MANUAL FOR FILING APPLICATIONS FOR THE DECLARATION OF FREE TRADE ZONES

MINCOMERCIO
INDUSTRIA Y TURISMO

PROCOLOMBIA
EXPORTS TOURISM INVESTMENT COUNTRY BRAND

TODOS POR UN NUEVO PAÍS
PAZ EQUIDAD EDUCACIÓN

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1. Why the Free Trade Zones (Purposes)

The Free Trade Zone Regime in Colombia was established by Law 1004 of 2005 and Decree 2147 of December 23, 2016. The Free Trade Zones are "geographically delimited areas within the national territory, where industrial activities relating to goods and services or commercial activities are performed, and are under special regulations in tax, customs and foreign trade matters."

Merchandise that enters these areas are considered to be outside the national customs territory for imports and exports tax purposes.

The Free Trade Zone aims to:

1. Be an instrument that creates employment and receives new capital investments.

2. Be a development center that promotes competitiveness in the regions where it is established.

3. Develop highly productive and competitive industrial processes, under the concepts of security, transparency, technology, clean production, and good business practices.

4. Promote the generation of economies of scale.

5. Simplify procedures for trade in goods and services, in order to facilitate their sale.

The Free Trade Zone Regime in Colombia, as well as being a mechanism for the attraction of new investments and employment, is also an incentive for the development of highly productive, competitive industrial processes and substantial technological innovation components. Any project or company wishing to benefit from the regime must ensure that it meets these objectives.

In addition, in the case of projects that have a a high economic and social impact for the country, the Free Trade Zone Regime in Colombia includes the Special Permanent Free Trade Zone (SPFTZ) - "Single-Business", which is defined as the delimited area of the national territory in which a single industrial user is installed, and enjoys a special tax, customs and foreign trade treatment. For this reason, a high component of industrial conversion or transfer of technology or services is required, even more demanding than the one required in the Permanent Free Trade Zones.

During the process of declaring a Free Trade Zone the Master Development Plan[1] describes the project´s contribution to the modernization and reconversion processes in the goods and services productive sectors that improve competitiveness and increase and diversify supply, in addition to the scientific or technological research content of the project.

[1] Document that contains the investment initiative intended to be developed in the free trade zone and that must be oriented towards ensuring the generation, construction and transformation of physical infrastructure, employment structure, competitiveness and the production of goods and services, with the objective of generating impacts or economic or social benefits, through the use of business management good practices.

2.Benefits

- Single rate income tax of 20% for industrial goods and services users and operator users. Exceptions are made for the commercial users that are taxed at the general rate.
- Exports from the Free Trade Zone to other countries, receive the benefits derived from international trade agreements negotiated by Colombia.
- Allows industrial goods and/or services users to maintain raw materials, inputs, parts, in processes or finished products, transformation or assembly of goods related to its economic activity or activities for which they have been qualified, authorized or recognized.
- Customs duties (VAT and TARIFFs) are not payable for goods that are introduced from abroad as well as raw materials, inputs and finished goods that are sold from the national customs territory to industrial users in the Free Trade Zones.
- Move goods between free trade zones in legal dealings with third parties.
- Raw materials, inputs, intermediate goods can temporarily exit the free trade zone in order to carry out technical tests. Also applies for capital goods, equipment, tools, parts or spare parts, and other goods that require repair, revision, maintenance, analysis or certification processes; for up to 6 months.
- Treatment regime of by-products, defective products, deteriorated goods, waste, residual waste and inventories: Users of free trade zones may destroy, dispose or market said assets.
- Possibility of partial processing outside the Free Trade Zone for up to 9 months. This processing may not exceed 40% of the cost of the total production of goods or services.
- Industrial users are allowed to establish commercial and administrative offices outside the Free Trade Zone. (The goods for these offices will not be subject to the Free Trade Zone incentives).
- Capital goods previously used in Colomba are allowed into the Free Trade Zone, however they are not considered to comply with investment requirements.
- The possibility of carrying out operations between free trade zones applies to industrial goods, services and commercial users.
- Users acquire the quality of Foreign Trade Operators.
- Exemption of VAT on merchandise sales to foreign markets.
- Possibility of selling to the national territory, 100% of the production of goods or services produced in Free Trade Zone with the respective tariff and VAT payments applicable only on the percentage of inputs that come from other countries.
- In the same way, for Health Free Trade Zones, the temporary removal of equipment and medical devices is allowed if temporarily supplied to patients for their post-surgical assistance.

3. Who can access the Free Trade Zone regime

Legal person domiciled in the country or a branch of a foreign company

Technological parks

Port Societies

Institutions providing health services

4. Exceptions

Exploration, exploitation or extraction of non-renewable natural resources defined in the Mining and Petroleum Code. (Except for offshore extractive activities[2])

Provision of financial services

Activities under state concession contracts

Utilities, unless they are energy generators or new companies providing public international long distance telephone services

[2] The industrial users of goods and/or services already qualified in an Offshore Permanent Free Trade Zone can install themselves in other Permanent Free Trade Zones different from the one their qualified for, they will only require the authorization of the Operator User of the respective Free trade Zone where they pretend to install themselves.

5. Type of Free Trade Zones

5.1. Permanent Free Trade Zone (PFTZ)

A Permanent Free Trade Zone (hereinafter "PFTZ") is defined as a delimited area in the Colombian territory, in which several users (industrial, commercial) are installed, they enjoy special tax, customs and foreign trade treatment. The PFTZ will be administered by the Operator User who will be in charge of approving or denying requests from companies that want to qualify as Industrial Users or Commercial Users.

5.2. Special Permanent Free Trade Zone (SPFTZ) - "Single-Business"

The Special Permanent Free Trade Zone (hereinafter "SPFTZ") is defined as a delimited area of the national territory in which a single Industrial User (of goods or services) is installed, under the special free trade zones regime. They are also known as Single-Business Free Trade Zones. The SPFTZ may consist of goods, services, agro-industrial projects, health services and port services.

