

Peru's  
mining & metals  
investment  
guide  
2017 / 2018

# Contacts

## EY Peru

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working world

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A large mining truck is parked on a dirt road in front of a massive, layered rock quarry. The truck is a heavy-duty vehicle with a large canopy and multiple rows of seats. The quarry face behind it is steep and shows distinct geological strata. The overall scene is industrial and rugged.

*Peru's  
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**2017 / 2018**

*About  
this*

# mining & metals investment guide



*The difference  
between good  
investment  
decisions and  
bad investment  
decisions  
is the right  
information at  
the right time.*

Paulo Pantigoso  
Country Managing Partner  
EY Peru

This mining & investment guide is the first, and still the finest, handbook of its kind. This document has been structured to serve as an initial step in the process of evaluating the mining landscape in Peru. As such, it will be useful to those who contemplate at least the possibility of making long-term investments into the exploration and development of new mines in the country.

This publication has brought together several of the mining industry's leading professionals from EY Peru, with a mix of legal, tax, economic and accounting backgrounds, to share their unique insights and explain the key elements for a successful expansion by international mining and metals companies into Peru.

Within this guide we have examined various aspects usually taken into consideration by miners and investors from around the world before making critical decisions on the development of new mining operations. Included in this guide is an overview of Peru's political structure, business environment, macroeconomic profile, key indicators and outlook for the next years, geological potential, mining and metals sector trends and recent developments. The guide also provides access to essential information to assist foreign investors in understanding the regulations governing investment and in particular the legal, taxation and regulatory requirements to operate in Peru's mining sector.

First published in 2010, this guide has been designed to be easily consulted and to offer a balanced and objective account of areas of potential interest to foreign mining investors. In this fifth edition, we have chosen to leave the general structure of the 2015/2016 edition intact. We have, however, drawn from what we have learned from those who have used this reference booklet and from our own experiences, and included the most recent data available in August 2017 and some additional commentary on a variety of critical topics. The aim is to supply international exploration and mining companies (majors and juniors) with a fact base and critical information to facilitate and support their investment-making discussions and decisions. We hope that this new material will be useful in the efforts to attract greater flows of foreign direct investment and that flows in turn benefit the country.

We wish to express our appreciation to the Ministry of Foreign Affairs and the Private Investment Promotion Agency of Peru (ProlInversion) for their support of this project. Our special thanks are owed to Ambassador, Silvia Alfaro, General Director of Economic Promotion of the Ministry of Foreign Affairs and Alvaro Quijandria, Executive Director of ProlInversion for mobilizing their respective teams to support and assist us in the production and distribution of this guide across the world. ■

*Companies that have access to timely, targeted and comprehensive information about Peru's mineral sector investment conditions can prepare to seize opportunities rather than risk falling behind.*





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## *A note from* **Marcial Garcia**

Peru is a global leader in the mining industry, which makes it a natural choice for international investors. It is one of the world's biggest producers of base and precious metals. Currently, it is the second largest producer of copper in the world and stands amongst the top four producers for silver, lead, zinc, tin and molybdenum.

Add to that important deposits of gold and non-metallic resources -such as phosphates and uranium- and is unsurprising that Peru's economic fortunes have been tied to the mineralogy of the Andes Mountains for many centuries.

Despite mineral price volatility, uncertain demand and poor market conditions, mining investment continues to flow into the country and is one of the key motors of economic growth. The success of Peru's mining sector stems not only from an abundance of rich natural resources, but also from an attractive legal and tax regime designed to support the industry.

Peru enjoys political and macroeconomic stability. It has a steadily growing economy, which is largely driven by mineral production. The high rates of production have attracted USD 42 billion of inbound investment into Peru's mining sector between 2011 and 2015. But Peru has much more to offer. There are still an estimated USD 49.5 billion of mining projects waiting to be developed in the country over the next few years.

The mining sector has real potential for growth and further expansion. It holds golden opportunities for investors as much of the country is yet to be subjected to vast exploration, leaving an immense potential for future development. Peru also enjoys the advantage of having one of the lowest operating costs in the world and has a large pool of people trained and qualified as geologists, mining engineers and field technicians.

International investors are a crucial part of the growth and success of Peru's exploration and mining industry. Peru welcomes foreign investment with an open and stable mining regulatory environment. A foreign investment law guarantees the security of foreign and domestic investments. Furthermore, Peru is consistently undertaking measures to improve its business climate to attract more investment.

We invite you to contact us with your questions and we wish you all the best with your mining investment opportunities in Peru. ■



**Ricardo Labó**  
Peruvian Vice Minister of Mines  
Ministry of Energy and Mines

## *A note from* **Ricardo Labó**

It is time to invest in Peru.

The attractiveness and recognition of Peru as a global leader in the mining industry is well documented and based on vast data, evidence and value associated to the country's geological potential, competitiveness on main inputs of the sector and a transparent and stable mining regulatory framework. We invite you to invest and be part of an environment with some of the best people, providers and conditions in the industry.

The above facts in addition to the relevance of the mining sector to the national and local economies, requires continuous improvements and a collaborative and multi-sector agenda around mining related matters. Geographically, investment from mining currently benefit 23 regions of the country and the scope of the current mining portfolio of USD 49Bn involves 16 regions.

By 2021, the mining objectives structured and led by the Ministry of Energy and Mines across the project's phases include (i) Promote exploration to capture 8% of the global exploration budget, (ii) Make projects' pipeline feasible to secure a minimum of USD 14Bn on new projects development, (iii) Guarantee the continuity of current operations and increase copper production by 30% over 3 million tonnes of fine copper.

We believe that the above objectives are feasible and at the same time ambitious. Thus, these are supported by a comprehensive and multi-sector strategy that will allow investments to be successfully completed from the technical, administrative and social points of view.

It is time to invest in Peru. The Ministry of Energy and Mines welcomes you and invites you to invest, contribute and be part of a global leader in the mining industry. ■



Silvia Alfaro Espinosa  
General Director of  
Economic Promotion  
Ministry of Foreign Affairs



**Ministry of Foreign Affairs  
Peru**

## *A note from* **Silvia Alfaro**

Dear Friends,

Over the past 15 years, Peru has proven to be a solid economy as a result of the sustained increase of its GDP, a stable exchange rate and low inflation rates. The responsible economic policy that the country has maintained throughout successive democratically-elected governments, as well as a stable legal framework and independent institutions, are a guarantee of the transparency and impartiality of Peru's legal system. These conditions build trust among economic agents. At the same time, Peru's efforts to raise standards of public policies and good practices, in line with its aim to join the OECD, are the foundations for even greater credibility.

On the other hand, its strategic location, next to the Pacific Ocean, in the center of the South American subcontinent and its privileged geography with great natural resources, among all the mining resources in all its territory, make Peru an attractive destination for the productive investments.

It is quintessentially a mining country. Peru currently is the world's second largest copper producer and one of the leading producers of gold and silver, among other minerals. It also has the largest silver reserves in the world and third largest reserves of copper and zinc. It is estimated that in 2016, mining and oil production represented 14.36% of the GDP, while revenue from mineral exports came to more than 50% of the country's total export revenue. These figures will increase when the new portfolio of projects comes into operation, estimated at over 46 billion dollars in the next five years.

Within this framework, it is our pleasure to present Peru's Mining and Metals Investment Guide 2017, a specialized tool for investors that provides details on the most important economic sectors that have the greatest potential in the Peruvian economy. This guide gives the reader access to particularly useful information on a wide scope of topics, from regulations and taxes to mining potential.

As General Director of Economic Promotion, and on behalf of the Ministry of Foreign Affairs, together with its wide network of embassies and consulates abroad as well as its decentralized offices within the country, it is my pleasure to invite you to invest in Peru's very promising mining sector. Be assured that you are coming into a country that is full of opportunities. Welcome! ■





**Alvaro Quijandría**  
Executive Director  
ProlInversión

## *A note from* **Alvaro Quijandría**

In the last three decades, Peru has maintained an economic policy framework that has allowed it to promote private investment and boost growth in the domestic market, while at the same time developing a clear policy of commercial integration and foreign investment. As a result, Peru's economy has achieved some of the best growth in the world in the last 10 years. The macroeconomic strengths and excellent economic results have led the risk rating agencies to grant Peru investment grade, confirmed in December 2016 with the forecast of "stable."

For 2017, the Revised Multiannual Macroeconomic Framework 2017-2019 issued by the Ministry of Economy and Finance estimates a growth rate of 3.0% for Peru, one of the highest in the region. At those rates, future prospects are set for stable growth. This positive view of the Peruvian economy is based largely upon the beginning of the construction of infrastructure concession megaprojects, signed in recent years, and on a recovery in the mining industry, as well as the measures implemented to ease up investments, which will encourage a diversification in the production industries.

The contribution of the mining industry to Peru's development is fundamental, as is its relationship with transport and energy infrastructure. It is important to highlight the Peruvian government's decision to work towards closing the infrastructure gap and promoting the participation of the private sector in infrastructure through the mechanism of public-private associations.

Peru's Agency for the Promotion of Private Investment, ProlInversión, provides assistance for investors in the stages of research, establishment and post-establishment. In order to help close the infrastructure gap, ProlInversión carries out a series of processes to promote private investment in infrastructure and public service projects through a mechanism of Public Private Associations. Over the next five years, the Peruvian government's objective is to reduce the infrastructure gap by half. A large part of the projects that are required to reach that objective will be promoted by ProlInversión through these Public Private Associations.

Peru has all the necessary conditions to develop a successful mining industry: geologic potential, competitive costs, water, power and qualified labor. Peru is also developing a plan focused on being accepted as a member of the OECD and, since 2008, has been promoting the OECD Guidelines for Multinational Businesses, as well as the guidelines on corporate responsibility in the supply chain, contributing towards the appropriate climate to develop sustainable mining projects.

Foreign investment can be made in Peru under conditions that are equal to domestic investment and is not subject to compliance with any performance requirements. Additionally, Peruvian regulations include special rules that guarantee that critical aspects for development investments remain permanent, such as: the free transfer of capital, free competition, and the protection of private property. The framework of investment policies is based on the conviction that private investment should be the driving force behind growth. The fundamental plan for the country's growth and development is for domestic and foreign investments to be the advantage that develops the country's huge opportunities.

We welcome investors to explore the possibilities of mining investment in Peru and to share in its enormous possibilities for development. ■

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Background  
information





# 1.

## Form of government

Peru's political history, as most of the Latin American countries, has swung between civil and military governments, since it gained its independence from Spain in 1821. However, there have been continuous democratic elections since 1980.

The last general elections took place in June 2016, when Pedro Pablo Kuczynski, a former World Bank economist and Wall Street banker who studied at Oxford and Princeton, was elected president after a runoff ballot in which he defeated opponent Keiko Fujimori, the eldest daughter of former president Alberto Fujimori, by a narrow 50.1% to 49.9% margin.

Kuczynski's victory has been widely applauded by international markets, because it represents the maintenance and improvement of investment-friendly policies. Since taking office on July 28, 2016, President Kuczynski, who has also previously served as prime minister, economy minister and energy and mines minister of Peru, has made the crackdown of informality and economic growth the central themes of his 5-year term administration. PPK (as he is popularly known) aims to put economy back on the 5% GDP growth mark by 2018.

According to the Political Constitution of 1993, the Peruvian government consists of an executive branch, an autonomous single chamber congress of 130 members and a judicial branch. The president and congress members are directly elected by popular vote every five years.

A constitutional amendment passed in 2000 prevents immediate presidential re-election, but allows unlimited non-consecutive terms. Election is mandatory for all citizens between the age of 18 and 70.

### Country overview

#### Government type

Constitutional republic.

#### Legal system

Based on civil law.

#### Executive branch

- ▶ Chief of state and head of government: President Pedro Pablo Kuczynski (since July 2016).
- ▶ Elections: Every five years by popular vote (non consecutive reelection). Next elections: April 2021.
- ▶ Cabinet: Council of Ministers is appointed by the president.

#### Legislative branch

- ▶ Unicameral congress.
- ▶ 130 seats.
- ▶ Members elected by popular vote, for a five-year term.
- ▶ Next elections: April 2021.

#### Judicial branch

Judges are appointed by the National Council of the Judiciary.

#### International relationships

- ▶ Generally friendly.
- ▶ Member of the United Nations since 1945, member of the Security Council between 2006 and 2007.
- ▶ Member of the World Trade Organization since 1995.
- ▶ In 1998 became a member of the Asia Pacific Economic Cooperation (APEC) forum.
- ▶ In 2011 formed the Pacific Alliance with Chile, Colombia and Mexico.

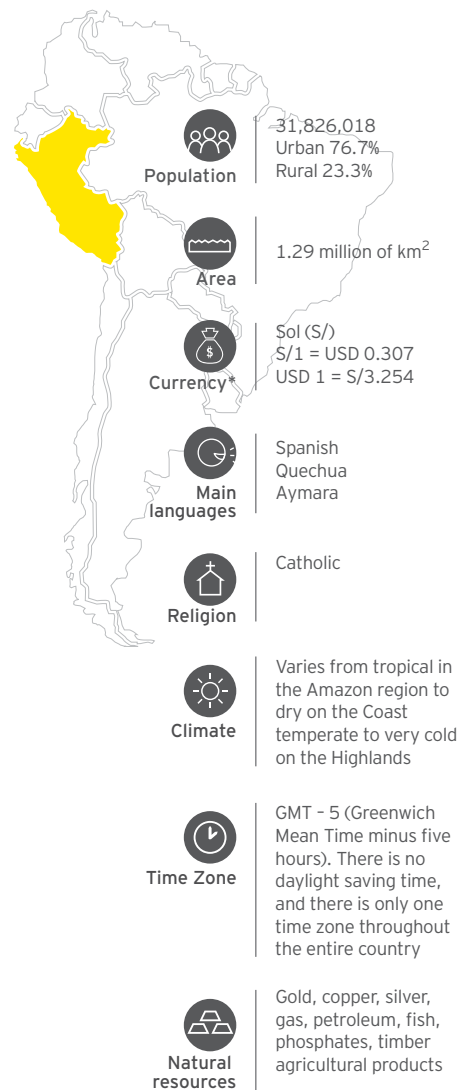
Sources: Peruvian Constitution / CIA - The World Factbook / Ministry of Foreign Affairs

## 2.

## Geography

Peru, located on west central coast of South America is bordered by the Pacific Ocean to the west, Chile to the south, Bolivia and Brazil to the east, and Colombia and Ecuador to the north. With a total land area of 1.29 million of km<sup>2</sup>. Peru is the third largest country in South America after Brazil and Argentina. It may be divided geographically in three regions:

- ▶ The Coast (Costa), which is a narrow desert strip 3,080 km long that accounts for only 11.7% of Peru's territory even when it contains approximately 60.4% of the population. Lima, the political and economical capital of the country is located in this region;
- ▶ The Highlands (Sierra), which consists of the Andean Mountain Range, covers 27.9% of the territory and holds almost 26.9% of the population. This region contains the country's major mineral deposits; and
- ▶ The Amazon Jungle (Selva), is the largest region occupying 60.4% of Peru's territory. This region is rich in petroleum and forestry resources.



\*Exchange rate as of 07/06/17  
Sources: BCRP / INEI

## 3.

### People

The estimated population of Peru for the year 2017 is 31.8 million, of which 10.1 million (approximately 31.8%) reside in Lima, the capital of the country. The labor force is estimated to be about 23 million.

The predominant religion is Roman Catholicism and the main official languages are Spanish and Quechua. Aymara is also spoken in some parts of the southern Highlands Region of the country. With respect to the literacy rate, 94.0% of those aged 15 and older can read and write.

<b>People overview</b>	
<b>Population</b>	31,826,018
<b>Age structure</b>	<ul style="list-style-type: none"> <li>▶ 0-14 years 27.5% (2016)</li> <li>▶ 15-64 years 65.7% (2016)</li> <li>▶ 65 years and over 6.8% (2016)</li> </ul>
<b>Growth rate</b>	1.1% (2013 - 2016)
<b>Birth rate</b>	18.3 births/1,000 population (2016)
<b>Death rate</b>	5.7 deaths/1,000 population (2016)
<b>Sex ratio</b>	At birth 1.03 male/female
<b>Life expectancy at birth</b>	74.80 years (2016)

Source: INEI

## 4.

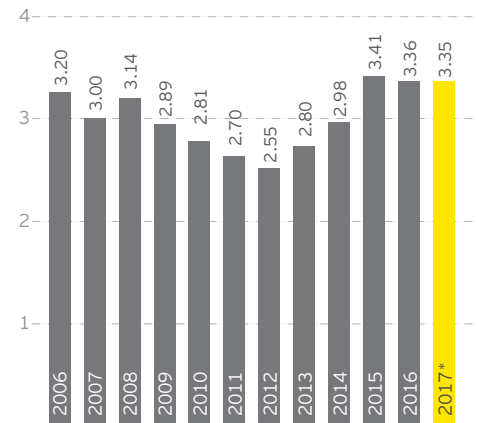
### Currency

The Peruvian currency is the Sol (PEN). Peru has a free-floating managed exchange rate regime. During 2016, the US Dollar (USD) to Peruvian Sol exchange rate reflected an appreciation of the Sol of 1.67% on average in the context of a financially dollarized economy. Historically, the Peruvian Sol reached an all-time high of PEN 3.65 per USD in September of 2002 and a record low of PEN 1.28 per USD in August of 1992.

Banks are currently (July 05, 2017) buying USD at PEN 3.257 and selling USD at PEN 3.258. Parallel market rates are slightly different.

There are no restrictions or limitations on holding bank accounts in foreign currency or to remit funds abroad.

**Exchange rate: Peruvian Sol to US Dollar (PEN / USD)**



\*Estimated  
Sources: BCRP



## 5.

# Economic overview

Peru, a country of 31.8 million people, is one of Latin America's fastest-growing economies. It has rich deposits of copper, gold, silver, lead, zinc, natural gas and petroleum. It is also a very diverse country due to climatic, natural and cultural variations of its regions. Peru's economy reflects its varied geography, an arid coastal region, the Andes further inland, and tropical lands bordering Colombia and Brazil. Abundant mineral resources are found mainly in the mountainous areas, and Peru's coastal waters provide excellent fishing grounds.

