



BUSINESSatOECD

Our Recommendations on the Evaluation of Peru's Accession to the OECD

Business at OECD (BIAC) Investment Committee Paper

Established in 1962, *Business at OECD* (BIAC) is the officially recognized institutional business stakeholder at the OECD. We stand for policies that enable businesses of all sizes to contribute to economic growth, sustainable development, and societal prosperity.

Through *Business at OECD*, national business and employers' federations representing over 10 million companies provide perspectives to cutting-edge OECD policy debates that shape market-based economies and impact global governance. Our expertise is enriched by the contributions of a wide range of international sector organizations.

Contents

Introduction	1
I. Context: Peru's accession process to the OECD	2
II. Peru's investment climate: identified barriers	3
Legal certainty: regulatory transparency and predictability	
Institutional framework	
Fiscal environment	
Liberalization of capital movements: restrictions on capital	
Environmental and social sustainability	
Labor rights and social inclusion	
Investment disputes	
III. Stakeholder engagement in OECD accession discussions	16
IV. Conclusion and recommendations	17
Annex I: List of ICSID cases against the Republic of Peru concluded in favor of the claimants	18
Annex II: List of ongoing ICSID cases against the Republic of Peru	18
Annex III: References	19

Introduction

Peru's will to join the Organisation for Economic Co-operation and Development (OECD) reflects its commitment to adopt international best practices in governance, economic development, and investment climate reform. However, persistent structural and policy challenges continue to hinder its accession capacities.

This paper examines key obstacles to Peru's investment environment, including regulatory unpredictability, institutional instability, inadequate infrastructure, and legal uncertainty. Empirical data—such as the country's declining rankings in global business environment indices and the rise in international investment disputes—underscore the urgency of addressing these issues.

To align with OECD standards, Peru must implement comprehensive reforms to enhance regulatory transparency, uphold the rule of law, strengthen judicial independence, and establish a more stable regulatory economic framework.

In particular, Peru should honor its obligations arising from international investment dispute awards as soon as they are settled to increase its credibility with international investors in line with the commitments Peru agreed to in signed BIT and multilateral treaties.

The recommendations in this report outline a strategic roadmap to recover and boost investor confidence, attract high-quality foreign investment, and accelerate Peru's progress toward OECD membership.

I. Context

Peru's accession process to the OECD

The Organisation for Economic Co-operation and Development (OECD) sets global standards for promoting sustainable economic growth, improving governance and fostering a favorable investment climate.

The Republic of Peru expressed the country's interest in joining the OECD in 2012. Since then, several stages of the accession process have taken place, including in 2017 the OECD's Council evaluation of the country's application based on the pre-accession framework.

On 25 January 2022, the OECD Council decided to open accession discussions with Peru, which was communicated by the Secretary-General, through a letter agreed by Council, in which they requested Peru to confirm its adherence to the OECD's 60th Anniversary Vision Statement and Ministerial Council Statement adopted in October 2021 and to the letter sent by the Secretary-General¹.

The Roadmap for the OECD accession process of Peru was finally adopted by the OECD Council at Ministerial level on 10 June 2022².

Once the roadmap was finalized, Peru developed and initial memorandum in which they evaluated the country with respect to legal framework of the OECD. This was conveyed to the OECD on 7 June 2023³.

Following this memorandum, OECD committees need to produce an evaluation of Peru in order to be put forward for recommendation to the OECD Council. Some of the 24 committees involved have initiated their evaluation of Peru.

As far as *Business at OECD* is aware of, only the "Health" Committee has concluded its evaluation whereas the "Working Group on Bribery in International Business Transactions", the "Environment Policy Committee", the "Public Governance Committee", the "Committee of Senior Budget Officials" and the "Regulatory Policy Committee" have performed their evaluations with recommendations⁴.

II. Peru's investment climate: identified barriers

Considering the current situation in Peru, as a candidate for OECD membership, it is expected to make significant efforts to align its policies with OECD standards in a wide variety of fields, particular regarding investment policies.

However, *Business at OECD*, through a wide consultation with its members and its own research, has identified that significant gaps remain in its investment climate. This report outlines the challenges Peru is facing and key recommendations that the country should address to become aligned with the OECD's recommendations on investment.

Business at OECD emphasizes that multiple reports from major international organizations over the past decade reveal a trend where starting, investing, operating and exiting businesses in Peru has become increasingly difficult and unsecure due to structural challenges and administrative, fiscal, and contractual barriers. The issues highlighted in this document have significantly hindered business operations in the country.

The World Bank's *Doing Business* reports from 2016 to 2020 illustrate Peru's decline in business-friendliness. In 2016, Peru ranked 50th out of 189 countries in ease of doing business. By 2020, it had fallen to 76th out of 190, a 26-position drop. A particularly pressing concern is "tax compliance," which measures how easily businesses can fulfill tax obligations. In 2016, Peru ranked 50th in this category, but by 2020, it had plummeted to 121st—a staggering 71-position decline in just five years.

In 2024, the World Bank introduced the *Business Ready* report, offering a more comprehensive assessment than previous *Doing Business* reports. This evaluation is based on three core pillars, including *Operational Efficiency* (Pillar III), which examines regulatory compliance, dispute resolution, and administrative efficiency. In this category, Peru ranks in the second-lowest quintile, placing it among the 15 worst-performing countries in the study.

Furthermore, the report assesses 10 specific areas, three of which clearly illustrate the impact of recent policies:

- International trade: Peru falls within the worst-performing quintile.
- Dispute resolution: This category evaluates how efficiently legal disputes are resolved; Peru is in the second-lowest quintile.
- Taxation: This measures the simplicity and efficiency of the tax system; Peru again ranks in the second-lowest quintile.

