

Manual on  
**HOW TO FILE APPLICATIONS  
TO OBTAIN FREE TRADE ZONE STATUS**

Invest in **Colombia**

June 2010



Libertad y Orden  
Ministerio de Comercio,  
Industria y Turismo  
Colombia  
República de Colombia



**COLOMBIA**  
PRESIDENCIA DE LA REPÚBLICA



Libertad y Orden  
Ministerio de Hacienda  
y Crédito Público  
República de Colombia



The investment amounts required to obtain the Free Trade Zone status are calculated in Minimum Monthly Legal Wages (M.M.L.W). This information is presented in dollars using a USD 1 = COP 2000 exchange rate. For 2010, the M.M.L.W is COP 515.000. The M.M.L.W, as well as the exchange rate, are subject to variations.

**Title:** Manual on How to File Application to Obtain Free Trade Zone Status

**ISSN 2027-3584**

Volume 2 - N° 1  
June de 2010  
Bogotá D.C.

**Publishing Company:**

Fiducoldex – Fideicomiso Proexport Colombia  
Vicepresidencia de Inversión Extranjera  
info@proexport.com.co

**Editor:**

Dirección Legal y Clima de Inversión  
Teléfono: +57 (1) 5600100 – Fax: +57 (1) 3415689

**Cover Design:** Sancho BBDO

**Printed by:** GS5 / Offset Gráfico  
Bogotá D.C., Colombia – June de 2010

The digital version of this document is  
on the following website:  
[www.investincolombia.com.co](http://www.investincolombia.com.co)



# Table of Contents

1. Reason and Purpose of Free Trade Zones. _____	4
2. Benefits. _____	4
3. Legal Framework. _____	4
4. Who can apply for Free Trade Zone Status. _____	5
5. Exceptions. _____	5
6. Steps to Acquire Free Trade Zone Status. _____	5
6.1. Preparing the Master Development Plan and Feasibility Studies. _____	5
6.1.1. Contents. _____	5
6.1.2. Aspects of the Feasibility Studies. _____	6
6.2. Filing the Master Plan to the Technical Secretariat of the Cross Sector Commission of Free Trade Zones. _____	7
6.3. Technical Secretariat's review, analysis and report on the Master Plan and concept on its feasibility. _____	7
6.4. Evaluation by the Cross Sector Commission of Free Trade Zones. _____	7
6.5. Issuing the concept on the feasibility of the Free Trade Zone and the decision on the Master Plan. _____	7
6.6. How does an interested company file before DIAN an application to be given Free Trade Zone Status. _____	7
6.7. Requirements to be verified by DIAN. _____	7
6.8. Issuance of the Resolution granting or denying Free Trade Zone Status. _____	9
7. Types of Free Trade Zones. _____	9
7.1. Permanent Free Trade Zone (PFTZ). _____	9
7.2. Special Permanent or "Single - Enterprise" Free Trade Zone (SEFTZ). _____	9
7.3. Transitory Free Trade Zone (TFTZ). _____	9
8. Types of Users. _____	9
8.1. Operator. _____	9
8.2. Industrial Goods Users. _____	9
8.3. Industrial Service Users. _____	9
8.4. Commercial Users. _____	10



9. Requirements.	10
9.1. Requirements applicable to Operators.	10
9.2. General Requirements to apply for Free Trade Zone Status.	11
9.3. Specific Requirements for Permanent Free Trade Zones.	11
9.4. Special Requirements for Special Permanent or “Single - Enterprise” Free Trade Zone (SEFTZ).	11
9.4.1. Agribusiness (Biofuels) Projects.	12
9.4.2. Goods Projects.	12
9.4.3. Service Projects.	12
9.4.3.1. Health Projects.	13
9.4.4. Port Companies.	13
9.4.5. Pre-existing Investments.	13
9.4.6. Transitory Free Trade Zones for over 15 continuous years.	14
9.5. Qualification Requirements for Industrial Goods, Services and Commercial Users.	14
10. Loss of Free Trade Zone Status.	16
10.1. Permanent Free Trade Zone.	16
10.2. Special Permanent or “Single - Enterprise” Free Trade Zone (SEFTZ).	16
ATTACHMENTS.	17
1. Maximum Time Line to file applications to obtain Free Trade Zone Status - Decree 4051 of 2007.	17
2. Equivalence of Minimum Monthly Legal Wage (M.M.L.W.) in Colombian Pesos and US Dollars.	17

# Glossary

**New investment:** New productive fixed assets and lands. These do not include assets transferred by virtue of mergers, liquidations, transformations or spin-offs of exiting companies.

The new investments will include those made after the enactment of the administrative act whereby the National Tax and Customs Office (DIAN) grants the corresponding Free Trade Zone status.

**Fixed productive real assets:** Tangible goods involved directly and permanently in the income-generating activity, and which are either depreciated or amortized for tax purpose.

Investment in such assets must be evidenced with a certificate signed by the legal representative and the external auditor, with the ownership history certificates and the invoices or other documents showing their acquisition. Under no circumstance may industrial users of Free Trade Zones use productive real fixed assets that have already been used in the country, even after the new investment requirement has been met.

