

Trade Policy Review Body  
30 and 31 May 2000

## TRADE POLICY REVIEW

PERU

### Minutes of Meeting

*Chairperson: H.E. Mr. Iftekhar Ahmed Chowdhury (Bangladesh)*

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## **I. INTRODUCTORY REMARKS BY THE CHAIRPERSON**

1. The second Trade Policy Review of Peru was held on 30 and 31 May 2000. The Chairperson, Ambassador Iftekhar Ahmed Chowdhury of Bangladesh, welcomed the delegation of Peru, led by Vice Ministers Rosario Almenara de Pezo and Alfredo Ferrero, and the discussant, Mr. Vassili Notis (Greece). As usual, the discussant would speak in his personal capacity and not as representative of his country. In accordance with the established procedures, the discussant had made available, in advance, an outline of the main issues he intended to raise.

2. The Chairperson recalled the purpose of the Trade Policy Reviews and the main elements of the procedures for the meeting. The report by the Government of Peru was contained in document WT/TPR/G/69 and that of the WTO Secretariat in document WT/TPR/S/69; the main issues to be raised by the discussant were contained in document WT/TPR/D/49. Copies of advance written questions, submitted by Canada; Thailand; New Zealand; Hong Kong, China; Switzerland; the European Union; Japan; the United States; the Republic of Korea; and Bolivia, had been transmitted to the delegation of Peru. These questions along with written responses to these and other questions raised during the meeting are contained at Annex. If full replies could not be provided during the meeting supplementary written replies could be provided later.

## **II. OPENING STATEMENT BY THE REPRESENTATIVE OF PERU**

1. The representative of Peru stated that since the first Peruvian Trade Policy Review in 1994, which had described the economic policy followed by the country since 1990, the Government had continued to apply the Stabilization and Structural Reform Programme, which had led to consolidation of the economic model and of economic and trade reforms.

2. The objective of Peru's economic policy was to continue to strengthen the economic stability achieved through the application of solid macroeconomic policies that would raise the standard of living and, in particular, make for development and well-being.

3. The objective of Peru's trade policy was to improve integration into the world economy, boost the competitiveness of exports, promote investment, gain better access for Peruvian products, and seek new market niches.

4. Despite the impact of outside factors on the Peruvian economy, Peru's Government had maintained the same lines of action in its economic and trade policy during 1998 and 1999, which reflected their clarity and predictability.

5. The results for 1999 and thus far in 2000 pointed to a recovery in the Peruvian economy. Economic policy had brought inflation down to international levels and had resulted in positive growth in GDP; good medium-term results were anticipated.

### **(1) ECONOMIC ENVIRONMENT**

6. Since 1990, the pillars of stabilization and growth in the Peruvian economy had been the application of solid macroeconomic policies and a deep and broad programme of structural reforms.

7. The stabilization programme was based on strict fiscal discipline, prudent monetary policy and a flexible exchange rate. Over the last six years, Peru had continued a reform programme intended to boost productivity and promote competitiveness.

8. The reforms undertaken by the Peruvian Government, complemented by a suitable legal environment, meant that Peru was considered to be a good place to invest.

9. The main reforms in recent years included: systematic liberalization of trade in goods and services and capital; equal treatment for domestic and foreign investment; a flexible labour market; an aggressive and transparent privatization programme; financial sector reform; reform of the pension and social security system; and a wide-ranging and focused poverty-reduction strategy.

10. As a result of this broad programme of structural reforms and exchange and trade liberalization: trade and foreign investment had grown significantly; GDP had grown by an average of 5.7% a year between 1993 and 1999 - this growth had been driven by investments and exports, which had grown over the same period at real average rates of 6.3% and 9.6% a year, respectively; inflation had been brought down from over 7,000% in 1990 to 3.7% in 1999, the lowest rate in 40 years; international reserves were over US\$8.8 billion or the equivalent of close to 15 months of imports, reflecting the strength of Peru's external accounts.

### **(2) ECONOMIC DEVELOPMENT AND ECONOMIC POLICY RESPONSE**

11. Between 1997 and 1999, the Peruvian economy had been affected by consecutive external shocks and, as a result, the Government had undertaken a series of timely and flexible actions in 1998 and 1999 to reactivate domestic demand, provide sufficient liquidity for the economy, and improve the competitiveness of businesses. First, the Asian crisis had affected the prices of exports. However,

the lower prices had been compensated for by increases in production and export volumes, chiefly on account of investments in the mining sector in earlier years. Then, the El Niño phenomenon, apart from affecting agriculture, fishery, and mining, had destroyed part of the public infrastructure. Preventive works had largely cushioned the adverse economic impact of the phenomenon and, more importantly, saved many human lives. Last, in 1999, when the Peruvian economy was beginning to recover in response to better results in the agriculture, mining and fisheries sectors, problems on the international financial market had led to restricted liquidity, causing a drastic drop in domestic demand in that year.

12. Since the start of the 1990s, the strict fiscal discipline that had been adopted, coupled with growth in government revenues, had led to a reduction in the total deficit of the non-financial public sector. However, there had been a temporary increase in that deficit in 1999, chiefly due to lower revenues owing to slacker domestic demand. The Peruvian Government firmly believed that fiscal discipline had been and would continue to be a key element in its economic success.

13. Monetary policy was still geared to controlling inflation and the Central Bank only intervened in the exchange market to neutralize unexpected fluctuations in the exchange rate. The floating exchange rate had helped to absorb part of the external shocks, while the Peruvian currency, the *nuevo sol*, had depreciated in real terms during 1999, which improved exchange rate parity.

14. Signs of a recovery in the economy and in domestic demand had been apparent since the end of 1999. In 1999, the economy had grown at 3.8% and estimated growth for 2000 was between 4% and 5%.

15. Trade liberalization in the last decade in Peru had led to a significant increase in Peru's trade flows. From 1993 to 1999, total trade had grown on average by 7.6% a year.

16. The economic policy measures, the investments being made, gains in productivity, and increasingly active participation by exporters in international markets had made it possible to promote exports over the last ten years and to enhance their competitiveness, resulting in significant growth in export value and volumes.

17. Peru's exports to countries in the different economic integration blocks to which Peru belonged had increased in recent years, giving Peruvian products access to new markets and permitting exports to diversify.

18. From 1993 to 1999, exports had grown from US\$3.5 billion to US\$6.1 billion, an increase of 74% over the period. Exports had shrunk in 1998 owing to deterioration in the prices of Peru's main exports and lower fish meal and fish oil exports on account of El Niño.

19. Peru's imports had also grown, by some of 63% between 1993 and 1999, largely in the form of inputs and capital goods, particularly for industry.

20. The structural reforms and the stabilization programme applied to the Peruvian economy, coupled with the establishment of a legal framework for investment promotion and protection had made for a substantial increase in foreign investment flows into Peru in recent years.

21. The stock of registered direct foreign investment had grown from US\$1.642 billion in December 1993 to US\$8.573 billion in December 1999. At December 1999, direct foreign investment pending registration was US\$4.4 billion and foreign investment in the stock exchange was US\$2.7 million, or 32% of total trading on the exchange.

22. Total foreign investment in Peru including the registered stock, investments pending registration, and stock market investments had amounted to US\$15.673 billion in December 1999 and investments in the coming years were estimated at US\$12.426 billion.

23. One important aspect in the recovery of Peru's economy during the 1990s had been regularization of relations with its foreign creditors and the restructuring of foreign debt.

24. Peru's economic recovery had also coincided with an improvement in social indicators, such as poverty indexes, illiteracy rates, access to basic services, and the infant mortality and life expectancy rates.

25. In 2000, real growth in GDP was forecasted at between 4% and 5%, inflation at between 3.5% and 4% and the current account deficit at about 4% of GDP. The privatization and concession programmes would continue, with the goal of improving the efficiency and competitiveness of the economy. Peru was also committed to giving continued priority to improvements in social indicators.

26. Peru's medium-term objectives were: sustained economic growth until GDP growth was above 6% a year; reduction in inflation to international levels; reduction in the current account deficit; elimination of extreme poverty and reduction in poverty levels. The Peruvian economic programme would maintain macroeconomic stability and consolidate structural reforms, with the goal of achieving sustained growth in the medium term.

27. In this context of structural reforms and macroeconomic policies in effect since the start of the last decade, Peru's trade policy should consolidate the process of liberalizing its trading system. The objective of trade policy was to create incentives that would permit the efficient allocation of resources and promote the development of economic activities in response to market signals.

28. Peruvian legislation contributed to the free flow of goods and services, chiefly through the wide-spread liberalization of foreign trade and capital flows and the similar treatment of domestic and foreign investment enshrined in Peru's constitution.

29. The economic policy applied over the last decade had been aimed at achieving a more open economy, with macroeconomic stability. The strength of Peru's economy had been an important factor in preventing liberalization from being affected by the external shocks of recent years. Since 1999, the export sector had recovered to its level prior to the crisis and, in general, the economy was recovering.

30. To assure the continuation of fiscal prudence in the medium term, in December 1999 Peru had passed the Law on Fiscal Prudence and Transparency, whose main objective was to ensure fiscal balances or surpluses in the medium term by building up surpluses in good times and running moderate and non-recurrent deficits in periods of slower growth.

31. The macro-fiscal rules contained in that law established ceilings on: the annual fiscal deficit of the consolidated public sector, at not more than 1% of GDP; annual increases in non-financial spending by the general government, not exceeding the annual inflation rate plus two percentage points; and increases in public borrowing. As a transitory measure, in 2000, the maximum deficit was set at more than 2% of GDP and at 1.5% for 2001. The law also directed that a fiscal stabilization fund be established.

32. Enabling regulations to the Law on Fiscal Prudence and Transparency, which had been passed recently, established guidelines for the preparation and implementation of a multi-year macroeconomic framework and observance of the macro-fiscal rules established in that law, as well as the provisions relating to the fiscal stabilization fund.

33. The Peruvian Government would continue to maintain the macroeconomic stability that had been achieved and would improve domestic savings. Efforts to increase foreign investment in Peru were being made, this was one of main objectives in joining different integration agreements. Another objective was to increase total exports in future from 11% of GDP in 1999 to about 16% in 2006. To that end, Peru would continue efforts to increase and diversify products and markets. An export sector with these characteristics would achieve better results, to the benefit of economic growth, and would have a positive impact on income and employment levels.

34. With respect to world-wide efforts, the representative of Peru hoped that all economies would allow greater access to their markets. This would increase the possibilities of further liberalization on Peru's domestic markets.

35. Peru had a truly open economy reflected in low levels of restrictions, consistent with its obligations as a member of the World Trade Organization. Average tariffs had been lowered from 16% in 1994 to 13.2%. Capital and other resources could move freely, and similar treatment for domestic and foreign capital was the general rule.

36. Peru's main objective was to step up domestic efforts to meet the test of global economic growth and an open multilateral trading system. Based on its experience in participating in different integration agreements, Peru acknowledged the efforts made by each country to find common solutions, so that regional and global growth could take off and grow rapidly and a multilateral trading system could be established.

37. An on-going review of the results of the multilateral system for Members' economies, coupled with measures to accelerate greater openness, would contribute to global liberalization. This would make it easier to show, repeatedly, the benefits of trade liberalization and should be a permanent effort. Peru was committed to an open system of foreign trade, with low tariffs and the free movement of capital.

38. The efforts of each country to open up more rapidly would mean that little-by-little all the members would contribute to the liberalization of trade and investments. Efforts to maintain a sound and prudent economic policy with a view to stable economic growth would also contribute to these objectives. Accordingly, the WTO's Trade Policy Reviews contributed to these objectives and made it possible to evaluate and collectively appraise the full range of trade policies and practices of the different Members and their impact on the functioning of the multilateral trade system. They also allowed for greater transparency and a better understanding of the trade policies and practices of Members.

39. In this context, Peru would continue working to consolidate: macroeconomic stability and sustained growth as a necessary condition for improving the country's productivity and competitiveness; growth and diversification in exports to pave the way for production with higher value added; increased domestic and foreign investment to achieve higher employment levels and a significant reduction in poverty, thereby assuring that the people would share in the benefits of the economic growth that stemmed from trade liberalization.

40. Peru had complied with its commitments under the Uruguay Round, incorporating the agreements into its national body of laws and adjusting its domestic legislation in areas such as anti-dumping and subsidies, among others. Peru would continue to comply with its commitments. Since 1 April 2000, Peru had been applying the WTO Agreement on Customs Valuation to 100% of its merchandise imports.

41. In the framework of a system of free trade and the free movement of capital, Peru would continue to seek ways to improve its participation in all the trade organizations to which it belonged, in an integrated context. Peru's positions should be viewed as more than just its economic policy;

they were also its positions on trade with other countries and the positions of its partners with third countries.

42. Peru was part of an increasingly globalized world from which it could not withdraw. Prudence in economic management and perseverance in working towards the objectives of the economic programme that had helped give credibility to the Peruvian Government's economic policy would continue. This would permit effective management of its macroeconomic policy and constituted a fundamental element for investment and integration into the world economy.

43. Peru was particularly interested in the continued improvement of the multilateral trading system. The benefits that had accrued from complying with its commitments, particularly over the last six years, had meant more investments, greater competitiveness, and better trading opportunities for Peru.

### (3) TRADE POLICY

44. The Peruvian economy had become increasingly open in recent years, accompanied by consolidation of the economic and trade model and reforms. These reforms had had a major influence on Peru's economic results and on its international trade relations. Peru would continue to apply policies designed to create a more efficient, export-oriented economy.

45. In this context, the objective of trade policy was to help lay the groundwork for sustained growth and modernization of the Peruvian economy, seeking to boost its efficiency and productivity in order to assure its internal and external competitiveness. Peru's trade policy of openness and liberalization was also aimed at achieving better integration of the country in the world economy, in order to reap the benefits of specialization on the international market.

46. Peru's lines of action for achieving these objectives were aimed at winning greater market access for its products. To that end, the Peruvian authorities were undertaking negotiations with a clear strategic vision: consolidation of their country's openness and creation of short-, medium- and long-term opportunities to gradually maximize Peru's access to markets – from the simplest to the most sophisticated – while achieving competitiveness through increasingly diversified exports with higher value added.

47. It was also particularly important for Peru to build up an international trade environment that was stable, transparent and predictable, which allowed for increased access for Peruvian exports to the international market.

48. Accordingly, Peru had not surrendered to protectionist pressures during the various international crises and natural disasters that had affected the country, and had continued the work of liberalizing the economy and complying with its international commitments.

### (4) PERU AND WTO

49. Peru had been a contracting party to the GATT since 1951, and in 1995 it had become an original Member of WTO. The legal framework established in the WTO constituted a fundamental element of Peru's trade policy. Peru had made the necessary adjustments in its domestic legislation to comply with the commitments stemming from the Agreements. Since 1 April 2000, Peru had been applying WTO Agreement on Customs Valuation to all imported merchandise.

50. Peru would continue to participate actively in all matters related to WTO, and to work towards the next negotiations to be held in this forum.



51. In this regard, although the Ministerial Conference in Seattle had been unable to achieve the objective of launching a new round of multilateral trade negotiations, awareness had been heightened of the need to strengthen mechanisms for internal transparency in WTO negotiations, in response to the deep concerns of developing countries. This was essential for the future, since the revision and design of an appropriate decision-making mechanism that guaranteed equitable and efficient participation by all the Members would allow Peru to make the most of the system's benefits. The representative reiterated Peru's conviction that consensus was and should continue to be the principal basis for WTO decision making.

52. During the preparations for the Seattle Conference, Peru had been able to present proposals and discuss key issues for its development, such as recognition of the economic and commercial value of the traditional knowledge of local and indigenous communities in intellectual property rights. This was a fundamental issue for the future of Peru, which required further analysis and regulation at the multilateral level.

53. On the other hand, it was essential to provide support for Peru's efforts to open up its economy by liberalizing access to the markets of its trading partners. In particular, exports of some Peruvian products encountered problems with access to certain markets. In 1992, Peru had applied to export citrus fruit to the United States, when it had complied with the conditions established by the Animal and Plant Health Inspection Service but to date no decision had been reached. Another case was exports of vicuña products. In 1995, Peru had asked the United States to reclassify vicuña to permit imports of products made with that fibre, in accordance with the CITES Convention. Despite having pursued the matter in Washington, the case had not yet been settled.

54. A further example of difficulties in market access was the discriminatory treatment in the trade description imposed by the European Union on Peruvian sardines in comparison with Spanish sardines, arguing that there were differences in the quality of the product which lowered the commercial value of Peruvian sardines.

55. In the context of the world-wide process of globalization and interdependency of economies, integration through modern and open schemes played a highly important role in the development of the economies and, hence, in the development of people.

56. Latin America and Peru, in particular, had participated actively in these trends. In recent years, new integration processes had been developed and existing ones had been modernized. Agreements had been signed on the creation of free-trade zones between two or more countries.

57. Peru was a member of the Andean Community, together with Bolivia, Colombia, Ecuador, and Venezuela. Programme and institutional reforms had been carried out under this subregional integration scheme, intended to deepen the integration process, harmonize economic policies, and define common social policies that would raise the standard of living. Rules had been adopted to create equity and transparency in competition, with a view to consolidating this progress.

58. Great importance had been attached to the external projection of the Andean Community, and its members were negotiating as a block with Central America, Panama, the MERCOSUR countries, and FTAA. As part of the Andean Community, Peru had negotiated an Economic Complementarity Agreement with Brazil and an agreement on fixed preferences with Argentina, which was virtually finalized and was expected to come into force in July 2000.

59. Under the Latin American Integration Association (LAIA), an Economic Complementarity Agreement between Peru and Chile had been signed in 1998, which would permit a free trade zone to be established. The agreement set clear and permanent rules for trade between the two countries, which would facilitate bilateral investments and complementarity, thereby spurring the competitiveness of both economies. The bilateral agreement with Mexico has also been reinforced.

60. In the hemispheric context, Peru had been participating very actively in the process of building the Free Trade Area of the Americas (FTAA). The negotiations had been launched in 1994 and were expected to culminate in 2005. The FTAA was clearly a major challenge for Peru, which was becoming more involved each day in this promising task. The benefits Peru expected to reap from the process would be apparent in the medium term, through better access for Peru's exports to an expanded market of over 800 million people. Peru's hemispheric negotiating strategy sought to facilitate the entry of investments in both goods and services and to develop infrastructure to achieve the competitiveness necessary to make the most of them. The representative highlighted the participation to this forum of the Andean Community under a unified voice.

61. The Asian-Pacific region was of vital importance for Peru's economic and trade development. Peru had been a full member of the Asia-Pacific Economic Cooperation (APEC) forum since November 1998. The forum had evolved with the needs of its members to create a cooperation community that promoted the free flow of goods, services, and investments. Peru had a vision of development based on the exchange of technologies, experiences, investments and trade that would continually lead to higher productivity in Peruvian economy, thereby making it more competitive and efficient on the international level.

62. In the long run, the representative believed that Peru would be the APEC partner that facilitated trade and investments between the economies of Asia and South America, on account of its geographic position, its economic progress, and its trade links.

63. The trade policy followed in recent years had permitted Peru to make progress in diversifying its foreign markets and export structure.

64. Among Peru's trading partners, the United States accounted for about 28% of total trade, which had been facilitated by the Andean Trade Preferences Act. The European Union and the LAIA countries were also important trading partners, accounting for 21% and 24% respectively. Total trade with the Asian countries was 13%; Japan (5.5%), the People's Republic of China (3.6%) and Korea (2.1%) were the largest partners.

65. Peru's exports had grown by 33% since 1994. The structure of exports had not changed, with traditional exports accounting for about 68%. In this group, mining and fish products accounted for 49% and 9.8% respectively. However, in non-traditional exports, both textiles and chemicals had been very dynamic in recent years, reflecting progress in exports of products with higher value added; textiles had grown by 45% over 1994 levels.

66. Peru was convinced that openness helped to make its economy more competitive.

## (5) CONCLUSION

67. Peru's economic policy would continue to have the objectives of sustained growth in GDP, consolidation of external sustainability and low inflation, as a contribution to the country's economic and social progress. In an environment of free trade and free movement of capital, Peru would continue to strengthen its role in all the trade organizations to which it belonged.

68. Peru confirmed its commitment to the multilateral trading system while also promoting regional integration and, in consequence, it believed in open regionalism. Peru's objective was to integrate into the world in a competitive fashion and, to that end, it attached great importance to the processes in which it was involved. Also, opening up the Peruvian economy by lowering tariffs, eliminating subsidies, and stressing free competition and non-discrimination against foreign investments had given a vision of the future that had led Peru to consolidate the economic reforms and make its products more competitive, thereby promoting economic development and, hence, that of the Peruvian people.

### III. STATEMENT BY THE DISCUSSANT

69. The discussant, noted that, in general, Peru had experienced a positive economic development process during the 1990s. Over the period, Peru had pursued a policy of privatization and sweeping economic reforms with notable success: GDP had grown by 5.6% a year between 1993 and 1999 in a climate of consecutive and substantial reduction of inflation, which had fallen from 23.7% in 1994 to 3.5% in 1999, accompanied by a reduction in the overall public sector deficit from 2.4% to 0.7%.

70. Peru received substantial direct foreign investments, which stimulated the transformation of the economy and helped to boost productivity. The success of structural reform, economic stabilization and the establishment of a legal framework for investment promotion and protection had been reflected in a significant increase in foreign investment, which had quintupled since 1993.

#### (1) ECONOMIC AND INSTITUTIONAL ENVIRONMENT

71. Peru's positive economic developments, however, had had a social cost. Real per capita GDP had grown from US\$1,000 in 1990 to US\$2,500 in 1999, but this level was barely equivalent to what it had been in the mid-1960s. However, this should be put into perspective since, according to the Secretariat's report, the GDP estimates should be viewed with caution, given the importance of the informal sector in the economy, which was estimated to account for close to half of total employment in urban areas.

72. The considerable growth in GDP was accompanied in the 1990s by the creation of a substantial number of jobs. However, the Secretariat's report indicated that a simultaneous increase in the labour supply had resulted in a slight rise in unemployment.

