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Council for Trade in Goods
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PERU – AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

Request for Waiver

The following communication, dated 23 June 1999, has been received from the Permanent Mission of Peru.

REQUEST

Peru requests Members to grant it a waiver concerning the implementation of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Agreement on Customs Valuation) from 1 April 1999 until 1 April 2000, in order to enable it to complete the process of implementing the necessary measures for application of the Agreement. This request is submitted in conformity with paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization, the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956, and the Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994, without prejudice to Peru's rights under Article VII of the GATT, the WTO Agreement on Customs Valuation and the request for an extension of the delay in the application of that Agreement submitted by Peru on 25 March 1999 (G/VAL/W/31 and G/VAL/M/10).

The exceptional circumstances justifying the grant of this waiver are set out below.

DESCRIPTION OF THE MEASURES FOR WHICH A WAIVER IS REQUESTED

Peru accepted the Agreement on Implementation of Article VII of the GATT (Tokyo Round Agreement on Customs Valuation) on 2 March 1994. When signing and accepting that Agreement, Peru invoked, *inter alia*, paragraph 1 of Article 21 concerning delayed application of the provisions of the agreement for a five-year period.

When the WTO Customs Valuation Agreement came into force, this five-year delay period, which had begun under the Tokyo Round Agreement, continued to run for Peru, pursuant to the Decision of 31 January 1995 on "Continued Application under the WTO Customs Valuation Agreement of Invocations of Provisions for Developing Countries for Delayed Application and Reservations under the Customs Valuation Agreement 1979" (WT/L/38). This explains why the five-year delay period ended for Peru on 1 April 1999, and not on 1 January 2000 as in the case of the other WTO developing country Members which invoked it under the present Agreement on Customs Valuation.

Peru has made serious and enormous efforts of customs reform, including in particular the professionalization of customs staff, the facilitation of trade and the automation of customs procedures. These efforts have received wide international recognition. Peru continues to receive technical assistance from various sources in support of these efforts.

Despite the successes achieved in customs reform, Peru considers that in order to comply fully with its customs valuation commitments, it is essential that specific measures be taken to ensure proper implementation of the Valuation Agreement, which is why it is necessary to postpone the application of the Agreement for the period requested.

Granting Peru the requested waiver would allow it not to apply, until the specified date, the system of valuation of imported goods provided for in the WTO Agreement on Customs Valuation. This waiver would be subject to the following terms and conditions accepted by Peru:

- (a) As from 1 January 2000, Peru will apply the provisions of the WTO Agreement on Customs Valuation to fifty per cent (50%) of the H.S. headings of its Customs Tariff in force, to be determined by Peru;
- (b) Peru will carry out the annexed work programme for the implementation of the Agreement, establish a Commission to monitor and evaluate implementation of the above-mentioned programme, and submit two progress reports to the WTO.

In addition to the above, Peru will apply, as of August 1999, paragraph 2 of Decision 4.1 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (G/VAL/5) of the Committee on Customs Valuation.

Peru also undertakes to establish a mechanism for channelling and finding solutions to the difficulties encountered by exporters from third countries in relation to the functioning of the preshipment inspection system.

SPECIFIC POLICY OBJECTIVES PURSUED

To achieve the proper implementation of the WTO Agreement on Customs Valuation so as to ensure permanent facilitation of trade operations as well as protection of the country's fiscal interests.

REASONS FOR THE REQUEST FOR A WAIVER

Customs valuation is a delicate and complex issue and therefore calls for a customs administration that has an appropriate infrastructure and staff trained in handling the technical aspects of the Valuation Agreement.

The waiver is requested in order to complete the process of implementing the necessary measures for the adoption of the new valuation system and thus be able to ensure that the Agreement is properly applied.

In recent years the advances made in the Peruvian customs system include the following:

- (a) Creation of a climate of transparency in customs practices;
- (b) streamlining of customs procedures through random preshipment and post-shipment inspection methods;

- (c) automation of customs regimes and operations and also of control, inspection and administrative functions;
- (d) removal of corrupt or incompetent staff and recruitment of new professional staff, combined with the message that this is a new customs administration characterized by integrity and professionalism;
- (e) training of new experts and specialists through the National Customs College;
- (f) greater emphasis on staff development and training;
- (g) higher salaries for staff.

