



21 June 2018

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Committee on Sanitary and Phytosanitary Measures

Original: Spanish

**COMMISSION REGULATION (EU) NO. 488/2014 OF 12 MAY 2014
AMENDING REGULATION (EC) NO. 1881/2006 AS REGARDS
MAXIMUM LEVELS OF CADMIUM IN FOODSTUFFS**

COMMUNICATION FROM PERU

The following communication, dated 21 June 2018, is being circulated at the request of the delegation of Peru.

1. Peru would like to reiterate before the WTO Members its specific trade concern regarding Regulation (EU) No. 488/2014 establishing maximum levels for cadmium in chocolate and other cocoa products, which will have a negative impact on trade in cocoa beans from Peru to the European Union and other international markets.
2. Peru is considered by the International Cocoa Organization (ICCO) to be a country that produces and exports fine or flavour cocoa, which accounts for 75% of overall production.¹ Cocoa activities in Peru involve 16 cocoa producing regions (Amazonas, Ayacucho, Cajamarca, Cusco, Huánuco, Junín, La Libertad, Lambayeque, Loreto, Madre de Dios, Pasco, Piura, Puno, San Martín, Tumbes and Ucayali), 90,000 cocoa families, 136,000 hectares harvested and 120,000 tonnes of cocoa produced.
3. In 2017, the value of cocoa exports exceeded US\$236 million, accounting for about 0.54% of Peru's total exports to the world for that year.²
4. At its 77th meeting, the Joint FAO/WHO Expert Committee on Food Additives (JECFA) noted that it did not consider the contribution of products containing cocoa or cocoa products to total cadmium exposure for high consumers of such products to be of concern.³
5. While it is true that Regulation 488/2014 does not establish maximum levels of cadmium in cocoa beans, some European importers use the maximum levels established by the Regulation for chocolate and cocoa powder to reduce the international price to be paid for cocoa beans.
6. Peru considers the Regulation to be contrary to the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), since it is based on an approach that considers the danger of the maximum cadmium level in chocolate and other cocoa products, and not the risk that it could represent for human health.
7. Lack of access to the European market for cocoa beans, chocolate and cocoa products as a result of the levels set by the Regulation would not only cause commercial harm to exporting cocoa producers, but would also undermine the credibility for farmers of the alternative

¹ Ministry of Agriculture and Irrigation, *Estudio del Cacao en el Perú y en el Mundo: Un análisis de la producción y el comercio* (Study of Cocoa in Peru and the World: An Analysis of Production and Trade), 2016.

² Peru Export and Tourism Promotion Board (PROMPERU), 2018.

³ Food and Agriculture Organization of the United Nations (FAO) and World Health Organization (WHO). *Evaluation of certain food additives and contaminants*. Seventy-seventh Report of the Joint FAO/WHO Expert Committee on Food Additives. 2013, p. 75.

development programmes being implemented with the help of international cooperation, including from the European Union.⁴

8. For the above reasons, Peru asks the European Union to exclude chocolate and cocoa products from Regulation 488/2014 until it has updated scientific evidence of the risk level it represents for human health. Should this request not be accepted and until the necessary risk analyses to provide scientific guarantees for acceptable cadmium content in chocolate and other cocoa products have been completed, we would request that the time-period for entry into force of the Regulation be extended until 1 January 2022.

⁴ Over the past six years, the EU has been active at the regional level, and in the case of Peru, has invested approximately €40 million in the fight against drugs and drug trafficking.