móvil Perú S.A.C. (under the brand name "Claro"), were joined in 2013 by Chile's Entel Perú S.A. ("Entel"). Vietnam's Viettel ("Bitel") entered the mobile telephone market in 2014, providing an important catalyst for competition. As at April 2019, four companies were registered as MVNOs: Incacel Móvil, Dolphin, Farmagusta and Guinea Mobile; only the first two were operating.

4.204. Overall, Telefónica del Perú continues to lead the market but with a gradually diminishing share of the mobile telephony, mobile Internet and fixed Internet access segments. At the end of 2018, Telefónica del Perú had 37.2% of the country's mobile telephone lines (compared to 55.3% in 2013). The second largest operator was América Móvil Perú S.A.C. (with 29.0%), followed by Entel (18.5%), Viettel (15.3%) and Incacel (0.02%) (Table 4.13).

[201] Articles 103 to 108 of Supreme Decree No. 020-2007-MTC.

[202] Resolutions No. 031-2015-CD/OSIPTEL; No. 021-2018-CD/OSIPTEL; and No. 275-2018-CD/OSIPTEL.

[203] Law No. 28999 of 4 April 2007 on number portability for mobile services; and Law No. 29956 of 7 December 2012, which establishes the right to number portability for fixed telephony services.

[204] The regulations and amendments thereto have been consolidated in the Single Harmonized Text of the Regulations on Number Portability for Fixed and Mobile Public Telephony Services, approved by Board Resolution No. 286-2018-CD-OSIPTEL.

[205] Report on number portability as at 28 February 2019, OSIPTEL. Viewed at: https://www.osiptel.gob.pe/documentos/indicador-portabilidad-numerica.

[206] The implementing regulations for Law No. 30083 were approved by Supreme Decree No. 004-2015-MTC.

[207] The company Telefónica del Perú S.A.A. (owned by the Spanish company Telefónica) was granted a concession by the Peruvian State in 1994, which gives it the right to utilize public telecommunications services infrastructure and networks, with the obligation to provide third-party access to the operator's basic infrastructure and network facilities. The concession has been renewed until 2027.

Table 4.13 Participation in Peru's mobile telephony market, 2013-18

(Percentage)

	2013	2014	2015	2016	2017	2018
Telefónica del Perú S.A.A. (Movistar)	55.3	54.3	52.1	44.5	38.2	37.2
América Móvil Perú S.A.C. (Claro)	39.6	39.2	35.3	32.6	32.0	29.0
Entel Perú S.A. (Entel)	5.1	5.5	9.0	12.9	16.4	18.5
Viettel Perú S.A.C. (Bitel)	n.a	1.0	3.6	9.8	13.1	15.3
Incacel Móvil S.A. (Inkacel)	n.a	n.a	n.a	0.2	0.2	0.02

n.a. Not applicable (the company had not yet entered the market).

Source: Information provided by the authorities.

4.205. Increased competition also reduced concentration in the mobile Internet market, particularly with the rapid rise in Viettel's market share, which rose from 1.9% of mobile telephones with mobile Internet access in 2013 to 14.3% in 2018 (Table 4.14).

Table 4.14 Participation in Peru's mobile Internet market, 2014-18

(Percentage)

	2014	2015	2016	2017	2018
Telefónica del Perú S.A.A. (Movistar)	57.1	54.8	44.4	40.9	38.6
América Móvil Perú S.A.C. (Claro)	37.3	33.2	33.5	35.4	32.9
Entel Perú S.A. (Entel)	3.7	7.1	9.7	9.7	14.2
Viettel Perú S.A.C. (Bitel)	1.9	4.8	12.5	13.9	14.3

Source: Information provided by the authorities.

4.206. Telefónica del Perú gradually lost market share as well in the fixed Internet access segment, with the rise of América Móvil Perú and other companies. Its share fell from 85.6% in 2013 to 74.9% at year-end 2018 – while that of América Móvil rose from 12.9% to 18.1% and those of Entel and other operators from 1.4% to 7%.[208] There were few structural changes, on the other hand, in the fixed telephony market, given the relative stagnancy of that segment over the past decade, as users have migrated to mobile telephony. As at the end of 2018, Telefónica del Perú maintained its lead in fixed telephony (with a 74.2% market share), followed by América Móvil (21.5%) and Entel (2.2%).

4.207. Concessionaires for public telecommunications services are free to set rates as they choose, but subject to a system of ceiling rates set by OSIPTEL, or as established in the concession contract.[209] OSIPTEL has exclusive authority for setting, revising or adjusting ceiling rates and establishing rules for their application. It can also dispense with these rules if it determines that the conditions exist for effective competition without them.[210] OSIPTEL made several adjustments during the review period to rates that are subject to the regulated regime, including a 47% reduction, in 2018, in the ceiling rate charged by Telefónica del Perú for fixed-mobile calls, to PEN 0.0009 per second (excluding IGV).[211]

4.208. According to the ITU, prices in Peru's basket of ICT prices, expressed as a percentage of gross national income per capita, have fallen significantly, particularly for the basket of broadband purchases (from 7.7% in 2011 to 2.55% in 2016) and of mobile telephony (from 10.53% in 2011 to 2.0% in 2016). In 2016, both of Peru's price baskets were below the world averages of 9.6% and 3.0%, respectively.[212]

4.209. With respect to financial inclusion and use of digital payments, Peru still lags behind high-income as well as other Latin American countries. Reversing that situation – through increased

[208] Information provided by the authorities.
[209] Supreme Decree No. 013-93-TCC, Article 67.
[210] Article 4 of the General Regulations on Rates, approved by Board Resolution No. 060-2000-CD-OSIPTEL.
[211] The rates charged by Telefónica del Perú are regulated by the concession agreements signed by the Peruvian State.
[212] Online information from the ITU. Viewed at: https://www.itu.int/en/ITU-D/Statistics/Pages/default.aspx.

connectivity and capacity building for the use of digital services – is one of the challenges that Peruvian authorities have set for themselves.

4.210. The MTC's National Telecommunications Programme (PRONATEL) was established in 2018. Its objectives include the advancement of universal access to telecommunications services, the development of broadband and the correction of disparities in national communications infrastructure.[213] PRONATEL is responsible for executing public telecommunications service projects that assign greater emphasis to rural areas and areas of priority social interest (determined by MTC ministerial resolution). PRONATEL is funded through contributions from telecommunications companies (1% of annual invoicing) and other sources, including 20% of the royalties collected for use of the radio spectrum.

4.211. The Government of Peru has launched major public-private investment projects in telecommunications infrastructure with the aim of promoting digitalization, strengthening the competitiveness of the economy and closing the connectivity gap. During the review period, it implemented a project for a National Fibre Optic Backbone (RDNFO), based on Law No. 29904 of 2012, on the Promotion of Broadband and Construction of the RDNFO, and its implementing regulations (Supreme Decree No. 014-2013-MTC).[214] Launched in 2014, the project consists of the deployment and operation of a 13,500 km fibre-optic network connecting 22 regional capitals and 180 provincial capitals, with an investment of USD 333 million.[215] At the same time, private companies have expanded their own fibre-optic networks. As at March 2018, the total extent of Peru's fibre-optic networks amounted to 70,585 km.

4.212. Building on the RDNFO, 21 regional broadband projects (4G technology) will be placed in operation in three phases between 2019 and 2021. USD 1,875 million in financing has been obtained for these projects, which will connect 3.9 million inhabitants to the Internet. Contracts for the regional projects will be awarded by means of public bidding.

4.213. The Government conducted several public bidding processes during the review period for public telecommunications service concessions and the allocation of radio spectrum bands. The concession contracts include commitments undertaken by the bid-winning companies, such as ensuring mobile coverage for a specified number of localities within a specified timeframe. The authorities plan to conduct a new round of radio spectrum auctions in 2019.

4.214. In performing its dispute settlement function, OSIPTEL settles disputes between operating companies over failures to meet obligations concerning fair competition, access to and shared use of public infrastructure, and problems connected with access to networks, interconnection and rates, among other issues. OSIPTEL has a permanent collegiate body for handling disputes in the first instance concerning free and fair competition but sets up ad hoc bodies for disputes of other kinds. In the second instance cases go to a Dispute Settlement Tribunal.[216] Between 2013 and 2018, OSIPTEL conducted 60 dispute settlement proceedings, settling 44 in the first instance. The great majority of settled cases concerned unfair competition connected with rule violations.[217]

4.215. The definitive or temporary importation of telecommunications equipment into Peru requires an inward clearance permit in accordance with the regulations implementing the Telecommunications Law (Article 245).

4.4.5 Transport

4.216. Between 2013 and 2018, the average annual contribution of the Peruvian transport sector to GDP was 5.4% (at constant prices). The Ministry of Transport and Communications (MTC) is the

[213] Supreme Decree No. 018-2018-MTC, which provides for absorption of the Telecommunications Investment Fund (FITEL) by the Ministry of Transport and Communications and creation of the National Telecommunications Programme.

[214] In June 2014, following a public bidding process, a 20-year concession contract for the RDNFO project was awarded to Consorcio Azteca Comunicaciones, based on the PPP co-financing model.

[215] Online information from PROINVERSIÓN. Viewed at: http://www.proinversion.gob.pe/MODULOS/LAN/landing.aspx?pfl=1&lan=13&tit=red-dorsal-de-fibra-%C3%B3ptica.

[216] For more information, see: https://www.osiptel.gob.pe/categoria/solucion-de-controversias-agencia.

[217] OSIPTEL, *Estadísticas de Solución de Controversias.* Viewed at: https://www.osiptel.gob.pe/categoria/estadisticas-cco.

body that governs and promotes the country's land (roads and railways), air, maritime and inland waterway transport systems. The MTC is responsible for formulating and delivering policies that contribute to the efficient development of those systems, specifically the attainment of sectoral strategic objectives, including shorter time-scales and lower costs in transport systems; fewer negative externalities; and improved governance, greater decentralization and further modernization of the sector. Through its control bodies and associated agencies, the MTC also oversees the operation of Peru's land routes, aviation routes and waterways.[218]

4.217. The MTC's structure and functions were reformed pursuant to Supreme Decree No. 021-2018-MTC, published on 31 December 2018. The main changes include the establishment, within the Office of the Vice-Minister for Transport, of the Directorate-General for Multimodal Transport Policies and Regulation, which amalgamates the previous Directorates-General of Water Transport, Road and Rail, and Land Transport and assumes their functions. Peru has also created a new Directorate-General of Transport Authorizations, which will have responsibility for granting authorizations, permits and licences for land and waterborne transport infrastructure and services. At May 2019, the new structure was in the process of being established.

4.218. The Supervisory Authority for Investment in Public Transport Infrastructure (OSITRAN) is the body responsible for standardizing, regulating, overseeing, imposing penalties, and settling disputes relating to the operation of road-transport, ports and airport infrastructure.[219] OSITRAN also regulates market conduct in the transport sector, verifies compliance with the concession contracts for which it is responsible (33 in all), and oversees two state-owned companies: the Peruvian Commercial Aviation Corporation S.A. (CORPAC) and the National Port Company S.A. (ENAPU).[220] OSITRAN's institutional policy for the period 2019-22 is to promote the best possible conditions to enable the private sector to participate in closing the public transport infrastructure gap in Peru.[221]

4.4.5.1 Air transport

4.219. Commercial air services in Peru have grown steadily in recent years partly as a result of buoyant external trade and growing tourism. Peru's air transport service has been declared a public service that serves the national interest and meets national needs. It is governed chiefly by the Constitution of 1993, Law No. 27261 of 10 May 2000 on civil aviation and its implementing regulations (Supreme Decree No. 050-2001-MTC), and the international agreements in force on air transport. Peruvian legislation also includes CAN Decision No. 582 (2004) regulating air transport between the member countries, and CAN Decision No. 619 (2005) on a user's rights and duties in relation to air transport within the CAN. During the period under review, new rules were introduced into the air-transport and airports sector covering matters such as environmental management and the provision of spaces for aviation infrastructure. Although significant, the new rules do not alter the general thrust of national aviation policy (Table 4.15).

