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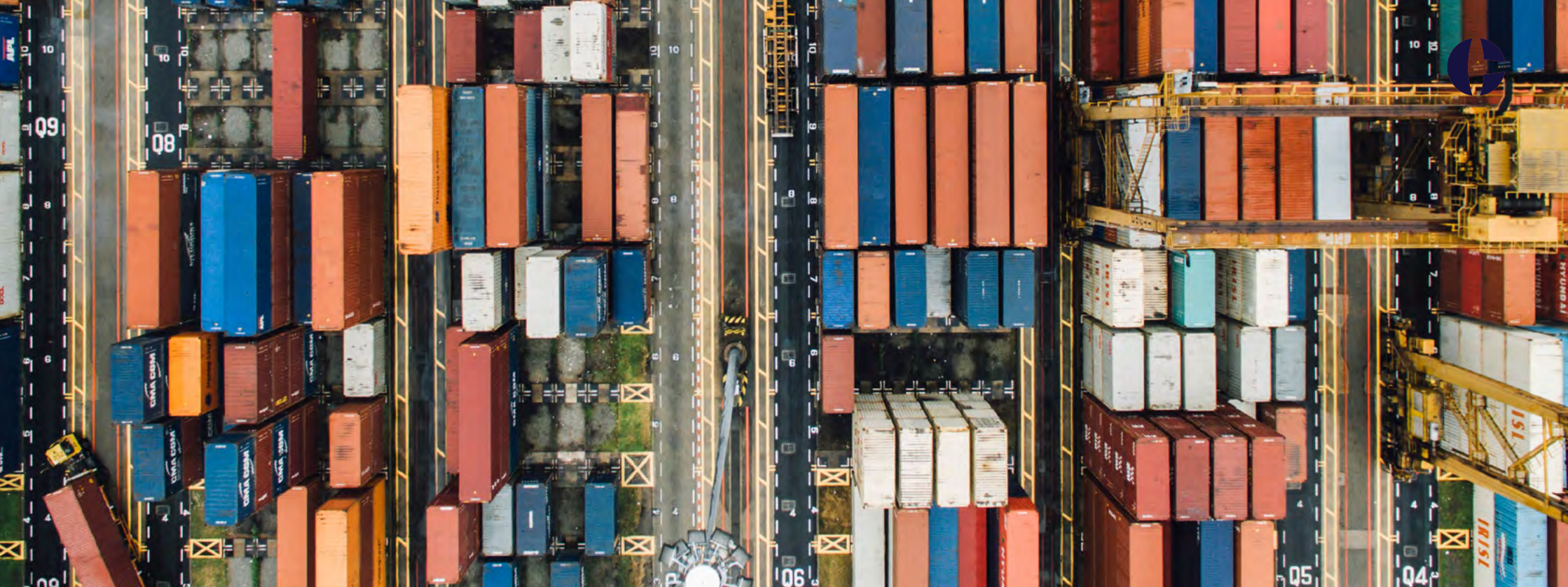
# Exporting to Peru

Legal requirements

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This publication summarises the laws and regulations applying to products imported into Peru, including customs requirements and procedures, import duties, intellectual property, consumer protection and immigration.

## Overview

- Peru has entered into 21 trade agreements with 51 countries, including the US, China, the EU, Japan and the Mercosur countries.
- Peru is also a member of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and has formally ratified the CPTPP.
- As a general rule, there are no restrictions to the import of goods. However, specific regulations (regarding matters like health, safety, security, the environment, etc.) may apply, in which case importation may require regulatory approval.
- Peru also has four free trade areas (zonas francas or zonas económicas especiales) which are subject to special regulation. These include: Zofratacna (Tacna), Zed Paita (Piura), Zed Ilo (Moquegua) y Zed Matarani (Arequipa). The objective of these zones is to improve the prosperity of the region where they are located, reduce barriers to trade, stimulate the economy, reduce the unemployment rate, and promote the expansion of infrastructure and the development of new technology.



## General procedures for importing

The General Customs Law establishes the legal framework applicable to the passage of goods to and from Peru. It is administered by the Customs Authority (which is part of the Tax Administration National Superintendence – SUNAT).

The importer must have a taxpayer identification record (RUC), identity document (DNI), immigration card, or passport and must complete a customs declaration form (*Declaración Aduanera de Mercancías* – DAM) at SUNAT. If the free on board (FOB) value of the goods exceeds US\$2,000, the importer must be represented by a customs broker.

In addition to the DAM, the importer must submit: the commercial invoice; the international transport documentation; the insurance policy document; and the certificate of origin. In the context of COVID-19, the Customs Authority has allowed some documents to be submitted electronically through *Mesa de Partes Virtual* – MPV.

In Peru, there are three different modalities for customs declarations. The first is an “Anticipated Dispatch”, when, for example a customs declaration form is submitted before the international carrier arrives in Peru. Anticipated dispatch allows you to obtain your goods to be obtained within 48 hours. It is also possible to defer payment of surcharges until the 20th of the month following the unloading of the goods. The second modality is Deferred Dispatch, where the customs declaration form is submitted to SUNAT within 15 calendar days of the goods being unloaded.

