

approved by Supreme Decree No 012-2015-PCM and its amendments, one of the functions of the Board of Directors is to approve the Institutional Operational Plan (POI);

Whereas it is necessary to approve the Institutional Operating Plan of the Ositrán, consisting of the initial opening budget (PIA) for the Fiscal Year 2022, in order to implement the amended Institutional Strategic Plan 2019-2023, in accordance with the Institutional Opening Budget approved for Specification 022: Public Transport Infrastructure Investment Authority — OSITRAN;

In accordance with Law No 31365, Law No 2017 on the Budget of the Public Sector for the Fiscal Year 2022, the Rules on Organisation and Functions of Ositrán, approved by Supreme Decree No 012-2015-PCM and its amendments, Directive No 001-2017-CEPLAN/PCD, Directive updating the Strategic Plan for National Development, adopted with Resolution No EF/50.01 and Decision No 009-2020-EF/50.01 of the Presidency of the Board of Directors No 026-2017/CEPLAN, and its amendment, the Guide for Institutional Planning, adopted with Resolution No 033-amending Council No EF/50.01 and amended by Decision No of the Executive Board, and its amendment, the Guide to Institutional Planning, adopted with Resolution No 001 of the Council of the European Parliament and of the Council, No, and its amendment, the Guide for Institutional Planning, adopted with Resolution No and amending Decision No 2020-amending Decision No and amending Law No 015. And following the agreement of the Board of Governors at its Ordinary Session No 754-2021-CD-OSITRAN;

IT IS ORDERED:

**Article 1.** — Approval of the Institutional Operating Plan (IPP) 2022 of the Organisation for Investment in Public Utilities Transport Infrastructure (OSITRAN), consisting of the Institutional Opening Budget (PIA) 2022, the same as annexed to this Resolution.

**Article 2.** — order publication of this Resolution in the Official Journal "El Peruano"; As well as the publication of it and its annex on the Institutional Ositrán Portal(www.gob.pe/ositrán) and on the Entity's Standard Transparency Portal.

To be registered, communicated and published.

VERÓNICA ZAMBRANO COPELLO  
Chairman of the Board of Directors

2024117-1

**NATIONAL SUPERINTENDENCY  
OF SANITATION SERVICES**

**Approved SUNASS Staff Activation,  
Disciplinary and Quality of Public Expenditure  
and Revenue Provisions for the year 2022**

**PRESIDENCY RESOLUTION  
NO 046-2021-SUNASS-PE**

Lima, 20 December 2021

HAVING REGARD TO:

Memorandum No 216-2021-SUNASS-OPPM of the SUNASS Office for the Planning, Budget and Modernisation of SUNASS, which proposes the draft provisions for SUNASS Public Expenditure, Disciplinary and Quality Measures for Public Expenditure and Revenue for 2022.

RECITAL:

The Public Sector Budget Law for the Fiscal Year 2022 (Law No 31365) approved the Public Sector Budget for the Fiscal Year 2022, which includes the maximum budgetary appropriations corresponding to the budgetary specifications of the national government, regional

governments and local governments, providing for specific measures governing budgetary management, as well as austerity, discipline and quality of expenditure measures for entities.

The wording (e) of the First Transitional Supplementary Provision of Law No 31365 provides that the supervisory and regulatory bodies for public services, by decision of its holder, adopt austerity, discipline and quality provisions in public expenditure and staff revenue.

That, by means of the citation document of the Planning, Budget and Modernisation Office, it presented a draft of the provisions on Austerity, Disciplinary and Quality in Public Expenditure and Revenue of the Staff of SUNASS for 2022, which fall within the scope of Law No 31365.

In accordance with the powers conferred and the rules laid down in the Rules on the Organisation and Functions of the SUNASS, approved by Supreme Decree No 145-2019-PCM.

IT IS ORDERED:

**Article 1.** — SUPPORTS the SUNASS Staff Accruals, Disciplinary and Quality Provisions for Public Expenditure and Revenue for 2022, which, as an annex, forms an integral part of this Resolution.

**Article 2** — REQUEST the publication of this Resolution and of the provisions on Austerity, Disciplinary and Quality in Public Expenditure and Revenue of Staff of SUNASS for 2022 in the official journal El Peruano and on the institutional portal of SUNASS (www.sunass.gob.pe).

Register, disclose and archive.

IVÁN MIRKO LUCICH LARRAURI  
Executive President

2024478-1

**SPECIALISED TECHNICAL BODIES**

**NATIONAL INSTITUTE OF  
ANTITRUST  
AND THE PROTECTION OF THE  
INTELLECTUAL PROPERTY**

**Provide for the initiation of an investigation  
procedure for imports of safeguard products  
entering chapters 61, 62 and 63 of the National  
Customs Tariff, comprising a total of 284 tariff  
subheadings.**

**DUMPING, SUBSIDIES AND ELIMINATION  
COMMISSION  
TRADE BARRIERS  
NON-TARIFF**

**RESOLUTION NO 296-2021/CDB-INDECOPI**

Lima, 15 December 2021

**THE INDECOPI ANTI-DUMPING, SUBSIDIES AND  
ELIMINATION OF NON-TARIFF BARRIERS  
COMMISSION**

**FORSUMILLA:** Provisionis made for the initiation of an ex officio investigation procedure on imports of fabrications of safeguards, as it has been established that there is prima facie evidence of serious injury to the domestic manufacturing industry as a result of the significant increase in imports of that product, in absolute terms and in relation to domestic production, in accordance with Article 2.1 of the Agreement on Safeguards of the World Trade Organisation and Article 3 of the national regulation approved by Supreme Decree No 020-98-

ITINCI, as amended by Supreme Decree No 017-2004-ITINCI.