Table 4.15 Changes to legislation governing aviation since 2013

Legislation	Description	Date of publication
Law No. 30339	Law on the Control, Surveillance and Defence of National Airspace	29 August 2015
Law No. 30370	Law on the Environmental Management of Noise Generated by Aircraft	29 November 2015
Supreme Decree No. 043-2017-RE	Adherence to the International Air Services Transit Agreement – IASTA	5 October 2017
Law No. 30740	Law on Remote-Controlled Aircraft Systems (RPAS)	22 March 2018
Legislative Decree No. 1364	Exceptional measures to provide the areas required for provincial airport infrastructure projects	23 July 2018

Source: Information provided by the Peruvian authorities.

[218] Online information from the MTC. Viewed at: http://portal.mtc.gob.pe/nosotros/index.html.
[219] Online information from OSITRAN. Viewed at: https://www.ositran.gob.pe/nosotros/quienes-somos.
[220] Online information from OSITRAN. Viewed at: https://www.ositran.gob.pe/wp-content/uploads/2018/10/concesiones_OCT2018.pdf.
[221] OSITRAN, *Plan Estratégico Institucional 2019-2022*. Viewed at: https://www.ositran.gob.pe/wp-content/uploads/2018/10/023CD2018.pdf.

4.220. Since the 1990s, Peru has applied an open trade policy in relation to the economic aspects of commercial aviation. Law No. 27261 (Article 5) provides that civil aviation activity is reserved to the private sector, and that state involvement may occur only as an alternative in cases of necessity and public interest, as declared in law. The State may not intervene in setting or regulating tariffs or charges for air transport and it no longer has a monopoly on airport management. The State's ongoing objectives in this matter include regional integration, the country's air connectivity, and expanding the provision of air services.[222] In order to achieve these aims, the authorities have signed a number of air services agreements (ASA) in recent years.

4.221. The Directorate-General of Civil Aviation (DGAC) at the MTC is Peru's civil aviation authority. The DGAC is vested by law with autonomy and the powers to regulate, authorize, supervise, control, inspect and impose penalties in respect of all civil aviation activities and the natural and legal persons that engage in them. The duties of the DGAC include responsibility for approving and amending the Aviation Regulations of Peru (RAP); formulating and managing the National Air Navigation Plan; implementing national air policy; and negotiating and signing agreements and understandings on aviation matters.[223]

4.222. In order to engage in civil aviation activities within Peruvian territory, Peruvian and foreign airlines must obtain an operating permit (valid for four years and renewable for equal periods) or a flight permit (valid for up to one year) from the DGAC. Aircraft require a certificate of airworthiness issued by the DGAC and must have Peruvian registration unless they are foreign aircraft subject to contracts with Peruvian airlines authorized by the DGAC. In order to obtain Peruvian registration, the aircraft must be entered in the Public Aircraft Register and hold a certificate of airworthiness.[224] Aircraft may be owned, and permanent Peruvian registration obtained, only by natural persons of Peruvian nationality or foreigners that are permanently domiciled in Peru, or by legal persons incorporated under Peruvian laws that have legal domicile in Peru.[225]

4.223. Domestic commercial aviation is reserved for Peruvian natural or legal persons. In order to qualify under that criterion, a Peruvian legal person must have its chief domicile in Peru and at least half plus one of its directors must be Peruvian nationals or permanently domiciled in Peru. Additionally, at least 51% of the company's share capital must be held by Peruvian nationals during the first six months of the life of the first operating permit. However, after that six-month period, up to 70% of the share capital may be foreign-owned.[226] For domestic commercial aviation operations, the staff performing aeronautical duties on board must be Peruvian or resident in Peru and hold a Peruvian licence.[227]

4.224. The DGAC grants authorizations to engage in international commercial aviation. Foreign legal persons authorized to provide international air transport services, directly or indirectly, must specify an address for service in Peru and appoint a legal representative in the country. In order to encourage the integration of the cities in the country's interior, the law requires Peruvian legal persons applying for an international operating permit for scheduled air passenger and cargo transport to operate similar domestic air transport services.[228]

4.225. More than 50 airlines have international operations in Peru and around 25 airlines perform domestic operations.[229] At September 2018, the airlines with the largest percentage share of passengers internationally were LAN Perú S.A. (29.79%), Taca Perú (16.62%) and LAN Airlines (8.58%). For domestic passenger traffic, the airlines with the greatest shares were LAN Perú S.A. (56.76%), Peruvian Air Line S.A. (14.21%) and Taca Perú (10.08%). Peru does not have a state-owned airline, since civil aviation is reserved for the private sector.

[222] Article 4 of Law No. 27261.
[223] Article 9 of Law No. 27261.
[224] Article 63 of Supreme Decree No. 050-2001-MTC.
[225] Article 47.1 of Law No. 27261. Aircraft owned by foreigners domiciled in Peru may obtain a Peruvian registration only when used for general aviation activities.
[226] Article 79.2 of Law No. 27261 and Articles 159 and 160 of Supreme Decree No. 050-2001-MTC, as amended by Supreme Decree No. 038-2007-MTC of 26 October 2007.
[227] Article 75 of Law No. 27261, as amended by Legislative Decree No. 999 of 19 April 2008.
[228] Article 83 of Law No. 27261 and Article 99.2 of Law No. 27261.
[229] Information extracted from the monthly airline passenger traffic statistics on the DGAC statistics page. Viewed at: http://portal.mtc.gob.pe/transportes/aeronautica_civil/estadistica/pasajeros.html.

4.226. In order to promote air connectivity in Peru, the DGAC, together with the Ministry of Foreign Affairs, is engaged on an ongoing basis in the negotiation, signature and updating of ASAs, side-letters and memoranda of understanding regulating commercial aviation relations with other States. In the absence of such agreements or side-letters, the DGAC may grant authorizations in conformity with the principle of reciprocity.

4.227. At the beginning of 2019, Peru had international aviation instruments in force with 39 of the world's economies[230] and was in active negotiation with a further 27 States and the European Union. The agreements define the routes, time-slots and other commercial air rights between the parties, while their scope is tailored to the profile of each bilateral relationship. They include various open skies agreements (with no limitation on routes, rights or operating points), that grant any number of airlines of the other party traffic rights up to the fifth air freedom for passenger transport and up to the seventh freedom for cargo. In the last three years, Peru has signed and/or ratified ASAs with Brazil, Australia, New Zealand, Singapore, Portugal and the Dominican Republic, and hopes soon to conclude agreements with Qatar, Spain, the United Arab Emirates and Mexico. Additionally, through Memoranda of Understanding, the DGAC has initiated or extended commercial aviation relations with Panama, Qatar, Finland, Switzerland, Mexico and Cuba.

4.228. In accordance with CAN Decision No. 582, the member countries mutually grant up to fifth freedom traffic rights for scheduled passenger, cargo and mail flights; and up to fifth freedom rights for unscheduled passenger flights (only where there are no scheduled flights) and unscheduled cargo and mail flights within the subregion. They also mutually grant up to fifth freedom rights for the combined scheduled transport of passengers, cargo and mail between member countries and third countries, subject to the holding of bilateral or multilateral negotiations; for unscheduled transport of cargo only, there are no negotiating requirements or restrictions.

4.229. Operators are free to set the tariffs and charges for their commercial air transport activities, including the transport of passengers, cargo and mail. Exceptionally, on grounds of national interest or public necessity, the State may set minimum and maximum tariffs for domestic or international air transport by way of a Supreme Decree following a vote in the Council of Ministers.[231] That power was not exercised during the period under review.

4.230. In conformity with Law No. 27261 (Article 9), technical maintenance services, ancillary services and aircraft repair services in Peru may be performed by Peruvians or foreign nationals, subject to certification and authorization by the DGAC.

4.4.5.1.1 Airports

4.231. Peru has 23 main airports in all, of which 19 are the object of private-sector concessions and 4 are operated and managed by the Peruvian Commercial Aviation Corporation S.A. (CORPAC), a public limited company owned by the State. CORPAC also manages 75 aerodromes and 28 heliports.

4.232. Peru's major airport is the Jorge Chávez International Airport (AIJCH) in Callao, near Lima. The AIJCH deals with a high percentage of all air traffic in the country, handles more than 20 million passengers each year, and is today one of the man connection hubs in South America. In 2001, the airport concession for AIJCH was awarded to Lima Airport Partners (LAP) for 40 years with an investment commitment of USD 1,062 million, of which USD 348 million had been implemented at end-2017.[232] In October 2018, the agreement launching works to expand AIJCH was signed. The

[230] Argentina; Australia; Belgium; Plurinational State of Bolivia (CAN regime); Brazil; Canada; Chile; China; Colombia (CAN regime); Costa Rica; Cuba; Denmark; Dominican Republic; Ecuador (CAN regime); Finland; France; Germany; Hong Kong, China; Korea, Republic of; Malaysia; Mexico; Netherlands; Nicaragua; Norway; Panama; Paraguay; Portugal; Qatar; Singapore; South Africa; Spain; Sweden; Switzerland; Thailand; Turkey; United Arab Emirates; United Kingdom; United States; and Uruguay. Information provided by the authorities.

[231] Article 84 of Law No. 27261.

[232] Since May 2008, the shareholding structure of LAP has been: Fraport AG (70.01%); International Finance Corporation (19.9%) and Investment Fund for Infrastructure, Public Services and Natural Resources, managed by AC Capitales SAFU S.A. (10%).

works will include the construction of a new passenger terminal, another runway, a central apron for aircraft and a new control tower.[233]

4.233. Airport concessions lasting 25 years have also been awarded in the provinces of Peru. The concession for the First Group of Provincial Airports[234] was awarded to the Airports of Peru consortium in 2006 with an investment commitment of USD 207.6 million (USD 108.1 million implemented at end-2017). The concession for the Second Group[235] was awarded in 2011 to the Andean Airports of Peru consortium with an investment of USD 79.2 million (USD 62.5 million implemented at end-2017).

4.234. During the period under review, work continued on closing the infrastructure gap and addressing the growing flows of tourists and trade into and out of Peru. In 2014, the concession contract to construct and operate Chinchero–Cusco International Airport was awarded to the Kuntur Wasi Consortium, which will invest up to USD 420 million, with co-funding from the Peruvian Government. The expectation is that the airport construction process will end in 2021 and that the airport will become the main point of entry for visitors to Machu Picchu.

4.235. Air navigation services are reserved for the State by law[236], and are the responsibility of CORPAC for the domestic airport network in its entirety, including the airports operated under concession. Additionally, CORPAC provides airport services at the airports it manages. Both types of services are subject to tariff regulation because they are not provided under competitive conditions. OSITRAN is responsible for supervising and regulating the tariffs and commercial policies that CORPAC applies in the state airports it manages, and the services it provides in airports operated under concessions.[237] In 2017, tariffs for air navigation services, valid for four years, were approved; they will be adjusted in line with inflation in Peru or the United States, depending on the currency in which the service is charged. Tariffs for airport services have not been updated since 2004.

