

Free Trade Agreement (FTA) between Hong Kong (HK) and Peru

Frequently Asked Questions

I. General

Q1. How will HK benefit from the FTA?

- A1. The FTA will provide HK products, enterprises and investors with legal certainty and better access to the Peruvian market. Among other things, Peru will eliminate / reduce import tariffs for goods originated in HK. HK service providers in Peru can enjoy secured market access and enhanced legal certainty of non-discriminatory treatment in Peru. The FTA will also provide HK investors with legal certainty on national treatment and other safeguards in respect of their investments in Peru in non-services sectors.

The FTA will provide a favourable platform for HK's traders and investors to expand their businesses in Peru and through Peru to the Latin American markets.

Peru ranked fifth among our merchandise trading partners in Latin America in 2023, with bilateral merchandise trade amounted to HK\$5.2 billion. The bilateral merchandise and services trade grew at an average annual rate of 4% (from 2019 to 2023) and 16.3% (from 2018 to 2022) respectively.

Q2. When will the FTA take effect?

- A2. The FTA will enter into force after HK and Peru have completed their respective internal procedures. The effective date of the FTA will be announced in due course.

Q3. What support would Government provide for small and medium enterprises (SMEs) to explore the Peruvian market?

- A3. Following the signing of the FTA between HK and Peru, the geographical scope of the Dedicated Fund on Branding, Upgrading and Domestic Sales (known as the BUD Fund) has been extended to cover Peru (as the 40th eligible economy) with immediate effect

to further support HK enterprises in developing their businesses there. Besides, to encourage SMEs to expand their markets outside Hong Kong, the SME Export Marketing Fund (EMF) provides financial assistance to SMEs for participation in export promotion activities. Seminars will also be organised to inform the trade of the key benefits of the FTA to HK.

Q4. Any contact point in TID to find out more information about the FTA?

A4. For enquiries on the FTA, please contact the following for further information:

General Enquiries

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Tariff

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Rules of Origin

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Trade in Services

Tel: 2398 5354

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II. Trade in Goods

Q1. What are Peru's tariff commitments on HK's originating good?

A1. Peru committed to eliminate tariffs on 98.3% of its tariff lines for HK's originating goods exported to Peru, amongst which tariff elimination concerning 91.3% of the tariff lines would take

immediate effect upon the entry into force of the FTA, while tariffs of 7% of the tariff lines would be phased out gradually . A further 0.6%, comprising agricultural products such as dairy products, rice and sugar etc., will be subject to partial tariff elimination upon the FTA entering into force.

As for the remaining 1.1%, such products will be subject to negotiation for liberalisation in the fifth year from the date of entry into force of the FTA.

Q2. Are HK exporters required to follow any specific procedures to claim tariff preference under the FTA?

A2. HK exporters who comply with the relevant preferential origin rules and fulfil the other relevant requirements set out in the ROOs of the FTA can benefit from the preferential tariff treatment for exports to Peru. In order to claim preferential tariff treatment under the FTA for goods exported to Peru, HK exporters will need to obtain a certificate of origin (CO) from the Trade and Industry Department (TID) or one of the Government Approved Certification Organizations (GACOs)¹ and transmit the CO to the relevant importer in Peru so that the latter may lodge the claim for preferential tariff treatment in accordance with the procedures on the importation requirements applicable in Peru. TID will issue trade circulars to announce the arrangements and application procedures for such COs before the FTA enters into force.

III. Trade in Services

Q1. What are the services commitments under the FTA?

A1. We have achieved high quality and balanced outcomes on trade in services, building on the two sides' commitments under the World Trade Organization (WTO).

Peru's commitments encompass sectors where HK has strengths for further development, such as:

¹ The five GACOs are the Federation of Hong Kong Industries; the Hong Kong General Chamber of Commerce; the Chinese General Chamber of Commerce; the Chinese Manufacturers' Association of Hong Kong; and the Indian Chamber of Commerce, Hong Kong.

- (a) professional services;
- (b) business services;
- (c) computer and related services;
- (d) research and development services;
- (e) financial services; and
- (f) transport services.

In line with our open trade policy, HK has also made comparable services commitments under the FTA.

Q2. How are Peru's commitments to HK compared with its other FTAs?

- A2. Peru built on the commitments it has made under its latest FTAs with other trading partners and made various improvements over its commitments under the WTO (WTO-plus). The level of commitments reflects the different dynamics and balance of individual negotiations.

Q3. What are the respective commitments of HK and Peru in respect of movement of natural persons under the FTA?

- A3. In respect of movement of natural persons, in addition to WTO-plus commitments for the categories of business visitors and intra-corporate transferees (ICTs) in a wide range of sectors, the two sides also include commitments for spouses of ICTs as well as installers or servicers. Peru's commitments cover the additional categories of persons that HK has not committed, i.e. investors and technicians.

Q4. Why are there two scheduling approaches under this FTA?

- A4. Most of the Parties' specific commitments (except for financial services (partially) and movement of natural persons) are scheduled negatively, i.e. all services will be covered unless specifically carved out through a Party's schedules of non-conforming measures or reservations. This negative-listing approach is a more forward looking approach which helps ensure comprehensiveness of the FTA because new services that may emerge in the future will be automatically covered by the FTA and deemed to be open. This will minimise the need for frequent reviews of the FTA later on and provides a higher degree of

transparency while maximising market access opportunities enjoyed by FTA parties. It is also the same approach adopted under HK's FTAs with Australia, New Zealand and the Member States of the European Free Trade Association.

On the other hand, commitments on movement of natural persons are scheduled positively in line with the past approach of the two Parties in their other respective FTAs whereas commitments on financial services are scheduled under a hybrid approach as agreed by the two Parties.

Q5. What are the scope and application of the Chapters on Trade in Services and Financial Services?

A5. The scope and application of the Chapters on Trade in Services and Financial Services are generally in line with those under the WTO. They apply to measures affecting trade in services taken by:

- central, regional or local governments and authorities; and
- non-governmental bodies in the exercise of powers delegated by governments or authorities;

but does NOT apply to:

- services supplied in the exercise of governmental authority, i.e. any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;
- measures affecting natural persons seeking access to the employment market of HK or Peru;
- measures regarding citizenship, residence or employment on a permanent basis;
- measures affecting air services, including domestic and international air transportation services, whether scheduled or non-scheduled, or to related services in support of air services, other than measures affecting:

- (i) aircraft repair and maintenance services;
 - (ii) selling and marketing of air transport services;
 - (iii) computer reservation system services;
 - (iv) specialty air services;
 - (v) airport operation services; and
 - (vi) ground handling services;
- government procurement; and
 - subsidies or grants.

Q6. What are the disciplines on domestic regulation (DR) agreed in the Trade in Services Chapter?

A6. Building on the WTO General Agreement on Trade in Services provisions on DR, the DR disciplines in the Trade in Services Chapter (i.e. Article 8.8) require each Party to ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner. Each Party shall ensure that measures relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures are based on objective and transparent criteria, and in the case of licensing procedures, not in themselves a restriction on the supply of the services. Each Party shall also endeavor to ensure the measures that it adopts or maintains are not more burdensome than necessary to ensure the quality of the service.

Q7. What is the Most-Favoured-Nation Treatment (MFN) obligation under this FTA? What are its implications?

A7. The type of obligation of MFN treatment under this FTA is commonly termed as forward looking MFN treatment which enables service suppliers of each side to enjoy the other side's additional service commitments in its future FTAs. The MFN

treatment obligation is however not applicable to their existing FTAs and certain services specified in their respective lists of reservations under this FTA. In this connection, commitments under the Mainland and HK Closer Economic Partnership Arrangement (CEPA) and its existing and future Supplements are not subject to this provision on MFN treatment.

Q8. What are the key obligations under the Chapter on Financial Services?