Having REGARD TO Case No 020-2021/CDB; And,  
WHEREAS

## I. BACKGROUND

By Resolution No 146-2020/CDB-INDECOPI published in the official journal 'El Peruano' on 01 rd November 2020, the Commission for Dumping, Subsidies and Elimination of Non-Tariff Commercial Barriers (hereinafter referred to as 'the **Commission**') ordered the initiation of an ex officio investigation procedure for the safeguard of imports of fabrications, under the provisions contained in the Agreement on Safeguards of the World Trade Organisation (WTO) and Supreme Decree No 020-ITINCI, as amended by Supreme Decree No 98-2004, under the provisions of the Agreement on Safeguards of the World Trade Organisation (WTO)<sup>1</sup>, and Supreme Decree No --ITINCI, as amended by Supreme Decree No 017, to create a serious threat to the existence of a serious injury, in the form of a possible increase in the period of protection, as amended by Supreme Decree No.

In the context of that procedure, the Commission issued Report No 009-2021/CDB-INDECOPI, in which it recommended to the Multisectoral Commission, made up of the Ministers of Foreign Trade and Tourism, Economy and Finance and Production, the application of provisional safeguard measures on the imports under investigation. By Supreme Decree No 002-2021-MINCETUR, published in the official journal 'El Peruano' on 18 February 2021, the Multisectoral Commission decided not to apply the provisional safeguard measures recommended by the Commission.

The administrative procedure initiated by Resolution No 146-2020/CDB-INDECOPI was concluded by Resolution No 169-2021/CDB-INDECOPI published in the official journal 'El Peruano' on 07 rd May 2021, which provided for the transmission to the Multisectoral Commission of Report No 038-2021/CDB-INDECOPI, which details the results of the investigation carried out by the Commission. By Supreme Decree No 008-2021 — MINCETUR published in the official journal 'El Peruano' on 07 rd June 2021, the Multisectoral Commission decided not to apply definitive safeguard measures on imports of made-up products.

Following completion of the investigation, in accordance with the tasks assigned to it by law, in March 2021 the Commission instructed the Technical Secretariat to carry out market monitoring in order to gather up-to-date information on the performance of national producers in making it possible to assess the impact of imports on the economic situation of the domestic industry of the product in question.

In this respect, information has been gathered on the structure of the national production sector of production, the evolution of Peruvian imports of made-up products and the economic performance of national producers of this product during the period January 2017 — June 2021, which was obtained from bodies of the public administration such as the Ministry of Production (PRODUCE), the National Superintendencia de Aduanas y Administración Tributaria (SUNAT), the Ministry of Labour and Employment Promotion (MTPE) and the National Institute of Statistics (INEI).

## II. THE SAFEGUARD INVESTIGATION PROCEDURE

The general safeguard measures provided for in the WTO Agreement on Safeguards are protection mechanisms imposed by States when there is an unusually significant increase in imports causing or threatening to cause serious injury to a domestic industry (hereinafter referred to as 'PNR') caused by unforeseen developments in circumstances within the meaning of Article XIX of the

General Agreement on Tariffs and Trade 1994 (hereinafter **GATT 1994**).

Unlike other trade defence proceedings — dumping or subsidy investigations — the imposition of safeguard measures does not require proof of the existence of unfair international trade practices, but requires verification that there has been a significant increase in imports which causes or threatens to cause serious injury to the local industry. At national level, these measures are governed by Supreme Decree No 020-98-ITINCI, as amended by Supreme Decree No 017-2004-MINCETUR (hereinafter the **Safeguards Regulation**), which regulates at national level the provisions of the WTO Agreement on Safeguards.

In accordance with the Safeguards Regulation, it is the competence of Indecopi, through this Commission, to decide whether it is appropriate to initiate an investigation aimed at assessing the need to impose safeguard measures on imports of certain products. In that case, the Commission exercises exclusively investigative functions, since the power to decide on the application of safeguard measures lies with a Multisectoral Commission composed of the Ministers of Foreign Trade and Tourism, Economic and Financial Ministers, and of the sector to which the NRP concerned belongs.

While the Safeguards Regulation<sup>2</sup> provides that in order to decide whether or not to apply provisional or definitive safeguard measures, the Multisectoral Commission shall take its decision on the basis of the respective technical report drawn up by the Commission in its capacity as investigating authority, but it also states that the Multisectoral Commission must carry out an analysis of the general public interest of the country and the effects of such measures on the national level and on trade relations with the countries concerned.