**Direct and formal job creation:** Permanent and full time employees, be evidenced with labor contracts, time sheets and other support documents such as social security and payroll tax forms. Under no circumstance may the direct employees of Free Trade Zone Industrial Users have or have had a direct labor relationship with partners or companies owned by partners of the Free Trade Zones during the (2) years prior to the enactment of the administrative act granting the corresponding Free Trade status.

**Outsourced jobs:** This refers to jobs generated by third parties providing services to the Free Trade Zones. Such jobs are evidenced with the labor contracts between the companies providing services to the Free Trade Zones and their employees, or with the accounting support documents evidencing the work performed.





## 1. Reason and Purpose of Free Trade Zones.

The new Free Trade Zone system, contained in Law 1004/05 and regulated by the Decrees 383/2007 and 4051/2007 stipulates that Free Trade Zones are geographical areas defined within the national territory, for the development of industrial goods and services or commercial activities under a special tax, customs and foreign trade regime.

Furthermore, Free Trade Zones must serve the following purposes:

1. Be an instrument for job creation and attraction of new capital investments.
2. Be a development center that promotes competitiveness in the regions where they are created.
3. Develop highly productive and competitive industrial processes, within the parameters of security, transparency, technology, clean production and sound corporate practices.
4. Promote economies of scale.
5. Simplify procedures for the commercialization of goods and services to facilitate its sale.

Under the new regulation, Free Trade Zones are conceived not only as a mechanism to attract new investments and create jobs, but as an incentive to develop highly productive and competitive industrial processes with a substantial technological innovation component.

Additionally, in the case of projects representing a high economic and social impact for the country, a new figure was created, known as a Special Permanent or "Single - Enterprise" Free Trade Zone (SEFTZ). Depending on their characteristics, these Zones are required to implement a higher industrial reconversion or technological transfer or service component than the standard requirements applicable to the Permanent Free Trade Zones. At the time of evaluating the Master Development Plan, the Cross Sector Commission of Free Trade Zones will take into account the contribution offered by the project to the modernization and reconversion of the productive goods and services sectors, their ability to improve competitiveness, increase, diversify the supply and its contribution to scientific or technological research.

## 2. Benefits.

- Single 15% income tax rate for industrial users of goods, industrial users of services, and operators, except for commercial users, which are taxed at the general rate.
- No custom taxes (VAT and CUSTOMS DUTIES) on merchandise imported from abroad.
- VAT exemption for raw materials, inputs and finished goods sold from a national customs territory to industrial users of Free Trade Zones.
- VAT exemption on merchandise sales to foreign markets.
- Exports made from Free Trade Zones to foreign countries benefit from international trade agreements signed by Colombia.
- Goods produced, manufactured, transformed or resulting from any production process developed in a Free Trade Zone are recognized as being "of national origin". (Only Peru does not recognize the Colombian origin of any goods manufactured in Colombian Free Trade Zones).
- Possibility of performing partial processing outside of the Free Trade Zone for up to nine (9) months.
- Possibility of selling inside the national territory 100% of the goods or services produced in the Free Trade Zone with customs tariff and VAT payable only on the percentage of inputs imported from third countries.

## 3. Legal Framework.

Applications to obtain Free Trade Zone status are subject to the provisions of the following regulations:

Law 1004 of December 30, 2005

Decree 2685 of December 28, 1999 as modified by Decree 383 of February 12, 2007 and Decree 4051 of October 23, 2007 and Decree 780 of March 13 2008 and Decree 1197 of 3 April 2009 and Decree 4285 of 4 November 2009 and Decree 4584 of 24 November 2009 and Decree 1769 of 21 May 2010.

Resolution 01 of December 3, 2007, issued by the Cross Sector Commission of Free Trade Zones.

Resolution 5532 of June 24, 2008 enactment by the National Tax and Customs Office (DIAN).



## 4. Who can apply for Free Trade Zone Status.

- Companies domiciled in the country or branches of foreign companies.
- Renown technological parks.
- Port companies.
- Health care service companies.

## 5. Exceptions.

- Businesses involving exploration, exploitation or extraction of non-renewable natural resources as defined in the Mines and Petroleum Code.
- Financial services.
- State concessions.
- Residential utilities, except those devoted to electric power generation and new companies which provide international long-distance telephone services.

## 6. Steps to Acquire Free Trade Zone Status.

1. Preparing the Master Development Plan and feasibility studies and request DIAN's previous concept on the area of the Project when needed.
2. Filing the Master Plan with the Technical Secretariat of the Cross Sector Commission of Free Trade Zones.
3. Technical Secretariat's review, analysis and report on the Master Plan and concept on its feasibility.
4. Evaluation by the Cross Sector Commission of Free Trade Zones.
5. Issuing the opinion on the feasibility of the Free Trade Zone and the decision on the Master Plan.
6. How to submit an application before DIAN to be authorized as a Free

Trade Zone.

