



DOING BUSINESS IN PERU

INTRODUCTION

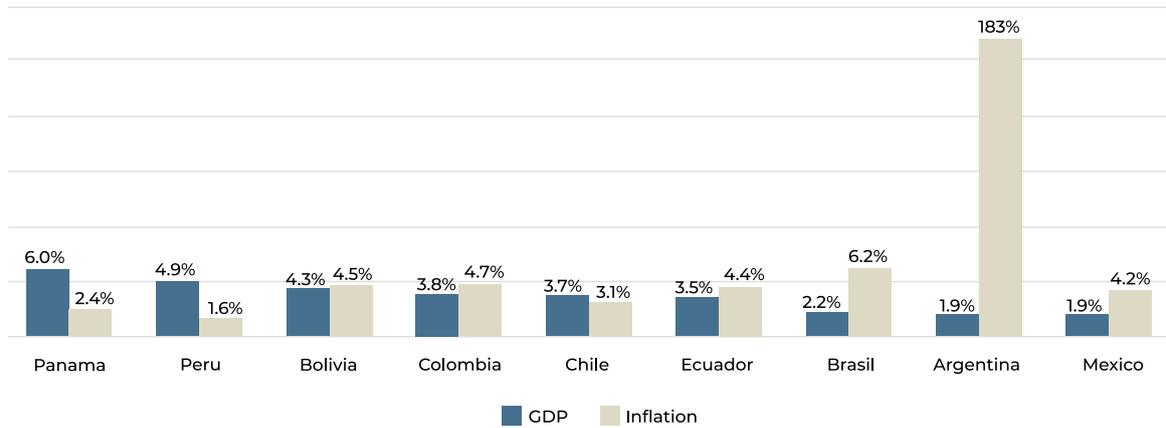
Peru's sustained economic growth over the past three decades, bolstered by the implementation and development of a reliable macroeconomic and legal framework, offers the stability that every foreign investor needs. This stability has encouraged public and private investment, whose increase is reflected in the proliferation of investment projects in various economic sectors of the country and in the considerable revenue increase of small, medium, and large companies.

However, this sustained growth found a pause in 2020. The entire world—and with it their economies—has been paralyzed because of the Covid-19, a pandemic that is testing the entire international system and, in our case, our financial and macroeconomic strength. The responses of support and confidence of foreign investors for Peru have been quick and clear, showing the respect gained in all these years. So far, the country has responded vigorously by deploying all its economic artillery, including the implementation of leading multi-million-dollar rescue programs in the region. Such is the case of Reactiva Peru—more than S / 60,000 million or USD 18,000 million approximately (8% of GDP)—and the Mipyme Fund, as well as the granting of social bonds, an international issue of sovereign bonds for USD 3,000 million at historical rates, a loan from the International Monetary Fund for USD 11,000 million, among other economic relief measures that seek to contain the attacks of this pandemic.

Leaving this parenthesis aside, we must highlight that, in addition to the macroeconomic stability achieved to date and its welcoming framework for foreign investment, the unmatched natural wealth of our territory is added. Its long coastline boasts one of the best seas in the world for fishing; its land is ideal for agribusiness; its mineral-rich mountain range makes us one of the largest producers of copper, silver and gold on the planet; and its jungle, still to be developed, is the cradle of resources as vast as itself. For all the above, Peru has become one of the countries by excellence for investing in Latin America. To position itself in an increasingly competitive and demanding globalized market with clear rules of the game, Peru has formed trade alliances and signed

economic treaties such as the Pacific Alliance - together with Mexico, Colombia and Chile - as well as different bilateral agreements with countries of the five continents.

GDP Growth Rate and Inflation (2001 - 2019)



Key Indicators 2019	
Population: 32.5 million (1)	Unemployment: 3.3% (1)
GDP 2019: \$210,000 MM	Inflation: 2.14% (1)
GDP Annual Growth: 2.15% (1)	Ease to doing business: 68 of 190
GDP per capita: \$6,977 (1)	Competitiveness Index Ranking: #65 (2) vs Brazil #71, Argentina #83

- (1) Source: 2019 Data, The Worldbank
- (2) TheGlobalCompetitivenessReport2019
- (3) Ease to doing business 2019 rank

2020-2021 Outlook			
	2019	2020	2021
GDP Growth	2.2%	-14.0%	9.0%
Domestic Demand	2.3%	-15.0%	8.0%
Exports	0.8%	-15.0%	13.0%
Imports	1.2%	-22.0%	10.0%
Inflation	2.1%	0.0%	1.0%

Source: 2020-21 Forecast: Apoyo Consulting (June 2020).

CHAPTERS

1. FOREIGN INVESTMENT REGIME

The legal framework governing foreign investments in Peru is based on and treated as a national investment. Foreign investments are allowed, without restrictions, in most economic activities. No prior authorization is required for foreign investments; acquisition of national investors interests is fully allowed, through stock exchange or any other mechanism. As to ownership, in general terms individuals and entities are in the same conditions as the locals.