<i>Economic overview</i>	
<b>External debt</b>	USD 23.8 billion (2016)
<b>Investment</b>	22.5% GDP (2016)
<b>Unemployment rate</b>	5.2% (2016)
<b>Population below poverty line</b>	20.7% (2016)
<b>Export partners</b>	Canada, China, Germany, Italy, Japan, Spain, Switzerland, US, Venezuela
<b>Exports commodities</b>	Gold, copper, zinc, crude oil and by-products, coffee, potatoes, asparagus, textiles, fish meal
<b>Import partners</b>	Argentina, Brazil, Chile, China, Ecuador, US
<b>Import commodities</b>	Petroleum and by-products, plastics, machinery, vehicles, iron and steel, wheat, paper

Sources: BCRP / Ministry of Economics and Finance / INEI / ECLAC

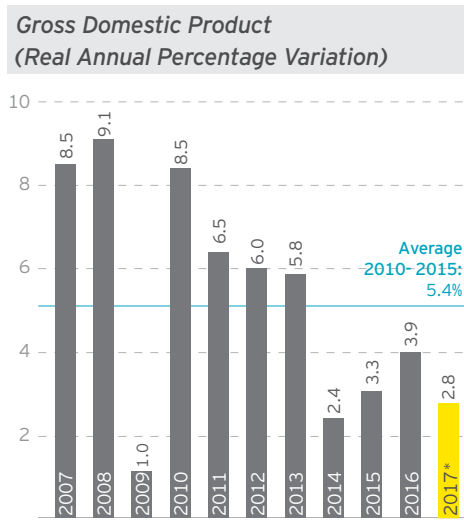
Mining is the dominant sector of the Peruvian economy. Substantial additional investment has flowed to the sector over the past 20 years. As a result, there has been an increase in exploration and development activities. Peru is among the major producers of mineral commodities in the world. They account for nearly 60% of the country's total exports. Copper and gold are the most important mineral exports by value.

In recent years, Peru has achieved significant advances in social and development indicators as well as in macroeconomic performance, with very dynamic GDP growth rates, reduction of external debt, a stable exchange rate and low inflation. Peru's rapid expansion has helped to reduce the national poverty rate from 48.5% in 2004, to 20.7% of its total population in 2016. Extreme poverty declined from 17.4% to 3.8% over the same period.

The country has had continuous economic and political stability since the early 1990s. Peru has been one of the region's fastest-growing economies, over the past decade, with an average growth rate of 5.5% in a context of low inflation (averaging 2.9%). Prudent macroeconomic policies, investor-friendly market policies and the government's aggressive trade liberalization strategies combined to create a scenario of high growth and low inflation.

After a weak 2.4% growth in 2014, mainly caused by the global decline of commodity prices, Peru's economy is gradually recovering and grew 3.3% in 2015 and 3.9% in 2016. The acceleration was largely driven by a recovery of mining export volumes, as several large-scale mines entered into production.

With the economy in solid footing, Peru's GDP growth will continue to be one of the strongest among peers. In 2017, economic growth is expected to be 2.8%, gradually accelerating to an average rate of 4.8% by 2018-2019. The main drivers of this growth will be increased mining production, particularly copper, and increased public and private sector capital expenditure on several large public infrastructure projects, such as Line 2 of the Lima Metro, the modernization of the Talara refinery and the Chinchero airport in Cusco.



\*Estimated  
Source: BCRP

The country's positive growth performance has much to do with the competent monetary and fiscal policy pursued particularly over the last decade, with falling levels of public indebtedness (from 44.3% of GDP in 2004 to just 23.8% in 2016) and foreign reserves reaching USD 61.7 billion as of December 2016.

This has gone hand in hand with trade and foreign direct investment (FDI) opening, operational independence of the central bank, and maximization of the revenues from the country's rich natural and mineral resources, with expenditures keeping pace. Among the countries that invest the most in Peru are Spain, the United Kingdom, the United States and China. Nearly a quarter of the total FDI is attracted by the mining sector and nearly half is split among the financial, communications and industry sectors.

Thanks to its strong macroeconomic performance, the main rating agencies - Standard & Poor's, Fitch and Moody's - upgraded Peruvian sovereign debt to investment grade and currently such credit rating isn't at risk. Peru also benefits from strengths such as the fairly large size of its market and its sophisticated and rather deep financial sector.

As a country rich in natural resources, Peru exports goods that are highly subject to price volatility, whereas it imports industrial goods, prices of which are less volatile. The country has benefited from a steady improvement in its terms of trade since 2000, which has had a positive impact on the trade balance. Moreover, the country has engaged in several bilateral and multilateral trade agreements that have opened new markets for its exports.

Peru belongs to the Andean Community, the Asia-Pacific Economic Cooperation (APEC) forum, the Pacific Alliance and the World Trade Organization. Peru has also maintained an aggressive trade policy that has allowed it to sign free trade pacts with the United States, Chile, Mexico, Nicaragua, Canada, Costa Rica, Japan, Panama, Thailand, Singapore, EFTA States (Iceland, Liechtenstein, Norway and Switzerland) the European Union, South Korea, Venezuela and China, opening the way to greater trade and investment.

After registering deficits in 2014 and 2015, the balance of trade recorded a USD 1,888 million in 2016 to a certain extent due to a strong rebound in exports. Peru's main exports are copper, gold, zinc, agricultural products, textiles and fish meal; its major trade partners are the China, United States, Switzerland, Canada and Japan.

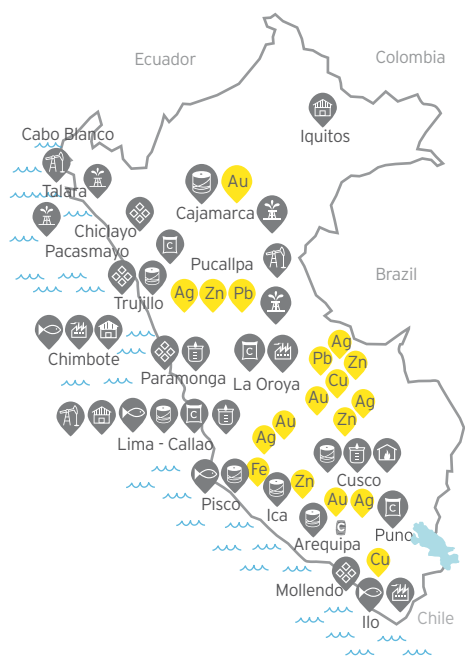
Notwithstanding Peru's improvements in macroeconomic stability, it still faces a number of important challenges that hamper its competitiveness potential.

For Peru to continue to grow in a sustained fashion going forward, a number of weaknesses will need to be tackled. This will include improving the quality of the institutional environment, upgrading the country's poor infrastructure (in particular its insufficiently developed transport infrastructure network) and educational standards. Peru's overdependence on minerals and metals prices subjects the economy to fluctuations in world prices.

Matching or beating the GDP growth rates that are required to undertake the necessary investments and reforms will depend mainly on how much of the USD 49.5 billion in mining investment for the next five to ten years actually goes ahead. Poverty levels and income and regional inequalities continue to loom as a cause of social unrest in the country. Not all Peruvians have shared in the benefits of growth, despite the government's efforts to increase social spending with the goal of reducing poverty in Peru and improving wealth distribution in the country.

Since he took office as president in July, 2016, Pedro Pablo Kuczynski has maintained orthodox economic and pro-business policies of several prior administrations. President Kuczynski has proven to be determined to promote foreign investment and trade as a mechanism to spur economic growth.

### Main economic activities by region

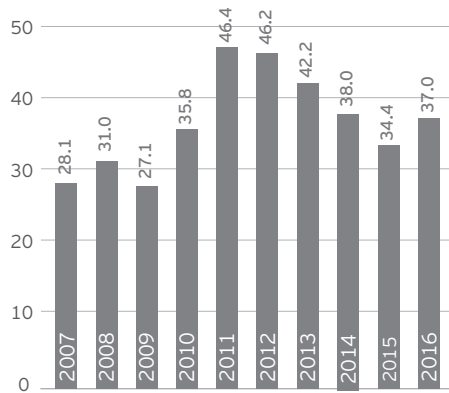


	Fishing		Metal industry
	Petroleum		Smelting
	Oil refinery		Metallurgical industry
	Sugar refinery		Gold
	Fishmeal plant		Silver
	Natural gas		Copper
	Textile industry		Zinc
	Cement plant		Lead
	Chemical plant		Iron

Source: University of Texas - Perry Castaneda Library Map Collection

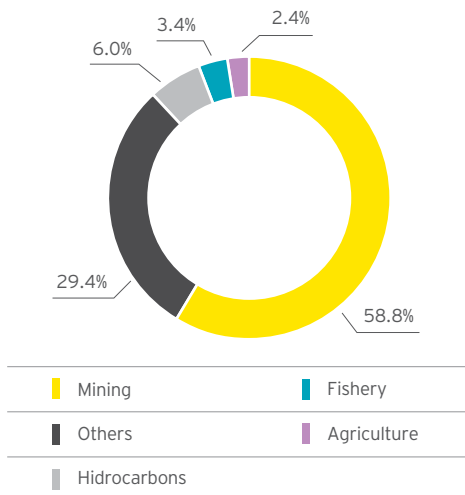


**Exports (in USD billions)**



Source: BCRP

**Exports by economic sector (2016)**



Source: BCRP

**GDP / Trade Balance**

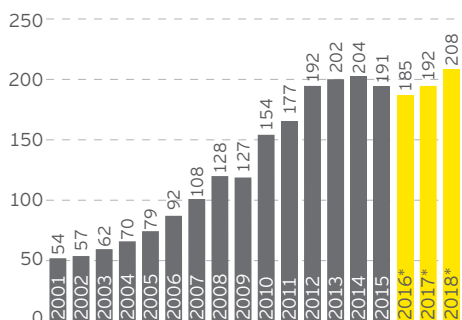
Peru's economy grew 3.9% in 2016. Currently, the services sector is the main contributor of Peru's GDP, with nearly 60% of GDP stemming from this sector. The economy is expected to remain on a solid footing in the coming years, as external demand will continue to prop up Peruvian exports and government's efforts to cut red tape should boost private investment.

In 2016, the Peruvian trade balance recorded an accumulated USD 1,888 million surplus, which was a notable upswing from the USD 2.9 billion deficit recorded in 2015.

Although the external sector's contribution to economic growth has been diminishing, exports have remained strong. Increased output of minerals, especially copper, allowed for the surge in exports in 2016, despite the low prices of the commodities exported.

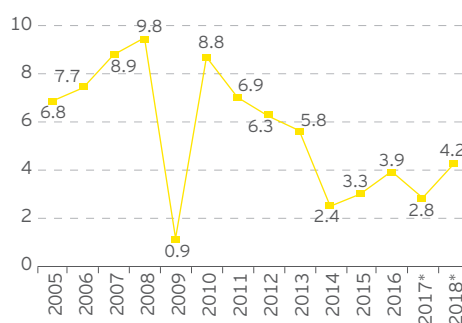
The main detraction from the external sector's contribution to growth stemmed from increasing imports, although capital goods imports have remained at healthy levels. Peru's imports are mainly composed of final and intermediate goods, as opposed to exports, in which minerals and ores account for the majority of overseas sales.

### Peru's real GDP (in USD billions)



\*Estimated  
Sources: BCRP / Apoyo Consultoría

### GDP variations



\*Estimated  
Source: BCRP

### Devaluation and Inflation

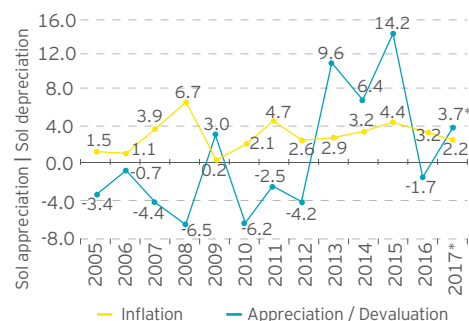
The Central Reserve Bank of Peru (BCR) conducts a managed floating regime for the exchange rate of the PEN versus the USD. The Bank allows the market to determine the value of the currency, although it intervenes to avoid large fluctuations.

The market value of the PEN appreciated 1.67% against the USD in 2016. The appreciation of the national currency, the Sol, and a relatively stable inflation have helped the economy overcome periods of nominal volatility.

The BCR started targeting inflation in 2001 and is now committed to keeping the annual inflation rate within a target range of 1% to 3%. The central bank's commitment to stable inflation has favored inflows of capital as well as exchange rate stability.

The annual inflation rate was 3.2% in 2016 (4.4% in 2015), which is slightly above the Central Reserve Bank of Peru's annual target range. The Bank's officials now expect inflation to finish 2017 within the target range.

### Appreciation / Devaluation and inflation



\*Estimated  
Sources: BCRP / Ministry of Economy and Finance

## 6.

# Infrastructure access

It is expected that Peru will only realize its full economic potential after reducing its infrastructure bottlenecks. Estimates vary, but the investment required runs into billions of dollars. In the last decade, Peru has begun to take the necessary measures to improve its underprivileged infrastructure (transport facilities, electricity, water and communications) in order to promote new investments which will contribute to the development of the productive sectors of the country.

President Pedro Pablo Kuczynski, who took office in July 2016, intends to continue with this trend and has announced that Peru will increase public investment in infrastructure during his 5-year term administration. The fiscal plan sets to increase fiscal autonomy for regional authorities to reduce the profound regional inequalities in living standards across the country.

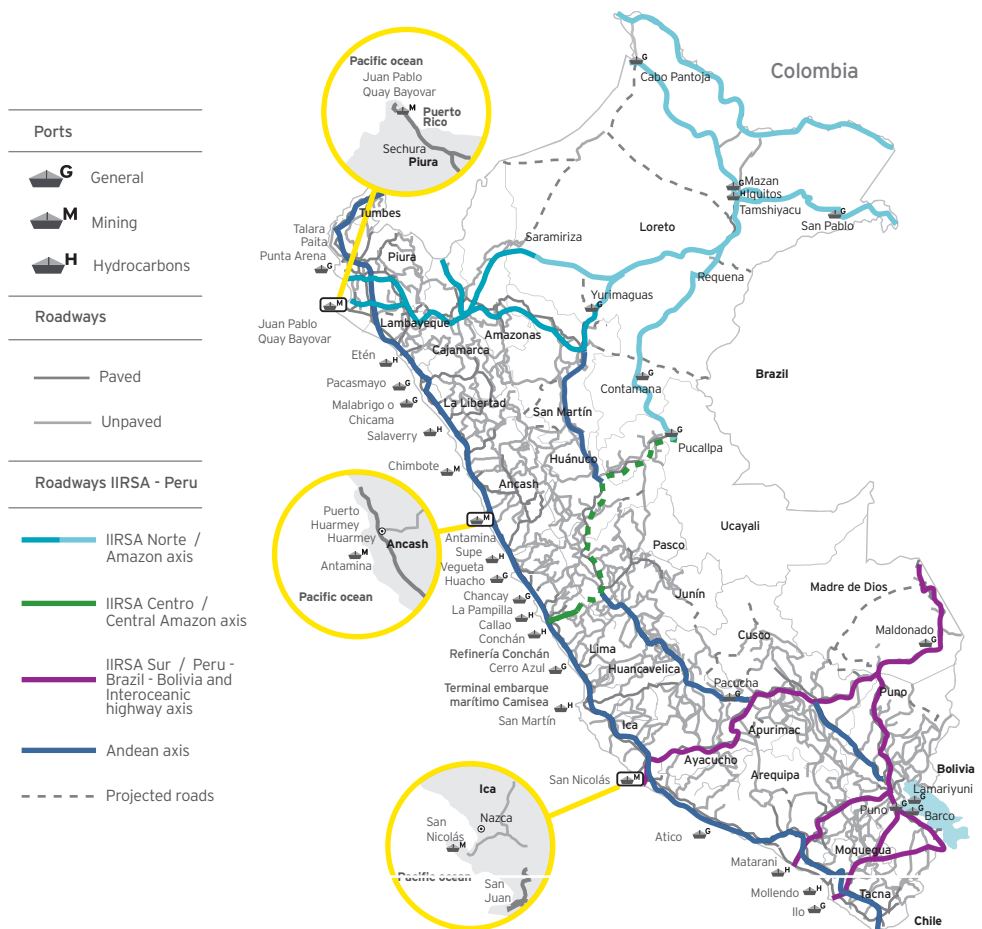
Mining is one of the sectors affected by this constraint since mining and metals companies need to have access to transportation facilities to deliver their products to national and international markets. These needs are in addition to the standard mine infrastructure. Well-developed infrastructure reduces the effect of distance between regions, with the result of truly integrating the national market and connecting it at low cost to markets of other countries and regions.

In recent years, it is not so much the lack of availability of financing but the lack of administrative capacity in the provinces for the spending shortfalls in infrastructure that contribute to feed anti-mining sentiments. Regional and local authorities are still sitting on billions of soles from canon, mining royalties and other levies collected over the last decade lying dormant in bank accounts, which could be used to fund new roads, hospitals, schools and water projects. In 2016, on average, local and regional governments have spent 83% of the money available to be spent on infrastructure.

What is clear is that the private sector will need to respond to deliver the required investment in infrastructure. Doing so requires changes to historical approaches to infrastructure investment, which have typically been government-led, one which places private sector capital at the forefront. The Peruvian government has become very proactive providing the private sector with incentives to develop investment projects. For example, Peru's tax system includes provisions to grant a form of credit against income taxes to allow third-party investors to recover capital investments made in public infrastructure. Mining and metals companies are responding by building social infrastructure and involving communities at an early stage.



