

INFOCARD ELANBiz

Multiparty Trade Agreement between Peru and the European Union¹

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This Infocard provides a general overview of the Multiparty Trade Agreement for European companies that aim to export or invest in Peru

Why is The Trade Agreement with Peru important for European companies?

The European Union (EU) is Peru's third most important trading partner and the main source of investments in the country. The Multiparty Trade Agreement (hereinafter, the "Agreement")², liberalizes trade in goods and services between Peru and the EU and establishes modern and predictable rules, in order to provide greater stability to trade and investment.

The Agreement removes all tariffs after a transition period, extends services commitments well beyond the WTO General Agreement on Trade in Services (GATS), includes (basically procedural) WTO plus provisions on non-tariff barriers (TBTs, SPS), covers investment, government procurement, competition and trade facilitation, and strengthens IPR protection.³

The following is a summary of the main characteristics of the most important chapters of the Agreement for European companies interested in exporting their products to Peru or investing in Peru.

Which products benefit from the Agreement?

The Agreement covers the entire tariff universe and removes all tariffs on industrial and fishery products from the EU. There are products subject to duty-free import quotas and there is a list of exceptions in Annex 1, Appendix 1 Section C.⁴

In **Table 1** entitled "Summary of the tariff elimination schedule", a summary of the main products included in the most representative lists of liberalization is presented. There are certain agricultural products subject to quotas, such as milk, milk fats, cheese, etc. Some products that are particularly sensitive have longer periods of liberalization, such as plastics, paper, textiles and footwear.

¹ The information contained in this Infocard only provides a general overview. For more detailed information, events and commercial promotion actions, as well as possible commercial contacts, please contact the Commercial Offices of the Member States and the bilateral Chambers in Lima.

² The Agreement provides an adhesion clause which opens the door to the participation of other Andean Community (CAN) countries. Accordingly, Ecuador becomes part of the Agreement in January 1st 2017, becoming the third CAN country that integrates this Multipart Commercial Agreement formed by Colombia and Peru since 2013.

³ Full text of the Agreement: <https://eur-lex.europa.eu/legal-content/ES/TXT/?uri=OJ:L:2012:354:TOC>

⁴ Seven categories of products are not included in the customs duties elimination program, for which tariff-quotas are applied. In Annex 1, Appendix 1 Section C, all applicable exceptions and quotas are detailed.



It should be noted that the tariff classification system applied by Peru is the NANDINA (Andean Community) classification. Trade operators must verify that there are no differences between the European nomenclature and NANDINA, in order to correctly identify the applicable tariff and other rules. The following link provides the tariff treatment by the tariff code: <http://www.aduanet.gob.pe/itarancel/arancelSO1Alias>

The tariff elimination schedule of the Agreement contained in Annex 1 can be summarized as follows:

Table 1. Summary of the tariff elimination schedule

Period of Elimination of Custom Duties	Current tariff (2020)	EU exports
Immediate elimination and to 5 years	0%	Steel and iron bars, compressors, some medicines, diesel, engines, vehicles, machinery parts, chemicals, lubricants, food supplements, whiskey, malt, food preparations, animal feed, hop cones, whey, among others.
Progressive elimination until 7 years	0% ⁵	Olives (subheading 0711200000), soybean oil (subheading 1507901000), among others, natural leather clothing (subheading 4203100000).
Progressive elimination until 10 years	2.5%	Olives, cornmeal, fats and oils (vegetables and animals), cocoa butter, medicines, paints and varnishes, cosmetic products, hides and leather, wood, paper, household goods, garments and their accessories, toys, among others ⁶ .
	4.7%	Beef, bovine meat, potatoes, mash and pastries, fruits and fruit juice, natural honey, peas, beans, coffee, green and black tea, vegetables, jams, among others ⁷ .
Progressive elimination until 12 years	7.7%	Subheading 1602900000: "Other preparations and preserves of the bovine species, including blood preparations of any animal".
Progressive elimination until 15 years	4.5%	Milk ⁸ and cream (subheadings: 0401100000 and 0401200000)
	8.5%	Yogurt, buttermilk and milk and cream (subheadings: 0401300000, 0403909010 and 0403909090)
Categories without elimination but with a tariff import quota	Arancel NMF	<p>- Category BF - Quota (milk and others): Tariff Quota of 1 075 TN, increased to 1 824 TN by 2020.</p> <p>- Category BR - Quota (milk and other fats): Tariff Quota of 250 TN increased to 425 TN by 2020.</p> <p>- Category CE - Quota * (cheese and others): Tariff Quota of 2 500 TN increased to 4 250 TN by 2020. <i>* The tariff will maintain a base rate at year 10, and will be reduced in 7 equal annual stages, being liberalized on January 1st of year 18.</i></p> <p>- Category GC - Contingent (garlic): Tariff Quota of 375 TN increased to 634 TN by 2020.</p>
EXCL		For more information regarding other categories please check the Annex included in the Agreement.