7. Requirements to be verified by DIAN.
8. Issuance of the Resolution granting or denying Free Trade Zone status.

### 6.1. Preparing the Master Development Plan and Feasibility Studies.

#### 6.1.1. Contents.

The Master Development Plan of Permanent Free Trade Zones must take into account the priorities and policies of the National Government, and fall within the parameters of the programs established by the National Development Plan, as well as by the Department or Municipal Development Plans, and it must contain at least:

1. Executive summary of the project, with a general description, objectives, goals, justification, amount of the investment and main impacts with regard to the purposes foreseen in Law 1004 of 2005.
2. Body of the Master Plan, containing:
  - a. Identification of the enterprise intending to acquire Free Trade Zone status, including a Certificate of Existence and Legal Representation.
  - b. Detailed description of the investment project, including at least:
    - Estimated sales amount, detailed by national and foreign market.
    - Jobs that the investor plans to generate during each stage of the project (direct and formal, indirect and outsourced jobs), specifying the jobs related to the production process. These must be supported while the enterprise has the Free Trade Zone Status.
    - Urban and architectural development of the project.
    - Location, terrain characteristics and access roads of the project.
    - Total area of the Free Trade Zone, indicating the percentage to be used for operators, industrial and commercial users, control authorities, internal circulation roads, green areas, and areas for entities not bearing Free Trade Zone status.
    - Location of production, administrative and service facilities.



- c. Total investment amount and investment schedule during each stage of the project.
- d. Schedule specifying when the various project execution stages will be completed as required for each type of Free Trade Zone, including fencing, infrastructure, job creation dates and other related activities.
- e. Economic impact and social benefits to be generated by the project for the region and the country, based on the purposes foreseen by Law 1004 of 2005.
- f. Industrial, technological transfer or service component.

### 6.1.2. Aspects of the Feasibility Studies.

#### **Technical feasibility study.**

In order to determine whether the project is technically viable, the study must include at least:

- a. Optimum location of the project.
- b. Description of industrial processes to be developed or services to be provided.
- c. Raw materials to be used.
- d. Environmental aspects.
- e. Production strategy.
- f. Project's urban and architectural development.

#### **Economic feasibility study.**

In order to determine the project's economic feasibility, the study must include at least:

- a. General description of the region.
- b. Projection of regional and national economic indicators relevant to the project.
- c. Estimated demand.
- d. Production and sales forecast both in the domestic and foreign markets.
- e. Generation of economies of scale and regional development.
- f. Jobs to be created.

- g. Social aspects of the project.
- h. Quantification of the income to be generated by the project for the municipality or the country.

#### **Financial feasibility study.**

In order to determine if the project is financially viable, the study must indicate:

- a. Economic assumptions for the forecasted period: inflation, devaluation, capital cost rates and interest rate foreseen for the cost of the debt or the corresponding liability.
- b. Financial statement forecast: General balance sheet, cash flow, results statement, description of calculations and trends.
- c. Evaluation and justification of net present value, internal rate of return, and economic profitability indicators.
- d. Information on the project's financial structure, detailing the resources to be financed with capital or debt, a description of the financing conditions and the investment plan.

#### **Market study.**

In order to identify strategies and opportunities for the project, the study must include:

- a. Analysis of the potential market for the services and/or products to be manufactured or marketed in the Free Trade Zone and that of the possible users that will settle in the zone.
- b. List of the various national and international markets where the products and services are to be sold, as well as each such market's expected share.
- c. Study of the marketing strategy for the Free Trade Zone.
- d. Future positioning and quality strategies for the Free Trade Zone and its users.
- e. Sales and/or income forecast.
- f. Projection of possible buyers and suppliers of the goods and/or services to be developed by the Free Trade Zone.
- g. Detailed list of the national and international competitors that the Free Trade Zone and its main Industrial Users of Goods and





Services will have.

### **6.2. Filing the Master Plan before the Technical Secretariat of the Cross Sector Commission of Free Trade Zones.**

The applicant must file the Master Plan and the feasibility studies with the Ministry of Trade, Industry and Tourism, in its capacity as Technical Secretariat of the Cross Sector Commission of Free Trade Zones.

### **6.3. Technical Secretariat's review, analysis and report on the Master Plan and concept on its feasibility.**

The Commission's Technical Secretariat will review the information filed, and verify whether it contains all data required.

- If it is complete, the Technical Secretariat will begin the evaluation procedure.
- If it is not complete, it will return it, indicating the missing information.

Concepts: Within three (3) working days following receipt of the application, the Secretariat may request the appropriate agencies to prepare the technical concept it may deem necessary for its evaluation. The agencies will have ten (10) working days to issue their concept.

Evaluation: Within ten (10) working days following the date on which the required agencies submit their concepts, the Technical Secretariat will prepare the corresponding Technical Evaluation Report with recommendations to the Commission, and will send it to its members no later than three (3) working days prior to the meeting during which the Commission is to evaluate the application.