73. Despite the increase, the unemployment rate was not at an excessive level today and the situation was probably not of grave concern. However, 37.4% of the economically active population was under-employed. After several years of continued improvements in economic growth rates, the poverty indexes had, unfortunately, not improved significantly. Although there was a slight improvement in certain social well-being indicators, this positive development had been associated with widening regional disparities and a slight increase in income inequality.

74. The discussant asked the Peruvian delegation to comment on these matters and explain these developments in greater detail, particularly the fact that the process of liberalization and economic growth had not had a satisfactory impact on social indicators. He also requested more information on the importance of the informal sector in the economy, since 50% of jobs and probably of GDP originated in that sector, he wondered whether this was compatible with liberalization and modernization.

#### (2) SECTORAL ISSUES

75. The discussant raised several specific sectoral issues. Despite significant growth in GDP during the 1990s, manufacturing activities made only a small contribution to the Peruvian economy. According to the Secretariat Report, they had experienced extensive restructuring owing to an increase in competition from imports. The discussant believed that liberalization and modernization had not favoured the manufacturing sector. He asked the Peruvian delegation to provide an explanation for this phenomenon and an assessment of the impact of this restructuring on jobs and on improvements in social indicators.

76. The fishing industry was very important in Peru, accounting for 2.5% of GDP and about 9.8% of total export earnings. The country was the world's largest producer and exporter of fish meal and fish oil. According to the Secretariat Report, privatization of the sector had led to major investments to replace vessels and develop new activities. But it appeared that this process had led to major

problems of over-investment and over-capacity, related to the Government's support programmes, which made fishermen reluctant to leave the industry, and the resource-management system. The report also mentioned that the problem of over-capacity, coupled with the high debt level and a marked reduction in the catch in 1998, had put the fishing industry under strong pressure. A substantial part of the debt appeared to have been contracted by private fishing companies to acquire installations from the main State-owned corporation during the privatization process. The private companies were asking the authorities to establish a plan to finance a reduction in the fleet. The discussant asked the Peruvian delegation to give its assessment of the prospects for the fishing sector.

77. Peru produced a considerable amount of coca leaf and derived products. Most was exported. Domestic production of coca leaf had dropped from 165,000 tonnes to 95,600 tonnes in recent years. However, Peru's share in world production of coca leaf production continued to be over 40%. Peru's anti-drug strategy had received support from the international community, for example through trade preferences granted by the European Union and the United States to Peruvian exports to foster alternatives to coca leaf such as asparagus and coffee. However, according to the Secretariat Report, to consolidate the results already obtained, it was estimated that a further US\$1 billion investment would be needed in the 1999-2003 period. The Peruvian Government had allocated investments of some US\$660 million for this purpose and had appealed to the international community to make up the difference. According to the Report, donors had only pledged an additional US\$56 million. The discussant requested more information on this matter, not just from Peru's delegation.

78. The Government's role as a major services supplier had shrunk drastically. The ambitious privatization programme had introduced important structural changes in most service areas. Peru had undertaken very broad commitments under the General Agreement on Trade in Services, which had been subsequently extended to the telecommunications sector. The commitments regarding telecommunications services were particularly broad. Sector-specific exemptions to MFN treatment, regarding in particular land and maritime transport, were indefinite in duration. Fortunately, the clause on cargo reserve had been eliminated. However, MFN treatment, was not guaranteed because a reciprocity clause stipulated that participation by foreign companies in Peru's transport sector were to be equivalent to the participation to which Peruvian companies were entitled in foreign countries. The discussant wondered why bilateral agreements and the principle of reciprocity continued in maritime transport. He asked for Peru's position regarding the current negotiations on trade in services.

### (3) TRADE POLICY AND PRACTICES

79. The Peruvian authorities had expressed their satisfaction with the strengthening of the multilateral trading system and its greater transparency and predictability. However, they had pointed out that in some areas, the real results had not met the expectations raised at the end of the Uruguay Round. In particular, they had expressed concern in sectors such as agriculture, textiles, and clothing owing to the limited level of liberalization that had been achieved. The authorities had also mentioned that the weakness of disciplines for the adoption of anti-dumping measures were leading to abuse of this instrument for protectionist purposes. Although a new round of multilateral negotiations would probably be a better setting for a discussion of problems of this kind, the discussant was particularly interested in the Peruvian delegation's opinion on this phenomenon and, more generally, in learning Peru's position on future negotiations.

80. According to the Secretariat, Peru maintained a relatively open trading system, which reflected the broad programme of trade liberalization undertaken in the early 1990s. Average MFN tariffs had fallen slightly, to 13.6% in 1996. Peru had bound the vast majority of its tariffs at a ceiling of 30%. The discussant pointed out that the bound rates were generally higher than the applied rates and the wide margin between applied and bound rates, as well as variable specific duties, undermined Peru's commitments. He asked whether the authorities planned in the near future to bind their tariffs at a lower level.

81. The use of non-tariff barriers appeared to be limited, except in rules pertaining to national content. There were also a number of provisions that favoured national suppliers in public contracting and the use of tax incentives in regional, sectoral, and social policies. Peru applied national-content requirements to different government nutrition programmes and others, with the goal of promoting and developing certain dairy-industry products. These restrictions had been notified to the Committee on Trade-Related Investment Measures in 1995 but were apparently still in force and no provisions appeared to have been made for phasing-down or eliminating them. However, the authorities had indicated that the measures had not been implemented in practice nor had attempts been made to enforce them. The discussant asked the Peruvian authorities to comment on this and to describe any future plans they had in this area.

82. Peru's free zones and other special fiscal zones had been intended as regional development instruments: they were generally located in remote and economically depressed areas. In their initial form, many of those zones had fallen short of their developmental goals. Of the six industrial and two trade zones originally created only two were active in 1996. New decrees had established new zones. The main fiscal incentive was conditional on export performance. According to the information provided in the Secretariat Report, the scope and complexity of the fiscal incentives raised some concern. The discussant requested the Peruvian delegation to provide more information on the nature of these trade measures and whether they would continue to be applied.

#### IV. STATEMENTS BY MEMBERS OF THE TRADE POLICY REVIEW BODY

83. The representative of the United States noted the progress made by Peru in liberalizing its trade and investment regime over the past decade, and commended Peru for its strong adherence to WTO disciplines and its substantial GATS commitments, although these were narrow in scope compared with the levels of liberalization prevailing in its services sectors. She welcomed the recent enactment of fiscally responsible legislation limiting the government budget deficit to 1% of GDP after 2002. Noting that Peru's economic reform programme had slowed since 1997, the United States urged Peru to renew privatization efforts, especially in the electricity and petroleum sectors, to eliminate remaining distortions to competition and to spur growth. The United States applauded Peru's decision to open its telecommunications sector to full competition in August 1998, however, nearly two years on, the telecommunication regulatory body had yet to set cost-based interconnection rates for two firms seeking to enter Peru's fixed-line telephony sector.

84. She welcomed the reduction of Peru's average tariff rate in April 1997, but noted that tariff dispersion had been increased and several variable tariffs maintained. She urged Peru to follow up on the removal of its variable tariff on wheat by eliminating similar levies on other agricultural products, and wondered how Peru would approach potential tariff increases as a result of the ongoing discussions in the Andean Community on the adoption of a common external tariff. The United States had some concerns about import and export restrictions introduced on certain commodities and urged Peru to minimize these types of bans. Peru's efforts to improve intellectual property rights protection were encouraging. Finally, the United States welcomed recent efforts to ensure that child labour was not employed in Peru's increasingly important gold mining industry, although this apparently took place in informal gold panning, which evaded regulation by the Government. The United States urged Peru to work to ensure that child labour was not employed in the gold industry.

85. The representative of the European Union recalled that it was Peru's second trading partner and its first source of foreign investment ahead of the United States and Japan. Tariff preferences accorded by the EU to the Latin American countries, in the framework of the Generalized System of Preferences, for all industrial products and for a large number of agricultural and fishery products, had contributed to the development of trade relations between the two regions. Specific preferences, given to Andean countries involved in the control of illicit drug traffic and production since 1990, had enabled Peru to diversify its exports and to increase the share of non-traditional exports. Peru was the prime beneficiary of Community aid to Latin America; support amounted to some €50 million annually, focused mainly in the eradication of poverty. The authorities had shown a singular will to sanitise Peru's financial situation, to free up its foreign trade to improve its competitiveness, and to create a legal framework and climate conducive to investment. Peru had demonstrated its commitment to the multilateral system and its confidence in the benefits of the system by the broadness of its commitments on tariffs and on services, and by scrupulous discharge of its obligations, for instance on customs valuation and protection of intellectual property. The EU was particularly pleased that Peru supported a new complete and balanced round of multilateral negotiations, and was willing to work with Peru and other countries in the developing world to ensure their effective and balanced participation in the negotiating process.

86. While Peru's reform efforts had been successful in many areas there remained some weaknesses. Some concerned the processes that were not completed and needed to be continued with the simplification of customs procedures, a reduction of the gap between applied and bound tariff rates, the elimination of certain local-content requirements, the reduction and the rationalization of the various fiscal incentives, and better management of fishing resources. Other weaknesses were related to the excessive dependence of Peru on the exploitation of its natural resources, which made Peru highly sensitive to weather change and to the deterioration of the terms of trade. This situation required redoubling of efforts to develop manufacturing and services firms and to ensure major diversification. Nevertheless Peru's most important challenge was of a political and social nature. Despite of positive signs, recent economic development had not had sufficient impact on poverty

reduction. National income continued to be poorly distributed both regionally and by social class and this exposed the country to the risk of instability and conflict. The European Union believed that incontestable political legitimacy and attention to the fate of disfavoured sectors of the population were essential for Peru to continue with its programme of economic modernization. The European Union encouraged the Peruvian authorities to work in this direction, and would continue to combine support and watchfulness in its relations with Peru.

87. The representative of Canada voiced concerns that, in spite of serious irregularities in the presidential electoral process and the withdrawal of the monitoring mission of the Organization of American States, the Peruvian authorities had proceeded with the second round of voting under conditions that lacked transparency and credibility. The electoral process had fallen short of the standards that Canada and the international community expected. She reiterated Canada's concern regarding Peru's withdrawal from the binding jurisdiction of the Inter-American Court of Human Rights, a decision that sent negative signals to foreign investors, was also reiterated.

88. Canada commended Peru for the results of economic and structural reforms launched in the early 1990s, and progress in economic and trade liberalization since its last review. Canada urged Peru to update the calculation methods used in GDP measurement in order to clarify some confusion. Canada welcomed Peru's commitment to freer trade in bilateral trade agreements with Chile, Mexico and Ecuador, a commendable effort following the historic peace accord signed in 1998 after longstanding border disputes.

89. Canada granted unilateral concessions through General Preferential Tariff schemes and noted that such schemes had contributed to the diversification of Peru's export supply. Peru's investment regime was one of the most liberal and dynamic in Latin America, and that Peru was a growing market for Canadian investments, in particular for mining companies. Efforts were being made to initiate negotiations for a double taxation agreement between Canada and Peru.

90. Peru's privatization and concession programme had played a major role in improving national infrastructure and enhancing the production capacities by attracting private investment. However, both programmes had slowed down in the last two years and Canada encouraged Peru to resume a steady trend of privatization. Canada also noted that there had been several instances where the independence of the judiciary was brought into question with reference to business disputes. Canada had signed a Trade and Investment Cooperation Arrangement with the Andean Community in May 1999. Peru's involvement in trade integration mechanisms at various levels such as of the APEC and the FTAA had progressed. Despite these signs of openness, Canada was concerned that, following the consolidation of Peru's legal framework to enhance the transparency of government procurement procedures, recent provisions had departed from the principle of national treatment. It would be desirable if Peru would join the WTO plurilateral agreement on Government Procurement and further open up its procurement market. Canada looked forward to Peru reaffirming its commitments, not only to liberalized trade, but also to transparent democratic institutions, recognizing their important role in the development of trade and in sustaining investors confidence.

91. The representative of Thailand congratulated Peru for its economic and structural reforms and urged Peru to continue its policy of open trade and investment regimes. The reduction of Peru's applied average tariff was welcomed but high level tariffs were still imposed on some agricultural products including rice and sugar. Moreover, variable specific duties applied on some agricultural products undermined the predictability of the Peru's tariff regime and might not be consistent with Peru's commitments to the WTO. Thailand wondered whether Peru had any plan to remove variable specific duties. Another major concern was Peru's rice policy, in particular the suspension of rice imports since 1998.

92. The representative of New Zealand congratulated Peru on the general stability of its economy and trade regime since its last review. New Zealand welcomed Peru's commitments to a genuinely

open international trading system, in particular through its constructive role in multilateral fora such as APEC and WTO, and regional integration schemes such as the Andean Community and the Latin American Integration Association. New Zealand congratulated Peru for its recent full implementation of the WTO Agreement on Customs Valuation. However, some practices that had a negative effect on trade flows raised concerns. In particular, while the tariff surcharges on agricultural products were designed to provide additional support for domestic agriculture, imposing costs on agricultural exporting nations did not help to make Peruvian agriculture more competitive in the international arena.

93. The representative of Hong Kong, China welcomed the economic results of Peru's liberalization programme and encouraged Peru to continue in that direction. Hong Kong, China also commended Peru for its strong commitment and participation in the multilateral trading system, reflected in particular by the strong commitments made under the GATS Agreement and the full implementation of the Customs Valuation Agreement. Hong Kong, China encouraged Peru to review and reduce various charges such as tariff surcharges, variable specific duties, customs clearance charges, selective consumption tax, and general sales tax, which could substantially raise the nominal rate of protection. Hong Kong, China fully shared Peru's view that a balance and broad-based package of multilateral trade negotiation, paying particular attention to specific needs and concerns of the developing and least developing Members was the best way to maximize gains for all WTO Members.

94. The representative of Switzerland stated that the results of the programme of stabilization and structural reforms carried out in Peru for nearly ten years were very encouraging. Switzerland congratulated the Peruvian authorities on these good macroeconomic results and on setting up an open trading regime and a liberalized exchange market. Efforts made to consolidate the legal and institutional framework were also noted. However some uncertainties and possibilities for improvement remained. Switzerland raised questions concerning various areas, ranging from the level of bound rates to aspects linked to the intellectual property rights, government procurement, incentive measures, and Peru's regional integration. In particular Switzerland wondered whether Peru envisaged reducing the gap between bound and applied rates, adopting the plurilateral Agreement on Government Procurement, and simplifying its incentives system. With respect to regional integration, Switzerland noted the importance of Peru's trade with the United States and the European Union, and wondered whether Peru had plans to conclude free-trade agreements with these partners.

95. The representative of Japan expressed appreciation for Peru's recent efforts in recovering from the financial crisis. Japan also appreciated improvements in the investment environment since the early 1990s. With respect to WTO commitments, Japan welcomed Peru's full implementation of the Customs Valuation Agreement, and requested clarification on the schedule for narrowing the gap between applied and bound rates. Japan was interested in hearing Peru's views on the food security issue; and commended Peru for the results achieved by its anti-drug strategy.

96. The representative of Korea noted that bilateral trade relations with Peru had grown steadily and expected the trend to continue since both countries participated actively in the APEC forum. In this context, Korea wondered whether Peru was considering any specific trade liberalization and/or trade facilitation measures, and if it was contemplating joining the APEC Business Travel Card Plan, which permits the no-visa entry for businessmen, and easier customs clearance. Even though Peru had achieved relatively modest economic progress, it had continuously improved its trade and investment policies in a way that helped its economic regime converge towards international standards. Korea hoped that Peru would continue its reforms, in particular of customs procedures and tariff protection.

97. Virtually all final anti-dumping measures adopted by Peru since 1995 were still in force in December 1999, maintaining such measures might be a violation of Article 11.3 of the GATT 1994 Agreement on Implementation of Article VI. Korea also raised concerns about the apparent violation



of national treatment resulting from the differential levels of excise tax applied to used cars depending on where they had been repaired or reconditioned.

98. The representative of Bolivia highlighted the excellent relations between her country and Peru not only as a result of common history but also because of their joint efforts to established the Andean Community. Bolivia considered it important that Peru's economy had achieved substantial growth and improved social welfare indicators in recent years, and found it encouraging that Peru was considered as a propitious area for foreign investment. Peru could be considered as a good example of a developing country that contributed to the multilateral trading system also through its active participation in regional integration processes. Bolivia shared Peru's interest in protecting the rights of traditional and indigenous communities; Bolivia would work to achieve the incorporation of such protection in the WTO. Bolivia also shared Peru's concerns on market-access issues resulting from measures taken by trade partners which were not always full understandable.

99. The representative of Argentina was pleased to note that Peru's economic reforms had had substantial results, in particular in reducing inflation rate. Argentina shared the belief that the multilateral trading system should be strengthened on the bases of fair competition, the development of comparative advantages, and the reduction of protectionism that would guarantee market access and equitable participation for all members. Argentina encouraged Peru to continue the process of deepening structural reforms, which would enable it to consolidate its integration in the world economy, and to continue efforts towards regional integration. On specific issues, Argentina was concerned by the limitation of the competencies of INDECOPI's Commission for Trade and Technical Regulations in 1996, which apparently resulted in a greater margin of discretionality in the adoption of measures that could be technical barriers to trade. Argentina requested additional information on Peru's trade-related investment measure and national-content requirements for the promotion and development of the dairy industry.

100. The representative of Colombia highlighted the results achieved by Peru through its economic reform process which included unilateral trade liberalization and the deepening of trade relations with the majority of countries in the American continent. Colombia's relations with Peru had been consolidated through the importance of the Andean Community. Colombia commended Peru for its commitment with regard to the principles of the WTO. With respect to issues raised by some delegations referring to current domestic events, Colombia recalled that the purpose of the meeting was limited to the trade policy review of Peru.

101. The representative of Brazil particularly welcomed Peru's positive economic indicators, which, to a large extent, were the result of a sustained political will and commitment to modernizing domestic legislation and internal infrastructure aimed at promoting economic competitiveness. It was important to continue to eliminate remaining impediments to promote greater economic efficiency and therefore enhance international competitiveness of Peruvian producers and exporters. While the improvements achieved so far in terms of welfare indicators were encouraging, much remained to be done. Brazil requested further details with respect to Peru's progressive reintegration since 1994 into the Andean free-trade area following the suspension of its participation into the integration process in August 1992. Brazil also requested additional information on Peru's participation in the APEC forum.

102. The representative of Norway recognized the macroeconomic performance and extensive economic liberalization accomplished by Peru over the last ten years. Substantial tariff cuts on industrial goods, steps taken to eliminate non-tariff trade barriers, customs administration reform, as well as the liberalization of Peru's investment regime were particularly welcomed. However, Norway noted with some concern the introduction of some provisions in government procurement legislation giving preferences to national suppliers. Norway took note of Peru's efforts to ensure a sustainable management of its fisheries resources and hoped that in the future the two countries would share views on ways and means of tackling fishing over-capacity. Norway shared Peru's views on the

initiation of a new round of multilateral trade negotiations as well as its hopes that consensus would be reached on a broad and balanced agenda that meet the interest of all WTO Members.

103. The representative of Uruguay considered Peru an important trading partner, and highlighted the positive results achieved by Peru since the previous Review. Agricultural production had recovered considerably since 1994, which had resulted in a substantial increase in exports of such products. Uruguay shared Peru's attachment to the strengthening of a predictable international trading system based on the development of comparative advantages and on a reduction of protectionism.

104. The representative of Australia commended Peru for its commitments to the full implementation of its Uruguay Round obligations, and reforms taken thus far, noting in particular the elimination of non-tariff barriers and the substantial reductions made to tariff levels. Australia looked forward to the future reduction in bound tariff rates towards applied tariff rate levels. Australia welcomed Peru's open investment regime; Australia ranked fifth in Peru's top sources of investment with the mining sector attracting the bulk of these capital inflows. Australia worked closely with Peru within the WTO and the APEC in pursuing bilateral, regional, and multilateral trade endeavours. Australia particularly acknowledged Peru's strong support for ongoing efforts to commence work in the WTO on subsidies that contribute to fisheries over-capacity and over-fishing. Australia was concerned with the relatively high tariffs applied to dairy products and wondered whether there were any plans for their reduction. Australia also asked for an assessment of the improvement in the competitiveness of Peruvian farmers since the introduction of tariff surcharges, and under what circumstance these surcharges would be abolished.

105. The representative of Cuba recognized Peru's enormous efforts to reform its economy to promote trade and investment on the terms required by the WTO. Cuba acknowledged Peru's success and the economic and social improvements achieved. Peru was suffering from problems of access to important trading partners' markets, which should be removed so that the country could increase its income and better address its social problems. Cuba shared healthy bilateral trade relations with Peru, in particular through their participation in the Latin American Integration Association. Cuba stated that trade policy review mechanism was not intended as a forum to raise labour issues, which should be raised within the context of the ILO. Moreover, Cuba considered that comments on Peru's current electoral process were inappropriate and that such value judgment should not be expressed in the context of the Trade Policy Review Mechanism.

106. The representative of the Czech Republic indicated that Peru's exports benefited from concessions granted by its country under the Generalized System of Preferences. However, mutual trade, especially in the last five years, seemed to be falling. Peru's policy of opening its economy had certainly contributed to achieving positive economic indicators, but it had also facilitated the normalization of relations with foreign creditors and allowed a restructuration of foreign debt. External debt was still one of the most sensitive problems faced by Peru. Czech representative wished every success to Peru in the difficult road ahead to raise economic productivity and welfare. Peru's position in the world market would be helped by strengthening democratic institutions and by taking a series of steps, mentioned in Secretariat and Government reports, for the restructuring of the economy, structural and regional diversification of foreign trade, and which included among other things simplification of customs procedures. Despite the regional integration process, the share of Peru's trade with Andean partners was still relatively modest, the representative wondered whether Peruvian Government expected trade with Andean partners to increase, and under what circumstances, and what measures would be taken to achieve this result. The Czech Republic was confident that further trade policy reforms would lead to a simplification of customs procedures and would thus result in the elimination of unnecessary trade impediments.