4.236. During the period under review, air passenger traffic grew quickly (Table 4.16). In 2017, AIJCH and the two groups of airports operated under concessions handled 30.3 million passengers on domestic and international flights, compared to 22 million in 2013. However, traffic is heavily focused on AIJCH, which takes 97% of international passenger traffic, highlighting not only the need to expand the airport's capacity, as planned, but to continue investing in airport infrastructure in other regions of the country in order to reduce congestion at AIJCH. By contrast, cargo transport has fallen during the period under review; the authorities attribute this drop to the less favourable international economic environment. Total cargo transported fell from 326,000 tonnes in 2013 to 308,000 tonnes in 2017, of which 90% was international and 10% domestic. In 2017 there were 322,200 operations in all (landings and take-offs), of which 245,800 were domestic flights and the remainder international.

Table 4.16 Air transport statistics, 2013-17

	2013	2014	2015	2016	2017
Passengers transported (millions)[a]	**22.0**	**23.4**	**25.7**	**27.9**	**30.3**
Jorge Chávez International Airport	15.9	16.8	18.4	20.2	22.0
First group of airports operated under concessions	3.8	4.2	4.5	4.7	5.2
Second group of airports operated under concessions	2.3	2.4	2.8	3.0	3.1
Cargo transported (thousands of tonnes)	**326**	**338**	**339**	**318**	**308**
Domestic	36	32	32	28	30
International	290	306	308	289	278

[233] Online information from CORPAC. Viewed at: http://www.corpac.gob.pe/Main.asp?T=3759&S=&id=23&idA=9366.

[234] Tumbes, Talara, Piura, Cajamarca, Chiclayo, Chachapoyas, Tarapoto, Trujillo, Huaraz, Iquitos, Pucallpa and Pisco airports.

[235] Arequipa, Ayacucho, Juliaca, Puerto Maldonado and Tacna airports.

[236] Article 29 of Law No. 27261. By Directorial Resolution No. 235-2013, the DGAC delegated the management of air navigation services to CORPAC.

[237] OSITRAN (2018), CORPAC performance report 2017. Viewed at: https://www.ositran.gob.pe/wp-content/uploads/2017/12/ID2017_CORPAC.pdf.

	2013	2014	2015	2016	2017
Operations T/L (thousands)[b]	**273.0**	**283.5**	**304.4**	**309.3**	**322.2**
Domestic flights	213.2	220.7	238.4	239.6	245.8
International flights	59.8	62.8	66.0	69.7	76.4

a Includes domestic and international passenger traffic at airports operated under concessions.
b T/L=Take-offs and landings; scheduled and non-scheduled flights included.

Source: Information provided by the authorities and online information from the DGAC. Viewed at: http://portal.mtc.gob.pe/transportes/aeronautica_civil/estadistica.

4.237. In 2017, the airports managed by CORPAC accounted for 25% of all operations, 16.7% of passenger traffic and 4.0% of the cargo carried on the domestic airport network. CORPAC chiefly handles domestic flights, so its number of international flights is very low. Cusco is the largest airport operated by CORPAC; in 2017, it attracted 81% of all CORPAC's flows of passengers and cargo.

4.4.5.2 Maritime transport

4.238. Some 92% of Peru's external trade is conducted by sea. In 2018, there were 18 shipping companies in the Peruvian Merchant Navy (five more than in 2012), and 54 Peruvian-flagged vessels (49 in 2012).[238] The international maritime transport service is provided almost entirely by foreign shipping companies.[239] Maritime cabotage transport is still reserved for Peruvian shipping companies and is limited in scope. The cargo river transport services offered in Amazonia are important, but are largely provided in a non-ideal fashion. The authorities are working to improve controls on river vessels.

4.239. During the period under review, the Directorate-General of Water Transport (DGTA) at the MTC assumed responsibility for controlling, supervising and facilitating the country's waterborne transport systems, and for designing and delivering policies to develop the Peruvian Merchant Navy. However, in conformity with Supreme Decree No. 021-2018-MTC, published on 31 December 2018, the DGTA will cease to exist, and its duties will be taken on by the recently established Directorate-General of Multimodal Transport Policies and Regulation and the Directorate-General of Transport Authorizations. At the time of writing, the new MTC structure was not yet operational, therefore this subsection will continue to refer to the structure that is to be superseded.

4.240. Current shipping policy is based on the following principles and lines of action: free competition in the market; opening of new shipping routes; freedom to buy and sell vessels; flexibility in chartering foreign-flagged vessels; option to charter foreign-flagged vessels for three years for cabotage purposes; and liberalization of maritime cabotage for the carriage of goods (except for liquid hydrocarbons and liquefied natural gas) for three years.

4.241. In order to encourage the development of the Peruvian shipping industry, Peruvian shipowners and Peruvian shipping companies providing waterborne transport services for cabotage and/or international traffic may, on a temporary basis, import vessels, parts and accessories procured through bareboat charter and/or rental or leasing arrangements with a mandatory purchase option, with suspension of payment of all taxes, provided that the shipowner or company retains possession of the vessel for five years. The deadline for applications for temporary importation is 7 August 2025.[240] Other tax benefits were abolished in 2014.

4.242. Maritime transport is governed chiefly by Law No. 28583 on the Revival and Promotion of the Peruvian Merchant Navy of 19 July 2005 and its implementing regulations (Supreme Decree No. 014-2011-MTC).[241] During the period under review, there were several changes to the legislation governing maritime transport (Table 4.17), such as the establishment of a legal framework for logistics hubs, the declaration of the international multimodal carriage of goods as a matter of national interest, and the adoption of new rules on cabotage.

[238] The types of vessels were: 24 tugboats/river pushers; 11 oil tankers; seven barges; six gas tankers; two chemicals tankers; two general cargo ships; and two passenger vessels.
[239] In the maritime sphere, in 2018, there were 6,160 vessel arrivals, including 1,368 container vessels and 1,353 bulk carriers registered abroad, which together accounted for 84% of Peru's external trade shipments.
[240] Article 8 of Law No. 28583, as amended by Law No. 29475 of 17 December 2009.
[241] Law No. 28583 was amended by Law No. 29475 and by Law No. 30580 of 7 June 2017.

Table 4.17 Changes to legislation governing maritime transport since 2013

Legislation	Description	Date of publication
Law No. 30230	Empowers the MTC to charge a waterway toll.	12 July 2014
Legislative Decree No. 1184 and Supreme Decree No. 008-2015-MTC	Declares the provision of the waterborne passenger transport service by ferry in Peruvian Amazonia to be a service serving the public interest and public needs, and lays down implementing regulations.	12 August 2015 and 24 September 2015
Law No. 30580	Amends Law No. 28583 on the Revival of the Peruvian Merchant Navy in order to promote cabotage in external trade operations.	7 June 2017
Law No. 30809	Establishes the legal framework for logistics hubs under the MTC.	7 July 2018
Legislative Decree No. 1413	Promotes and facilitates maritime cabotage traffic in respect of passengers and cargo.	19 September 2018
Legislative Decree No. 1430	Amends Legislative Decree No. 714, declares the international multimodal carriage of goods to be a matter of national interest, and approves the relevant rules.	16 September 2018
Supreme Decree No. 021-2018-MTC	Approves Section I of the Regulations on the Organization and Functions of the MTC.	31 December 2018
Ministerial Resolution No. 015-2019-MTC/01	Approves Section II of the Regulations on the Organization and Functions of the MTC.	15 January 2018
Ministerial Resolution No. 043-2019-MTC/01	Approves the Table of Equivalences of the Agencies and Organizational Units of the MTC.	30 January 2019

Source: Information provided by the Peruvian authorities.

4.243. Pursuant to Law No. 28583, an operating permit awarded by the DGTA is required in order to engage in waterborne transport activities (by sea, river or lake) in Peru.[242] The permit is awarded to Peruvian shipowners or shipping companies that satisfy the requirements set out in that Law. A Peruvian shipowner or Peruvian shipping company must be a natural person of Peruvian nationality or a legal person established in Peru whose principal domicile and real and effective place of business are in Peru; provide waterborne transport services for national and/or international traffic; and own or be the lessee of at least one Peruvian-flagged merchant vessel. For legal persons, at least 51% of the paid-up equity must be held by Peruvian nationals. Furthermore, the chairman of the board of directors, the majority of directors and the chief executive officer must be Peruvian nationals resident in Peru.[243] At May 2019, 12 Peruvian shipping companies held maritime operating permits.

4.244. All Peruvian-flagged vessels must be listed in the Ship Register of the National Supervisory Authority for Public Registers, which confers ownership. Entry in the register requires the Peruvian shipowner or shipping company to hold a permit from the DGTA. If the ship is listed in a foreign register, that listing must be cancelled or suspended. Once the vessel has been listed in the Ship Register, the registration authority informs the Directorate-General of Harbour Authorities and Coastguards (DGCG) so that it can grant the registration certificate authorizing the ship to fly the Peruvian flag and enjoy free navigation inside and outside Peru's territorial waters.[244] Peruvian-flagged ships must have a Peruvian captain, and all the crew must be Peruvian nationals. In exceptional circumstances where there is a verified shortage of qualified Peruvian staff, up to 15% of the crew may be foreigners for a limited time only. This exception does not apply to the captain of the vessel.[245]

4.245. Law No. 28583 provides that commercial waterborne transport for national traffic or cabotage is reserved exclusively for Peruvian-flagged merchant vessels owned by Peruvians or operating under financial leasing or bareboat charter arrangements with a mandatory purchasing option.[246] In the event that there are no Peruvian vessels or vessels operating under such arrangements, foreign-flagged vessels may be chartered and operated solely by Peruvian shipowners or shipping companies for a period of three years from the date of issue of the operating permit, renewable for up to one further year. That period was extended from six months to three years under Law No. 30580 of 2017.[247]

[242] Under Supreme Decree No. 021-2018-MTC, this will, in future, be the duty of the new Directorate-General of Transport Authorizations.
[243] Article 4.1 of Law No. 28583.
[244] Article 9 of Law No. 28583.
[245] Article 13.6 of Law No. 28,583, as amended by Law No. 29475 of 2009.
[246] Article 7.1 of Law No. 28583.
[247] Article 7.2 of Law No. 28583, as amended by Law No. 30580 of 2017.

4.246. One significant change in the law was the liberalization of maritime cabotage transport for passengers and cargo (except for the carriage of bulk liquids other than liquefied natural gas). Legislative Decree No. 1413 was published on 13 September 2018 with a view to promoting and facilitating maritime cabotage transport, meeting users' needs and improving the country's competitiveness; it will enter into force once its implementing regulations have been published. The Decree will relax the regime governing the supply of cabotage transport services, including by removing the requirements for a minimum 51% of Peruvian equity, for the board of directors and management to be Peruvian, and for ownership of Peruvian-flagged vessels.[248] It is expected that this measure will help to increase the frequency of services and types of vessels available, reduce the high costs of logistics in Peruvian external trade (which in some cases account for as much as 50% of the price of export products) and generally improve the country's competitiveness.

4.247. For reasons of national security and defence, public interest and national interest, a maximum of 25% of the volumes of liquid hydrocarbons transported on national traffic or cabotage routes are reserved for the Peruvian Navy.[249] In practice, however, this does not apply, since the Peruvian Navy does not have any appropriate vessels for such operations.