Foreign investors have: (i) the right to receive non-discriminatory treatment; (ii) freedom to conduct commercial and industrial activities and to perform any import and export operations; (iii) the right to expatriate profits or dividends, previous payment of the applicable taxes; (iv) the right to use the most favorable exchange rate existing in the market for any exchange operation; (v) the right to free repatriate the invested capital, in case of sale of shares, reduction of capital or total or partial liquidation of investments; (vi) non-restricted access to domestic loans, under the same conditions as the national investors; (vii) free acquisition of technology and free remittance of royalties; (viii) freedom to acquire shares of national investors; (ix) the possibility to acquire insurances for investments; and (x) the possibility to execute Legal Stability Agreements with the State for securing their investment in the country.

The State guarantees the legal stability to foreign investors and to the entities hosting the investments, through the execution of agreements with a law-contract status and abide by the general provisions on contracts established in the Civil Code and the Constitution.

2. CORPORATE STRUCTURES

The General Corporations Law (Law No. 26887) regulates the different types of companies that can be established in Peru. It also regulates other legal entities used to channel foreign investment into the country, such as branches and collaborative structures like joint ventures.

Corporations (*sociedades anónimas*) are the most used corporate structures in Peru. In a corporation, shareholders make capital contributions to the company in exchange for shares, which in turn give the political and economic rights of the shareholders in the company. Also, corporations are characterized by establishing that shareholders are only liable for the value of their contributions (limited liability).

Other corporate structures used in Peru are partnerships (*sociedad comercial de responsabilidad limitada*), in which the identity of the partners becomes relevant. Capital is divided into participations and there can only be up to 20 partners, who are not personally responsible for the liabilities of the company.

As an alternative to corporations, investors have the option of establishing a branch in Peru. Branches are not legal entities independent from their parent companies but have a permanent legal representation and autonomy with respect to the activities

assigned to them by the parent company.

In addition, joint ventures are commonly used in Peru by investors interested in associating with other investors to develop a mutual economic purpose for a determined period of time, without losing autonomy and independence (they do not create a separate legal entity). Joint ventures are not explicitly regulated in Peru, but the General Corporations Law does regulate two types of specific associative contracts: (i) the Consortium and (ii) the Association in Participation.

	ORDINARY CORPORATIONS	CLOSED STOCK CORPORATIONS	OPEN STOCK CORPORATIONS
Number of shareholders	From 2 to 750.	From 2 to 20	More than 750.
Restrictions to share transfers	Limitations (that are not absolute) to the transfer of shares can be agreed in the bylaws or in shareholder agreements.	Right of preferential acquisition (unless the bylaws establish otherwise) and/or others agreed by the shareholders.	No. Any disposition that limits the free transferability of the shares is deemed not valid.
Administration	Shareholders meeting, Board of Directors, Management	Shareholders meeting, Board of Directors (optional), Management	Shareholders meeting, Board of Directors, Management
Annual External Audit	If stated in the bylaws, agreed by a shareholders' meeting with the vote in favor of 10% of the shareholders or if it required under the applicable industry regulations.	If stated in the bylaws, agreed by a shareholders' meeting with the vote in favor of 50% of the shareholders.	Mandatory.
Public Registry	Optional or in case the company issues debt.	Non-permitted.	Mandatory.

3. PERUVIAN TAX SYSTEM

The Peruvian national tax system is composed of the following taxes

- Income tax
- Value-added tax
- Excise tax
- Customs duties
- Real estate tax and provisional net asset tax.
- Social contributions and financial transactions

Income Tax (IT)

The tax legislation establishes a general IT applicable to entities and individuals resident and non-resident in Peru. Those taxpayers, which are deemed as resident in the country, are subject to the IT over their worldwide income, while in contrast, those considered to be non-resident taxpayers will only be taxable for their Peruvian source income.

The IT Rates for non-residents are

Non-resident		
Peruvian source income	Entities	Individuals
Capital Gains	Exempt (**) or 5% (using the LSE) or 30% (without using the Lima Stock Exchange)	Exempt (**) or 5% (using the LSE) or 30% (without using the Lima Stock Exchange)
Dividends and other forms of profit distribution	5%	5%
Interest	30% or 4.99% if certain requirements are met	30% or 4.9% if certain requirements are met
Technical Assistance	15%	24%
Digital Services	30%	24%
Royalties	30%	30%
Other income	30%	30%

(**) The exemption over capital gains resulting from the disposal of common shares, ADRs or ETFs and bonds will apply provided some requirements are satisfied.

Furthermore, all transaction carried out from, to or through non-cooperative countries or territories or with low or null taxation (tax haven) are subject to Transfer Pricing Rules.

It is important to add that some industries have certain preferential incentives, such as:

- Mining and Hydrocarbons
- Energy
- Agriculture and Agribusiness
- Investment in the Amazon
- Investment in Special Development Zones (ZED)

Value Added Tax (VAT)

The VAT is the indirect value added tax that levies at the rate of 18% for operations carried out in Peruvian territory.

It should be noted that exports of goods and services, which comply with the requirements set out in the Law, are exempted from the tax.

Moreover, the VAT Early Recovery Regime allows for the refund of the VAT paid on imports and/or local acquisitions of capital goods, new intermediate goods, services and construction contracts; provided some conditions. Now, any natural or legal person who makes investment in any third category income generating economic activity and who is in the pre-operational stage of the project can access this regime.