107. The representative of Ecuador believed that Peru's efforts to implement its multilateral obligations should be assessed positively by WTO Members, particularly taking into account the difficult and rather hostile environment faced by developing countries such as Peru. Ecuador

appreciated the liberalization of trade and exchange rate, as well as improvements in the investment regime. The recent bilateral agreement was especially welcomed and had created great expectations for both countries as it should allow the re-establishment of past trade-flow levels and the exploitation of economic complementarity. Ecuador also welcomed Peru's decision to reincorporate progressively the Andean integration process. Ecuador encouraged its neighbouring country to further contribute to the trade liberalization within the WTO and the different regional integration processes, in particular with regard to non-tariff barriers applied to agricultural products.

108. The representative of India noted that Peru's generally open trade and investment regime had remained largely stable since 1994. India believed that Peru should seek to diversify its export products into the processed sector to, *inter alia*, help meet the growing demand for imports through increased export earnings. Steps to expand non-factor services had already been taken. In this context, India was interested in an assessment of Peru's experience with horizontal services commitments in mode 4, namely movement of natural persons. India also asked to hear Peru's experience of participation in various regional initiatives and of steps taken in that context to avoid trade diversion.

109. The representative of Chile noted that the consolidation of bilateral relations with Peru was based on three elements. The first was the signing of LAIA Economic Complementarity Agreement in 1998, which had eliminated all tariff duties for some 40% of bilateral trade flows; tariffs on most other products would be fully eliminated within a period of ten years, and a few others (representing some 3% of current trade flows) within an 18-year period. This had resulted in a 10% increase of bilateral trade. Both countries had demonstrated interest in accelerating their integration process, for instance with respect to services, although no progress had been made so far in that area. The second element concerned the air transport regime which, although less open than suggested in Secretariat Report, had allowed a considerable increase of flight frequency between the two capitals as well as the opening of new routes. Bilateral relations had also benefited from a recent agreement on investment promotion and protection, which had resulted in increased guarantees for investors from both countries. Chile recalled the commitment of both countries to preserve maritime resources and to protect the marine environment in high seas of the south-east pacific with special mention to highly migratory species.

110. The representative of Mauritius noted several commonalities with Peru, in particular both were net food importing developing countries and therefore attentive to the issue of food security. Mauritius had voiced several times the common concern that the Marrakech Decision on that issue had yet to yield substantive results. Mauritius also shared a common position with Peru with respect to future negotiations, which should be based on transparent working methods that guaranteed equitable participation of all Members. With respect to intellectual property rights, Mauritius acknowledged that this was a difficult and expensive exercise for developing countries; Peru had given a fairly substantive mandate to INDECOPI, an initiative that should be encouraged. Finally, Mauritius underscored the importance of the concessions granted by developed countries through Generalized System of Preferences schemes.

111. The representative of Venezuela recognized the important efforts made by Peru in its process of economic liberalization and integration in the multilateral trading system. Venezuela expressed its disagreement with Canada's intervention in the context of this review, considering that there were other fora in which domestic policies could be evaluated and discussed. Venezuela believed that it was dangerous to refer to domestic policy behaviour while reviewing Members trade policies.

## **V. REPLIES BY THE REPRESENTATIVES OF PERU AND ADDITIONAL COMMENTS**

112. The meeting was reconvened on 31 May by the Chairperson, Ambassador Iftekhar Ahmed Chowdhury of Bangladesh. The presentation of the representatives of Peru and the subsequent discussion was organized in three parts: economic environment; trade policy by measure, and trade policy by sector.

### **(1) ECONOMIC ENVIRONMENT**

#### **(i) Macroeconomic stabilization**

113. The economic programme applied by the Peruvian Government over recent years had engendered the conditions required for long-term sustained growth on the basis of the application of disciplined fiscal policy, a prudent monetary policy, a floating exchange rate regime, and a growing process of openness and commercial integration. The results for 1999 and the current year showed a recovery of the Peruvian economy after the negative external shocks that had affected Peru in recent years.

114. The main objective of Peru's economic programme was to achieve high sustained growth in the medium term together with low inflation rates, which was believed to be essential for the creation of permanent jobs and reduction of poverty. Peru would continue with an austere fiscal and monetary policy. The approved macroeconomic programme for the next few years reflected Peru's undertaking to provide fiscal balance or surplus in the medium term, which would allow only moderate non-recurrent fiscal deficits during times of lower growth as established in the law on fiscal prudence and transparency approved in December 1999.

115. Sustained medium- and long-term economic growth required increasing national and foreign investment. This was essential to improve the living conditions of the population and to reduce poverty. Macroeconomic stability provided the confidence and safety required for private investment.

#### **(ii) Distribution of income and regional inequalities**

116. The Government of Peru had implemented a social policy essentially designed to reduce poverty. To this end it had implemented programmes to meet the basic needs of the poorest sectors of population in the areas of education, health and nutrition and thus to improve human capital. There had been signs of improvement in Peru's social indicators, such as the poverty and illiteracy ratios, access to basic services, infant mortality, and life expectancy. Economic recovery had helped in this respect. The considerable financial contribution by the State to social services had also borne fruits. Total social spending per capita had increased from US\$65 in 1991 to US\$207 in 1998, i.e. by 218%, while basic social spending (top priority, essential social services - food, health, education, justice, housing, sanitation, energy), had grown from US\$29 in 1991 to US\$146 in 1998.

117. In this connection, the Government had introduced reforms in the role of the State with a clear view to redirecting public spending towards a more efficient use of its resources within the framework of a sustainable fiscal balance and bearing in mind that a priority target of the Government's social policy was the development of the poorest sectors of the population and the fight against poverty. Peru was improving the targeting of social programmes by designing a new instrument for the allocation of social investment resources on the basis of an updated poverty map. In addition, in order to enhance the efficiency of public spending, in particular social spending, a set of performance indicators for the main social programmes was being developed with a view to evaluating their management and their impact on the target population.

## (a) Education

118. In order to improve equitable access of the population to basic social services, special emphasis had been placed on improving the quality of primary education in rural areas. Attendance and retention rates had improved under the educational system, and the focus had shifted towards a substantive improvement in the quality of education. In 1999, primary education coverage had reached 98.5%, while the drop-out rate had decreased by half.

## (b) Health

119. Access to health care had increased six-fold over the decade 1990-2000, from about 8 million at the beginning of the decade to 46 million in 1999. Insurance schemes were being introduced for mothers, new-borns and school children, with priority access to health care for mother-infant groups and populations that were at risk, bearing in mind the years of life potentially gained thanks to preventive care and cost-benefit.

## (c) Food and nutrition programmes

120. Targets had been established for the year 2000, such as the reduction of chronic malnutrition among children under five years of age to less than 18%, and of anaemia among children to less than 28%. The programmes included:

- *Child Feeding Programme*, designed to improve the diet of children from six months to six years of age;
- *School Feeding Programme*, designed to improve the diet, attendance and output of schoolchildren;
- *Programme for the Care of Children and Adolescents Exposed to Moral Hazards*, designed to improve the diet of children and adolescents exposed to moral hazards and living in homes, shelters, and rehabilitation centres;
- *Programme of Food Support for Canteens*, designed to improve the quality of life and raise the nutritional level of the most vulnerable sectors of the population and to offer food safety for sectors of the population living in extreme poverty.

121. Peru was committed to continue giving priority to the improvement of social indicators.

## (iii) Export diversification

122. Support for the export sector had been intensified by: designing, agreeing and carrying out coordinated activities with the private sector to foster the development of exports; improving the foreign trade information system, and channelling and disseminating information at home and abroad; managing and channelling international technical and financial cooperation for the promotion of exports; promoting and advertising the exportable supply internationally; promoting the generation of further exportable supply and conducting activities aimed at diversifying and consolidating markets; and supporting the development of export capacity in the small and medium enterprises through counselling, technical assistance and training.

123. To support the export of its manufactured goods Peru would continue to facilitate foreign trade operations. In this connection, the Government had made considerable efforts to streamline customs legislation, rationalizing and simplifying foreign trade procedures.

124. Peru's objective was to diversifying its exports, in particular high value-added exports. Various factors were at play, including the continuity of a stable macroeconomic environment, improvement in such services as ports and airports, and investment in general, particularly in transport infrastructure and the development of human resources (knowledge and health).

125. As these factors helped to develop Peru's comparative advantages and lead to economies of scale, a more varied exportable supply would be generated together with increased employment and improved intersectoral links, with respect both to goods and services.

**(iv) Investment**

126. The structural reforms and the stabilization programme applied to the Peruvian economy, and the establishment of a legal framework for the promotion and protection of investments, had led to a substantial increase in foreign investment flows into Peru over the past few years. The stock of registered foreign direct investment had increased from US\$1,642 million in December 1993 to US\$8,573 million in December 1999. In December 1999, foreign direct investment pending registration amounted to US\$4,400 million and foreign investment in the stock exchange had reached US\$2,700 million, representing 32% of the total stock exchange value. Total foreign investment in Peru, counting registered stock, investment pending registration, and investment in the stock exchange had reached US\$15,673 million in December 1999, and an estimated 12,426 million dollars of investment was expected over the next few years.

127. Peru applied national treatment and the most-favoured-nation clause to foreign investments established in the country. Foreign investors enjoyed the same rights and had the same obligations as national investors, and there was no discrimination between the two. Private investors, national or foreign, who met the legal requirements could conclude stability contracts. CONITE had signed 292 stability contracts with foreign investors.

**(v) Privatization**

128. The private investment promotion policy had generated considerable economic returns together with increased private sector participation in all sectors of the economy in which it was involved. The privatization and concession programmes would therefore continue, with a view to improving the economy's efficiency and competitiveness.

129. During the first quarter of 2000, the privatization and concession process had moved forward energetically, as shown, *inter alia*, by the tendering of part of the Camisea gas field project awarded last February. During that period, a total of US\$272 million had been raised through three operations: the sale of shares in Edegel, the sale of shares in the electricity generating company Cahua y Pariac, and the granting of a mobile telephone licence for personal communication services. This amount represented more than a third of the Government's target earnings for 2000.

130. In addition a concession had been granted for the river Chillon project, involving an investment commitment of US\$80 million over the next three years. Until March 2000, the privatization and concession programme generated over US\$9,200 millions of earnings and investment commitments of US\$8,900 million.

131. These figures reflected a new dynamism in the privatization and concession process, and Peru intended to do its utmost to maintain that momentum during year 2000 in order to continue modernizing the country and fostering the growth in economic activity that was so essential to the generation of employment in Peru.

**(vi) Competition policy**

132. Through the Free Competition Commission, the National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI) promoted the adoption of pro-competition policies in all sectors of the economy without exception, including those for which there was a specialized regulatory body. It did so through various dissemination activities, market follow-up studies and consultations, and by issuing opinions on the handling of competition issues by government or regulatory bodies.

133. Regarding antitrust regulations and trade defence (anti-dumping, countervailing duties and safeguards), the laws and the commissions that decided on anti-dumping and competition cases were different, independent, and autonomous in their decisions. The fact that both commissions formed part of INDECOPI enabled them to interact and exchange information. Thus, in examining anti-dumping and anti-subsidy cases an analysis was made of the structure and behaviour of the market in order to evaluate the possible existence of anti-competitive practices, taking this element into account in the investigation.

134. The decision not to control mergers responded to the current situation and the size of the Peruvian economy. Peru was trying to promote investment and economic growth, attracting domestic and international capital. In this context, Peru believed that the control of mergers would be an unnecessary obstacle, especially in view of the particular features of the Peruvian economy. At the same time, the control of mergers would involve investing resources that could be better used elsewhere. Thus, the inclusion in the antitrust law of an *ex-ante* review of mergers was not planned for the near future.

135. Concerning INDECOPI's role in the investigation of restrictive competition practices in all sectors, and OSIPTEL's role in the telecommunications sector, the representative stressed that OSIPTEL was autonomous and took its own decisions without the involvement of any other State institution. INDECOPI did not play any role in the investigations conducted by OSIPTEL. However, various types of consultations did take place between the two bodies (OSIPTEL and INDECOPI), and there was constant coordination to ensure the exchange of experience regarding market analysis methodologies and the determination of dominant position.

**(vii) WTO and regional initiatives**

136. Peru was committed to the multilateral trading system, and the framework established by the WTO constituted a fundamental element of the country's trade policy, as proved by the necessary adjustments made by Peru to bring its domestic legislation into line with its commitments under the WTO.

137. With respect to the launching of a new round of negotiations, Peru insisted above all on the need to reform the internal transparency mechanisms governing the negotiations. Peru supported a broad, comprehensive but manageable, and above all balanced agenda, one which would be adopted by consensus and not imposed, and which would take account of the interests of the developing countries, some of which had undeniably had problems in implementing the Uruguay Round Agreements. The standard of living of the developed countries would depend on the purchasing power of the less-developed countries. The ultimate objective of the multilateral system was to raise that standard of living. For Peru, the principle of special and differential treatment was fundamental, and it could not and should not be confined to the granting of longer time periods or offering technical cooperation to facilitate implementation of the agreements. Peru believed that this principle had to be dealt with in substantive terms.

138. There were a number of subjects that could be included in a new round, and Peru had not yet begun negotiating in this respect. Some of them had been mentioned over the past days: transparency

in government procurement, reduction in bound tariff levels, protection of traditional knowledge and indigenous communities, and others such as electronic commerce, biotechnology, trade facilitation, etc., in addition to the built-in agenda of services and agriculture, including the elimination of agricultural subsidies.

139. Peru participated actively in the various forums, and did so simultaneously and in coordination with the private sector and the various public entities involved.

140. Regarding the Andean Community (CAN), Peru maintained an independent tariff policy within the framework of Decision 414, and had not adopted the Andean Common External Tariff (CET). It was currently conducting an assessment of this mechanism in order to define a structure and level consistent with the commitments assumed at the multilateral level and in the negotiations taking place with third countries.

141. With respect to APEC, Peru was extremely interested in this cooperation forum's potential to contribute to the voluntary liberalization of investment, goods, and services. In addition to contributing permanently to trade facilitation as a continuous process, Peru supported the implementation of the APEC travellers card. In the year and a half since Peru had become a full member, it had been able, as a new member, to chair a considerable number of APEC meetings (small enterprises, trade promotion, tourism, telecommunications), and in August 2000 it would be chairing the meeting of the private members of APEC (ABAC). Peru had had longstanding historical and cultural ties with Pacific Asia, and believed that this factor, coupled with its geographical location and the liberalization of investment, trade and services gave Peru the necessary comparative advantage to strengthen its position in the medium term as the ideal platform for investment and trade by the Asian-Pacific region in South America. In conjunction with accession to APEC Peru had received the visit of heads of State, authorities, and investors from various APEC countries, including Australia, New Zealand, Japan, China, Korea, Singapore, Thailand, and Hong Kong, China.

142. The representative of Peru stressed the importance of relations with the United States and the European Union. Peru hoped to maintain the tariff preferences of the ATPA and the Andean GSP, and hoped to extend the time-period and, in the case of the ATPA, the range of products covered to include, in particular, clothing, which was Peru's main non-traditional export product.

143. The representative welcomed the figures indicating that illicit crops had been reduced by 66%, however, these were not final, and the battle for the definitive eradication of such crops had to continue. With respect to trade, in the framework of the FTAA Peru would create a free-trade zone with the United States. Peru was interested in deepening trade relations with the European Union.

144. Negotiations with MERCOSUR were at an advanced stage, and this would probably be the first free-trade zone to be negotiated and consolidated with the CAN, opening up a market expanded by more than 300,000,000 inhabitants.

145. The discussant noted that Peru had been applying a social policy aimed at reducing poverty and that an ongoing priority was to improve social indicators. In order to improve the standard of living of the population and to reduce poverty, sustained economic growth was indispensable. He recalled the need to take accompanying policies to correct eventual undesirable side-effects generated by the trade liberalization process. He welcomed Peru's support for comprehensive manageable negotiations, and that it was open to the incorporation of new issues into the multilateral negotiations.

146. The representative of the European Union noted with satisfaction that Peru had shown interest in trade facilitation issues and customs modernization, and welcomed in particular that Peru saw trade facilitation as one of the issues to be included in a future round of trade negotiations. Peru's experience with trade facilitation issues was a very interesting example, in particular since Peru was a willing and determined developing country. The representative wondered whether Peru could make



a contribution under the Council of Trade in Goods presenting its experience in that area. With respect to pre-shipment inspection, he asked whether in the long term Peru could simply eliminate PSI services and place the entire customs procedures under the Peruvian public services.

147. He requested additional details on Peru's relations with regional partners, in particular with the Andean countries, and asked to what extent Peru was already involved in the Andean free-trade area. Given the objective of the adoption of a common external tariff by 2005, the representative wondered whether the final objective of the Andean countries was the implementation of a customs union. With respect to negotiations with MERCOSUR he requested clarification on the integration process, in particular whether the current negotiations were taking place between the two blocks, between one block and each member of the other, or between each member of each block.

148. The representative of Peru confirmed that Peru had very open attitude to the WTO rounds but that the issues of interest to Peru also included old issues that Peru would like to be settled in the future round. Peru and the Andean countries had a commitment to trade facilitation including at the FTAA and APEC levels so that entrepreneurs could see tangible benefits in their day to day work. Peru was interested in being able to participate and support trade facilitating initiatives. Peru would be happy to share its experience with regard to this issue. Peru was aware that this was an extremely important area where benefits could be seen in a very short term. Peru had conducted a successful customs reform, although additional on-going work was needed. With respect to Andean integration, Peru participated in the free-trade area programme which was being worked on and would be completed in 2005. Peru did not participate in the common external tariff nor in the customs union. The adoption of the common external tariff was a complex issue. However, a common market, implying the completion of a customs union, should be implemented by 2005.

149. Negotiations with MERCOSUR were handled at the Andean level. However, negotiations between the two blocks had been suspended in 1999, and negotiations of agreements had been taking place between the Andean Community and individual members of MERCOSUR. Peru understood that these individual negotiations were only a transitional phase towards the negotiation of a free-trade area between the Andean Community and MERCOSUR. Negotiations with Argentina and Brazil had already been conducted and dates had been set for negotiations with Paraguay and Uruguay. Negotiations between the two blocks should be initiated by the end of the year.

(2) TRADE POLICY BY MEASURE

(i) **Customs valuation and administration**

150. In accordance with the commitments assumed by Peru, since 1 April 2000 Peru had been applying the WTO Agreement on Customs Valuation to 100% of imported goods. The National Customs Superintendency, as the country's customs administration, had issued the regulations necessary for the proper application of the new customs valuation rules. At the same time, various training courses had been organized for customs administration staff and economic operators and agents involved in foreign trade activities.

(ii) **Origin**

151. Certificates of origin had to be presented for imports of products subject to anti-dumping measures in order to guarantee the proper application of such duties imposed by Peru. This prevented evasion through false declarations by the importer concerning the country or place of origin of the products in question. The exporting countries had to accredit the institution, persons or companies granting such certificates in order to ensure their authenticity. These certificates were provided on a most-favoured-nation basis, i.e. they were required of all countries equally.

**(iii) Preshipment inspection**

152. The preshipment inspection regime had been applied in Peru since 1992. It had been extremely useful to the country in avoiding under-valuation of imported goods, in particular, imports for which there was no reliable database. A number of goods had been excluded under the regime either because of the value of the imports or because of the type of goods. The regime had contributed to the process of modernization and improvement in the collection of customs duties.

153. The Government of Peru had decided to continue with preshipment inspection by specialized companies following the implementation of the WTO Customs Valuation Agreement, adjusting its activities in the customs valuation area accordingly. The regime was applied following clearance of the goods as a risk assessment. The use of this regime was important for Peru, and no modifications were planned.

**(iv) Applied and bound tariff rates**

154. Although there was a discrepancy between the bound level of 30% and the levels actually applied, over the past six years there had not been a single case in which the tariff actually applied exceeded the bound tariff. On the contrary, tariff policy had dictated a reduction in the rates in force for the sake of increased predictability.

**(v) Surcharges**

155. The agriculture sector was considered very sensitive in Peru in that it involved social groups suffering from high levels of poverty, and it had been hard hit in recent years by the effects of the El Niño phenomenon and the international crisis.

156. The additional tariff surcharge of 5% established by Supreme Decree No. 035-97-EF and amended to 10% for certain meat products by Supreme Decree No. 141-99-EF were adopted in the framework of the Government's economic policy. Supreme Decree No. 035-97-EF had not only established the said surcharge, but it had amended tariff rates and had provided that the revenue generated by the surcharge should go to the Agricultural Development Fund.

**(vi) Variable specific duties**

157. Variable specific duties had been established in the framework of the economic policy adopted at the beginning of the 1990s, and there were no plans to modify them at present. The elimination of variable specific duties on wheat had taken place under that policy. If the sum of the *ad valorem* tariff and the specific surcharge were to exceed the WTO bound rate, the bound rate would be considered as a ceiling.

**(vii) Other charges**

158. The selective consumption tax was levied on certain goods, including vehicles. With respect to the import of used vehicles, the legislation in force established two selective consumption tax rates: 55% for imported vehicles entering any part of the national territory; and 0% for vehicles entering through the Centres for Export, Transformation, Industry, Trade and Services (CETICOS). In the latter case, the differentiated rate had been established to generate growth centres in selected areas of the country and to generate employment in those areas.

159. The representative pointed out that while used vehicles that had been repaired or reconditioned in the CETICOS did not pay selective consumption tax, the valuation basis for calculating the import tax on such vehicles was higher, since the costs of repairing and reconditioning the vehicle were added on, and this was reflected in a higher tariff and general sales tax.

**(viii) Import licences**

160. The Peruvian Government guaranteed the right of any person to carry out foreign trade operations without prohibitions or non-tariff restrictions of any kind. In other words, Peru did not have any prior conditions, such as import permits or licences, with the exception of emergency measures designed to ensure the health of the population, safety, and internal order, and measures to safeguard national identity and the rights and obligations arising from international agreements.

161. With the exception of these cases, Peru did not have any procedures for the granting and administration of import licences and permits.