Business at OECD has identified that for Peru to attract high-quality foreign investment, particularly from companies based in OECD member countries, it is imperative to establish, implement and enforce a robust legal security framework. Investors require clear, reliable and predictable incentives (non-modifiable at *ad hoc* basis) to commit their capital; without these, they will demand higher returns to offset the perceived risks associated with instability or uncertainty in the regulatory environment.

To fully align with OECD standards and attract higher-quality investments, Peru must strength and enforce its legal and regulatory frameworks and ensure consistent application. By doing so, Peru can reduce perceived risks for investors, enhance its competitiveness, and foster a more stable and attractive investment climate that meets the expectations of OECD member countries. This alignment is not only critical for economic growth but also for ensuring that foreign investments contribute positively to Peru's long-term development goals.

2.1 Legal certainty: regulatory transparency and predictability

A key principle of the OECD is the creation of a transparent and predictable regulatory environment to attract and retain investment. However, Peru has faced challenges with inconsistent regulatory frameworks, particularly in sectors like mining, energy, and infrastructure.

Frequent regulatory changes and the absence of clear guidelines contribute to uncertainty for investors.

The international investment community is often confronted with frequent regulatory changes in Perú that may not always align with the necessary public interest. Additionally, public administration in Peru appears to be largely paralyzed when it comes to making decisions that involve recognizing any rights of investors. It is widely acknowledged among investors that the only entity in Peru capable of making swift decisions is SUNAT, primarily in matters of tax collection.

For instance, the mining sector, a critical pillar of Peru's economy, has experienced multiple regulatory shifts, resulting in delays in project approvals and disputes between the government and private companies, especially regarding tax collection without respecting Legal Stability Agreements. As an example, Bear Creek Mining Corporation, a Canadian international investor, won an international dispute against the Republic of Peru in 2017⁵. Other disputes involve mining companies such as Cerro Verde or Freeport McMoran.

In the telecommunications sector, the OECD issued in 2018 recommendations towards the regulatory authority (OSIPTEL) and a progress review in 2023⁶. In 2023, most of the recommendations that were established in these OECD documents had not been applied yet (30 of 46 recommendations have moderate, limited or no progress in 5 years) partially due to the challenging political and institutional context. Political instability and high turnover at senior levels of the executive branch hindered more structural co-ordination with public actors. For example, the recommendation regarding alignment of inspection and enforcement practices with the OECD Regulatory Enforcement and Inspections Toolkit to make them more risk-focused, which will be necessary for regulatory transparency and predictability, is still to be complied and the use of administrative sanction proceedings is increasing.

This unpredictability erodes investor confidence and is at odds with OECD principles.

In OECD countries, investor confidence depends on regulatory stability and an efficient public administration that can make decisions and correct them through a system of administrative remedies, minimizing the need for court interventions. Peru's decision-making system and its review process encounter significant issues that require addressing.

On the other hand, no one is unaware that the legal certainty of a country lies in a second instance in a robust judicial system. The OECD, in the Justice Review of Peru report⁷, has made a very detailed analysis of this and has made some severe recommendations highlighting the great need to strengthen the existing institutional, legal and operational framework to safeguard the independence of judges in Peru, among others. We greatly appreciate the OECD work and effort in doing this report.

2.2 Institutional framework

Institutional instability

Peru has faced considerable political instability in recent years, characterized by frequent changes in leadership and a lack of continuity in governance. This volatility directly impacts the administrative decision-making process.

Since 2016, Peru has had multiple presidents, many of whom have faced corruption allegations, impeachment, or resignations. For example, Pedro Pablo Kuczynski (2016–2018), Martín Vizcarra (2018–2020), Manuel Merino (2020), Francisco Sagasti (2020–2021) and Pedro Castillo (2021–2022) all left office prematurely amid scandals or political crises. During this period, close to 20 Prime Ministers have been in office, as well as hundreds of ministers who have a high rotation. As an example, in the last two years, Peru has appointed over 140 different ministers.

In addition, political parties are often fragmented and lack strong ideological foundations. This leads to short-term policymaking and a lack of coherent long-term strategies. Members of Parliament often change from one political bench to another.

Frequent corruption scandals and political infighting have eroded public trust in institutions, further destabilizing the political environment.

Today, this situation seems not to have significantly changed. For the 2026 general elections, there are already 39 political forces which have been registered and 33 are undergoing the registration process. Regional elections face a similar situation with, as of today, 96 political forces registered and 5 undergoing the registration process.

Also, and according to the latest surveys performed by IPSOS in January 2025, the current President of the Republic, Dina Boluarte and the President of the Ministerial Council, have very low acceptance rates (below 5%)⁸.

There is a direct linkage between increased volatility within the Peruvian institutions and the number of investment disputes initiated by international investors.

The Peruvian authorities often refer decisions to international courts to resolve disputes, which may be due to concerns about making potentially unpopular political decisions.

Peruvian institutions are incapable of negotiating settlement agreements prior to initiating investment disputes.

Thus, Peru's instability undermines its credibility on the global stage, affecting its ability to attract investment and negotiate international agreements.

Corruption and governance issues

Corruption remains a significant barrier to improving Peru's investment climate. Despite efforts to combat corruption, high-profile scandals, have exposed systemic issues in public procurement and governance.

The OECD Anti-Bribery Convention requires member countries to implement stringent measures to prevent bribery and corruption and to ensure that these measures are proportional and duly applied. However, Peru's enforcement mechanisms remain weak, and public institutions lack the capacity to effectively investigate and prosecute corruption cases.

