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Committee on Sanitary and Phytosantiary Measures

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REGULATION (EC) 258/97 AND REGULATION (EU) 2015/2283 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON NOVEL FOODS

COMMUNICATION FROM PERU

The following communication, received on 13 October 2016, is being circulated at the request of the delegation of Peru.

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1. For more than ten years now[1], Peru has been reiterating to Members of the World Trade Organization (WTO) its trade concern, initially regarding Regulation (EC) 258/97 and subsequently regarding Regulation (EU) 2015/2283[2] on novel foods (Novel Foods Regulations), which affect certain traditional products derived from the country's biodiversity and restrict their entry into the European market owing to the fact that they were not marketed in the European Community prior to 15 May 1997.

2. Confident that the European Union (EU) would take account of the comments and observations on Regulation (EC) 258/97 made over so many years, Peru welcomed the EU's decision to amend the legislation in question. We note with regret, however, that Regulation (EU) 2015/2283 has maintained many of the elements that make the measure inconsistent with multilateral trade rules.

3. Thus, the Novel Foods Regulations violate Articles 2, 5.1 and 5.2 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Under those provisions of the SPS Agreement, sanitary and phytosanitary measures must be based on scientific evidence and an assessment of the risks to human life or health, requirements which concern the importing Members and not the exporting companies.

4. Peru would like to explain once again the basis for its concern with regard to these Regulations by referring specifically to the case of **stevia** (*Stevia rebaudiana bertoni*). This species, which is native to the tropical region of South America, is used as a sweetener because in its natural form it is 30 times sweeter than conventional sugar, and 300 times sweeter in its processed form.

5. As mentioned in a communication from the European Union[3] this product was examined, and denied authorization to be placed on the market because stevia products contain stevioside, a sweetener for which authorization was refused on safety grounds. In 2008, however, the Joint FAO/WHO Expert Committee on Food Additives (JECFA) established an acceptable daily intake for steviol glycosides[4], confirming their food safety as a sweetener. This acceptable intake is 0-4 mg of steviol per kilogramme of body weight[5], as is the case for any other sweetener on the market.

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[1] On 31 March 2006, Peru expressed its trade concern regarding Regulation 258/97 concerning novel foods and novel food ingredients (G/SPS/GEN/681).

[2] Regulation (EU) 2015/2283 will enter into force on 1 January 2018.

[3] G/SPS/GEN/699.

[4] Steviol glycosides are natural components of the plant *Stevia Rebaudiana Bertoni*, stevioside and rebaudioside A being the components of greatest interest for their sweetening properties and the sweet taste of stevia leaves.

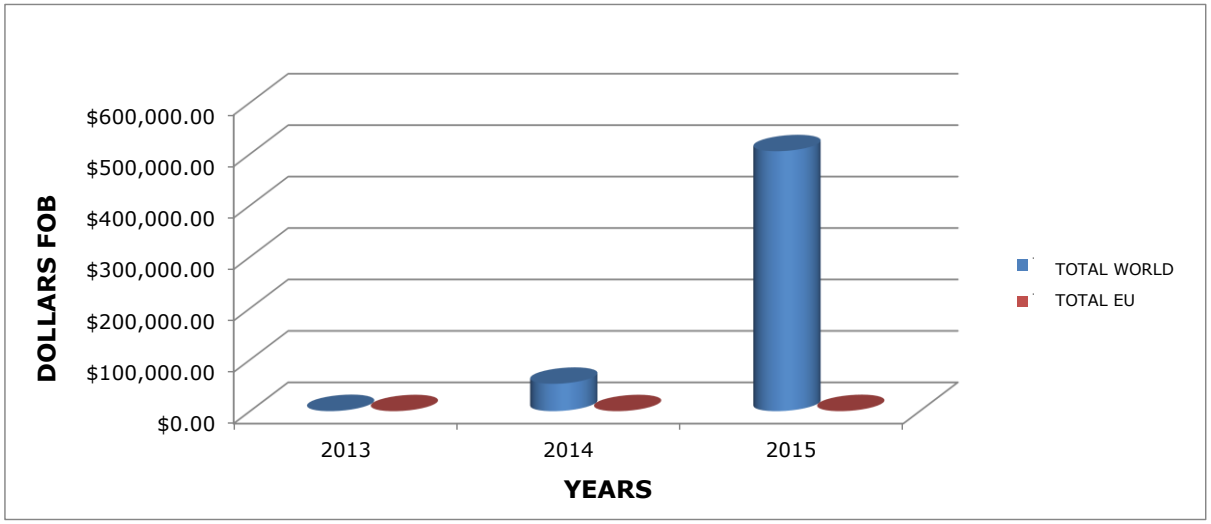
[5] World Health Organization (2009) Evaluation of Certain Food Additives: Sixty-Ninth Report of the Joint FAO/WHO Expert Committee on Food Additives (No. 952). World Health Organization.

The Codex, as well, considers steviol glycoside to be an authorized sweetener, one of its uses in fact being dietetic foods, including for medical use, as a replacement for sugar.

6. According to the statistics, Peruvian exports of dried stevia leaves[6] worldwide grew by about 100% in 2015, extending to markets such as Brazil; Chile; South Korea; Costa Rica; Hong Kong, China; and others. Moreover, their production and marketing is important to the development of small and medium enterprises (SMEs), since dried stevia leaves are used in manufacturing infusions, liquid extracts, sodas, chocolates, yogurts and other products in view of their profitability throughout the production process.

7. The graph below shows that worldwide exports of stevia from Peru totalled more than a half a million dollars at the end of 2015, considerably more than in 2014 and 2013 when they reached only 11% and 0.06% of that total respectively. Meanwhile, exports to the European Union were non-existent during 2014. This highlights stevia's considerable export potential and shows the extent to which the current European legislation on novel foods is an obstacle for traditional biodiversity products like stevia.

EXPORTS OF DRIED STEVIA LEAVES IN US DOLLARS, 2013-2015



Source: PROMPERÚ.

Prepared by: Ministry of Foreign Trade and Tourism (MINCETUR).
Directorate of Technical Requirements for Foreign Trade (DRTCE).

8. In conclusion, Peru asks the European Union to consider the observations made in this document on the implications of implementing its Novel Foods Regulations which, as has been mentioned in other meetings of the Committee[7], constitute an unjustified obstacle to real and effective access to the European market for biodiversity products which is contrary to WTO commitments, in particular under the SPS Agreement.

[6] Dried leaves of stevia, 121299 in the Harmonized System, national subheading 1212991000.

[7] Peru would also like to remind Members of its comments in previous documents submitted to the Committee on Sanitary and Phytosanitary Measures (see, *inter alia*, documents G/SPS/GEN/1137, G/SPS/GEN/1218, G/SPS/GEN/1335, G/SPS/GEN/1383, G/SPS/GEN/1422).