4.248. The principles of freedom of routes, reciprocity and free competition are enshrined in Peruvian law. Peruvian shipowners and Peruvian shipping companies have full freedom of routes and there are no legal or administrative restrictions on freedom of access to traffic, services or routes.[250] Cargo transported by water for Peru's foreign trade may only be restricted in cases of national crisis and/or state of emergency; in application of the principle of reciprocity; where ships do not meet safety or environmental protection provisions; or where ships are not covered for protection, compensation and/or civil liability.[251] The reciprocity principle (positive and negative) requires foreign companies' participation in Peru to be equivalent to the Peruvian companies' entitlement to participate in the foreign country concerned. Hitherto Peru has not invoked reciprocity in order to apply restrictive measures in relation to maritime transport.

4.249. Regarding competition, the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) is empowered to investigate and impose penalties for abuses of dominant position and practices that have the effect of restricting, preventing or distorting free competition that shipowners or shipping companies have planned or implemented, regardless of their nationality. The MTC works with INDECOPI to apply the necessary remedial measures.[252] During the period under review, INDECOPI imposed penalties on six shipping companies that had agreed to divide up the transport by sea of various brands of vehicles on various routes. The case closed in 2018 with the imposition of a fine equivalent to USD 14.7 million (Section 3.3.4).

4.250. The member countries of the CAN afford each other preferential treatment in cabotage services. Moreover, they have freedom of access so that cargo originating in and intended for shipment within the subregion can be carried by on vessels owned, chartered or operated by shipping companies of the member countries or third countries.[253] If shipping companies from one or more CAN country are the object of restrictions, exclusions or discrimination in respect of access to cargo by third countries, CAN countries may act jointly to adopt reciprocal measures against such third countries.[254]

4.4.5.2.1 Ports

4.251. Law No. 27943 on the National Port System (2003)[255], its implementing regulations (Supreme Decree No. 003-2004-MTC) and the National Port Development Plan (Supreme Decree No. 009-MTC-2012) are the key instruments governing the national port system. The port policy guidelines include the promotion of the international competitiveness of the Peruvian port system,

[248] Article 4 of Legislative Decree No. 1413 of 13 September 2018.
[249] Article 7.4 of Law No. 28583, as amended by Law No. 29475 of 2009.
[250] Article 6.2 of Law No. 28583.
[251] Article 13 of Law No. 28583.
[252] Article 13.4 of Law No. 28583.
[253] CAN Decision No. 288 of 21-22 March 1991.
[254] CAN Decision No. 390 of 2 July 1993 and CAN Resolution No. 422 of 5 August 1996.
[255] Law No. 27943 was amended by Legislative Decree No. 1022 of June 2008.

investment promotion, and the fostering of free access, fair competition and freedom of participation in the port services market.[256]

4.252. Set up under Law No. 27943 and attached to the MTC, the National Port Authority (APN) is responsible for developing the National Port System (SPN) and promoting private investment in ports. The APN draws up the National Port Development Plan (PNDP) and proposes it to the MTC; the Plan's strategic lines are to build the SPN's institutions; bolster modernization of port infrastructure and connectivity; promote port competitiveness; foster the integration of value-added port-logistics activities into supply chains; and build a relationship between port and city in a sustainable fashion.

4.253. The APN has responsibility for awarding authorizations to commence works to construct or expand a port, and issues the port licences identifying the land, water areas and infrastructure that will be used to provide port services.

4.254. Peruvian ports or port terminals can be categorized as public or private, in line with who owns the works and installations. Moreover, regardless of ownership, ports can be for public use (where there is a requirement to make port assets available to any applicant) or private use. The Empresa Nacional de Puertos S.A. (ENAPU) manages the port services and activities for publicly owned ports.[257] ENAPU belongs to the National Fund for the Financing of State Business Activity (FONAFE).

4.255. Management of port infrastructure may be awarded to the private sector (Peruvian or foreign) for up to 30 years under any of the arrangements provided for in law, such as joint equity partnership, leasing contracts or concession contracts.[258] The aim of concessions or contracts is to develop new port infrastructure or to modernize and/or improve existing infrastructure. Failure to implement investment commitments constitutes grounds for contract termination.[259]

4.256. In 2018, the Peruvian port system comprised 85 port facilities, of which 28 were for public use and 57 for private use. Eight port terminals (TP) were operated under concessions to private companies[260], and there were plans to put various others out to concession. At the same date, there were 18 port terminals under public management and three under private management (as distinct from operating under a concession). In terms of activity, there were 34 port terminals specializing in hydrocarbons, 19 specializing in bulk (carriage of fishmeal, chemicals, oils, and mineral concentrates) and 32 multipurpose port terminals (general cargo and containers).[261] El Callao port is the country's largest. In 2018, it moved 33% of all cargo, as measured in metric tonnes, and close to 88% of port container traffic in the country, as expressed in 20-foot equivalent units (TEU). According to ECLAC, in 2018 El Callao was the sixth-highest ranking port for throughput in TEU in Latin America and the Caribbean.[262]

4.257. Cargo throughput at port facilities nationally was 110.1 million metric tonnes in 2018, compared to 91.4 million metric tonnes in 2013 (a 20.4% rise). Of the cargo mobilized in 2018, 53% was in port terminals for private use and 47% in TPs for public use. Nationally, container throughput was 2.7 million TEU in 2018, compared to 2 million TEU in 2013 (Table 4.18). During 2018, throughput of vessels nationally was 17,730, compared to 15,288 in 2013.

[256] Article 3 of Law No. 27943.
[257] Article 20 of Law No. 27943.
[258] Article 10.3 of Law No. 27943.
[259] Article 10.5 of Law No. 27943.
[260] The port terminals operated under concessions are: Matarani TP; El Callao-Southern Zone TP Container Terminal; Paita TP; El Callao TP Mineral Concentrate Loading Terminal; Yurimaguas TP; El Callao Multipurpose TP North Terminal; San Martín-Pisco General TP; and Salaverry Multipurpose TP. In total they represent investment of USD 2,803.8 million, of which 51% had been made in 2018.
[261] APN, *Actualización del Plan Nacional de Desarrollo Portuario* (July 2018). Viewed at: https://camaralima.org.pe/RepositorioAPS/0/0/par/IDEXCAM/Guillermo%20Bouroncle_PNDP%20-%20Foro%20Portuario%20CCL%202018%20APN%20Bouroncle.pdf.
[262] ECLAC, *Port activity report of Latin America and the Caribbean 2018*. Viewed at: https://www.cepal.org/en/notes/port-activity-report-latin-america-and-caribbean-2018.

Table 4.18 Traffic indicators at Peru's ports, 2013-18

2013	2014	2015	2016	2017	2018
Cargo throughput nationally (metric tonnes)					
91,479,126	91,724,641	91,585,659	95,965,050	105,460,877	110,138,811
Container throughput nationally (TEU)					
2,069,619	2,242,503	2,158,722	2,321,589	2,540,960	2,669,032
Ship throughput nationally					
15,288	14,701	14,407	15,709	16,338	17,730

Source: Information provided by the APN.

4.258. Law No. 27943 prohibits practices that amount to an abuse of dominant position or that restrict free competition, and requires port managers authorized to provide two or more services to have separate accounting systems. The APN can report breaches of free competition rules to INDECOPI and seek the adoption of preventive measures.

4.259. Where port tariffs are concerned, Law No. 27943 provides that when port assets for public use (regardless of ownership) are used under a regime of free competition, the service providers have full discretion to set their own tariffs. However, where there is no free competition regime, such use is subject to the payment of tariffs in conformity with the tariff system established by the Supervisory Authority for Investment in Public Transport Infrastructure (OSITRAN) and proposed by the APN. Private ports or TPs for private use are not subject to this tariff regime.[263]

4.260. In 2018, 56 Peruvian ports were certificated under the International Ship and Port Facility Security Code (ISPS Code). Responsibility for the Code lies with the APN for ports, whereas the DGCG is responsible for ensuring ships' compliance.

4.4.6 Tourism

4.261. In recent years, tourism in Peru has grown significantly in parallel with the roll-out of policies aimed chiefly at increasing the country's competitiveness in the sector.[264]

4.262. Tourism is one of the country's key industries, mainly in terms of generating employment and foreign exchange. In total, it contributed 1.3 million jobs in 2018 (including indirect employment), equivalent to 7.4% of the economically active population. Inbound tourism is the third-highest generator of foreign exchange and contributes over half of all services exports; in 2018, foreign exchange earnings from tourism were USD 4,895 million. Between 2013 and 2018, international tourist arrivals rose by 37.5% to 4.4 million visitors (Table 4.19).

Table 4.19 Selected tourism indicators, 2013-18

	2013	2014	2015	2016	2017	2018
International tourist arrivals (million)	3.2	3.2	3.5	3.7	4.0	4.4
Foreign exchange earnings from inbound tourism (USD million)	3,917	3,907	4,140	4,303	4,574	4,895
Employment in tourism (million)	1.21	1.22	1.25	1.28	1.32	1.38

Source: Information provided by the authorities and online information from MINCETUR. Viewed at: https://www.mincetur.gob.pe/centro_de_Informacion/datos_turismo.htm.

4.263. Peru ranked 51st out of 136 countries in the World Economic Forum's Travel and Tourism Competitiveness Index 2017, an improvement on 2013 when it ranked 73rd. It was 4th in the sub-category of natural resources, which measures the available natural capital as well as the development of outdoor tourism activities, but 127th in price competitiveness.[265]

4.264. Tourism is governed chiefly by the General Law on Tourism, Law No. 29408 of 17 September 2009 and its implementing regulations (Supreme Decree No. 003-2010-MINCETUR). It is also subject to the Law Promoting Exports of Services and Tourism (Law No. 30641), published

[263] Article 13 of Law No. 27943.

[264] National Strategic Tourism Plan (PENTUR) 2025. Viewed at: https://www.mincetur.gob.pe/wp-.content/uploads/documentos/turismo/documentos/PENTUR/PENTUR_Final_JULIO2016.pdf.

[265] World Economic Forum, Travel and Tourism Competitiveness Report 2017. Viewed at: http://reports.weforum.org/travel-and-tourism-competitiveness-report-2017/country-profiles/#economy=PER.

on 17 August 2017. This Law expanded the number of activities allied to tourism that can benefit from the non-application of IGV and established that a tourist is a foreigner who is in Peru for two or more days (previously it was five days). The regulatory framework governing tourism is supplemented by rules on the provision of various types of services and rules on tourism operators (Table 4.20).

Table 4.20 Legislation governing tourism services, 2019

Legislation	Description	Date
Supreme Decree (S.D.) No. 001-2015-MINCETUR	Regulations governing short-stay accommodation (amended in 2017 and 2018)	9 June 2015
S.D. No. 025-2004-MINCETUR	Regulations governing restaurants (amended in 2006, 2017 and 2018)	10 November 2004
S.D. No. 004-2016-MINCETUR	Regulations governing tourism and travel agencies (amended in 2017 and 2018)	11 June 2016
Law No. 28529 and S.D. No. 004-2010-MINCETUR	Law on Tour Guides (amended in 2009) and its implementing regulations (amended in 2017)	25 May 2005; 16 January 2010
S.D. No. 028-2004-MINCETUR	Regulations on mountain guides (amended in 2007 and 2017)	26 November 2004
S.D. No. 006-2016-MINCETUR	Regulations governing rafting for tourists (amended in 2017, 2018 and 2019)	15 June 2016
S.D. No. 005-2016-MINCETUR	Safety regulations governing the provision of adventure tourism services (amended in 2019)	11 June 2016

Source: Information provided by the authorities.