162. In the case of goods whose import was restricted, additional requirements were normally imposed such as entry in the import register (in the case of explosives), certificates or special authorizations, etc. In none of these cases were licences required in order to protect domestic production.

**(ix) Commission on Technical and Trade Regulations**

163. Although Legislative Decree No. 807 had modified the functions of the Commission on Technical and Trade Regulations (CRT), the Commission continued to be responsible for supervising the regulations, which established conditions or requirements, to determine whether they constituted unnecessary restrictions to trade. In other words, the CRT continued to evaluate the regulations issued by the various sectors in order to prevent the introduction of para-tariff restrictions, to conduct investigations, and to foster coordination meetings to ensure that the sectors themselves reversed the measures. These improvements had contributed to reducing the number of measures, introduced by the sectors, that could unnecessarily affect trade.

164. Similarly, the Decree established a mechanism through which the Commission issued a report transmitted directly to the Presidency of the Council of Ministers so that it could adopt the appropriate measures. All of this had resulted in more effective supervision.

**(x) Government procurement**

165. Peruvian public-sector procurement legislation and procedures were open and transparent, with the exception of a slight preference towards domestic suppliers. It had to be stressed that these preferences were temporary and limited in scope. In the framework of its economic policy, Peru had not considered the possibility of acceding to the WTO Plurilateral Agreement on Government Procurement.

**(xi) TRIMs and domestic content**

166. As a rule, Peru did not impose any conditions with respect to the use of domestic inputs. In the case of milk, while there was a law establishing the use of domestic milk as an input, in practice this legal provision was not applied, since milk production in the country was insufficient and imported milk was needed.

**(xii) Export measures**

167. As mentioned, in order to support the export sector, the Peruvian Government placed special emphasis on the facilitation of foreign trade operations, streamlining formalities and getting rid of unnecessary requirements. Among other measures, the temporary admission and import regimes, which permit the import of inputs or raw materials and packaging materials with suspension of import duties for processing or incorporation into the exported product, had been made more flexible.

168. Similarly, to support the modernization of manufacturing enterprises in general, a system of tariff splitting of capital goods had been introduced, which enabled importers to defer payment of import taxes.

169. At the same time, the Government had streamlined the refund of internal taxes affecting the production of exported goods by establishing lower cost guarantees, thereby providing producers with enough liquidity to continue producing.

170. The facilitation measures, added to the efforts made in the areas of trade promotion, training, and technical assistance in diversifying and consolidating Peru's export markets, had given the export sector a proper framework for development.

171. The CETICOS had been created on the basis of the former free zones, their scope being limited to certain areas of the country, for the chief purpose of generating employment through the establishment in those areas of enterprises involved in storage, distribution, repair and reconditioning of vehicles, and production of goods. This mechanism had been directly responsible for creating more than 3,000 jobs, as well as the employment generated by related activities.

**(xiii) Anti-dumping**

172. Peru had shown a certain amount of restraint in using anti-dumping measures and had done so in strict conformity with the WTO Anti-Dumping Agreement. Peru considered that such measures should be used only to counter unfair practices, and never for protectionist purposes. Thus, the only anti-dumping duty in force since 1995 applied to a country that was not a WTO Member and was therefore not subject to the sunset clause.

**(xiv) Intellectual property**

173. Peru had made considerable progress in the protection and promotion of intellectual property, an area in which it had acted firmly and with determination. Firstly, in Peru it had been possible to patent pharmaceutical and chemical products before the entry into force of the WTO Agreement, so that the transitional provisions in Article 70.8 and 70.9 of the TRIPS Agreement did not apply.

174. At the same time, the exclusion from patenting of pharmaceutical product inventions on the WHO list of essential drugs was justified under Article 65 of the TRIPS Agreement: Peru had been entitled to an overall period of five years during which it had not been obliged to apply the Agreement (paragraphs 1 and 2), and an additional period of five years to delay the application of the TRIPS Agreement with respect to technology sectors (in this case pharmaceuticals) not protectable in its territory on the date of application of the Agreement (paragraph 4). Consequently, Peru could suspend the application of the Agreement with respect to the patenting of pharmaceutical products on the WHO list for ten years (until 2005).

175. As regards parallel imports, the TRIPS Agreement left the regulation of international exhaustion up to domestic legislation. There was no obligation under the TRIPS Agreement to prohibit the import of genuine products. Andean Decision 344 and Legislative Decree 823 on Industrial Property provided for a system of international exhaustion for patent rights. The draft amendment of Decision 344 did not provide for any substantial changes to the Decision, and the system of international exhaustion of patent rights had been maintained.

176. On the other hand, the specific regulations governing border measures were being incorporated into the new Andean Decision, which replaced Decision 344 and would be approved in the next few weeks. These measures were consistent with the TRIPS Agreement. Without prejudice to this fact, there were provisions in the legal system in force, both administrative and penal, designed

to safeguard the rights of the owners of industrial property rights and copyrights against infringing goods (pirated or counterfeit) entering through customs.

177. Regarding national treatment of artists and performers, Article 1 of Legislative Decree 822 (Copyright Law) expressly stipulated that protection was granted regardless of nationality or domicile of the producer or owner of the publication or broadcast. In other words, local and foreign phonographic productions were ensured the same level of protection regardless of their origin. Article 48 of the said Law placed a limit on the author's right over reproduction of a work in cases where a copy was made exclusively for personal use. The subject of topographies of integrated circuits was being dealt with in the draft amendment to Andean Decision 344, to be approved shortly.

178. Finally, Peru was engaged in a constant battle to combat piracy and counterfeiting. The latest measures adopted included the creation of a Commission against Adulteration, Falsification and Piracy, bringing together a total of 17 entities including various unions, consumers' associations and public institutions. Its objective was to organize coordinated action against piracy and to develop and disseminate throughout the country a sense of respect for intellectual property. To that end, a number of coordinated inspection activities were planned together with seminars and announcements in the different media concerning the protection of intellectual property.

179. As a result of these efforts, piracy had been on the decline in the country. According to the statistics of the Business Software Alliance and Motion Picture Association, the percentage of pirated goods, chiefly films and software, had decreased considerably. Pirated software had decreased from 98% in 1993 to 62% in 1999, while in the case of films, the figure had decreased from 100% in 1992 to 52% in 1999.

180. Peru was convinced that the educational campaigns conducted at all levels to promote respect for intellectual property rights would have a positive impact in the medium term, since it was the consumers themselves that would be rejecting pirated goods.

181. The discussant asked whether the Peruvian Government had any plans to eliminate the trade-related investment measure notified to the WTO, which was in any case not applied.

182. The representative of New Zealand appreciated the information provided about the sensitivity of the agriculture sector in Peru and the difficulties faced as a result of El Niño and the financial crisis, however she urged Peru to consider the elimination of the surcharges affecting agricultural products.

183. The representative of Peru noted that the elimination of the trade-related measure had not been considered, in particular since it was a fairly sensitive issue for domestic producers. With respect to preshipment inspection, Peru believed that the mechanism would be maintained since it was very important in the context of the customs modernization process, avoiding fraudulent declarations of value. Furthermore this mechanism was strictly in compliance with WTO Customs Valuation Agreement. On variable specific duties, Peru had no intention of eliminating these measures.

### (3) TRADE POLICY BY SECTOR

#### (i) Agriculture

184. The representative of Peru stated that emergency zoo-sanitary and phytosanitary measures adopted in the country were aimed at establishing a proper legal framework for specific action to avert invasions and entry of pests or diseases that were not present in the national territory. These measures were temporary and could be modified or repealed if there was sufficient technical information to show that the risk had been controlled or reduced to an acceptable level or that the zoo-sanitary or phytosanitary situation had changed in such a way as to render the measure technically unnecessary.

185. For example in the case of rice, Supreme Decree Number 007-97-AG, published on 6 May 1997, stipulated that the import into Peru of rice grains from countries affected by Khapra beetle (*Trogoderma granarium* Everta) should be contingent on the results of the corresponding pest-risk analyses conducted by the national health authority, SENASA. Thus, any country affected by the pest wishing to export this product to Peru could ask the Peruvian Government to conduct such an analysis.

186. Guidance for the preparation of these pest-risk analyses was provided by the FAO Guidelines for Pest Risk Analysis (1996). These regulations essentially established that the study should begin with the identification of the risk, then assess its magnitude, and finally identify the phytosanitary measures necessary to ensure proper sanitary protection for the country in respect of the quarantine pest.

187. These measures might include such elements as verification at origin, certification in the fields in which the crop was produced and the places in which it was gathered, processed and stored, phytosanitary certifications at origin, inspection upon entry into the country, proper packaging and packing conditions, quarantine treatment, etc. In other words, the health authorities could authorize the import of the product only when Peru had been ensured a proper level of protection with respect to the pest.

188. In the case of coca, Peru was doing its utmost to reduce its cultivation, developing various programmes for the promotion of native and alternative products.

## **(ii) Fishing**

189. Peru owed the development of its fishing activities to the high profitability of its pelagic fish industry producing fish-meal and fish-oil, and not to government support measures. The combination of the actual fishing (fleet) and processing (plant) activities was able to maintain profitability, even though there was an overcapacity with respect to the relative scarcity of marine resources.

190. Since the beginning of the 1990s, fishing activities had grown, fuelled by a recovery of marine resources and, like other industries, the availability of foreign capital. Both factors had enabled many fishing enterprises to grow by increasing their level of indebtedness, at a pace that had begun to accelerate in 1994 when the fishing sector had reached its maximum production level. In the wake of these favourable developments, the hold capacity of the fleet had also increased together with the installed production capacity of the industrial plants.

191. This over-capitalization had not encountered any problems until 1997, since it had been helped along by the increasing prices of fish-meal and the availability of capital, which had enabled the sector to pay off its interest and refinance its debts. However, since the end of 1997, with the El Niño phenomenon and the financial crisis, fish-meal and fish-oil production had been among the most affected sectors. This was reflected in increased interest and a growing need to refinance company debts.

## **(iii) Mining and energy**

192. The first quarter of year 2000 highlighted privatizations and concessions in the mining and energy sectors.

193. A call for bids for the second phase of the Camisea project was expected in June, including transport and distribution, for which the pre-qualified enterprises were forming consortia.

**(iv) Services**

194. The representative of Peru noted that the principle of reciprocity in maritime services and financial services had been raised. While this principle derived from the Constitution of Peru, it had never been applied either in financial or maritime services. Following the unilateral liberalization of cargo transport, maritime services, in particular, were essentially being handled by vessels operating under foreign flags, as the domestic shipping industry was very small.

195. The reason for Peru's horizontal restriction under mode 4 (movement of persons) regarding the maximum number of foreign workers who can be employed in enterprises in Peru was to favour domestic employment, particularly in view of the high levels of poverty and underemployment.

196. Peru had not tabled more commitments in respect of professional services because of the lack of familiarity with the particular features of certain professional services due to the novelty of the subject at the time the offers were made, coupled with local sensitivity to further opening up. Nevertheless, Peru would consider expanding its schedule of commitments, taking account of the offers submitted by its trading partners.

197. Regarding participation in trade agreements involving services, Peru participated fully in the General Framework of Principles and Rules for Liberalizing the Trade in Services in the Andean Community (Decision 439, 1997), a framework that envisaged the creation of a free-trade area for services in 2005.

198. On financial services and the reservation concerning the making of claims through diplomatic channels, under Peruvian law this applied equally to domestic and foreign companies (national treatment), and indeed, the objective of the rule was to ensure that any complaint essentially took account of that legislation and Peru's commitments under the WTO. This meant that a foreign financial entity had to dispense making complaints through diplomatic channels in respect of its business and operations within the country.

199. With respect to Peru's position concerning the services negotiations, in view of the extensive opening up of the services market in Peru and the far-reaching offer made within the framework of the General Agreement on Trade in Services (GATS), Peru was ready to participate in a forthcoming round of negotiations where it would be able to improve its commitments in accordance with the offers made by its trading partners.

200. The discussant noted the tremendous efforts Peru had made to reduce the cultivation of coca, and wondered whether any delegation wished to comment on this issue, in particular with respect to the large amount of funds needed. He requested clarification on the principle of reciprocity limiting Peru's GATS commitments.

201. The representative of Japan wondered whether the Peruvian Government implemented policy measures to help the fishing sector overcome the over-capacity and over-fishing problems. With respect to the services sector, within the framework of the Andean Community, Peru was trying to achieve a free-trade zone for services by 2005. He requested a general policy statement explaining Peru's position on this effort within the Andean Community and the services negotiations initiated within the framework of WTO.

202. The representative of Peru pointed out that the Peruvian services sector was already significantly liberalized, and that given this, Andean regulations tended to encourage others Members to achieve similar levels of liberalization. He also noted that Peru would have no objections to negotiate further services liberalization in a new WTO round. As regards reciprocity, this principle was covered by the Constitution and the Banking Law for matters of public interest; this principle had not been used. Finally, with respect to the concerns raised by Japan on fishing issues, Peru was concerned with the conservation of fish resources.

## **VI. CONCLUDING REMARKS BY THE CHAIRPERSON**

203. We have had very open and constructive discussions. Members commended Peru for the consolidation of its economic stabilization and liberalization programme implemented since the early 1990s. Despite external shocks, including El Niño and international financial crises, Peru has achieved significant growth, sharply reduced inflation and attracted considerable foreign capital. No doubt major factors in this performance have been sound macroeconomic policies, continued liberalization of Peru's trade and investment regimes, the privatization process and efforts to develop a reliable regulatory framework.

204. Members viewed Peru's trade and investment regimes as relatively open. They noted that the average applied tariff has been reduced since the previous Review and that the use of non-tariff barriers remained confined. The liberalization of investment rules and the establishment of a favourable legal framework for the promotion and protection of investment have had impressive results, with foreign direct investment increasing five-fold since 1993. Members welcomed Peru's strong commitment to the multilateral trading system. In particular they noted Peru's full implementation of the Agreement on Customs Valuation in April 2000. They also welcomed Peru's efforts to liberalize services activities, in particular the financial and telecommunication sectors.

205. Against this positive assessment, Members raised some concerns. Members noted that the application of tariff surcharges and variable specific duties on several agricultural products acted as a disincentive to trade. Members also invited Peru to consider undertaking new multilateral engagements to close the wide gap between applied and bound tariff rates. Some urged Peru to sign the plurilateral Agreement on Government Procurement. In relation with the latter, Members noted that despite the recent adoption of a new legal framework, some provisions departed from the national treatment principle.

206. Peru provided orally and in writing detailed clarifications on a number of additional features of its trade and investment regime, including:

- importance of concessions granted under preferential regimes such as the EU Generalized System of Preferences and the U.S. Andean Trade Preference Act;
- customs valuation and the preshipment inspection regime;
- revision of final anti-dumping duties, and non-preferential certificates of origin for goods subject to these measures;
- fiscal incentives, in particular under the new free-zones regime;
- lower excise tax on used vehicles imported through the new free zones;
- local-content and trade-related investment measures;
- INDECOPI's responsibilities, including the Commission on Technical and Trade Regulations;
- competition policy practices, in particular with respect to interconnection rates to the fixed telephony;
- participation in regional fora;
- the intellectual property regime;
- problems faced by the fishing industry;
- suspension of rice imports;
- schedule of commitments under the GATS Agreement; and
- conditions applying to professional services provided by foreigners.



207. Members appreciated the clarifications and responses provided by the delegation of Peru.

208. In conclusion, it is my feeling that this has been a very successful second Review of Peru's trade policies. Economic reform has paid off in the form of growing GDP, trade, and investment. Nevertheless, this has only been sufficient to bring real GDP per capita back to its relatively modest level of the mid 1960s. I believe that the view of several Members that there is need to achieve further improvements in the quality of life of the Peruvian people deserves Peru's attention. I am pleased to note that this has met with concurrence from the Peruvian delegation. It was to this end and to secure the flexibility necessary to withstand and ride out future external shocks that Members encouraged Peru to press on with its domestic reform process including further trade liberalization. As Peru pursues such policies, I hope that other Members will be able to support Peru's efforts by extending open access for its exports.

## ANNEX I

### RESPONSES PROVIDED BY PERU TO ADVANCE WRITTEN QUESTIONS AND TO OTHER QUESTIONS RAISED DURING THE MEETING

#### ARGENTINA

##### The INDECOPI Commission on Technical Regulations

*By eliminating the Commission's monitoring and qualifying powers the system appears to allow a wide margin of discretion in the adoption of measures that could become technical barriers to trade. It is therefore appropriate to inquire about the existence of other supplementary mechanisms.*

Although Legislative Decree No. 807 modified the functions of the Commission on Technical and Trade Regulations (CRT), the latter continues to be responsible for monitoring measures that establish conditions or requirements so as to determine whether they constitute unnecessary restrictions on trade. In this connection, the CRT has continued to appraise regulations issued by the different sectors with a view to preventing the establishment of para-tariff restrictions, has carried out investigations and has promoted coordination meetings in order that the sectors themselves may review such measures. These changes have helped to reduce the number of measures adopted by the sectors that might unnecessarily affect trade.

This Legislative Decree also established procedures enabling the Commission to issue a report submitted directly to the presidency of the Council of Ministers so that the latter may take the appropriate action, all of which has made supervision more effective.

##### TRIMs and local content

*In view of the apparent non-application of the measure it seems appropriate to ask for further information about the reasons for maintaining it in force.*

In general, Peru does not place conditions on the use of domestic inputs. Although there is a legal provision requiring the use of domestic milk as an input, in practice it is not applied since local milk production is insufficient and milk has to be imported. Steps are being taken to revise this measure.

#### BOLIVIA

*What is the point of the tariff surcharges on 352 agricultural products and what measures have been taken to prevent the distortion of trade?*

In Peru, the agricultural sector is considered very sensitive since it includes various impoverished social groups, which in the last few years have also suffered from the effects of the recent international crisis and the El Niño phenomenon.

The 5 % tariff surcharge introduced by Supreme Decree No. 035-97-EF and raised to 10 % for certain meat products by Supreme Decree No. 141-99-EF is a measure adopted within the context of the Government's economic policy, in accordance with Peru's commitments to the WTO. Supreme Decree No. 035-97-EF not only introduced the above-mentioned surcharge but also reduced the two tariff levels from 25 % to 20 % and from 15 % to 12 % respectively. It also called for income from the tariff surcharge to be channelled into the Agricultural Development Fund, which is used to

support the anti-poverty campaign and promote agricultural employment with a view to raising the standard of living of those involved in the sector.

*Although questions have already been raised in the Committee on Subsidies and Countervailing Measures concerning the drawback system for small exporters, it would be useful to know whether it has already had a perceptible effect on job creation and the competitiveness of these enterprises.*

The purpose of the simplified drawback procedure is to refund the duty paid on imported inputs incorporated in exports. This measure has made possible the development of small and medium-scale export businesses which in its turn has contributed to job creation.

*Have the conditions of access to international markets favoured the policy of substitution of alternatives to coca leaf cultivation? If so, then under what conditions?*

Access to international markets for products developed under crop substitution programmes has been facilitated by the unilateral granting of tariff concessions in connection, for example, with the United States Andean Tariff Preference Act and the European Union's Generalized System of Preferences – Andean, mechanisms introduced to help countries combat the illicit drugs traffic.

These systems are intended to enhance the competitiveness of substitute agricultural products aimed at these markets and, together with the model applied under Peru's Alternative Development Programme (PDA), one of the mechanisms of the anti-drugs campaign, to increase production and productivity, improve product quality and business management and facilitate access to credit, thereby making export markets increasingly accessible to these products. At present, approximately 80% of Peruvian exports enter the United States duty-free under various preference schemes, the corresponding figure for the European Union being 93%.

The PDA seeks to replace illegal crops with alternatives capable of generating a genuine and sustainable lawful economy. Coca plantations are being replaced by traditional crops such as coffee and cacao, as well as by pulses, palm hearts and fruit trees. In 2000, the area covered by the PDA amounts to 25,524 hectares, including 19,422 planted in coffee, 4,482 in cocoa, 900 in pulses, 320 in palm hearts and 400 in fruit trees, directly benefiting 12,956 farmers and generating 9,995 additional jobs.

## **CANADA**

*What is the legal status of an investment in Peru made by a foreign investor for which no stability agreement has been signed with the State/CONITE with respect to national treatment, transfers of returns out of the country and accessibility to foreign currency at market rate?*

Peru applies national and most-favoured-nation treatment to foreign investment in the country. Foreign investors enjoy the same rights and have the same obligations as domestic investors, since no discrimination is made between the treatment of national and foreign investors.

Foreign investors do not require prior authorization nor have to fulfil any other requirements to carry out their investment operation. The requirement to be listed on the foreign investment register is purely for statistical purposes.

The stability agreement is an option not an obligation, for private, domestic or foreign investors which meet the legal requirements. It offers guarantees of stability of legal treatment of the investment operation in the following respects:

- Income Tax Regime;
- Regime of Free Availability of Foreign Currency and Remittance;

- Labour Regime;
- Export Promotion Regime;
- the stability of non-discriminatory treatment is also guaranteed, even though this principle is already set forth in the Constitution.

Any investment, whether domestic or foreign, not covered by a stability agreement is subject to possible changes that may be made by the Government in the above regimes on a non-discriminatory basis as between domestic and foreign investors.

*Peru is a Party to the International Centre for the Settlement of Investment Disputes (ICSID) Convention. Can any investment-related dispute involving the Peruvian Government, including those related to a foreign investment covered by a stability agreement signed with the State/CONITE, be submitted by a foreign investor to ICSID for arbitration?*

The Stability Agreements provide for a dispute settlement mechanism in line with arbitration procedures. Foreign investors wishing to have recourse to international arbitration may apply for this option once a stability agreement has been concluded.

CONITE has signed 292 stability agreements with foreign investors and only in a few cases have foreign investors applied for international arbitration to settle disputes.