As an exception, the existence of a SPFTZ may be declared for companies that are already established and are carrying out activities related to the project they plan to promote. In this case, the requirements to request the declaration of a SPFTZ are the following:

• At the time of request, have an equity of 150,000 current Monthly Minimum Legal Wages in effect MMLW[3] or USD $ 36.885.850[4].

• Within 5 years after the declaration of the SPFTZ, a new investment of 692,000 SMMLV or US $ 170.166.721 must be made.

• The net taxable income on December 31 of the year immediately prior to the date of the declaration of existence of the SPFTZ must be doubled.

• An execution schedule of 100% of the new investment including the installation of real fixed productive assets must be attached to the request.

5.3. Permanent Offshore Free Trade Zones

The Permanent Offshore Free Trade Zones (hereinafter "POFTZ") are those zones located in any part of the national territory that are exclusively dedicated to the technical evaluation, exploration and production of offshore hydrocarbons, as well as logistics, compression, transformation, liquefaction of gas and other activities directly related to the hydrocarbon sector.

5.4. Temporary Free Trade Zone (PFTZ)

The Temporary Free Trade Zones (hereinafter "TFTZ") are those delimited areas within the national territory where fairs, exhibitions, congresses and seminars of a national or international character are held, and that are important to the economy and/or international trade, and enjoy special treatment in tax, customs and foreign trade matters.

[3] The Current Monthly Minimum Legal Wage for 2017 was fixed at COP$ 737.717 (USD $245 Aprox)
[4] Calculated with an Exchange rate of COP $3000.

6. Types of Users

6.1. Operator User

The operator user is the legal person, or company authorized to direct, administer, supervise, promote and develop one or more free trade zones, as well as to qualify its users. The operator user shall monitor and control the merchandise under customs control and authorize their entry and exit operations.

6.2. Industrial Goods User (IGU)

The IGU is the legal person exclusively installed in one or more free trade zones, authorized to produce, transform or assemble goods through the processing of raw materials or semi-finished products.

6.3. Industrial Services User (ISU)

The ISU are authorized to develop the following activities exclusively in one or more free trade zones: Logistics, transport, handling, distribution, packaging, repackaging, bottling, labeling or classification, telecommunication, information technology systems for data capture, processing, storage and transmission, and organization, management or operation of databases, medical, dental and general health care assistance, tourism, repair, good´s cleaning or quality testing, technical support, equipment maintenance and repair, ships, aircraft or machinery, auditing, administration, brokerage, consultancy or similar.

6.4. Commercial User (UC)

They can store, commercialize and conserve merchandise in the free trade zone, but do not enjoy the benefit of a tariff reduction on income tax, provided by the free regime for industrial users. Likewise, they cannot be simultaneously qualified as industrial users and are subject to an occupancy limit of 15% of the total area of the Permanent Free Trade Zone.

6.5. Administrative User

An administrative user is the entity that administers the area for which the declaration of a temporary free trade zone is requested. It must necessarily be incorporated as a legal entity, with the legal faculty of organizing events of a national or international character, as well as developing promotion, direction and administration activities for the area.

6.6. Exhibitor User

This user is the person whom during an event of a national or international character acquires the quality of exhibitor through a contract with the administrative user. To carry out its activities, it must subscribe a contract with the administrative user in which the terms and conditions of the operation are determined.

6.7. Obligations of industrial goods, services users and of commercial users of free trade zones

1. Develop the activities for which they are qualified.

2. Comply with the obligations acquired with the operator user.

3. Comply with the procedures established in the free trade zone operations manual.

4. For special permanent free trade zones, the industrial user must report the progress on the implementation of the General Development Master Plan to the operator user and to the Ministry of Commerce, Industry and Tourism, on a quarterly basis.

5. For special permanent free trade zones, the industrial and commercial users must report on a quarterly basis, to the operator user and to the Ministry of Commerce, Industry and Tourism, the state of progress in the execution of the Master Plan of General Development and the commitments acquired in the act of qualification, investment and employment.

6. Announce itself or act as a free trade zone user.

7. The industrial services users in permanent free trade zones, cannot carry out storage as their single logistic activity.

8. Respond to requests made by the Ministry of Commerce, Industry and Tourism.

7. Steps for the Declaration of a Free Trade Zone

The Ministry of Commerce, Industry and Tourism will declare the existence of free trade zones through an administrative act which enunciates the motivations of the decision; it will do so after the approval of the Master Plan for the General Development of a Free Trade Zone, a favorable feasibility concept from the Intersectoral Commission of Free Trade Zones and a compliance verification in accordance to the requirements established by Decree 2147 of 2016.

In this way, the applicant must comply with the following steps:

7.1. Previous Meeting with the Technical Secretariat of the Intersectoral Commission of Free Trade Zones

Before making a formal request at the Commission, the interested party must verify that the application has the required information, which is not a detailed analysis of the contents in the documents and annexes. Once the Technical Secretariat verifies the documents, the interested party can file the project with the Ministry of Commerce, Industry and Tourism.

7.2. Filing the application

The legal person claiming to be the operator user, or the sole industrial user of the free trade zone or the administrative user (depending on the type of free trade zone in question) must submit in writing to the Ministry of Commerce, Industry and Tourism, the request for a declaration of existence of a free trade zone.

The operator user must be a different legal person from the industrial user and the commercial user, without there being any economic or corporate link between them.

7.3. Documents and requirements

7.3.1 Incorporation and identification of the new legal person that promotes the declaration of the free trade zone, which must be domiciled in the country and prove its legal representation; or as a foreign company, it must establish a branch.