Investigation procedures in the area of safeguards must be conducted by the investigating authority in strict compliance with the parameters and technical requirements laid down in the Agreement on Safeguards and Article XIX of GATT 1994, as those international treaties lay down obligations which all WTO Members, such as Peru, have undertaken to comply with in order to ensure that international trade takes place more smoothly, more predictable and free. In this respect, it should be recalled that WTO Members retain the right to raise complaints under the WTO's dispute settlement system, if they consider that another Member has adopted determinations that are inconsistent with the provisions laid down in the Agreement on Safeguards and Article XIX of GATT 1994.

## III. ANALYSIS

Report No 092-2021/CDB-INDECOPI drawn up by the Technical Secretariat of the Commission (hereinafter **the Report**) assesses the requirements to be met in order to initiate ex officio an investigation procedure in the field of safeguards.

Pursuant to Article 10 of the Safeguards Regulation, the Commission may only provide for the initiation of an ex-officio safeguard investigation procedure in special circumstances, provided that it has sufficient evidence of serious injury or threat of serious injury to a domestic industry resulting from a significant increase in imports, in absolute terms or relative to domestic production. According to the Regulation, special circumstances are considered when the industry is fragmented, not organised or medium national interest<sup>(3)</sup>.

As analysed in the Report, the existence of the special circumstances of atomisation of the national industry is verified in the present case. According to the information available at this initial assessment stage, the national manufacturing industry is fragmented as it is almost entirely composed of micro and small enterprises (99.6%)<sup>4</sup> and also has a low level of concentration, given that the application of the Herfindahl- Hirschman Index (HHI) gives a value of 24.65.

<sup>1</sup> Increase in imports in terms of

**Absolute:** Between 2016 and 2020, imports of there was an increase of 52.5 %, in cumulative terms, which coincided with a reduction cumulative 33.6 % in its FOB price. EN 2021 (January)

Pursuant to Article 2.1 of the Safeguards Agreement<sup>6</sup> and Article 3 of the Safeguards Regulation 7, general safeguard measures are mechanisms of protection that WTO Members may apply in the event of a significant increase in imports of certain products, i.e. where it has been established that such imports have increased in such quantity and are carried out on such terms that they cause, or threaten to cause, serious injury to THE RPN producing like or directly competitive products.

As the Report states, locally produced and imported made-up products can be regarded as like or directly competitive products under the terms of Article 2 of the Safeguards Agreement and Article 4 of the Safeguards Regulation. This is because both products share the same physical characteristics; Are employed for the same purposes; They are made using the same raw materials and following the same production process; They are placed on the market under the same marketing channels; They are classified under the same tariff subheadings; They are commercially interchangeable on the Peruvian market where they compete.

In order to verify the significant increase in imports of making-up during the period under review (January 2016 — June 2021), the criteria set out in the WTO Appellate Body rulings on this issue were taken into account. Thus, it has pointed out that, in a safeguard investigation, it is not sufficient to verify any increase in the quantity of imports of the imported product, but that it is necessary to show that those imports have increased 'by such quantity' as to cause or threaten to cause serious damage to RPN. For such effects, it is necessary that the increase in imports has been sufficiently recent, sudden, acute and significant to cause or threaten to cause serious injury to RPN<sup>8</sup>.

On the other hand, for the purpose of analysing the existence of prima facie evidence of possible serious injury to the national making-up industry, it is considered that the RPN of made-up products is composed of one hundred and two (102) domestic producers making up the Monthly Statistical Survey of PRODUCE, which has been provided by the Ministry to the Commission. In that regard, it has been estimated that those producers together account for 37.4 % of the total national production of made-up products, which makes it possible to reflect the evolution of the economic performance of that industry.

As explained in detail in the Report, the evidence available at this initial assessment stage shows that during the period January 2016 — June 2021 there would have been an increase in imports of fabrications in such a quantity and under such conditions that they could constitute serious injury to RPN within the meaning of Article 2.1 of the Safeguards Agreement. This is based on the following considerations:

- June), production imports increased (48.8 %) compared to the same half of 2020, against the background of a relaunch of industrial production activities at national level<sup>9</sup>, with the FOB price of such imports falling by 18.7 %.

The increasing trend of imports of fabrications increased after the period of analysis considered in the investigation by safeguards which ended in April 2021 (January 2016 — June 2020), as in the last two semesters of the analysis period of this case (July — December 2020 and January)

- June 2021) the highest levels of imports were recorded compared to all semesters covering the analysis period.

(i) Increase in imports relative to domestic production: Between 2016 and 2020, imports of fabrications, in relative terms of domestic production, increased by 253.8 percentage points, as a result of the increase in such imports in absolute terms. In 2021 (January — June), the above indicator increased by 8.9 percentage points, as imports increased (48.8 %) more strongly than domestic production (45.8 %), compared to the similar half of 2020.

With regard to unforeseen developments, prima facie evidence has been found at this stage of the initial assessment to suggest that unforeseen circumstances within the meaning of Article XIX of GATT 1994 have arisen during the period January 2016 — June 2021, as a result of which there would have been a significant increase in imports of making-up during the period indicated above. This is based on the following considerations:

(i) Between January 2016 and June 2021, the average FOB price of imports of ready-made goods did not follow the price evolution of its main raw materials (cotton and polyester). On the contrary, they showed contrasting trends or decreased in different proportions, which coincided with a significant increase in imports of making-up products.