**Infrastructure access map**



Source: Ministry of Transport and Communications



## 7.

## Peru's Investment-Grade Rating

Peru has maintained its investment-grade credit rating since Moody's Investors Services raised it to that level in December, 2009 matching moves made by Standard & Poor's and Fitch Ratings the previous year. Sound economic prospects, with GDP growth rates estimated at 5% over the medium term, are a key supporting factor for the investment-grade rating. The upgrade is also supported by the significant decline in Peru's fiscal and external vulnerabilities within a context of high and diversifying sources of growth with low inflation and strengthening macroeconomic fundamentals. It is expected that these trends will remain in place over the medium term despite an increasingly riskier international environment.

### *Peru's investment grade rating (long term debt in Foreign Currency)*

Country	S&P	Fitch	Moody's
Chile	AA-	A+	Aa3
<b>Peru</b>	<b>BBB+</b>	<b>BBB+</b>	<b>A3</b>
Mexico	BBB+	BBB+	A3
Colombia	BBB	BBB	Baa2
Uruguay	BBB	BBB-	Baa2
Paraguay	BB	BB	Ba1
Brazil	BB	BB	Ba2
Bolivia	BB	BB-	Ba3
Ecuador	B	B	B3
Argentina	B	B	B3
Venezuela	CCC	CCC	Caa3

As of May 2017

Sources: Standard & Poor's / Fitch Ratings / Moody's

The strong support for sound trade and macroeconomic policies from the current administration of President Kuczynski remains a precondition for Peru to maintain its investment-grade rating.

It is well known that countries with investment grade ratings gain a higher level of confidence that generates more foreign and domestic investment. The risk premium demanded by multinationals and foreign investors is slashed after the upgrade. At the same time, the investment horizon is elongated.

The same occurs with domestic investment. Local investors gain more self-confidence, thus allowing themselves to consider opportunities with lower rates of return. The impact is immediate, as consumers gain access to credit with more favorable terms.

The upgrade to investment grade has brought Peru a lot of positive attention worldwide. More importantly, it has had a positive impact on the local economy. For this reason, nowadays, many multinational corporations eye the country more seriously, as higher private investment is flowing into the country. This should contribute to alleviate a still complex social situation in Peru, by achieving improvements in employment and decreases in poverty.



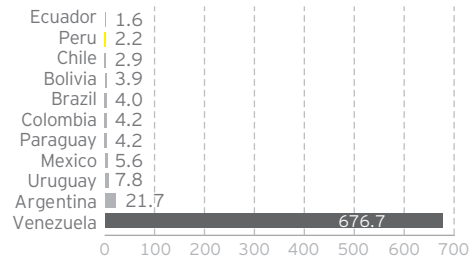
Jorge Acosta  
Advisory Services Leader  
EY Peru

*Overwhelming feedback from foreign companies is that Peru is a good country to do business with.*



As shown in the chart below, a recent international survey indicates that Peru will have one of the lowest inflation levels of the region, with a projected inflation rate of 2.2% in 2017.

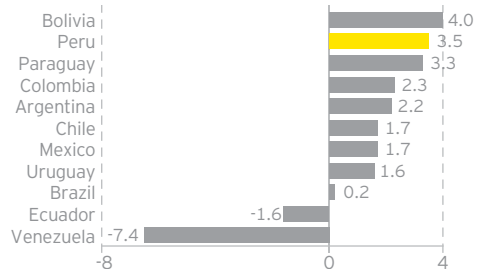
**Estimated inflation rates in Latin America (2017)**



Sources: Latin America Consensus Forecast (May 2017) / BCRP

Peru is expected to grow at a rate that will be well above the Latin American average. The International Monetary Fund estimates Peru's GDP\* will grow 3.5% in 2017, as noted in the following chart.

**Estimated Latin American GDP growth rates (2017)**



\*Peru's Central Bank estimates a 2.8% growth in 2017  
Source: IMF

# 8.

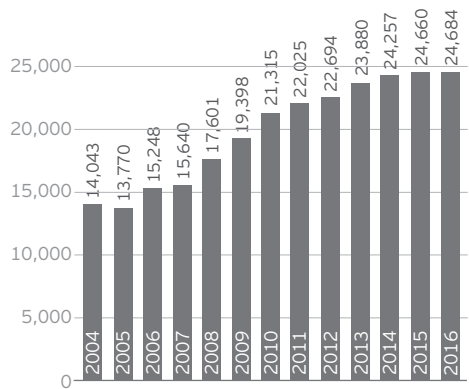
## Investment promotion conditions

### a Foreign investment legislation and trends in Peru

The Peruvian government is committed to pursuing an investor-friendly policy climate. It actively seeks to attract both foreign and domestic investment in all sectors of the economy. It has therefore taken the necessary steps to establish a consistent investment policy which eliminates all obstacles for foreign investors, with the result that now Peru is considered to have one of the most open investment regimes in the world.

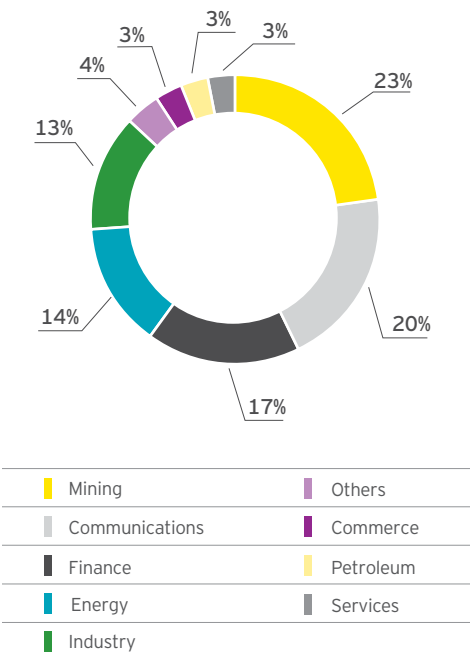
In an attempt to reduce the political risk perception of the country, Peru has adopted a legal framework for investments which offers automatic investment authorization and establishes the necessary economic stability rules to protect private investors from arbitrary changes in the legal terms and conditions of their ventures and reduces government interference with economic activities.

### Foreign direct investment in USD millions (2016)



Source: ProlInversion

### Foreign direct investment by industry (2016)



Source: ProlInversion



Peru's Private Investment Promotion Agency reported that the stock of foreign direct investment (FDI) reached USD 24.7 billion in 2016. FDI is largely seen as a catalyst for economic growth in the future. The United States, United Kingdom, The Netherlands, Spain, Brazil and Chile appear as Peru's leading investors. FDI is concentrated in the mining, financial, electricity, telecommunications, and industry sectors.

The Peruvian government guarantees foreign investors legal stability on income tax regulations and dividend distributions. Foreign investors entitled to obtain tax and legal stability are those willing to invest in Peru, in a two-year term, at least USD 10 million in the mining and/or hydrocarbon sectors; USD 5 million in any other economic activity or to acquire more than 50% of the shares of a privatized state-owned company.

Peruvian laws, regulations, and practices do not discriminate between national and foreign companies. Accordingly, national treatment is offered to foreign investors. There are no restrictions on repatriation of earnings, international transfers of capital, or currency exchange practices. The remittance of dividends, interests and royalties has no restrictions either. Foreign currency may be used to acquire goods abroad or cover financial obligations so long as the operator is in compliance with the relevant Peruvian tax legislation.

Marcial Garcia  
Mining & Metals Leader  
EY Peru



*While foreign investors can find a secure and favorable investment climate in Peru, they can equally benefit from all incentives offered to local investors.*





**b | Settlement of investment disputes**

Foreign investors are protected against inconvertibility, expropriation, political violence and other non-commercial risks through access to the corresponding multilateral and bilateral conventions such as the Overseas Private Investment Corporation (OPIC) and the Multilateral Investment Guaranty Agency (MIGA). Also, Peru has joined the International Convention for Settlement of International Disputes (ICSID) as an alternative to settle disputes arising between investors and the government. In addition, Peru has signed 42 bilateral investment treaties.



**Investment treaties**



Source: Prolversion



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Geology  
and mining



## 1.

## Importance of Peru's mining sector

The mining sector is, and has always been very important to the national economy of Peru. Its well-known mining tradition dates back to the pre-Inca times, and goes on through the Inca, colonial and republican periods. In each of those stages, mining has been one of the major activities in the country's development. Traditionally it has contributed about half of the country's export revenues.

Peru is one of the most extensively mineralized countries of the world. It currently plays host to some of the largest precious and base-metals mines in the world, including, Glencore-Xstrata, Vale, Freeport-McMoRan, Rio Tinto, Anglo American, MMG Ltd, Chinalco and Barrick. Since the liberalization of the industry in the 1990s local and foreign investment - increasingly Chinese - has been deployed to develop major modern mines.

Peru has a well recognised mineral wealth. It is considered one of the top ten richest mineral countries in the world. It is one of the world's biggest producers of base and precious metals. Currently, it is the world's second largest producer of copper and it is also a major producer of gold, silver, zinc, among other minerals. Peru has 11% of the world's copper reserves, 5% of its gold, 21% of its silver, 12.5% of zinc, 8% of lead and 3% of tin reserves, according to the most recent data published by the US Geological Survey.

Between 2015 and 2016 Peru saw a new generation of projects enter into commercial production. In April 2015 Hudbay Minerals' USD 1.8 billion Constancia porphyry copper project in the department of Cusco began production while in June of the same year Chinalco's USD 3.5 billion project ramped up to full capacity.

Two further large-scale mining projects came on line in 2016: the expansion of Freeport-McMoRan's USD 4.6 billion Cerro Verde copper mine and MMG Limited's USD 10 billion Las Bambas copper project.

### Metal production ranking

	World						
Metal	2010	2011	2012	2013	2014	2015	2016
Silver	2	3	3	3	3	3	2
Zinc	3	3	3	3	3	3	2
Tin	3	3	3	3	4	4	6
Lead	4	4	4	4	4	4	4
Gold	6	6	5	5	7	6	6
Copper	2	3	3	3	3	3	2
Molybdenum	4	4	4	4	4	4	4

	Latin America						
Metal	2010	2011	2012	2013	2014	2015	2016
Silver	2	2	1	1	2	2	2
Zinc	1	1	1	1	1	1	1
Tin	1	1	1	1	1	1	1
Lead	1	1	1	1	1	1	1
Gold	1	1	1	1	1	1	1
Copper	2	2	2	2	2	2	2
Molybdenum	2	2	2	2	2	2	3

Source: U.S. Geological Survey

According to estimates, today the mining sector accounts for about 10% of the GDP, while mineral export revenues reached USD 21.6 billion in 2016, representing around 58% of the country's total exports. Copper was the leading export metal, in terms of value, followed by gold, lead, zinc, iron, silver, tin and molybdenum.



The mining sector is also important for the generation of employment for thousands of Peruvians and represents one of the main sources of fiscal revenues. Nevertheless, statistics demonstrate that there is a general correlation between metals prices and fiscal revenues in Peru. Corporate income tax proceeds from mining and metals companies fell by 27.2% in 2016 compared with 2015.

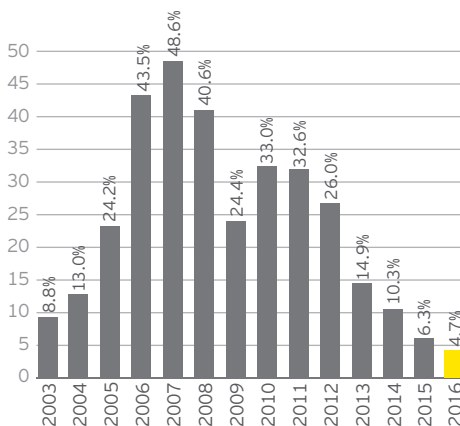
It is estimated that Peru has some 200 operating mines and a pile of major projects currently waiting to be developed worth USD 49.5 billion. China is the largest foreign investor in Peru in mining projects, followed by the United States, Canada and Australia. Of the new mining investments expected by 2021, USD 32 billion is planning to be allocated to copper projects, which represent the 64.7 percent of the total.



David Warthon  
Partner, Tax Services  
EY Peru

*By any measure Peru is a giant of the global mining industry and is well placed to ride out a period of relatively low prices.*

**Fiscal revenues - Corporate Income Tax (%)**



\*Estimated 2016

Sources: Ministry of Energy and Mines / SUNAT



**Peru's mineral production**

Production	Units	2011	2012	2013	2014	2015	2016
Copper	FMT	1,235,345	1,298,761	1,375,641	1,377,642	1,700,814	2,353,859
Gold	Fine gr.	166,186,738	161,544,686	156,257,425	140,097,028	146,822,907	153,005,603
Zinc	FMT	1,256,383	1,281,282	1,351,273	1,315,475	1,421,513	1,336,835
Silver	Fine gr.	3,418,863	3,480,857	3,674,283	3,768,147	4,101,568	4,374,356
Lead	FMT	230,199	249,236	266,472	277,294	315,784	314,174
Cadmium	FMT	572	684	no data	no data	no data	no data
Iron	LFT	7,010,938	6,684,539	6,680,659	7,192,592	7,320,807	7,663,124
Tungsten	FMT	546	365	35	no data	no data	no data
Tin	FMT	28,882	26,105	23,668	23,105	19,511	18,789
Molybdenum	FMT	19,000	17,000	18,000	17,018	20,153	25,757

Source: Ministry of Energy and Mines

**Total mining investments in Peru (USD)**

	2011	2012	2013	2014	2015	2016
Preparation	788,187,748	638,740,607	404,548,165	417,363,603	375,326,644	349,298,041
Equipment	1,124,827,734	1,140,068,755	1,414,373,690	889,223,861	446,144,458	234,040,659
Mining equipment	776,151,268	525,257,850	789,358,144	557,214,266	654,180,732	386,357,050
Exploration	869,366,744	905,401,645	776,418,375	616,284,597	526,104,407	373,166,169
Exploitation	869,507,216	1,005,372,534	1,077,880,469	910,292,888	794,705,359	933,341,784
Infrastructure	1,406,825,781	1,795,233,970	1,795,299,643	1,461,861,124	1,226,746,896	1,074,886,960
Others	1,412,256,088	2,491,504,593	3,666,356,074	4,014,970,530	3,593,604,912	900,298,553
<b>Total</b>	<b>7,247,122,580</b>	<b>8,503,579,954</b>	<b>9,924,234,559</b>	<b>8,867,210,869</b>	<b>7,616,813,408</b>	<b>4,251,389,216</b>

Source: Ministry of Energy and Mines



## 2.

## Mining potential

Increasingly, Peru is being targeted for inbound investment and is perceived by international mining and metals companies as a global player. This is partly due to the scale of opportunity where most of its territory is yet to be subjected to vast exploration and partly as a result of its attractive legislation and regulatory environment.

Although Peru is endowed with large deposits of a variety of mineral resources, it is estimated that only 0.30% of the country's total territory was being explored in 2016 (0.29% in 2015). Likewise, only a small percentage of Peru's mineral reserves are being exploited. It is estimated that in 2016 only 0.96% of its territory was under exploitation (0.93% in 2015). According to recent mining statistics, Peru's production rates are minimal with regards to the country's mineral potential. However, through modern techniques and equipment, a vast potential of diverse marketable minerals are increasingly becoming available from previously inaccessible regions.

Peru has numerous mineralized belts and mineral provinces, a wide variety of world-class ore deposits and a very dynamic mining community. It is regarded as one of the countries with largest and diversified mineral resources in the world. In addition, Peru has an excellent geographical location, in the center of South America, with easy access to the Asian and North American markets.

Within Latin America, Peru has, perhaps, the greatest untapped potential for new discoveries and production. Peru's clear and simple mining law and excellent geological potential has helped the country to attract one of the largest budgets for minerals explorations and development in the world. However, it is believed that Peru has the capacity to double or triple current level of output, especially in base metals.

Enrique Oliveros  
Transactions & Corporate  
Finance Services Leader  
EY Peru



*Despite this year's difficulties, the outlook for Peru's mining and metals sector over the next year or two is encouraging.*



Peru's potential for copper and precious metals is well documented. In the 2016 Mineral Commodity Summary, published by the US Geological Survey and the US Department of Interior, it was estimated that it housed reserves of 81 million tons of copper, 2,400 tons of gold and 120,000 tons of silver.

The following table lists Peru's estimated reserves in 2016 of major minerals, such as copper, gold, zinc, silver, lead, iron ore and tin. These mineral reserves represent "proven" (measured) and "probable" (indicated) categories and exclude quantities reported as "possible" (inferred). For this purpose, reserves were defined as being well delineated and economically recoverable volumes of minable ore from mines committed to production.