7.3.2 The names and identifications of legal representatives, board members, partners, shareholders and direct and indirect controlling shareholders. If the partners are legal persons, their respective shareholding composition must be presented. Only shareholders who have a participation percentage higher than 10% of the subscribed capital in open joint stock companies have to be presented[5].

7.3.3 Certificates of incorporation and legal representation which state that its corporate purpose permits to perform the functions for a free trade zone. In relation to the operator user, it must certify that its corporate purpose allows it to develop functions related to the direction, supervision and promotion of free trade zones, the ability to lease, divest, dispose, manage, urbanize, and build, among others.

7.3.4 Submit the financial statements as of the last day of the month prior to the request, they must be certified or duly approved.

7.3.5 Submit an statement under oath from the legal representative of the legal person, stating that neither it nor the operator user have been sanctioned with the cancellation of an authorization to serve as an foreign trade operator in accordance with what is established in the customs regulations, nor have they been subject to the loss of authorization or qualification as a user of a free trade zone and in general not having been convicted of committing crimes related to being front men (testaferrato), illegal businesses, drug trafficking, among others.

7.3.6 The applicant, legal representatives, partners or shareholders and management cannot have any debts relating to tax, customs or monetary exchange and other claims in favor of the DIAN, on the date the application is submitted.

7.4. General Development Master Plan of the Free Trade Zone

It must contain the National Government´s priorities and policies and be framed within the programs in the National Development Plan and Departmental or Municipal plans. This strategy should contain, at least:

a) An executive summary of the project, where the general description, objectives, goals, justification, investment amounts and main impacts are established in relation to the purposes foreseen in Law 1004 of 2005.

b) The body of the Master Plan, containing:

- Identification of the legal person that seeks a Free Trade Zone Declaration, including the Certificate from the Chamber of Commerce. The complete set of updated financial statements will also be required.

- Detailed description of the investment project, which should include at least:

(I) Estimated sales, differentiating the national market and foreign market;

(II) Jobs that the investor plans to generate in each of the project´s stages (formal direct, indirect, linked), specifying those related to the production process.

[5] The applicant, the board members, the legal representatives, partners and shareholders must be registered in the Single Tax Registry, in accordance with that established in the Tax Code, when applicable.

• The project´s Urban and architectural development.

• Project location, terrain characteristics and access routes.

• Total Free Trade Zone area, differentiated by: operator user, industrial and commercial users, control authorities, internal circulation routes, green areas and areas for entities that do not benefit from the free trade zone regime.

• Location of production, administrative and service facilities.

c) The investment amount and its implementation deadline for each of the project´s stages.

d) Timetable specifying compliance with the project´s performance commitments.

e) The project´s planned economic impact and social benefit for the region and the country and its justification in relation to the objectives set forth in Law 1004 of 2005.

f) Industrial conversion, technology transfer or services components.

g) In the case of permanent free trade zones, the operator user must present a promotion plan for the internationalization of the free trade zone, which will be jointly carried out with the potential qualified users. In the case of the special permanent free trade zones, the industrial user must present an internationalization promotion plan for the investment project that he intends to develop in the special permanent free trade zone.

h) Attach technical, economic, financial, market and legal feasibility studies:

Technical feasibility study

In order to determine if the project is technically feasible, the study should at least include:

a) Optimum project location.

b) Description of industrial processes or services to be provided.

c) Environmental impacts.

d) Blueprints and description of the project´s urban and architectural developments.

Economic feasibility study

In order to determine the economic feasibility of the project, the study should at least include:

a) General description of the region.

b) Forecast of regional and national economic indicators related to the project.

c) Project´s social aspects.

d) Income quantification for the municipality or the country, that will arise from the project.

Financial feasibility study

In order to determine whether the project is financially feasible, it should specify:

a) Economic assumptions for the projected period: inflation, devaluation, expected capital cost rates and expected interest rate on debt or liabilities.

b) Financial statements forecasts: Balance sheet, cash flow statement, statement of results, description of calculations and trends.

c) Evaluation and support of net present value, internal rate of return and economic profitability indicators.

d) Information on the financial structure of the project, detailing capital and funding resources, as well as a description of the funding conditions and the investment plan.

e) If resources belonging to the project´s partners or shareholders will be used, it is necessary to specify the origin of those resources.

f) If new partners or shareholders are to be linked as a source of funding, they must submit letters of intent.

Market feasibility study

In order to identify strategies and opportunities for the project, it should include:

a) Analysis of the potential market for services and/or

products that will be manufactured or marketed in the Free Trade Zone and the possible users that will be installed.

b) Assessment of the marketing strategy for the Free Trade Zone.

c) Future positioning and quality strategies of the Free Trade Zone and its users.

d) Determine demand at national and international level.

e) Sales or revenue forecasts.

f) Forecast of potential buyers and suppliers of goods or services that the Free Trade Zone will develop.

g) List the Free Trade Zone´s competitors and its main Industrial Good´s Users and Industrial Service´s Users at the national and international level.

h) Feasibility analysis of exports to international markets.

i) A comparative study with some of the region´s countries which can be competitors for the investment that the free trade zone intends to develop.

Legal feasibility study

In order to establish the application´s legal framework, the following requirements must be met:

a) An assessment report of the land titles on which the free trade zone project will be physically developed, duly signed by a certified attorney with a degree.

b) Certificate of conveyance of the lands that are part of the area that is under consideration to be declared as free trade zone.

c) In relation to the land to be declared as a free trade zone, there can be no violation of the prohibition of the concentration of land provided for in article 72 of Law 160 of 1994 (Law on Rural Development and the granting of vacant land).

d) Certify that the project is compatible with the municipal or district development plan, and that land use allows that purpose.

e) Certify that the area intended to be declared as free trade zone may be provided with utilities.

f) Certify that the project complies with the requirements of the the environmental authority, and in the case that there is a need of infrastructure involving the use of natural resources, water or an impact of its channels, it must have the corresponding permits.

g) Provide a topographic and photographic blueprint with the initial application, showing the location and precise delimitation of the area for which the declaration is requested.

h) Submit a schedule that details the enclosing of one hundred per cent (100%) of the area declared as a free trade zone, prior to the start of the operations of the free trade zone.

i) To postulate or self-postulate an operator user, according to the free trade zone in question.

j) Commit to establish a program to systematize the free trade zone´s inventory management operations.