4.265. The Ministry of Foreign Trade and Tourism (MINCETUR) is the governing body for tourism and has responsibility for approving and updating the National Strategic Tourism Plan (PENTUR).[266] Other bodies involved with the tourist industry are the Consultative Tourism Committee, the National COPESCO Plan, the Commission for the Promotion of Peru's Exports and Tourism (PROMPERÚ) and the Tourism Training Centre (CENFOTUR). The Consultative Tourism Committee is a coordinating body comprising representatives from various tourism-related government agencies and the private sector.[267] The National COPESCO Plan is an autonomous unit of MINCETUR that draws up, coordinates and manages investment projects to expand and improve the country's tourism offering nationally.[268] PROMPERÚ is the body responsible for promoting Peru's various tourist attractions nationally and internationally.[269]

4.266. Under Law No. 29408, the principles that underpin the tourism industry include sustainable development, inclusion, non-discrimination, the promotion of private investment, quality and competitiveness. The providers of tourism services are natural or legal persons whose major aim is to facilitate tourism by supplying the tourism services set out in the law (including providers of accommodation services, travel and tourism agencies, and tourist transport providers).[270] MINCETUR lays down the requirements that tourism service-providers must satisfy (except for providers of tourism transport services).

4.267. Law No. 29408 draws no distinction as to the origin of the capital of the companies investing in tourism services. Moreover, Law No. 28529, which regulates tourist guides, does not impose a nationality requirement on the provision of tourist guide services. Peruvian or foreign professionals seeking to pursue this activity must obtain an official tourist guide permit as set out in the law. If they gained their qualifications outside Peru, they must apply to the National Supervisory Authority for University Education (SUNEDU) or to a university authorized by SUNEDU in order to secure recognition or revalidation of the diploma that was obtained abroad.

4.268. The current PENTUR 2016-2025 has four pillars to guide policy in the sector: (i) market diversification and consolidation; (ii) diversification and consolidation of the tourism offering; (iii) facilitation of tourism; and (iv) the institutional framework for the sector. The aim of the first pillar is to expand target markets and develop new ones using digital marketing and other strategies. The second pillar is focused on developing competitive destinations and specialist tourism products

[266] Article 14 of Supreme Decree No. 003-2010-MINCETUR.
[267] Article 7 of Law No. 29408.
[268] Online information from COPESCO. Viewed at: https://plancopesconacional.gob.pe.
[269] Article 40 of Supreme Decree No. 003-2010-MINCETUR.
[270] Annex 1 to Law No. 29408 lists the activities deemed to constitute tourism services. Law No. 30641 of 2017 extended the list of activities deemed to constitute export services to include new tourism-related activities (including catering, transfers and tourism-related transport in various forms).

(city, adventure, food tourism, etc.) and on improving the quality of the services provided. In that regard, the National Plan for High-Quality Tourism 2017-2025 (CALTUR) lays down actions to improve the quality of the tourism offering in terms of human resources, service providers, and tourist sites and destinations; it also has systems for rating service-providers in terms of good practices and environmental management. The role of the Tourism Training Centre, which conducts assessments, training and skills certification, is to develop human capital. The third pillar promotes a competitive environment that is conducive to the development of tourism, including measures such as administrative streamlining, cost reduction and greater productivity in the use of tourism-related infrastructure and information. To that end, there are plans for a single window for tourism to simplify the processing of authorizations and other permits that tourism service-providers are required to hold. The fourth pillar contributes to the public-private management of tourism and to the coordination of stakeholders in the three tiers of government. Against that background, some functions have been devolved to regional and local governments and support has been given to the formulation of regional strategy plans for tourism. Regarding the safety of tourists, the regional networks providing protection and assistance to tourists have been strengthened and several safe tourism corridors have been established. The Plan to Bolster Formalization of the Tourism Sector, adopted in 2016, seeks to formalize and improve the quality of tourism service providers and to encourage consumers to report breaches of the rules by service providers.

4.269. With a view to encouraging private investment in tourism, the State awards tax benefits to new Peruvian and foreign investments in tourism structures. The special procedure for the advance refund of the IGV (RERA IGV) entails refunding the IGV on pre-production-stage purchases of new capital and intermediate goods, construction contracts and services, whether imported and/or purchased locally, for use by the beneficiaries of the RERA IGV, where such purchases are to be used directly to implement the investment commitment and are intended either for operations liable to IGV or for exports.[271] The advance refund of IGV provides companies with liquidity to execute the works set out in the investment project. Between 2007 and May 2019, tourism investments amounting to USD 561.2 million fell within the scope of the RERA IGV, and each investment generated over 550 jobs.[272]

4.270. In order to encourage participation by innovative small and medium-sized enterprises (SMEs) in the tourism sector, the four-year Tourism Entrepreneurship Programme was set up under Legislative Decree No. 1329 of January 2017 with resources totalling PEN 10 million. The Programme awards non-repayable funding to start up new tourism enterprises (up to PEN 60,000) and to develop undertakings that are already in business (up to PEN 150,000). The latter must provide at least 20% of the total cost of the project. The funding is awarded through a competitive process to select project proposals. MINCETUR manages the resources and recruits "business incubators" to supply training and technical assistance. Between 2017 and 2018, there were 61 winning enterprises and the estimate for 2019 is that the overall number will reach 100.

4.271. Peru continues to work on drawing up a Tourism Satellite Account (TSA) to measure the impact of tourism on the economy. The most recent TSA was conducted in 2013. In 2019, a Multisectoral Working Group comprising public and private organizations will draw up a new TSA.

4.272. During the period under review, Peru has continued to encourage investment in basic tourism infrastructure. Examples include the expansion of the Jorge Chávez International Airport in Lima and the construction of the new Chinchero Airport in Cusco (Section 4.4.5), which will allow the number of tourists arriving in the country to grow. In 2015, the construction of the Lima Convention Centre was completed, boosting convention and event tourism in Peru. Furthermore, through COPESCO, MINCETUR's executive arm for infrastructure projects, investments have been made to improve tourist facilities in various regions of the country. COPESCO has prioritized investments that aim to close the infrastructure gap and respond to genuine tourist demand, while not giving rise to legal or social conflict in local communities.[273] In 2019, the budget for investment in tourism structures at the national level was PEN 175.8 million.

4.273. Law No. 27889 of 2002 established the Peruvian Tourism Promotion and Development Fund and the Special Tax to Promote and Develop Tourism in Peru, with a view to financing activities and

[271] Legislative Decree No. 973 of 2007, as amended by Legislative Decree No. 1423 of 12 September 2018.

[272] Information provided by the authorities.

[273] Online information from COPESCO. Viewed at: http://www.plancopesconacional.gob.pe.

projects intended to promote and develop Peruvian tourism. MINCETUR is responsible for managing the Fund's resources, of which 30% are allocated to COPESCO and the remainder to PROMPERÚ. The Fund's resources are generated by the Special Tax to Promote and Develop Tourism in Peru, contributions or donations from tourism service-providers in the private sector, and donations received by the public sector. The tax, set at USD 15.00, is levied on natural persons who enter the national territory by air.

5 APPENDIX TABLES

Table A1.1 Total merchandise exports by HS section, 2012-18

(USD million and %)

Description	2012	2013	2014	2015	2016	2017	2018
Total exports	46,359	42,567	38,641	33,686	36,312	44,385	47,906
1 - Live animals; animal products	1.9	2.2	2.6	2.4	2.4	2.1	2.3
03. Fish and crustaceans, molluscs; etc.	1.5	1.8	2.1	1.9	1.9	1.8	2.0
04. Dairy produce; birds' eggs; natural honey; etc.	0.3	0.3	0.4	0.4	0.3	0.3	0.3
2 – Vegetable products	6.2	6.8	9.0	10.6	10.9	9.7	10.3
08. Edible fruit and nuts; peel of citrus fruit; etc.	1.9	2.6	4.0	5.4	5.6	5.4	6.4
09. Coffee, tea, maté and spices	2.5	1.9	2.3	2.2	2.4	1.9	1.7
07. Edible vegetables and certain roots and tubers	1.2	1.5	1.5	1.9	1.8	1.4	1.3
12. Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; etc.	0.2	0.3	0.3	0.3	0.3	0.4	0.3
10. Cereals	0.2	0.3	0.6	0.5	0.4	0.3	0.3
3 - Animal or vegetable fats and oils	1.2	0.9	1.3	1.0	0.9	0.9	1.0
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco	6.9	6.6	7.9	8.2	7.3	7.2	7.2
23. Residues and waste from the food industries	4.2	3.6	3.9	4.0	3.3	3.9	3.9
20. Preparations of vegetables, fruit or nuts; etc.	1.1	1.2	1.5	1.6	1.6	1.3	1.2
16. Preparations of meat, of fish or of crustaceans	0.6	0.6	0.9	0.7	0.5	0.5	0.8
18. Cocoa and cocoa preparations	0.3	0.3	0.6	0.8	0.8	0.5	0.6
5 - Mineral products	41.5	41.2	40.7	38.1	41.2	46.1	46.8
26. Ores, slag and ash	28.9	27.1	27.3	29.6	33.7	37.5	37.2
27. Mineral fuels, mineral oils and products of their distillation	11.6	13.0	12.3	7.2	6.4	7.9	8.9
25. Salt; sulphur; earths and stone; plastering materials, lime and cement	1.1	1.1	1.1	1.3	1.1	0.7	0.7
6 - Products of the chemical or allied industries	2.0	1.9	2.0	2.3	2.0	1.8	1.8
28. Inorganic chemicals; etc.	0.8	0.7	0.7	0.8	0.7	0.7	0.8
32. Tanning or dyeing extracts; pigments, etc.	0.3	0.2	0.3	0.4	0.5	0.4	0.4
7 - Plastics and articles thereof	1.3	1.4	1.7	1.7	1.4	1.2	1.3
39. Plastics and articles thereof	1.1	1.2	1.5	1.5	1.2	1.0	1.1
8 - Raw hides and skins, leather, furskins and articles thereof; etc.	0.1	0.1	0.1	0.2	0.1	0.1	0.1
41. Raw hides and skins (other than furskins) and leather	0.1	0.1	0.1	0.1	0.1	0.1	0.0
9 - Wood and articles of wood; wood charcoal	0.3	0.4	0.4	0.4	0.3	0.3	0.2
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard; etc.	0.5	0.4	0.4	0.4	0.4	0.4	0.3
48. Paper and paperboard; articles of paper pulp, of paper or of paperboard	0.2	0.2	0.2	0.2	0.2	0.2	0.2
11 - Textiles and textile articles	4.7	4.6	4.8	4.0	3.4	2.9	3.0
61. Articles of apparel and clothing accessories, knitted or crocheted	3.1	3.0	2.8	2.5	2.2	1.9	1.9
51. Wool, fine or coarse animal hair; horsehair yarn and woven fabric	0.3	0.3	0.5	0.5	0.4	0.4	0.5
12 - Footwear, headgear, etc.	0.1	0.1	0.1	0.1	0.1	0.1	0.1
13 - Articles of stone, plaster, cement, etc.	0.4	0.5	0.6	0.7	0.7	0.6	0.5
69. Ceramic products	0.2	0.3	0.3	0.4	0.3	0.3	0.3
70. Glass and glassware	0.1	0.1	0.2	0.2	0.3	0.3	0.2
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	22.2	21.1	16.0	18.5	19.3	17.0	15.4
15 - Base metals and articles of base metal	9.2	10.3	10.6	9.4	8.2	8.4	8.2
74. Copper and articles thereof	6.0	6.3	6.3	5.7	4.7	4.9	4.8
79. Zinc and articles thereof	1.2	1.5	1.6	1.7	1.6	1.8	1.8
80. Tin and articles thereof	1.2	1.3	1.4	1.0	1.0	0.8	0.7
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	0.8	0.8	1.0	1.1	0.9	0.8	0.8
84. Nuclear reactors, boilers, machinery and mechanical appliances	0.5	0.5	0.7	0.8	0.6	0.6	0.6
17 - Transport equipment	0.2	0.2	0.3	0.2	0.2	0.2	0.3
18 – Optical and photographic instruments and apparatus	0.0	0.1	0.0	0.1	0.1	0.1	0.1
19 - Arms and ammunition; parts and accessories thereof	0.0	0.0	0.0	0.0	0.0	0.0	0.0
20 - Miscellaneous manufactured articles	0.3	0.4	0.4	0.5	0.3	0.3	0.3
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: WTO Secretariat calculations, based on data provided by the authorities.