This undermines the rule of law and deters foreign investment, as investors perceive high risks of unethical practices.

For example, in the case of *Lava Jato* scandal, the Republic of Peru set up specific fiscal team to investigate civil and criminal investigations in this area. However, some of these investigations date back to 2017 and haven't been resolved yet, without having been able to prove any of the accusations⁹.

Moreover, the governmental authorities in power at the time, under the presidency of Pedro Pablo Kuczynski, leveraged the *Lava Jato* scandal to justify the early termination of concession contracts, thereby jeopardizing compliance with the contractual clauses of key infrastructure projects (e.g., Rutas de Lima, Gasoducto Sur Peruano). Consequently, international investors, initiated investment disputes against the Republic of Peru, which were ultimately resolved in favor of the investors, including Rutas de Lima, Enagás Internacional S.L.U., and Enagás S.A.

A high-level OECD visited Lima on January 21 and 22, 2025, to address critical issues related to judicial and prosecutorial independence in Peru. The Chair of the Working Group on Bribery, Kathleen Roussel, led the delegation and, in a statement following the proceedings, expressed concern over actions that could compromise the autonomy of prosecutors and judges handling corruption cases with regards to *Lava Jato*¹⁰.

Also, the OECD Justice Review of Peru report¹¹ in chapter 2, analyzes how trust in public institutions in Peru is declining and how one of the main reasons is corruption, which fuels the public's perception that the public sector, including the justice system, does not work adequately in the public interest. Despite having implemented reforms, especially in the fight against corruption and various initiatives to improve the efficiency of its justice system since 2000, there has been limited implementation of these reforms.

The Peruvian authorities have stated to the media that they are striving, including with the Prosecutor's Office and the Attorney General's Office responsible for corruption investigations, to enhance Peru's position in international arbitrations.

Infrastructure and institutional capacity

A favorable investment climate requires robust infrastructure and strong institutional capacity. Peru's infrastructure gaps, particularly in transportation, energy and telecommunications, hinder economic development and deter investment.

While the government has launched public-private partnership (PPP) initiatives to address these gaps, delays in project implementation and bureaucratic inefficiencies persist.

Inefficient public institutions struggle to deliver basic services, such as education, healthcare, and infrastructure, exacerbating poverty and inequality. The public administration is often slow and inefficient, leading to delays in project implementation and service delivery and there is often poor coordination between different levels of government (national, regional, and local), which hampers effective governance and development. Two examples that showcase this situation:

1. The new Jorge Chavez International Airport has been finalized, however the road that provides access to the airport will take some years to complete¹².
1. Permitting processes to realize oil & gas upstream explorations can take years, due to the great number of authorities involved and the lack of decision making. This has led to a situation which prevents the development and monetization of the country's abundant hydrocarbon reserves, whose development would bring great benefits to the population.

The inefficiency of public institutions has often triggered international investment disputes from infrastructure international investors due to delays in project implementation, service delivery, lack of administrative decisions, etc. Examples of these disputes include: Metro de Lima Línea 2 S.A. v. Republic of Peru (ICSID Case No. ARB/17/3)¹³, Metro de Lima Línea 2, S.A. v. Republic of Peru (ICSID Case No. ARB/21/41)¹⁴, Metro de Lima Línea 2, S.A. v. Republic of Peru (ICSID Case No. ARB/21/57)¹⁵, Sociedad Aeroportuaria Kuntur Wasi S.A. and Corporación América S.A. v. Republic of Peru (ICSID Case No. ARB/18/27)¹⁶ and Autopista del Norte S.A.C. v. Republic of Peru (ICSID Case No. ARB/18/17)¹⁷.

Additionally, *Business at OECD* has observed that civil servants are highly apprehensive about making decisions and signing contracts. This apprehension stems from the potential for civil, criminal, or administrative liability arising from their actions or omissions. Article 264 of the Consolidated Text of the General Administrative Procedure Law (Law 27444)¹⁸ states that these liabilities are independent and must be applied according to their respective legal frameworks. However, in practice, there is a distortion—officials who act in accordance with the law should not fear liability, yet many are subjected to investigations based on mere suspicion, media influence, or political pressure rather than proper legal analysis. This creates an environment of uncertainty that extends beyond the legal scope, causing civil servants to hesitate in making decisions and signing contracts, ultimately leading to a halt in procedures and projects.

2.3. Fiscal environment

A report issued by the consulting firm Macroconsult¹⁹, commissioned by the Lima Chamber of Commerce, clarifies that at that date tax debts and controversies in Peru reached a total of 841,622 taxpayers, of which approximately the 70% of the total tax debt corresponded to interest accumulated over time, thus causing the debt to be unpaid. It reveals that SUNAT's control and auditing actions have a significant time gap between the audited period and the year of the audit and determination of the debt. This generates that the determined debt contains a high component of default interests adjusted with the Default Interest Rate (Tasa de Interés Moratorio, TIM, for its acronym in Spanish) that would even reach four years of difference, in which the taxpayer is seriously affected by accumulated default interest on which he never had any decision.

At the date of issuance of the report, according to SUNAT, the 73.4% of the total tax debt is prior to 2010, the main reason for the high interest accrued is due to the age of the debt. The remaining 15% was generated between 2010 and 2015, and only 11% after 2015. However, in Chile or Colombia, for example, tax controversies take a maximum of 6 years.

Some of our members have been in a dispute with the state for more than 20 years in Peru. The prolongation of tax controversies generates:

- substantial increase in the procedural, administrative and judicial burden; increase in costs and uncertainty; affectation of the relationship between taxpayers and tax administration;
- ineffectiveness and inefficiency in tax collection.