8. Terms of application

Once the request has been filed, the Ministry of Commerce, Industry and Tourism will send a copy to the National Planning Department (hereinafter "DNP"), and request a concept from the DIAN, on the following aspects:

a) Concept on tax, customs and foreign exchange conduct of the legal entity that´s applying, its partners or shareholders, natural or legal persons, members of the board of directors, legal representatives, administrators and the operator user.

b) Fiscal impact of the investment project. The DIAN will have 45 calendar days from the filing of the application, to issue the concept. In case there is a need to confirm information outside the national territory, the deadline will be extended for up to 30 additional calendar days.

The concept on tax, customs and exchange conduct will be binding, and if it is unfavorable, the DIAN will notify the applicant and against it will proceed any recourses and appeals. The filing of the appeals will suspend the application for the declaration of a free trade zone.

c) Once the decision has been taken, the administrative acts will be transferred to the Ministry of Commerce, Industry and Tourism in order to continue the administrative action.

d) Once the concept of the DIAN has been received, the Ministry of Commerce, Industry and Tourism will ask the DNP for a concept on the economic impact of the investment project[6].

e) After receiving the request for a concept on economic impact from the Ministry of Commerce, Industry and Tourism, the DNP will have 1 month to issue it, and if it needs to request additional information, it may directly ask the investor to provide documents or information that may complement each other. The deadline to issue the concept will be suspended until the applicant provides the information in due form.

f) The Ministry of Commerce, Industry and Tourism will review and verify the application for declaration of existence of the free trade zone and its supporting documents, and will have 2 months to carry out a technical visit to the area where the declaration is intended to apply, with the purpose of determining the continuity of the area and if the plots are suitable for the declaration of existence of free trade zone.

g) Once the analysis of the application and the technical visit have been carried out, if the project does not meet the legal requirements, the applicant will be required to provide documents or information that must complement, add, clarify or adjust. If the applicant does not submit all of the documents or information required within a period of 1 month from the announcement of the request, it will be understood that he has withdrawn the application. In this case, an administrative act will be issued that declares the withdrawal of the application and the file will be archived, against which can only proceed an appeal. The request may be submitted again with full legal requirements.

h) Once the project´s compliance with the legal requirements has been verified, the Technical Secretariat of the Intersectoral Free Trade Zone Commission must elaborate and send the technical evaluation report to the Intersectoral Commission of Free Trade Zones. The report should clearly indicate if the applicant meets the requirements for the declaration of free trade zone, as well as the concepts issued by the DIAN, DNP and other consulted entities, for which it will have a deadline of 15 working days.

i) The technical evaluation report prepared by the Technical Secretary of the Intersectoral Free Trade Zone Comision must be sent to the members of the Technical Group at least eight calendar days before a session of the Intersectoral Commission of Free Trade Zones takes place.

j) The Intersectoral Commission of Free Trade Zones will evaluate the application and issue a concept on the feasibility of the declaration of existence of the free trade zone and will decide on the approval of the General Development Master Plan.

k) After approving the General Development Master Plan and issuing a favorable concept on the feasibility of declaring the existence of a free trade zone, the Ministry of Commerce, Industry and Tourism, after verifying compliance with the legal requirements, will issue the corresponding administrative act.

The petitioner may request a single extension for up to one month before expiration of the deadline granted in order to respond to the requirements of the Ministry of Commerce, Industry and Tourism. The final response that the petitioner must submit, must be complete and comply with all aspects requested in the requirement. Otherwise, it will be understood that the application has been withdrawn, for which an administrative act will be issued declaring its withdrawal, which will be personally notified to the applicant and the file will be archived. This administrative act can be appealed.

[6] Ministry of Commerce, Industry and Tourism may also, when it deems appropriate, request a technical concept from other entities, according to their competences, which they should issue within the next 15 working days from the reception of the request.

8.1. Modifications to the General Development Master Plan

In addition, the Intersectoral Commission of Free Trade Zones may authorize modifications to the General Development Master Plan, only in the following cases:

1. Total number of jobs.

2. Number of remote jobs.

3. The amount invested.

4. Number of installed users.

5. Economic activity.

6. Investment commitments schedules and the use and installation of fixed productive assets.

7. Modifications to the internationalization promotion plan of the free trade zone; these must be duly justified and technically proven.

After the applicant and the Ministry of Commerce, Industry and Tourism, together with the Intersectoral Commission of Free Trade Zones and the Technical Secretariat of Free Trade Zones, exhaust the requirements stage, the corresponding administrative act that approves the modification will be issued. The duration of this procedure will take about 3 months.

9. Special requirements

Special requirements for the Operator User and each of the Free Trade Zones.

9.1. Operator User Requirements

a) Once the authorization, inscription or enabling is given it must set up and deliver a guarantee for an amount equivalent to 100,000 of Tax Value Units (UVT)[7], in order to ensure the payment of duties and taxes, or penalties and interest arising from any noncompliance in the operations derived from its Foreign Trade Operator Units. Likewise, the Administrative User shall constitute a specific guarantee for an amount equivalent to 1% of the FOB value of the merchandise destined to the exhibition that will not exceed 100,000 UVT.

b) Develop a program to systematize the inventory management operations of the Free Trade Zone under the conditions established by the competent authorities, and their connection to the DIAN´s electronic communications data and documents transmission system.

c) Develop an adequate administrative infrastructure with the corresponding human resource and other resources necessary for the development of related activities.

d) Self-postulate or be postulated to fill the position of Operator User.

e) Develop the General Development Master Plan of the Permanent Free Trade Zone.

f) Certify a capital of 2.300 Minimum Monthly Legal Wages (MMLW) or USD $ 566.000

g) The application for Operator User must be submitted with the request for the declaration of existence of the Permanent Free Trade Zone, except if a Free Trade Zone has already been declared.