*In 1998, Peru eliminated the surcharge on a variety of agricultural products including wheat and wheat products, a move which was interpreted as its continued willingness to liberalize its international trade. In August 1999 however, the Peruvian Government added two more lines to be covered by the tariff surcharges and increased the surcharge to 10% on meat imports.*

*Given that these surcharges now cover some 350 products, reducing trade in these goods, what plans does Peru have to eliminate these surcharges?*

In Peru, the agricultural sector is considered very sensitive because it includes extremely poor social groups, who in recent years have also suffered severely from the international crisis and the effects of El Niño.

The 5% tariff surcharge established by Supreme Decree No. 035-97-EF and increased to 10% for certain meat products by Supreme Decree No. 141-99-EF, is a measure adopted within the framework of the government's economic policy. Supreme Decree No. 035-97-EF not only established this surcharge but also altered tariff rates and provided for the revenue from the surcharge to be channelled to the Agricultural Development Fund.

*What is Peru's intention with respect to seeking status as an observer and acceding to the Agreement on Government Procurement?*

Peruvian rules and procedures on this issue are open and transparent; Peru has not considered the possibility of acceding to the plurilateral Agreement on Government Procurement, nor of participating as an observer. Nevertheless, we think that transparency of government procurement could be one of the issues to negotiate in a future round of negotiations.

*The Secretariat Report notes that Peru maintains a "registry of disqualified contractors". What are the conditions resulting in a supplier being placed on the registry? Once a supplier is placed on the list of disqualified contractors, is there a process for being qualified once again?*

The conditions resulting in a supplier being listed in the registry of disqualified contractors are specifically enumerated in Article 177 of Supreme Decree 039-98-PCM, dated 28 September 1998:

"**Article 177** – Without prejudice to the imposition of penalties of a contractual nature to which the contractor may be liable, the court shall impose the administrative penalty of temporary or definitive disqualification on suppliers, bidders, and contractors who:

- (a) having been awarded a contract have without justification failed to sign it;
- (b) have without justification failed to fulfil the obligations derived from the contract, giving rise to its cancellation;
- (c) have finished a contract having accumulated the maximum penalty for delay as established in the contract;
- (d) have signed a contract with the government despite being barred from doing so in accordance with Article 9:II of the Law;
- (e) have signed a contract with the government despite being disqualified from doing so;
- (f) have participated in restrictive practices, according to the provisions of Article 10 of the Law;
- (g) have subcontracted without authorization by the government agency responsible or with firms which are barred or disqualified from contracts with the government;
- (h) have furnished forged documents or sworn statements containing false information to the Authorities, to the Council, or to the National Registry of Contractors;
- (i) have signed a contract, in the case of physical works, without being listed in the National Registry of Contractors or being listed with a different competence or speciality to that authorized; or
- (j) have failed to fulfil the affidavit referred to in Article 33 and in the last paragraph of Article 40.

Suppliers, bidders or contractors falling under sections (a), (b), (c), (d), (e), (f) and (g), shall be temporarily disqualified from government contracts for a period of no less than one (1) year.

Suppliers, bidders or contractors falling under sections (h), (i) and (j), shall be temporarily disqualified from government contracts for a period of no less than two (2) years. The Council, may, through a resolution setting out the reasons therefor, reduce the penalty below the minimum limit established for each case where it finds that there are extenuating or exonerating circumstances as to the responsibility of the offender.

Disqualifications shall be applied accumulatively.

When the same supplier, bidder or contractor has been temporarily disqualified for periods amounting to more than twenty-four (24) months over the course of sixty (60) consecutive months, it shall be permanently disqualified from government contracts".

The Superior Council for Government Procurement (*Consejo Superior de Contrataciones y Adquisiciones del Estado* – CONSUCODE), which is in charge of the Registry of Disqualified Contractors, removes suppliers, bidders or contractors from this register when they have completed their period of temporary disqualification (Supreme Decree 039-98-PCM Art. 185 – Law, and Article 33 of the Regulation of the National Registry of Contractors and the Registry of Disqualified Contractors, Ministerial Resolution 043-99-PCM).

*We note that the regulatory reform process in Peru includes the establishment of a number of sectoral regulatory entities to guarantee the efficient allocation of resources in sectors with natural monopoly characteristics or requiring highly specialized regulation. Does INDECOPI (National Institute for the Defence of Competition and the Protection of Intellectual Property) have a role in advocating the adoption of pro-competitive policies, decisions, guidelines, etc. in such sectors and if so, what is the nature and extent of this role?*

Through the Free Competition Commission, INDECOPI has the role of promoting the adoption of pro-competitive policies in all sectors of the economy without exception, including those in which a specialized regulatory body exists. It fulfils this role through various information activities, market studies, responding to queries and giving its opinion on competition issues through government agencies and regulatory entities.

INDECOPI also has the task of investigating and punishing anti-competitive practices in all sectors of the economy, including those in which a regulatory body exists, with the sole exception of the telecommunications sector, in which market monitoring and punishment of competition offences are the direct responsibility of a specialized regulatory body, OSIPTEL.

There is also a continuous exchange of information between the regulatory bodies and INDECOPI, which enables them to remain in contact and so reach proposals with the maximum regulatory transparency.

*INDECOPI's mandate includes both anti-trust and trade remedies. We note that it is not uncommon for conflicts to arise between anti-trust policy and enforcement and trade remedy policy and enforcement. Given INDECOPI's dual responsibility for both anti-trust and trade remedies, are there any measures in place to respond to conflicts that may arise? Does one policy or law have precedence over the other?*

The laws and commissions deciding anti-dumping and competition cases are separate, independent and autonomous in their decision-making. The fact that both commissions are part of INDECOPI enables interaction and exchange of information to take place between the commissions. To investigate anti-dumping and anti-subsidy cases, an analysis is made of the structure and behaviour of the market, which is taken into account when an assessment is made of the possibility of the existence of anti-competitive practices.

INDECOPI's Competition Tribunal acts as a higher administrative tribunal in order to resolve dumping, subsidies and competition-related cases. An advantage of this system is that while the Tribunal respects the policy objectives and principles of both instruments, it also includes in its analysis the effect of the requested measures on consumers. This fosters coordination between both commissions and enables a balance to be struck so that the trade remedy instruments are used in a technically sound and responsible manner.

No policy or law exists indicating an order of priority between competition policy and trade remedy policy.

*INDECOPI is in charge of investigating restrictive competition practices in all sectors with the exception of the telecommunications sector which is under the jurisdiction of the OSIPTEL. Can INDECOPI play any kind of role, such as an intervener, in investigations of OSIPTEL regarding restrictive competition practices in the telecommunications sector?*

OSIPTEL has complete autonomy to take decisions without the intervention of any other State institution. INDECOPI does not have any role in the investigations carried out by OSIPTEL. However, various types of consultations are held between the two institutions (OSIPTEL and INDECOPI) and there is permanent coordination in order to exchange experience with regard to the methodology of market analysis and the determination of dominant position.

*The Secretariat Report states that "the anti-trust law regulates anti-competitive behaviour rather than market structure, typifying specific practices as abuse of dominant position or as restrictive. Thus, economic concentration is not regulated in Peru, apart from the merger review process in the electric power sector".*

*Given that Peru's competition law has been in place for some time now, and INDECOPI has had some enforcement experience, has there been any discussion about the necessity for and possibility of incorporating broader economic concentration review provisions in the anti-trust law?*

The decision not to control mergers responds to the current situation and the size of the Peruvian economy. Peru is trying to promote investment and economic growth, by attracting domestic and international capital. In this context INDECOPI is of the opinion that control of mergers would be an unnecessary obstacle, particularly considering the characteristics of the Peruvian economy. Furthermore, control of mergers would require allocating resources which at the moment we think should be used for other purposes. In view of this, to include an ex-ante merger review in the anti-trust law is not something that is planned for the near future. Nevertheless, it is an issue that INDECOPI is continuing to study and examine various fora and seminars.

*Peru has taken giant steps towards enforcement of intellectual property protection, which has been positively seen and supported by other WIPO member States. We are aware that an effective and efficient regime to regulate intellectual property has become a major issue in Peru, particularly given the increase of foreign investment in the country.*

*Will the Peruvian Government take further measures to improve enforcement of its intellectual property legislation, particularly in view of the increasing levels of piracy in the country?*

Day in, day out, Peru is making great efforts to combat piracy and forgery, many of which are public knowledge, while others take place in the strictest confidence. Amongst recent measures adopted, a Commission to Combat Adulteration, Forgery and Piracy has been created, bringing together a total of 17 entities including various trade and consumer associations and public institutions. Its aim is to carry out coordinated activities to combat piracy and develop and spread throughout the country a culture of respect for intellectual property. With this in mind, plans are being made for coordinated inspections, seminars and publicity relating to the issue of intellectual property protection in various media.

Furthermore, INDECOPI carries out an active education campaign at all levels to foster respect for intellectual property rights, which we are sure in the medium term will have positive results, since consumers themselves will reject pirated products.

As a result of these efforts, levels of piracy have been reducing in the country. According to statistics from the Business Software Alliance and Motion Picture Association, the percentage of the pirate market, mainly affecting films and software, has reduced considerably. Thus in software sales, the pirate market has shrunk from 98% in 1993 to 62% in 1999 and in the case of films it has fallen from 100% in 1992 to 52% in 1999. Although we know that any calculation of piracy cannot be accurate, these statistics do indicate that piracy in Peru is not on the increase.

*Canada commends Peru for the important steps it has taken to encourage telecommunications competition, however, OSIPTEL, the regulatory body, has not yet acted on the interconnection tariff measure nor on removing per minute charges for Internet access. We note that Peru has adopted the obligations in the Reference Paper on Basic Telecommunications, requiring interconnection be ensured at cost-oriented rates. What is Peru's approach to ensuring compliance with these requirements?*

Peru is most concerned to foster competition in the telecommunications sector in order to achieve greater competitiveness in the domestic production sector and to benefit end users.

With the aim of reducing the uncertainty which could be generated by negotiation with the dominant operator, in the initial stages of liberalization, OSIPTEL established a maximum or default "interconnection charge" as a referential and temporary measure. A comparison of charges in the

region was made in order to determine this charge. OSIPTEL has established the necessary standards in order to facilitate the signing of interconnection contracts and it is currently setting the applicable interconnection charges in accordance with the commitments under the Basic Telecommunications Reference Paper of the WTO and the aforementioned standards.

OSIPTEL's approach has been to encourage the negotiation of agreements between parties within the framework of its WTO commitments, including transparent and reasonable cost-based charges.

Furthermore, per-minute charges for Internet access are coming down in view of the greater competitiveness of the fixed telephone sector. At present, Internet access, long-distance calls and other telecommunications services are offered by other large providers such as Firstcom and Bellsouth, and it is expected that the market will continue to grow and telecommunications services costs in general continue to fall.

*There are no restrictions in Peru's GATS Schedule regarding the use of satellites to provide telecommunications services. What are the authorization process and conditions, if any, for a foreign supplier of satellite services to provide services in Peru?*

To provide any public telecommunications service in Peru, regardless of the media used, providers are required to obtain a concession or, in the case of value-added services, to obtain a registration. In order to do this, they must fulfil the requirements and follow the procedure provided for in the legal framework for telecommunications. This framework does not establish restrictions on the nationality of public telecommunications services firms, other than the condition that foreign businesses are required either to be domiciled in the country or name a representative legally domiciled there.

## **CZECH REPUBLIC**

*Historically, the Republic of Peru has participated in the processes of hemispheric integration, mainly in the region of Latin America. Thus, it is a member of the Inter-American Development Bank (IDB) and the Latin American Integration Association (ALADI), the founder and host of the Andean Pact and has taken an active part in the negotiations concerning the creation of a free-trade area of the Americas (FTAA). On the other hand, the structure of its external trade indicates that the share of Latin America, especially the member countries of the Andean Community (CAN), in the total volume of Peru's foreign trade is relatively small, as confirmed by the Secretariat Report.*

*Within the context of economic restructuring, is the Peruvian Government expecting an increase in trade with the countries of the Andean subregion? If so, under what conditions, and what measures and/or instruments is it thinking of using to achieve this goal?*

Peru's objective is to diversify its exports, especially those which call for greater value added. This process involves various factors, including macroeconomic stability, improvements in services such as ports and airports, general investment and, in particular, investment in transport infrastructure and the development of human resources.

Insofar as these factors make for greater comparative advantages and economies of scale can be achieved, Peru will be able to offer a more varied range of exports, thereby creating more jobs and promoting closer intersectoral linkage, in both goods and services sectors.

In this context, the Andean Community's share of our trade has been increasing, reaching about 10.5% in 1999. However, it should be noted that the CAN is our main market for value-added products.



## EUROPEAN UNION

*What plans do the Peruvian authorities have to phase out preshipment inspection completely and by when?*

Pre-shipment inspection is a system that has been applied in Peru since 1992. The system has been very useful in preventing fraudulent declarations of the value of imports, particularly those for which there is no reliable database. Certain goods have been excluded on the basis of import value or type. The system has helped to modernize and improve the collection of customs duties.

The Government of Peru has decided to continue with preshipment inspection by verification firms following the implementation of the WTO Agreement on Customs Valuation, while adjusting their participation in the area of customs valuation. The system is used after clearance of the goods for risk-assessment purposes.

As the system is important for Peru, there are no plans to change it.

*It seems that tariff surcharges between 5 and 10% introduced in 1997, initially as a temporary measure, have become more or less permanent. The EU is wondering whether the maintenance of these surcharges is necessary since they affect a number of products of interest to the EU. What are the prospects of Peru removing these surcharges or phasing them out? Is there a deadline for such a process of phasing out?*

The tariff surcharges were introduced in the context of the economic policy adopted by Peru and for the time being no changes are contemplated due to the fact that the agricultural sector is a sensitive one, and includes social groups living in extreme poverty. These people suffered severely from the recent international crisis and the effects of the El Niño phenomenon, and need such a policy.

*Does Peru have any plans to join the Plurilateral Agreement on Government Procurement, and if so, by when? If this is likely to occur, what steps does she have planned to change her national legislation to bring it into line with the fully comprehensive nature of the Plurilateral Agreement? (For example, elimination of her 10% favouring of domestic suppliers.)*

Peru has no plans to join the Plurilateral Agreement on Government Procurement. It should be pointed out that the 10% favouring of domestic suppliers is a temporary measure, in force until July 2000.

*Could Peru explain how far decisions on, for example, requests for anti-dumping action from Peruvian industry take account of competition issues in practice? What are the advantages and drawbacks of Peru's organizational arrangements, i.e. implementation of anti-dumping and competition law through the same body? Could this constitute a useful model for other countries?*

The arrangement in Peru is to combine the competition authority and the authority responsible for investigating cases of dumping and subsidies in the same body (INDECOPI) under the umbrella, as the administrative body of second instance, of the competition protection division of the INDECOPI Tribunal. The administrative body of second instance issues common criteria and guidelines for both authorities. For this reason, the Anti-Dumping and Subsidy Commission cannot, in its investigations, avoid consideration of the effects of competition on domestic producers and the market in general. In all its anti-dumping investigations, INDECOPI complies strictly with the provisions of the WTO agreements. Specifically, in determining injury and causal relationships it uses concepts such as "non-injurious price", the existence of barriers to domestic market access, the situation of other domestic competitors, and the effects of imports from third countries.

The advantage of this structure is that it makes it possible to avoid generating distortions in the market and prevent the use of anti-dumping and countervailing measures such as protectionist instruments which prevent access by new competitors to the domestic or regional market in order to consolidate the dominant position of certain enterprises. The negative effects of this would be reflected in the intermediate and final consumers which INDECOPI is also responsible for protecting through the Commission for Consumer Protection. The Peruvian Government recommends the use of these criteria to the extent that they help to promote competition in Peru.

INDECOPI's organizational model allows a number of synergies between different areas and economies of scale, since it brings under the same roof issues such as competition, anti-dumping, subsidies, safeguards, market access, technical standards, technical barriers to trade, consumer protection, advertising, unfair competition, capital restructuring and intellectual property. The administrative and management costs are lower than where there are separate bodies for each issue and this is very important when trying to reduce the size of the public sector. Furthermore, the INDECOPI model includes the Economic Studies Section, as a centre for support and coordination of the work of the other sections of INDECOPI. This allows savings on resources and leads to a comprehensive vision of competition issues, including protection of intellectual property. From the point of view of enterprises and consumers, INDECOPI has brought about a reduction in transaction costs by helping to simplify State administration. Other countries in Latin America are interested in learning about and emulating the INDECOPI model.

In INDECOPI's view, the trade liberalization and structural reforms that have taken place in Peru are only the first step, which must be followed by an effort to strengthen the competitive environment in the market and promote competition. Through its various functions and areas, INDECOPI promotes competition and competitiveness among enterprises, which are regarded as key factors in growth and development.

*Could the Peruvian authorities clarify the system of fiscal incentives they operate and comment on the scale of aggregate support provided? (paras. 131 to 135)*

The system of fiscal incentives is described in detail in section 4(iv), paras. 131 to 135 of the Chapter on Trade Policies and Practices by Measure in the Secretariat report and in sections 2(iv) and 3(iii) of the same Chapter. However, we would appreciate clarification of the concept "scale of aggregate support provided" in your question.

*What is the justification for maintaining a number of local content measures that are not utilized in practice? What plans does Peru have to eliminate these measures and by when? (para. 141)*

In general, Peru does not place conditions on the use of domestic inputs. Although there is a legal provision requiring the use of domestic milk as an input, in practice it is not applied, since local milk production is insufficient and milk has to be imported. Steps are being taken to revise this measure.

*Could the Peruvian authorities clarify the role INDECOPI plays in assisting the enforcement of intellectual property, particularly with regard to the actions it takes to ensure the same degree of protection for foreign and local recording artists alike?*

Article 1 of Legislative Decree 822 expressly lays down that protection is provided irrespective of the nationality or domicile of the products or the owner of the publication or disclosure. The same degree of protection is assured to domestic and foreign phonographic productions irrespective of their origin.

*What plans does Peru have to bring her intellectual property legislation in line with the national treatment provisions of the TRIPS Agreement and the Berne Convention, and by when?*

In Peru, "national treatment" is already incorporated in the copyright and industrial property laws.

*Could Peru clarify whether Article 48 of her 1996 Copyright Law provides for the retroactive protection of sound recordings and the protection of topographies of integrated circuits? If not, what steps does she have planned to make this compliant with the WTO TRIPS Agreement, and by when?*

Article 48 of the Copyright Law limits the right of reproduction to making a copy of a work for exclusive personal use. The subject of topographies of integrated circuits is being covered in the draft amendment to Andean Decision 344, which will be approved within the next few weeks.

*What provisions are being made to introduce transitional protection for pharmaceutical products under Article 70(8) and what provisions are made for exclusive marketing rights under Article 70(9)?*

In Peru, it has been possible to patent pharmaceutical and chemical products since before the entry into force of the WTO Agreement, therefore the transitional provisions of Article 70(8) and 70(9) of TRIPS are not applicable.

*Please explain how Article 7(e) of Decision 344 complies with the principle of non-discrimination in Article 27.1 of TRIPS in relation to pharmaceutical products?*

The exclusion from patenting of inventions of pharmaceutical products listed as essential by the World Health Organization is justified under the provisions of Article 65 of TRIPS: Peru had the right for a general period of five years not to apply the Agreement (paras. 1 and 2) and also has an additional period of five years to phase in the application of the Agreement where it concerns protection of areas of technology (pharmaceutical products) which did not have such protection in Peru at the time of the application of the Agreement (para. 4). Consequently, Peru may delay the application of the Agreement in relation to the patenting of pharmaceutical products listed by the World Health Organization for ten years (until 2005).

## **HONG KONG, CHINA**

*It is mentioned that the review mandate of the Commission on Technical and Trade Regulations appears to be a valuable transparency and analysis instrument to help prevent regulatory red-tape and sectoral interests from undermining the benefits of overall liberalization. However, it is noted that the authority originally assigned to the Commission was weakened by Legislative Decree No. 807 of 18 April 1996. It is also stated that coinciding with the limitation imposed on its competencies, the Commission's review activities have fallen sharply since 1996. Would the Peruvian authorities share with us the reasons for the sharp decrease of the Commission's review activities? We are interested to know if Peruvian authorities have taken any other measures, apart from the reviews initiated by the Commission, to enhance transparency and to prevent regulatory red-tape.*

While the functions of the Commission on Technical and Trade Regulations were altered by Legislative Decree No. 807, it continues to be responsible for supervising provisions establishing conditions or requirements to determine whether they constitute unnecessary restrictions to trade. The Commission has therefore continued to assess the regulations issued by the various sectors in order to avoid the establishment of para-tariff restrictions. It has also carried out investigations and promoted coordination meetings so that the sectors themselves can take responsibility for reversing such measures. These improvements have helped to reduce the number of measures issued by sectors which could unnecessarily affect trade.

Furthermore, the Legislative Decree established a mechanism in which the Commission issues a report which is transmitted directly to the President of the Council of Ministers so that the latter can adopt the corresponding measures, all of which has improved the effectiveness of the supervision.

*It is mentioned that emergency sanitary and phytosanitary provisions may be adopted to suspend the entry of products that threaten Peru's sanitary and phytosanitary conditions. The Commission on Technical and Trade Regulations found that some of these measures were non-tariff barriers. We are interested to know what specific actions the Peruvian authorities would take with respect to those measures. Will they be removed automatically?*

The adoption of emergency animal health and phytosanitary measures is aimed at establishing an appropriate legal framework for specific action against the risk of attack and/or introduction of pests and/or quarantine diseases not previously found within the national territory. As may be seen, emergency measures taken by Peru have a temporary application period and are amended or removed where enough technical information is available to suggest that the risk has been controlled or reduced to acceptable levels or that the animal health and/or phytosanitary situation has changed in such a way that the application of the measure is no longer technically necessary.

*It is stated that there are no regulations to allow holders of IPRs to prevent imports of patented products legally placed in the market abroad, but that the relevant decision of the Commission of the Cartagena Agreement to which Peru is a signatory may be modified to institute such measures. Would the Peruvian authorities provide further information on the nature and timing of the modifications under consideration, and how will this affect the protection of intellectual property rights in Peru?*

A system of international exhaustion for patent rights is provided for in Andean Decision 344 and Legislative Decree 823 (Article 35(a) subsection (a) of Decision 344, in conjunction with Article 66(a) of Legislative Decree 823.)