#### Reserves (2016)

Metal	Metric Tons
Copper (in thousands)	81,000
Gold	2,400
Zinc (in thousands)	25,000
Silver	120,000
Lead (in thousands)	6,300
Tin	100,000
Molybdenum (in thousands)	450

Source: U.S. Geological Survey

Elizabeth Rosado  
Tax Partner  
EY Peru



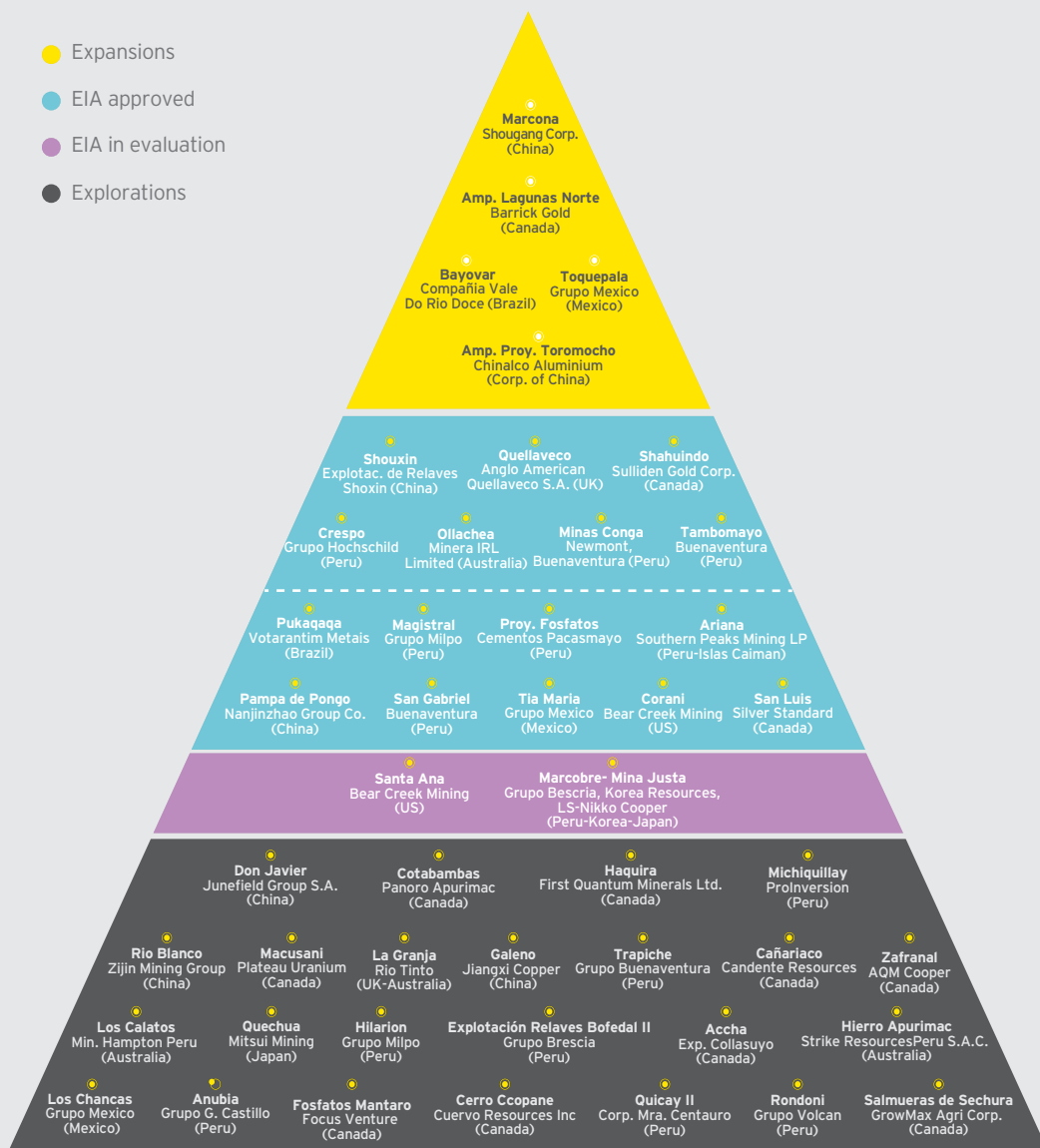
*Peru's economy continues to grow and the mining industry is the engine.*

Peru's favourable geology and significant undeveloped mineral resources constitute a very important comparative feature, which has driven many mining companies to commit to invest in the country's mining sector.

From a peak of USD 9.9 billion in 2013 investment in mining projects fell to USD 8.9 billion in 2014, to 7.6 billion in 2015 and then to USD 4.3 billion in 2016. Nevertheless, there are still an estimated USD 49.5 billion of mining projects waiting to be developed in the country, although many of them are on a smaller scale than recent projects. The Ministry of Energy and Mines lists 47 main projects in different stages of development targeting a variety of metals and minerals.

### Mining projects pipeline

Mining investment over the period 2016-2021 is estimated by Peru’s Ministry of Energy and Mines to be USD 49.5 billion. About USD 32 billion (64.7%) will be invested in copper projects, with iron ore (10.7%) and gold (3.6%) set for much of the rest. The following figure and chart show which are the projects involved, distinguishing between “expansions” of existing operations; projects under construction for which “investment is confirmed”; projects “for which feasibility studies have been carried out” and “exploration projects”.



\*In commissioning mining phase / Projects have been sorted randomly / Ministry of Energy and Mines  
EIA: Environmental Impact Assessment

### Geographic location of Peru's Main Mining Projects

#### Expansions

- |             |                 |
|-------------|-----------------|
| 1 Toquepala | 4 Toromocho     |
| 2 Bayóvar   | 5 Lagunas Norte |
| 3 Marcona   |                 |

#### EIA approved / In process of construction

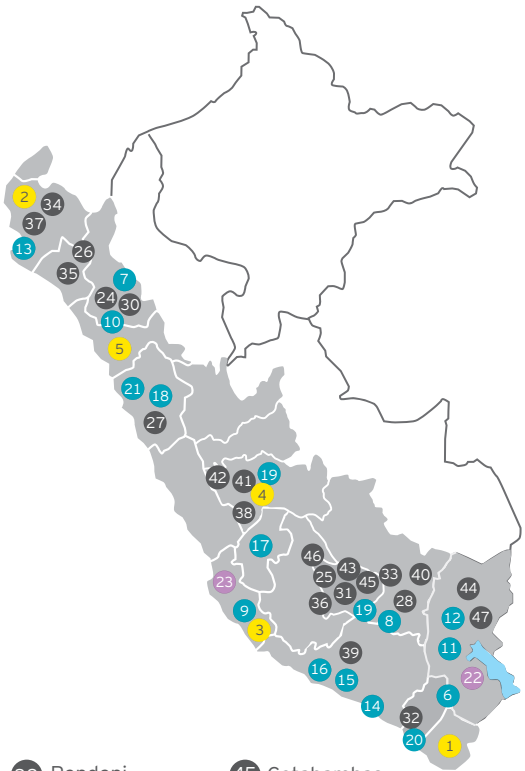
- |                |                   |
|----------------|-------------------|
| 6 Quellaveco   | 14 Tía María      |
| 7 Conga        | 15 Tambomayo      |
| 8 Crespo       | 16 Pampa de Pongo |
| 9 E.R. Shouxin | 17 Pukaqaqa       |
| 10 Shahuindo   | 18 Magistral      |
| 11 Corani      | 19 Ariana         |
| 12 Ollachea    | 20 San Gabriel    |
| 13 Fosfatos    | 21 San Luis       |

#### EIA approved / In process of evaluation

- |              |             |
|--------------|-------------|
| 22 Santa Ana | 23 Marcobre |
|--------------|-------------|

#### Exploration

- |                    |                      |                    |               |
|--------------------|----------------------|--------------------|---------------|
| 24 Michiquillay    | 31 Haqira            | 38 Rondoni         | 45 Cotabambas |
| 25 Hierro Apurimac | 32 Los Calatos       | 39 Zafranal        | 46 Trapiche   |
| 26 Cañariaco       | 33 Cerro Ccopane     | 40 Accha           | 47 Macusani   |
| 27 Hilarion        | 34 Río Blanco        | 41 Fosfato Mantaro |               |
| 28 Quechua         | 35 La Granja         | 42 Quicay II       |               |
| 29 Don Javier      | 36 Los Chancas       | 43 Anubia          |               |
| 30 Galeno          | 37 Salmueras Sechura | 44 Bofedal II      |               |



EIA: Environmental Impact Assessment  
Preparation: Ministry of Energy and Mines.

**Estimated portfolio of mining projects - Peru**

Company	Project	Region	Province	District	Metal	Investment USD MM
<b>Expansions</b>						
Southern Copper Corp.	Toquepala	Tacna	Jorge Basadre	Ilabaya	Cu	1,200
Compañía Minera Miski Mayo S.R.L.	Bayovar	Piura	Sechura	Sechura	Phosphate	520
Shougang Hierro Peru S.A.A.	Marcona	Ica	Nazca	Marcona	Fe	1,500
Minera Chinalco Peru S.A.	Toromocho	Junin	Yauli	Morococha	Cu	1,300
Minera Chinalco Peru S.A.	Lagunas Norte	La Libertad	Santiago de Chuco	Quiruvilca	Au	640
<b>EIA approved / In process of Construction</b>						
Anglo American Quellaveco S.A.	Quellaveco	Moquegua	Mariscal Nieto	Torata	Cu	5,000
Minera Yanacocha S.R.L.	Minas Conga	Cajamarca	Cajamarca	Baños del Inca	Cu, Au	4,800
Compañía Minera Ares S.A.C.	Crespo	Cusco	Chumbivilcas	Santo Tomas	Au, Ag	120
Minera Shouxin Peru S.A.	Relaves	Marcona	Nazca	Ica	Cu, Fe, Zn	240
Minera Sulliden Shahumdo S.A.C.	Shahuindo	Cajamarca	Cajamarca	Cachachi	Au	132
Bear Creek Mining Company	Corani	Puno	Carabaya	Corani	Ag	670
Compañía Minerakuri Kullu S.A.	Ollachea	Puno	Carabaya	Ollachea	Au	30
Fosfatos Del Pacifico S.A.	Proyecto Fosfatos	Piura	Sechura	Sechura	Phosphate	500
Southern Peru Copper Corporation	Tia Maria	Arequipa	Islay	Cocachacra	Cu	1,400
Buenaventura S.A.A.	Tambomayo	Arequipa	Caylloma	Tapay	Au, Ag	362
Jinzhao Mining Peru S.A	Pampa de Pongo	Arequipa	Caraveli	Bella Union	Fe	1,500
Milpo S.A.A.	Pukaqaqa	Huancavelica	Huancavelica	Huando	Cu, Mo	706
Milpo S.A.A.	Magistral	Ancash	Pallasca	Conchucos	Cu	300
Ariana Operaciones Mineras S.A.C.	Ariana	Junin	Yauli	Marcapomacocha	Cu, Zn, Au, Ag	To be defined
Buenaventura S.A.A.	San Gabriel	Moquegua	Sanchez Cerro	Ichuña	Au	520
Reliant Ventures S.A.C.	San Luis	Ancash			Au, Ag	To be defined
<b>EIA submitted / In process of evaluation</b>						
Bear Creek Mining Company	Santa Ana	Puno	Chucuito	Huacullani	Ag	71
Marcobre S.A.C	Marcobre (Mina Justa)	Ica	Nazca	San Juan de Marcona	Cu	1,300

continues...



...continuation

Company	Project	Region	Province	District	Metal	Investment USD MM
<b>Exploration</b>						
ProlInversion	Michiquillay	Cajamarca	Cajamarca	La Encañada	Cu	1,950
Apurimac Ferrum S.A.	Hierro Apurimac	Apurimac	Andahuaylas	Andahuaylas	Fe	2300
Cañariaco Copper Peru S.A.	Cañariaco	Lambayeque	Ferreñafe	Cañaris	Cu	1,600
Compañía Minera Milpo S.A.A.	Hilarion	Ancash	Bolognesi	Huallanca	Zn	470
Compañía Minera Quechua S.A.	Quechua	Cusco	Espinar	Espinar	Cu	490
Junefield Group S.A.	Don Javier	Arequipa	Arequipa	Yarabamba	Cu	600
Lumina Copper S.A.C.	Galeno	Cajamarca	Celendin	Celendin	Cu, Mo, Au, Ag	3,500
Minera Antares Peru S.A.C.	Haquira	Apurimac	Cotabambas	Chalhuahuacho	Cu, Mo	2,800
Minera Hampton Peru S.A.C.	Los Calatos	Moquegua	Mariscal neto	Moquegua	Cu, Mo	655
Minera Cuervo S.A.C.	Cerro Coopane	Cusco	Paruro	Omacha	Fe	To be defined
Rio Blanco Copper S.A.	Rio Blanco	Piura	Huancabamba	Carmen de la frontera	Cu	2,500
Rio Tinto Minera Peru Ltd. S.A.C.	La Granja	Cajamarca	Chota	Querocoto	Cu	1,000
Southern Peru Copper Corporation	Los Chancas	Apurimac	Aymares	Pocohuanca	Cu	2,800
Americas Potash Peru S.A.	Salmueras de Sechura	Piura	Sechura	Sehura	Potassium	125
Compañía Minera Vichaycocha S.A.C.	Rondoni	Huanuco	Ambo	Cayma	Cu	350
Minera Aqm Copper Peru S.A.C	Zafranal	Arequipa	Castilla	Huancarqui	Cu, Au	1,157
Exploraciones Collasuyo S.A.C.	Accha	Cusco	Paruro	Accha	Zn, Pb	346
Mantaro Peru S.A.C.	Fosfatos Mantaro	Junin	Concepcion	Aco	Phosphate	850
Corporacion Minera Centauro S.A.C.	Quicay II	Pasco	Pasco	Simon Bolivar	Au, Cu	To be defined
Anabi S.A.C.	Anubia	Apurimac	Abancay	Curahuasi	Cu	90
Minsur S.A.	Explotacion de relaves Bofedal II	Puno	Melgar	Antauta	Sn	165
Panoro Apurimac S.A	Cotabambas	Apurimac	Abancay	Cotabambas	Cu, Au, Ag	1,963
El Mollo Verde S.A.C.	Trapiche	Apurimac	Antabamba	Juan Espinoza Medrano	Cu, Au, Ag	650
Plateau Uranium	Macusani	Puno	Carabaya	Macusani	Uranium	300
<b>Total USD Millions</b>						<b>46,411</b>

Source: Ministry of Energy and Mines

*Metallogenic map of Peru: mining operation and projects (Ingemmet)*

# MAPA



## 3.

## Recent developments and future trends in the mining industry in Peru

### a Peru becomes the world's second copper producer

Despite the troubles facing the sector, 2016 will be remembered as the year in which Peru consolidated itself as a key mining country worldwide. Copper production jumped from 1.7 million tonnes in 2015 to 2.4 million tonnes last year, a 38.4% increase, solidly placing Peru as the second largest copper producer in the world after Chile.

This was mainly a result of the commissioning of two enormous copper projects: the expansion of Freeport McMoRan's Cerro Verde and the commencement of operations of Las Bambas operated by Melbourne-based MMG Ltd. Around the same time, major copper producers with existing projects - Compañía Minera Antamina, Southern Peru Copper Corporation and Compañía Minera Antapaccay- posted production increases.



Marcial Garcia  
Mining & Metals Leader  
EY Peru



*Despite the slowdown in the commodity cycle, 2015 and 2016 saw a new generation of copper mega-projects enter commercial production. As a result, Peru has taken China's spot as the world's second-largest producer of the red metal.*

**b | Mining policy trends**

Peru has a long history of major minerals projects and the mining industry is widely recognized as a driver of growth and a job provider.

The role of the government over exploration, mining, smelting and refining of minerals is limited to that of a regulator, promoter and overseer. The government has privatized most of its assets in the mining sector. In contrast with the situation two decades ago, large mining operations are now held by domestic and foreign privately-owned mining companies. Private domestic interests own most of the medium and small-sized mining operations.



Victor Burga  
Audit Mining & Metals Leader  
EY Peru

*Today Peru offers, in addition to its prospectivity and strong mining tradition, a very attractive and competitive climate for investors.*

The marketing of mineral products in Peru is unrestricted, both domestically and externally. Thus, mining companies are not under the obligation neither to satisfy the internal market before exporting its mining products nor to sell them at "official" prices or terms. Nowadays, Peru offers mining investors significant commercial advantages and ample freedom not only to sell their products to the buyer offering the best terms, but to import the machinery and equipment they might require for their mining activities at a lower cost and with less bureaucratic requirements than ever before.

Peru's approach towards its mineral sector development is showing favorable results. International mining companies perceive Peru as an attractive target for their investments with over 100 mining companies of many different countries currently operating in the country, either in joint ventures with Peruvian partners or by themselves. Examples include Anglo American (UK / South Africa), Rio Tinto (UK / Australia), Glencore-Xstrata (Switzerland), Barrick Gold (Canada), Newmont (United States), Gold Fields (South Africa), Freeport- McMoRan (United States), Vale (Brazil), Grupo Mexico (Mexico), Minmetals (China), Jiangxi Copper, Aluminum Corp of China (China), MMG Limited, Zijun Mining Group and Shougang Corporation (China).



### c | Social license to operate

Achieving a social license to operate is the single most important challenge that the mining industry faces in Peru. Income and regional inequalities continue to be a source of social conflicts, which have had a negative impact on a number of mining projects. Achieving a social license to operate is one challenge, maintaining it is another. The key to both is communicating value through the concept of shared value and, more broadly, of corporate social responsibility, which must be part of mining companies' operations.

In recent years Peru has seen a number highly publicized mega projects being postponed over environmental or community concerns, strikes and anti-mining protests, including the USD 4.8 billion Conga project, Tia Maria (SPCC), Rio Blanco (Zijin) and Cañariaco (Candente Copper). According to third-party experts there is strong evidence that community groups are influenced by politicians, anti-mining NGOs and other groups with wider political agendas.

The need for a social license to operate is readily accepted by the mining and metals sector. By managing an effective communication process highlighting the positive impact of mining through productive, profitable and sustainable development initiatives can show the government, communities and other stakeholders how their presence in the country can create positive economic and social contributions.

*Corporate social responsibility and a mining company's social license to operate have become critical for modern miners - and the mining sector in Peru is no exception.*



Miners are taking different approaches to win over communities and ensure they maintain their “social license” during the duration of the project. The major mining and metals organizations are trying to implement systems to share and measure the benefit of their operations, demonstrating that they not only make communities wealthier but healthier. This relies on working with local communities to create shared value, listening to what they want, rather than just coming up with initiatives that are not tailored to their needs. Community support for a project is partly dependent on its economic participation and local employment is an important element of that.

A structural change in the way proceeds from mining are allocated and spent could be an option in the future. Meanwhile, the government is increasingly seeking to fill the gap between community expectations and existing legislation which require community consultation for the development of new projects with increased regulations.

Although the International Labor Organization Convention No. 169 requires that indigenous and tribal peoples are consulted on issues that affect them, the implementing regulations attempted to exclude mining development projects from this obligation. The Supreme Court, however, has issued a binding decision providing for the application of the Convention to all indigenous persons without exceptions.