Table A1.2 Total merchandise imports by HS section, 2012-18

(USD million and %)

Description	2012	2013	2014	2015	2016	2017	2018
Total imports	42,169	43,327	42,184	38,036	36,153	39,788	43,136
	(% of imports)						
1 - Live animals; animal products	1.1	1.1	1.4	1.4	1.4	1.6	1.7
04. Dairy produce; birds' eggs; natural honey; etc.	0.6	0.5	0.7	0.5	0.5	0.5	0.6
03. Fish and crustaceans, molluscs; etc.	0.2	0.3	0.3	0.4	0.5	0.6	0.5
02. Meat and edible meat offal	0.2	0.3	0.3	0.3	0.3	0.4	0.4
2 - Vegetable products	4.2	4.3	4.5	4.9	4.9	5.2	4.8
10. Cereals	3.2	3.2	3.2	3.4	3.4	3.6	3.4
12. Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; etc.	0.3	0.4	0.6	0.6	0.5	0.5	0.5
08. Edible fruit and nuts; peel of citrus fruit	0.2	0.2	0.3	0.3	0.3	0.3	0.3
07. Edible vegetables and certain roots and tubers	0.2	0.1	0.2	0.2	0.2	0.3	0.2
3 - Animal or vegetable fats and oils	1.3	1.2	1.1	1.0	1.0	1.1	1.1
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco	3.9	3.7	3.9	4.4	4.9	4.8	4.4
23. Residues and waste from the food industries	1.5	1.5	1.7	1.5	1.7	1.6	1.8
21. Miscellaneous edible preparations	0.5	0.5	0.6	0.8	0.9	0.8	0.7
22. Beverages, spirits and vinegar	0.4	0.5	0.4	0.5	0.6	0.6	0.5
17. Sugars and sugar confectionery	0.6	0.3	0.4	0.6	0.6	0.8	0.4
5 – Mineral products	14.9	16.1	15.0	10.8	11.8	14.9	16.7
27. Mineral fuels, mineral oils; etc.	14.4	15.4	14.2	10.3	11.3	14.2	15.9
25. Salt; sulphur; earths and stone; plastering materials; etc.	0.4	0.5	0.4	0.4	0.4	0.4	0.4
26. Ores, slag and ash.	0.1	0.1	0.4	0.1	0.2	0.3	0.3
6 - Products of the chemical or allied industries	9.6	9.6	9.8	10.9	10.8	10.8	10.6
30. Pharmaceutical products	1.4	1.6	1.7	2.1	2.1	2.0	2.0
38. Miscellaneous chemical products	2.0	1.9	1.9	2.0	2.2	2.1	1.9
29. Organic chemicals	1.3	1.3	1.4	1.4	1.4	1.4	1.5
31. Fertilisers	1.5	1.3	1.3	1.5	1.2	1.5	1.2
28. Inorganic chemicals; etc.	0.9	0.9	0.8	0.9	0.9	1.0	1.1
33. Essential oils and resinoids; perfumery preparations; etc.	1.0	1.1	1.1	1.2	1.2	1.1	1.1
7 - Plastics and articles thereof	6.7	6.9	7.1	7.2	6.8	6.6	7.0
39. Plastics and articles thereof	4.8	5.0	5.3	5.2	5.0	4.8	5.2
40. Rubber and articles thereof	1.9	1.9	1.8	2.0	1.8	1.8	1.8
8 - Raw hides and skins, leather, furskins and articles thereof; etc.	0.3	0.3	0.3	0.3	0.3	0.3	0.3
9 - Wood and articles of wood; wood charcoal	0.5	0.6	0.6	0.6	0.6	0.6	0.7
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard; etc.	2.1	2.0	2.2	2.3	2.3	2.0	2.3
48. Paper and paperboard; articles of paper pulp, of paper or of paperboard	1.6	1.6	1.7	1.8	1.8	1.6	1.8
11 - Textiles and textile articles	4.1	4.3	4.6	4.7	4.6	4.6	4.8
62. Articles of apparel and clothing accessories, not knitted or crocheted	0.6	0.8	0.9	0.9	0.9	0.9	1.0
52. Cotton	0.9	0.8	0.9	0.8	0.7	0.8	0.8
61. Articles of apparel and clothing accessories, knitted or crocheted.	0.6	0.7	0.8	0.8	0.8	0.8	0.8
54. Man-made filaments; etc.	0.5	0.5	0.5	0.5	0.5	0.5	0.6
12 – Footwear and headgear; etc.	0.8	0.9	1.0	1.1	1.1	1.1	1.1
13 - Articles of stone, plaster, cement, etc.	1.1	1.1	1.2	1.3	1.2	1.1	1.2
69. Ceramic products	0.4	0.5	0.5	0.6	0.5	0.5	0.6
70. Glass and glassware	0.4	0.4	0.5	0.5	0.5	0.4	0.5
14 - Natural or cultured pearls, precious stones; etc.	0.1	0.1	0.1	0.1	0.1	0.1	0.1
15 - Base metals and articles of base metal	8.8	7.7	7.9	8.5	7.6	7.1	7.9
72. Iron and steel	4.0	3.7	3.5	3.5	3.3	3.3	4.1
73. Articles of iron or steel	3.0	2.5	2.8	3.2	2.8	2.3	2.3
82. Tools, implements, cutlery, spoons and forks; etc.	0.6	0.6	0.6	0.6	0.6	0.6	0.6
76. Aluminium and articles thereof	0.6	0.5	0.5	0.6	0.5	0.4	0.4
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	24.9	24.1	25.9	26.1	25.3	23.5	21.9
84. Nuclear reactors, boilers, machinery and mechanical appliances;	15.4	14.7	15.0	14.4	14.1	12.7	12.2
85. Machinery and mechanical appliances; electrical equipment; parts thereof; etc.	9.6	9.4	10.9	11.7	11.2	10.8	9.7
17 – Transport material	12.0	12.0	9.6	10.0	10.8	10.2	9.2
87. Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	11.7	11.3	9.5	9.6	10.4	9.5	8.5

Description	2012	2013	2014	2015	2016	2017	2018
18 - Optical and photographic instruments and apparatus; etc.	1.6	1.8	1.8	2.0	2.0	1.9	1.9
19 - Arms and ammunition; parts and accessories thereof	0.0	0.0	0.0	0.0	0.1	0.0	0.0
20 - Miscellaneous manufactured articles	2.0	2.2	2.1	2.3	2.4	2.4	2.3
94. Furniture	0.7	0.9	0.9	1.0	1.0	1.0	0.9
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Source: WTO Secretariat calculations, based on data provided by the authorities.

Table A1.3 Total merchandise exports by trading partner, 2012-18

(USD million and %)

Description	2012	2013	2014	2015	2016	2017	2018
	(USD million)						
Total exports	46,359	42,567	38,641	33,686	36,312	44,385	47,906
	(% of exports)						
America	40.5	44.7	44.9	40.9	38.2	34.0	32.7
United States	14.4	18.4	16.2	15.1	17.4	15.9	16.7
Other America	26.2	26.3	28.7	25.8	20.8	18.1	15.9
Brazil	3.0	4.1	4.1	3.2	3.3	3.6	3.6
Chile	4.4	4.0	4.0	3.2	2.8	2.4	2.6
Canada	7.4	6.4	6.6	7.2	4.6	2.7	1.9
Ecuador	2.0	2.3	2.2	2.1	1.8	1.8	1.8
Colombia	2.0	2.0	3.2	2.6	2.0	1.5	1.6
Bolivia, Plurinational State of	1.2	1.4	1.7	1.8	1.5	1.4	1.4
Mexico	0.9	1.2	1.9	1.6	1.3	0.9	0.9
Panama	1.1	1.5	1.5	1.3	1.5	2.1	0.5
Argentina	0.4	0.4	0.5	0.4	0.4	0.4	0.4
Dominican Republic	0.1	0.2	0.2	0.3	0.2	0.2	0.2
Europe	28.8	23.9	24.0	24.4	22.7	20.2	19.7
EU (28)	17.5	16.5	16.7	16.3	15.4	14.7	15.1
Spain	4.0	3.7	3.5	3.2	3.4	4.2	3.8
Netherlands	1.6	2.1	2.4	2.6	2.8	2.5	2.9
Germany	4.0	2.7	3.2	2.8	2.5	2.1	2.4
United Kingdom	1.3	1.4	1.6	1.8	1.8	1.7	1.5
Italy	2.2	2.4	1.8	1.7	1.3	1.3	1.4
EFTA	11.1	7.2	7.2	8.1	7.2	5.4	4.5
Switzerland	10.9	7.1	6.9	7.9	7.1	5.3	4.4
Norway	0.1	0.1	0.3	0.1	0.1	0.1	0.1
Other Europe	0.2	0.2	0.1	0.1	0.1	0.1	0.1
Turkey	0.2	0.1	0.1	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS)	0.2	0.4	0.4	0.3	0.3	0.2	0.3
Russian Federation	0.2	0.4	0.4	0.3	0.2	0.2	0.3
Africa	0.8	0.5	0.7	0.8	0.6	0.7	0.6
Namibia	0.2	0.2	0.3	0.3	0.1	0.3	0.3
South Africa	0.3	0.1	0.2	0.2	0.3	0.3	0.2
Middle East	0.1	0.2	0.4	0.2	1.3	1.5	1.0
United Arab Emirates	0.1	0.1	0.1	0.1	1.2	1.4	0.9
Asia	28.8	29.8	29.2	33.1	36.7	43.1	45.3
China	16.9	17.3	18.2	22.0	23.4	26.2	27.6
Japan	5.5	5.2	4.1	3.3	3.5	4.2	4.5
Other Asia	6.4	7.3	6.9	7.8	9.8	12.7	13.1
India	0.8	1.4	0.8	2.0	2.6	4.4	5.2
Korea, Republic of	3.3	3.7	3.1	3.2	3.8	4.8	5.1
Chinese Taipei	0.6	0.5	0.8	0.8	0.9	0.6	0.6
Australia	0.2	0.3	0.3	0.3	0.7	0.5	0.4
Philippines	0.1	0.3	0.4	0.2	0.4	0.8	0.4
Hong Kong, China	0.2	0.2	0.4	0.4	0.4	0.3	0.4
Thailand	0.5	0.3	0.2	0.2	0.2	0.3	0.3
Viet Nam	0.2	0.1	0.3	0.2	0.3	0.3	0.3
Malaysia	0.1	0.1	0.1	0.1	0.3	0.3	0.2
Other	0.8	0.6	0.5	0.3	0.3	0.4	0.4
Free zones	0.0	0.0	0.0	0.0	0.0	0.1	0.0
Memorandum items:							
Latin American Integration Association	17.7	18.8	20.6	16.9	15.0	14.4	12.9
Andean Community (CAN)	5.2	5.7	7.1	6.5	5.3	4.8	4.8
Central American Common Market	0.4	0.5	0.7	0.8	0.6	0.5	0.6
Southern Common Market	6.2	6.5	6.0	4.2	4.0	4.2	4.2

Source: WTO Secretariat calculations, based on data provided by the authorities.