### **6.4. Evaluation by the Cross Sector Commission of Free Trade Zones.**

The Cross Sector Commission of Free Trade Zones meets to evaluate the application according to the standing regulations, to issue the corresponding decision on the feasibility of granting Free Trade Zone

status to the applicant, and to review the continuity of the area in the cases set forth by Decree 4051 of 2007. The decision on the Master Plan will be notified to the applicant and to the National Tax and Customs Office - DIAN.

### **6.5. Issuing the concept on the feasibility of the Free Trade Zone and the decision on the Master Plan.**

The Cross Sector Commission of Free Trade Zones will issue a decision on the feasibility of granting Free Trade Zone status to the applicant, the continuity of the area in the cases set forth by Decree 2685 of 1999 as subsequently amended. The decision on the Master Plan will be notified to the applicant and to the National Tax and Customs Office - DIAN.

### **6.6. How to submit an application before DIAN to be authorized as a Free Trade Zone.**

The interested enterprise must file with DIAN the application to be given Free Trade Zone Status, along with the favourable concept on the feasibility of existence of the Permanent Free Trade Zone, the approval of the General Master Development Plan and all other requirements set forth under Decree 2685 of 1999 as subsequently amended.

### **6.7. Requirements to be verified by DIAN.**

DIAN verifies compliance with all existing requirements to grant Free Trade Zone status under Decree 2685 of 1999 as subsequently amended for each type of Free Trade Zone and listed under section 9 hereof.

If the application fails to meet the legal requirements, DIAN will issue a request to complete the required documents or to furnish additional information. The applicant must respond to such request within one month. If the applicant fails to respond within such one-month period, the request will be deemed withdrawn.





Ministerio de Comercio, Industria y Turismo  
República de Colombia





Once DIAN has the application with all due information, it has one month to make a decision. Nevertheless, DIAN has the option of suspending such period for up to two months, if it needs to verify additional information or perform a physical inspection.

### **6.8. Issuance of the Resolution granting or denying Free Trade Zone Status.**

DIAN is the agency in charge of issuing an administrative writ granting or denying Free Trade Zone status.

## **7. Types of Free Trade Zones.**

### **7.1. Permanent Free Trade Zone (PFTZ):**

An operator (known as the operating user) administers the zone where the companies conduct their industrial, commercial or service activities.

### **7.2. Special Permanent or “Single-Enterprise” Free Trade Zone (SEFTZ):**

New companies geographically located outside the territory of the Permanent Free Trade Zones now qualify to be admitted as Single Enterprise Free Trade Zones and enjoy the advantages of a special regime.

This figure authorizes a single enterprise to develop its industrial or service activities in a given area of the national territory, provided that the project bears a high economic and social impact for the country. Such activities include:

- Goods.
- Services.
- Health Projects.
- Agribusiness Projects.
- Port Companies.
- Pre-existing investments with special requirements regarding larger investments, having a net worth of at least 150,000 Minimum

Monthly Legal Wage (M.M.L.W.) (US \$ 37.3 millions) and doubling the taxable net income for the purposes of their income tax.

- Transitory Free Trade Zones for over 15 continuous years.

### **7.3. Transitory Free Trade Zones (TFTZ):**

This Free Trade Zone is the kind of area authorized to hold international fairs, exhibits, congresses and seminars of importance for the country's economy and foreign trade.

## **8. Types of Users.**

### **8.1. Operator:**

This is the enterprise in charge of directing and managing the FTZ, as well as qualifying any users intending to settle in it.

The operator must be a enterprise different from the industrial users and mustn't have economic or corporate relationship with them. Its function is to facilitate the activities of the industrial users, who will receive the special treatments and tax benefits once they have been authorized to act as such.

The operator must have knowledge or experience in the activities to be developed inside the Free Trade Zone, experience in foreign trade and customs, and operational and financial capacity.

### **8.2. Industrial Goods Users:**

These users manufacture, produce, transform or assemble goods within the corresponding Free Trade Zone.

### **8.3. Industrial Service Users:**

These users provide services within or from the area that has been granted Free Trade Zone status, and their activities include the





following: logistics, transportation, distribution, telecommunications, scientific and technological research, medical, dental or general health care, tourism, technical support, boat and airship equipment, consulting or similar activities.

## 8.4. Commercial Users:

These users store, market, preserve and sell within their corresponding Free Trade Zone. They can occupy up to 5% of the total Free Trade Zone area.

### Conditions applicable to users.

- Operators may not simultaneously act in any other capacity, nor can they have any economic or corporate relationship with the other users.
- Industrial Goods Users and Industrial Service Users may simultaneously act in both capacities.
- Industrial Goods Users and Industrial Service Users may only be domiciled inside the Free Trade Zones and may not have branches or agencies anywhere else in the national territory.
- A enterprise that has been granted SEFTZ status will be recognized as the sole Industrial User of such SEFTZ.
- Commercial Users may not simultaneously act in any other capacity, but they may have businesses in the rest of the national territory.
- No commercial users may be qualified or recognized inside Special Permanent or "Single - Enterprise" Free Trade Zone (SEFTZ).
- PFTZ Users are qualified by the Operator.