SUNAT, the Tax Court and the Judiciary have not been able to resolve tax controversies in a timely manner. The study concludes that the ineffectiveness of traditional dispute resolution procedures has led to an increase in tax litigation by not achieving the objectives of agility and speed with which tax controversies should be resolved. The multiplication and prolongation of controversies has caused:

- a) a substantial increase in the administrative and judicial procedural burden;
- b) increased costs and uncertainties;
- c) affected the relationship between taxpayers and the tax administration; and
- d) ineffectiveness in the collection of taxes.

2.4. Liberalization of capital movements: restrictions on capital

OECD candidate countries who wish to become a member of the Organisation shall comply with the OECD Codes of Liberalisation (the Code of Liberalisation of Capital Movements²⁰).

The code mentions in article 1, General Undertakings, that:

[...]

- a) Members shall **progressively abolish** between one another, in accordance with the provisions of Article 2, **restrictions on movements of capital** to the extent necessary for effective economic cooperation. Measures designed to eliminate such restrictions are hereinafter called "measures of liberalisation".
- b) Members shall, in particular, endeavour:
 - i. to treat all non-resident owned assets in the same way irrespective of the date of their formation, and
 - ii. to permit the liquidation of all non-resident owned assets and the transfer of such assets or of their liquidation proceeds.
- c. Members should use their best offices to ensure that the measures of liberalisation are applied within their overseas territories.
- d. Members shall endeavour to extend the measures of liberalisation to all members of the International Monetary Fund.
- e. Members shall endeavour to **avoid introducing any new exchange restrictions on the movements of capital** or the use of non-resident owned funds and shall endeavour to **avoid making existing regulations more restrictive**.

[...]

The Republic of Peru is clearly not complying with this requirement. In the award issued in the international investment dispute ENAGÁS S.A. (Spain) and ENAGÁS Internacional S.L.U. (Spain) v. Republic of Peru (ICSID Case No. ARB/18/26), the Tribunal ruled that "*the inclusion of Enagás Internacional in Category 2 of Law No. 30737, as well as any measure of asset constraint (i.e., the establishment of the Guarantee Trust) and restrictions on the right to transfer resources abroad derived from this categorization under Law No. 30737 and its Regulations, also constitute a violation of Article 4.1 of the BIT Spain-Peru of 1994.*"

The restriction on repatriating the dividends generated from Enagás' share in Transportadora de Gas del Perú (TGP) has led to a second ongoing international dispute, Enagás Internacional S.L.U. v. Republic of Peru (ICSID Case No. ARB/21/65). However, it is noteworthy that a Tribunal has already ruled on this matter, which was not even in the remit of the first dispute.

2.5. Environmental and social sustainability

The OECD emphasizes the importance of sustainable development and environmental protection in its investment policies. Peru's investment climate often prioritizes short-term economic gains over long-term sustainability. For instance, large-scale mining and infrastructure projects have been criticized for causing environmental degradation and displacing local communities.

The lack of robust environmental impact assessments and community consultation processes violates OECD guidelines on responsible business conduct.

Additionally, Peru's weak enforcement of environmental regulations exacerbates these issues, leading to conflicts with indigenous communities and environmental activists.

2.6. Labor rights and social inclusion

OECD standards advocate for the protection of labor rights and the promotion of social inclusion.

In Peru, labor informality remains a significant challenge, above 70% of the workforce employed in informal sectors. Informal workers lack access to social protections, fair wages, and safe working conditions, which contradicts OECD principles of decent work and inclusive growth.

Furthermore, labor disputes in key industries, such as mining and agriculture, often result in protests and strikes, highlighting the government's inability to mediate conflicts effectively and ensure compliance with international labor standards.

The incapability of the authorities to deal with protests and strikes have in some cases triggered international investment disputes such as the case of Bear Creek Mining Corporation (ARB/14/21)²¹ and Rutas de Lima (I)²², (II)²³ and (III)²⁴.

It must be borne in mind that OECD-based investors adhere to stringent quality standards set by the organization, including principles of good governance, corporate social responsibility, and sustainable development. These standards ensure that investments align with global best practices, contributing to long-term economic and social benefits.

Between 1985 and 2023, Spain, the United Kingdom, the United States, the Netherlands and Chile, have been the largest contributors to Foreign Direct Investment (FDI) in Peru. While these countries continue to be the primary sources of FDI, others, such as China, have experienced exponential growth. For instance, China's FDI in Peru surged from 308 million USD in 2019 to 1,139 million USD in 2022²⁵.

In contrast to investments from OECD member countries, investments from countries like China²⁶, often operate under less rigorous requirements, which may not always prioritize transparency, sustainability, or social responsibility, therefore deteriorating the overall investment climate of the country.

2.7. Investment disputes

Government policies and decisions in Peru have significantly impacted the country's business and economic environment. Clear metrics highlight a growing trend of tensions between the public and private sectors. As highlighted earlier, Peru has faced challenges related to institutional stability, legal predictability and the ability to design and implement policies that foster a consistent and reliable investment climate.

These factors have contributed to an observable increase in international investment disputes initiated against the Republic of Peru over the past decade, compared to earlier years. Additionally, recent trends indicate that a growing number of these disputes have been resolved in favor of the claimants.

Most of these disputes, as observed by *Business at OECD*, have been addressed through the International Center for Settlement of Investment Disputes (ICSID). However, some have also been resolved through ad-hoc arbitration under UNCITRAL rules, as well as through the International Arbitration Chamber of Paris. These mechanisms reflect Peru's ongoing engagement with international dispute resolution frameworks, providing a platform to address and resolve investment-related challenges.