A8. Apart from commitments on market access and non-discriminatory treatment, the two sides agreed to a set of modern and facilitating provisions specific to financial services, covering for instance electronic payment card systems, transparency in regulation, and the supply of new financial services, while maintaining the rights of a Party to take prudential measures where necessary.

Q9. What are the key obligations under the Chapter on Electronic Commerce?

A9. The two sides agreed not to impose customs duties on electronic transmissions, including content transmitted electronically. The Chapter also features an Article on Non-Discriminatory Treatment of Digital Products under which each Party shall endeavour to accord to digital products of the other Party treatment no less favourable than it accords to similar digital products of its own or a non-Party. There are also provisions to facilitate electronic commerce, including electronic contracts, paperless trading, protection of personal information, movement of information and freedom in the location of computing facilities.

Q10. What are the future work programmes?

A10. The two sides have concluded a separate agreement in the form of a side letter on professional services, under which the two sides shall enter into discussions to explore ways to facilitate recognition of existing relevant professional experience. Details are set out in the Side Letters under Background section.

IV. Investment

Q1. What are the commitments under the Establishment and Related Provisions Chapter?

A1. The Establishment and Related Provisions Chapter commits the two Parties to treat each other's investors and their investments in a non-discriminatory manner as compared with a Party's own investors, and to provide safeguards against a Party imposing specified restrictions on the operation of investments made by investors of the other Party, in respect of their investment in non-services sectors. There are specified exceptions to the obligations in order to provide the two Parties with required policy flexibility.

V. Other Areas

(a) Intellectual Property (IP)

Q1. What are the key outcomes of the IP Chapter? Is there any implication on HK's IP regulatory regime?

A1. Under the IP Chapter, apart from affirming the rights and obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and international agreements relating to IP which apply to HK and Peru, the two sides also achieve high-level protection of IP rights and IP cooperation, including but not limited to patents, copyrights and trademarks, and geographical indications (GIs), taking into account the respective laws and regulations of HK and Peru. The obligations are compatible with HK's IP regime and will not require any change to our IP legislation and enforcement work.

(b) Competition

Q1. What are the key outcomes of the Competition Chapter? Is there any implication on HK's competition policy?

A1. Under the Competition Chapter, the two sides agreed to promote competition, to avoid trade between HK and Peru being impaired by anti-competitive practices, and to enhance cooperation between

their competition authorities. The principles and obligations provided in the Chapter are in line with HK's prevailing competition regime and the Competition Ordinance.

(c) Cooperation

Q1. What cooperation areas and activities are covered in the Cooperation Chapter?

A1. To facilitate the implementation and enhance the benefits of the FTA, the Cooperation Chapter sets out principles and objectives of economic and trade cooperation activities in areas of trade in goods, trade in services, investments and other areas as mutually agreed.

Q2. How would small and medium enterprises (SMEs) benefit from the cooperation activities in the Cooperation Chapter?

A2. The Cooperation Chapter contains specific provisions which aim to promote a favourable environment for the development of SMEs and exchange of experiences and good practices with SMEs. In particular, both parties will cooperate on a mutually agreed basis in the subjects of, among others, increasing access to information regarding mandatory procedures for SME exporters and supporting SME exporters in promoting exports to overseas markets so that SMEs are better equipped to reap the opportunities fostered by the FTA.

(d) Government Procurement

Q.1 Does the FTA cover government procurement (GP)?

A1. The two sides agreed that it would facilitate suppliers to access each other's GP market if the FTA could be expanded to cover GP in the future. Accordingly, the Final Provisions Chapter contains a provision to pave the way for future negotiation on the subject.

(e) Dispute Settlement

Q1. Apart from arbitration mechanism, does the FTA feature

alternative methods of dispute resolution?

- A1. This FTA included provisions on alternative methods of dispute resolution, including conciliation and mediation. Proceedings that involve such alternative methods of dispute resolution may take place in parallel to the arbitration mechanism and may be initiated or terminated at any time as agreed by the Parties.