

**REGULATION 258/97 OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL CONCERNING NOVEL FOODS**

Communication from Peru

The following communication, received on 1 June 2011, is being circulated at the request of the delegation of Peru.

1. Peru once again raises before the WTO Membership its trade concern regarding Regulation 258/97 of the European Parliament and of the Council concerning novel foods and novel food ingredients. Unfortunately, the review of this instrument did not culminate in any amendment of its content, which continues to restrict entry to the European market of a number of foods and food ingredients (termed "novel foods") that were not marketed in the European Union before 15 May 1997.

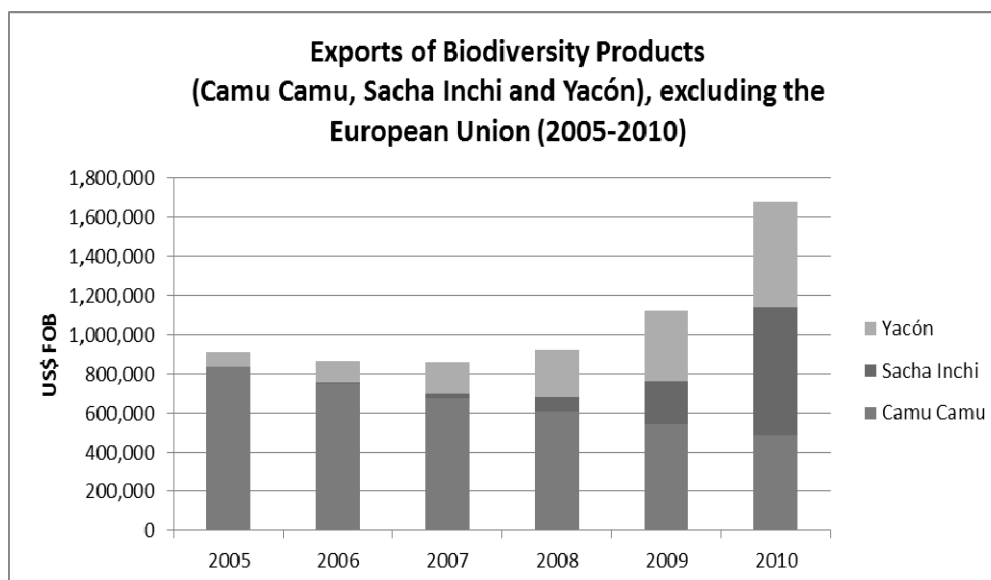
2. Thanks to policies to promote food exports and to international cooperation efforts, including on the part of member States of the European Union, native foods of traditional use in Peru have seen their trade potential grow significantly in the past few decades. High-potential Peruvian products such as camu camu (*Myrciaria dubia*)¹, yacón (*Smellanthus sonchifolins*), sacha inchi (*Plukenetia volubilis*) and other Amazonian fruits and their by-products are now being imported into major markets such as Japan and the United States.

3. Peru's concern is that the implementation of the Regulation on novel foods is directly affecting trade in the traditional products deriving from our mega-biodiversity, blocking their entry to the European Union market. These products are an illustration of the sustainable use made of our biodiversity through free and safe trade - principles to which Peru subscribes the belief that trade, sanitary and phytosanitary protection and biodiversity can and must be mutually supportive components of sustainable development.

¹ Camu camu, a traditional Amazonian product, has a high ascorbic acid content (2780 mg of Vitamin C per 100 g. of pulp). It is an effective antioxidant for human health and is rich in Vitamin C (containing 56 times more than the lemon). In 2010, exports to the United States and Japanese markets amounted to more than US\$ FOB 254,000 and 111,000, respectively, largely in the form of pulp. In May 2005, the Development Centre for the Competitiveness of the Amazon (CEDECAM) obtained organic certification for camu camu from the firm SKAL International in the context of the project "Comprehensive programme for the rational use of camu camu in selected basins of the Loreto region", implemented by CEDECAM with support from the European Union, *Agro Acción Alemana* (German AgroAction), CESVI Italy and Hivos Netherlands. In the period from 2008 to 2010, with financial support from the Spanish International Development Cooperation Agency (AECID), the Ministry of Agriculture carried out a project to grow organic camu camu in Loreto for export. The product is now grown and exported with organic certification from the Peruvian Amazon.

4. Implementation of the Regulation is affecting the export potential of traditional products such as camu camu, yacón and sacha inchi. The chart below, which shows exports of camu camu, yacón and sacha inchi worldwide excluding the European Union for the period 2005-2010, reveals a significant level of trade in these products in other markets.

Chart



Source: PROMPERU. Produced by: MINCETUR.

5. Although Peru acknowledges that Members have the right to protect consumer health, it is also aware that there must be proper justification for any measures imposed. This is not the case with Regulation 258/97, which, in practice, is an unwarranted barrier to trade since it discriminates against traditional products: (i) because there was no significant marketing of these products in Europe prior to a totally arbitrary date (May 1997), despite a long history of safe human consumption in their country of origin and elsewhere; and (ii) because of the costly scientific studies required and the lengthy process for approving entry into the European market of products treated as novel foods.

6. Furthermore, the Regulation draws no distinction between foods and ingredients that are new in the strict sense, i.e. that have not been consumed anywhere in the world, and those that are new only in the European Union. For the most part, traditional products, most of which come from developing countries, fall in the latter category.

7. Peru wishes to express its concern at the incompatibility between Regulation 258/97 and the principles and obligations laid down in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, particularly Articles 2.2, 5.1, 5.4 and 5.6 and Annex C to the Agreement. That Agreement requires Members to ensure that any SPS measures they apply are not more trade-restrictive than required to achieve an appropriate level of protection. It follows that the measures applied by the European Union are unnecessary and excessive in that they equate products that are new in the strict sense with products that have a history of safe consumption in other markets and so present no risk whatsoever for human health, as is the case of traditional foods.

8. Implementation of the Regulation also has adverse social effects such as disincentives to the development of promising economic activities, increased cultivation of illicit crops for economic ends, failure to contribute to improving the health of the world as a whole through the consumption of

traditional foods with a high nutritional value, and a decline in the income of the poorest sectors of the population.

9. In view of the foregoing, and the rules and principles laid down in the SPS Agreement, Peru reiterates its request to the European Union not to include traditional products in the novel foods category, and deems that a distinction needs to be drawn between foods and ingredients that are new in the strict sense and those that are new only to the European Union. Peru accordingly proposes excluding from the scope of Regulation 258/97 traditional products that have a history of safe consumption in the country of origin and other parts of the world excluding the European Union, thus facilitating their entry to the European community market, so that their importation from developing countries is not unduly affected.