(ii) In that context, the measures to halt production and trade activities in the country during 2020 to contain the rise of COVID-19 (specifically between March and June of that year), which also covered the making-up sector, contributed to a significant increase in imports of making-up products in the period indicated above. Notwithstanding this, in a context of restarting industrial production activities at national level, in 2021 (January — June), imports of fabrications in relative terms of domestic production exceeded the level reached in the previous years that are part of the analysis period.

With regard to the serious injury factor to RPN, the evidence available at this stage of the initial assessment indicates the existence of prima facie evidence of possible serious injury to RPN resulting from the significant increase in imports of making-up products during the period January 2016 — June 2021. This conclusion is based on the following considerations:

(I) Pace and amount of the increase in imports: Between 2016 and 2019, the pace of increase in imports of fabrications took place at significant levels, with the growth rates of such imports recorded between 2017 and 2018 and between 2018 and 2019 (29.8 % and 13.5 % respectively) being significantly higher than the growth rate recorded between 2016 and 2017 (2.7 %). While between 2019 and 2020 the volume of imports of made-up goods increased (0.7 %) by less than the increase between 2016 and 2017, this was due to the decrease in imports in the first half of 2020. However, imports of made-up products increased in the second half of 2020, after the resumption of trade activities at national level, with a volume (182,263 thousand units) reported in that semester which is greater than that observed in all semesters between 2016 and 2019 (i.e. prior to the implementation of measures to contain COVID-19).

In the final and most recent part of the analysis period (January — June 2021), the volume of imports of ready-made goods increased by 48.8 % compared to the same period in 2020, reaching the highest level recorded for all semesters covered by the analysis period, demonstrating a sustained growth in imports of making-up products after the analysis period considered in the investigation by safeguards to imports of making-up products which ended in April 2021.

Meanwhile, between 2016 and 2020, the volume of imports of fabrications in terms of domestic production increased on average by 63.4 percentage points per year, which is explained by the growth of imports during the period mentioned above (at an average annual rate of 26,777 thousand units) and the reduction in domestic production (at a rate of 9,096 thousand units per year) over the period in question. In the final and most recent part of the analysis period (January — June 2021), imports of manufactures in relative terms of domestic production grew by 8.9 percentage points, as the volume of imported products increased (62,901 thousand units) by a larger magnitude than the volume of domestic products (13,630 thousand units).

(ii) Part of the domestic market absorbed by increasing imports: During the analysis period (January 2016 — June 2021), the market share of imports of ready-made goods increased, leading to a gradual shift of the domestic product on the domestic market. Between 2016 and 2020, when the FOB price of imports of ready-made goods fell by 33.6 %, the market share of those imports increased by 13.4 percentage points. At the end of the analysis period (January — June 2021), the drop in the FOB price of imports of making-up products allowed these imports to absorb a higher share of the domestic market (2.9 percentage points) compared to the similar period in 2020.

(iii) Changes in the level of sales: During the analysis period (January 2016 — June 2021), the estimated volume of domestic sales of RPN manufactures showed a

decreasing trend, which remained in the final and most recent part of that period (January — June 2021). Indeed, between 2016 and 2020, that indicator recorded a cumulative reduction of 56.4 %; While in the final and most recent parts of the analysis period (January — June 2021), it contracted by 17 % compared with the same half of the previous year.

The decreasing trend of the sales indicator increased after the period of analysis considered in the safeguard investigation which ended in April 2021 (January 2016 — June 2020), as for the last two semesters of the analysis period of the present case (July — December 2020 and January — June 2021) the lowest levels of domestic sales were recorded compared to all semesters covered in the analysis period. Thus, at the end of the analysis period (January — June 2021), the level of the RPN's domestic sales ( 7,877 thousand tonnes) continued its declining trend, decreasing (13.8 %) compared to the previous half year, so that the level of this indicator was below (53.3 %) the average level of all previous half-year semesters between 2016 and 2020 (16,852 thousand half-yearly average tonnes).

(iv) Changes in market share: The market share of RPN experienced a decreasing trend during the period January 2016 — June 2021. Indeed, between 2016 and 2020, when the size of the domestic market for making-up increased by 33.6 %, RPN's market share fell by 11.7 percentage points, in a context in which the FOB price of imports of ready-made goods fell by 33.6 %.

The declining trend of the market participation indicator was accentuated after the period of analysis considered in the investigation by safeguards which ended in April 2021 (January 2016 — June 2020), as in the last two semesters of the analysis period of the present case (July — December 2020 and January — June 2021) the lowest levels of market participation were recorded compared to all semesters covered by the analysis period. Thus, in the final and most recent part of the analysis period (first half of 2021), when the size of the domestic market increased by 44.3 % compared to the similar half of 2020, the market share of RPN decreased by 2.9 percentage points, in a context where the imported product showed a 23.9 % reduction in its FOB import price.

(v) Changes in the level of utility generated by RPN: The utility margin obtained by RPN on its production sales showed a cumulative reduction of 29.8 % between 2016 and 2020. The analysis of intermediate trends shows that between 2016 and 2018, utilities increased by 12 %; However, between 2018 and 2020, utilities decreased by 37.2 %.

