



# AMENDMENTS TO THE FREE TRADE ZONE DECLARATION PROCESS

## Decree 1300 of 18 June 2015

Dear Sirs,

Decree 1300 of 2015 was issued last June 18<sup>th</sup>, which has amended the procedure for free trade zone declarations in order to simplify existing regulations, expedite the respective procedures, facilitate access to the regime and define the participation of the several stakeholders involved in declaring the existence of a free trade zone. We summarize below the most relevant aspects of this Decree.

### Declaration of Existence and Classes

The decision regarding declaration of existence belongs to the Ministry of Trade, Industry and Tourism.

Free trade zones must be declared by means of an administrative act once the General Development Master Plan of the Free Trade Zone has been approved and a favorable feasibility opinion has been obtained from the Inter-sectorial Commission of Free Trade Zones and fulfillment has been verified of all other requirements.

Free trade zones may be permanent, special permanent or temporary. Permanent are those defined zones harboring multiple industrial or commercial users, which will be subject to a special tax, customs and foreign trade treatment. Special permanent are those defined zones where there is only one industrial user. Finally a temporary zone is any defined area where fairs, exhibitions, congresses and seminars are held.

The Ministry will also decide in connection with the extensions, expansions and reductions of Free Trade Zones and cancellation of the Free Trade Zone declaration (Decree 1289 of 2015).

### General Requirements

Anyone seeking declaration of a free trade zone (regardless of its class) must meet the following general requirements, in addition to any other special and specific requirements for each one of the free trade zone classes:

1. Formation and identification of a new legal entity, which will be the one seeking declaration of the free trade zone. The same must be domiciled in Colombia and have legal representation or may be a branch of a foreign company legally established in Colombia.
2. Information and identification of the legal representatives, members of the board of directors, partners, shareholders and persons holding direct or indirect control of the same.
3. The RUT (Taxpayer Identification Number) of the applicant legal entity, the members of the board of directors, the legal representatives, partners and shareholders.
4. Filing of a certificate of existence and legal representation, showing that the corporate purpose allows undertaking activities directly related to free trade zones.
5. Filing of financial statements certified by a statutory auditor or public accountant.
6. Undertaking to establish and deliver a guarantee from a bank or insurance company.



7. State under penalty of oath that the legal representative of the legal entity seeking declaration of the free trade zone, its partners and representatives have not been previously punished by cancellation of authorization to perform the corresponding activity and generally due to willfully engage in any action criminally punished under Colombian laws and regulations.

8. The legal entity, its legal representatives, partners and managing staff must not have been penalized due to inapplicability of tax refunds during the last 5 years prior to filing of the application.

9. The applicant legal entity, or its legal representatives, partners or shareholders and managing staff may not have outstanding and collectable debts of a tax, customs or foreign exchange nature with DIAN.

10. Filing of the General Development Master Plan of the Free Trade Zone. This Plan should contain:

a. An executive summary of the project providing the general description of the project, the objectives, goals, justification and amount of investment.

b. Detailed description of the investment project establishing: i) Estimated amount of sales with a national and foreign market breakdown.; ii) Amount of jobs expected to be created in each stage of the project; iii) Urban and architectural development of the project, location of the same, characteristics of the land, access roads and current status; iv) The total area of the free trade zone destined to: operator user, industrial and commercial users, control authorities, internal circulation roads, green areas and areas destined to entities not subject to the free trade zone regulations. The same should also define the area destined to production, administrative and service facilities.

c. Determination of the amount of investment and term to make the same.

d. Schedule specifying compliance with annual investment commitments and jobs expected to be generated.

e. The economic and social benefit expected to be generated by the project in the region.

f. Issues relating to industrial reconversion, transfer of technology or services.

g. Technical, economic, financial, marketing and legal feasibility documents.

11. Evidence that the project to be implemented with the declaration of free trade zone is in alignment with the municipal and district development plan, and also that use of such land is allowed.

12. Evidencing that the area to be declared free trade zone may be fitted with domiciliary public utilities.

13. Certification that the project does not infringe environmental authority requirements. In the event works involving harvesting of natural resources are required, it is necessary to have the corresponding permits. In addition it is necessary to comply with the prior consultation requirements.

14. Submittal of the photographic and topographic map showing the location and delimitation of the area over which the declaration is sought.

15. The commitment of establishing a systematization program of Free Trade Zone operations for managing inventories.

16. Submittal of a schedule featuring the enclosure of all the area declared as free trade zone prior to the entry into operation of the free trade zone and its activities.

17. Listing of equipment to be used in loading, unloading and weighing for entry into and exit from the free trade zone of wares.

The aforesaid decree states as requirements to be met by the area holding the free trade zone: i) Being uninterrupted and not less than 20 hectares (this requirement is not applicable to special free trade zones); ii) Have necessary conditions for being fitted with the infrastructure for industrial and business activities; iii) The activities the project expects to perform should not be currently ongoing; iv) Have a minimum area of 150 square meters for office space for control authorities and a minimum area of 1,500 square meters for customs evaluation and inspection and monitoring directly related to the free trade zone.



## Specific Requirements

In addition to the foregoing requirements, it is necessary to file in connection with permanent free trade zones a schedule showing that such free trade zone will have over a time period of 5 years at least 5 industrial users and a new investment of 46,000 effective minimum legal monthly salaries, which should relate to the infrastructure required by free trade zone users. Likewise, it is necessary to prove a liquid equity of 23,000 effective minimum legal monthly salaries in connection with permanent free trade zones.

Regarding special permanent free trade zones, it is necessary to meet in addition to the general requirements the following in order to obtain the declaration of the same:

1. Making a new investment in an amount exceeding 150,000 effective minimum legal monthly salaries and creating 150 new jobs within 3 years from declaration of existence of the free trade zone.
2. A schedule showing performance of the commitments, such as making 100% of the new investment within three years from the declaration, including installation of actual fixed production assets and assembly of all others assets necessary for performance of the project and creation of direct and formal employment.
3. Having an adequate area for setting up the office where DIAN will carry out the control and monitoring the activities directly related to the special free trade zone.
4. In regard to port companies that entered into concession contracts for operation of public service ports, they will be allowed to seek declaration of a free trade zone over the same port area for the term of the port concession.

We hope the above information will prove useful. We remain at your disposal to provide any clarification or further information in this regard.

Sincerely yours,

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