Double Taxation Agreements (DTC)

The VAT is the indirect value added tax that levies at the rate of 18% for operations carried out in Peruvian territory.

Peru currently maintains DTCs according to the OECD Model, which involves dividing the applicable tax between the source country and the country of residence. Such is

the case of the DTCs signed with Brazil, Chile, Canada, South Korea, Mexico, Portugal and Switzerland.

Peru has also signed a Multilateral Tax Treaty within the Andean Community, which states exclusive taxation at the country of source (Decision No. 578).

4. CUSTOMS AND FOREIGN TRADE

Generally, the entry and exit of goods from the country is not limited and companies do not require prior authorization, although there are some goods which traffic is prohibited. Also, it must be considered that certain goods are restricted and requires obtaining specific authorizations from the competent entities.

The entry of merchandise to Peru can be permanent or temporary. Three levels of tariff imposition (ad valorem) are mainly applied to definitive imports: 0% (70% of the goods), 6% and 11%, in addition to VAT (18%); however, the benefits provided in the trade promotion agreements signed by Peru can be applied. In temporary entry, the payment of import taxes is suspended, and they must be paid only if the established requirements are not met by the importer. Additionally, fast delivery shipments transported by courier companies and the traffic of shipments or postal packages transported by the postal service with a differentiated tariff treatment are allowed.

Regarding the exit of merchandise, the export is free of taxation. The definitive export regime allows access to other schemes provided by specific regulations such as drawback (the return of a percentage of the exported FOB value which is currently 3%) and the replacement of goods in franchise, as well as the recovery of the VAT charged to exporters.

On the other hand, there are free trade zones that encourage the constitution or establishment of companies in these delimited areas through a particular customs and tax treatment that seeks to promote their economic development. In such areas it is allowed, among others, to develop different activities such as industrial, agroindustry, maquila, storage, packaging, and distribution services, for their subsequent entry or exit from the national territory.

Finally, participants in the supply chain of foreign trade can obtain a certification as an Authorized Economic Operator (OEA) by the Peruvian Customs Authority, allowing them to facilitate and streamline their operations, among other several benefits. This OEA certification is recognized in other countries due to the mutual recognition agreements that have been signed, which constitutes an advantage for several entities to achieve in good order their foreign trade operations.

5. GENERAL LABOUR REGIME

As general rule, employment contracts in Peru must have an indefinite term; however, temporary hiring of personnel is allowed, if there is a temporary reason that justifies such hiring. Peruvian law establishes the reasons for which temporary employment may be justified (market needs, start or increase of activities, start of a work or service, among others). A written employment contract is required for temporary employment.

Part-time employment is also allowed for jobs with daily work shifts that does not exceed 4 hours on average. Part-time employment must be formalized in writing and

the agreed salary may be lower than the Legal Minimum Wage.

Companies can hire foreign personnel if they do not exceed 20% of the total number of their local personnel and that their remuneration does not exceed 30% of the total payroll, except for specific situations provided by law.

Peruvian labor legislation also establishes mechanisms for indirect hiring of personnel, such as secondment services, in which a secondment entity assigns its personnel to the user company for the provision of temporary, complementary or specialized services. The secondment entity requires an authorization from the Ministry of Labor.

Applicable labor benefits established by law in the Private Labor Regime are the following:

1. Benefit

Name	Benefit	Characteristic
Minimum Wage	S/ 930.00 (USD 270.00)	<ul style="list-style-type: none"> Applicable to employees with daily shifts of 4 hours (in average) or more.
Family Allowance	S/ 93.00 (USD 27.00)	<ul style="list-style-type: none"> Equivalent to 10% of the Minimum Wage. Applicable for employees who have one or more children under the age of 18 and is extendable to the age of 24 if coursing college education.
Legal Bonuses	Equivalent to a monthly salary for each payment	<ul style="list-style-type: none"> Payable on a semi-annual basis, every July and December.
Extraordinary Bonuses	9% or 6.75% of the Legal Bonus	<ul style="list-style-type: none"> Payable on a semi-annual basis, every July and December.
Compensation for Length of Services (CTS)	Equivalent to a monthly Salary (approximately)	<ul style="list-style-type: none"> Payable on a semi-annual basis, every May and November, in a bank account chosen by the employee.
Vacations	30 days of paid leave	<ul style="list-style-type: none"> Applicable to employees with daily shifts of 4 hours (in average) or more, generated for each year of services.
Legal Profit Sharing	Between 5% and 10% of the profits generated by the employer	<ul style="list-style-type: none"> The company must have more than 20 workers on average during the applicable Fiscal Year. The percentage to be distributed will depend on the economic activity of the company.
Life Insurance	Life Insurance Policy	<ul style="list-style-type: none"> Employee will be covered with a life insurance policy hired by the employee.

2. Social Security

Name	Party in charge	Calculation Basis
Healthcare Contribution (ESSALUD)	Employer	The contribution is equivalent to 9% of the remuneration received by the employee. The employer can hire a Private Insurance Company (EPS) to provide employees with broader health coverage. In this case, the contribution is distributed as follows: 6.75% for ESSALUD and 2.25% as EPS credit.
Private Pension Funds (AFP)	Employee	These contributions will only be applied to the monthly cash compensation received by the employee, with an average rate of 13.3% (depending on the AFP chosen by the employee).
National Pension Fund (ONP)	Employee	These contributions will be applied to the worker's monthly remuneration, either in cash or in kind, at a rate of 13%.