Table A1.4 Total merchandise imports by trading partner, 2012-18

(USD million and %)

Description	2012	2013	2014	2015	2016	2017	2018
	(USD million)						
Total imports	42,169	43,327	42,184	38,036	36,153	39,788	43,136
	(% of imports)						
America	49.7	49.2	49.8	47.7	47.4	49.6	50.6
United States	18.8	20.3	20.9	20.6	19.6	20.3	21.3
Other America	30.9	28.9	28.9	27.1	27.8	29.3	29.3
Brazil	6.1	5.4	4.7	5.1	5.9	6.2	5.6
Mexico	4.0	4.2	4.6	4.5	4.6	4.5	4.5
Ecuador	4.8	4.5	4.2	2.6	3.0	4.0	4.5
Colombia	3.7	3.4	2.9	3.4	3.3	3.7	3.7
Chile	2.9	3.1	3.0	3.2	3.2	3.0	3.2
Argentina	4.6	3.6	3.0	2.3	2.5	2.9	2.8
Canada	1.4	1.4	2.0	2.0	1.9	1.6	1.6
Trinidad and Tobago	0.2	0.3	2.0	1.4	0.6	0.8	1.2
Bolivia, Plurinational State of	1.2	1.3	1.5	1.0	1.2	1.0	1.1
Paraguay	0.5	0.6	0.3	0.5	0.3	0.4	0.4
Uruguay	0.4	0.3	0.4	0.4	0.4	0.5	0.3
Europe	12.9	13.2	13.0	12.9	12.9	13.0	11.8
EU (28)	11.9	12.0	11.7	11.7	12.0	12.2	10.9
Germany	3.2	3.2	3.5	2.9	3.1	2.7	2.5
Spain	1.9	2.0	1.8	1.9	1.8	2.6	2.2
Italy	1.6	1.6	1.5	1.7	2.1	2.0	1.6
France	0.8	0.9	0.8	1.0	0.9	0.8	0.8
Sweden	0.9	0.7	0.5	0.6	0.7	0.6	0.6
EFTA	0.4	0.4	0.5	0.5	0.5	0.4	0.4
Switzerland	0.4	0.4	0.5	0.4	0.4	0.3	0.3
Norway	0.0	0.1	0.1	0.1	0.0	0.1	0.0
Other Europe	0.6	0.8	0.7	0.6	0.4	0.4	0.4
Turkey	0.6	0.8	0.7	0.6	0.4	0.3	0.4
Commonwealth of Independent States (CIS)	1.0	0.8	0.8	0.9	0.9	0.9	1.1
Russian Federation	0.8	0.8	0.8	0.9	0.8	0.8	1.0
Africa	3.5	3.4	1.5	0.4	0.4	0.6	0.4
Nigeria	2.2	2.5	1.2	0.1	0.1	0.1	0.2
South Africa	0.2	0.3	0.2	0.1	0.1	0.1	0.1
Middle East	0.5	0.5	0.6	0.7	0.9	0.7	0.8
Saudi Arabia, Kingdom of	0.2	0.3	0.4	0.3	0.4	0.4	0.4
Israel	0.1	0.2	0.1	0.2	0.2	0.2	0.2
Asia	32.3	32.8	34.2	37.3	37.3	35.1	35.3
China	18.5	19.4	21.1	22.8	22.8	22.3	23.3
Japan	3.6	3.3	2.6	2.8	2.9	2.6	2.4
Other Asia	10.2	10.0	10.5	11.7	11.7	10.3	9.5
Korea, Republic of	3.9	3.7	3.3	3.4	3.6	2.6	2.3
India	1.8	1.7	2.0	2.5	2.2	2.1	2.1
Thailand	1.1	1.5	1.4	1.6	1.5	1.1	0.9
Viet Nam	0.3	0.3	0.6	0.9	1.0	1.0	0.8
Chinese Taipei	1.1	1.0	1.0	1.0	1.0	0.8	0.8
Indonesia	0.6	0.5	0.7	0.6	0.6	0.9	0.7
Malaysia	0.5	0.5	0.4	0.4	0.5	0.4	0.5
New Zealand	0.3	0.2	0.3	0.3	0.2	0.2	0.3
Australia	0.3	0.3	0.3	0.3	0.3	0.4	0.3
Other	0.1	0.1	0.1	0.1	0.1	0.2	0.2
Free zones	0.0	0.1	0.1	0.1	0.1	0.1	0.1
Memorandum items:							
Latin American Integration Association	28.9	26.8	24.8	23.3	24.9	26.4	26.1
Andean Community (CAN)	9.7	9.2	8.7	7.0	7.6	8.7	9.3
Central American Common Market	0.3	0.2	0.2	0.2	0.3	0.4	0.2
Southern Common Market	12.1	10.1	8.4	8.3	9.2	10.0	9.1

Source: WTO Secretariat calculations, based on data provided by the authorities.

Table A2.1 Selected notifications to the WTO, 31 May 2019

Agreement	Description of the requirement	Frequency	Reference (last notification submitted)
Agreement on Agriculture			
Articles 10 and 18.2	Export subsidies (Table ES:1)	On an annual basis	G/AG/N/PER/18, 3 August 2018
Article 18.2	Domestic support (Table DS:1)	On an annual basis	G/AG/N/PER/21; G/AG/N/PER/20; G/AG/N/PER/19, 14 May 2019
Article 18.3	Domestic support (Table DS:2)	*Ad hoc*	G/AG/N/PER/16, 15 December 2016
Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping)			
Article 16.4	Anti-dumping actions	On a semi-annual basis	G/ADP/N/322/PER, 12 March 2019
Agreement on Subsidies and Countervailing Measures			
Article 25.1	Subsidies	On a biannual basis	G/SCM/N/315/PER, 6 July 2017
Article 25.11	Countervailing measures	On a semi-annual basis	G/SCM/N/342/PER, 18 February 2019
Agreement on Import Licensing Procedures			
Articles 1.4(a) and 8.2 (b)	Sources in which rules and information relevant to the Agreement are published; laws and regulations	Once only; *ad hoc* for changes made thereafter	G/LIC/N/1/PER/5 - G/LIC/N/3/PER/11, 13 July 2015
Article 7.3	Replies to the questionnaire on import licensing procedures	On an annual basis	G/LIC/N/3/PER/13, 15 August 2018
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)			
Article 63.2	Laws and regulations	Once only; *ad hoc* for changes made thereafter	IP/N/1/PER/3, 27 January 2015
General Agreement on Trade in Services			
Article III:3	New, or any changes to existing, laws, regulations or administrative guidelines	*Ad hoc*	S/C/N/826, 17 September 2015
Article III:4	Contact and enquiry points	Once only	S/ENQ/78/Rev.18, 1 February 2019
Article V:7(a)	Economic integration agreements	*Ad hoc*	S/C/N/920, 20 December 2018 S/C/N/918, 17 October 2018 S/C/N/876, 3 March 2017 S/C/N/871, 3 November 2016 S/C/N/696, 6 June 2013 S/C/N/681, 27 February 2013
GATT 1994			
Article XVII:4(a)	State trading activities	On an annual basis	G/STR/N/16/PER - G/STR/N/17/PER, 25 May 2018
Article XXIV:7(a)	Formation of a free-trade area	*Ad hoc*	WT/REG395/N/1, 20 December 2018 WT/REG393/N/1, 17 October 2018 WT/REG380/N/1, 3 March 2017 WT/REG377/N/1, 3 November 2016 WT/REG342/N/1, 6 June 2013 WT/REG333/N/1, 27 February 2013
Agreement on Rules of Origin			
Annex II.4	Preferential rules of origin	*Ad hoc*	G/RO/N/181, 15 April 2019 G/RO/N/183, 15 April 2019
Agreement on the Application of Sanitary and Phytosanitary Measures			
Article 7, Annex B	Sanitary/phytosanitary regulations	*Ad hoc*	G/SPS/N/PER/459, 10 January 2013 to G/SPS/N/PER/808, 10 April 2019
Agreement on Technical Barriers to Trade			
Article 2.10	Technical regulations (urgent)	*Ad hoc*	G/TBT/N/PER/112, 5 March 2019
Article 2.9	Technical regulations	*Ad hoc*	G/TBT/N/PER/113, 7 March 2019
Articles 2.9 and 5.6	Technical regulations and conformity assessment procedures (proposed)	*Ad hoc*	G/TBT/N/PER/111, 22 February 2019
Agreement on Trade Facilitation (WT/L/911, replaced by WT/L/931)			
Article 15	Commitments designated under Category A	Once only	WT/PCTF/N/PER/1, 25 July 2014
Articles 15 and 16	Additional notifications of commitments	Once only	G/TFA/N/PER/1, 5 March 2018
Articles 1.4, 10.4.3, 10.6.2 and 12.2.2	Notification of contact information	Once only	G/TFA/N/PER/3, 27 November 2018
Article 22.3	Contact points responsible for technical assistance	Once only	G/TFA/N/PER/2/Rev.17, 7 March 2019

Source: WTO Secretariat.

Table A2.2 Trade agreements signed by Peru, April 2019

Country		Date of signature	Date of entry into force	End of tariff elimination period
Agreement in force				
Andean Community (CAN)	Plurinational State of Bolivia Colombia Ecuador	12 May 1987	25 May 1988	2008
Latin American Integration Association (LAIA)	13 countries	12 August 1980	18 March 1981	n.a.
Southern Common Market (MERCOSUR) (Economic Complementarity Agreement (ECA) No. 58)	Argentina Brazil Paraguay Uruguay	30 December 2005	Argentina, Brazil and Uruguay: 2 January 2006 Paraguay: 6 February 2006	Paraguay and Uruguay: 1 January 2017 Argentina and Brazil: 1 January 2019
Cuba (ECA No. 50)		5 October 2000	9 March 2001	n.a.
United States		12 April 2006	1 February 2009	2025
Chile		22 August 2006	1 March 2009	2016
Canada		29 May 2008	1 August 2009	2025
Singapore		29 May 2008	1 August 2009	2025
China		28 April 2009	1 March 2010	2026
European Free Trade Association (EFTA)	Switzerland Liechtenstein Norway Iceland	24 June 2010	Switzerland and Liechtenstein: 1 July 2011 Iceland: 1 October 2011 Norway: 1 July 2012	2027
Republic of Korea		21 March 2011	1 August 2011	2027
Thailand		Between 2004 and 2010	31 December 2011	2017
Mexico		6 April 2011	1 February 2012	2023
Japan		31 May 2011	1 March 2012	2027
Panama		25 May 2011	1 May 2012	Services 2012; goods 2029
European Union	28 member States	26 June 2012	1 March 2013	Services 2013; goods 2030
Costa Rica		26 May 2011	1 June 2013	2027
Bolivarian Republic of Venezuela		7 January 2012	1 August 2013	n.a.
Pacific Alliance	Mexico Colombia Chile	10 February 2014	1 May 2016	2033
Honduras		29 May 2015	1 January 2017	2031
Signed – Pending ratification				
Guatemala		6 December 2011		
Brazil		29 April 2016		
Australia[a]		12 February 2018		
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)[b]	Australia Brunei Darussalam Canada Chile Japan Malaysia Mexico New Zealand Singapore Viet Nam	8 March 2018		

n.a. Not applicable as the agreement concerns fixed preferences.

a Peru ratified the agreement on 22 February 2019; ratification by Australia is still pending.
b Ratification by Peru is still pending.