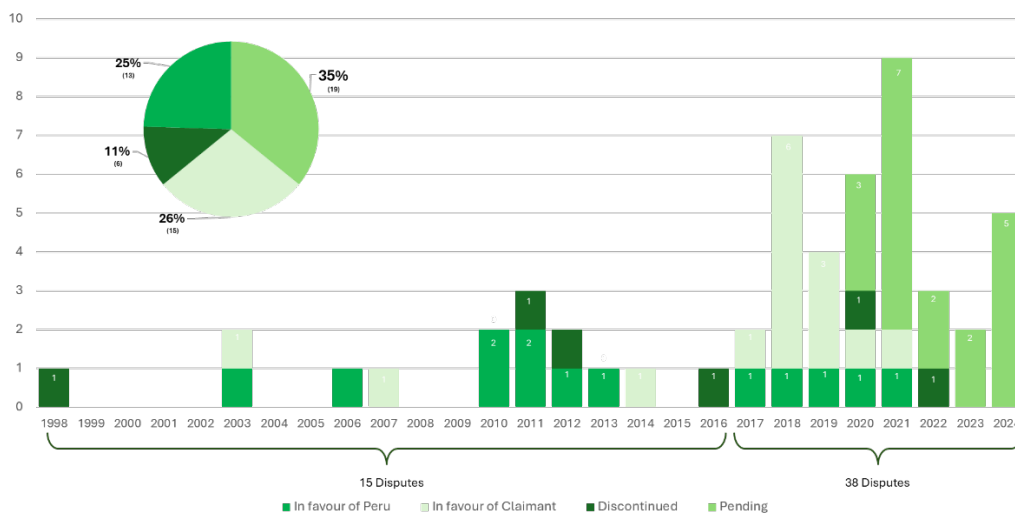


Figure 1 Number of investment disputes against the Republic of Peru by year²⁷

Business at OECD notes that, as opposed to other countries whose investment claims are focalized on one or a few sectors only, the 53 arbitration proceedings involving the Peruvian state are span multiple sectors. The most frequently recurring disputes arise in the Oil, Gas, and Mining; Transportation; and Construction sectors. However, notable disputes are also present in other sectors from the country such as Finance and Services sectors.

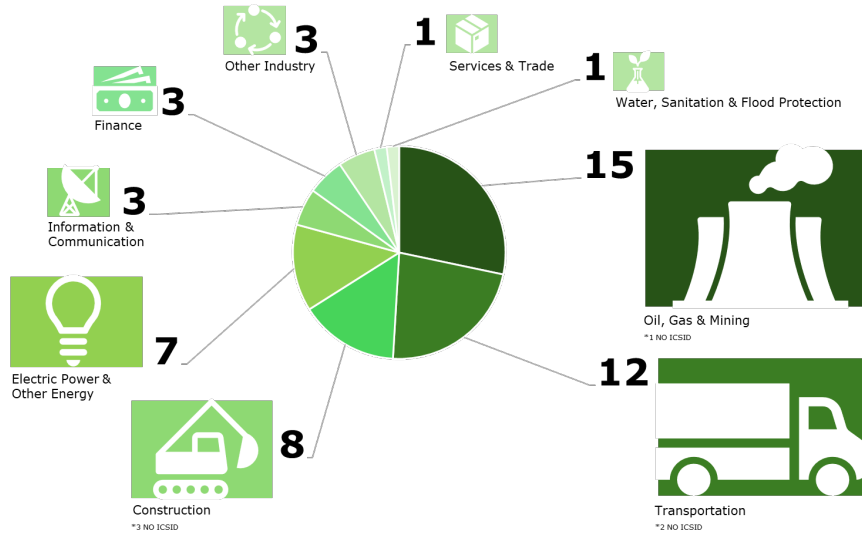


Figure 2 Number of Investment Disputes against the Republic of Peru by sector (following ICSID classification)

Business at OECD observes that these investment disputes against Peru were initiated by international investors from various countries. As a result, the investors invoked different bilateral agreements between Peru and their respective home countries or those of their subsidiaries. When disputes were resolved in the investors' favor, they led to breaches of the respective bilateral agreements.

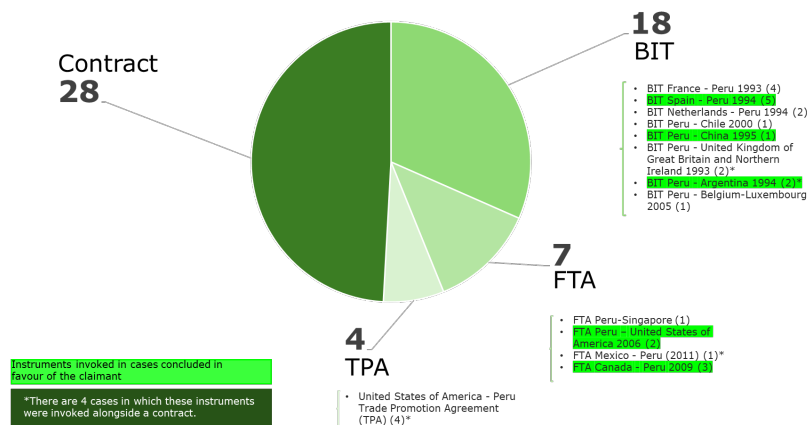


Figure 3 Instruments invoked in international investment disputes against Peru

In addition, and according to publicly available information, *Business at OECD* has noted that in the past recent years the Republic of Peru is reluctant to pay awards won by international investors (see Annex II). Of the recent awards lost by Peru, the Peruvian government has only attended to the payment of two; 1) *Autopista del Norte S.A.C. v. Republic of Peru* (ICSID Case No. ARB/18/17)²⁸ for a small amount (approximately 11,6 MUSD) and *Gramercy Funds Management LLC and Gramercy Peru Holdings LLC v. Republic of Peru* (ICSID Case No. UNCT/18/2)²⁹, in which it is presumed that the government of the United States government followed the negotiations³⁰. Some international investors have even had to resort to forced execution of the awards due to reluctance of Peru to pay the compensations awarded by the tribunal³¹.