6. DISPUTE RESOLUTION

Peru system allows judicial proceedings and arbitration proceedings.

Judicial litigation

Civil litigation refers to judicial procedures for resolving private-private and private-public disputes between two or more parties concerning all legal matters except for criminal and labor ones.

Every time enterprises decide to run operations in national soil it must be considered all potential legal issues that can affect the company, its operations, and employees as well. Disputes usually involve civil, constitutional, regulated activities, commercial and taxation issues.

Plaintiffs or defendants should seek judicial relief along three hierarchical degrees. District judicial circuit (first and second degree) and national competence filing an extraordinary writ known as *recurso de casación* to be granted by the Supreme Court of Justice.

Since January 2020, all matters involving civil litigation are conducted by electronic judicial files, pursuing the efficiency standards brought by orality and digital litigation techniques.

Arbitration

Arbitration is *an alternative adjudication model*, if parties agreed to such alternative. No arbitration procedure can exist without a specific arbitration agreement clause. Arbitration is mandatory in Peru as a default adjudication system whenever public contract issues between government sections and private entrepreneurs or companies are involved.

Impugnación against any arbitration award can arise only if this does not contain a due or minimal justification or response to all allegations and claims brought by parties or whenever arbitration was developed in the absence of an arbitration agreement. Judicial claim known as *anulación de Laudo arbitral* (void award claim) shall be filed against arbitration court before Judicial Appellation ones.

Judicial relief can only be pursued in two scenarios: i) against void awards and; ii) to enforce awards in absence of specific performance expected by the defendant.

Regarding international investment disputes involving Peruvian Government and transnational companies or entrepreneurs, arbitration can be held before international chambers of commerce.

7. MINING SECTOR

Peru is a mining country since pre-Inca times. Geologically privileged because of the presence of the Andean Cordillera all along its territory, it's considered to remain underexplored. Currently mining products represent more than 60% of the total exports of the country and mining reported more than 9% of the gross domestic product on 2019.

Peru has a very simple and friendly legal system for the granting of mining rights, providing security in title for national and foreign investors alike. This explains why most of the major mining companies are active in Peru. The mining sector is mainly regulated by the Organic Law for the Sustainable Use of Natural Resources, the Mining General Law, the National Mining Cadaster Law, and their regulations.

The exploration and exploitation of minerals, as well as the ore processing, continuous mineral transportation systems and general labor activities need to be carried out by national or foreign individuals or legal entities through a concession system. No concessions are required for the sampling, prospection, commercializing, conventional transportation, or storage of minerals.

A mining concession grants its titleholder with the exclusive right to use and take advantage of the mineral resources within its surface and underground areas. The mining concession grants the titleholder the right to explore and exploit the mineral resources, with the limitations established in its title, as long as the titleholder achieves the required permits and licenses for the activities and reaches an agreement with the owner of the land where the concession lies. The mining concessions are granted for an indefinite term and are irrevocable for as long as the titleholder complies with its legal obligations, such as the payment of the annual concession fees and achieves a minimum annual investment or production, both based upon the number of hectares held. The minerals extracted in compliance with the law are property of the titleholder of the mining concession.

Mining concessions can be subject to all the agreements admitted by the common legislation, and specially to transfer agreements, option agreements and lease agreements. Mining agreements shall be recorded at the public registry for them to be binding before the State and third parties.

Additionally, the mining legislation authorizes the State to enter into stability agreements with the investors that commit certain investments in mining projects and operations securing stability in tax treatment, currency regulations and administrative regime.

8. ENERGY

The Peruvian electricity sector is vertically unbundled into generation, transmission, and distribution activities. Generation is considered to foster competition and transmission and distribution are considered natural monopolies. The performance of generation, transmission, and distribution activities, subject to certain thresholds, require definitive concessions or authorizations granted by the Ministry of Energy and Mines or the corresponding Regional Government.

Acknowledging the natural monopoly condition of transmission and distribution networks, Peruvian electricity regulation guarantees third party access to said networks. Likewise, and subject to the compliance of specific thresholds, vertical and/or horizontal concentration of generation, transmission, and distribution activities, are subject to the prior approval by the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI).

Wholesale and retail electricity commercialization is performed by generation and distribution companies. Consumer status is acquired by maximum annual demand. Maximum annual demands of up to 200kW are considered regulated consumers, demands between 200kW and 2500kW can chose between regulated or unregulated consumer status and maximum annual demands greater than 2500kW will be considered unregulated consumers.

The main institutions involved in the Peruvian electricity sector, are the Ministry of Energy and Mines, the governing body in charge of approving and directing the policy of the sector. The Supervisory Agency of Investment in Energy and Mines (OSINERG-MIN) is the entity in charge of supervising, regulating and overseeing all activities and the Economic Committee of the Interconnected System (COES) is the operator of the electricity system and the administrator of the wholesale electricity market.