⁵ Seven years will be reached on March 1st 2020.

⁶ The list of the products included is referential.

⁷ The list of the products included is referential.

⁸ Subject to the Price Band System.



Which Tariffs Apply to European Goods?

The Agreement **removes customs tariffs on goods** in accordance with the **elimination schedules provided for each party in Annex 1**. No party may increase these tariffs or set new ones on goods from the other party/ies but in very few exceptions. The Agreement represents a **significant improvement in the access of European products to the Peruvian market**. For Peru's exports, the Agreement has ensured, in a bilateral treaty, the unilateral preferences granted by the EU through the Generalized System of Preferences (GSP+). The parties must guarantee that the duties and charges that apply to the importation correspond to the actual cost of the services provided and that they are published.

The Agreement recognizes the application by Peru of the **Price Band System (SFP)** relevant to imports of **corn, sugar, milk and rice** (in certain subheadings). Through this system, variable specific duties may be applied when the international prices of these agricultural products are below certain published referential prices. Peru has limited these variable tariffs to a maximum of 20% in the case of rice and 15% for the other three products.

Examples of specific subheadings that have benefited from tariff elimination with the Multiparty Trade Agreement

The following examples referred in the table below, show product categories where (in certain subheadings) the preference offered by the EU-Peru FTA generates a **clear tariff advantage to EU products**.

It is important to note that these subheadings may not be the most important in their respective categories, in terms of value, but they do illustrate interesting possibilities to take advantage of the Agreement.⁹

⁹ In 2018, according to the EU - Peru Bilateral Trade Report elaborated by MINCETUR (Ministry of Foreign Trade and Tourism of Peru), almost 50% of Peruvian imports corresponded to products from the "metal mechanic" sector (mechanical devices, vehicles, railroad cars, electric conductors) . Although they are important in terms of value, according to the WTO, Peru's MFN tariff amounts to 1%, indicating that the potential to take advantage of the Agreement is not very significant.

Table 2. Agreement 2020 Tariff and MFN Tariff

CATEGORY/SECTOR	SPECIFIC SUBHEADINGS WITH TARIFF BENEFIT BY THE AGREEMENT		AGREEMENT TARIFF 2020 RANGE		CURRENT MFN TARIFF RANGE	
PHARMACEUTICAL PRODUCTS	30049000	30059099	0.0%	2.5%	6.0%	
	30045000	30043900				
	30042000	30051000				
	30041000	30059050				
	30043200	30043100				
	30069100	30059010				
	30066000	30059031 30065000				
PLASTIC AND ITS MANUFACTURES	39069090	39239000	2.5%		6.0%	
	39269097	39231090				
	39201028	39201089				
	39095090	39199080				
	39233010	39259080				
VEHICLES	87032319		0.0%	2.5%	6.0%	
	87042391					
	87032210					
WHISKY	22083000		0.0%		6.0%	
COOKED POTATOES	20041010		4.6%		6.0%	
MALTA BEER	22030000		0.0%		6.0%	
FRUITS PREPARED OR PRESERVED (JUICE)	20087071		0.0%		6.0%	
JELLIES AND JAMS	20079939		4.6%		6.0%	
	20071099					
MALT	11071019	11071099	0.0%		6.0%	
		11072000				
TEXTILE MATERIALS	56039290	54072019	0.0%	2.5%	6.0%	11.0%
	56039390	55034000				
	56031390					
CARPETS	57033018	57024200	0.0%		6.0%	
	57032092	57049000				
FOOTWEAR	64062090	64039996	0.0%		11.0%	
	64039998	64029939				
	64011000	64039118				
	64041990	64019290				
	64035995	64039938				
	64069090	64034000				
PAPER AND PAPERBOARD	48052400	48041119	0.0%	2.5%	6.0%	
	48051100	48042110				
	48101900	48041115				
	48041990	48041912				
		48192000				