## 9. Requirements.

### 9.1. Requirements applicable to Operators.

- The applicant must be enterprise or foreign enterprise branch domiciled in the country, with the only purpose of developing activities inherent to operators.
- Meet the requirements set forth under the following section:

- a) File an application signed by the individual or by the legal representative of the enterprise seeking admission, authorization or qualification;
  - b) Be domiciled or have legal representation in the country;
  - c) Enterprise's certificate of existence and legal representation issued by the Chamber of Commerce no more than thirty (30) days prior or a copy of the rule or law under which the corresponding government agency was created;
  - d) Financial statements, if applicable, certified by an external auditor or by a certified public accountant;
  - e) Agree to obtain and submit a bank guarantee or insurance policy;
  - f) Certification by the individual or enterprise's legal representative in the sense that neither the enterprise nor its representatives or partners have been sanctioned with the suspension or cancellation of their authorization to develop the corresponding activity, or, in general, for fraudulent violation of criminal laws and regulations during the five (5) years immediately prior to the date on which the application is filed;
  - g) Not have any demandable debts pending with DIAN, except those covered by standing payment arrangements.
- Postulate itself or be postulated to act as Operator.
  - Corporate object must include administration or management, supervision and development of activities in free trade zones.
  - Resumes of the executive personnel and legal representatives.
  - Once authorized, include in the corporate name the expression "Usuario Operador de Zona Franca" (Free Trade Zone Operating User).
  - Agree to execute the General Master Development Plan and the corresponding schedules.
  - A net worth amounting to 2,300 M.M.L.W (US \$ 571.000) for operators of Special Permanent or "Single-Enterprise" Free Trade Zone (SEFTZ) (The required net worth must be evidenced by submitting the financial statements signed by the legal representative and the external auditor and the notes to the financial statements) or 23,000 Legal Minimum Monthly Salaries (S.M.M.L.V) (US \$ 5.7 million) for operators of Permanent Free Trade Zones.



- Contract an external audit with a registered enterprise which it must periodically control according to NAGA auditing standards and NIA international auditing standards.
- Academic titles obtained by the enterprise's legal representative and directors.
- Certificates regarding labor relations, contracts or transactions, to evidence the enterprise's experience in foreign trade, customs and other activities to be developed in the Free Trade Zone.
- The general balance sheet, the results statement and the notes to the financial statements, signed by the legal representative, the external auditor and the enterprise's CPA.
- The enterprise's procedures and functions manuals.

## 9.2. General Requirements to apply for Free Trade Zone Status.

- Be a enterprise domiciled in the country or a foreign enterprise branch (Not applicable to transitory Free Trade Zones for over 15 years which are interested in obtaining SEFTZ status).
- Requirements set forth by 9.1 (a - g)
- Resumes of the executive personnel and legal representatives.
- Technical, economic, financial and market studies demonstrating project feasibility.
- Master Development Plan approved by the Cross Sector Commission of Free Trade Zones.
- Study of land property titles covering the past 20 years, topographic surveys, a certificate evidencing that the project falls within the parameters of the municipal or district Development Plan and that it meets the requirements of the environmental authority, ownership history and no-lien certificates of the corresponding land issued no more than thirty (30) days prior, and another certificate certifying that public utilities may be installed in the area.
- SEFTZ operations automation program.

## 9.3. Specific Requirements for Permanent Free Trade Zones.

- Continuous area, no less than 20 hectares (Not applicable to Technological Parks).
- Capacity to host infrastructure for industrial, commercial or service activities.
- Evidence that none of the activities to be promoted by the project are currently being developed.
- Schedule indicating compliance with:
  - \* 100% fencing before operations start-up.
- By the end of the fifth (5th) year after receiving Free Trade Zone status, there must be five (5) industrial goods or service users.
- By the end of the fifth (5th) year after receiving Free Trade Zone status, an overall investment of over 46,000 M.M.L.W. (US \$11.8 million) must be made by the operator or the industrial users. (Not applicable to Scientific Parks).
- Net worth valued at 23,000 M.M.L.W. (US \$5.9 millions). (Not applicable to Scientific Parks).
- Postulate itself as Operator.
- In the case of lands not owned by the enterprise applying for Free Trade Zone Status, the enterprise must evidence through the appropriate contracts that it is entitled to use such lands.
- Plans for the construction of control agency offices and customs inspection areas (at least 1500 m<sup>2</sup>).

## 9.4. Specific Requirements for Special Permanent or "Single - Enterprise" Free Trade Zone (SEFTZ).

- Evidence, through the certificate of existence and legal representation, that the enterprise is new, meaning that it was created no more than six (6) months prior to filing the application with the National Tax and Customs Office.
- Postulate the Operator.
- That they are not involved in any of the activities that the project intends to promote, except for projects that comply with the requirements of 9.4.5.
- Include in the Master Plan an industrial reconversion, technological transfer or service component.
- Submit a schedule indicating when the following requirements will be met:





- \*100% fencing prior to start-up of operations.
- \*Make 100% of an investment within the third year after it obtains Free Trade Zone Status (Not applicable to pre-existing investments). The new investments will include those made after the enactment of the administrative act whereby the National Tax and Customs Office (DIAN) grants the corresponding Free Trade Zone status.
- \*Generation of direct and formal or outsourced jobs upon project start-up (Not applicable to pre-existing investments, refer to 9.4.5).