9. TELECOMMUNICATIONS

According to Peruvian laws, public telecommunications services (mobile, fixed, carrier –local or international- and cable TV) are provided in a free competition regime, through concession agreements with the Ministry of Transports and Communications (MTC).

A concession may be granted to both Peruvian and foreign companies. A minimum capital stock of 10 UIT (some US\$ 12,000) is required. One operator may have a single concession agreement, under which then it may obtain separate authorizations for different services. A concession is not required for the provision of value-added services (e.g. internet) nor to operate as a satellite capacity provider. However, it is mandatory to register before the MTC.

Besides negotiating and granting concession contracts, the MTC manages the use of frequency bands across the radioelectric spectrum (which belongs to the State). On the other hand, the Private Investment in Telecommunications Agency (OSIPTEL) oversees the promotion of competition and supervises quality and service issues.

Some of the typical contract obligations for operators of public telecommunications services are a) complying with quality standards and geographical coverage, b) attention to users` complaints, c) provision of transparent information and advertising on rates and other conditions, d) payment of regulatory contributions and network inter-connection fees and e) service portability.

In the past few years, some important legislation has been issued aimed at promoting expansion and improved competition in the telecommunications market. Thus, for instance, we have 1) the possibility of virtual mobile operators (requiring a concession but no infrastructure), 2) the facilitation of the deployment of infrastructure (via streamlined licensing regulations), 3) the regulation of contracts to share infrastructure, 4) the mandatory provision of access to infrastructure across operators and across industries (e.g. energy), 5) the promotion of 5G technology via the reframing of spectrum frequency bands (a process that has already started and in which operators holding concessions will participate) and 6) the allowance of spectrum rentals amongst operators.

Finally, multiple concessions for regional projects for broadband transportation networks have been awarded recently in various regions. These projects seek to expand national access to telecommunications services, starting with social-priority rural towns. Several new projects and bids are under way for similar purposes.

10. ENVIRONMENT

Environmental regulation in Peru is envisioned to be an area of shared responsibility between the national, regional, and municipal governments. Currently, most matters are administered by the National Government, however these responsibilities are gradually in the process of being decentralized.

Laws, regulations, policies, and guidelines have been issued for the management of air, soil, water and noise pollution, the management of solid waste and the transport of waste and hazardous goods. At the same time, there is a well-established national system for granting environmental permits based on the assessment of environmental impacts. This system has a sectoral approach and the responsibilities for issuing permits are divided between the national environmental certification agency (SENACE), the ministries and the regional governments.

Regulatory compliance in the mining, oil & gas, energy, industry, fisheries, and agriculture sectors is carried out by OEFA, the enforcement agency from the Ministry of the Environment. With the appointment of OEFA as enforcer of regulations in these sectors fine ceilings have been significantly raised. Likewise, OEFA has been vested with broad enforcing powers and the ability to impose injunctions, precautionary, corrective, and coercive measures.

In addition to the strengthening of the environmental governance in regulatory matters there is also a growing specialization within the Public Ministry and the Judiciary.

Increasing pressure on environmental regulatory enforcement and increasing specialization in the investigation and prosecution of environmental matters is making legal assistance in environmental due diligence advisable in business decisions.

11. ANTICORRUPTION AND COMPLIANCE

On April 21st, 2016, Peruvian Government enacted Law N° 30424, supplemented by Legislative Decree N° 1352 and amended by Law N° 30835, which regulates the so-called administrative liability of legal entities. Although the Law refers to a sort of administrative responsibility, its purpose is to create criminal responsibility against companies and, therefore, it establishes sanctions that a criminal judge can impose in the

framework of a process, as a consequence of the commission of crimes regulated in Peruvian Criminal Code such as: (i) simple and aggravated collusion, (ii) generic active bribery, (iii) transnational active bribery, (iv) specific active bribery, (v) influence peddling, (vi) money laundering and (vii) financing of terrorism. It is important to take into consideration that when the Law was first published in 2016, only transnational active bribery was mentioned as a crime that could lead to finding a legal entity criminally responsible, but today, as stated, it has been extended to the rest of the abovementioned crimes, so the logical thing would be that this list is expanded over time.

Therefore, legal entities will be criminally responsible for the criminal acts committed by any of its representatives when the act is performed (i) in the name or on behalf of the legal person; and/or, (ii) for its direct or indirect benefit. The sanctions that can be imposed in any of these scenarios might be of fines, based on the illicit profit obtained by the company or its annual income; disqualification from performing certain activities; cancellation of licenses, rights or other authorizations; closure of premises; and, dissolution.

What is innovative and interesting about this law is not only that it creates criminal responsibility against a legal person, but that it also establishes an exemption, by the implementation of a Compliance Program through a prevention model, prior to the commission of the crime, which must be designed to its specific nature, risks, needs and characteristics. This model must have, at least five elements: (i) a responsible for prevention; (ii) identification, evaluation and mitigation of risks; (iii) implementation of complaint procedures through a whistleblowing program; (iv) training and capacitation of the prevention model; and, (v) its constant evaluation and monitoring.

