

GENERAL AGREEMENT ON

TARIFFS AND TRADE

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STATE TRADING

Notification Pursuant to Article XVII:4(a)

PERU

The following communication, dated 24 May 1993, has been received from the Permanent Mission of Peru.

The Permanent Mission of Peru to the United Nations Office and other international organizations at Geneva presents its compliments to the Secretariat of the General Agreement on Tariffs and Trade (GATT), and with reference to document L/7161, on State Trading - Notifications Pursuant to Article XVII:4(a), of 11 January 1993, has the honour to inform it that the authorities of the Under-Ministry for Integration, Tourism and International Trade Negotiations have reported that in Peru there are no enterprises falling within the meaning of Article XVII. Sole rights in the domestic or external trading of goods have been eliminated and prohibited by Article 4 of Legislative Decree No. 668, of which a copy is attached hereto.

The Permanent Mission of Peru to the United Nations Office and other international organizations at Geneva takes this opportunity to renew to the GATT Secretariat the assurances of its highest consideration.

09-11-91. Legislative Decree No. 668 - Adopting Measures to Guarantee
Freedom of External and Internal Trade (09-14-91)

WHEREAS:

The Congress of the Republic, in conformity with Article 188 of the Political Constitution of Peru, has delegated to the Executive Branch by Law No. 25327 [T.180, page 127] the power to legislate with respect to the growth of private investment, with particular attention to export activity;

With the favourable vote of the Council of Ministers;

The following Legislative Decree is enacted.

Article 1. The State guarantees freedom of external and internal trade as a fundamental condition for achieving the country's development.

Article 2. The State guarantees those engaged in economic activities free access to the acquisition, processing and marketing of both final goods and inputs and raw materials, as well as to the provision of services.

Article 3. The State promotes the necessary activities for the development of external and internal trade, including road, telecommunications, port, airport, warehousing and other similar infrastructure. It also ensures that the private sector may participate freely in order to give rise to the competition required for such services to be provided most efficiently.

Article 4. Any type of sole right, limitation or other monopolistic restriction or practice in the production and marketing of goods and provision of services of any kind is eliminated and prohibited, including those carried out by agencies of the Central Government, public entities, enterprises covered by Law No. 24948 and any other State body or institution.

Article 5. The State guarantees the freedom of natural and legal persons resident in the country to hold, use and dispose internally and externally of foreign currency, as well as the free convertibility of the national currency at a single exchange rate.

Articles 1 and 2 of Supreme Decree No. 068-91-EF [T.176, page 243] and Article 1 of Supreme Decree No. 078-91-EF [T.177, page 45] are given force of law.

Article 6. The principle of the presumption of truthfulness is the basis for all administrative procedures arising in the course of external and internal trade, in accordance with Law No. 25035 and Legislative Decree No. 659 [T.182, page 134].

Article 7. With the support of the private sector, the State participates in international trade negotiations in order to ensure the best conditions of access for the country's exports.

Article 8. The refund of the indirect taxes mentioned in Article 9, first paragraph, of Supreme Decree No. 052-91-EF [T.176, page 200] which affect the production process and/or production cost of the export goods referred to in that provision and in Article 3 of Supreme Decree No. 101-91-EF [T.177, page 161] is hereby authorized. The inputs referred to in Article 9 of Supreme Decree No. 052-91-EF [T.176, page 200] are understood to be those indicated by the Standard Classification According to Economic Use or Destination (CUODE).

The Ministry of the Economy and Finance is hereby authorized to broaden, by Supreme Decree and in the light of the availability of fiscal resources, the scope of the content of the previous paragraph so as to include other export products and/or indirect taxes in addition to those mentioned in the above provision.

The export of goods is not subject to tax of any kind.

Article 9. The application of surcharges, levies or any other charge relating to imports is prohibited with the exception of customs tariffs and the taxes that are also levied on the domestic sale of goods.

Article 10. The purpose of the customs practices of valuation, reference prices or minimum values is to ensure that the taxable base to which the customs tariffs are applied is the actual value of the imported goods. They shall not be used to raise or distort the level of tariff protection.

Article 11. Every form of exoneration, non-application, suspension of payment or lowering of customs duties that should normally be applied to imports is eliminated, save for the exceptions provided for in the second and following paragraphs of Article 5 of Supreme Decree No. 033-91-EF [T.176, page 145], as well as for operations carried out under the régimes of temporary admission, temporary import and inventory replacement and those established under international agreements concluded by Peru.