In cases where the issue is not monetary penalties but rather declarations of violations of the rights of international investors, Peruvian authorities have been observed to disregard the relevant international treaties applicable in Peru. Instead, they continue to enforce their own regulations, thereby perpetuating harm to international investors despite favorable rulings from international courts.

III. Stakeholder engagement in OECD accession discussions

Peru's accession to the OECD represents a unique opportunity to enhance its economic competitiveness and investment climate. Hence, it is important that businesses are involved throughout the accession process to ensure that, through case studies and business evidence, the OECD better understands the challenges that companies face when investing in Peru. The private sector is uniquely positioned to offer insights into the regulatory challenges, market dynamics, and growth opportunities that are crucial for formulating recommendations tailored to Peru's specific circumstances and that could be incorporated into the OECD's recommendations for Peru.

Furthermore, the active participation of businesses creates a collaborative atmosphere that encourages consensus on necessary reforms. By facilitating an effective dialogue with the private sector, the OECD can ensure that its recommendations in the context of Peru's accession are not only ambitious but also achievable.

IV. Conclusions and recommendations

Peru has to make meaningful progress in aligning its policies with OECD standards, showcasing its commitment to enhancing its investment climate. Opportunities remain to further strengthen this alignment by addressing key areas such as regulatory predictability, combating corruption, mitigating environmental challenges, reducing labor informality, and bridging infrastructure gaps.

By prioritizing structural reforms, improving governance, complying with obligations derived from international investment disputes and fostering sustainable and inclusive development, Peru can be accredited to join the OECD. These efforts will not only help meet OECD expectations but also unlock significant economic benefits through enhanced global integration and a more competitive investment environment. Foreign Direct Investment (FDI) is essential to foster economic growth and boost its GDP.

In this regard *Business at OECD* suggests that Peru implements the following recommendations in the area of the investment in order to make progress in its accession roadmap in the OECD.

1. Remove restrictions on capital movements from international investors.
2. Enhance regulatory transparency and stability to build investor confidence. This includes avoidance of *ad hoc* regulatory measures against international investors.
3. Promote a stable institutional framework, avoiding constant changes in government.
4. Strengthen anti-corruption measures (without making an abusive and arbitrary use) and improve enforcement mechanisms.
5. Implement robust environmental and social impact assessments for investment projects.
6. Promote formal employment and ensure compliance with international labor standards.
7. Invest in infrastructure development and improve institutional capacity to support sustainable growth.
8. Immediately comply with the obligations derived from awards that have been settled in favor of international investors (avoiding using annulment requests as a tool to delay the execution of awards).

By addressing these issues, Peru can move closer to OECD compliance and create a more favorable environment for domestic and foreign investment.

Annex I: List of ICSID cases against the Republic of Peru concluded in favor of the claimants ³²

Countries	Case N°.	Claimant	Respondent	Arbitration registration	Award	Amount (MUSD)			Annulment	
						Requested	Granted	Agreed/Paid	Requested	Ended
	ARB/03/28	Duke Energy International Peru Investments No. 1 Ltd. ⁽¹⁾	Republic of Peru	24/10/2003	18/08/2008 5 years	40	23,8	¿?	24/12/2008	14/10/2010 2 years
	ARB/07/6	Tza Yap Shum	Republic of Peru	12/02/2007	07/07/2011 4 years	25	1	¿?	09/11/2011	15/01/2015 4 years
	ARB/14/21	Bear Creek Mining Corporation	Republic of Peru	18/08/2014	30/11/2017 3 years	500	28,17			
	ARB/17/3	Metro de Lima Línea 2 S.A.	Republic of Peru	01/02/2017	21/03/2024 7 years	450	390	¿?		
	UNCT/18/2	Gramercy Funds Management LLC and Gramercy Peru Holdings LLC	Republic of Peru	13/02/2018	06/12/2022 4 years	1.800	110	85		
	ARB/18/17	Autopista del Norte S.A.C. ⁽³⁾	Republic of Peru	18/05/2018	30/06/2022 4 years	150	11,6	¿?	04/11/2022*	23/10/2024 2 years
	ARB/18/26	ENAGÁS S.A. (España) and ENAGÁS Internacional S.L.U. (España)	Republic of Peru	24/07/2018	20/12/2024 6 years	511	194			
	ARB/18/27	Sociedad Aeroportuaria Kuntur Wasi S.A. and Corporación America S.A.	Republic of Peru	27/07/2018	09/05/2024 6 years	283,7	91,2			
	ARB/19/19	IC Power Ltd and Kenon Holdings Ltd ⁽⁴⁾	Republic of Peru	27/06/2019	03/10/2023 4 years	195,3	116		28/08/2024	-
		Rutas de Lima I ⁽²⁾	Metropolitan Municipality of Lima	03/05/2018	11/05/2020 2 years	64,2**	187,8		07/08/2020	19/03/2024 4 years
	3274	Metropolitan Municipality of Lima	Línea Amarilla SAC-Lamsac	27/07/2018	23/06/2020 2 years	(unknown)	30		16/09/2020	-
		Rutas de Lima II ⁽²⁾	Metropolitan Municipality of Lima	18/03/2019	16/12/2022 3 years	9,7	10,5		31/03/2023	19/03/2024 1 year
	3286	Metropolitan Municipality of Lima	Línea Amarilla SAC-Lamsac	06/11/2019	09/01/2024*** 3 years	208,8	(unknown)			
	ARB/20/18	Desarrollo Vial de los Andes S.A.C. ⁽⁵⁾	Republic of Peru	10/06/2020	27/11/2024 4 years	39,51	(unknown)			
	ARB/21/28	APM Terminals Callao S.A. ⁽⁶⁾	Republic of Peru	19/05/2021	17/12/2024 3 years	101,6	(unknown)			