What 'Rules of Origin' Requirements must European Products Comply with to benefit from the Tariff Elimination Regime?

Access to the **preferential tariffs** provided under the Agreement is limited to products originating in the parties. In accordance with Annex II of the Agreement, proof of origin is essential and must be presented before exporting.¹⁰ There are different **methods to prove origin**, depending on the product. The Agreement grants "origin" to goods totally produced in one of the parties (such as agricultural products), or goods produced with inputs from outside the parties, but that become "originating" through a process of transformation (manufacture), which is checked with a change of the tariff heading (of four digits) between the inputs and the final product. Alternatively, products with non-originating input that do not exceed a percentage between 20 and 50% (of the factory price of the processed product) may obtain originating status.¹¹ There are also rules for assembled products and specialized rules for certain sectors. The penalty for non-compliance with rules of origin may be the collection of unpaid tariffs up to the last four years.

The Agreement allows the accumulation of origin. As a result, any product / input from any of the parties will be considered as originating for purposes of compliance with the rules of origin. The FTA applies diagonal and scope cumulation for an extension of cumulation to all regional partners that have negotiated agreements with the EU.¹² For instance, in the export of clothing where the yarn must be originating from the parties, if complementary input or an additional fabric (for example, waistbands, linings or elastic materials) is required for the production, these materials could be sourced from any of the parties without losing the originating status of the final product.

The Agreement also includes **direct transport** rules which establish that the product must be exported directly from a port of the party to the importing counterpart to preserve the originating status. This condition is retained even if the product is transported through or stored in non-party territories, provided that: a) the goods are under permanent surveillance of the customs authorities in the country of transit or temporary storage, and b) that the goods are not subject to operations other than unloading, loading or any other operation intended to keep the them in good condition.

Direct transport shall be accredited by presenting, before the customs authority, documents such as i) bill of lading, ii) transshipment or temporary storage documents, or iii) in the absence of the foregoing, any supporting document. For more details, check the INFOCARD ELANBiz Import into Peru.

¹⁰ Original products from the European Union, benefit from the Agreement by presenting a **certificate of movement of goods EUR.1** (see Appendix 3 of Annex II of the Agreement).

¹¹ The Annex provides that, for instance, for women's and baby's garments, it is required a manufacture from yarn or a manufacture from non-embroidered fabrics whose value does not exceed 40% of the ex-works price of the product.

¹² The Agreement also allows the **accumulation of origin** in the following scenarios: a) **accumulation between parties**, that is, the use of inputs, parts or pieces of the country parties as originating from the exports of another country party; and b) **extended accumulation**, which allows that original materials from **Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Venezuela or Bolivia** will be considered originating materials from the parties when they are processed or subsequently incorporated into a product obtained from them. In addition to the accumulation of inputs from the parties, the FTA permits an extended accumulation to allow the entry for input/products from any country in Central America (including Mexico), South America or the Caribbean, as provided in the Agreement.

Customs and Trade Facilitation: Other Provisions of Interest

As to customs and trade facilitation, the Agreement (Chapter III) requires the parties to establish **efficient, transparent and simplified procedures** and apply modern techniques based on risk assessment and post-clearance controls. In addition, the Agreement requires that sanctions, if applied, should not be discriminatory or disproportionate, and should not delay the clearance of goods.