The last modality is Urgent Dispatch, where an expedited transit is required, and the declaration can be submitted before the arrival of the goods, and up to seven days after the goods are unloaded.

SUNAT assigns a control channel for each DAM, based on specific risk parameters and indicators (timely tax payment record, record of violations and penalties imposed, etc.).

These channels are:

- red – physical inspection and document review (a 15% limit applies to the number of DAM that can be put through this channel)
- orange – document review only conforms before giving authority, and
- green – no inspection or review.

These procedures must be completed within 30 calendar days of the DAM being submitted.

If the 15 day deadline for submission of the DAM or the 30 day processing deadline is missed, the goods will be considered to be legally abandoned, enabling the Customs Administration to dispose of them.

Customs Guarantees to secure payment of the customs tax may be used by importers to withdraw cargo from customs premises within 48 hours of unloading.

Temporary entry for certain listed goods is allowed either for their internal use and subsequent re-export (in the same conditions in which the goods entered the country which is applicable to equipment and machinery on a closed list approved for this purpose) or for raw materials which are to be transformed for subsequent export. In both cases, the payment of customs duties and import taxes is suspended on the provision a guarantee covering the amounts due, plus interest.

### Special requirements

Some goods are subject to special requirements, most commonly due to reasons related to public health and security. These include goods related to telecommunications, the chemical and pharmaceutical industries, agriculture and livestock.

The restrictions can be viewed on SUNAT’s web page by using the corresponding HS tariff code (<http://www.aduanet.gob.pe/itarancel/arancelSO1Alias>).

Additional legal requirements may apply to imports destined for particular areas (e.g. to the Amazon region or to a free trade zone).

### Import duties and fees

The tax base for the calculation of Ad/Valorem Duties is cost, insurance and freight (CIF Value). This is determined according to the Relative Agreement on Implementation of Article VII of the General Agreement on Customs Tariffs and Trade (GATT) of 1994 (Valuation Agreement) of the World Trade Organization (WTO).

The applicable Ad Valorem rates are 0%, 6%, or 11%, depending on the tariff sub-category of the imported merchandise. More than 70% of the goods listed in the customs tariff are subject to a 0% rate.

Additional Variable Duties apply to imports of agricultural goods such as rice, yellow corn, milk and sugar.

Selective Consumption Tax (SCT) applies to petrol (gasoline), gas-oil (diesel), spirits, cigars, tobacco and certain vehicles. The rate or amount varies depending on the product.



Value Added Tax (VAT) and Municipality Promotion Tax (MPT) apply to most imported goods. The VAT rate is 16% and the MPT rate, 2%. The tax base for the calculation of both taxes is the customs value of the imported goods plus Ad Valorem Duties plus SCT.

Peru also has a VAT perception regime, which is applicable to certain goods within Peru, e.g., mixed oil gas and carbon dioxide. Perception agents, appointed by the Tax Administration, withhold in advance a proportion of the VAT that will be generated by its customers in future transactions with the goods. The rates are 10%, 5% or 3.5%.

## Penalties

### Customs infractions

Customs infractions are established in the General Customs Law and generally relate to an incorrect or incomplete customs value declaration.

Fines are calculated either as a percentage of the unpaid import taxes or as a fixed amount.

### Customs crimes

Customs crimes law regulates contraband and customs fraud.

Contraband covers the entry or exit of goods, with a value higher than four tax units (approximately US\$4,500), to or from Peru by evading customs control.

Customs fraud includes any fraudulent attempt to reduce the import taxes imposed on imported goods.

## Protecting your intellectual property rights

Peru is a member of several international treaties on intellectual property, including the Berne Convention, the Patent Cooperation Treaty (PCT), the Trademark Law Treaty (TLT), the Singapore Treaty on the Law of Trademarks and the WTO's TRIPS Agreement. Peru also participates in the World Intellectual Property Organisation (WIPO) and the Organisation for Economic Co-operation and Development (OECD).

The main authority concerning intellectual property in Peru is the National Institute of Defense of Competition and Protection of Intellectual Property – INDECOPI, which is in charge of the registration and protection of patents, industrial designs, trademarks, slogans, copyright and other intellectual property rights ([www.indecopi.gob.pe](http://www.indecopi.gob.pe)).

Red Científica Peruana is the entity in charge of the .PE Domain Name Registry ([www.punto.pe](http://www.punto.pe))

## Consumer protection and fair trading

The Consumer Defence and Protection Code (the Code) applies to:

1. any “consumption relationship” originating in Peruvian territory or producing effects in such territory (even if originating elsewhere), and
2. transactions not involving the payment of a consideration but having a commercial purpose aimed at promoting consumption.