Article 12. The State guarantees the right of every natural or legal person to engage in foreign trade operations without prohibitions or non-tariff restrictions of any kind; consequently the licences, official decisions, prior approval and consular approval, import and any other registers, and prior conditions of any kind affecting the import or export of goods are abolished. Article 2 of Supreme Decree No. 060-91-EF [T.176, page 230] is hereby given force of the law.

The preceding paragraph does not apply to the prohibitions established in the Single Text Concerning Prohibited Export Products; the rights and obligations stemming from international agreements signed by Peru; Law No. 24047 - General Law for the Safeguarding of the Nation's Cultural Heritage; and the emergency measures needed to ensure the safety

of the population, as well as external security and internal order. Such exceptional emergency and temporary measures must be adopted by supreme decree with the approval of the Council of Ministers and endorsed by the Minister of the Economy and Finance.

Article 13. The State guarantees that the adoption of technical standards and regulations of any kind shall not constitute an obstacle to the free flow and use of final goods, inputs and raw materials and services in external and internal trade; as well as equitable treatment for like products whether of domestic origin or originating in any other country.

Article 14. The State shall not participate in committees, commissions, associations, boards or trade associations of a similar nature which, in the exercise of their functions, give rise to restrictive, monopolistic or oligopolistic practices in the production and marketing of goods and provision of services. This provision does not affect the quota-sharing procedures established under international agreements signed by Peru.

Article 15. The State guarantees the adoption of measures aimed at preventing and correcting distortions caused by unfair competitive practices in international trade, such as dumping and subsidies.

The procedures for the application of anti-dumping and countervailing duties stemming from the implementation of the previous paragraph shall be approved by supreme decree endorsed by the Minister of the Economy and Finance, and do not fall under the provisions of Article 10 of this Legislative Decree.

Additional Provisions

1. The tax benefit referred to in Article 8, first paragraph, of Legislative Decree No. 644 [T.181, page 47] shall be implemented through the temporary import régime.

The implementing regulations of this provision shall be enacted by supreme decree endorsed by the Ministers of the Economy and Finance and of Transport and Communications.

2. The Tacna Special Treatment Zone - ZOTAC - is governed by its own constituent regulations and additional provisions. The Executive Branch shall only authorize the creation and operation of special treatment zones other than ZOTAC for national export products.

Transitional Provisions

1. The traditional export tax referred to in Supreme Decree No. 084-91-EF [T.177, page 48] shall remain in force until 31 December 1991.

2. The application of the specific duty applied exclusively to imports of the products included in the 18 tariff headings mentioned in Supreme Decree No. 0016-91-AG [T.179, page 32] shall be temporarily permitted.

3. The provisions of Article 12 of this Legislative Decree do not affect the provisions of Supreme Decree Nos. 087-91-EF [T.177, page 54] and 101-91-PCM [T.179, page 93] concerning contracts subject to the benefit mentioned in Article 16 of Decree Law No. 22342 and amendments thereto.
4. The benefits granted by Article 60 and 61 of Law No. 23509, ratified by Law No. 24067, shall remain in force until the expiry of the time-limit mentioned in Article 3 of Supreme Decree No. 111-91-EF [T.179, page 27].
5. The provisions of Article 4 of this Legislative Decree shall be applied by MINPECO as from 1 January 1992.
6. The State, through the Ministry of Industry, Internal Trade, Tourism and Integration, together with entities representing private exporting enterprises, shall constitute a civil association for the promotion and development of exports and to support international trade negotiations.

Final Provisions

1. Decree Law No. 21953, Legislative Decree No. 390, Law No. 25075, Chapter IV of the second Title of Law No. 23407 and any other provision that conflicts with the provisions of this Legislative Decree, with the exception of the fifteenth Additional Provision of Legislative Decree No. 653 [T.182, page 25] are hereby repealed.
2. This Legislative Decree shall enter into force thirty days following its publication in the Official Journal "El Peruano".

ACCORDINGLY:

For publication and implementation, and information of the Congress of the Republic.

ALBERTO FUJIMORI FUJIMORI
CARLOS TORRES Y TORRES LARA
President of the Council of Ministers and Minister of External Relations

CARLOS BOLOÑA BEHR
Minister of the Economy and Finance

VICTOR JOY WAY ROJAS
Minister for Industry, Internal Trade, Tourism and Integration