It is noted that the liability of the legal entity will be mitigated if it partially accredits the minimum elements of the prevention model or if it implements the model after the commission of any of the crimes and before the initiation of the oral trial. Consequently, although Peruvian regulations do not require companies to implement a prevention system, it is advisable to do so, as this will mitigate or exempt the company from liability in the event of crimes committed within the organization.

Finally, as a result of Lava Jato case, the largest corruption scandal in Latin America in recent times, our Government enacted Law 30737, which aims to ensure the payment of civil indemnification in favor of the State in cases of corruption and related crimes. This law is applicable to: i) legal entities that have been found guilty and convicted for crimes against the public administration, money laundering or equivalent, whether this sentence was issued in Peru or abroad; ii) officials or representatives convicted for the same crimes, in our country or abroad; iii) legal entities that have admitted guilt before any competent authority; and iv) legal entities linked to others, mentioned in the first three categories. Regarding such entities, Law 30737 obliges them to establish a trust on assets, rights, shares, flows or participations whose value is equal to or bigger to the estimated amount of the future payment of the civil indemnification. Also, some of the entities might be obliged to implement a compliance program with all the legal requirements states above, in order to prevent the future commission of crimes or to significantly reduce the risk of it.

12. INSOLVENCY

Insolvency proceedings in Peru are regulated by the General Insolvency Law (Law No. 27809) and carried out before INDECOPI, a specialized public entity in charge of promoting and facilitating negotiations between creditors and debtors, among other functions.

The General Insolvency Law has two main objectives, on one hand, to recognize the legitimate interest of the creditors to collectively make decisions over the destiny of the debtor and, on the other hand, to generate an appropriate and efficient environment for the creditors and the debtor to negotiate by preventing the cannibalization of the debtor's assets.

Pursuant to the General Insolvency Law, one or more creditors or the debtor itself may request the initiation of an Ordinary Insolvency Proceeding of the debtor if certain requirements are met. The main effects of initiating an Ordinary Insolvency Proceeding are that, from that moment, the patrimony of the debtor is protected, all payment obligations of the debtor are suspended and the creditors' meeting is installed so they can deliberate and decide on whether the debtor will be submitted to a restructuring process or to a dissolution and liquidation process.

In addition, the General Insolvency Law regulates a Preventive Insolvency Proceeding that may only be initiated by the debtor in the event that it is not yet in insolvency but seeking refinancing of its obligations to prevent entering into an insolvency situation. For initiating a Preventive Insolvency Proceeding, the debtor must also file a request before INDECOPI, provided that certain requirements are met.

It is worth mentioning that due to the impact of the COVID-19 pandemic in Peru, an Accelerated Refinancing Proceeding was created by means of a Supreme Decree that went into force in June 2020. The Accelerated Refinancing Proceeding is carried out only through electronic means and it is applicable to debtors that have not received poor credit ratings in the financial system but have developed payment issues due to the pandemic.

13. INTELLECTUAL PROPERTY (IP)

Intellectual property rights are legally protected in Peru, in line with most western countries' standards. The trial and ruling of IP matters takes place at the Government's Competition and Intellectual Property Agency, Indecopi, in two (2) specialized administrative instances before it is necessary to take them to the courts. Indecopi may issue remedial orders, order the payment of royalties and impose material fines, either at the request of any party or ex officio. Indecopi is also the authority in charge of registration and modification of trademark, patent and copy rights.

IP rights, from an economic standpoint, may be divided into 1) those which seek to protect innovation, be it either technological innovation (patents, utility models, layout-designs of integrated circuits, industrial designs, plant varieties, etc.) or cultural innovation (copyrights over any original creation, e.g. software, music, audio, visuals, art, databases, fashion or advertising designs, etc.) and 2) those who seek to protect the reputation of the companies and the transparent flow of information in the market (i.e. trademarks, trade dresses, slogans, collective and certification marks, geographical indications, etc.)

Trademark rights in Peru are acquired under a first-to-file registry-based model, similarly to most non common-law countries. The registration is for ten (10) years but it can be renewed for similar terms indefinitely, provided that the trademark is used in the market.

Patent rights are also acquired on a registry-based model, in line with the Patent Cooperation Treaty. The invention patent has a duration of 20 years, while utility models and design patents last for 10 years.

Copy rights protect any original, creative work, which basically means any work that has not been copied, and which is not just an idea (i.e. it has been saved in a material support). In Peru, like in most European countries, copyrights not only protect the economic rights (as in the U.S. model) but also the so-called “moral rights”, such as the right of right of divulgation and the right of paternity. In line with the Berne Convention copyrights -unlike trademarks and patents- do not require prior registration (although a registry is available as a form of proof) nor local use.

14. COMPETITION & ANTITRUST

Antitrust

Peruvian antitrust laws cover three types of conduct: i) monopolistic practices (abuse of market power); ii) horizontal agreements and iii) vertical agreements. These laws, in general, seek to prevent or remedy conducts by market agents that are capable of offsetting or distorting market competition. Some conducts, such as inter-brand, horizontal price agreements, are per se violations (i.e. regardless of its actual effects), while most others are determined according to a rule of reason, considering their effect in the market.