In the draft amendment to Decision 344 no substantial changes to the current Decision are envisaged, and the system of international exhaustion for patent rights has been maintained.

We envisage that the amendment of the Andean Decision on industrial property will be approved in the coming weeks.

*It is mentioned that the Banking and Insurance Law limits the amount of capital that a financial enterprise may invest in subsidiaries to 40% of the net worth of the investing company (except in the case of general insurance companies investing in subsidiaries specialized in life insurance which is 45%). We note that except for the life insurance sector, this limitation is not reported for other financial services in Peru's Schedule. We would like to know if Peru would consider inscribing the limitation in this regard into its Schedule?*

Article 34 of the Banking and Insurance Law stipulates that companies of the financial system may set up subsidiaries in order to carry out certain operations and general insurance companies may set up subsidiaries operating in life insurance and vice versa, as well as companies operating as finance companies and health providers.

Furthermore, the Law stipulates that the total amount invested in subsidiaries cannot exceed 40% of the net worth of the investing company, except in the case of general insurance companies investing in subsidiaries specialized in life insurance.

However, these provisions do not constitute a restriction since the limit on investment in subsidiaries is not a market access limitation, because access is still available to companies other than subsidiaries.

Consequently, these provisions should not be seen as part of the market access limitations for financial services appearing in Peru's Schedule in the General Free-Trade Treaty. This restriction should therefore be removed from Peru's Schedule.

*It is mentioned that Peru has scheduled a MFN exemption in banking and securities services reserving its right to adopt protection measures in response to actions taken by other countries. We would like to know if there is any incidence of invocation of this right and whether Peru has any plan to remove this exemption.*

Article 5 of the Banking and Insurance Law stipulates that for treatment of foreign investment, where appropriate, the Superintendency of Banking and Insurance takes into account criteria based on the principle of reciprocity, whenever the public interest is affected, pursuant to Section III of the Economic Regime of the Political Constitution.

This Article is part of the legal framework contained in the Political Constitution of Peru and there are no plans to amend these provisions: in view of their exceptional nature in a free market economy, the principle has not been invoked to date.

*With the termination of exclusivity by Telefónica del Perú in local fixed telecommunications services and long-distance national and international services, has Peru still maintained any restriction on market entry? If the answer is affirmative, we would like to know what the restrictions are and whether there is any timetable to remove them.*

When, in August 1998, *Telefónica* decided to end its five-year monopoly one year early, the telecommunications sector was entirely liberalized. There are no restrictions on the entry of new companies into the market, except for purely technical reasons such as when availability of the electromagnetic spectrum imposes a limit on the number of operators, as is indicated in Peru's list of specific commitments (GATS/SC/69/Suppl.1). In such cases concessions are granted through public tender.

*It is noted that broadcasting services are reserved to Peruvians by law. We would like to know whether Peru would consider reviewing this restriction with a view to relaxing/removing it.*

In order to obtain authorization to provide broadcasting services in Peru, apart from meeting the requirements stipulated by law, the applicant individuals or legal entities and their shareholders must be of Peruvian nationality. To date no plans have been considered to change this legal requirement.

It should be pointed out that Peru has not included such a change in its list of commitments on broadcasting services, nor do we currently foresee this happening.

## **JAPAN**

### **Investment**

*It is reported that CONITE is entitled to conclude, on behalf of the State and before the investment and related registration is made, law stability agreements with foreign investors and receiving companies.*

- *Would there be any disadvantage if an investment is made without concluding a law stability agreement?*
- *Please explain the contents of such law stability agreements.*
- *Are the contents similar to that contained in an investment protection agreement?*

*(page 17, paragraph 15, of the Secretariat Report)*

Peru applies national and MFN treatment to foreign investment in the country. Foreign investors have the same rights and obligations as domestic investors and there is no discrimination between foreign and domestic.

There is no prior authorization or action required for making foreign investments. Registration of the foreign investment is needed only for statistical purposes.

The Stability Agreement is not an obligation but an option for private investors, domestic and foreign, who comply with the legal requirements. The Stability Agreement offers guarantees of the stability of the legal regime in relation to the development of an investment from the following standpoints:

- Income tax regime;
- free availability of currency and transfers;
- labour regime;
- export promotion regime;
- and also guarantees the stability of nondiscriminatory treatment, although this principle is already enshrined in the Constitution.

An investment (domestic or foreign) that is not covered by a stability agreement is exposed to any changes that the Government might make in the above-mentioned regimes, on the basis of non-discrimination between domestic and foreign.

Investment protection agreements supplement the internal investment regulations and are the same as stability agreements with respect to non-discriminatory treatment (national treatment) and remittances. The transfer provisions of the investment protection agreements have a broader coverage than those of the stability agreements. The latter relate only to remittances corresponding to direct investment (capital) and technology transfer, while the former generally include interest, swings and all kinds of transfer relating to investment.

*Has Peru established an enquiry point enabling information to be obtained on its investment regime and domestic laws?*

The National Foreign Investment Commission (CONITE) offers foreign investors an information and guidance service, in coordination with public and private sector institutions, including the network of diplomatic missions abroad.

CONITE has a foreign investment web site [www.mef.gob.pe/peruinv/](http://www.mef.gob.pe/peruinv/) which covers the main aspects of the procedure of establishing a business in Peru and enables the legal texts to be consulted.

Specific questions on foreign investment in Peru can be addressed to [conite@mef.gob.pe](mailto:conite@mef.gob.pe).

## Customs valuation

*Peru had been granted a waiver regarding the application of the Agreement on Customs Valuation until 1 April 2000. The Secretariat Report states that, since 1 January 2000, Peru has been applying the provisions of the Agreement to half of the headings in its customs tariff (page 26, paragraph 13).*

*Did Peru fully implement the Agreement on 1 April 2000?*

*If not, please explain the expected schedule for applying the provisions of the Agreement to all the products.*

Since 1 April 2000, Peru has been applying the WTO Agreement on Customs Valuation to 100% of imports.

## Tariffs

*Japan appreciates that Peru has bound all tariff items. However, the bound tariff rates at 30% are much higher than the applied tariff rates (the average applied MFN tariff is 13.6%). Please explain the schedule for narrowing the gap between bound tariff rates and applied tariff rates.*

Peru's bound tariff of 30% for the tariff universe, apart from certain agricultural products, is the second lowest in Latin America. Peru would be prepared to negotiate a lower bound level within the context of a future round of multilateral trade negotiations, in exchange for equivalent concessions by its trading partners.

## Regulations, standards and other technical requirements

*It is reported that the Commission on Technical and Trade Regulations has the competence to pronounce upon the non-applicability of administrative measures that infringe the principle of freedom to trade included in the Legislative Decree No. 668. However, the authority originally assigned to the Commission was weakened by the Legislative Decree No. 807 of 18 April 1996, which no longer allows the Commission to suspend or declare the non-applicability of non-tariff measures when these are introduced through Supreme Decrees or Ministerial Resolutions. (Page 38, paragraph 62, of the Secretariat Report)*

*Do any procedures exist to review, prior to their introduction, whether or not non-tariff measures, which are to be introduced through Supreme Decrees or Ministerial Resolutions, infringe the principle of the freedom to trade included in the Legislative Decree No. 668?*

Although Legislative Decree No. 807 modified the functions of the Commission on Technical and Trade Regulations (CRT), the latter continues to be responsible for monitoring measures establishing conditions or requirements so as to determine whether they constitute unnecessary restrictions on trade. In this connection, the CRT has continued to appraise regulations issued by the different sectors with a view to preventing the establishment of para-tariff restrictions, has carried out investigations and has promoted coordination meetings in order that the sectors themselves may review such measures.

This Legislative Decree also established procedures enabling the Commission to issue a report submitted directly to the presidency of the Council of Ministers so that the latter may take the appropriate action, all of which has made supervision more effective.

## Competition

*Has Peru concluded any bilateral or regional cooperation agreements regarding competition? Please explain how the Government of Peru copes with transborder anti-competitive behaviour.*

Peru has not signed any bilateral or regional cooperation agreements on the subject of competition.

*Please explain how the Government of Peru copes with transborder anti-competitive behaviour.*

In cases of transborder anti-competitive behaviour the "effect doctrine" is applied. This means that in Peru the prejudicial effects of anti-competitive practices are sanctioned, no matter what the origin of those practices or behaviour. In actual fact, there has never been any case of this type.

## **IPR**

*Please provide the details of the border measures regarding industrial property.*

Specific provisions concerning border measures are being incorporated in the new Andean Decision replacing Decision 344, which will be approved in the next few weeks. These provisions relating to border measures are consistent with the TRIPS Agreement.

At the same time, the existing legislation includes provisions, both administrative and criminal, designed to safeguard the rights of industrial property and copyright holders against infringing goods that enter through customs.

## **Agriculture**

*Peru relies on imports for its food products, including main crops. Japan is of the view that food security is an important issue for a net-food importing country like Peru. Please explain Peru's opinion on this point.*

The Peruvian Government understands food security as the adequate availability of a country's food supply, access for the population to that food and its efficient use. The achievement of food security in this sense is a priority of Peru's agricultural policy.

We consider that this objective can be achieved insofar as it is possible to establish the conditions necessary to encourage agricultural production and productivity linked with the adequate availability of resources for the application of production support measures and a stable and transparent international market ensuring equal opportunities for free competition, which in the medium term should enable Peru to become an agricultural exporter.

## **Fishing**

*It is reported that the fishing industry faces problems relating to over-investment and over-capacity. For what reason, does Peru think, such problems have occurred?*

*It is also reported that over-investment and over-capacity are linked to the Government support programmes. Does Peru think that the Government subsidy is one of the reasons which has caused such problems? Please explain if Peru thinks that such problems are caused by other factors.*

*(page 63, paragraph 24, of the Secretariat Report)*

The development of Peruvian fishing activity is due to the high degree of industrial profitability of deep-sea fishing for fish-meal and fish-oil production and not to Government support measures. The integration of the extractive (fishing fleet) and processing (factory) sectors can still be profitable even under conditions of over-capacity due to the relative scarcity of marine resources.



In the 1990s, the fishing sector experienced a sustained increase in its resource-recovery activities and, like other industries, in the availability of external capital. These two factors encouraged many fishing enterprises to expand by assuming more debt, a process which intensified after 1994 when the fishing sector reached the maximum level of production. As a consequence of these favourable developments, the hold capacity of the fleet and the installed capacity of the processing plants also increased.

This over-capitalization did not create any problems until 1997, being supported by the rising trend in the price of fish-meal and the existence of available capital, which enabled the sector to pay the interest and refinance its debt. However, from the end of 1997, with the emergence of the El Niño phenomenon and the financial crisis, the part of the fishing sector producing fish-meal and fish-oil was the worst affected, due to the scarcity of the resource, which led to increased interest and debt refinancing requirements.

### **Services**

*Are foreign lawyers, who have qualifications as a lawyer in a country other than Peru, allowed to provide foreign legal services in Peru? If so, please explain the conditions, if any, for providing such services. Please also explain if there is any restriction or limitation on the services which foreign lawyers can provide.*

For a foreign lawyer to provide legal services in Peru his professional qualifications must be revalidated by the National Assembly of University Presidents or a Peruvian university, in compliance with the normal requirements of the institutions concerned, such as examinations, papers, professional experience, etc.

To plead before the Peruvian courts, he or she must be a member of a Peruvian bar association. Some of these associations have different membership dues for nationals and foreigners depending, in some cases, on whether membership is permanent or temporary.

### **KOREA, REPUBLIC OF**

#### **Anti-dumping Duties (Secretariat's Report, paragraph 55 of page 35)**

*According to the Secretariat's Report, virtually all final anti-dumping measures adopted since 1995 were still in force as of December 1999. If the measures continue to be maintained, they may be possible violations of Article 11.3 of the GATT 1994 Agreement on implementation of Article VI which stipulates that any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition. Is the Peruvian Government considering reviewing the cases so as to terminate improper impositions of the anti-dumping duties?*

With respect to anti-dumping duties it should be pointed out that Peru has used anti-dumping measures moderately and in strict accordance with the WTO's Anti-dumping Agreement.

Peru agrees that anti-dumping duties should not be maintained for more than five years from their imposition, unless a review shows that an extension is justified. The Peruvian anti-dumping regulations accord this right to WTO Member countries and also allow exporters and other interested parties to request that any definitive duties applied be reviewed or examined after they have been in effect for at least six months.

*Imposition of the Selective Consumption Tax on imported used vehicles (Secretariat Report, paragraph 45 of page 33)*

*Imports of new vehicles are taxed at 30% whereas used vehicles are taxed at 55% unless they have been reconditioned or repaired in a certain processing zone, in which case they are exempted from the ISC. As this seems to be conducive to violations of national treatment, Korea wishes to inquire whether the Peruvian Authorities have any intention to review the regulation concerned.*

As the Selective Consumption Tax (ISC) is levied both on producer-level sales in the country and on imports of goods subject to the tax, Peru is not in violation of the principle of national treatment. Moreover, although used vehicles that are imported through the ports of Ilo, Matarani and Paita and repaired or reconditioned in the CETICOS are zero-rated for ICS, the *ad valorem* customs duty and general sales tax are applied on a higher valuation basis that includes parts and labour, this being reflected in a higher recovery of tax, which thus offsets the lower rate.

**APEC (Secretariat Report, paragraph 34, page 22)**

*Peru has participated in the APEC forum since 1998. Is the Peruvian Government considering proposing any specific trade liberalization and/or trade facilitation measures to this forum? Is the Peruvian Government contemplating joining the APEC Business Travel Card Plan which permits the no-visa entry for businessmen and easier customs clearance?*

APEC has set up a working group on the development of trade facilitation principles. Peru has submitted comments for analysis by the working group, including the suggestion that a consolidated table of the progress made by each member economy be drawn up in order to identify those trade facilitation measures on which there is agreement and which could be used as a basis for the formulation of trade facilitation principles.

As for the APEC Business Travel Card Plan, the system would help Peruvian enterprises to arrange smoother and quicker business trips to the economies of the Asia-Pacific region, while making it easier for Asian and Pacific enterprises and investors to visit Peru. The competent national authority is being consulted about the possibility of Peru's joining the system.

**GPA (Secretariat Report, paras. 80-87, page 41)**

*Several provisions of the Peruvian Government procurement regulation seem to depart from the principle of national treatment by according preferences to national suppliers. Is the Peruvian Government considering joining the Government Procurement Agreement and the Transparency Agreement which is currently being discussed among WTO Member Countries?*

The Peruvian Government procurement regulations and procedures are open and transparent, except for slight preferences for national suppliers. It should be pointed out that these are temporary and of limited extent. Peru has not considered the possibility of acceding to the WTO's Agreement on Government Procurement. However, we consider that transparency in Government procurement could be one of the negotiating issues in a future round of negotiations.

**NEW ZEALAND**

*We note that Peru currently applies a 5% tariff on 296 agricultural tariff lines and a 10% surcharge on a further 56 items. What is the rationale for the 5 to 10% tariff surcharge on agricultural products?*

In Peru, the agricultural sector is considered very sensitive because it includes extremely poor social groups, who in recent years have also been seriously affected by the international crisis and the effects of El Niño.

The 5% tariff surcharge established by Supreme Decree No. 035-97-EF and increased to 10% for certain meat products by Supreme Decree No. 141-99-EF, is a measure adopted within the framework of the Government's economic policy. Supreme Decree No. 035-97-EF not only established this surcharge but also altered tariff rates and provided for the revenue from the surcharge to be channelled to the Agricultural Development Fund.

*We note that these surcharges on agricultural products are "temporary". What time frame does Peru foresee for the elimination of these surcharges?*

As we have indicated, the surcharges constitute measures adopted within the framework of the Peruvian Government's economic policy and no change has been considered to date because of the sensitivity of the agricultural sector, which makes such policies necessary.

*We are pleased that applied tariff rates appear to be below bound levels. We are concerned, however, at the wide variation between applied and bound rates, which undermines the predictability of the regime. What mechanisms does Peru have in place to ensure that fluctuations in commodity prices do not result in applied tariffs going beyond Peru's maximum tariff commitments?*

In principle, during their period of application the variable specific duties have never exceeded the WTO bound levels. Nevertheless, if the sum of the *ad valorem* tariff and the specific surcharge were ever to exceed that level, the planned mechanism is to apply the bound level as an upper limit.

Pursuant to Supreme Decree No. 114-93-EF Peru carries out a periodic review of the Customs Tables. This review is a monitoring mechanism which takes into account movements in international prices, thus ensuring that the "floor" prices of products do not exceed the bound levels.

## **SWITZERLAND**

*There is still a wide margin between the applied and the bound rates of generally 30%. This undermines the predictability of Peru's tariff regime. Is Peru ready to reduce this margin by adjusting the bound tariffs to the applied rates?*

Peru's bound tariff rate is 30% for all tariff lines except certain agricultural products, which is the second lowest level in Latin America. Peru would be prepared to negotiate a lower bound level in a future round of multilateral trade negotiations in return for equivalent concessions from its trading partners.

*Peru has introduced in 1997 a more transparent regulatory framework concerning Government Procurement. However, Peru is still not a member of the WTO Plurilateral Agreement on Government Procurement. Is there a chance that Peru will adhere to this Agreement in the near future?*

Peruvian rules and procedures on this issue are open and transparent; Peru has not considered the possibility of acceding to the Plurilateral Agreement on Government Procurement. Nevertheless, we think that transparency of government procurement could be one of the issues to negotiate in a future round of negotiations.

*Only a minor part of Peru's products are exported towards the Andean Community and the Latin American Integration Association. On the other hand, the share of exports to the USA and Europe has significantly increased over the last five years. Against this background, is it Peru's intention to conclude free trade agreements with the EU and the United States?*

Negotiations for the Free-Trade Area of the Americas (FTAA), involving the participation of 34 countries from America and the Caribbean, including the United States, will result in a Free Trade Agreement. Peru is also interested in deepening trade relations with the European Union.

*According to the report by the Secretariat, all "inventions that have industrial applications can be patented with certain exceptions, including: ... inventions related to pharmaceutical products listed as essential by the World Health Organization." (page 55, §151) Could Peru explain the TRIPS-compatibility of this exception?*

The exclusion from patenting of inventions related to pharmaceutical products listed as essential by the WHO is justified in accordance with Article 65 of TRIPS: Peru was entitled to a general period of five years of exemption from implementation of the Agreement (Nos. 1 and 2) and furthermore an additional period of five years to delay implementation of the Agreement with regard to products from the technology sectors (pharmaceutical products) which did not receive such protection in Peru at the time of implementation of the Agreement (paragraph 4). Consequently, Peru may suspend implementation of the Agreement with regard to the patenting of pharmaceutical products listed by the WHO for a period of ten years (until 2005).

*Until now, holders of IPRs could not prevent the import of patented products legally placed in the markets abroad. Thus, parallel imports of patented products seem to be possible. However, the report by the Secretariat indicates that modifications to Decision 344 of the Commission of the Cartagena Agreement may institute changes to this regime (page 56, §158). Could Peru provide more information about the actual regime and about the ongoing discussion on this issue?*

A system of international exhaustion for patent rights is provided for in Andean Decision 344 and Legislative Decree 823 (Article 35(a) of Decision 344 in conjunction with Article 66(a) of Legislative Decree 823).

In the draft amendment to Decision 344 no substantial changes to the current decision are envisaged, and the system of international exhaustion for patent rights has been maintained.

## THAILAND

*We note that Peru uses the variable specific duties mechanism on a number of agricultural products. We would like to see more information as follows:*

*Please explain the data sources that Peru uses for calculating the f.o.b. reference prices for each agricultural product, especially rice.*

The information sources used to establish f.o.b. reference prices for the agricultural products affected by the Variable Specific Duty, are as follows:

Product	Information source (code)	Application of code
Rice	Reuters CPC 022	From 3 April 2000, pursuant to Supreme Decree No. 032-2000-EF
Maize (corn)	Reuters CPC 017	From 3 April 2000, pursuant to Supreme Decree No. 032-2000-EF
Sugar	Bloomberg-Code SUGRCSCS	From 14 August 1999, pursuant to Supreme Decree No. 133-99-EFF
Whole milk powder	"Dairy Market News" USDA Western Europe publication (highest price)	From 11 October 1994, pursuant to Supreme Decree No. 133-94-EF

We should indicate that these information sources are used because they give the international prices of reference markets for each product, comparable in type and quality to those of the domestic industry.

*Why does Peru use the U.S. consumer price index as an element to adjust the reference f.o.b. price for each agricultural product?*

Peru uses the U.S. consumer price index (CPI) because the U.S. is a major trading partner and because it is a generally good indicator of international inflation.

*Please explain the mechanism to monitor whether the variable specific duties are beyond the commitment level.*

In principle, during the period of application of the variable specific duties, they have never exceeded the WTO commitment level. However, if the sum of the *ad valorem* tariff and the specific surcharge were to exceed that level, the commitment level would be applied as an upper limit.

Pursuant to Supreme Decree No. 114-93-EF, Peru carries out a periodic review of the Customs Tables. The update takes into account movements in international prices and reduces the difference between the "floor" prices and those observed in the market.

*We note that Peru already eliminated the variable specific duties mechanisms for wheat products. Does Peru have a plan to eliminate the mechanism for other products in the future?*

The variable specific duties were established within the framework of the economic policy pursued by Peru since the early 1990s and no change is currently foreseen.

This mechanism aims to reduce the impact of fluctuations in world prices on domestic prices.

*Could Peru please explain more details of the suspension of rice imports from all countries? Does Peru notify this measure under the SPS Committee?*

*In order to reduce the trade effects, does Peru have any plans to approve the import of rice on a case-by-case basis if a certificate of Gorgojo Khapra free is attached.*

*Does Peru have a plan to lift the measure in the near future?*

Pursuant to Supreme Decree No. 007-97-AG, published on 6 May 1997, the importation into Peru of rice grains from countries affected by the "Khapra Beetle" (*Trogoderma granarium* Everta) is contingent upon the results of a pest risk analysis (PRA) performed by the National Agricultural Health Service (SENASA). Any country affected by this pest wishing to export such products to Peru may request the Peruvian Government to carry out such an analysis.