9.2. Specific requirements for the declaration of Permanent Free Trade Zone

Operator users of Permanent Free Trade Zones must comply with the following requirements:

a) Annual schedule that specifies that at the end of the fifth year, the free trade zone shall have at least 5 Industrial Users of Goods and/or Related Services; and the Industrial Users of Goods and/or Services or the Operator User will make a new investment of a sum equal to or greater than 46.000 MMLW or USD $ 11.311.660.

b) Certify a Capital of 23.000 MMLW or USD $ 5.655.830.

9.3. Specific requirements for the Special Permanent Free Trade Zone (SPFTZ)

In order to declare a Special Permanent Free Trade Zone, whoever wishes to be an Industrial User, in addition to certifying the aforementioned requirements for the declaration of a free trade zone, must comply with the special requirements according to the Special Permanent Free Trade Zone class in question, and execute 100% of the new investment, approved in the General Development Master Plan, within the third year following the declaration of existence of the Special Permanent Free Trade Zone .

When the second year following the declaration of existence of the Special Permanent Free Trade Zone of Services and/or Goods has ended, the new partial investments to which the General Development Master Plan was committed (in accordance with the schedule of annual investment commitments), must be certified.

9.4. Special requirements for the declaration of Special Goods Permanent Free Trade Zones.

Carry out, within 3 years after the declaration of existence, the following:

- A new investment in an amount equal to or greater than 150.000 MMLW or USD $ 36.885.850.
- Create 150 new direct and formal jobs.
- For every 23.000 MMLW or USD $ 5.655.830 of additional new investments, the employment requirement may be reduced by 15, but in any case, the total number of jobs cannot be less than 50.
- From the second year onwards, at least 90% of jobs must be maintained. Without prejudice to comply with the 100% of the required jobs within the 3 years following the declaration of existence as a free trade zone.

9.5. Special requirements for the declaration of Special Services Permanent Free Trade Zones.

The Permanent Special Service Free Trade Zones must comply with the new investment and employment requirements within 3 years of the declaration, as determined below:

[7] The Tax Value Units (UVT), is a value unit of measure, whose objective is to represent fiscal values that were previously expressed in pesos. Said unit is fixed per annum.

SMMLV Investment	Number of Direct Jobs
10.000 MMLW or USD $ 2.459.056, and up to 46.000 SMMLV or USD $ 11.311.660	500 or more
46.000 MMLW or USD $ 2.459.056, and up to 92.000 SMMLV or USD $ 11.311.660	350 or more
Greater than 92.000 MMLW or USD $ 22.623.321	150 or more

From the second year after the start of the project, at least 90% of the above-mentioned jobs must be maintained.

9.6. Requirements for the declaration of Special Agroindustrial Permanent Free Trade Zones.

In the case of agroindustrial projects declared a Special Permanent Free Trade Zone, an investment of an amount equal to or greater than 75.000 MMLW (USD $ 18.442.925) must be made 3 years following the declaration of a Free Trade Zone, or 500 or more workers must be hired.

Likewise, the link between the Agroindustrial Free Trade Zone project with the areas under cultivation and with the production of national raw materials that will be transformed, must be certified through a document that must contain the following information:

a) Location of the areas of production that consequently will be transformed into the Free Trade Zone, and where the raw materials will be produced.

b) Name and identification of owners;

c) Size of the agricultural or livestock production areas;

d) Commercial agreements or contracts entered into with the owners.

e) Description of the national crops and raw materials that will be transformed at the free trade zone.

9.7. Requirements for the declaration of Special Health Services Permanent Free Trade Zones (SHSPFTZ).

Free Trade Zones for the provision of health services (hereinafter "SHSPFTZ"), need new investment with the same amounts indicated for the Services Free Trade Zones Zones within 3 years after the declaration of existence, and 50% of the new jobs must be direct and formal and the remaining 50% may be indirect jobs.

In order to declare existence as SHSPFTZ, the same requirements established for the Free Trade Zone declaration must be certified, together with the health accreditation under the standards or guidelines that have been established, required and approved by the Ministry of Health and Social Protection, within 3 years following the commissioning of the Free Trade Zone.

The SHSPFTZ and their qualifying Industrial Users of Health Services, will be allowed to carry out any type of legal business, on a part of the declared or authorized area to be used as clinics or commercial premises for the provision of professional medical services and related activities.

The area that the Industrial User uses for the activities described above may not be more than 20% of the total area declared as a Special Permanent Free Trade Zone or of the area defined in his quality as Industrial Health Services User[8].

9.8. Requirements for the declaration of Special Free Trade Zones for Port Services

Port companies that have signed a concession contract for the operation of public service ports, may request the declaration of existence of a Services Free Trade Zone over their port area for the same time period as the port concession[9].

Port companies must comply with a new investment equivalent to 150.000 MMLW or USD $ 36.885.850 and generate at least 20 new direct and formal jobs and at least 50 linked jobs, within three years of the declaration of existence of a port services free trade zone.

Area: The Intersectoral Commission of Free Trade Zones may consider the area as exceptionally continuous, following a favorable concept from the Ministry of Commerce, Industry and Tourism.

It is important to take into account that the merchandise introduced to the ports declared as Special Permanent Free Trade Zones, must comply with the requirements and procedures established in the Colombian customs regulations.