In addition to conducts regulation, Peru has recently passed legislation aimed at implementing structural controls on mergers and acquisitions, which will be effective on March 2021, requiring a clearance procedure for qualified transactions from then on.

Under this new legislation, to qualify for clearance a transaction must concurrently meet two thresholds:

1. That the joint gross sales or income in Peru of the involved companies in the prior year were of 118,000 tax reference units (approximately US\$ 145'000,000) or more; and
2. That the gross sales or income in Peru of at least two of the involved companies were of 18,000 tax reference units (approximately US\$ 22'000,000) or more each.

If the transaction meets both thresholds, a filing must be submitted to the competition authority, which will issue a pronouncement within 30 working days regarding the concerns of the effect of the transaction in the competition. If the authority declares that the transaction possesses no concerns as to its effects on competition, the transaction will be authorized. Otherwise, the authority will have 90 working days to further analyze the effects of the transaction, and will issue a second pronouncement, which may i) authorize the transaction; ii) authorize the transaction subject to remedies; or, iii) deny the transaction.

Unfair Competition

Laws against unfair competition also seek to protect competition in the market from being distorted through deceitful and parasitic conducts. Unfair competition violations include misleading and defamatory advertising; violation of trade secrets, acts of sabotage, misrepresentation through trademarks and trade dress; parasitic externalities (free riding) and actions in general capable of distorting free market conditions, thus damaging competitors and/or consumers.

Illegal and Unreasonable Trade Barriers

Peru has unique legislation against market barriers, which provides investors with legal tools to counteract regulations (at any level lower than Acts by Congress) which illegally and/or unreasonably create barriers (such as requirements, fees, etc.) that pre-

vent or unnecessarily difficult market activities.

Thus, regulations in which authorities, such as cities, ministries and government agencies either a) exceed their lawful prerogatives and powers or b) exercises them in an unreasonable manner (e.g. inefficiently or causing unnecessary costs, or discrimination, etc.) may be challenged.

Consumer Protection

The consumer protection instances of Indecopi in Peru may issue any kind of injunctions and remedial orders, as well as to impose important fines to providers who fail to adequately comply with final consumers` expectations, as provided by law and the corresponding contracts and/or advertising offerings.

15. DATA PROTECTION

Personal Data Protection and Cybersecurity

According to the Peruvian Personal Data Protection Act and its regulations, all use, storage, and processing of personal information for business purposes is subject to prior, informed, and express consent by the corresponding data subjects. Thus, i) The lack of consent cannot be legally made up for after the data processing; ii) for consent to be valid, subjects must be provided with information on the purpose of the processing, their rights as data subjects (including the right to revoke their consent and to request the modification or deletion of the data), information as to whether the data will be transferred to third parties and/or to other countries, contact information of the data controller, etc. and iii) forms of tacit/implicit consent are not valid, unless the data processing is necessary for the fulfillment of a preexisting contract.

The law also provides for technical and organizational measures for ensuring the security of the data, as well as series of formal obligations, including that of registering every personal data base, as well as any cross-border processing, with the Personal Data Protection Authority

Infringement may be subject to fines as high as 100 Tax Reference Units (some US\$ 120,000) on each violation charge. Unsolicited e-mail and telephone advertising may be additionally subject, under the Consumer Protection Law, to fines as high as 450 Tax Reference Units (approximately US\$ 540,000).

16. REAL ESTATE

Overview of the Real Estate Market

Ranging geographically from all over the country, Peru's real estate offering is almost as broad covering domestic and commercial demand in multiple locations. Economically and politically speaking, Peru has made massive advances in recent years, giving investors and expatriates confidence to consider this emerging market. The nation's previous over reliance on mineral exports is being resolved through strategic diversification. Furthermore, consumer confidence in Peru is the highest for the Latin American region, and local demand for real estate underpins a property economy that has also witnessed Spanish, Chilean, American and Chinese buyers making a strong commitment.

Ownership (Transference and Restrictions)

Foreign buyers are permitted to own free title to most of the real estate in Peru wi-

thout the requirement for government approval. Restrictions exist relating to real estate close to Peruvian national borders. Foreign buyers require government approval for owning such property in case they are located within 50 km of the national borders range. Notwithstanding the, the only real estate foreign buyers cannot purchase is that in the vicinity of government installations and military bases.

Public Registries and their efficiency

The purpose of the public registries is to provide legal security of all the acts that the people may enter and to secure the ongoing traffic of private agreements endorsing economic flows. The use of technology has had a positive impact on the number of registration applications and requests for registry information processed at the national level before the Public Registries in 2019, which reached the figure of 2,983,189 and 15,719,347 respectively. With the implementation of new registry products, more effective and efficient services are offered, simplifying processes, improving service times and guaranteeing legal security for all, which results in a greater number of registrations and requests for registry information in the four registries administered by the Public Registries Superintendence: Real Property Registry, Movable Property Registry, Individuals Registry and Legal Entities Registry.

Real Estate Leasing

Leasing real estate can be subject to VAT at 18%. VAT is imposed when individuals or corporations, whether resident or not, rent out properties in Peru. Prospects for commercial real estate remain very positive as demand is increasing, outstripping supply, and set to advance in everything from retail to warehousing to logistics. Rental laws are pro tenant because of the security of tenure offered; however rental rates are freely negotiable at contract inception. Increases need to be included in a contract otherwise they are not permitted until a contract expires. In-country real estate experts are forecasting a 2-3% rise in office and retail rental rates because of rising demand and space restrictions.