(vi) Changes in production: During the analysis period (January 2016 — June 2021), against a background of a significant increase in the volume of imports of made-up products, the production of RPN decreased by 34.3 % on a cumulative basis. When reviewing intermediate trends over the period indicated above, differentiated behaviour can be seen. Meanwhile, in the final and most recent part of the analysis period (first half of 2021), although the level of production of RPN (43,401 thousand units) increased (8.5 %) compared to the previous semester, the level of this indicator was below (12.4 %) the average production level of previous semesters between 2016 and 2020.

(vii) Changes in capacity utilisation: During the analysis period (January 2016 — June 2021), the use of installed capacity of RPN evolved in line with the output indicator performance, with fluctuating performance during most of the period (2016-2020). At the end of the analysis period (January — June 2021), while the level of the installed capacity utilisation rate of NRP (53 %) increased by 3.5 percentage points compared to the previous semester, the level of this indicator was below (11.1 percentage points) the average level recorded in the previous half years between 2016 and 2020 (64.1 % half-yearly average).

(viii) Changes in employment: During the analysis period (January 2016 — June 2021), the employment indicator of the NRP showed a decrease of 16.1 % on a cumulative basis. When reviewing intermediate trends over the period indicated above, there is a fluctuating pattern, in line with the evolution of the output indicator. At the end of the analysis period (January — June 2021), while the employment level of the NRP (35,290 average number of

employees) remained broadly stable (0.3 % increase) compared to the previous semester, the level of this indicator was below (13.5 %) the average employment level recorded in each year of the period 2016-2019 (40,815 average workers), prior to the implementation of the measures to contain COVID 19.

(ix) Changes in remuneration: The level of remuneration of RPN experienced fluctuating behaviour during the analysis period (January 2016 — June 2021). Thus, between 2016 and 2020, that indicator recorded a cumulative increase of 5.5 %, which coincided with increases in the Minimum Vital Remuneration (24.0 %) decreed over the period referred to above. In addition, in the final and most recent parts of the analysis period (January — June 2021), the level of RPN remuneration increased by 7.7 % compared with the same half of the previous year.

In addition to the above evidence supporting the existence of prima facie evidence of possible serious injury to RPN, other additional factors, provided for in Article 4 of the Agreement on Safeguards, have been assessed at this initial stage of the administrative procedure, which lead to the conclusion that the increasing trend in imports of fabrications observed during the period of analysis of the present case (January 2016 — June 2021) will continue in the near future. This conclusion is based on the following considerations:

(i) Export capacity of countries supplying the Peruvian production market: Between January 2016 and June 2021, the main supplier countries of the Peruvian market (China and Bangladesh) recorded a large export capacity, consolidating themselves as the main exporters of production worldwide, and concentrating a cumulated share of 40.6 % of world production exports. In addition, between 2016 and 2020, the freely available capacity for the production of made-up products in China and Bangladesh increased due to the contraction in production in those countries.

While during the first half of 2021 the spare capacity of the Chinese production industry decreased by 4.3 percentage points compared to the similar half of 2020, this capacity (42.5 %) reached a level higher than the average freely disposable capacity (27.9 %) recorded during the analysis period (January 2016 — June 2021). Whereas between January and June 2021, Bangladesh's freely available capacity was set at a level similar to that recorded in the year preceding (2019) the adoption of measures in the world to contain COVID-19.

(ii) Possibility of redirecting consignments of made-up products to the Peruvian market: During the period 2016 - 2020, exports of manufactures originating in China and Bangladesh fell by 11.8 %, against the backdrop of measures taken by different countries of destination for exports of manufactures to contain the rise of COVID-19, which led to a contraction in global economic activity in 2020. On the other hand, in the final and most recent part of the analysis period (January — June 2021), the total value of exports of manufactures originating in China and Bangladesh increased by 32.5 % compared to the same half of 2020.

In particular, with regard to shipments to South America of manufactures originating in China and Bangladesh, it appears that exports to their main destinations in the region fell during the period 2016-2020. However, in the final and most recent part of the analysis period (January - June 2021), the total value of Chinese exports to South America increased by 24.1 %, mainly explained by increases in Chile (46.9 %), Peru (20.7 %), Colombia (36.1 %) and Uruguay (35.7 %).

In this respect, during the period 2016-2020, considering the four countries in the region mentioned above, Peru maintains one of the lowest tariff and non-tariff restrictions on imports of made-up products, which could facilitate the redirection of the flow of exports of made-up products originating in China and Bangladesh to the Peruvian market.

(iii) Stocks from Peru's main supplier countries: The information available shows that between 2016 and 2020 the level of stocks of the Chinese making-up industry decreased by 8.7 %. Furthermore, while in the first half of

2021 Chinese production stocks decreased by 3.8 % compared to the similar half of 2020, it appears that China maintained inventories at a level similar to the level of average inventories (16,821) recorded during the analysis period.