The outline for the procedure for PRAs is based on Resolution No. 25 of the General Secretariat of the Andean Community, published on 24 November 1997, adopting the "Andean Phytosanitary Standard for Pest Risk Analysis", based on the FAO "Guidelines for Pest Risk Analysis" (1996). In short, these standards stipulate that a study should be carried out once a risk has been identified, in order to assess the extent of the risk and ultimately to identify the phytosanitary measures which need to be applied in order to afford the country an adequate level of sanitary protection against the quarantine pest. Such measures could include aspects such as verification at origin, certification at sites of production, gathering, processing and storage, phytosanitary certification at origin, inspection on entry into the country, adequate conditions of packing and packaging, quarantine treatment, among others. In other words, the country's Health Authority will

grant authorization for the importation of the product from that origin only when it has made certain that Peru is adequately protected against the quarantine pest.

This measure will be amended or withdrawn only when sufficient technical information is available to suggest that the risk has been controlled or diminished to acceptable levels or that the phytosanitary and/or animal health situation has altered so as to make the application of the measure no longer technically necessary.

## UNITED STATES

### I. ECONOMIC ENVIRONMENT

*The Secretariat Report notes that Peru's economic recovery during the 1990s has resulted in improved social welfare indicators but that it has also been accompanied by growing regional and income inequalities. What steps is the Government taking to address these problems?*

The Peruvian Government has been carrying out a social policy essentially targeted on poverty reduction. It has launched programmes whose objective is to meet the basic needs of the very poor, chiefly in the fields of education, health care and nutrition, thereby raising the level of human capital.

There have been visible improvements in our social indicators, such as poverty rates, literacy rates, access to basic services, infant mortality and life expectancy rates, thanks partly to our country's economic recovery.

The Government's major financial efforts in the field of social spending have borne fruit.

*Per capita* social spending rose from US\$65 in 1991 to US\$207 in 1998, that is, by 218%. Furthermore, if we look only at basic social spending (top priorities are essential social services in the areas of nutrition, health care, education, justice, housing, sanitation and energy), growth in *per capita* spending is 400%, having risen from US\$29 in 1991 to US\$146 in 1998.

The Government has carried out functional reforms with the clear aim of redirecting public spending to achieve greater efficiency in the use of resources, in a context of sustainable fiscal balance, since the advancement of the very poor, i.e. the fight against poverty is a priority objective of its social policy.

Improvements are also being made in targeting social programmes, with a new tool that has been designed to allocate social investment spending on the basis of an updated poverty map.

To make public spending, particularly social spending, more efficient we are preparing a set of performance indicators for the main social programmes, with a view to evaluating the quality of programme management and the impact on the beneficiaries.

*The report notes that United States ATPA preferences appear to have contributed to a significant increase in Peruvian exports to the United States. What is the Government's assessment of the ATPA programme in helping create licit alternatives to coca cultivation?*

Our exports to the United States grew by about 25% a year from 1993 to 1999. This increase has led to the creation of licit jobs. Our underlying principle is that every licit job created is a battle won against drug trafficking.

By supporting the development of export industries, ATPA is directly helping to create new licit jobs, which means that the rural population, instead of migrating to coca-growing areas in search

of work, is migrating to areas where licit export industries are creating new jobs, as a legal employment alternative that offers security and stability.

ATPA was passed to help the Andean countries combat illicit drug trafficking and, in this field, Peru has made impressive gains: 65% of illegal crops have been eradicated and the hectareage planted has fallen from 120,000 hectares to 38,000 hectares. The coca plantations are now being replaced by traditional crops such as coffee and cacao, pulses, palm hearts and fruit trees. In 2000, the area covered by the alternative development programme amounts to 25,524 hectares, with 19,422 planted in coffee, 4,482 in cacao, 900 in pulses, 320 in palm hearts and 400 in fruit trees, directly benefiting 12,956 farmers and generating 9,995 additional jobs.

### **III. TRADE POLICIES AND PRACTICES BY MEASURE**

#### **Measures directly affecting imports**

*Peru's exports are concentrated in primary and semi-processed products, mainly from mining and fishing activities. Private sector organizations complain that counter-productive taxes hamper their ability to diversify their exports. What types of tax reform, educational and other reform programmes does the Government plan to introduce to bolster manufactured exports?*

Support for the export sector has been stepped up through action to:

- (a) Design, coordinate and carry out activities in conjunction with the private sector to promote export development;
- (b) perfect the foreign trade information system and channel and disseminate information internally and externally;
- (c) manage and channel international technical and financial cooperation for export promotion;
- (d) promote and publicize exportables internationally;
- (e) promote new exports and take steps to diversify and consolidate markets;
- (f) support the development of the export capacity of small and medium-sized enterprises, through advisory and technical assistance services and training.

To bolster manufactured exports, Peru will continue to facilitate foreign trade operations. In this area, the Government has made significant efforts to improve customs legislation by rationalizing and simplifying foreign trade procedures.

Our objective is to diversify exports, particularly those with higher value added. Various factors are contributing to this process, including a continuing stable macroeconomic context, improvements in services such as ports and airports, investment in general and investment in transport infrastructure and human capital promotion in particular.

Insofar as these factors make for greater comparative advantages and economies of scale can be achieved, Peru will be able to offer a greater range of exports, thereby creating more jobs and promoting closer inter-sectoral linkage in both goods and services sectors.

*With continuing improvement of Peru's customs administration under way, could Peru outline any intentions with regard to further diminishing the role or otherwise phasing out the PSI regime?*

Preshipment inspection is a system that has been applied in Peru since 1992. It has been very useful in preventing fraudulent declarations of the value of imports, particularly those for which there is no reliable database. Certain goods have been excluded on the basis of import value or type. The system has helped to modernize and improve the collection of customs duties.

The Peruvian Government has decided to continue with preshipment inspection by verification firms following implementation of the WTO Customs Valuation Agreement, while adjusting their participation in the area of customs valuation. The system is used after clearance of the goods for risk assessment purposes.

As the system is important for Peru, there are no plans to change it.

*Recognizing that non-preferential certificates of origin are only required for tariff lines subject to anti-dumping and countervailing duties, Peru requires that such goods be accompanied by a certificate of origin issued by the competent authority in the country of origin. The United States Government has no provisions for officially certifying the origin of exported goods and does not officially recognize any body such as a chamber of commerce as being authorized or otherwise competent to make origin determinations. Why does Peru require this seemingly unnecessary procedure?*

We require the presentation of certificates of origin for imports of goods subject to anti-dumping and countervailing duties in order to guarantee that the duties imposed by Peru are applied properly, thereby avoiding evasion through false declarations by importers regarding the country or place of origin of products subject to anti-dumping duties. The procedure applied by Peru is based on the Kyoto Convention. The certificate operates on a MFN basis, in other words, it is required from all countries equally.

*How does Peru ensure that the certificates of origin prepared in exporting countries are undertaken in a manner that is consistent with Peru's rules for determining origin, which would be necessary for Peru to grant uniform treatment to WTO Members for purposes of determinations of origin on goods imported into Peru?*

As mentioned above, this requirement is based on the procedure and recommendations of the Kyoto Convention, which requires exporting countries to accredit the certifying institution, with the names and signatures of the issuers of the certificates, in order to ensure that they are authentic and legitimate and that supporting documents will be available should customs request them.

*Please describe the procedures by which Peru implements Article 2(h) of the Rules of Origin Agreement with regard to providing binding assessments of origin upon individual request by the private sector in advance of goods being traded.*

Binding assessments of origin issued in advance by customs authorities are not expressly mentioned in the customs legislation. However, the General Customs Act and its enabling Regulations allow for the single import declaration to be processed prior to the arrival of the goods in the customs territory, provided it is intended for a single consignee who has not committed any infraction subject to a fine, and in the interim the customs authority may issue an opinion as to whether the goods comply with the origin stated in the documentation presented.

Moreover, the disciplines established in Article 2 and Annex II of the WTO's Rules of Origin Agreement for the transition period prior to completion of the work on harmonizing the rules of origin being carried out by WTO and WCO are being applied by customs, in accordance with the applicable legal provisions.

## **(2)(iii) Tariffs**

*Please describe Peru's position on tariffs, including any plans to raise tariffs for some goods as a result of ongoing discussions in the Andean Community on a common external tariff.*



With regard to the discussions on a common external tariff in the Andean Community, the mechanism is currently being evaluated in order to determine a structure and level that are consistent with multilateral commitments and negotiations under way with third countries. As in the past, Peru will respect its commitments under WTO.

*Peru reduced its average tariff from 16% to 13% in April 1997. At the same time, it doubled the number of tariff rates through the application of a temporary 5% surcharge on certain agricultural commodities. When does the Government plan to remove these surcharges?*

The surcharges are part of Peru's economic policy and for the time being it has no intention of changing them, since the agricultural sector is a sensitive one which includes various impoverished groups, which have been hard hit by the recent international crisis and the El Niño phenomenon and need policies of this kind.

#### **(2)(iii)(c) Variable duties**

*The report notes that Peru removed its variable tariff on wheat in 1998 but similar tariffs remain on other agricultural products. It also states that Peru's average tariff on agricultural goods is about one-third higher than the average tariff on manufactured goods. What are the Government's plans as to the removal of remaining variable tariffs? Does the Government contemplate reapplying the variable tariff on wheat?*

Variable duties were established under the economic policy adopted by Peru in the early 1990s and there are no plans to change them at present. The variable tariff on wheat was removed as part of that policy.

#### **(2)(iii)(f) Concessional import regimes**

*Please explain in detail the concessional import regime in which there is a suspension of import duties and other applicable taxes on certain goods to be re-exported. Please provide full details including eligible goods, duration of exemption, and eligible recipients (including what constitutes eligibility).*

#### **Temporary import**

In accordance with the General Customs Act and its enabling Regulations, approved by Legislative Decree No. 809 and Supreme Decree No. 121-96-EF, respectively, the temporary import regime permits certain foreign goods, specified in a Ministerial Resolution of the Ministry of Economic Affairs and Finance, intended to be used for a specific purpose in a specific place and re-exported within a determined period without having undergone any modification, except for normal wear and tear to be imported with suspension of import duties and other applicable taxes.

The temporary import period will be that specified by the interested party in its application, which will be approved automatically, but may not exceed 12 months. If the term requested is shorter, extensions will be approved automatically simply upon renewal of the guarantee, but may not exceed the 12-month maximum.

In duly justified cases, an additional period of up to six months may be requested for packing materials for exports.

Beneficiaries of the temporary import regime must provide a guarantee equivalent to 100 % of the import duties and other taxes, to be presented together with the application, in order to ensure that the goods are re-exported within the period requested. Re-exports may be made in one or more shipments through customs offices other than the office of entry.

By way of exception, the status of temporary imports may be regularized in the following cases:

- (a) When the goods are cleared for home use, in which case compensatory interest equal to the TAMEX monthly average will be charged per month or part thereof, counting from the date of registration of the temporary import declaration to the date of the application for clearance for home use.
- (b) When the goods have suffered a degree of wastage or been totally or partially destroyed by accident or force majeure, as established in the Regulations.

Ministerial Resolution No. 287-98-EF/10 and amendments thereto approved a list of goods that may be admitted under the temporary import regime. It includes:

- 1. Professional, technical, scientific and pedagogic equipment, parts and accessories for use in a specific task.
- 2. Laboratory and research apparatus and equipment.
- 3. Goods for display at official events, duly authorized by the competent entity.
- 4. Samples used to demonstrate a product to be sold in the country.
- 5. Advertising materials.
- 6. Live animals for shows, competitions or sporting events and pure-bred animals for breeding.
- 7. Musical instruments, equipment, technical materials, costumes and stage props for use by artists, orchestras, theatre or dance groups, circuses and the like.
- 8. Vehicles for use in sports competitions.
- 9. Vehicles adapted and equipped for scientific research and soil and surface analysis and exploration.
- 10. Vehicles adapted and equipped for scientific research, analysis, tests, soil and surface exploration and/or drilling. Also, vehicles used to provide services linked to the activities of companies that have obtained a supreme resolution granting them the benefits of Legislative Decree No. 818, and extensions and amendments thereto.
- 11. Floating docks and vessels such as dredgers, tugs and the like intended to provide an auxiliary service.
- 12. Fishing vessels leased abroad by domestic companies to expand their fleets.
- 13. Vehicles, vessels and aircraft entering the country for tourism purposes.
- 14. Vehicles carrying freight or passengers in transit which enter through customs border crossings, not subject to international treaties and conventions signed by the country.
- 15. Moulds, matrixes, plates and reproduction equipment for use in industry and graphic arts.
- 16. Ships and aircraft under a foreign flag, their equipment and spare parts, for repair, maintenance or installation, including, where applicable, fishing gear.
- 17. Apparatus and instruments used directly in the provision of services.
- 18. Broken machinery, engines, tools, instruments, apparatus and their components or accessories for repair in the country.
- 19. Equipment, machinery, apparatus and instruments directly used in the production process, except for motor vehicles for freight or passenger transport.
- 20. Articles that do not undergo modification or transformation when incorporated in goods for export and which are necessary for their presentation, preservation or packaging.
- 21. Packing materials, containers, pallets and the like.
- 22. Printed and developed cinematographic film, with or without recorded sound or with recorded sound alone, and videotapes with image and/or sound for television stations.

## Temporary admission

In accordance with the General Customs Act and its enabling Regulations approved by Legislative Decree No. 809 and Supreme Decree No. 121-96-EF, respectively, the temporary admission regime is the customs procedure that allows certain foreign goods to be admitted into the customs territory with suspension of import duties and other taxes and exported within a given period after having undergone transformation or processing. These goods must be materially incorporated in the product exported.

Temporary admission may be granted for raw materials, inputs, intermediate products, parts and components materially incorporated in the product exported, including goods that are absorbed by the product in the production process. Items such as catalysts, accelerants or retardants consumed in the production process may also be granted temporary admission.

Temporary admission is not granted for goods used as an auxiliary in the production process, such as lubricants, fuels or any other energy source whose function is to generate heat or power, or for spare parts since they are not materially incorporated in the end product and are not directly used in obtaining the product.

Any natural or legal person may make use of temporary admission, which is automatically granted for a period of 24 months.

Persons applying for temporary admission must post security for the duties and taxes suspended. The guarantee may be valid for a lesser period than that mentioned in the preceding paragraph and may be renewed up to the maximum period simply by lodging new security.

Applications must be accompanied by an input-output table showing the amount of goods used per unit of the compensating product to be exported and the amount present in waste and by-products, with or without commercial value. This table need only be presented with the first declaration, unless the variables change.

Temporary admission is automatically cancelled by customs when the compensating products are directly or indirectly exported or enter an industrial free zone or a free warehouse. It will also be automatically cancelled in the following cases:

- (a) Upon the re-export of goods admitted temporarily or in excess with commercial value.
- (b) Upon the clearance for home use of goods admitted temporarily as such, contained in compensating products and/or in excess with commercial value. The following rules apply in this regard:  
The applicable taxes will be those in effect on the date of registration of the import declaration plus compensatory interest equal to the TAMEX monthly average, per month or part thereof, counting from the date of registration of the declaration.
- (c) Destruction of goods admitted temporarily, either accidentally or as a result of duly-substantiated force majeure.

*As stated in paragraph 35, "Over two thirds of these concessional entries related to the mining industry". Could you please explain in detail what goods constitute the concessional entries in relation to the mining industry.*

In 1998, imports of mining products under the temporary admission procedure amounted to US\$234.83 million (68.2% of total imports under that procedure). US\$97.99 million (41.7%) of that total were primary mining products, US\$132.76 million (56.5%) were semi-processed mining

products, US\$1.6 million (0.7%) were processed mining products and US\$2.45 million (1%) were scrap. The main products imported included:

<b>Product</b>	<b>C.i.f Value US\$ Million</b>
Gold, other unwrought forms	107.07
Copper ores and concentrates	89.88
Copper mattes	7.52

In 1998, imports of mining products under the temporary import procedure amounted to US\$18.72 million (3.4% of the total imported under that procedure). US\$0.65 million (3.5%) corresponded to semi-processed mining products and US\$18.1 million (96.5%) to processed mining products. The main imports included:

<b>Product</b>	<b>C.i.f value US\$ Million</b>
Cast iron or steel tanks with a capacity of 50 litres	6.35
Stoppers and caps	3.08

#### **(2)(iii)(g) Concessions**

*Section III, paragraph 37 of the Secretariat Report describes which donations made to public sector entities are exempted from import duties and internal taxes. Please provide full details including eligible goods, duration of exemption, under what arrangement the donations are being made and eligible recipients (including what constitutes eligibility). Also, please state whether these goods constitute a portion of the "two thirds of these concessional entries related to the mining industry", as previously mentioned in the question above.*

There is no exhaustive list of donations to the public sector from abroad which may enter the country free of import duties and domestic taxes, i.e. the general sales tax (IGV), the selective consumption tax (ISC) and the municipal promotion tax (IPM). However, for donations to the education sector (private and public educational institutions) there are two lists of products, established in Supreme Decree No. 046-97-EF and Supreme Decree No. 003-98-EF.

Tax-free donations to the public sector can be made in the following forms:

- (a) Imports of goods financed by donations from abroad, provided they are used to carry out public works under technical cooperation agreements between the Peruvian Government and other States or international governmental organizations.
- (b) Imports of goods donated to national public sector departments and agencies, except for enterprises by any donor, whether or not made under cooperation agreements for programmes, projects and activities concluded by the Peruvian Government and foreign governments or international governmental organizations.
- (c) Imports of goods for social welfare projects expressly approved by the Peruvian Government, donated by foreign governments or international organizations to foreign international technical cooperation agencies and institutions (ENIEX) registered with the Ministry of External Relations or to non-governmental development agencies (ONGD-Peru), or donated by individuals or public or private entities established abroad to private non-profit institutions.

These imports do not form part of the two-thirds of imports made under the temporary admission and temporary import procedures.

**(2)(iv) Other charges affecting imports**

*I.(4)(iii)6 and (2)(iv)5. Peru notes that used vehicle imports face an ISC tax of 55 % unless they have been reconditioned or repaired in a CETICOS trade and industrial processing zone. Paragraph (4)(iii)6 specifies that such vehicles must be designed and built as left-hand-drive vehicles and were never written-off in an accident. However, that paragraph also states that these criteria do not apply to used vehicles imported through the ports of Ilo or Matarani. Why are different criteria used in different CETICOS? What type of reconditioning or repair is necessary to exempt a used vehicle from the ISC tax in Ilo or Matarani?*

Under the Peruvian legislation imported used vehicles that are repaired or reconditioned in CETICOS are taxed at 0%. This is a general provision and is applied without distinction to the CETICOS in Tacna, Ilo and Matarani. However, as part of the comprehensive policy to create poles of development in depressed areas, it was decided that only used vehicles complying with the requirements and imported through the ports of Ilo and Matarani could enter the CETICOS. No port in Tacna was mentioned because there is no port in that department. Accordingly, used vehicles destined for the CETICOS in Tacna have to be imported through one of the two above-mentioned ports.

*We also understand that the subject of re-imposing the variable levy on wheat is being considered. We would urge Peru to re-consider any such action as it is contrary to the spirit of trade liberalization Peru is following in the FTAA and WTO negotiations.*

As mentioned previously, there are no plans for any changes at present.

**(2)(v)(a) Import prohibitions and restrictions**

*What administrative or other objectives does the GOP have that require the submission of an application or other documentation (other than that required for customs purposes) to various relevant administrative bodies as a prior condition for importation into the customs territory of Peru?*

Legislative Decree No. 668 eliminated para-tariff restrictions such as licences, opinions, prior and consular approvals, import and other registers, and prior conditions of any kind that affect the import or export of goods.

The only measures still in effect are the prohibitions established in the Single Text on Prohibited Exports, in the General Law protecting the country's cultural heritage and other measures ordered by the Ministries of Agriculture and Health to safeguard public health (sanitary certificates) and measures bearing on external security and internal order intended to ensure peace and public well-being.

**(2)(v)(b) Import licensing**

*The report by the Secretariat indicates in paragraph III.2.i(a) that import licences may be required for specific goods. Peru has provided notifications in documents G/LIC/N/3/PER/1 of 27 August 1996, G/LIC/N/3/PER/2 of 19 January 1999, and G/LIC/N/3/PER/2/Add.1 of 8 October 1999, that no administrative procedure relating to import licensing exists in Peru. Please clarify the use of import licensing in Peru.*

As stated earlier, the so-called 'import licence' was eliminated pursuant to Legislative Decree No. 668, and today there are no procedures for granting or administering import licences or permits, with the exceptions mentioned in the preceding response.

*Are the goods listed in Table III.6 as "restricted goods" imported through an import licensing programme? Are there any similar requirements that apply to goods that are not listed in Table III.6?*

We repeat that there are no import licences. For products whose importation is restricted, there are generally additional requisites, such as inclusion in registers of importers (in the case of explosives) and special certificates or permits for reasons of security or public health.

## **(2)(viii) Government procurement**

*We note in paragraph 84 that in order to be eligible to bid for public tenders, Peru requires that suppliers of public works be registered in the National Registry of Contractors and must not appear in the registry of disqualified contractors. What is the rationale behind this requirement? Is this necessary for efficient Government procurement? Who may register and what is required for registration?*

The rationale behind having everyone who wishes to bid on public works register in the National Registry of Contractors is to avoid any subjective pre-qualification by public agencies when contracting public works. It also serves to keep track of who is executing the largest Government investments in the country.