Indigenous communities should be consulted from the outset, even from pre-exploration, to identify and ideally eliminate potential issues. Communities need to clearly see a full range of benefits from mining, from financial gain to improved infrastructure and expanded business opportunities. Many of these benefits will ensue as a result of a new mine; however, companies need to be more adept at communicating the benefits to the communities at the time of consultation.



**d | Environmental concerns**

Government still faces the important challenge of formalizing illegal gold miners, who have destroyed estimated 53,000 hectares of the Amazon rain forest with mercury. They concentrate 20% of Peru’s gold production, equivalent to USD 3 billion. At this point, the Peruvian government has approved a widespread ban on illegal mining to rid the country of a dangerous practice that leads not only to extensive environmental damage and deforestation, but to criminal activities associated with them. It remains to be seen whether this administration will be able to handle this ecological dilemma effectively on the short-term, restoring law and order in areas such as the Madre de Dios region.

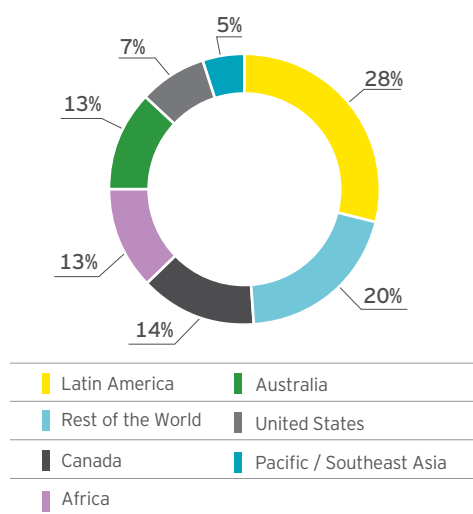
**e | Exploration trends**

For the mining industry, the last few years have been challenging, particularly for those companies in the junior space seeking to raise capital to fund exploration ventures. Considering mining’s cyclical nature, it is understandable that economic instabilities and lower commodity prices were major contributing factors to considerable declines in capital spending around the world. Despite the belief among some analysts that the mining industry has hit bottom, exploration budgets are not expected to rise notably in the near term.

The exploration sector faces escalating costs and challenges as access to capital has become critically restricted for those most in need. The absence of risk capital means that funding is both difficult and expensive to access. This has become evident in the ongoing decline in equity funding for exploration and development.

Although there is a wide variation in the scale of exploration programs by major, intermediate and junior companies, there is data from different sources that suggests that most majors and intermediate companies are focused on advanced projects to move them towards production or in some cases to make them attractive for acquisition, while the emphasis of junior companies remains on early-stage exploration or grassroots work. With risk capital likely to stay absent pending any price-driven improvement in sentiment, many major producers are focused on mine site exploration spending as they view it as a more economical and less risky means of replacing and adding mineral reserves. The level and success of exploration today will strongly influence Peru’s future competitiveness in mineral production.

**Worldwide non - ferrous exploration budgets by region, 2016**



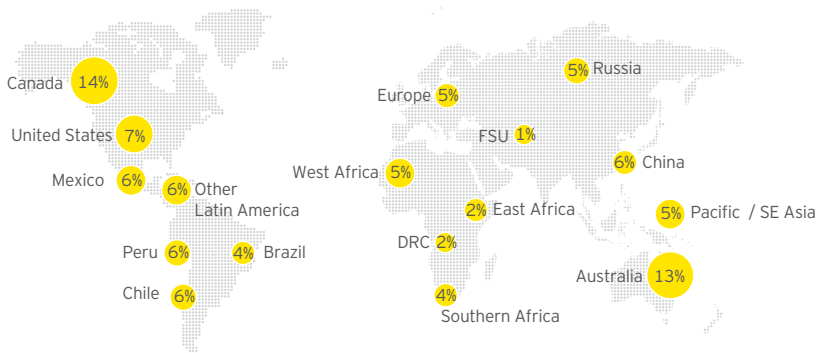
Source: SNL Metals & Mining

*Despite mineral price volatility, foreign mining and metals companies are determined to invest in Peru. Cash, however, is only available for good and lower risk projects. Exploration budgets are moving away from grassroots activity and focusing on Brownfield projects which are viewed as less risky means of replacing and adding mineral reserves.*

According to leading indicators, the softening of commodity prices had a major impact on global mining exploration over the past four years. Lower prices have limited the amount of cash available to exploration companies. While Peru has not been immune to the general slowdown in overall mining exploration activity, there are still a significant number of projects actively being explored in different regions, as illustrated by the yet relatively strong volume of investment flows to fund drilling activities.

The latest Worldwide Exploration Trends report from S&P Global Market Intelligence reveals that Peru received 6% of all the exploration dollars spent globally in 2016. The total budget for non-ferrous metals exploration dropped by 21% year-on-year to USD 6.9 billion, but in Peru the reduction was only around 3%. This can be explained by Peru's perceived advantages in terms of geology, legal stability and low costs for mining development.

**Exploration budgets for the top ten countries (2016)**



Source: S&P Global Market Intelligence





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# Mining tax and legal framework





# 1.

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## Mining terms

Peru has a comprehensive legal framework that clearly defines rights, obligations and responsibilities for all stages of the development process of mineral resources. Mining operations are undertaken under a resource regime based on an administrative act, where the grant of a mining right depends on the strict compliance with the procedure laid down in the Law for the grant of that title and not on administrative discretion. The absence of administrative discretion leaves the right to mine more firmly ensured within Peru's mining legal framework than under other regimes.

The right to explore, extract, process and/or produce minerals in Peru is granted by the Peruvian government in the form of mining and processing concessions. Requirements for obtaining them are determined by law and the application and granting process are relatively simple and clear. The rights and obligations of holders of mining concessions and processing concessions are currently set forth in the General Mining Law. This law clearly determines the terms and conditions under which those mining activities are allowed in Peru; including the way in which mining rights can be obtained and maintained, how they can be lost, what are the obligations of their holders, etc. The law also makes provision for contracts permitting options over mineral rights, assignments and mortgages.

Mining concessions may be separately granted for metallic and non-metallic minerals. The same mining concession is valid for exploration and for exploitation operations; hence there is no complicated "conversion" procedure. Mining concessions are granted on a "first come, first served" basis, with provision for an auction if simultaneous claims are made. A separate processing concession is available, granting the right to concentrate, smelt or refine minerals already mined. No concession is required to trade in minerals and exports by producers are not restricted.

To obtain a mining concession, the law requires that the area is free of restrictions and that the applicant is clearly identified, able to carry out the proposed activities and pays application and license fees. The application process is managed by INGEMMET, the mining and geology institute. The terms and conditions, rights and obligations of mining concessions are not subject to any discretionary discretion or negotiation.

Applications are publicly disclosed and processed in the order they are filed. The successful awards are disclosed to the public in the mining cadaster, which is available on line. This system guarantees both openness and transparency of the allocation process. Mining concessions can also be obtained through the assignment of concessions previously granted by to independent or related parties.



#### a Security of tenure

The constitutional protection of property rights and the reasonable completeness and unambiguousness of the General Mining Law in Peru gives mining and metals companies the possibility to obtain a clear and secure title for mining development.

Under Peru's current legal and regulatory regime, mining concessions have an indefinite term provided that (i) a minimum annual level of production or investment is met and (ii) an annual concession fee is paid. The irrevocability of mining rights subject to the fulfilment of these obligations provides security of tenure within the mining regime in Peru and reasonably assures the transition between the exploration and mining phases.

Failure to meet the minimum production requirement within a ten-year term will result in the payment of a penalty, until the fifteenth year following that in which the concession was granted. From that point forward the loss of the mining concession may only be avoided by paying a penalty and demonstrating investments in the mining rights of amounts more than ten times greater than the penalty to be paid. The mining concession will unfailingly be lost if the minimum production requirement is not met by the twentieth year.

These rules have been amended with effect from 1 January 2019, to extend the term granted to the titleholders of mining concessions for reaching minimum production to 30 years.

Under the new rules, mining concessions will only be cancelled if minimum production is not reached by the thirtieth year following the year in which the concession was granted, but the titleholder is required to pay a penalty as from the eleventh year. However, such penalty will not apply if they invest at least an amount ten times greater than the penalty to be paid.

In order to calculate the production and investment in each mining concession, the titleholder may create an operating unit, or "Unidad Economica Administrativa", provided the mining rights are all within a radius of five, ten or twenty kilometers, depending on the type of mineral produced.

Processing concessions enjoy the same duration and tenure as the mining concessions, subject to the payment of a fee based on nominal capacity for the processing plant or level of production. Failure to pay such processing fees or fines for two years could also result in the loss of the processing concession.

#### b Mineral and surface land ownership

In Peru, as in many other countries, the state retains ownership of all subsurface land and mineral resources. The ownership of extracted mineral resources, however, is vested on the titleholders of mining concessions.

Under Peruvian law, there is a differentiation between the surface land property and that of natural resources. It is often the case that the titleholders of mining concessions (which confer them the right to explore and mine underground ore reserves in the area of the claim) are not the owners of the surface land.

Clear administrative procedures which holders of mining concessions must follow to gain access to privately owned land for mining activities have been established in the General Mining Law in order to avoid potential conflicts with third parties after a mineral deposit has been discovered. Pursuant to Peruvian regulations, all operators of mining areas in Peru are required to have an agreement with the owners of the land surface above the mining rights or to establish an easement upon such surface for mining purposes. Expropriation procedures have been considered for cases in which landowners are reluctant to allow mining companies to have access to a mineral deposit. The administrative decision originated from these procedures can only be judicially appealed by the original landowner with respect to the amount of his compensation.

**c | Right to transfer mining rights**

Mining rights can be transferred by their private holders with no restrictions or requirements, other than to register the transaction with the Public Mining Register. The Mining Law clearly defines the rules for the transfer of a mining concession and regulates other so-called mining contracts, such as option contracts, concession assignment agreements, mortgages, joint venture agreements, among others. These legal definitions do not only benefit those "junior" mining companies specialized in obtaining exploration and mining rights to sell them to medium and large-sized mining companies, but it also is convenient for those mining holders who for one reason or another are no longer interested on maintaining a mining right in Peru.

**d | Size of exploration blocks / Duration of exploration rights**

Concessions for exploration and exploitation of mineral resources are granted in areas that can go from 100 hectares to 1,000 hectares per concession, except in marine zones, where the concession could reach an area of up to 10,000 hectares.

As it has been mentioned before, a concession is irrevocable, as long as its holder complies with all the obligations imposed by the Law. Among these obligations is the requirement to reach a minimum production in a ten year term. However, if the required minimum production is not obtained on time the mining holder has the opportunity to pay a penalty in order to maintain its mining right. The flexibility of these terms gives the concession holder ample freedom to plan the magnitude and timing of investments in the concession, as well as to decide whether or not to put the property into production.

**e | Availability of mineral agreements**

In Peru mining companies may enter into agreements with the government to obtain a series of guarantees and benefits. These contracts, however, do not intend to supplement or stand in place of the Mining Law. In fact, they are not even referred to the terms and conditions under which a mining concession is obtained, maintained or terminated, but rather to investment promotion issues such as the possibility to obtain judicial, tax, foreign exchange and commercial stability.

**f | Options to acquire an equity participation**

The Peruvian policy towards government participation in mining ventures harmonizes with the world-wide current trends. Rather than participate directly as a partner in the mineral operations, Peru shares-in its benefits through fiscal mechanisms.

**g | Government policies on the sale of mineral products**

The sale of mineral products is also unrestricted, both domestically and externally. Therefore, mining operators are not under the obligation neither to satisfy the internal market before exporting their mining products nor to sell them at “official” prices or terms.

**h | Environmental matters**

In recent years, Peru has enacted a new regime of environmental laws, which establishes the main environmental guidelines and principles applicable in Peru. Pursuant to these laws, the MEM and the Environmental Ministry have issued regulations mandating environmental standards for the mining industry and reviews and approves environmental studies for mining operations. These laws and related regulations significantly increased the level of environmental regulation previously in effect in Peru and established a number of environmental management standards as well as guidelines with respect to particulate emissions in air, water quality, exploration, tailings and water discharged, among other requirements.

Under these environmental regulations, new mining development and production activities are required to file and obtain approval for an Environmental Impact Study (“EIS”), which incorporates technical, environmental and social matters, before being authorized to commence operations. The Environmental Evaluation and Oversight Agency, (“OEFA”) monitors environmental compliance. OEFA has the authority to carry out unexpected audits and levy fines on mining companies if they fail to comply with prescribed environmental standards.

In addition, mining companies must prepare, submit and execute plans for the closing of mines, or Closure Plans, and grant environmental guarantees to secure compliance with Closure Plans during the life of the concession. The guarantee must cover the estimated amount of the Closure Plan and may be in cash, trusts, and any other guarantee contemplated in the Banking Law.

## 2.

# Peruvian mining fiscal system

### a Overview

The economic attractiveness of exploring in a country is strongly influenced by the fiscal system that applies to deposits that are discovered and subsequently developed. If tailored properly, fiscal terms are able to achieve overall objective of collecting an adequate share of the economic benefit generated by the mining industry for the government while maintaining high levels of exploration and production activities. In practice, however, it has proven extremely difficult for mining countries to implement fiscal packages that satisfy the interests of both host governments and mining companies.

The Peruvian legal framework clearly defines the fiscal regime applying to the mining sector, including restrictions for modifying tax provisions through fiscal stabilization agreements. The General Mining Law, mineral royalty legislation and the general tax legislation define a system which is largely based on a corporate income tax and royalty regime. In 2011, however, additional profit-related levies were introduced during a previous administration in the form of the "Special Mining Tax" and the "Special Mining Burden".

As it has been designed, Peru's mineral sector fiscal system tends to be progressive instead of regressive, as was the case under the old regime. Fiscal systems which are progressive come the closest to create the flexible conditions needed to achieve the dual objective of collecting an adequate share of the economic benefit generated by the mining industry for the government while encouraging the exploration and development of valuable resources. Progressive fiscal systems adjust to the actual profitability of each project and, therefore, they tend to enable a fair and reasonable allocation of economic benefits and risks between the mining investor and the host government, whatever the cost, price and risk scenario. Under such schemes the host government's cut, in percentage terms, is higher on large and profitable mines than on small and marginal deposits.

If the profitability of a project increases due to favourable price or cost conditions, then the host government's share of the mineral rent also increases, but if the profitability decreases as a consequence of downward movement in the price of minerals or an unexpected increment in costs, then the government take also decreases. For this reason, in practice, this kind of fiscal systems are generally preferred by mining companies.



**At a glance**

Income Tax rate <sup>(1) (2)</sup>	29,5%
Dividends	5.0%
<b>Modified Mining Royalties</b>	1% to 12% imposed on operating mining income. A minimum royalty of 1% of sales is applicable.
<b>Special Mining Tax</b>	2% to 8.4% imposed on operating mining income.
<b>Special Mining Burden</b>	4% to 13.12% imposed on operating income <sup>(3)</sup> .
<b>Good standing fee</b>	USD 3/ha/yr.
<b>Capital allowances</b>	Accelerated depreciation, exploration write-offs.
<b>Investment incentives</b>	Tax losses can be carried forward for 4 years or indefinitely; stabilization agreements; VAT recovery.

(1) Mining companies with tax stabilization agreements are subject to a 2% premium.

(2) In addition, they must pay an 8% employee profit sharing.

(3) Is intended only for mining companies with tax stabilization agreements in place prior to October 1, 2011.

**b | Fiscal regime****► Corporate Income Tax**

Resident companies are subject to income tax on their worldwide taxable income. Resident companies are those incorporated in Peru. Branches and permanent establishments of foreign companies that are located in Peru and nonresident entities are taxed on income from Peruvian sources only.

Taxable income is generally computed by reducing gross revenue by cost of goods sold and all expenses necessary to produce the income or maintain the source of income. Certain types of revenue, however, must be computed as specified in the tax law, and some expenses are not fully deductible for tax purposes.

Business transactions must be recorded in legally authorized books of account that are in full compliance with the International Accounting Standards (IAS). The books must be kept in Spanish and must be expressed in Peruvian currency. However, under certain circumstances, foreign investors who invest in foreign currency may sign an agreement with the government that allows them to maintain their accounting books in foreign currency (see Stability regime in Section f).

The corporate income tax rate has been raised from 28% to 29.5%. The new rate will apply to tax year 2017 and thereafter.

In addition, a Dividend Tax at a rate of 5% is imposed on distributions of profits to nonresidents and individuals by resident companies and by branches, permanent establishments and agencies of foreign companies. (See Dividends in Section g).







This system has been tailored so that the tax burden on corporate profits distributed to shareholders remains constant at 33% on average, considering the two levels of taxation (i.e., imposing tax on distributed profits in the hands of shareholders after taxation at the corporate level).

In general terms, mining companies in Peru are subject to the general corporate income tax regime. If the taxpayer has elected to sign a Stabilization Agreement, an additional 2% premium is applied on the regular corporate income tax rate. Companies find tax stabilization very attractive and are generally willing to pay the premium.

50% of income tax paid by a mine to the Central Government is to be remitted as "Canon", by the Central Government back to the regional and local authorities of the area where the mine is located.

The mandatory closing date for business enterprises is December 31st. Tax returns must be filed by between March and April according to the schedule established by the Tax Administration. Taxes and related penalties not paid by the due dates are subject to interest charges, which are not deductible for corporate income tax purposes.

#### ► Ring Fencing

The accounts for income tax purposes of different mining projects owned by the same company may be consolidated. Losses from one project or concession can be set against profits from another project or concession. There is thus no ring fence between projects or concessions, only between companies even when they are members of the same group. Stability agreements, however, are made by project. It is therefore possible for different projects within the same company to be subject to different rates and calculation rules.

#### ► Advanced payments

Companies and branches must make monthly advanced payments of their annual corporate income tax. Such prepayments are determined as estimation over the company's monthly net income.

Monthly advanced payments are due on the ninth to the fifteenth business day of the following month, according to the schedule established by the Tax Administration.

#### ► Capital gains

Capital gains derived by resident entities are taxed at the normal corporate tax rate (29.5%). As general rule, capital gains derived by nonresident entities from Peruvian sources are subject to tax at a rate of 30%. However, in case of the sale of stock or securities in a Peruvian company, the tax rate is reduced to 5% if the transfer is made within the local stock exchange.

## c Capital allowances

### ► Trade or business expenses

In general terms, all corporate expenses incurred in the generation of taxable income or in maintaining its source shall be allowed as a deduction for corporate income tax purposes. This rule is subject to certain exceptions and limitations expressly provided in the income tax law.

### ► Tax depreciation

#### General

Depreciation rates are applied to the acquisition cost of fixed assets. The following are some of the maximum annual depreciation rates allowed by Law:

Buildings and constructions*	5%*
Vehicles	20%
Machinery and equipment for construction, mining and oil activities	20%
Machinery and equipment for other activities	10%
Data processing equipment	25%
Other fixed assets	10%

\*This is a fixed rate rather than a maximum rate

Taxpayers may apply any depreciation method for their fixed assets other than buildings and constructions, as long as the resulting depreciation rate does not exceed the maximum rates stated above. In general, except for buildings and constructions, tax depreciation must match financial depreciation.

### Mining activity

A global depreciation rate of 20% for personal property (movable assets) and 5% for real estate is granted to mining investors who have Stabilization Agreements in place with the Peruvian government (see Stability regime in Section f).

### ► Pre-operative expenses

#### General

Pre-operative expenses may either be expensed in the year production commences, or may be amortized over a period of up to ten years from the year in which production commences.

### Exploration expenses

These costs may either be expensed in the year they were incurred or amortized as from the year minimum production is achieved, over a period determined based on the life of the mine. This is an annual choice with respect to the costs incurred in each year. In one year taxpayers may elect to capitalize their exploration costs for subsequent amortization and claim a deduction the following year, or vice versa. The annual election is irrevocable.

### ► Mineral properties

Costs incurred in acquiring mining concessions, as well as investments in prospecting and exploration work up to the date the legally required minimum production is achieved shall be capitalized and subsequently amortized by an annual percentage, over the life of the deposit, calculated by dividing the total estimated reserves by the minimum production requirement. The amortization period needs to be communicated to the Tax Authority at the time the income tax return is filed for the year in which the amortization begins.

The mine operator, however, can choose to deduct from its income the prospecting and/or exploration work during the fiscal year in which these expenditures are incurred. Expenditures for exploration incurred after the concession has reached the minimum mandatory production stage can be deducted in the fiscal year they are incurred, or amortized at an annual rate based on the estimated life of the mine.

► **Feasibility studies and other evaluation expenses**

Two possible treatments:

<b>As development costs</b>	May either be expensed in the year they were incurred, or amortized over a period of three years as from the year they were incurred.
<b>As pre-operative costs</b>	May either be expensed in the year production commences, or amortized over a period of up to ten years from the year in which production commences.

► **Mine site development costs**

Taxpayers have an annual choice of electing to deduct development costs in the year they were incurred or amortize them over a period of up to three years from the year they were incurred. Taxpayers may not change their election with respect to the development costs incurred in the year concerned.

► **Public service infrastructure costs**

Costs incurred by mining companies in infrastructure for public use such as ports, airports, energy plants, schools, hospitals, roads or recreational facilities can be expensed as incurred, if approved by the government, after complying with specific requirements.

► **Other investments in communities**

Many companies make other investments in communities impacted by mining to foster their sustainable development, so that when the mine closes the affected communities will be able to carry-on with social and alternative economic activities. These investments are often characterized as Corporate Social Responsibility (CSR) expenditures.

There are no specific provisions in Peru's tax law which grant a deduction for CSR expenditures. From a technical perspective, however, there is good ground to suggest that they should be allowed as a deduction for corporate income tax purpose if it can be argued that they were incurred wholly or exclusively for the purposes of the business (i.e. for the generation of taxable income or to maintain its source).

Nonetheless, the tax authorities in Peru generally take the view that they are non-deductible donations or charitable contributions. To reduce the risk of challenge, the CSR expenditure should be derived from a contractual or legal obligation, such as to comply with the obligations assumed under the Environmental Impact Assessment required by law to conduct mining operations.

Where CSR expenditure results in creation of public infrastructure like a school, road or a hospital building, the mining law grants a deduction if the cost incurred is approved by the government, after complying with specific requirements.

► **Rehabilitation and closure costs**

In Peru rehabilitation costs can only be expensed in the year they are incurred. This means that accruing for the expenditure is not deductible, payments or bonds into a fund are not deductible, payments to a third party are arguably not deductible until the rehabilitation has been performed. Thus, single mine companies may receive no useable tax deduction for these expenditures, considering that they are primarily incurred at the end of the life of the mine, at a time when often there is no income to offset the deduction against. Peru does not have a loss carry back system and consequently in some cases the loss is worthless.

**d Mining taxes, duties and royalties**

Mining producers are required to pay some sort of tax, unique to the sector, such as the Modified Mining Royalty (“MMR”), Special Mining Tax (“SMT”) or Special Mining Burden (“SMB”). These three levies, enacted in 2011, are in addition to the existing local country corporate income tax imposed on mining enterprises.

Each of these mining levies is calculated on operating income as determined for book purposes, not income tax purposes. Operating income is defined as revenues generated from the sale of mineral resources less (i) cost of goods sold (“COGS”) and (ii) operating expenditures. It is important to note that the term “book” refers to Peruvian statutory reporting. To arrive at the tax base for the new levies, a company begins with statutory book operating income and makes minor adjustments, such as to disallow interest expense (whether booked as part of COGS or operating expenses) and to prorate exploration expenditures over the life of the mine.



Generally, depreciation and amortization taken into account for the purposes of these levies is equal to the amount of book depreciation and amortization. However, in particular situations there are differences between book value and tax value related to assets subject to depreciation and amortization. Such differences are due to the fact that the MRT, SMT and SMB do not allow depreciation and amortization related to accounting revaluations.

As discussed further below, some companies will be subject to the MMR and SMT, while those with pre-2011 tax stabilization agreements may be subject to the SMB. Each of these levies is deductible in determining the company's corporate income tax.

► **Modified Mining Royalty ("MMR")**

In 2004 Peru implemented a mining royalty that required holders of mining concessions to pay between 1 to 3% of the commercial value of sales, based on a three-step sliding scale, to the Peruvian government, for the exploitation of metallic and non-metallic mineral resources. This regime has been substituted by the MMR, currently in force.

The MMR now applies on companies' operating income (as defined above), rather than sales. The MMR is payable on a quarterly basis with marginal rates ranging from 1% to 12%. An "operating income" to "mining operating revenue" measure (operating profit margin) is calculated each quarter and depending on operating margin the royalty rate increases as the operating margin increases. The new system has been designed to provide both a minimum royalty and an additional amount based on the profitability of each project. The company must always pay at least the minimum royalty rate of 1% of sales, regardless of its profitability.

► **Special Mining Tax ("SMT")**

The SMT is a tax imposed in parallel with the MMR. The SMT is applied on operating mining income based on a sliding scale, with progressive marginal rates ranging from 2% to 8.40%. The tax liability arises and becomes payable on a quarterly basis. The SMT applies on the operating profit derived from sales of metallic mineral resources, regardless of whether the mineral producer owns or leases the mining concession.

► **Special Mining Burden ("SMB")**

The SMB is not a tax as determined by general legal principles given that it is not a compulsory payment imposed under Peru's authority to levy taxes. The SMB is considered a "voluntary" payment. Mining companies with pre-2011 fiscal stabilization agreements may elect to pay it on a voluntary basis to help build schools, hospitals, roads, electricity and water supplies that are much needed to reduce infrastructure bottlenecks.

The SMB is computed on a quarterly basis also based upon operating income, with marginal rates ranging from 4% to 13.12%. Mining royalty payments, if applicable, are creditable against SMB payments.



#### e | Indirect taxes

A 18% Value Added Tax (VAT) applies to the following transactions:

- Sale of goods within Peru
- Services performed or used within Peru
- Construction contracts performed within Peru
- First sale of real estate by the builder
- Importation of goods from outside Peru, regardless of the status of the importer

VAT paid upon acquisition of goods or services can be deducted from VAT related to the sale of finished products or services.

Exporters are reimbursed for any VAT paid on the acquisition of goods and services. Also, exporters can apply such reimbursement as a credit to offset VAT or income tax liabilities.

#### f | Incentives

##### ► Relief for losses

Taxpayers may select from the following two systems to obtain relief for their losses::

- Carrying forward losses to the four consecutive years following the year of the loss; or,
- Carrying forward losses indefinitely, subject to an annual deductible limit equal to 50% of the taxpayer's taxable income in each.

Loss carrybacks are not allowed.



► **Special incentives for mining investors**

**Stability regime**

Mining companies may enter into several types of Stabilization Agreements that assure that a given set of rules, mainly about tax schemes, will remain unchanged for a certain number of years.

Two types are ruled by the Foreign and Private Investment Legislation and three others by the General Mining Law. They are not mutually exclusive.

**(i) Under the Foreign and Private Investment**

**Legislation:** stability contracts entered with "ProInversion", the private investment promotion agency of Peru, are generally available to (i) qualified foreign and national investors and (ii) the company that received the investment. The stability contract guarantees stability with respect to the corporate income tax regime and the rate of tax on distributions of profits to the parent investor. They also guarantee the unrestricted right to remit profits abroad, free availability of foreign currency, stability of the labor hiring regime and non-discrimination between foreign and national investors. The contract is valid for 10 years. To qualify, the mining investor must invest a minimum of USD 10 million within two years of entering the stabilization contract.

**(ii) Under the General Mining Law:** mining concession holders committing to projects of a minimum size are entitled to a broader range of stability benefits. These Stabilization Agreements are for 10, 12 or 15 years depending on investment size and capacity. They cover tax rates and methods to calculate tax based of all major government taxes, duties, royalties and other payments not considered taxes. They also guarantee the following: free marketing of mineral products for export or domestic sale; free disposal within the country and abroad of foreign currency generated by exports; free convertibility into foreign exchange of local currency generated by mineral sales; non-discrimination on exchange matters.

Stability is important to investors as it reduces fiscal uncertainty. The main requirements are as follows:

- 10 year - the investment must equal at least USD 20 million and be allocated to start up an operation with a production capacity of 350 to 5,000 metric tons per day (MTPD).
- 12 year - this agreement targets production of at least 5,000 MTPD and requires an investment of USD 100 million for a start-up operation, or USD 250 million to capitalize an existing operation.

- 15 year - for mining concessions with an initial capacity of no less than 15,000 MTPD or capacity expansion plans to achieve a capacity of no less than 20,000 MTPD that require an investment program of no less than USD 500 million. In this case, the law limits the stabilization benefits to the investment defined in the Feasibility Study on the basis of which the stability agreement is signed, unless later investments are of at least USD 25 million and are previously approved by the Ministry of Energy and Mines.

In Peru, Stabilization Agreements entered under the mining law carry a price for mining companies - they come with a corporate income tax rate surcharge of 2 percentage points.

The 15 year agreement also carries the right to keep accounts for tax purposes in U.S. dollars. Under certain circumstances, companies with Stabilization Agreements are also entitled to apply a global depreciation rate of 20% for mining and processing equipment and 5% for real property (buildings and constructions).



### Early recovery VAT system

The early recovery VAT system allows an early recovery of the VAT credit with respect to acquisitions of goods and services, construction contracts, importations and other transactions without having to wait to recover that amount from a client when the corresponding invoice for sales of goods, services or construction contracts, including VAT, is issued to the client.

This regime provides relief of the financial costs (cost of money) with respect to projects if the projects have a significant preoperative stage and if advance invoices transferring the VAT burden cannot be issued periodically to the client.

The law provides for a general and enhanced early recovery system for enterprises performing productive activities.

Under the general system, which applies to all productive companies in a preoperative stage, the VAT paid on the acquisition of capital goods is reimbursed through negotiable credit notes (which are redeemable in exchange for a check or cash refund).

The enhanced system is restricted to companies that satisfy the following conditions:

- They enter into investment contracts with the Peruvian government.
- They make a minimum investment commitment of USD 5 million on projects with a preoperative stage of at least two years.

Under the enhanced system, VAT paid on construction contracts and on the acquisition of new capital goods, services and other supplies for project development can be recovered on a monthly basis through the negotiable credit note system.

The use of one system does not preclude using the other for different items.

In addition, there is a VAT early recovery system for the acquisition of goods and services required for mining exploration. Under this regime, the VAT paid is refunded without having to wait until a commercial discovery takes place or production begins. This scheme includes a final waiver of VAT if the exploration is unsuccessful.

For this purpose, certain administrative requirements shall be fully met. For example, mining companies must enter into the so-called "Exploration Investment Agreement" with the Peruvian government, making a minimum investment commitment of USD 500,000 in mining exploration. In this case, VAT recovery is restricted to the VAT paid after the Agreement is signed.

## g Withholding taxes

### ► Dividends

The Dividend Tax applicable to profits distributed to nonresidents and individuals has been reduced from 6.8% to 5%. The tax reform repealed the progressive increase in the Dividend Tax rate for 2017, 2018 and 2019. The new 5% withholding tax rate will apply beginning 1 January 2017 and onwards. For profits earned from 1 January 2015 to 31 December 2016, the former 6.8% withholding rate applies, even if the profits are distributed in 2017. For these purposes, the first-in, first-out rules will come into play.

The Dividend Tax applies to distributions by Peruvian companies, as well as to distributions by Peruvian branches, permanent establishments and agencies from foreign companies. This tax is generally withheld at source. However, in certain circumstances, the company must pay the tax directly.

Dividends received by one tax resident company from another tax resident company currently are not taxable.



### ► Interest

Interest paid to non residents is generally subject to a withholding tax at a rate of 30%. For interest paid to unaffiliated foreign lenders, the rate is reduced to 4.99% if all the following conditions are satisfied:

- For loans in cash, the proceeds of the loan are brought into Peru as foreign currency through local banks or are used to finance the import of goods;
- The proceeds of the loan are used for business purposes in Peru;
- The participation of the foreign bank is not primarily intended to avoid the tax treatment applicable to transactions between related parties (i.e. the use of back-to-back loans is consequently precluded); and
- The interest rate does not exceed the LIBOR plus 7% points.

### ► Technical Assistance Services

Payments for technical assistance services used within Peru are subject to withholding tax at a rate of 15%, regardless of the country where the services are rendered. To ensure the application of the 15% rate, the local service recipient must obtain and present to the Tax Authorities upon request a report issued by an audit firm certifying that the technical assistance was effectively provided. This is only required, however, when the fees under the corresponding agreement for the technical assistance exceeds of 140 tax units (each tax unit is equivalent to PEN 4,050 in 2017).

### ► Royalties

Peruvian source royalties paid for the use of intangible property (e.g. know-how, patents, trademarks, design, model, plan, secret formula or process) are subject to withholding tax at an effective rate of 30%.

## h | Financing considerations

### ► Thin capitalization

Debt to equity rule: Interest on loans from related parties in excess of a 3:1 debt to equity ratio is not deductible.



### i | Worker's profit sharing

Mining Companies are obliged to pay a workers participation of 8% on the net profits of the Company. The total sum received by the worker must amount up to 18 times its monthly salary, and the balance must go to a special educational, social and recreational fund. Disbursements are decided by a Board comprised of representatives of Mining Companies, Peruvian government and the workers.

The amount paid is allowed as a tax deduction for corporate income tax purposes. Not all foreign governments recognize this as a creditable tax and double taxation can thus occur.

### j | Other tax aspects

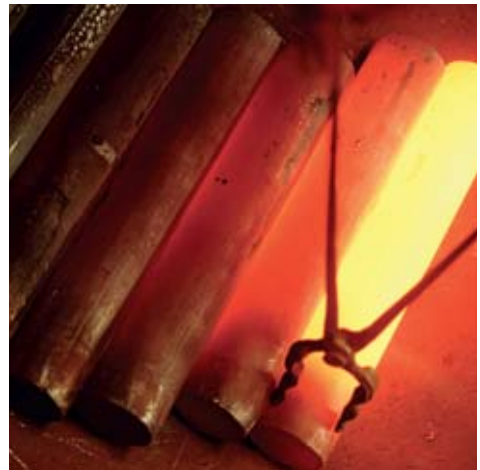
#### ► Good standing fee

Also known as a Validity Tax, is calculated based on the area in mining concession from the moment the claim is filed. The fee is USD 3/ha/yr and it is deductible for corporate income tax purposes.

Reduced fees are applicable for small mining producers (USD 1/ha/yr) and for artisanal mining producers (USD 0.5/ha/yr).

#### ► Temporary net assets tax

The Temporary Net Assets Tax (ITAN) is levied at 0.4% on company's net assets with value in excess of PEN 1 million (approximately USD 300,000). It has to be paid only by taxpayers that have already started "productive operations" as of December 31st of the preceding year. This means that entities on a pre-operative stage are tax exempt, until their first year of operations. They will only be subject to the ITAN the following year.



Taxpayers are allowed to use ITAN payments as a credit to offset income tax liabilities. If at the end of a fiscal year the ITAN paid exceeds the annual income tax due, taxpayers can request the refund of such excess.

#### ► Tax on financial transactions

The financial transaction tax is a tax levied on all debit and credit entries on bank accounts. It generally applies at a rate of 0.005% to deposits and withdrawals from Peruvian bank accounts, including checking accounts.

#### ► Complementary Mining Pension Fund

This fund has been created for the benefit of mining workers. Employers (i.e. mining companies) are required to contribute 0.5% of their annual income before taxes to this fund, while mining workers contribute 0.5% of their monthly gross salaries during their employment in order to receive defined benefits upon retirement.