As explained in the Report, prima facie evidence has also been found to suggest a causal link between the significant increase in imports of making-up and possible serious injury to RPN. This, since the significant increase in imports of fabrications during the analysis period (January 2016 — June 2021) would have had an impact on the economic situation of RPN, in so far as the performance of RPN indicators in the analysis period (January 2016 — June 2021), which could have been assessed at this initial stage of the procedure, demonstrates a situation of economic deterioration in the industry.

In compliance with Article 22 of the Safeguards Regulation, other factors that may influence the economic situation of the RPN of production have also been assessed, such as the export activity of that branch, the evolution of domestic demand, the exchange rate and tariffs. However, no evidence has been found to suggest, at this initial stage of the procedure, that these factors cause or explain the potential serious harm to RPN.

It is therefore appropriate to provide for the ex officio initiation of an investigation procedure in order to determine whether or not it is necessary and appropriate to recommend to the Multisectoral Commission the application of general safeguard measures on imports of making-up products.

In the investigation procedure to be initiated by this administrative act, the period from January 2016 to June 2021 will be considered for the determination of the existence of a possible significant increase in imports of making-up products which would cause serious injury to RPN.

Considering that the present investigation procedure is initiated ex officio, the Commission may, in the course of the investigation, assess whether it is appropriate to recommend to the Multisectoral Commission the imposition of provisional safeguard measures on imports of made-up products, in application of Article 6 of the Agreement on Safeguards and Article 29 of the Safeguards Regulation.

On the other hand, as mentioned above, the national making-up industry is characterised by a fragmented industry consisting of a large number of micro and small enterprises, which means that significant efforts should be made in the course of this investigation to collect and process a significant amount of information on the economic and financial indicators of a large number of domestic producers.

In view of this, for the purposes of accessing information on the economic situation of the national production industry which is relevant to the analysis of the present case, in addition to the normal investigative measures to be carried out by this administrative authority, it is incumbent upon PRODUCE, as the national authority responsible for reorganising the industry sector to assess the carrying out of a survey of national producers of production, similar to that which it carried out in the context of a previous investigation procedure by way of safeguards for imports of products processed in 2004.

This administrative act is also based on the grounds for the analysis and conclusions of Report No 092-2021/CDB-INDECOPÍ, which sets out in detail the points set out above; And, which forms an integral part of this Resolution, in accordance with Article 6 (2) of the Single Legislative Text of Law No 27444 — Law on the General Administrative Procedure, and is publicly accessible on the Indecopi web portal (<http://www.indecopi.gob.pe>).

In accordance with the WTO Agreement on Safeguards, GATT 1994, the Safeguards Regulation and Legislative Decree No. 1033.

Having agreed at its meeting on 15 December 2021;

IT IS ORDERED:

**Article 1.** — To provide for the initiation of an ex officio investigation procedure for imports of safeguard products which enter under Chapters 61, 62 and 63 of the National Customs Tariff, comprising a total of 284 tariff subheadings.

**Article 2** — Invite parties with an interest in expressing their position on the subject matter of this investigation to make their views known, provide information and provide evidence to the Commission for Dumping, Subsidies and Elimination of Non-Tariff Commercial Barriers, within thirty (30) working days from the day following the publication of this Resolution. Within the same deadline, the Commission for Dumping, Subsidies and Elimination of Non-Tariff Commercial Barriers shall determine the date of the public hearing of this proceeding.

**Article 3.** — Any communication by interested parties must be submitted via the virtual Indecopi Bureau, which is available on the institution's web portal (<https://onlinea.indecopi.gob.pe/MDPVirtual2/#/inicio>). Of alternatively, communications may be sent to the following address of the Indecopi:

Committee on Dumping, Subsidies and Elimination of Non-Tariff Trade Barriers — Indecopi  
Calle De La Prosa No 104, San Borja  
Lima 41, Peru  
Telephone: (51-1) 2247800 (Annex 3001)  
E-mail: [Dumping@indecopi.gob.pe](mailto:Dumping@indecopi.gob.pe)

**Article 4.** — To publish this Resolution in the official journal 'El Peruano' once (01), in accordance with Article 17 of Supreme Decree No 020-98-ITINCI, as amended by Supreme Decree No 023-2003-MINCETUR.

**Article 5** — To inform interested parties that, for the purposes of the investigation procedure to be initiated by this administrative act, the period from January 2016 to June 2021 for the determination of the existence of a significant increase in imports of making-up products causing possible serious injury to the domestic industry of making-up shall be considered.

**Article 6.** — Please note that the investigation procedure shall have a maximum period of six (6) months from the day following the date of publication of this Resolution.

**Article 7.** — The start of this procedure shall be counted from the date of publication of this Resolution in the official journal 'El Peruano'.

**Article 8.** — Notify this Resolution to countries whose exports could be affected by the application of any safeguard measure, so that they can present evidence and present their views, in accordance with Article 12 of Supreme Decree No 020-98-ITINCI, as amended by Supreme Decree No 023-2003-MINCETUR.

**Article 9.** — Requests the Ministry of Production, in the context of its functions as the national authority responsible for the monitoring of industry, to evaluate the carrying out of a survey of national producers of production, to provide information on the economic and financial indicators of the national manufacturing industry, as referred to in Article 4 of the Agreement on Safeguards, so that the Commission for Dumping, Subsidies and the Elimination of Commercial Barriers does not carry out the technical analysis of the technical aspects required by this Agreement on Safeguards, with a view to the Commission for Dumping, Subsidies and Elimination of Commercial Barriers.