* Annulment requested by Claimant

** Plus the sum of the amount Corresponding Complementary Mechanism

*** Partial Award

(1) Duke Energy is originally an American company, but the Claimant has filed the arbitration request through its British subsidiary.

(2) The shareholders of Rutas de Lima are Brookfield (57%), a Canadian company; Odebrecht Latinvest Peru (25%), a Peruvian subsidiary of the Brazilian group; and Sigma (18%), a Peruvian capital company.

(3) Autopista del Norte SAC is a concessionaire of Aleática, responsible for the construction, maintenance, and operation of Vial N°4: Pativilca-Trujillo. Aleática is mainly owned by the investment fund IFM Investors.

(4) IC Power and Kenon Holdings are companies owned by an Israeli owner and established in Singapore.

(5) Desarrollo Vial de los Andes is owned by two Colombian companies and one Peruvian company.

(6) APM Terminal Callao is owned by two Dutch companies, one of them a subsidiary of AP Moller-Maersk (a Danish company).

Annex II: List of ongoing ICSID cases against the Republic of Peru (by date and nationality of the international investor) ³³

Countries	Case N°.	Claimant	Respondent	Arbitration registration
	ARB/20/4	Odebrecht Latinvest S.à.r.l. ⁽¹⁾	Republic of Peru	04/02/2020
	ARB 20/14	SMM Cerro Verde Netherlands B.V. ⁽²⁾	Republic of Peru	13/05/2020
	ARB 20/46	Lupaka Gold Corp	Republic of Peru	30/10/2020
	ARB 21/1	Quanta Services Netherlands B.V.	Republic of Peru	04/01/2021
	ARB/21/10	Telefónica S.A.	Republic of Peru	12/03/2021
	ARB/21/57	Metro de Lima Línea 2	Republic of Peru	20/08/2021
	ARB/21/45	Concesionaria Peruana de Vías-COVINCA, S.A. ⁽³⁾	Republic of Peru	23/09/2021
	ARB/21/41	Metro de Lima Línea 2	Republic of Peru	06/12/2021
	ARB/21/60	VINCI Highways SAS and VINCI Concessions SAS	Republic of Peru	10/12/2021

Countries	Case N°.	Claimant	Respondent	Arbitration registration
	ARB/21/65	Enagás Internacional S.L.U.	Republic of Peru	23/12/2021
	ARB/22/30	Bank of Nova Scotia	Republic of Peru	15/11/2022
		Rutas de Lima III	Metropolitan Municipality of Lima	29/12/2022
	ARB/23/11	Operadora Ecológica del Titicaca S.A.C.	Republic of Peru	21/04/2023
	ARB/23/37	TV Azteca S.A.B & Azteca Comunicaciones Perú S.A.C.	Republic of Peru	23/08/2023
	ARB/24/9	Gas Natural de Lima y Callao S.A.	Republic of Peru	01/04/2024
	ARB/24/29	Gasoducto Sur Peruano S.A. En Liquidación ⁽⁴⁾	Republic of Peru	30/07/2024
	ARB/24/43	Concesionaria Angostura Sigwas, S.A. ⁽⁵⁾	Republic of Peru	16/10/2024
	ARB/24/53	Unión de Cervecerías Peruanas Backus y Johnston S.A.A.	Republic of Peru	23/12/2024

(1) The claim at ICSID for the Odebrecht case has been filed through its subsidiary in Luxembourg (Odebrecht Latinvest).

(2) SMM Cerro Verde Netherlands is the Dutch subsidiary of the Japanese company Sumitomo Metal Mining Co.

(3) Concesionaria Peruana Vías COVINCA is owned by two Colombian companies.

(4) GSP S.A. En Liquidación is owned by several companies/banks: Spanish, French, Japanese, Peruvian... etc.

(5) Concesionaria Angostura Sigwas S.A. is owned by one French company, two Peruvian companies, and a Spanish individual.

Annex III: References

¹ In accordance with the Council Resolution of 25 January 2022, the Roadmap for the OECD accession process of Peru sets out the terms, conditions and process for the accession of Peru with the objective of enabling Council, at the end of the process set out in this Roadmap, to come to a decision on whether to invite Peru to accede to the OECD Convention and thereby become a Member of the Organisation

² Roadmap for the OECD Accession Process of Peru (Adopted by the Council at Ministerial level on 10 June 2022) [https://one.oecd.org/document/C/MIN\(2022\)24/FINAL/en/pdf](https://one.oecd.org/document/C/MIN(2022)24/FINAL/en/pdf)

³ <https://www.elperuano.pe/noticia/214783-peru-entrega-memorando-inicial-para-su-proceso-de-acceso-a-la-ocde>

⁴ CADE Ejecutivos 2024, Presentation delivered by Ana Rosa María Valvidieso, Alta Representante del Perú para el proceso de adhesión a la OCDE.

