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**Draft 6 January 2006**

**Chapter One**

**Initial Provisions and General Definitions**

**Section A: Initial Provisions**

**Article 1.1: Establishment of a Free Trade Area**

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

**Article 1.2: Relation to Other Agreements**

The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which such Parties are party.

**Section B: General Definitions**

**Article 1.3: Definitions of General Application**

For purposes of this Agreement, unless otherwise specified:

**central level of government** means:

- (a) for Peru, the national level of government<sup>1</sup>; and
- (b) for the United States, the federal level of government;

**Commission** means the Free Trade Commission established under Article 20.1 (The Free Trade Commission);

**covered investment** means, with respect to a Party, an investment, as defined in Article 10.28 (Investment Chapter; Definitions), in its territory of an investor of another Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

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

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<sup>1</sup> For greater certainty, “regiones” are at the local level of government.

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**customs duty** includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) antidumping or countervailing duty that is applied pursuant to a Party's domestic law; or
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered;

**Customs Valuation Agreement** means the WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;

**days** means calendar days;

**enterprise** means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

**enterprise of a Party** means an enterprise constituted or organized under the law of a Party;

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

**GATS** means the WTO General Agreement on Trade in Services;

**GATT 1994** means the WTO General Agreement on Tariffs and Trade 1994;

**goods of a Party** means domestic products as these are 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, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

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

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

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**national** means a natural person who has the nationality of a Party according to Annex 1.3 or a permanent resident of a Party;

**originating** means qualifying under the rules of origin set out in Chapter Three (Textiles and Apparel) and Chapter Four (Rules of Origin and Origin Procedures);

**person** means a natural person or an enterprise;

**person of a Party** means a national or an enterprise of a Party;

**preferential tariff treatment** means the duty rate applicable under this Agreement to an originating good;

**procurement** means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale or with a view to use in the production or supply of goods or services for commercial sale or resale;

**regional level of government** means for the United States, a state of the United States, the District of Columbia, or Puerto Rico. For Peru, the term “regional level of government” is not applicable.

**Safeguards Agreement** means the WTO Agreement on Safeguards;

**sanitary or phytosanitary measure** means any measure referred to in Annex A, paragraph 1 of the SPS Agreement;

**SPS Agreement** means the WTO Agreement on the Application of Sanitary and Phytosanitary Measures;

**state enterprise** means an enterprise that is owned, or controlled through ownership interests, by a Party;

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

**territory** means for a Party the territory of that Party as set out in Annex 1.3;

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

**WTO** means the World Trade Organization; and

**WTO Agreement** means the Marrakesh Agreement Establishing the World Trade Organization, done on April 15, 1994.

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**Annex 1.3**

**Country-Specific Definitions**

For purposes of this Agreement, unless otherwise specified:

**natural person who has the nationality of a Party** means:

- (a) with respect to Peru, Peruvians by birth, naturalization, or choice in accordance with Articles 52 and 53 of the Political Constitution of Peru; and
- (b) with respect to the United States, "national of the United States" as defined in the existing provisions of the Immigration and Nationality Act; and

**territory** means:

- (a) with respect to Peru, the continental territory, the islands, the maritime areas and the air space above them, in which Peru exercises sovereignty and jurisdiction or sovereign rights in accordance with its domestic law and international law;
- (b) with respect to the United States,
  - (i) the customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico,
  - (ii) the foreign trade zones located in the United States and Puerto Rico, and
  - (iii) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources.