

**IMPLEMENTATION OF REGULATION 258/97  
CONCERNING NOVEL FOODS**

Communication from Peru

The following communication, received on 11 October 2011, is being circulated at the request of the delegation of Peru.

1. Peru once again wishes to raise before the WTO Membership its trade concern regarding the implementation of Regulation 258/97 of the European Parliament and of the Council concerning novel foods and novel food ingredients, which restricts effective access 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. As well as the examples cited previously of traditional products native to Peru that are affected by the implementation of the European Regulation such as camu camu (*Myrciaria dubia*), yacón (*Smallanthus sonchifolius*) and sacha inchi (*Plukenetia volubilis*)<sup>1</sup>, we would like to take this opportunity to underline the impact that this Regulation might have on products such as algarrobo (*Prosopis pallida*).

3. The algarrobo tree is a native species predominant in the equatorial dry forest of northern Peru. Tropical dry forests are located on Peru's north coast, between the regions of Lambayeque, Piura and Tumbes, covering an area of 3,230,263 hectares, and are unique ecosystems in Peru containing a great many endemic species.

4. These forests are of considerable importance for the socio-economic development of the coastal regions of the north. There are an estimated 35,000 families who live and directly depend on this ecosystem, engaging in various productive activities such as sustainable exploitation of wood-based (e.g. timber, firewood, charcoal) and non-wood based products (e.g. leaves, flowers and fruit), and economic activities such as cattle farming, beekeeping and processing of the fruit of the algarrobo tree into products such as algarroba<sup>2</sup> (flour) and algarrobina<sup>3</sup> (syrup), which generates

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<sup>1</sup> See document G/SPS/GEN/1087 of 7 June 2011.

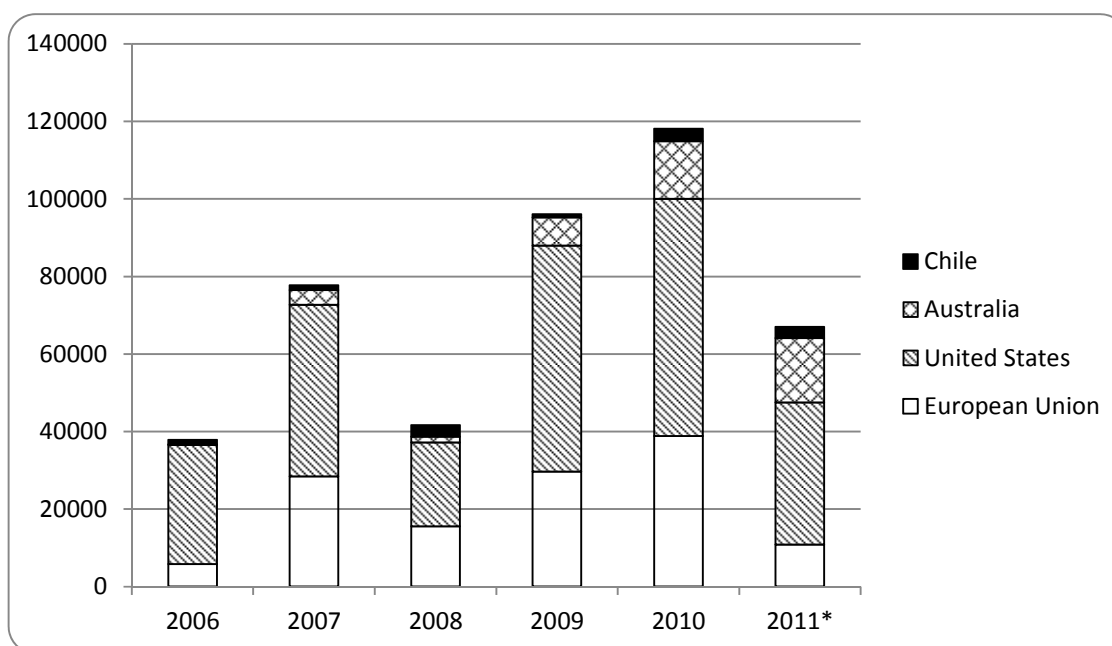
<sup>2</sup> Algarroba, the fruit of the algarrobo tree, is an elongated pod, and yellow in colour when ripe. It has high nutritional value, contains protein, vitamins B2 and B6, and is rich in iron and carbohydrates, making it an energy food.