### ► Regulatory fees

Regulatory fees are imposed and collected in Peru from specific categories of regulated entities, including those operating in the mining sector. Mining companies pay these fees based on a percentage of their monthly revenues to OSINERMIN (0.15% in 2017 and 0.14% in 2018) and OEFA (0.11%) to recover the regulatory costs associated with enforcement activities, policy and rulemaking. Non-payment of regulatory fees on a timely manner may result in penalties and interests.

Although the amount of regulatory fees collected, during each fiscal year, should reasonably be equal to the amount appropriated for such fiscal year for the performance of the activities described above, in practice, the amount collected could be higher because of the way in which the regulatory fees have been structured.

### ► Social Security contribution

The Peruvian Health Social Security Office (EsSalud) runs the National Health System (NHS). The employer contributes 9% of total payroll to the NHS. EsSalud provides employees disability, illness, maternity and death benefits, as well as medical care.

According to the Health Care Law, the NHS will be complemented by the health programs and plans that the employers may grant to their workers with their particular health services or with private Health Care Companies (Empresas Prestadoras de Salud - EPS) that shall be authorized to carry out such activities.

The employers may elect the healthcare plan or program for their employees; however, they shall previously submit it to their vote. Employees, who would like to remain in the NHS, may do so.

The employers that provide healthcare through the complementary plans and programs are also obliged to pay the 9% contribution to the NHS. However, employers may use a portion of the expenses incurred in healthcare as credit against the 9% contribution.

The Health Care Law and regulations also foresee a complementary insurance for workers that carry out activities that are deemed to involve a significant level of risk such as mining activities. This insurance coverage shall be provided by the employer.

In addition, employees have to contribute either to the National Pension System (NPS) or to the Private Pension System (PPS), at their election. The contribution rate in the NPS is 13% of the salary while in the PPS is 12.75% on average. In case of mining employees an additional 4% must be contributed to the PPS; 2% is payable by the employee and 2% is payable by his/her employer. Both pension systems provide employees retirement, disability pensions and funeral costs. Employers are responsible for withholding employees' contributions from monthly salaries.

### ► Transfer pricing rules

Peru has adopted transfer pricing rules which are largely based on the OECD guidelines. These rules also apply to uncontrolled transactions with residents in low-tax jurisdictions (tax havens). Annual information returns and transfer pricing technical studies are generally required.



Transfer pricing methods that may be acceptable, depending on the circumstances, include Comparable Uncontrolled Price (CUP), cost plus, resale price, profit split, residual profit split and transactional net margin.

In addition, Peru has introduced specific rules for applying the CUP method to establish transfer prices in the case of the exportation and importation of commodities (e.g. metals) and other products, whose prices are set by reference to commodity prices. These rules establish that their fair market value (i.e. arm's length price) for Peruvian tax purposes shall be determined by reference to the quoted price on (i) the shipment date of the commodities exported or (ii) the date of disembarkation of the commodities imported.

► **Tax treaties**

Peru has entered into a multilateral tax treaty with the Andean Community countries (Bolivia, Colombia and Ecuador), which calls for exclusive taxation at source and bilateral income tax treaties with Brazil, Chile, Canada, Mexico, South Korea, Switzerland and Portugal.

The principal purpose of this still reduced income tax treaty network is to prevent taxes from interfering with the free flow of international trade and investment by mitigating international double taxation with respect to certain income items. This, however, is not a static list. Some existing tax treaties are being renegotiated and others are in various stages of negotiation with countries such as Spain, Sweden, Italy, The Netherlands, Singapore, Thailand, France, Qatar, United Arab Emirates and the UK.

Except for the tax treaty with the other Andean Community countries, tax treaties entered into by Peru generally follow the OECD Model, although they incorporate provisions that are derived from the UN Model, to give more weight to the source principle than does the OECD Model.

Each of the treaties currently in force between Peru and other countries deals with the same matters. Many of the treaties contain common provisions addressing the same issue. It should, however, be noted that Peru's tax treaties show a remarkable degree of individuality, considering that almost every treaty is different in at least some respects. For that reason, it is essential to analyze the specific treaty that may apply to a particular tax issue.

► **Stamp Tax**

None.

► **Exchange controls**

None.







# IV

## Miscellaneous matters





# 1.

## Starting a business in Peru

Mining activities can be carried out in Peru through a number of investment vehicles. In practice, the three forms of legal organizations most commonly used by foreign investors are the corporation (Sociedad Anonima - S.A.), limited-liability company (Sociedad Comercial de Responsabilidad Limitada - S.R.L.) and the branch (sucursal), although Peruvian company law also provides for other forms of legal entities, including two special forms of corporations: the closely held corporation (Sociedad Anonima Cerrada) and the public corporation (Sociedad Anonima Abierta).



### a Requirements of an S.A.

A corporation (Sociedad Anonima - S.A.) is composed of shareholders whose liability is limited to the value of their shares. The S.A. is managed by a board of directors and one or more managers. To form an S.A., investors (i.e. the shareholders) must sign the deed of incorporation before a public notary and file it with the Mercantile Registry. The registrar receives the public deed and proceeds to register the company. The registrar is also interconnected with the Tax Authority (SUNAT) to register the company as a taxpayer and obtain the tax identification number (Registro Unico de Contribuyente, RUC). The bureaucratic and legal steps that an investor must complete to incorporate and register a new standard SA normally take between 15-30 days.

The incorporation documents must include, at least, (a) the company's name; (b) business purpose and duration; (c) the company's domicile; (d) the name, nationality, marital status and residence of any individual shareholder and name, place of incorporation and address of any corporate shareholder (a minimum of two shareholders are required to set up an S.A.); (e) the names of the initial directors, managers and agents; (f) the start-up date of operations; and (h) the capital structure (the shares nominal value and the total number of shares), classes of shares, if applicable, and details of individual initial capital contributions (whether in cash or kind). Sufficient proof that a minimum of 25% of capital stock has been paid into a bank before registration must also be provided.

### Capital

Capital is divided into shares which may be freely transferred unless such transfers are restricted by the corporate bylaws. There are no minimum or maximum capital requirements although issued capital must be fully subscribed and at least 25% thereof paid in upon incorporation. Capital may be supplied in cash or in kind. Value of non-monetary contributions must be reviewed and approved by a majority of the board of directors within 60 days of incorporation and may be challenged in court during the following 30 days.

An S.A. must set aside at least 10% of net profits after taxes in a legal reserve fund till this amounts to 20% of capital. Loss of more than two-thirds of subscribed capital normally requires liquidation of the company.

### Founders, shareholders

An S.A. must have a minimum of two individual or corporate shareholders, with no requirements as to their nationality or residence.

The shareholders' general meeting is the supreme body of the S.A. and has powers of decision on any subject and the exclusive power of decision with respect to dissolution, amendments of the corporate bylaws and a capital increase or reduction, among other key corporate decisions.

### Board of directors

An S.A. must have a minimum of three directors, with no maximum number provided by the law. There are no requirements as to their nationality or residence. Directors need not be shareholders, and they serve one to three-year renewable terms.

Directors may be elected by cumulative voting, in which each share has as many votes as there are directors to be elected, and shareholders either accumulate their votes in favor of one candidate or distribute them among several. A quorum is half the board membership plus one. The board of directors has all the powers vested in it by law and the corporate by-laws.

## Requirements of a Corporation ("S.A.") in Peru

### Management

One or more managers are named (and removed) by the board of directors, unless bylaws stipulate naming by a general shareholders meeting. When only one manager is appointed, he/she will be the general manager. There are no nationality requirements. Legal entities can also be appointed as managers.

### Types of shares

Shares must be nominative and they represent the unit into which the proprietary interests in a corporation are divided. As a general rule, each share gives the right to one vote, but non-voting shares may be issued. Different classes or series of shares may be issued, with different rights and/or obligations. Shares must be recorded in the Share Register Book.

All shares must have the same par value but may be issued at a premium or at discount from par. Corporations may purchase their own shares in certain circumstances. Bylaw restrictions on transfer of shares are permitted.

### Control

An annual general meeting is required. Bylaws may specify a higher quorum and larger majorities than those laid down by law. The minimum quorum for a general meeting is 50% of capital on the first call and any number on the second call. Most decisions are taken by a simple majority of the paid-up voting shares represented. For major decisions, such as capital increases or decreases or corporate bylaw changes, the minimum quorum is two-thirds of total voting shares represented on the first call and 60% on the second call, and the decision requires in absolute majority of total voting shares represented.

**b | Closely held corporation**

A corporation can be classified as closely held if it does not have more than 20 shareholders and its shares are not listed in the Stock Exchange. The closely held corporation has certain features found in a limited-liability company (for example, limited liability of equity owners, absence of freely transferable equity shares and no requirement for a board of directors).

**c | Public corporation**

A corporation will be considered "public" where (i) it has undertaken an initial public offering (IPO) or stock market launch to sale its stock to the public; (ii) it has more than 750 shareholders; (iii) at least 35% of its shares is held by at least 175 shareholders, each of whom owns at least two per thousand (0.002%) but no more than 5% of the shares representing the corporation's capital (iv) it is incorporated as a public corporation; or (v) all the shareholders with voting rights agree unanimously to subject the company to the legal regime applicable to public corporations.

**d | Limited Liability Company**

The Limited Liability Company or S.R.L. is subject to registration procedures, reporting and accounting requirements similar to those for the S.A. The minimum number of owners is two, the maximum 20, whose liability is limited to their capital contributions. At least 25% of each participant's contribution to capital must be paid in upon founding. The S.R.L.'s capital is divided into and represented by participating interests which cannot be denominated shares and which are not freely negotiable certificates.

Capital holdings may be transferred outside the company only after they have been offered through the management to other partners or the company itself and they have declined to purchase the offered interests. Further restrictions on transfers may be set out in the bylaws. As a general rule, an S.R.L. is managed and represented by all its partners. However, the partner's general meeting may entrust the company's management to one or more managers who need not be partners in the S.R.L. or Peruvian citizens. Decisions are determined by a majority of capital contributions.

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## 2.

# Custom duties

The main characteristics of the S.R.L. of entity are:

<b>Limited liability</b>	Partners are not personally liable for the corporation's liabilities.
<b>Centralized management</b>	Partners general meeting and one or more managers (no board of directors is required).
<b>Transfer of interest</b>	Transfer of partners' interest to third parties is subject to approval by the existing partners and must be registered in the public register.
<b>Continuity</b>	Death, illness, bankruptcy, retirement or resignation of any partner does not cause the dissolution of the entity.

### e Establishing a branch

Procedures for organizing a branch in Peru are similar to the procedures applicable to organizing corporations or limited liability companies. It takes between two to three weeks to register a branch once the necessary documents have been submitted to the Peruvian notary. These include copies of the parent firm's corporate charter and bylaws, minutes of the shareholders agreement to set up a branch in Peru, certification of the branch's address, assigned capital and line of business, notifications of the appointment and powers of a legal representative in Peru; and a Peruvian consul's certification that the parent company is duly constituted in the country of origin and entitled to set up a branch in a foreign country.

### a Rates and Tax bases

The applicable customs duties and taxes are summarized below:

Tax	Rate	Tax bases
Custom duties*	0%, 6% and 11%	Customs Value**
VAT	18%	Customs Value + customs duties

\* Customs duties rates depend on the kind of items imported. Capital goods are generally subject to a 0% rate.

\*\* The World Trade Organization (WTO) rules are applicable to arrive at customs value.

### b International Trade Agreements

The main agreements executed by the Peruvian government in order to gain access to international markets are the following:

- ▶ Andean Community (CAN): Peru fully enjoys the benefits from the free trade zone established by this agreement for all its member countries (Bolivia, Colombia and Ecuador). Peru is also a member of other Andean Community agreements related to the service market liberalization, transportation, telecommunications and several other matters related to international trade.
- ▶ Latin American Integration Association (ALADI): Peru maintains certain customs preferences with countries of the region (Argentina, Brazil, Chile, Cuba, Paraguay and Uruguay) established by the agreements signed under the 1980 Montevideo Treaty.



- ▶ Southern Common Market (Mercosur): Partial agreements executed by the Peruvian government with each of the member countries (Brazil, Argentina, Paraguay and Uruguay) are in effect. By means of the aforementioned agreements, Peru and Mercosur's member countries have reciprocally granted each other preferential customs duty margins.
- ▶ Free trade agreements with the United States, the European Union, Canada, China, Chile, EFTA States (Iceland, the Principality of Liechtenstein, the Kingdom of Norway<sup>1</sup> and the Swiss Confederation), Mexico, Japan, Singapore, Republic of Korea, Thailand, Panama, Costa Rica, Cuba and Venezuela are already in force, as well as the Pacific Alliance Agreement (Mexico, Colombia, Chile and Peru).
- ▶ Peru has also concluded negotiations with Guatemala, as well as with the countries of the Trans-Pacific Partnership (Australia, Brunei Darussalam, Canada, Chile, the United States, Japan, Malaysia, Mexico, New Zealand, Singapore and Vietnam)
- ▶ Furthermore, Peru maintains negotiations with El Salvador, India and Turkey.

In order to apply these preferential treatments, goods shall meet, among others, an origin requirement.

Finally, it is important to mention that Peru is a founding member of the World Trade Organization (WTO). Therefore, the WTO's regulations regarding antidumping practices, subsidies and countervailing duties and, service market liberalization, among others, are applicable in Peru.



#### c Other considerations

Mining companies are not exempt from import duties, but under certain circumstances can benefit from temporary import privileges that have the effect of differing duties. The customs legislation allows the temporary import, for an 18-month period of certain capital goods without the payment of the customs duties and import taxes (e.g. machinery and equipment). For these purposes, it is necessary to grant a guarantee for the unpaid taxes (and compensatory interest) and the referred goods must be re-exported before the end of the aforementioned term.

This regime will be applicable to the extent that the goods are identifiable and destined to specific purpose in a specific location. They also need to be re-exported within a specified period of time without having undergone any change except normal depreciation arising from their use.

### 3.

## Labor legislation

#### a Job stability

In accordance with the Constitution, employees are protected against arbitrary dismissal.

This right, called "job stability", is granted to employees who work for the same employer for more than four hours per day in average, after a three month trial period. Once this period is completed, the employees are regarded as permanent and can only be dismissed under circumstances concerned with their behavior at work or ability to carry out their duties.

Employers may enter into employment contracts for an undetermined period of time or for fixed terms. Temporary or fixed term contracts are expressly foreseen by Law and are basically allowed for cases such as business expansion, production increments, temporary activities, extraordinary circumstances and seasonal activities. These contracts must be entered into in writing and communicated to the labor authority.

Workers on permanent contracts are entitled to mandatory severance payments if they are dismissed without cause. In Peru, the current mandatory severance pay (a key component in ensuring job stability) is set at 1.5 monthly salaries for each year of service. Workers under fixed term contracts are also legally entitled to a severance pay, equivalent to 1.5 monthly salaries for each month that remains pending to complete the term of the contract. In any case, the maximum severance payment is twelve salaries. Alternatively, the employee can demand the restitution to the same job he had. The law allows collective dismissals under certain circumstances such as acts of God or force majeure, financial or technical streamlining, dissolution, bankruptcy or operating downsizing without having to grant the severance payment.

#### b Employees' benefits

Employers are required to provide the following benefits for employees:

- Family allowance equivalent to PEN 65.4 (approximately)
- One month paid vacation per year
- One month salary bonus in July and December
- One month salary per year (approximately) as severance indemnity which should be deposited in advance with a bank elected by the employee. Deposits are regarded as final payments of the accrued liability
- Profit sharing in cash, which is calculated on the employer's taxable income and distributed among the employees. The rates are 5%, 8% and 10% depending on the employer's activity (8% for mining). This benefit does not apply to companies employing less than 20 individuals
- All these benefits are deductible for income tax purposes

Employers can negotiate with workers earning a monthly salary higher than 2 tax units (PEN 8,100 in 2017) a total annual compensation, including all the benefits described above, except for the profit sharing.

**c | Expatriates**

Expatriates working in Peru and foreign corporations carrying out activities in Peru are subject to Peruvian labor laws. As a general rule, foreign employees should not exceed 20% of total personnel. Additionally, wages paid to foreign employees should not exceed 30% of total payroll cost. Such limits can be waived for professionals and specialized technicians or management personnel of a new entrepreneurial activity or in case of a business reconversion.

No restrictions apply to foreign individuals working in Peru with Peruvian immigrant visa, individuals married to Peruvians or having Peruvian children, parents or siblings and foreign investors with a permanent investment in Peru of at least 5 tax units (PEN 28,350 in 2017).

Expatriate employees should register their employment contract with the labor authorities and obtain a special non-immigrant work visa. No additional work permit is needed.

**d | Immigration**

Foreigners can enter Peru under the following migratory qualifications:

Visa	Rate	Tax bases
Tourist visa	Temporal	This visa does not allow to perform paid activities.
Business visa	Temporal	This visa does not allow to perform activities that can be considerable Peruvian source income. This visa allows the expatriate to sign contracts.
Work visa	Resident or Temporal	This visa allows to work in Peru. Suppose the existence of a work contract with Peruvian company duly approve by the labor ministry.
Designated employee visa	Temporal	This is a visa that applies for an employee of a foreign company. The following documents must be submitted to the migratory authority: service agreement and the assignment letter. Those documents must be legalized by the Peruvian consulate and the Peruvian foreign minister.
Work visa for service providers	Resident	Investment or independent work.
Immigrant	Resident	No restrictions.

## 4.

# Accounting standards

As a general rule, income obtained for personal work or civil, commercial or any other type of business carried out within the Peruvian territory is considered to be Peruvian source income. However, non-resident individuals entering the country temporarily to perform the following activities are not taxed for revenues obtained in their home country, since they are not considered as Peruvian source income:

- Acts that precede a foreign investment or any other business;
- Supervision or control of an investment or business, (i.e. gathering data or information, meeting public or private sector personnel, etc.);
- Hiring local personnel; and,
- Signing agreements or similar documents.

Any other amount an expatriate receives in cash or in kind, as a compensation for work carried out within Peru, is considered as Peruvian source income and, consequently, will be taxable.