Customs valuation follows WTO valuation rules, which privilege the use of the transaction value (invoice value) and establish well determined alternative/successive methods, when the authority has reasonable doubts regarding the invoice value of the product (for further detail, see INFOCARD ELANBiz “Import to Peru”).

To guarantee predictability, the Agreement provides the issuance of **advance rulings regarding tariff classification or rules of origin**. In addition, the Agreement recognizes that Authorized Economic Operator (AEO) are granted important facilities in the control, clearance, required guarantees, etc. The AEO status is granted to those operators that meet customs security standards (large operators, certain customs agents, etc.). For further detail on customs procedures and regimes in Peru, see INFOCARD ELANBiz “Import to Peru”.

How are Standards, Technical Regulations and Conformity Assessment Procedures covered under the Agreement?

To avoid that technical access requirements (e.g. **labeling, standards, control or certification procedures**) become unnecessary obstacles to trade, Chapter IV on Technical Barriers to Trade (TBT) reaffirms rights and obligations under the WTO TBT Agreement, but has the aim of improving upon its commitments through cooperation and stronger procedural measures. Thus, the parties must use international technical standards as a basis for the development of their own (voluntary) standards and technical regulations (mandatory), unless these are an ineffective means to achieve the legitimate objectives pursued. **These rules and regulations should not be more restrictive than necessary (proportionality) and shall not create unjustified obstacles to trade.** The draft technical regulations and conformity assessment procedures of products should be published on the website (free access), and the party must provide information when requested.

The Agreement also establishes that the evaluation of the compliance with technical regulations (conformity assessment) made by the parties should be objective and carried out by a plurality of entities (public and private), recognizing the results obtained by other parties. The FTA also provides that the conclusion of plurilateral accreditation and private certification agreements be facilitated.

Labeling: permanent labeling should be limited to information that is relevant for the consumer or to indicate compliance with mandatory technical regulation. Non-permanent labels are required only to ensure surveillance in the market by competent authorities.

The FTA contains specific provisions for the labeling of textile and footwear products to avoid that the information provided on the label be more rigorous than necessary, indicating (for example) that the permanent labeling should be limited to information that is relevant to the consumer and, when additional labelling is necessary, that this information be provided through non-permanent labels. For



these products, the incorporation of internationally recognized pictograms is allowed. On the other hand, the parties have committed not to require prior approval or registration of labels, except for its suitability to protect human, animal or plant health, as could occur in processed pharmaceutical and food products.

How are Sanitary and Phytosanitary Regulations covered under the Agreement?

Sanitary and Phytosanitary Measures (SPS) are those measures aimed at safeguarding food safety, animal health and plant preservation. The **SPS measures should not constitute unjustified obstacles to trade** and the parties will not delay the access of imports without technical or scientific justification, with reasonable and proportionate requirements, considering periods of adjustment to any modification thereof. The Agreement requires that the procedures be applied in a transparent manner, without undue delay and with costs established in a non-discriminatory manner and in relation to the actual cost of the service provided. The Agreement defines bilateral rules in two essential fields: sanitary admissibility and defense of national sanitary status.

An important advantage granted by the Agreement in this area is the establishment of a **Subcommittee on Sanitary and Phytosanitary Measures**. This Subcommittee aims to ensure and monitor the application of the Chapter on Sanitary and Phytosanitary Measures, and evaluate any matter that may affect compliance with its provisions. It also serves as a forum for discussion of problems arising from the application of SPS, identification of cooperation needs, among other functions. Thus, the Subcommittee can serve to request the application of the principles of the SPS Agreement, for instance, in a recent session of this Sub-Committee, the EU invited Peru to apply the pre-listing principle for the application of the harmonized certificate for boneless bovine meat.¹³

How does the Agreement Regulate the Trade in Services and Investment?