#### 9.4.1. Agribusiness Projects.

- Minimum investment of 75,000 M.M.L.W (US \$19.3 million) or hiring at least 500 workers which could be outsourced within the following three years of the declaration of Free Trade Zone Status.
- The Enterprise must evidence that the project meets each of the following criteria:
  - a) The final goods produced must contain at least 80% of agricultural raw materials, calculated in terms of the share of the agricultural raw materials' cost in the total cost of the final product.
  - b) Adopt IICA's definition of Agribusiness, based on which it must involve the elements necessary to develop agro-industrial activities.
  - c) The products obtained must fall within the following agricultural scope, as classified by the Colombian National Administrative Department for Statistics (DANE) : biofuels, meat and fish products, oil and grease products from vegetables and animals, dairy products, prepared or preserved legumes and fruits, tea, soup, vinegar, sauces, yeast and coffee and threshing products.
  - d) Submit evidence to prove the Special Permanent Free Trade Zone project's involvement with the crop areas and with the production of the national raw materials to be transformed, through documents signed by the industrial user's legal representative. Such documents must contain at least the following information:
    - \* Location of the crop areas where the raw materials to be transformed in the Free Trade Zone will be produced.
    - \* Name and I.D. of the owners of the crop areas.
    - \* Area extension of the crop areas.
    - \* Business agreements or contracts entered into with the owners or persons empowered to dispose of the crop areas.
    - \* Description of the national crops and raw materials to be transformed in the Free Trade Zone.
- The new investments will include those made after the enactment

of the administrative act whereby the National Tax and Customs Office (DIAN) grants the corresponding Free Trade Zone status.

#### 9.4.2. Goods Projects.

- Minimum investment of 150,000 M.M.L.W (US \$ 38.6 million) and creating 150 direct and formal jobs, within the following three years of the declaration of Free Trade Zone Status. For every 23,000 M.M.L.W (US \$ 5.9 million) added to the minimum required investment, the number of jobs to be created may be reduced by 15, but under no circumstance may the project employ less than 50 people. The new investments will include those made after the enactment of the administrative act whereby the National Tax and Customs Office (DIAN) grants the corresponding Free Trade Zone status.
- After the second year from start-up, at least 90% of the jobs must prevail.

#### 9.4.3. Service Projects.

Complying with the subsequent investment and job creation requirements within the following three years of the declaration of Free Trade Zone Status:

Investment in M.M.L.W. (Minimum Monthly Legal Wages)	Number of Direct Jobs
10.000 to 46.000 M.M.L.W (US \$ 2.6 to 11.8 million)	500
46.001 to 92.000 M.M.L.W. (US \$ 11.8 to 23.7 million)	350
Over 92.001 M.M.L.W (US \$ 23.7 million)	150

The investment amounts required to obtain the Free Trade Zone status are calculated in Minimum Monthly Legal Wages (M.M.L.W). This information is presented in dollars using a USD 1 = COP 2000 exchange rate. For 2010, the M.M.L.W is COP 515.000. The M.M.L.W, as well as the exchange rate, are subject to variations.

- The new investments will include those made after the enactment of the administrative act whereby the National Tax and Customs Office



(DIAN) grants the corresponding Free Trade Zone status.

- After the second year from start-up, at least 90% of the jobs must prevail.
- When the project does not involve cargo movement, the Free Trade Zone Status may be extended to cover various determined geographical areas, with prior favourable concept of the Cross Sector Commission of Free Trade Zones.
- Additionally when there is no cargo movement it is possible to authorize the free lance of work outside the Free Trade Zone, certifying that 50% of the employees are handicapped or female head of household, prior favourable concept of the Cross Sector Commission of Free Trade Zones is required.
- When the project involves cargo movement, the declaration may be extensive to a number of delimited geographical areas, prior favourable concept of the National Tax and Customs Office - DIAN is required.

#### 9.4.3.1. Health Projects.

- 50% of the total jobs required for the Free Trade Zones may be new direct and formal jobs, and the remaining 50% may be outsourced jobs. The project description must specify the percentage of direct and outsourced jobs to be created.
- Initiate national accreditation process within 3 years following the declaration of Free Trade Zone Status.
- Initiate international accreditation process within 5 years following the declaration of Free Trade Zone Status.
- A certificate issued by the agency responsible for the control and supervision of health services, authorizing the project.
- A document signed by the legal representative of the enterprise intending to obtain industrial user status, describing the equipment to be used to develop the enterprise's activities.
- The new investments will include those made after the enactment of the administrative act whereby the National Tax and Customs Office (DIAN) grants the corresponding Free Trade Zone status.

