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Committee on Sanitary and Phytosanitary Measures

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COMMISSION REGULATION (EU) 2017/1164 OF 22 JUNE 2017 AMENDING ANNEXES II AND III TO REGULATION (EC) NO 396/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS MAXIMUM RESIDUE LEVELS FOR ACRINATHRIN, METALAXYL AND THIABENDAZOLE IN OR ON CERTAIN PRODUCTS

COMMUNICATION FROM PERU

The following communication, dated 27 October 2017, is being circulated at the request of the delegation of Peru.

1. Peru would like to express before WTO Members its trade concern regarding Commission Regulation (EU) 2017/1164 of 22 June 2017 amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for Metalaxyl and Thiabendazole on or in certain food products of animal origin and certain products of plant origin, including fruit and vegetables, that would affect trade in our products. The Regulation in question is to enter into force on 21 January 2018.
2. In the case of Thiabendazole, the Regulation establishes limits that are more trade-restrictive than required, especially for mangos, where the limit has been reduced from 5 to 0.01 mg/kg. This new limit is below the limit established by the Codex Alimentarius¹, and would have a significant impact on trade in that product.
3. As of July 2017, Peruvian mango exports exceeded US\$137 million and were shipped to some 35 destination markets. This meant exports from approximately 172 companies. In 2016, mango exports exceeded US\$200 million, of which 62% were shipped to the EU market. We recall that in 2016, the seven leading destinations for mangos were Holland, the United States, the United Kingdom, Spain, France, Canada and Germany. Thus, Peru's mango exports to the European market could be adversely affected, with resulting economic damage.²
4. In Peru, Thiabendazole is used as a post-harvest chemical chiefly to protect the fruit from fungal diseases, in particular anthracnose³, and helps to keep the level of discards low, guaranteeing a shelf life as far as the consumer. It is also occasionally used as a pre-harvest chemical (during flowering, against *Oidium mangiferae* Berthet⁴).

¹ 2003 saw the adoption by the Codex Alimentarius Commission of a maximum residue limit (MRL) for Thiabendazole of 5 mg/kg for mangos after harvest.

² Information obtained from Trade Map.

³ Disease caused by the *Colletotrichum gloeosporioides* fungus (the main cause of anthracnose in mangos). Anthracnose is the most common disease affecting mangos produced in humid areas. For further information, see:

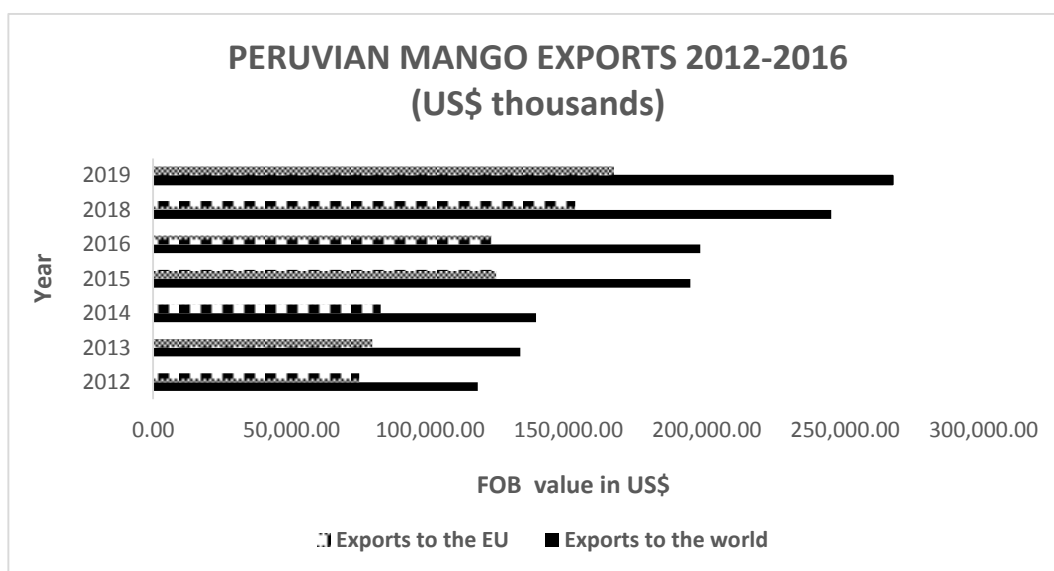
http://www.mango.org/Mangos/media/Media/Documents/Research%20And%20Resources/Research/Industry/Post-Harvest/Anthracnose_Mangos_Final_Report_Spn.pdf.

⁴ Also known as powdery mildew, this is a fungal disease. The causative agent of this disease is not a single species of fungus – rather, it tends to involve specific fungi for each plant species or group of phylogenetically close species. In the case of mangos, the causative agent of the disease is *Oidium mangiferae* Berthet (Institute for Agricultural and Fisheries Research and Training, Spain).

5. Peru considers the European Regulation to be contrary to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). It appears to infringe Article 2 of the SPS Agreement, because although Members have the right to apply such SPS measures as they consider appropriate for their level of protection, those measures must be based on scientific principles. Peru asks the European Union to provide scientific justification for adopting more restrictive measures than those established in the Codex, which provided a scientific basis for introducing the current limits.

6. Moreover, the European Regulation is inconsistent with Article 5 of the SPS Agreement, which states that the analysis of risk shall take into account the objective of minimizing negative trade effects and that the measures adopted should not be more trade-restrictive than required. However, the reduction in these MRLs and the lack of any clarity as to alternative substances make it difficult for the exporter to comply with the new European Regulation, which consequently has a negative impact on trade in that product. We note in this respect that although the Regulation enters into force on 21 January 2018, the 2017-2018 Peruvian mango season would be affected.

7. The chart below shows the growth in Peruvian mango exports to the world and to the European Union during the period 2012-2016.



Source: Trade Map.
Prepared by: MINCETUR/DRTCE.

8. For the above reasons, Peru requests that the European Union reconsider Commission Regulation (EU) 2017/1164 on the basis of existing scientific evidence, particularly as to the proposed reduction in MRLs for substances such as Thiabendazole, since its application could adversely affect exports of products of interest such as mangos.