9.9. Requirements for the qualification of industrial goods, services users and of commercial users

a) Obtain the qualification issued by the Operator User.

b) The Ministry of Commerce, Industry and Tourism may terminate the qualification of users in exercise of control when it is proven that they did not meet the requirements, through a duly reasoned administrative act, within 6 months after the act of qualification.

Legal entities that claim to be qualified as Industrial Users of Goods, Industrial Users of Services, or Commercial Users of Permanent Free Trade Zones, must meet the following requirements:

- Certify that the person seeking to obtain the qualification was incorporated as a new legal entity or has not developed its corporate purpose or was established as a branch of a foreign company.

- State the names and identification of its legal represen-

tatives and other members. Publicly traded Corporations are only obliged to notify shareholders who have a participation higher than 10% of the subscribed capital.

• The applicant, members of the board of directors, legal representatives, partners and shareholders must be registered in the Single Tax Registry, in accordance with the provisions of the Colombian Tax Code.

• Make an affidavit that states that neither the legal representative nor the partners of the legal entity have been the legal representatives or partners of other foreign trade operators who have been sanctioned with the termination of the authorization to carry out foreign commerce, in accordance with the provisions established by customs´ regulations; and have not lost the authorization or qualification as the user of another free trade zone.

• In good standing in relation to sanctions caused by non-compliance in tax returns, during the last 5 years before the presenting the request.

• In good standing for payable fiscal, customs or monetary exchange debts, sanctions and other claims in favor of the DIAN, on the date when the application is submitted.

• Description of the project to be developed, with goals, justification, investment value, and main impacts, in relation to the purposes[10].

• The project´s economic and financial feasibility studies.

• Composition of the capital linked to the project, indicating its national or foreign origin.

• Authorizations, certifications and other requirements or permits required by the competent authority that regulates, controls or supervises the corresponding activity, for the performance of the activity, as the case may be;

• Favorable concept from the competent entity in relation to the project´s environmental impact, in accordance with current environmental standards (if applicable).

If the assets of the company are between:	SMMLV Investment	And generate direct jobs equal to or greater than:
Less than 501 MMLW or USD $ 122.952	0	7[11]
501 SMMLV or USD $ 123.198 to 5000 MMLW or USD $ 1.229.528	1.000	20
5,001 SMMLV or USD $ 123.198 to 30,000 MMLW or USD $ 1.229.528	5.000	30
More than 30.001 MMLW or USD $ 7.377.415	11.500	50

Technological Park Permanent Free Trade Zones

Legal entities recognized as Technology Parks by the Ministry of Commerce, Industry and Tourism, may request the declaration of existence as a Permanent Free Trade Zone. For this they must comply with the aforementioned general requirements for the declaration of Free Trade Zone.

For this reason, incorporating a new legal entity, investments, users, capital and postulating as Operator User will not be required, as indicated in Decree 2147 of 2016.

Finally, it is important to clarify that during the effective period of the free trade zone these must have at least 1 qualified industrial user, postulate a third party as operator user of the free trade zone and seal of the area declared free trade zone before the start of operations.

9.11. Offshore Free Trade Zones

In order to obtain the declaration of existence of an offshore permanent free trade zone, the operator of the contract signed with the National Hydrocarbons Agency (hereinafter “ANH”), must submit the corresponding request to the competent authority.

9.11.1 Area requirements.

• The area requested must correspond to the area or areas assigned in one or more contracts signed with the ANH.

• It may include continental or insular areas to develop logistics, compression, transformation, gas liquefaction activities and activities directly related to the offshore hydrocarbon sector.

• The minimum area and continuity requirement for free trade zones does not apply to the declaration of existence of offshore permanent free trade zones.

[8] Natural or legal persons that use defined areas will not benefit from the free trade regime, and the goods that they acquire in the provision of said professional services and linked activities are not covered by the benefits stablished for the users of free trade zones and must be recorded and authorized by the Operator User.

[9] A port area is considered a physical space delimited by private and public areas that enable the development of port activities and port infrastructure, either maritime or riverine. The port area includes the terrains that correspond to public use zones (land and water, beaches, accessory zones and low ebb terrain) and the adjacent terrains (neighboring terrain and accessory zones) with the exclusive right to perform port activities.

[10] Requirement of article 2 of Law 1004 of 2005 “through which a special regime for the promotion of investment is modified and other provisions.”

[11] If legal persons certify current fixed assets inferior to 500 smmlv or USD $ 122.952, new investments will not be a requirement, instead they will have the commitment of generating at least 3 direct and formal jobs when the project is commissioned, 2 additional jobs for the second year, and 2 additional jobs for the third, for a total of 7 jobs.

9.11.2 General requirements to obtain the declaration of existence of permanent offshore free trade zones

• Copy of the contract or contracts signed with the ANH.

• Certificate of incorporation and legal representation for a legal entity that will exclusively develop its corporate purpose within one or more free trade zones.

• Within 6 years from the declaration of existence, invest an amount equal to or greater than the value to be cashed when filing the application for declaration of the free trade zone in each contract signed with the ANH that includes the offshore permanent free trade zone; And create and maintain at least 30 new direct jobs.

• The job creation requirement may be certified at any time during the first 6 years. This commitment must be maintained from the end of the 6th year of the declaration of a permanent offshore free trade zone until its end.

• Poses a assessment report of the property titles of the continental or insular area of the permanent free trade zone, on which the project will be physically developed.

• Environmental licenses or permits required to carry out technical assessment, exploration and production activities related to the production of offshore hydrocarbons and their related activities, they shall be enforceable in accordance with current environmental regulations.

• For the continental or insular area, attach the certificate of conveyance for the lands that are part of the area that is under request to be declared as a permanent free trade zone.

• Certification of public service availability.

• Present a schedule that details compliance with the sealing of 100% of the continental or insular area.

• Postulate the legal entity that will perform the functions of Operator User of the Permanent Free Trade Zone.

