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## CHAPTER 1

### INITIAL PROVISIONS

#### **Article 1: Objectives**

The Parties conclude this Agreement, among others, for purposes of:

- (a) encouraging expansion and diversification of trade between the Parties;
- (b) eliminating the barriers to trade in, and facilitate the cross-border movement of goods and services between the Parties;
- (c) promoting fair competition in the Parties' markets;
- (d) creating new employment opportunities;
- (e) creating framework for furthering bilateral, regional and multilateral cooperation to expand and enhance the benefits of this Agreement; and
- (f) providing forum and approach for resolution of disputes amiably.

#### **Article 2: Establishment of a Free Trade Area**

The Parties to this Agreement, consistent with Article XXIV of the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and Article V of the *General Agreement on Trade in Services* (GATS), hereby establish a free trade area.

#### **Article 3: Relation to Other International Agreements**

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and any other agreements related to trade to which the Parties are party.<sup>1</sup>
2. In the event of any inconsistency between this Agreement and any other agreement to which the Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution in accordance with rules of interpretation of public international law.

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<sup>1</sup> The agreements mentioned in paragraph 1 shall include treaties, conventions, agreements, protocols, and memorandums of understanding entered into by the Parties or government agencies of the Parties.

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3. If any provision of the WTO Agreement that the Parties have been incorporated to this Agreement is amended and accepted by the Parties at the WTO, such amendment shall be deemed incorporated automatically to this Agreement.

#### **Article 4: Extent of Obligations**

The Parties shall ensure that all necessary measures are taken in order to give effect to the provisions of this Agreement in their respective territories, including ensuring that their respective regional and local governments and authorities, and non-governmental bodies in the exercise of governmental powers delegated to them by central, regional and local governments or authorities observe all obligations and commitments under this Agreement.

#### **Article 5: Definitions of General Application**

For purposes of this Agreement, unless otherwise specified:

**Agreement** means the *Free Trade Agreement between the Government of the People's Republic of China and the Government of the Republic of Peru*;

**Commission** means the Free Trade Commission established under Article 170 (Free Trade Commission) of Chapter 14 (Administration of the Agreement);

**customs authority** means the authority that is responsible under the law of a Party for the administration and enforcement of customs laws and regulations;

**customs duty** includes any duty or charge of any kind imposed in connection with the importation of goods, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III.2 of the GATT 1994;
- (b) antidumping or countervailing duty that is applied pursuant to Article VI of the GATT 1994, the *WTO Agreement on Implementation of Article VI of the GATT 1994*, or the *WTO Agreement on Subsidies and Countervailing Measures*; or
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered;

**Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the GATT 1994* which is a part of the WTO Agreement;

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**days** means calendar days;

**existing** means in effect on the date of entry into force of this Agreement;

**GATS** means the *WTO General Agreement on Trade in Services* which is a part of the WTO Agreement;

**GATT 1994** means the *WTO General Agreement on Tariffs and Trade 1994* which is a part of the WTO Agreement;

**goods of a Party** means the domestic products as these understood in the GATT 1994 or such goods as the Parties may agree and includes originating goods of that Party;

**Harmonized System (HS)** means the *Harmonized Commodity Description and Coding System* adopted by the World Customs Organization including its General Rules of Interpretation, and its Section and Chapter Notes;

**heading** means the first four digits in the tariff classification number under the HS;

**judicial person** means an entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture or association;

**measure** includes any law, regulation, procedure, requirement or practice;

**national** means:

- (a) for Peru, a Peruvian by birth, naturalization or option in accordance with Articles 52 and 53 of the *Constitución Política del Perú* (Political Constitution of Peru) who has the nationality of Peru or is a permanent resident of Peru; and
- (b) for China, a natural person who has the nationality of China according to the laws of China;

**originating** means qualifying pursuant to the rules of origin established under Chapter 3 (Rules of Origin and Operational Procedures Related to Origin);

**person** means a national or a juridical person;

**person of a Party** means a national or a juridical person of a Party;

**Safeguards Agreement** means the *Agreement on Safeguards* which is a part of the WTO Agreement;

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**SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures* which is a part of the WTO Agreement;

**subheading** means the first six digits in the tariff classification number under the HS;

**territory** means:

- (a) with respect to Peru, the mainland territory, the islands, the maritime zones and the air space above them, over which Peru exercises sovereignty or sovereign rights and jurisdiction, in accordance with its domestic law and international law; and
- (b) with respect to China, the entire customs territory of People's Republic of China, including land, maritime and air space, and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law;

**TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights* which is a part of the WTO Agreement;

**WTO** means the World Trade Organization, created by the *Marrakesh Agreement Establishing the World Trade Organization*, done on April 15<sup>th</sup>, 1994; and

**WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done on April 15<sup>th</sup>, 1994.