**Article 10.** — Notify this Resolution to the Multisectoral Commission composed of the Minister for Foreign Trade and Tourism, the Minister for Economic Affairs and Finance and the Minister for Production.

With the floor of the Members of the Commission:  
Renzo Rojas Jiménez, Manuel Augusto Carrillo Barnuevo, José Antonio Jesús Corrales Gonzales and Gonzalo Martín Paredes Angulo.

RENZO ROJAS JIMÉNEZ  
President

<sup>1</sup> In view of the request made by the Deputy Ministry of MYPE and Industry of the Ministry of Production (PRODUCE), taking the view that domestic producers of

made-up products were facing a threat of serious injury as a result of the significant increase in imports of that product, the Commission notes the automatic initiation of an investigation into imports of made-up products classified under Chapters 61, 62 and 63 of the National Customs Tariff (284 tariff subheadings).

**Safeguards Regulation, Article 7.** — Decisions concerning the application, suspension and revocation of safeguard measures, as well as the modification or extension of the time limits for their application, shall fall within the exclusive competence of the Multisectoral Commission and shall be adopted on the basis of the technical report drawn up by the investigating authority as a result of the investigation carried out.

**SAFEGUARDS REGULATION, Article 10.** — In special circumstances, the investigating authority may initiate an investigation without having received a written request from the domestic industry. An investigation shall be initiated only where there are sufficient indications of serious injury or threat of serious injury resulting from a significant increase in imports in absolute terms or relative to domestic production.

Special circumstances shall be considered where domestic industry is not organised, fragmented or in the national interest.

According to information obtained from SUNAT, the manufacturing sector consists of 83 416 undertakings which made payments under the IGV during the period January 2017 — June 2021.

The degree of concentration of the national production industry was calculated on the basis of the total basis of assessment of the payment of the IGV made by the domestic producers of that industry in the last full tax year (2020) within the analysis period of this investigation for which SUNAT has tax information declared by all taxpayers in the making sector.

**Agreement on Safeguards, Article 2.1.** — A Member may apply a safeguard measure to a product only if that Member has determined, in accordance with the provisions set out below, that imports of that product into its territory have increased in such quantity, in absolute terms or relative to domestic production, and are carried out on such terms as to cause, or threaten to cause, serious injury to the domestic industry producing like or directly competitive products.

**Safeguards Regulation, Article 3.** — Safeguard measures shall apply where imports of a product, irrespective of the source from which it is appropriate, increase by such quantity, in absolute terms or relative to domestic production and take place under such conditions as to cause or threaten to cause serious injury to the domestic industry producing like or directly competitive products.

In this respect, the WTO Appellate Body in *Argentina — footwear* noted the following:

*'131. (...) In our view, it is not a purely mathematical or technical determination to determine whether the requirement of imports 'increased by that quantity' has been met. In other words, it is not sufficient for an investigation to show simply that this year's imports have been higher than last year — or five years ago. We repeat, and it is justified to stress, that any increase in the quantity of imports is not sufficient. For the requirement to apply a safeguard measure to be met, imports must have increased "in such quantity" as to cause or threaten to cause serious injury to the domestic industry. In our view, this wording, used in both Article 2.1 of the Agreement on Safeguards and paragraph 1 (a) of Article XIX of the GATT 1994, requires that the increase in imports has been sufficiently recent, sufficiently sudden, sufficiently acute and significant, both quantitatively and qualitatively, to cause or threaten to cause "serious injury".'*

Supreme Decree No 080-2020-PCM published in the official journal 'El Peruano' on 3 May 2020 approved the gradual and gradual resumption of economic activities within the framework of the National Health Emergency Declaration. In this respect, by Supreme Decree 101-2020-PCM published in the official journal "El Peruano" on 4 June 2020, it was stipulated that as of June this year, Phase 2 would start, whereby trading activities were resumed for shopping centres, conglomerates and shops by department, for direct attention to the public, with up to 50 %. Subsequently, by Supreme Decree 117-2020-PCM published in the official journal 'El Peruano' on 30 June 2020, it was stipulated that Phase 3 would start from July 2020, whereby trading activities in shops in general were resumed, with up to 50 %.

In 2004, by Resolution No 054-2004/CDS-INDECOPI published in the official journal 'El Peruano' on 22 August 2004, the Commission decided to initiate a safeguard investigation into imports of made-up goods.

As part of that investigation, by Ministerial Resolution No 424-2004-PRODUCE published in the official journal 'El Peruano' on 28 November 2004, the Ministry of Production, through its General Office for Information Technology and Statistics, provided for a national survey to be carried out for undertakings in the production sector, which was carried out by a private company. This, in order to gather information necessary for the preparation of the respective report to be issued by the Commission in support of the decision whether or not to recommend the application of definitive safeguard measures on imports of manufactured goods under investigation.