#### 9.4.4. Port Companies.

- Comply with port sector regulations.
- Capacity to host infrastructure for industrial, commercial or service activities.
- New investment for 150,000 M.M.L.W. (US \$ 38.6 million), creating 20 direct and formal jobs and 50 outsourced jobs. The new investments will include those made after the enactment of the administrative act whereby the National Tax and Customs Office (DIAN) grants the corresponding Free Trade Zone status.
- If the area granted Special Permanent or "Single - Enterprise" Free Trade Zone Status (SEFTZ) hosts a private port approved by the appropriate authority and providing services exclusively to the industrial user, the SEFTZ status may extend itself to cover the private port with no need to meet the requirements foreseen by Decree 4051 of 2007, upon the favourable concept of the Cross Sector Commission.
- A copy of the administrative act whereby the enterprise is authorized to operate as a qualified port enterprise or a public service port concession.
- A copy of the concession contract.

#### 9.4.5. Pre-existing Investments.

- Net worth above 150,000 M.M.L.W (US \$ 38.6 million).
- Make a new investment above 692,000 M.M.L.W (US \$ 178.2 millions). The new investments will include those made after the enactment of the administrative act whereby the National Tax and Customs Office (DIAN) grants the corresponding Free Trade Zone status.
- Double the net taxable income shown by December 31 of the year immediately prior to the date of the status declaration (added with a 40% deduction on fixed assets).
- The status declaration is issued upon compliance with general and net worth requirements.
- Industrial User status is acquired by meeting the investment and net income requirements (5 years).
- The Free Trade Zone system applies to raw materials, inputs and processed goods when industrial user acquires status as such.
- Industrial Users may continue bearing such status if they double their net income during 3 years following the year in which such status is acquired.

#### 9.4.6. Transitory Free Trade Zones for over 15 continuous years.

Compliance with the requirements set forth under the following sections of article 76 of Decree 2685 of 1999:

- c) Attach the company's certificate of existence and legal representation issued by the Chamber of Commerce, or a copy of the rule or law under which the corresponding government agency was created, as the case may be;
- d) Financial statements, if applicable, certified by an external auditor or by a certified public accountant;
- h) Not have any demandable debts pending with DIAN, except those covered by standing payment agreements.
- Include in the corporate name the expression "Usuario Operador de Zona Franca" (Free Trade Zone Operating User).
- Topographic and photographic survey.
- New investment for 150,000 M.M.L.W (US \$ 38.6 million) within the following three years of the declaration of Free Trade Zone Status.
- Generate at least 20 direct and formal jobs within 3 years following status declaration.
- Postulate itself or another company as Operator (it may be the Managing User).

#### 9.5. Qualification Requirements for Industrial Goods, Services and Commercial Users.

- Written request addressed to Operator.
- Corporate name and object, domicile, tax identification number (RUT), Curriculum Vitae of principal and deputy legal representatives, Board of Directors and partners (except in the case of stock corporations or joint-stock companies).
- Description of the project to be developed.
- Project financial and economic feasibility study.
- Composition or probable composition of the capital assigned to the project, indicating whether it is domestic or foreign.
- When applicable, favourable concept of the appropriate authority on the project's environmental impact.
- If tourism services are to be provided, Prior concept of the Ministry of Trade, Industry and Tourism, will be required when tourism services are to be provided.

- If health-related services are to be provided, Prior concept of the Ministry of Social Protection, will be required if health - related services are to be provided.
- All authorizations, qualifications and certifications required to develop their activities.
- Commitment to obtain the necessary certifications for all procedures, services, infrastructure, technology and other elements inherent to the development of its activities, within two (2) years following the date on which they are granted Free Trade Zone status.
- Written certification by the applicant's legal representative in the sense that neither the company nor its partners have been convicted for fraudulent crimes during the five (5) prior to the qualification application.
- Certificate of existence and legal representation. Certificate of existence and legal representation issued no more than thirty (30) days.
- Companies with total assets below 500 M.M.L.W (US \$129.000) are not subject to the investment or job generation requirements.
- The following are the requirements regarding investment and jobs according to total assets:

Total Assets	Investment in M.M.L.W	Direct Jobs
Less than 500 M.M.L.W (US \$0 - US \$129,000)	US \$0	0
501 to 5.000 M.M.L.W (US \$129,001- US \$1.3 millions)	US \$0	20
5001 to 30.000 M.M.L.W (US \$1.3 millions- US \$7.7 millions)	5.000 M.M.L.W US \$1.3 millions	30
Over 30.001 M.M.L.W (US \$7.7 millions)	11.500 M.M.L.W US \$3 millions	50

The investment amounts required to obtain the Free Trade Zone status are calculated in Minimum Monthly Legal Wages (M.M.L.W). This information is presented in dollars using a USD 1 = COP 2000 exchange rate. For 2010, the M.M.L.W is COP 515.000. The M.M.L.W, as well as the exchange rate, are subject to variations.

- If assets increase or decrease during the year following the qualification, the investment and job creation commitments must be adjusted accordingly.