It is important to note that for the Offshore Free Trade Zones do not require the minimum of 5 qualified Users. Likewise, the new investment may be certified with the costs and expenses associated with the execution of the contract or contracts signed with the ANH.

9.11.3 User recognition

In the act of declaring the existence of an offshore permanent free trade zone, the operator of the contract signed with the ANH will be recognized as an industrial user of the permanent free trade zone and the operator user will be authorized.

9.11.4 Terms of declaration by the POFTZ

The declaration of existence of a POFTZ will be carried out for the same period as the contract signed with the ANH. This declaration period will be extended when the contract signed with the ANH is subject to extension, modification or when the contract is converted.

10. Loss of Free Trade Zone Declaration

Loss of Free Trade Zone Declaration

The reasons for the Ministry of Commerce, Industry and Tourism to declare the termination of declaration of existence of a Free Trade Zone.

10.1. Permanent Free Trade Zone

• When 100% of the area declared a PFTZ is not sealed prior to the beginning of operations, or when it is not kept so during the PFTZ period.

• When, at the end of the fifth year of the declaration, the Industrial Users of goods or services or Operator User have not made a new investment equal to or greater than 46.000 MMLW or USD $ 11.311.660.

• When at the end of the fifth year of the declaration of PFTZ, there are less than 5 Industrial Users of goods or services installed in the PFTZ.

• When less than 5 Industrial Users of Goods or Services do not remain after the beginning of the sixth year of declaration.

• When an extension has been authorized and the commitments made have not been fulfilled in the indicated terms.

• When the investment and employment commitments contemplated by the Master Plan have not fulfilled.

• When the project deviates substantially from what was approved in the General Development Master Plan.

• When the availability of use of the area declared as a permanent free trade zone is not maintained.

• When the investment or job creation commitments approved in the declaration of the offshore permanent free trade zones are not met.

• When the permits, concessions or authorizations that are granted by other entities are terminated and therefore prevent operations.

10.2. Special Permanent Free Trade Zone (SPFTZ) - "Single-Business"

• When 100% of the area declared as SPFTZ is not sealed prior to the start operations, or when it is not kept so during the SPFTZ period.

• When at the end of the third year of the declaration, 100% of the new investment has not been executed.

• When at the end of the third year of the declaration, the commitments regarding new direct and linked employments have not been fulfilled.

• When, from the second year of the project´s commissioning, at least 90% of the new direct jobs committed to under the General Development Master Plan are not maintained.

• When an extension has been authorized but the commitments made have not been fulfilled in accordance to the indicated terms.

• When the project deviates substantially from what was approved in the General Development Master Plan.

• For Free Trade Health Zones, when the health care institution does not start the certification process or is denied such certification.

• When the project deviates substantially from what was approved in the General Development Master Plan.

• When the permits, concessions or authorizations that are granted by other entities are terminated and therefore prevent operations.

10.3. Waiver of the Permanent Free Trade Zone declaration

The operator user of a permanent free trade zone may waive the declaration of existence of the permanent free trade zone by means of a justified request accompanied by the documents proving that the industrial and commercial users are aware of the operator´s intention of waiving the declaration. In this case, the Ministry of Commerce, Industry and Tourism will resolve the request.

10.4. Waiver of the declaration of existence of special permanent free trade zone

The industrial user of a special permanent free trade zone may waive the declaration of existence as a free trade zone through a request to the Ministry of Commerce, Industry and Tourism.

10.5. Loss of declaration of existence as a POFTZ

In addition to the grounds mentioned below, the termination of all contracts signed with the ANH that are included in the declaration as a permanent offshore free trade zone, are a cause of loss of declaration of existence as POFTZ.

11. Extension, Expansion and Reduction of Areas declared as Free Trade Zones

The Ministry of Commerce, Industry and Tourism may authorize the expansion of the geographical areas declared as free trade zones, when one of the following events occurs:

a) When an event that constitutes a fortuitous event or force majeure occurs, which modifies the conditions initially presented by the applicant.

b) When the request translates into an increase of the project´s efficiency, expressed in terms of job creation and investment. This will only apply when the applicant has achieved more than 80% of the investment and job creation commitments and executed 100% of the infrastructure.

c) In the case the land is located in seaports, airports or military installations for the development of construction, repair, and maintenance of ships or aircraft industrial activities.

d) When Special Permanent Free Trade Zones related to the hydrocarbon sector need to perform logistic, manipulation and storage activities related to products necessary to the hydrocarbon industry.

11.1. Characteristics of the new expansion area

a) It must be capable of having basic infrastructure for industrial, commercial or service activities.

b) The activities in the area must not be the same as those planned to be furthered and it must involve new investments.

c) The area selected for expansion must be adjacent to the lands declared as Free Trade Zone.

d) It must be continuous, with certain exceptions.

11.2. Request of area expansion

The Operator User must submit a written request to the Ministry of Commerce, Industry and Tourism, accompanied by the following documents:

a) Topographical and photographic plan with the location and precise delimitation of the area.

b) Submit the additional project of the approved General Development Master Plan of the Free Trade Zone.

c) Attach technical, economic, financial, market and legal feasibility studies.

c) Certify the established requirements for the declaration of free trade zones (That the project - develop through the declaration of existence of the free trade zone - is in accordance with the municipal or district development plan, that the area intended to be declared a free trade zone may be equipped with public utilities and that the project complies with the environmental authority´s requirements).

e) Certify that the petitioner is not in breach of the commitments acquired in the area initially declared as a free trade zone.

f) The activities in the area of expansion must not be the same as those planned to be furthered and must involve new investments.

11.3. Area expansion

The Ministry of Commerce, Industry and Tourism may extend to several delimited geographical areas the declaration of existence of a Special Permanent Service Free Trade Zone that does not involve movement of cargo, provided that the respective request for area expansion is submitted with the request for the declaration of free trade zone, and the Intersectoral Commission of Free Trade Zones previously gives its favorable concept.