## SUPERINTENDENCY

### NATIONAL OF

## LABOUR AUDIT

### Designate Regional Intendent for the Regional Intension of Puno of the National Superintendency of Labour Inspections — SUNAFIL

#### RESOLUTION OF SUPERINTENDENCY NO 320-2021-SUNAFIL

Lima, 23 December 2021

HAVING REGARD TO:

Memorandum No 000771-2021-SUNAFIL/GG of the Gerencia General; Report No 920-2021-SUNAFIL/GG/OGA/ORH of the Office for Human Resources of the General Administration Office; Memorandum No 001600-2021-SUNAFIL/GG/OGA of the General Office of Administration; Memorandum No 139-2021-SUNAFIL/GG-OGAJ of the General Office for Legal Advice, documents dated 23 December 2021, and other background documents; And,

RECITAL:

Law No 29981 establishes the National Superintendencia de Fiscalización Laboral — SUNAFIL as a specialised technical body attached to the Ministry of Labour and Employment Promotion, responsible for promoting, supervising and auditing compliance with social and labour law and occupational safety and health, as well as providing technical advice, carrying out investigations and proposing the issuing of rules on these matters;

Whereas Article 11 (f) of the Rules on the Organisation and Functions of SUNAFIL, approved by Supreme Decree No 007-2013-TR, as amended by Supreme Decree No 009-2013-TR, provides that the function of the Superintendent is to appoint and remove the managers of SUNAFIL;

In accordance with the Table for the Assignment of Provisional Staff (CAP PROVISIONAL) of the SUNAFIL, approved by Ministerial Resolution No 120-2017-TR, reordereed by Supervisory Decisions Nos 168 and 216-2017-SUNAFIL, Nos 025 and 2019-2018-SUNAFIL, No 080-229-SUNAFIL, Nos 63, 148 and 206-SUNAFIL, No 79 SUNAFIL, 101 and 2020.

Whereas, by means of the citations document, the Gerencia General informs the Human Resources Office of the General Administration Office that the senior management has seen fit to appoint, as from 24 December 2021, Mr Antonio Riquelme Sotelo Calderón to the post of Regional Intendent of the Regional Intension of Puno of the National Superintendencia de Fiscalización Laboral — SUNAFIL;

With Memorandum No 001600-2021-SUNAFIL/GG/OGA, the Office General of Administration gives its agreement to Report No 920-2021-SUNAFIL/GG/OGA/ORH, drawn up by the Human Resources Office, in which it expresses a favourable opinion to appoint, as from 24 December 2021, Mr Antonio Riquelme Sotelo Calderón to the post of Regional Entenance of the Regional Intension of the Puna de la Puno de la Superintención Nacional de la Superintendencia (UNSCAL), to appoint Mr Antonio Riquelme Sotelo Calderón as from to the post of Regional Entenance of the Regional Intension of Puno of the Superintendencia de la Superintendencia de la Superintendencia (FIL), by means of which Mr Antonio Riquelme Sotelo Calderón was assigned to the post of Regional Entenance of the Regional

Intenance of Puno in the Superintendence of the Superintendencia, as provided for in Memorandum No 240-2017-SUNA-SUNAFIL/GG/GG/OGA/OGA, and in accordance with Report No --SUNAFIL/GG/OGA, drawn up by the Human Resources Office, in which he expressed a favourable opinion to designate, as from, Mr Antonio Riquelme Sotelo Calderón, Mr Antonio Riquelme Sotelo Calderón, drawn up by the Office for Human Resources, expressing a favourable opinion on the UNSLACE's UNOSE resolution, with effect from, Mr Antonio Riquelme Sotelo Calderón in the post of Regional Intendent of the Regional Intensionary of Puno de La Superintendencia de la Superintendencia, as provided for in accordance with Decision No 04--SUNAFIL/GG/OGA, the Office of Administration gives its agreement to Report No --SUNAFIL/OGA/OH, by which the Office for Human Resources expresses a favourable opinion on the UNOGA, Mr Antonio Riquelme Sotelo Calderón, as of, Mr Antonio Riquelme Sotelo Calderón in the post of Regional Intendent@.@

With the approval of the General Manager, the Head of the General Administration Office and the Head of the General Office for Legal Advice; And,

In accordance with Law No 29981, the Law on the creation of the National Superintendency of Labour Inspections — SUNAFIL and its Rules on Organisation and Functions, approved by Supreme Decree No 007-2013-TR, as amended by Supreme Decree No 009-2013-TR;

IT IS ORDERED:

**Article 1.** — Appointment, with effect from 24 December 2021, Mr ANTONIO RIQUELME SOTELO CALDERÓN to the post of Regional Intendent of the Regional Intension of Puno in the National Superintendencia de Control Laboral — SUNAFIL, considered to be a trustworthy post.

**Article 2.** — Notify this decision to the person referred to in the preceding Article and to the General Administration Office for the relevant actions.

**Article 3.** — To publish this resolution in the Official Journal El Peruano and on the Institutional Portal of the National Superintendent for Labour Control — SUNAFIL([www.gob.pe/SUNAFIL](http://www.gob.pe/SUNAFIL)).

To be registered, communicated and published.

Juan CARLOS Requejo GEREMAN Superintendent

**2024978-1**