<sup>3</sup> Algarrobina is concentrated extract (also known as syrup of algarroba or carob syrup) obtained from ripe algarroba fruit. The fruit is infused with water to make a thick, dark, pleasant-tasting liquid. Peruvian Technical Standard NTP 209.600 of 2002 states that algarrobina can be produced in two different flavours: sweet or bitter. Because of its pleasant taste and nutritional qualities, algarrobina is used and consumed in various ways such as, among other things, in juices, cocktails and desserts, as a source of energy or a stimulant, and for recuperative and medicinal purposes.

revenue to meet the needs of low-income families. Moreover, it is important to consider the environmental benefits provided by the forests, such as mitigation of climate change, soil protection, hydric regulation, protection of biodiversity and so on.

5. Peru's main export markets for algarrobo in 2010 were the United States, the United Kingdom, Australia, the Netherlands, Germany, Chile, Spain, Poland and France.<sup>4</sup> Generally speaking exports of algarrobo, measured in dollars, have pursued an upward trend over the past few years (see chart).

**Chart - Growth in Exports of Algarrobo in Largest Markets  
2006 - 2011**



\*2011 up to July

6. Algarrobina is being marketed in several European countries. Countries which have imported small quantities and in various forms since 2007 are: Italy, Mexico, the United States, Canada, Panama, Chile, Argentina, Germany, Switzerland, Japan, France, the United Kingdom, Belgium, Spain, Luxembourg, the Netherlands Antilles, New Zealand, the Czech Republic and Australia.<sup>5</sup>

7. Peru's concern is that the implementation of the Regulation on novel foods is directly affecting trade in traditional products deriving from our mega-biodiversity, such as camu camu, yacón and sacha inchi, and impeding their entry into the European Union market. In the case of algarrobo, the possibility that Regulation 258/97 will be implemented has led to a drop in exports to the European market as European importers become reluctant to buy these products and thereby deprive consumers of them. These products are an illustration of the sustainable use made of our biodiversity through free and safe trade, and of the efforts made by producers and small and micro businesses to supply markets such as the EU with safe and nutritional products.

8. Peru respects the Members' right to safeguard the health of their citizens through sanitary and phytosanitary measures duly supported by scientific evidence. However, the implementation of Regulation 258/97 raises an unwarranted barrier to trade which discriminates against traditional

<sup>4</sup> Source: National Tax Administration Supervisory Authority (SUNAT).

<sup>5</sup> *Idem.*

products that did not enter or were not marketed in any significant way in the European market prior to May 1997. Furthermore, the history of safe use of these products in the Peruvian market or in other markets besides the EU is not being taken into consideration.

9. A great many of these products and their by-products are currently being studied and marketed for their use as functional foods, supplements, nutraceuticals, organic products, etc. These represent market segments that are currently experiencing an upward trend in international markets as a result of consumers' need for healthy food and a greater awareness of social and environmental issues at the regional and global level.

10. Peru reiterates its concern regarding the incompatibility of implementing Regulation 258/97 and the principles and obligations laid down in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, in particular Articles 2.2, 5.1, 5.4 and 5.6, and Annex C.

11. In conclusion, and based upon the statements made in the WTO Committee on Sanitary and Phytosanitary Measures over the past several years, Peru once again requests that the European Union exclude from the scope of Regulation 258/97 traditional products, which have a history of safe consumption in their country of origin or in other countries outside the European market.

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