The Agreement establishes rules for the progressive liberalization of trade in services, extending services commitments well beyond GATS and for cooperation in electronic commerce. The Agreement does not restrict the domestic regulation of the parties in their service sectors. The Agreement broadly defines the commercial or professional establishment, through the constitution, acquisition or maintenance of a legal entity or a branch.

National Treatment: The general rule is the commitment of the Parties to grant to the establishments and investors¹⁴ of other parties as determined in the Agreement¹⁵ a treatment no less favorable than that accorded to their own establishments and investors. Certain services related to security (production of weapons or war material, extraction or processing of nuclear materials, etc.), as well as

¹³ https://trade.ec.europa.eu/doclib/docs/2019/november/tradoc_158430.pdf

¹⁴ The Agreement offers investors from both sides important opportunities in a wide range of areas, such as manufacturing industries, service industries, energy production, etc. On the other hand, it consolidates and provides market access for cross-border services and guarantees the establishment in key areas of interest, such as financial services, professional services, maritime transport, distribution and telecommunications services.

¹⁵ Review Annex VII (establishment commitments) and Annex VIII (commitments in cross-border trade in services).



audiovisual services, maritime cabotage, air transport and ship maintenance services, among others, are excluded from this commitment.

For the services included in the Agreement, no party shall adopt restrictions or limitations on the number of establishments (numerical quotas or exclusive rights), or on the value of transactions or assets (without proof of economic necessity), or on the total number of operations or total quantity of production, number of natural persons employed, or limitations on participation of foreign capital or certain types of establishment. However, the sectors subject to commitments and exceptions are listed in Annex VII (list of commitments on establishment).¹⁶

Finally, the Agreement facilitates **temporary stay of people** for business and provision of services.¹⁷

What Opportunities Exist Regarding Government Procurement?

The Agreement establishes **transparency rules and the obligation of national treatment** to a large proportion of public procurement. It applies to “covered public procurement”, meaning government procurement of goods, services or combination thereof, from public entities contemplated, which value is equal to or greater than the value of the relevant threshold specified in accordance with the provisions of each party in Appendix 1 of Annex XII. Support measures for agriculture, social programs and sensitive defense equipment are excluded.

The FTA requires that applicable rules to define the origin of products or services in public procurement processes should be standardized.

Transparency: The contracting entity, at the request of the supplier, must provide an explanation of the reasons supporting its decision of not selecting the supplier’s offer and the relative advantages of the winning offer.

The **main benefits of the Agreement** are: **access at all levels of government: national, sub-national and public bodies; benefit from transparent and open procedures, equal conditions and non-discrimination, and thresholds and exceptions (to favor SMEs).**

How does the Agreement Regulate Competition Policy?

The Agreement contains a chapter on competition policy that establishes fundamental guarantees applied in any antitrust procedure including the right of defense, due process, publicity and transparency. In addition, it requires the parties to apply these rules in a non-discriminatory manner.

It is recognized that practices that are incompatible with the Agreement are abuse of dominant position, collusive practices and anti-competitive concentrations. In the case of Peru, a law on the control of pre-Mergers & Acquisitions has recently been approved, and will enter into force on 18

¹⁶ http://www.acuerdoscomerciales.gob.pe/images/stories/union_europea/espanol_2012_06/anexo_VII_SecC.pdf

¹⁷ The Agreement contains a specific chapter where the parties undertake to facilitate the temporary stay in their territories of people on a short business visit, as well as to the service providers that have been hired to provide a service in the European Union to an end-consumer (architecture, engineering, medical services, research and design, market research, trade fairs, tourism, among others) as well as to liberalize current payments and capital movements, which will benefit the free movement of services, investments and establishment.

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The Agreement further provides for cooperation between Competition authorities including the **exchange of information** regarding the conditions of the markets under investigation, request of information, inspections, etc.

How does the Agreement Regulate Intellectual Property Rights and Geographical Indications?

The provisions on intellectual property are covered under Title VII of the Agreement. Matters related to the important area of geographical indications (GIs) are contained in Annex XIII. The Agreement reaffirms the parties' commitments to the WTO Trade Related Intellectual Property Rights Agreement (TRIPS) and to the Convention on Biodiversity (CBD) and accords both national treatment and most favoured nation (MFN) treatment.