Despite these advances, certain specific activities, which are necessary for implementation of the Agreement have yet to be carried out. These cover the following elements:

- (a) Bringing national legislation into line with the provisions of the Agreement: this implies defining technical aspects set out in the WTO Agreement on Customs Valuation and drafting and adopting the corresponding legal provisions.
- (b) Physical infrastructure: this involves reorganization of the services involved in implementation of the Agreement and adaptation of the computerized modules forming the Integrated Customs Management System (SIGAD).
- (c) Training and dissemination of the Agreement: this involves training customs personnel and operators as well as dissemination of the Agreement among foreign trade operators, users and the general public.

The waiver will enable Peru to adopt the necessary measures for implementation of the Agreement. Immediate implementation of the system could give rise to certain problems in the valuation of goods as between officials and operators, owing to the transition from the valuation methods currently used (Brussels Value and normal competition price) to that of transaction value, considering that there is not yet sufficient experience in managing the Agreement nor the necessary legal framework for implementing it.

CONCLUSION

Taking into account the process of adapting to the rules of the Agreement on Customs Valuation underway in Peru and the progress made, and that activities necessary for implementing the Agreement remain to be carried out, Peru requests the WTO Members to accede to its request for a waiver in order to be able to complete the process of adapting the Peruvian customs system to the Agreement on Customs Valuation.

ATTACHMENT 1

PROGRAMME OF WORK FOR THE IMPLEMENTATION OF THE WTO CUSTOMS VALUATION AGREEMENT
(PERU)

General Activities	1999				2000		Responsible Customs Coordination
	1	2	3	4	1	2	
1 DEFINITION OF THE OVERALL STRATEGY FOR APPLYING THE CUSTOMS VALUATION AGREEMENT - Elements							MEF – MITINCI MRREE
2 ALLOCATION OF RESOURCES - Budgetary resources - International technical cooperation - Allocation of human resources							
3 REPORTING AND MONITORING STAGES - Ongoing assessment (Multisectoral Commission) - Reports to WTO Members				x	x		MEF
SPECIFIC ACTIVITIES							
A. UPDATING OF LEGISLATION							
1 DEFINITION OF TECHNICAL ASPECTS CONTAINED IN THE CUSTOMS VALUATION AGREEMENT - Instruments of the Technical Valuation Committee - Ministerial Decision concerning the truthfulness or accuracy of the declared value - Decision 3.1 Interests - Decision 4.1 Software - Define the FOB or CIF basis - Others (e.g. family)							

General Activities	1999				2000		Responsible Customs Coordination
	1	2	3	4	1	2	
<p>2 PREPARATION AND APPROVAL OF THE LEGAL RULES FOR THE APPLICATION OF THE CUSTOMS VALUATION AGREEMENT</p> <ul style="list-style-type: none"> - Regulating the implementation of the Agreement - Evaluation of breaches and penalties (General Customs Law and Regulations) and modifications, if needed - Preparation and issue of operative procedures handbooks <ul style="list-style-type: none"> * Definitive Import Regime handbook * List of Questions G/VAL/5 - Adaptation of the organic structure of the customs areas involved in the application of the Agreement - Adaptation of the Declaration of Value format according to WTO and instructions <p>3 DETERMINATION OF HEADINGS FOR THE APPLICATION OF THE CUSTOMS VALUATION AGREEMENT</p> <p>4 APPLICATION OF THE CUSTOMS VALUATION AGREEMENT</p> <ul style="list-style-type: none"> - Software - First group of headings (50%) - Second group of headings (50%) 							MEF-MITINCI MRREE
			x		x	x	

General Activities	1999				2000		Responsible Customs Coordination
	1	2	3	4	1	2	
<p>2 ADAPTATION OF THE COMPUTERIZED MODULES THAT MAKE UP THE INTEGRATED CUSTOMS MANAGEMENT SYSTEM (SIGAD):</p> <ul style="list-style-type: none"> - Electronic transmission of the Declaration of Value format (B1) - Authorized import formalities - Electronic links between the customs offices in the appraisement area <p>3 REORGANIZATION OF THE INSPECTION AREA</p> <ul style="list-style-type: none"> - Definition of functions - Determination of resources - Determination of the <i>ex-post</i> risk management procedure - Auditors' training (net 300) - Basic adaptation of data for use in the <i>ex-post</i> risk control procedure in the framework of the Customs Valuation Agreement. 							MEF
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Explanatory Note

MEF: Ministry of Economy and Finance.
MITINCI: Ministry of Industry, Tourism, Integration and International Trade Negotiations.
MRREE: Ministry of Foreign Affairs.