The requirements for registration are established in the Single Text on Administrative Procedures of CONSUCODE and are as follows:

Application addressed to the Manager, enclosing:

- A sworn statement on the accuracy of the information provided, pursuant to Law 25035.
- Certificate that the members of the technical staff are registered with the CIP or the CAP.
- Initial balance sheet (for recently-established companies), balance sheet for the preceding year submitted to SUNAT, sufficient financial statements to demonstrate the solvency of the executor of the works, signed and sealed by C.P.C.
- Simple copy of the technical staff payroll for the month before the application is submitted, duly registered with the Ministry of Labour. If computerized payrolls are presented, attach the corresponding authorization.
- Simple copy of the incorporation documents and the most recent capital increase, if any, duly registered in the public registries.
- Undocumented curricula vitae of the members of the technical staff.
- In the case of works completed abroad, the contracts and other supporting documents should be registered by the competent authority, whose signature will be certified by the local Peruvian Consulate and authenticated by the Ministry of External Relations in Peru.
- For completed private works, the building contracts, municipal certificate of compliance and builder's declaration containing a priced description of the building, endorsed by the owner and duly certified by the competent authority.
- Additional documents demonstrating the execution of the works declared in the application, when warranted.

- The sworn statement regarding corporate partners referred to in Article 7° of the Regulations Governing the National Register of Contractors, when warranted.
- A sworn statement of organizational adequacy, indicating human resources, equipment and material means.

A receipt showing payment of the corresponding fee, equivalent to 1 tax unit (UIT) (S/. 2,900 for the year 2000) should also be attached. The procedure is initiated by CONSUCODE's Document Processing Office. The approving authority is the Office of the Manager of the National Registry of Contracts. A ruling must be given within five working days. The period allowed for correcting deficiencies is 30 calendar days from the issue of the comment sheet.

*New legislation has been adopted since Peru's first TPR in 1994, consolidating the legal framework for, and enhancing the transparency of Government procurement procedures. Please describe the specific transparency measures that are included in this legislation.*

One of the main features of the new Peruvian legislation in this area is that Law 26850 has unified the rules governing the processes of Government contracting and procurement of goods, services and works into a single body of law, thus providing greater procedural transparency. The Law enshrines the principles of competition, impartiality, transparency and fair and equal treatment to ensure that the Government obtains goods and services of the required quality in a timely fashion and at reasonable cost.

The Senior Council on Government Contracting and Procurement (CONSUCODE) has been established as the entity responsible for ensuring compliance with contracting and procurement procedures by public sector agencies. The legislation has also created the Government Contracting and Procurement Tribunal as the last administrative instance for settling disputes between Government agencies and bidders.

*The Secretariat Report notes that Peru is not a member of the WTO Plurilateral Agreement on Government Procurement. Does the Government plan to become a member to the Agreement? What steps does the Government plan to take to bolster confidence in its public procurement system?*

Peru has not considered the possibility of acceding to the WTO Plurilateral Agreement on Government Procurement.

### **(3)(iii)(a) Export prohibitions and restrictions**

*Recently the Government of Peru has applied export bans on unprocessed Uña de Gato and Maca. What does the Government hope to accomplish by banning exports of unprocessed Uña de Gato and Maca? These products are in the market development stage outside of Peru. What is the Government of Peru's justification for these restrictions?*

The measure is consistent with our WTO commitments, which do not exclude provisions to preserve the native genetic heritage and improved crops or public health and phytosanitary and zoosanitary measures, which are governed by their own laws and specific regulations.

Maca and Uña de Gato were being extracted in large amounts from the native forests in our Amazon area, affecting the resource, which is why the measure seeks to prevent depredation of the species. Extraction is permitted only in areas under controlled management.

Consequently, the measure is necessary to promote the sustainability of these species and the management of native forests.

**(4)(iii) Free zones and other special fiscal zones**

*The Report states that the Peruvian Government has indicated that the CETICOS have boosted activities related to the reconditioning and repair of vehicles. However, current Peruvian law does not permit reconditioned auto parts, certified as safe throughout the world and in widespread use in Peru, to be used in the CETICOS. Why does the Government prevent the use of these parts in the CETICOS when they are permitted to be used in the remainder of Peru's territory?*

For reasons of safety, Peruvian legislation stipulates that in the CETICOS vehicles involved in accidents must be repaired and the steering of right-hand-drive vehicles converted using new parts and components. This requirement applies only to certain parts or components which, unless they meet the necessary quality standards, could affect the safety or even the structure of the vehicle. The legislation also allows for the possibility of other parts and components being repaired or adapted.

**(4)(vi) Trade-related investment measures and local-content requirements**

*The Secretariat Report notes that the trade-related investment measures in the milk sector have not yet been eliminated. Given that these measures are not enforced and appear to be inconsistent with Peru's obligations under the TRIMs Agreement, why are there no plans for eliminating these requirements?*

In general, Peru does not place conditions on the use of domestic inputs. Although there is a legal provision requiring the use of domestic milk as an input, in practice it is not applied since local production is insufficient and milk has to be imported. Steps are being taken to revise this measure.

*The Report also notes that Peruvian poultry growers have agreed to buy some domestic maize and sorghum production. What benefits do the growers receive for making such a commitment? If no benefit is provided, then please explain why the growers would agree to such an agreement.*

The agreement between the maize and sorghum producers and poultry growers is a private one and its purpose, under the auspices of the Ministry of Agriculture, is to promote production and employment and to boost the producers' productivity and efficiency since they have to supply a product equal in quality to the imported product and on better terms. However, the agreement is flexible since if a producer fails to satisfy the conditions, the poultry grower is not obliged to purchase his product. Poultry growers benefit from a greater negotiating capacity with producers and because they are assured of supplies of an input that is important for poultry production.

**(4)(viii) Intellectual property rights**

*The Secretariat Report notes that Andean Decision 344, which is part of Peruvian legislation, is under revision to ensure consistency with the provisions of the WTO TRIPS Agreement. When does the Government expect to conclude this process?*

It is expected that the amendment to the Andean Decision on industrial property rights will be approved in the next few weeks.

*Peru has made significant progress in reducing software and video piracy in recent years. Nevertheless, piracy in most areas remains double or triple the rate in developed countries. What further steps is the Government taking to improve IPR protection and abide by its WTO TRIPS commitments?*

Peru is making daily efforts to combat piracy and counterfeiting, many of which are public knowledge, while others are carried out in strict secrecy. The most recent steps include the establishment of a Commission to Combat Adulteration, Counterfeiting and Piracy, which brings



together a total of 17 entities, including different professional and consumers' associations and public institutions. Its purpose is to coordinate action to combat piracy and develop and disseminate a culture of respect for intellectual property in the country. Plans are being made for coordinated monitoring activities, seminars and publication of advertisements concerning the protection of intellectual property in the different media.

INDECOPI is carrying out an active education campaign at all levels to promote respect for intellectual property rights. This will undoubtedly have a positive impact in the medium term, since consumers themselves will reject pirated products.

Piracy in the country has been reduced as a result of these efforts. The pirate share of the market, mainly in films and software, has been cut back considerably, according to statistics put out by the Business Software Alliance and Motion Picture Association. Thus, in software, the pirate share declined from 98 % in 1993 to 62% in 1999 and in the case of films, it dropped from 100% in 1992 to about 52% in 1999. Although we are aware that these figures are not exact, they are an indication that piracy is not on the rise in Peru.

#### **IV. TRADE POLICIES BY SECTOR**

##### **(2) Agriculture**

*The Report notes that Peru's agricultural sector is marked by a dual structure – an efficient export sector alongside subsistence farmers. Does Peru's current high level of agriculture protection make sense given this dual structure? Are policies aimed at supporting prices of commodities produced by subsistence producers discouraging development of agricultural exports? Does the Government have any plans to introduce quantitative restrictions on the import of agricultural products? Does the Government have plans to encourage export of its production surpluses?*

Given the nature of the agricultural sector, the Government's current policies are to lay the foundations for the development of a modern economy, but this requires time, sufficient technical, scientific, financial and human resources and an international environment that permits free competition in a transparent and stable market, not dominated by distorting mechanisms that depress international prices and affect the domestic market.

In world trade, various mechanisms are being used by third countries to support their domestic agriculture and subsidize their agricultural exports. In many cases, this has made their exports artificially competitive, transforming food-importing economies into net exporters and turning agricultural economies such as Peru's into food importers.

We therefore consider it advisable to maintain certain tariff protection measures that are consistent with Peru's commitments under the WTO, in order to support the modernization of our agricultural sector and create the conditions for making it competitive and sustainable over time, including so-called commodities, such as sugar, dairy products, rice, yellow maize and wheat, which have high growth potential.

The Government does not intend to introduce quantitative restrictions, nor does it encourage the export of surpluses, although it endeavours to achieve food security.

##### **(4) Mining and Energy**

*The Government's scheme for developing the Camisea natural gas field calls for the project to be let in two stages, including upstream and midstream segments, and for gas prices to be regulated at the wellhead. As a result, the Government has experienced some difficulty attracting firms to bid on the midstream component of the project. The Government recently announced that it would hold a tender*

*for the midstream component on 22 June. What plans does the Government have, if any, to make the midstream component more attractive to international oil companies?*

Peru's policy of promoting private investment has resulted in significant economic inflows and greater private sector participation in all the sectors of the economy in which it participates. For this reason, the privatization and concession programmes will continue, with a view to improving economic efficiency and competitiveness.

The privatization and concession process has been dynamic in the first quarter of 2000, as demonstrated by the contract for the Camisea field stage awarded last February, among other examples.

Bidding on stage two of the Camisea project will be held next June and includes transport and distribution. Pre-qualified companies are establishing consortia in preparation for the bidding.

#### **(4)(ii)(a) Hydrocarbons**

*In recent months, Peru's energy parastatal corporation PetroPeru, on instructions from the Government, has actively participated in the retail fuels business to reduce high gasoline prices. When does the Government plan to withdraw PetroPeru from the retail gasoline market? When will the Government privatize the Talara, Cochabamba and Iquitos refineries?*

In general, PetroPeru has limited its participation in the marketing of liquid fuels derived from hydrocarbons to the level of wholesale distributor. At present it plays a very sporadic role on the retail level and only temporarily in specific cases in isolated parts of the country.

Although the project to privatize the petroleum industry calls for complete privatization of the refining business, its scope is currently being evaluated, given the lessons learned from past privatizations and the form in which they were carried out, in order subsequently to study and determine whether a given privatization is advisable and which models would be used to carry it out. Once a decision is reached, a timetable will be established by COPRI.

#### **(6)(i) Services: General features**

*Please report on the status of Peru's participation in the General Framework of Principles and Rules for Liberalizing the Trade in Services in the Andean Community. In particular, we are interested in the scope and coverage of the Agreement and the progress Members have made in achieving liberalization targets.*

Peru participates fully in the General Framework of Principles and Rules for Liberalizing Trade in Services in the Andean Community (Decision 439, 1997).

The framework applies to measures that affect trade in services in all service sectors and all modes of supply, including those provided by the central, regional and local public sectors and by delegated entities. It does not apply to services supplied in exercise of government powers or to air transport services.

With respect to progress, the framework includes a commitment to liberalize services markets no later than 2005. Although the framework has existed since 1997, the lists of restrictions on trade in services of the five members are in the process of consolidation.

*In this regard, does the Government of Peru have any plans to notify the Agreement to the Council for Trade in Services, pursuant to GATS Article V? If so, when should we expect this notification to take place?*

In order to comply with GATS Article V, paragraph 1, once the lists of restrictions of the five countries have been prepared and consolidated, the corresponding notification will be made.

**(6)(ii) Financial services**

*Please provide specific information concerning the general procedures used by the Banking and Insurance Supervision Department for the purposes of authorizing the opening, transfer and closing of enterprises and entities in the financial system.*

The general procedures for the opening of financial institutions are as follows:

**Establishment and minimum capital:**

- The institutions must be established as corporations.
- Permits to organize and operate must be obtained from the Office of the Superintendent of Banks and Insurance Companies (SBS).
- There are minimum capital requirements, which differ for institutions engaging in multiple operations, specialized institutions, insurance companies and institutions offering auxiliary and related services.

**Permission to organize:**

- The organizers, who may be natural or legal persons, must have a good reputation and be financially solvent; at least one of them must have subscribed to the company capital.
- Applications to organize must provide the information and formal requirements specified by the SBS, such as draft articles of incorporation, a list of organizers and shareholders, and two copies of the market, financial and management feasibility study.
- A guarantee equivalent to five % of the minimum capital made out to the SBS must be lodged.
- The opinion of the Central Reserve Bank is required, except for institutions offering auxiliary and related services.
- Once the SBS grants authorization, the institution is issued with a certificate, which is published in the Official Gazette.
- Joint and several guarantees that the institution's capital will be subscribed are required. Both guarantees remain in effect until 30 days after the board of directors takes office.

**Permission to operate:**

- When all the requirements have been met, the SBS will authorize the institution to operate. It issues a decision granting an operating certificate valid for two years which must be published by the company within 30 days of being issued.

Transfers are basically governed by the same conditions of establishment, organization and operation.

Institutions in financial difficulty are subject to a series of measures before a decision is reached as to whether they should be closed, i.e:

- Precautionary oversight;
- receivership;
- dissolution and liquidation.

The *precautionary oversight* period lasts for a maximum of 45 days and different measures can be applied to help the institution recover, the main ones being evaluating and determining its real net worth and studying whether it can be rehabilitated by writing off losses and/or through fresh capital contributions by the shareholders.

The institution can be *placed in receivership* for a maximum of 45 days and the SBS is empowered to suspend operations and place restrictions on the board of directors, prohibit any operation that would reduce legal reserves and also initiate all types of processes to collect outstanding debts. First, the real net worth is determined and then losses are paid off out of the legal and optional reserves or, when necessary, out of the institution's capital.

The *dissolution and liquidation* period begins when the receivership period expires and on the grounds established in the General Corporation Act. At that time, all judicial and administrative actions to collect outstanding debts cease and a public call for submissions is made to manage and supervise the process. The order of priority for payments is: labour obligations, depositors and insured, tax obligations and other obligations. Institutions in the financial system have a deposit insurance fund (FSD) which insures depositors for up to approximately S/. 65,718, an amount that is updated quarterly based on the wholesale price index.

*Are the authorization procedures limited to reviews of prudential criteria, or do they also pertain to any of the measures listed in GATS Article XVI which would affect market-access commitments for foreign suppliers? Do the same criteria apply to foreign firms wishing to establish branch offices?*

The authorization procedures include prudential measures such as the provision of information, requirements regarding the suitability and solvency of the organizers and shareholders, company feasibility studies and minimum capital requirements. However, as indicated in Peru's schedule of commitments in GATS, the General Act stipulates that companies in the financial and insurance system should be established as corporations, except those whose nature makes this impossible. This is the only measure related to the provisions of Article XVI of GATS.

Authorization for the establishment of foreign firms in the financial and insurance systems follows the same procedure as for domestic firms. Also, branches of foreign banks have the same rights and obligations as their counterpart domestic institutions. In addition, such branches are empowered to conduct business following their established practices, provided they are not contrary to Peruvian law and are not considered inadequate or imprudent by the Office of the Superintendent.

*Additionally, what administrative procedures are in place for independent and impartial review of administrative decisions?*

Applications for reconsideration of all administrative decisions issued by the Office of the Superintendent in exercise of its powers may be submitted to the official who issued them and decisions may be appealed to the Superintendent, the second and final avenue of appeal, within the period specified in the General Administrative Procedures Act. This rule is not applicable to decisions made by the Superintendent, in his best judgement, in the exceptional cases established in the General Financial and Insurance System Act and the Organization Act of the Office of the Superintendent of Banks and Insurance Companies.

A decision by the Superintendent exhausts administrative avenues and any further appeals must be made to the courts.

*With regard to Peru's GATS Schedule, we seek clarification as to the meaning and application of the reservation concerning the making of claims through diplomatic channels.*

Under Peruvian law, which is equally applicable to domestic and foreign firms (national treatment) the objective of this rule is to ensure that all claims are based on Peruvian legislation and commitments under WTO, and the foreign financial entity is required to waive the right to make claims through diplomatic channels relating to business and operations it carries out in the country.

*Please indicate when Peru will make more comprehensive commitments in insurance services.*

The regulatory framework in the insurance sector is intended to protect the interests of the insured by safeguarding the economic and financial solidity of insurance and ancillary companies. To achieve that economic and financial soundness, the regulatory framework provides for the liberalization of the insurance market and the principle of equality between national and foreign investors. These conditions are essential for achieving the competitiveness necessary in today's markets.

The legal framework applicable to insurance and ancillary companies is consistent with the extensive liberalization needed in the insurance market, without neglecting fundamental issues pertaining to prudential criteria and the solvency of companies and procedures for adequately identifying and covering the risks they run.

#### **(6)(iii) Telecommunications**

*We understand that OSPITEL, the Peruvian regulator, is reviewing the uniform interconnection rate of \$0.29 (established by OSIPTTEL Resolution No. 18-98 of October 1998) and other interconnection rates, in light of Peru's WTO commitment to establish cost-oriented interconnection rates. It appears that the uniform interconnection rate is not sufficiently cost-oriented, given other tariffs charged by the major carrier in Peru (Telefónica de Perú) which are either substantially lower (\$0.011 for off-peak measured local service) or barely higher (\$0.031 for long-distance service) than the uniform interconnection rate. How quickly will Peru act to set new interconnection rates, including the uniform interconnection rate, which reflect cost-orientation.*

To reduce the uncertainty that could be created by negotiating with the dominant carrier, when the sector was being opened up, OSIPTTEL established a ceiling or default interconnection rate, which is a temporary reference rate. To determine that rate, a comparison was made of rates in the region. OSIPTTEL has issued rules to facilitate the signature of interconnection contracts and is in the process of defining the applicable interconnection rate, based on the commitments made in the WTO basic telecommunications reference paper and the above-mentioned rules.

#### **(6)(v) Other services**

##### **Distribution**

*Please explain the rationale for the extensive "positive" list of items for which Peru scheduled wholesale and retail trade services commitments in the GATS. It would be helpful if Peru could inform Members as to which items these GATS commitments do not apply to.*

The basic rationale is that most of the services included in the list did not and do not have any legal restrictions on market access or national treatment. This facilitated the preparation of a broad list of commitments.

Those commitments do not apply to any other distribution service included in the Central Product Classification that is not on Peru's schedule of commitments. However, even in such cases, Peru does not maintain restrictions on access or national treatment.

### **Business and professional services**

*Please explain why Peru has not tabled commitments in some business and professional services, such as legal services, medical services, courier services and particularly computer-related services, which are critical in building a domestic information technology sector.*

No commitments were made with respect to the services mentioned, since at that time, owing to the novelty of the subject, we were not familiar with the details of certain professional services. Their sensitivity to further liberalization was also a consideration. Peru is considering expanding its schedule of commitments, based on the offers made by its trading partners.

*We seek clarification of certain requirements with respect to accountancy, architectural and engineering services. Peru indicates that professionals supplying these services must have their professional degrees recognized, except in the case where there are reciprocal conventions, and must also enrol in the relevant professional college. Please specify the requirements a foreign professional must meet to obtain such recognition.*

In these professions, depending on the circumstances, recognition requires that degrees be revalidated by the National Assembly of University Presidents or by a national university, in compliance with the normal requirements of the institutions concerned, such as examinations, papers, professional experience and other requirements.

In the case of the College of Architects, no inter-institutional agreement has been signed. However, Peruvian and Ecuadoran architects are able freely to provide their services, without revalidation of the professional degrees conferred by their respective colleges.

*Also please provide information on the number and type of reciprocal conventions in these sectors to which Peru is a party. Please also verify that foreign providers may enrol in the relevant professional college without discrimination.*

Peru has signed specific bilateral conventions on the mutual recognition of university studies and degrees with the People's Republic of China, Colombia, Paraguay, Argentina and Spain. It is also a party to the following multilateral conventions on the recognition of university studies and degrees: Agreement on Academic Degrees with Bolivia, Colombia, Ecuador and Venezuela; and the Regional Convention on the Revalidation of Studies, Degrees and Diplomas in Higher Education in Latin America and the Caribbean with Brazil, Colombia, Cuba, Chile, Ecuador, El Salvador, Mexico, Nicaragua, Panama, Venezuela, the Netherlands, the Holy See, Surinam, Slovenia and Yugoslavia.

Membership in a professional college in Peru, depending on the profession, may entail different membership dues for nationals and foreigners which, in some cases, may depend on whether the membership is permanent or temporary.

### **Tourism**

*With respect to restaurant and lodging services, please describe the licencing process as it works in practice.*

In both cases, interested companies must apply for registration in the Master Taxpayer Register and obtain an operating licence from the pertinent district or provincial municipality. Once these requisites have been complied with, they are authorized to begin operating. Classification of the

establishment is optional in both cases and, if applied for, the evaluation is made by the Ministry of Industry, Tourism, Integration and International Trade Negotiations.

## URUGUAY

*Please comment on paragraph 24 of the Secretariat Report: "... Revenue from the surcharge is channelled to the Agricultural Development Fund, complementing the Fund's income from variable specific duties. The introduction of the present surcharge system in 1997 may be seen, at least in part, as an attempt to find alternative income sources for the Agricultural Development Fund in the face of tightening budgets, and strong commodity prices that reduce the take from variable specific duties" (Secretariat Report, WT/TPR/69, page 29).*

Income from the tariff surcharge is intended for the Agricultural Development Fund whose purpose is to support the anti-poverty campaign and the promotion of employment in the agricultural sector with a view to raising the standard of living of the people linked with this sector. Policies of this type are justified by the fact that, in Peru, the agricultural sector is considered very sensitive since it includes various social groups with high levels of poverty, which in the last few years have also suffered from the effects of the recent international crisis and the el Niño phenomenon.

*Please comment on paragraphs 26 and 30 of the Secretariat Report concerning variable specific duties.*

Variable specific duties were established within the context of the economic policy first adopted by Peru in the early 1990s. The aim is to soften the impact of world price fluctuations on domestic prices. In practice, this mechanism has largely succeeded in stabilizing prices on the agricultural market which, by definition, are highly volatile.

*In relation to paragraph 28 and the reference to the mechanism having been eliminated for wheat products in August 1998, is there any similar plan or programme for doing the same in the future with respect to rice?*

At the moment, there are no plans for any changes in the legislation.

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