Source: MINCETUR and WTO Secretariat.

Table A3.1 Origin criteria under the trade agreements signed by Peru

Agreement	Change of classification[a]	Value added	Products subject to specific requirements of origin (SROs)
Free Trade Agreement with EFTA (Iceland, Liechtenstein, Norway and Switzerland)	Change of chapter, heading or subheading	In general, 50% of the ex-works price of the product.	Entire tariff universe
Free Trade Agreement with Australia[b]	Change of chapter, heading or subheading	In general, 40% of the value of the goods, using the build-up and build-down method.	Entire tariff universe
Additional Protocol to the Pacific Alliance Framework Agreement	Change of chapter, heading or subheading	In general, 50% of the f.o.b. value of the goods, using the build-down method. For goods classified under headings 87.01 to 87.06, the net cost method is applied.	Entire tariff universe
Free Trade Agreement with Canada	Change of chapter, heading or subheading	In general, 65% of the transaction value of the goods, applying the focused value method. For goods classified under headings 87.01 to 87.09, it is also possible to apply the net cost method.	Entire tariff universe
Free Trade Agreement with the Republic of Korea	Change of chapter, heading or subheading	In general, 50% of the f.o.b. of the goods. Provides for the build-up and build-down method.	Entire tariff universe
Free Trade Agreement with Costa Rica	Change of chapter, heading or subheading	In general, 50% of the f.o.b. value of the goods. Provides for the build-down method.	Entire tariff universe
Free Trade Agreement with Chile	Change of heading (general rule)	50% of the f.o.b. value of the goods (general rule).	Fruit juices and nectars, polyvinyl chloride, pharmaceutical goods, textiles and made-up textile products, products derived from zinc and copper
Free Trade Agreement with China	Change of chapter, heading or subheading	In general, 50% of the f.o.b. value of the goods. Provides for the build-down method.	Entire tariff universe
Trade Promotion Agreement with the United States	Change of chapter, heading or subheading	In general, 35% (build-up method) and 45% (build-down method) of the adjusted value of the goods. Provides for the net cost method for the automotive sector.	Entire tariff universe
Peru-Honduras Free Trade Agreement	Change of chapter, heading or subheading	In general, 50% of the f.o.b. value of the goods. Provides for the build-down method.	Entire tariff universe
Economic Partnership Agreement with Japan	Change of chapter, heading or subheading	In general, 50% of the f.o.b. value of the goods. Provides for the build-down method.	Entire tariff universe
Trade Integration Agreement with Mexico	Change of chapter, heading or subheading	In general, 50% of the transaction value of the goods. Provides for the build-down method.	Entire tariff universe
Free Trade Agreement with Panama	Change of chapter, heading or subheading	In general, 50% of the f.o.b. value of the goods. Provides for the build-down method.	Entire tariff universe
Free Trade Agreement with Singapore	Change of chapter, heading or subheading	In general, 45% of the f.o.b. value of the goods. Provides for the build-down method.	Entire tariff universe
Protocol with Thailand to Accelerate the Liberalization of Trade in Goods and Trade Facilitation, and Additional Protocols thereto	Change of chapter, heading or subheading	In general, 35% of the f.o.b. value of the goods. Provides for the build-down method.	Products subject to tariff liberalization due to an early harvest
Trade Agreement with the European Union	Change of chapter, heading or subheading	In general, the value of the materials used must not exceed 50% of the ex-works price of the product.	Entire tariff universe

Agreement	Change of classification[a]	Value added	Products subject to specific requirements of origin (SROs)
Partial Scope Trade Agreement between Peru and Venezuela	Heading (general rule)	50% of the f.o.b. value of the goods (general rule).	Vegetable oils, petroleum, textiles and made-up textile products, iron and steel products, automotive sector products

a Under all the agreements signed by Peru, certain goods must be produced using materials originating in the Parties.
b This agreement has not yet entered into force.

Source: MINCETUR.

Table A3.2 Tax expenditure, 2019

Beneficiaries[a,b]	Type of expenditure	Potential 2019[c] (PEN thousand)	Potential 2019[c] % of GDP	Short-term 2019[d] (PEN thousand)	Short-term 2019[d] % of GDP
Agriculture	Exemption from general sales tax (IGV) and	3,928,118	0.48	1,127,178	0.14
	corporate income tax (IRPJ)	467	0.00	467	0.00
	Deferral of IRPJ	383,133	0.05	383,133	0.05
	Differentiated IRPJ rates				
Mining	Deferral of IRPJ	1,280	0.00	1,280	0.00
	IGV refund	28,700	0.00	28,700	0.00
Hydrocarbons	Exemption from IGV and selective consumption tax	134,033 (IGV)	0.02	134,033 (IGV)	0.00
		216,825 (ISC)	0.03	216,825 (ISC)	0.03
	(ISC)	1,815 (tariffs)	0.00	1,815 (tariffs)	0.00
	Exemption from tariffs,	3,610 (IGV)	0.00	3,610	0.00
	IGV ISC, IGV refund	44,892	0.01	44,892	0.01
Manufacturing	IRPJ credit	9,533	0.00	9,533	0.00
	IGV refund	52,872	0.01	52,872	0.01
	Exemption from IGV	95,593	0.01	95,593	0.01
Construction	Exemption from IGV	75,163	0.01	75,163	0.01
Commerce	IGV refund	120,221	0.01	120,221	0.01
Transport	Exemption from IGV	410,751	0.05	410,751	0.05
Financial intermediation	Non-application of IGV	2,101,965	0.26	2,101,965	0.26
	Exemption from IGV[e] and	51,374	0.01	51,374	0.01
	IRPN	27,667	0.00	27,667	0.00
Education	IRPJ credit	1,172	0.00	1,172	0.00
	Non-application of tariffs and IGV	2,242,981	0.28	2,242,981	0.28
Health	Non-application of tariffs and IGV Exemption from tariffs	95,229	0.01	95,229	0.01
		1,322	0.00	1,322	0.00
Culture and sport	Non-application of IGV	45,314	0.01	45,314	0.01
Other services	IGV refund	5,858	0.00	5,858	0.00
	Non-application of IGV	491,805	0.06	491,805	0.06
General application, Amazon region	IGV credit	48,024	0.01	48,024	0.01
	Exemption from IGV	2,492,188	0.31	816,558	0.11
	Differentiated rates	98,594	0.02	98,594	0.02
Agriculture, Amazon region	Exemption from IGV	750,317	0.09	187,579	0.02
Total		**17,240,151**	**2.13**	**12,201,344**	**1.51**

a In the case of income tax, the beneficiaries are taxpayers that directly apply the respective tax benefits. In the case of indirect taxes such as the IGV, ISC and tariffs, while, in theory, the beneficiaries should be the clients of each enterprise, this will ultimately depend on tax shift conditions. For such cases, it has been decided that the taxpayers subject to these taxes will be designated as beneficiaries only for reference purposes.

b Indicates whether the scope of the estimated tax expenditure is limited to a specific geographical area. If no information is recorded, it should be understood that tax expenditure is applicable throughout the national territory.

c Corresponds to the quantification of tax benefits enjoyed by beneficiary sectors excluding tax credit and the cascade effect in respect of estimates related to exemption from or non-application of the IGV.

d The short-term effect takes into account the annual revenue that would be obtained as a result of eliminating tax expenditure, considering that the Tax Administration would have to develop new resources for fiscal control in order to collect the potential amount.

e Does not include production in the Amazon region.

Source: SUNAT.

Table A3.3 List of national subheadings for goods that are considered sensitive to fraud and fixed amounts

Subheading	Unit	Fixed amount in PEN		
		Goods with a rate of 3.5%	Goods with a rate of 5%	Goods with a rate of 10%
5208430000	M2	0.18	0.26	0.51
5211490000	M2	0.26	0.37	0.73
5407420000	M2	0.11	0.15	0.30
5407520000	M2	0.24	0.34	0.67
5407530000	M2	0.32	0.45	0.91
5407540000	M2	0.26	0.37	0.74
5407610000	M2	0.16	0.23	0.46
5407690000	M2	0.22	0.32	0.64
5512110000	M2	0.06	0.08	0.17
5512190000	M2	0.22	0.31	0.62
5513410000	M2	0.10	0.14	0.27
5515120000	M2	0.24	0.34	0.68
5516120000	M2	0.17	0.24	0.48
5516140000	M2	0.14	0.21	0.41
5516220000	M2	0.23	0.33	0.65
5516230000	M2	0.30	0.43	0.86
5801360000	M2	0.28	0.41	0.81
5804100000	M2	0.04	0.06	0.12
5810920000	KG	0.75	1.07	2.13
5903100000	M2	0.48	0.69	1.38
5903200000	M2	0.31	0.45	0.89
5907000000	M2	0.39	0.56	1.12
6001920000	M2	0.21	0.31	0.61
6004100000	M2	0.31	0.44	0.88
6005370000	M2	0.12	0.17	0.34
6005390000	M2	0.04	0.06	0.11
6006320000	M2	0.16	0.22	0.45
6006330000	M2	0.17	0.24	0.48
6006340000	M2	0.15	0.21	0.42
6104430000	U	2.21	3.16	6.33
6104630000	U	1.13	1.62	3.24
6106200000	U	0.85	1.21	2.42
6110301000	U	1.48	2.11	4.22
6110309000	U	1.55	2.22	4.43
6111300000	U	0.67	0.95	1.90
6114300000	U	1.02	1.46	2.92
6115220000	U	0.30	0.43	0.85
6115290000	U	0.20	0.29	0.59
6115960000	2U	0.20	0.29	0.57
6201930000	U	1.24	1.77	3.54
6202930000	U	1.61	2.30	4.60
6204420000	U	2.44	3.48	6.96
6204430000	U	3.10	4.43	8.86
6204440000	U	2.77	3.96	7.92
6206400000	U	1.93	2.76	5.52
6212100000	U	1.00	1.42	2.85
6301400000	U	1.08	1.55	3.10

Subheading	Unit	Fixed amount in PEN		
		Goods with a rate of 3.5%	Goods with a rate of 5%	Goods with a rate of 10%
6302220000	U	0.78	1.11	2.23
6302401000	U	0.19	0.27	0.55
6302600000	U	0.43	0.61	1.22
6302930000	U	0.13	0.19	0.38
8407340000	U	110.23	157.48	314.95

Note: M2: square metre; KG: kilogram; U: unit. The fixed amount is obtained by applying the percentages 3.5%, 5% and 10% to the f.o.b. reference value of the goods considered to be sensitive to fraud, which is determined at the level of the national subheading, on the basis of analysed customs values, values obtained through auditing processes or price studies, or alternatively, values resulting from the application of statistical analyses. The methodology used to obtain the f.o.b. reference value and the list of fixed amounts, and the modification thereof, has been approved pursuant to a Supreme Decree of the Ministry of the Economy and Finance (MEF), with a technical opinion by the National Supervisory Authority for Customs and Tax Administration (SUNAT), and is valid for up to two years. In accordance with Supreme Decree No. 034-2018-EF, the f.o.b. reference value for the following two years will be calculated on the basis of the median of the unit values recorded for the previous calendar year for each national subheading.

Source: Supreme Decree No. 034-2018-EF. Viewed at: https://www.mef.gob.pe/normatividad-sp-9322/por-instrumento/decretos-supremos/17225-decreto-supremo-n-034-2018-ef/file.