The Code gives consumers several rights, including:

- the right to receive information related to the offered goods and services so that the consumer may make a correct choice and use or consume the goods or services in an appropriate manner. The information provided by the supplier must be truthful, sufficient, easy to understand, appropriate, timely, easily accessible and in Spanish. Relevant or material information means any information without which the consumption decision would not have been made or would have been made in substantially different terms
- the right to receive suitable goods and services, according to their nature and their ability to satisfy the purpose for which they are sold. The supplier is also responsible for the authenticity of the marks and labels contained on the goods or services, and for any contradictory statements between the advertising and the product
- the right to not be the subject of arbitrary discrimination by suppliers of goods and services
- the right to safe use of goods and services, and
- the right not to be exposed to coercive, aggressive or misleading commercial methods or to abusive collection methods.

The Consumer Protection Commission and the Agency for the Resolution of Expedited Consumer Protection Procedures are the national administrative bodies responsible for verifying compliance with the laws governing consumer protection. Decisions of the Agency for the Resolution of Expedited Consumer Protection Proceedings may be appealed before the Consumer Protection Committee and decisions of the Committee may be appealed before the Administrative Court for the Defense of Competition of INDECOPI.



## Resolving disputes in Peru

The judicial system in Peru is autonomous and independent, and its function is to administer justice. With that, Peru has a hierarchical system of courts with the Supreme Court of Peru, which has national jurisdiction, at the top.

The Superior Court (also referred as the Court of Appeals) is at the second level, followed by specialty Courts (civil law, criminal law, public law, constitutional law, family law, labour law, and road safety law), each of which has jurisdiction over a Province.

At the lowest hierarchal level are the Peace Courts, which appointed to solve minor cases and cannot try criminal matters.

Peru has a Civil Law System (as opposed to common law), however judicial decisions create an interpretive context for future cases if issued within a Cassation Plenary (held by the full Supreme Court Panel to clarify a specific matter on which the judiciary has handed down contradictory decisions), or issued by the Constitutional Court.

Peruvian Law also allows the arbitration proceedings for dispute resolution, which is regulated by Legislative Decree N° 1071. Arbitration is only applicable to matters that are of free disposition between individuals (economic rights).

## Visiting Peru

New Zealand citizens may enter Peru for up to 90 days under a tourist category visa with a valid passport (with six months still to run). This is renewable for up to 183 days. A special permit to sign documents can be obtained if required.

It is recommended to obtain a business visa to carry out activities such as attending meetings with public officers, closing deals and signing contracts.

To carry out paid work in Peru, foreign citizens need a work visa. Such visa can be obtained (i) through a change of immigration status while the foreigner is in Peru, or (ii) by requesting the visa to be picked up at the Peruvian Consulate, before entering Peru.

For periods of up to 12 months, a temporary visa will suffice.

Longer periods will require a resident visa, which also entitles foreign citizens to receive a foreign ID. This can be renewed on a yearly basis provided the holder is employed by a Peruvian company on an employment contract with a maximum duration of three years, which is renewable indefinitely for the same period. After three years, the foreign citizen may apply for Permanent Residence.

Alternatively, foreign companies may apply for a work visa for a designated employee, which requires mainly a services contract between the foreign company and a local entity. Applications are to the National Superintendence of Immigrations, which is part of the Ministry of the Interior.

Employment contracts must be first registered with the Labor Ministry. Processing times are 30 to 60 business days, depending of the chosen procedure (visa to be picked up abroad or change of immigration status).

## Where to get further information

### Visas

For visas, please visit: [www.gob.pe/migraciones](http://www.gob.pe/migraciones)

If the visa is to be picked up before the Peruvian Consulate in New Zealand, please visit: [www.consulado.pe/es/Wellington/Tramite/Paginas/Tramite.aspxchile.gob.cl/wellington/](http://www.consulado.pe/es/Wellington/Tramite/Paginas/Tramite.aspxchile.gob.cl/wellington/)

### Other/Legal

Rodrigo, Elías & Medrano Abogados – Customs and international trade advisory services provided by partner Julio Guadalupe. For further information, please send an email to [jguadalupe@estudiorodrigo.com](mailto:jguadalupe@estudiorodrigo.com)

### General – in New Zealand

#### Peruvian Consulate

Level 5, 11 Chews Lane, Wellington

Phone: (64-4) 213 8943

Email: [consular@embassyperu.org.nz](mailto:consular@embassyperu.org.nz)

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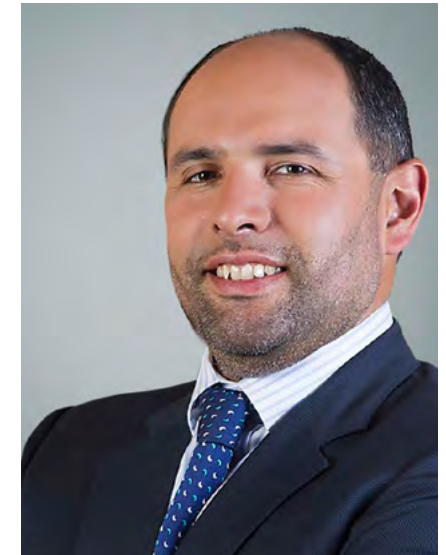
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Every effort has been made to ensure accuracy in this publication. However, the items are necessarily generalised and readers are urged to seek specific advice on particular matters and not rely solely on this text.

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