When the request for expansion is made in relation to a Special Permanent Service Free Trade Zone involving cargo movement, it needs the DIAN´s prior pronouncement before the Intersectoral Commission of Free Trade Zone issues its corresponding concept.

11.4. Area reduction

The reduction of the areas declared as Free Trade Zones will be subject to the occurrence of any of the following circumstances:

a) When an event that constitutes a fortuitous event or force majeure occurs and which modifies the conditions initially presented by the applicant.

b) If, for a period exceeding one year, there are no applications for the installation of new industrial or commercial users.

c) When, due to acts or facts after the declaration of existence of a free trade zone, it is proven that it is impossible to develop the portion of area requested to be reduced- It must be duly justified and technically proven[12].

11.4.1. Request of area reduction

In order to request the reduction of the area of a Free Trade Zone, the Operator User or the Industrial User shall

submit a written request to the Ministry of Commerce, Industry and Tourism accompanied by the following documents:

a) Topographic map in which the area to be excluded and the area that will retain the status of Free Trade Zone are precisely determined, with a description of the new Boundaries.

b) Substantiating the circumstance that make the reduction necessary for the reasons indicated in the previous article.

c) Submit a document signed by the legal representative of the Operator User or the Industrial User, as the case may be, in which it commits itself to seal of the free trade zone area that comes as a result of the reduction.

11.4.2 Procedure for the authorization of expansions, extensions and reductions of areas declared as free trade zones

• The Ministry of Commerce, Industry and Tourism must review the application for expansion, extension or reduction of the area, within 15 business days after it is filed, along with its supporting documents in order to determine compliance with the requirements of each case .

• The content of the request will be reviewed and verified and a technical visit to the area of land object of the extension, expansion or reduction will be made, within 2 months from the filing of the request.

• Once the application has been analyzed and the technical visit have been carried out, if the project does not meet the legal requirements, the applicant will be required to provide documents or information that must complement, add, clarify or adjust.

If the applicant does not submit all of the documents or information required within a period of 1 month from the announcement of the request, it will be understood that he has withdrawn the application.

The petitioner may request a single extension for up to a term equal to that initially granted, before the initial term expires.

• Once all the information and concepts requested have been obtained, the Ministry of Commerce, Industry and Tourism will proceed to resolve the request for area extension, expansion or reduction, for which it will issue the corresponding administrative act.

[12] The area reduction will not entail a lessening of the investment and job creation commitments acquired with the declaration of a Free Trade Zone. The new area will not be inferior to the minimal required area.

Foreign Trade Operations

12.1. Customs Authority

The DIAN is the entity that monitors and controls the customs, tax and monetary exchange conduct of the foreign trade operations of the users installed in the free trade zones.

The free trade zone will allocate the necessary personnel to carry out the tasks of the customs authority, for which the Operator or Administrative User must adapt offices within the free trade zone for exclusive use of the customs office.

It is important to add that the customs authority of the free trade zone will have the following powers:

(I) Review the information of the operator´s inventory control system,

(II) May physically inspect goods at users' premises, applying the risk management system criteria, and

(III) It will be able to check the vehicles that enter and leave the facilities of the free trade zone, among other aspects.

For the purposes of applying custom´s legislation and formalities, free trade zone users are considered foreign trade operators.

12.2. Warranty

The operator user, within a month following the administrative act that establishes the existence of the free trade zone, shall constitute and deliver a comprehensive warranty in favor of the Nation, for an amount equivalent to 100,000 Units of Tax Value (UVT), whose purpose will be to insure the payment of duties and taxes, penalties and interests that may arise as a result of non-compliance with the obligations and responsibilities as the operator user of the free trade zone. Once the warranty is accepted, the operator user can begin activities and the DIAN will issue the respective identification code for the free trade zone.

The warranties must remain in force for the duration of the authorization as operator user or administrative user of the free trade zone.

The conditions of these warranties are established in article 88 of Decree 2147 of 2016.

12.3. Special customs operations for the exiting of goods from the national customs territory towards a free trade zone

Goods may temporarily leave the national customs territory if they are destined to an industrial user of a free trade zone under the following conditions:

- Goods exempted from import duties and taxes, temporary admission for re-export in the same state, temporary admission for transformation, production, manufacturing or processing, transformation and/or assembly or temporary import of leased goods or under a leasing contract, in order to be subjected to technical tests, sub-assembly processes, maintenance, repair or replacement in the free trade zone.

- Goods destined to free trade zones for supported by the operations that require a documented justification and this does not imply the end of the customs regime under which they were in the national customs territory.

12. Foreign Trade Operations

12.4. Treatment of merchandise that leaves a free trade zone, destined to the rest of the world

The sale and exit of produced, processed, transformed or stored goods by industrial and commercial users to other countries is considered an export, and hence the respective cargo movement forms will be required.

12.5. Treatment of merchandise that leaves a free trade zone, destined to the rest of the national customs territory

Introducing goods into the rest of the national customs territory from a free trade zone is an import that will be subject to customs´ regimes and formalities provided for in the customs regulations, without prejudice to the processing and authorization of the respective forms.

When goods made with 100% raw materials or domestic inputs or in free circulation leave the national customs territory, the following documents are mandatory:

- The elaboration and authorization of the goods-movement-form;
- An integration certificate together with the import declaration.

Temporary introduction of goods from a free trade zone[13] into the rest of the national customs territory is not an import, provided that the appropriate procedure is complied with.

In case of animals, plants, their regulated products and other goods, the corresponding sanitary and phytosanitary inspection certificates must be on hand.

[13] Raw materials, inputs and intermediate goods in order perform technical tests or part of the industrial goods or services process.

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