Real Estate Market post-COVID 19

Notwithstanding the sanitary crisis, the commercial real estate market for developers and investors is proving to be particularly resilient in Peru because of high demand and low vacancy rates. COVID-19 has influenced the way of consuming, mobility, working, among others. And it will possibly bring decentralization and reduction in the number of assistants to the offices in the coming months. Many will opt for teleworking or will look for spaces with a smaller capacity of people. This will undoubtedly be a fundamental factor that will boost the sale of real estate projects that increase the demand for boutique offices and coworking spaces by promoting teleworking. Also, given the economic impact that has affected many low resources families, the Peruvian Government may inject several public resources in order to give a necessary boost to the social housing projects and the promotion of diverse public and private infrastructure projects.

17. PROJECTS

Public-Private Partnership (PPP) (Legislative Decree 1362 and Supreme Decree 240-2018-EF)

PPP permits private investment in infrastructure through knowledge, equipment, technology and resources with the purpose of developing, operating, or maintaining public infrastructure or providing public services. PPP projects can be government-sponsored or private initiatives (unsolicited proposals). Areas involved can be transport, water, energy, health, and oil & gas, among others. Proinversion is the government

entity that carries out the preparation and granting of PPP projects.

PPP can be (a) co-financed, which require co-financing or financial or non-financial guarantees; or (b) self-financed, which generate their own income and do not demand co-financing neither substantial guarantee from the Government.

Proinversión estimates its portfolio of PPP projects until June 2021 in 23 projects for a total investment of US\$5.3 billion, of which 13 projects will be awarded for US\$2.3 billion dollars and 10 private initiatives that would be declared of public interest for US\$3 billion.

Proinversión still has in its pipeline other 21 PPP projects for a total investment amount of US\$3.2 billion.

Works for Taxes (Law 29230)

This mechanism permits payment of income tax to any company through the finance and execution of certain public investment projects prioritized by the central or local government. Once the project has been completed, the Ministry of Finance returns to the company the amount invested through certificates (CIPRL[1] or CIPGN[2]) that can be used for the payment of their corporate income tax, up to 50% of the income tax that they have to pay to the Peruvian Tax Authority the following year. Note: RG/LG: Regional Government / Local Government

Government to Government (G2G) Agreements

Peruvian government can engage directly with another sovereign government to build infrastructure projects in areas such as airports, hospitals, schools, roads, river defenses and subways, among others.

Under such arrangements, the Peruvian government requests a sovereign government to provide technical assistance and appoint appropriate candidates to be Project Management Office (PMO), which will select EPC companies and other advisors through bidding processes following the laws of the selected foreign government. PMO and contractors will use NEC Engineering and other International Construction Contracts. Peruvian public procurement law will not be applicable in these cases.

G2G agreements permit transfer and learning of international best practices in different areas, training of local governmental collaborators, access to major international suppliers and participation of experienced international professionals.

The Peruvian government has signed four G2G agreements with (i) the United Kingdom, for the Reconstruction of the Northern Region of Peru (US\$2 billion), for technical assistance in the execution of infrastructure works that were destroyed by floods caused by the El Niño Coastal Phenomenon (2020); (ii) again with the United Kingdom, for the organization of the XVII Pan-American Games, including game operation, infrastructure development and commercial execution (2019); (iii) France, for the construction for the hospitals Antonio Lorena (Cusco) and Sergio Bernales (Lima) (US\$20 million) (2020); and (iv) South Korea, for the construction of the Chinchero International Airport in Cusco (US\$540 million) (2019).

Additionally, the Peruvian government announced in July 2020 that it will use G2G agreements for the construction of Lines 3 & 4 of the Lima Metro subway (US\$7 billion) and the Central Highway (US\$300 million).

18. FISHERY

Peruvian sea is recognized as one of the richest oceans in the world due to its diversity of marine species that shelters anchovy and various mollusks, crustaceans, and seaweeds. Next in importance are demersal or costal trawl fisheries, mainly involving hake, followed by inland fisheries and aquaculture. Inland fisheries occur mainly in the rivers of the Amazon river, in small lakes of Andean forest and in the Titicaca lake.

Other important species with high demand in the national and international markets are squid, cuttlefish, mahi mahi, octopus, horse mackerel, hake, and tuna. The fishery sector is a key component of Peru's economy.

Perú's fishery legislation allows access to the development of extraction, production, and processing activities of the various fisheries through the granting of concessions, authorizations, fishing permits and quotas. Likewise, Peruvian legislation allows foreign vessels to operate in territorial waters subject to a permit and the compliance with certain regulatory requirements.

In recent years, significant private investments have been made in the frozen and canned industries and in the aquaculture and inland fishing activities. In the same manner, the production of Omega 3 fish oil has been increased to meet the increasing demand from the pharmaceutical industry.

Recent regulatory changes streamlined administrative procedures, such as the issuance of the sanitary certificates for exports, which are now delivered in hours instead of weeks.



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