- The legal representative must enact the description of the project, and submittal of the Master Development Plan, in abidance with section 6.1 hereof.
- They are required to allow for inventory control activities, for which they must implement a computer-based permanent or on-going inventory system integrated to the industrial or commercial user's accounting books.

## **10. Loss of Free Trade Zone Status.**

### **10.1. Permanent Free Trade Zone.**

- Failure to fence or to keep the area 100% fenced.
- Failure to comply with the Master Development Plan.
- If at the end of the fifth (5th) year, there are not at least five (5) industrial goods or service users installed
- If at the end of the fifth (5th) year, an overall investment of 46,000 M.M.L.W. (US \$11.8 millions) is not made by the operator or the industrial users.
- Failure to maintain at least 5 industrial goods or service users during the life of the Free Trade Zone.

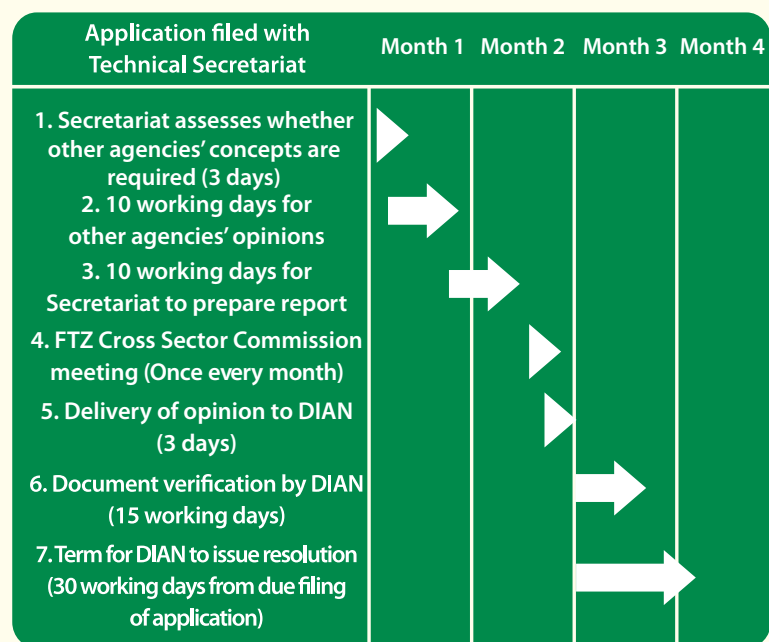
### **10.2. Special Permanent or "Single - Enterprise" Free Trade Zone.**

- Failure to fence or to keep the area 100% fenced.
- Failure to comply with the Master Development Plan.
- Failure to complete 100% of the new investment by the end of the 3rd year.
- Failure to comply with the new direct and formal job requirements by the end of the 3rd year.
- Failure to maintain at least 90% of the total jobs after the second year from project start-up.
- In the case of health-care service companies, failure to request accreditation within the deadline foreseen or if domestic or international certification is denied.
- For pre-existing investments, the only applicable ground is failure to fence 100% of the area.



## ATTACHMENTS.

### 1. Maximum Time Line to file applications to obtain Free Trade Zone status - Decree 4051 of 2007.



#### Assumptions:

- The applications filed to the Technical Secretariat of the Cross Sector Commission of Free Trade Zones and DIAN are duly completed.
- If the application fails to meet the legal requirements, DIAN will issue a request to complete the documentation or to furnish additional information. The applicant must respond to such request within one month. If the applicant fails to respond within such one-month period, the request will be deemed withdrawn.
- Once DIAN has the application with all due information, it has one month to make a decision. Nevertheless, DIAN has the option of suspending such period for up to two months, should it need to verify additional information or perform a physical inspection.
- Minimum Monthly Legal Wage for 2010 is COP\$515.000. The M.M.L.W, as well as the exchange rate is subject to variations.

### 2. Equivalence of Minimum Monthly Legal Wage (M.M.L.W for 2010) in Colombian pesos and US Dollars.

M.M.L.W	Colombian Pesos	US Dollars
500	\$257.500.000	\$129.000
2.300	\$1.184.500.000	\$592.000
5.000	\$2.575.000.000	\$1.300.000
10.000	\$5.150.000.000	\$2.600.000
11.500	\$5.922.500.000	\$3.000.000
23.000	\$11.845.000.000	\$5.900.000
30.000	\$15.450.000.000	\$7.700.000
46.000	\$23.690.000.000	\$11.800.000
75.000	\$38.625.000.000	\$19.300.000
92.000	\$47.380.000.000	\$23.700.000
150.000	\$77.250.000.000	\$38.200.000
692.000	\$356.380.000.000	\$178.200.000

Exchange rate: 2000

The investment amounts required to obtain the Free Trade Zone status are calculated in Minimum Monthly Legal Wages (M.M.L.W). This information is presented in dollars using a USD 1 = COP 2000 exchange rate. For 2010, the M.M.L.W is COP 515.000. The M.M.L.W, as well as the exchange rate, are subject to variations.