The Agreement also reaffirms the parties' commitments to relevant agreements on copyright (the Berne and Rome Conventions and the WIPO copyright and performances and phonograms treaties) and patents (the Budapest Treaty).

Geographical Indications are defined as those denominations that identify a product as originary from the territory of a party, when a certain quality, reputation, or other characteristic of the product is mainly attributable to its geographical origin. The Parties are committed to protect the geographical indications for agricultural and food products, wines, spirits and flavored wines listed in **Annex XIII** of the Agreement.

Relevant links

- **Text of the Agreement:**
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A07_2
- **European Commission – General Directorate of Trade:**
<https://ec.europa.eu/trade/policy/countries-and-regions/regions/andean-community/>
- **Multipart Commercial Agreement Perú-EU (publication of the Delegation of the European Union in Peru):**
http://eeas.europa.eu/delegations/peru/eu_peru/trade_relation/trade_related_tech_assistance/index_es.htm
- **Integrated Foreign Trade Information System:**
http://www.siicex.gob.pe/siicex/portal5ES.asp?_page_=160.00000
- **Trade Committee and Sub-committees agendas and reports**
<https://trade.ec.europa.eu/doclib/press/index.cfm?id=2100>
- **Individual reports and info sheets on implementation of EU Free Trade Agreements**
https://trade.ec.europa.eu/doclib/docs/2018/october/tradoc_157473.PDF
- **Certificate of Movement of Goods EUR.1 and application for the Certificate of Movement of goods:**
http://www.acuerdoscomerciales.gob.pe/images/stories/union_europea/importar_exportar_2012_06/certificado_origen_espanol.pdf
- **Virtual Office of Certificates of Origin :** <http://www.e-camara.net/sueltos/co/page01.html>.
- **The Window of Exterior Trade – VUCE:** <https://www.vuce.gob.pe/>



- **Portal Technical Peruvian Regulation:**
<http://www.mincetur.gob.pe/newweb/Default.aspx?alias=www.mincetur.gob.pe/newweb/webregtec>
- **Criteria of origin in the commercial Agreements and Preferential Rate:**
<http://www.mincetur.gob.pe/newweb/Default.aspx?tabid=3099>
- **Anexo II of the Agreement regarding the definition of the concept of “original products” and methods for administrative cooperation.**
http://trade.ec.europa.eu/doclib/docs/2011/march/tradoc_147742.pdf

ANNEX 1: Current tariff situation of main products exported to Peru from the EU

TARIFF CHAPTER	PRODUCT CATEGORY	2018 CIF US\$ Mil.	2020 TARIFF	
86	Vehicles and material for railways or similar, and their parts; mechanical signaling devices for communication channels.	187,588	0%	
87	Motor vehicles, tractors, and other land vehicles; its parts and accessories	138,106	0%	2.5% (*)
84	Machines and mechanical appliances	118,313	0%	
30	Pharmaceutical products	72,941	0%	
38	Miscellaneous products of the chemical industries	53,443	0%	
85	Electrical machinery and equipment	47,286	0%	
27	Mineral fuels	38,971	0%	
40	Rubber and its manufactures	31,930	0%	
49	Editorial products and other graphic industries	23,538	0%	
90	Optics, photography or cinematography, medical surgery instruments	21,516	0%	
44	Wood, charcoal and wood manufactures	17,206	2.5% (*)	
73	Articles of iron or steel.	16,277	0%	
33	Essential oils; perfumery or cosmetic preparations	13,968	0%	
21	Miscellaneous food preparations	8,780	0%	
69	Ceramic products	8,252	0%	
72	Iron and steel	7,945	0%	
29	Organic chemicals	4,310	0%	
TOTAL – MAIN PRODUCT CATEGORIES		810,370		

Source: SUNAT.

(*) Refers to subheading 8703229020; 8703231000; 8703239020; 4410110000 which will be liberalized on 2023

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