### a | Public Issuers

Entities under the supervision of the Superintend of Stock Markets (SMV by its acronyms in Spanish), except for financial institutions which are under the supervision of Superintend of Banks and Insurances, must prepare and file its financial statements using International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB).

### b | Private entities

The Peruvian Business Corporation Law establishes that the financial statements of companies incorporated in Peru must follow the Peruvian GAAP and other legal provisions on the matter. The Peruvian Accounting Standards Board has established that Peruvian GAAP is equivalent to the accounting standards as issued by the IASB, duly approved by the Peruvian Accounting Standards Board. Supplementary, companies in Peru can use US GAAP by analogy.

Certain IFRS internationally in force are not immediately used in Peru since the Peruvian Accounting Standards Board takes some time in studying and introducing these standards into Peru.

**c | IFRS for mining entities**

Although the following is not a comprehensive list of the issues in mining entities, it should contribute to the understanding of the main accounting topics affecting the financial statements of the mining entities:

► **Inventories**

Critical spare parts are to be classified as property, plant and equipment and not as inventories. These items are subject to depreciation.

► **Exploration and evaluation costs**

There is diversity in acceptable accounting treatments. Some entities capitalize exploration and evaluation costs, while others record as expenses when incurred.



► **Development costs**

Costs incurred to develop a property, including additional costs to delineate the ore body and remove impurities it contains, are capitalized. These costs are amortized when production begins, on the units of production method over the expected useful life of the ore body.

► **Stripping costs**

- As part of the mining operations, the entities incur waste removal costs (stripping costs) during the development and production phases. Stripping costs incurred in the development phase of a mine, before the production phase commences (development stripping), are capitalized as part of the cost of constructing the mine and subsequently amortized over its useful life using units of production method. The capitalization of development stripping costs ceases when mine starts production.

- Stripping costs incurred during the production phase (production stripping costs) are generally considered to create two benefits, being either the production of inventory or improved access to the ore mined in the future. Where the benefits are realized in the form of inventory produced in the period, the production stripping costs are accounted for as part of the cost of producing those inventories. Where the benefits are realized in the form of improved access to ore to be mined in the future, the costs are recognized as a non-current asset, referred to as a stripping activity asset. This asset is subsequently depreciated using the units of production method over the expected useful life of the component identified of the ore body that has been made more accessible to the activity.



#### ► Impairment of long-lived assets

- Entities must assess, at each reporting date, whether there is an indication that an asset may be impaired. If an indication exists, or when annual impairment testing for an asset is required, the entities estimate the recoverable amount of the cash generating unit (CGU). The recoverable amount is the higher of the fair value less costs of disposal and the value in use of the CGU.
- When the carrying amount of a CGU exceeds its recoverable amount, the CGU is considered impaired and is written down to its recoverable amount.
- IFRS contains specific rules for the calculation of the value in use (discounted cash flows) related to key assumptions as prices, discount rate, exchange rates and capital expenditures.
- IFRS requires the reversal of impairment losses recorded in prior years for assets subject to depreciation and amortization.
- IFRS requires the performance of an annual impairment test for assets not subject to depreciation and amortization (for example, goodwill), independently of the existence or not of impairment indicators.

#### ► Depreciation of property, plant and equipment

- It is required to depreciate the assets using a components approach.
- There are potential risks in connection with the accounting treatment of major maintenances.
- Companies need to consider the use of the units-of-production method to depreciate/amortize the assets used in the mine site, instead of using the straight-line method.
- IFRS need to consider the estimation of the residual value of the fixed asset in order to determine the depreciable amount.
- The residual values, useful lives and methods of depreciation must be reviewed at year-end. Any resulting impact is adjusted prospectively.

#### ► Functional currency

Most of the mining entities keep their accounting records in US dollars, which is the functional and presentation currency.

#### ► Decommissioning liabilities

- When the liability is initially recognized, the present value of the estimated costs is capitalized by increasing the carrying amount of the related mining assets. Over time, the discounted liability is increased for the change in present value based on a risk-free rate. In addition, the capitalized cost is depreciated and/or amortized based on the useful life of the asset.



- Changes in the estimated timing of rehabilitation, changes to the estimated future costs or changes in the risk-free rate are dealt with prospectively by recognizing an adjustment to the rehabilitation liability and a corresponding adjustment to the related asset. Any reduction in the rehabilitation liability and, therefore, any deduction from the asset to which it relates, may not exceed the carrying amount of the asset. If it does, any excess over the carrying amount is taken immediately in the statement of profit or loss.
- For closed mines, changes to estimated costs or risk-free rate are recognized immediately in the statement of profit or loss.
- ▶ **Revenues**
  - Revenue from sale of concentrates and metals is recognized when the significant risks and rewards of ownership of the goods have passed to the buyer, usually on delivery of the goods.
  - Contract terms for the sale of metal in concentrate to customers allow for a price adjustment based on final assay results of the metal in concentrate by the customer to determine the final content. These are referred to as provisional pricing arrangements and are such that the selling price for metal in concentrate is based on prevailing spot prices on a specified future date after shipment to the customer (the quotation period). Adjustments to the sales price occurs based on movements in quoted market prices up to the date of final settlement.
- Sales contracts for metal in concentrate that have provisional pricing features are considered to contain an embedded derivative, which is required to be separated from the host contract for accounting purposes. The host contract is the sale of metals in concentrate, and the embedded derivative is the forward contract for which the provisional sale is subsequently adjusted with final liquidations. The embedded derivative is originated by the metals prices since the date of issuance of the provisional liquidation until the date of issuance of the final settlement.
- The embedded derivative, which does not qualify for hedge accounting, is initially recognized at fair value with subsequent changes in the fair value recognized in the statements of profit or loss until final settlement. Changes in fair value over the quotation period and up until final settlement are estimated by reference to forward market prices.
- ▶ **Financing costs**
  - IFRS requires an entity to capitalize borrowing costs that are directly attributable to the acquisition, construction or production of a qualifying asset as part of the cost of that asset. An entity shall recognize other borrowing costs as an expense in the period in which it incurs them.
  - There may be difficulties to determine the borrowing costs to be capitalized, specifically the exchange difference that is regarded as an adjustment to interest costs.



# Appendix



## Mining sector regulators and stakeholders

### 1.

## Regulators

- ▶ **General Bureau of Environmental Health - DIGESA**  
([www.digesa.sld.pe](http://www.digesa.sld.pe))

This is the technical-regulatory body in aspects related to basic sanitation, occupational health, hygienic food, zoonosis and environmental protection. It issues regulations and assesses environmental health processes in the sector. It is an entity under the Ministry of Health.

- ▶ **General Bureau of Mining Environmental Matters - DGAAM**  
([www.minem.gob.pe](http://www.minem.gob.pe))

This is the technical-regulatory body responsible for proposing and assessing the Mining Sector's environmental policy, proposing laws or issuing the necessary rules. It also focuses on promoting environmental protection activities in mining activities.

- ▶ **General Mining Bureau - DGM**  
([www.minem.gob.pe](http://www.minem.gob.pe))

This is the MINEM Mining Line Unit responsible for ruling and promoting activities to assure the rational use of mining resources in harmony with the environment.

- ▶ **Geological, Mining and Metallurgical Institute - INGEMMET**  
([www.ingemmet.gob.pe](http://www.ingemmet.gob.pe))

This is the public agency responsible for granting the titles to mining concessions, administrating the national mining register and processing, administrating and issuing geo-scientific information on the national territory in order to promote investment in Peru.

- ▶ **National Protected Areas Service- SERNANP**  
([www.sernanp.gob.pe](http://www.sernanp.gob.pe))

This is the highest technical-regulatory authority responsible for promoting, overseeing and controlling the policies, plan, programs, projects and rules on conservation of biodiversity and protected areas.

- ▶ **Mining Council**  
([www.minem.gob.pe](http://www.minem.gob.pe))

Highest-level administrative court of last resort over all mining matters that are subject to resolutions by agencies under the Ministry of Energy and Mines (DGM, DGAAM, INGEMMET, and others).

- ▶ **Ministry of Agriculture - MINAGRI**  
([www.minagri.gob.pe](http://www.minagri.gob.pe))

This is the entity that promotes the development of organized agrarian producers in productive chains, in order to achieve an agriculture that is fully developed in terms of economic, social and environmental sustainability.

- ▶ **Ministry of Energy and Mines - MINEM**  
([www.minem.gob.pe](http://www.minem.gob.pe))

This is the central and governing body for the Energy and Mining Sector, a part of the Executive Branch. Its purpose is to formulate and assess national policy in matters of sustainable development in mining-power activities. It is the governing authority in environmental matters in reference to mining-energy activities.

- ▶ **Ministry of Labor and Employment Promotion - MTPE**  
([www.mintra.gob.pe](http://www.mintra.gob.pe))

This is the body governing labor in Peru, with all powers necessary to lead the implementation of policies and programs for generating and improving employment, and also responsible for enforcement of legislation for labor matters.

- ▶ **Ministry of the Environment - MINAM**  
([www.minam.gob.pe](http://www.minam.gob.pe))

This is the nation's environmental authority. Its purpose is planning, promoting, coordinating, controlling and safeguarding the nation's environment and natural heritage. It sets the balance among socio-economic development, the sustainable use of natural resources and preservation of the environment.

- ▶ **National Superintendency of Tax Administration - SUNAT**  
([www.sunat.gob.pe](http://www.sunat.gob.pe))

A decentralized public entity in the Economy and Finance Sector that enjoys economic, administrative, functional, technical and financial autonomy. It is the main tax-collecting agency in the Peruvian economy.

- ▶ **Presidency of the Cabinet - PCM**  
([www.pcm.gob.pe](http://www.pcm.gob.pe))

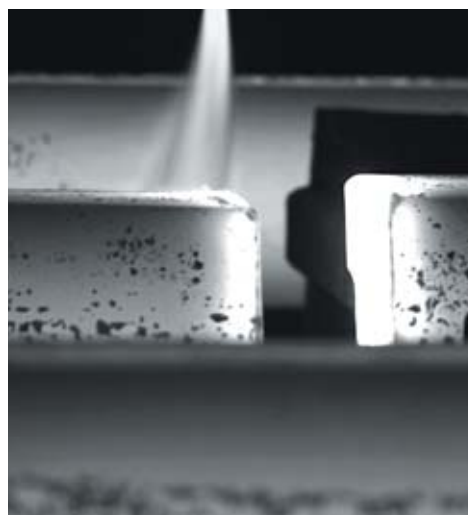
This is the technical-administrative body covered by the Executive Law; its highest authority is the President of the Cabinet. It coordinates and conducts follow-up on the Executive's multi-sector policies and programs, coordinates actions with Congress and independent constitutional bodies, among others.

- ▶ **Supervisory Body of Private Investment in Energy and Mines - OSINERGMIN**  
([www.osinergmin.gob.pe](http://www.osinergmin.gob.pe))

This is the regulatory, supervisory body that regulates, enforces and oversees the activities undertaken by internal public- or private-law legal entities and individuals in the electricity, hydrocarbons and mining sub-sectors.

- ▶ **Water administrative authorities- AAA**

Operational, functional and planning units oriented towards the conservation and development of the hydric resources within a hydrographic river basin. Their function is to administer waters for agricultural and non-agricultural uses, in accordance with approved cultivation and irrigation plans.



## 2.

### Stakeholders

- ▶ **Sociedad Nacional de Minería, Petróleo y Energía - SNMPE**  
([www.snmpe.org.pe](http://www.snmpe.org.pe))

Non profit organization, groups the companies related to the mining, oil & gas and energetic activities in the country.



## 3.

### ProInversion

ProInversion is the Peruvian investment agency in charge of the promotion of business opportunities with high growth and profitability expectation in Peru. Its purpose is to promote investment unrelated to the Peruvian government by private parties in order to boost Peru's competitiveness and development and to improve the well being of the population.

Likewise, its vision is to be considered by investors and by the population as an efficient and strategic ally for the development of Peru's investments.

ProInversion provides information to potential investors regarding the incorporation of a legal entity, identifying investment by industries, investment projects (granted and pending) among other.

- ▶ **Contacts:**

- Web page: [www.proinversion.gob.pe](http://www.proinversion.gob.pe)
- E-mail: [contact@proinversion.gob.pe](mailto:contact@proinversion.gob.pe)
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Phone - Fax: +51 73 310 081

## EY services for the mining sector

### 1.

## Our strength in the mining and metals sector

EY's mining and metals professionals combine technical capabilities with a thorough understanding of the industry's operating processes, strategic and operating risks, growth drivers, regulatory considerations, and market dynamics.

We use our wide experience of working with the world's largest mining and metals companies to help you to address your key business issues. This might involve helping you to overcome current sector issues such as rising costs where we can help you to streamline operational and business processes, and improve productivity on key profit drivers.

In this environment of increased sector consolidation, we can assist you with your divestment strategies, to ensure that you realize full value at exit. If you are looking to expand your operations to new regions, you can draw on our deep understanding of how to manage operational risks—both political and otherwise.

EY has a number of multi-service line solutions to help our clients meet these challenges.



### Our services

EY has a global focus on mining and metals, with over 1,000 specialist global professionals including mining engineers, mineral process specialists and geologists. Our global team is closely networked and share industry and technical knowledge to provide our clients with a seamless global service. Some of our specialist mining & metals based services include:

#### ► Environment and sustainability

Providing an extensive range of services in areas such as sustainability reporting and assurance, sustainability strategy, reputation issues, environmental risk management, greenhouse gas emissions advisory, renewable energy and emissions trading.

#### ► Mining advisory

Improving supply chain responsiveness to demand volatility; delivering core business re-engineering (e.g. merging a number of mines into one management structure), and delivering mine-based projects aimed at reducing costs or increasing production.

#### ► Mergers and acquisitions advisory

Mergers and acquisitions, at either the holding company or asset level, require specific knowledge and skills in order to complete transactions. The knowledge and skills required relate to the regulatory environment, including the rules and regulations of each country's stock exchange, accounting, legal, structuring and taxation disciplines in addition to an understanding of transaction value-drivers.



► **Valuation and business modelling (V&BM)**

Providing a range of services to companies in the mining sector including valuations for purchase price allocation/acquisition accounting, tax planning, finance and stamp duty purposes and has specialists with extensive skills ranging from valuations of businesses and intangible assets to specialised mining capital equipment and real estate.

Our valuations personnel have experience in the extraction, beneficiation, refining, smelting and processing of base metals, bauxite, coal, diamonds, gold, iron ore, limestone, mineral sands, nickel, salt, etc. Further V&BM has deep expertise in model builds and reviews and is able to construct or review life of mine cash flow models as part of an acquisition strategy.



► **Project finance advisory**

Advising on the development, optimisation and implementation of finance plans covering the full range of project financing options for resources projects; non and limited recourse debt and tax effective leasing structures for coal mines, gold mines, copper mines, mineral sands producers and other resources project as well as a number of associated infrastructure projects such as preparation plants, conveyor systems and gas pipelines.

► **Transactions advisory**

Our global transaction capability covers over 80 countries and comprises over 5,000 professionals. These transaction professionals work across many elements of the transaction life cycle in the deal critical areas of financial due diligence, tax due diligence and structuring, valuation and business modelling and transaction integration.

► **Transaction integration**

Providing commercial and operational due diligence, integration planning and methodology development, synergy assessment, and integration program management; corporate strategy advice on market opportunities and areas to exploit along the mining value chain, as well as practical operational advice in areas such as overhead and capital expenditure cost reduction, process efficiency, supply chain and procurement, and in functional areas such as finance and human resources.

## 2.

## EY thought leadership

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### Good Mining (International) Limited - Illustrative Consolidated Financial Statements for the year ended 31 December 2016

This publication contains an illustrative set of consolidated financial statements for Good Mining (International) Limited (Good Mining) and its subsidiaries (the Group) that is prepared in accordance with International Financial Reporting Standards (IFRS).



### Make working capital work for you

In recent years, mining companies worldwide have increased their focus on improving working capital performance. A clear change has occurred in the sector by showing that miners have increased their focus on release cash flow to accomplish shareholder commitments due to share repurchases and increased dividend policies.



### Applying IFRS: New IASB standard - Mining and Metals

IFRS 16 significantly changes the accounting for mining and metals lessees, requiring them to recognize most lease contracts on their balance sheets. EY summarizes the new standard and describes some sector-specific issues mining and metals entities may wish to consider.



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### How do you prepare for tomorrow's mine today?

The finding of this last productivity paper was that mining companies need to reduce the integration gap in their organizations to achieve the next level of productivity gains.

This requires an integrated end-to-end approach across the value chain. Read insights from your peers and possible actions to take.



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### Business Risks in Mining & Metals 2016-2017

Mining companies face significant challenges to overcome the risks that are coming in their sector. EY presents which are the 10 global risks for 2016 and 2017, that companies must take in order to stay at the forefront of competition.



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### Mining & Metals commodity briefcase

Bi-monthly commodity briefcases which includes the latest information on prices, top producers, mergers & acquisitions, industry developments, production, legal and regulatory information and broker reports on each of the following commodities: aluminum, coal, copper, gold, iron, ore, nickel, steel, uranium, zinc.



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### 3.

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## Our knowledge

How the firm's staff are kept abreast of industry developments.

To ensure our teams are abreast with the hot issues, we provide all our people with regular monthly internal training focusing on the industry, as well as subscribing to a number of specialist resources such as Mining Journal; McCloskey's Coal, Raw Materials Group, Infomine and MiningNews.net.

We have a Global Mining & Metals Community Home Space, which is a portal for our professionals to access all of our global sector content including best practice deliverables, industry insights and thought leadership.

On a monthly basis, our global network receives a monthly hot topics email, Mining Discovery.

On a commodity by commodity basis, to help account teams keep abreast of sector developments, the Mining & Metals center has developed a number of commodity bulletins, the Briefcase series. These briefcases cover a number of regular topics including sector transactions; production disruptions; social license to operate; legal and regulatory issues.











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# mining & metals investment guide

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