⁵ Bear Creek Mining Corporation v. Republic of Peru (ICSID Case No. ARB/14/21) <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/14/21>

⁶ OECD (2023), Progress Review of Peru's Telecommunications Regulator: Driving Performance, The Governance of Regulators, OECD Publishing, Paris <https://doi.org/10.1787/a6a74d3e-en>.

⁷ OECD (2024), OECD Justice Review of Peru: Towards Effective and Transparent Justice Institutions for Inclusive Growth, OECD Publishing, Paris <https://doi.org/10.1787/bb556518-en>

⁸ Aprobación de autoridades_Enero 2025 <https://www.ipsos.com/es-pe/aprobacion-de-autoridadesenero-2025>

⁹ Carpeta Fiscal 12-2017

¹⁰ Misión de la OCDE exige al Perú proteger de la interferencia política a jueces y fiscales encargados de casos de corrupción - Infobae <https://www.infobae.com/peru/2025/01/23/mision-de-la-ocde-exige-al-peru-proteger-de-la-interferencia-politica-a-jueces-y-fiscales-encargados-de-casos-de-corrupcion/>

¹¹ OECD (2024), OECD Justice Review of Peru: Towards Effective and Transparent Justice Institutions for Inclusive Growth, OECD Publishing, Paris, <https://doi.org/10.1787/bb556518-en>.

¹² <https://elcomercio.pe/lima/la-odisea-de-viajar-por-la-nueva-ruta-de-acceso-al-aeropuerto-internacional-jorge-chavez-caos-congestion-e-inseguridad-transporte-congestion-vehicular-transporte-nuevos-modulos-noticia/>

¹³ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/17/3>

¹⁴ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/21/41>

¹⁵ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/21/57>

¹⁶ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/18/27>

¹⁷ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/18/17>

¹⁸ Texto Único Ordenado de la Ley N° 27444 - Ley del Procedimiento Administrativo General <https://www.gob.pe/institucion/minjus/informes-publicaciones/2039342-texto-unico-ordenado-de-la-ley-n-27444-ley-del-procedimiento-administrativo-general>

¹⁹ Macroconsult (2021), "Controversias Tributarias: Orígenes y Propuestas de Solución".

²⁰ OECD/LEGAL/0002, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0002>

²¹ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/14/21>

²² <https://jusmundi.com/en/document/other/en-rutas-de-lima-s-a-c-v-municipalidad-metropolitana-de-lima-expert-report-of-rebecca-velez-thursday-1st-august-2019>

²³ <https://jusmundi.com/en/document/other/en-rutas-de-lima-s-a-c-v-municipalidad-metropolitana-de-lima-ii-rutas-de-lima-s-a-c-s-brief-on-request-for-attorneys-fees-tuesday-20th-february-2024>

²⁴ <https://jusmundi.com/en/document/other/es-rutas-de-lima-s-a-c-v-municipalidad-metropolitana-de-lima-iii-comunicado-de-prensa-de-rutas-de-lima-sobre-las-declaraciones-del-alcalde-de-lima-thursday-13th-july-2023?pdf=true>

²⁵ Foreign Direct Investment, ProInversión, Peru <https://www.investinperu.pe/es/invertir/estadisticas-generales/inversion-extranjera-directa>

²⁶ An example of China's influence on Peru, is the exclusivity in the use of the Chancay port based on an amendment to the National Port System Law (Law No. 27943).

In mid-2024, Peru almost faced a potential international arbitration with the Chinese consortium Cosco Shipping due to a dispute over the exclusive right to use the Chancay Megaport. The controversy stemmed from the conditions for the port's exclusive use, where Cosco Shipping Ports had invested \$1.3 billion in the first phase.

The issue arose when the National Port Authority (APN) requested the annulment of the exclusivity due to an "administrative error," leading to legislative changes allowing private operators to offer exclusive services after making infrastructure investments.

The Chinese pressure imposed on Peruvian authorities led, in May 2024, the Congress of the Republic of Peru to pass a law (Law No. 27943) modifying this regulation, allowing the owners of private ports for public use, such as Cosco Shipping Ports in the case of the Chancay port, to provide port services exclusively. This amendment establishes that, once port authorization is granted, the competent Port Authority must automatically grant exclusivity in the provision of essential port services requested by the private port owner along with the port license.

²⁷ This includes all ICSID cases against the Republic of Peru (47), International Arbitration Chamber of Paris (2), Lima Chamber of Commerce (1) and ad hoc (3).

²⁸ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/18/17>

²⁹ <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=UNCT/18/2>

³⁰ Stipulated Judgment of the United States District Court for the District of Columbia - 12 Nov 2024
<https://jusmundi.com/en/document/other/en-gramercy-funds-management-llc-and-gramercy-peru-holdings-llc-v-the-republic-of-peru-claimants-notice-of-intent-to-commence-arbitration-monday-1st-february-2016>

³¹ Sociedad Aeroportuaria Kuntur Wasi S.A. and Corporación América S.A. v. Republic of Peru, ICSID Case No. ARB/18/27
<https://jusmundi.com/fr/document/decision/en-sociedad-aeroportuaria-kuntur-wasi-s-a-and-corporacion-america-s-a-v-republic-of-peru-order-of-the-united-states-district-court-for-the-district-of-columbia-wednesday-4th-september-2024>

³² Based on publicly available information from reliable sources, though it may contain some inaccuracies or be incomplete, which does not alter the essence of the content)

³³ ICSID and Jus Mundi



BUSINESSatOECD

Business at OECD (BIAC)

13-15, Chaussée De La Muette - 75016 Paris

Tel: + 33 (0) 1 42 30 09 60

www.businessatoecd.org

  @BusinessatOECD