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Committee on Sanitary and Phytosanitary Measures

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**PANAMA'S RESTRICTIONS REGARDING THE PROCEDURE TO REGAIN MARKET
ACCESS FOR PERUVIAN POTATOES AND ONIONS (STC NO. [512](#))**

COMMUNICATION FROM PERU

The following communication, received on 8 July 2022, is being circulated at the request of the delegation of Peru.

1. Peru would like to express before WTO Members its trade concern regarding the suspension by Panama of imports of onions and potatoes for consumption from Peru and the related undue delays in the phytosanitary efforts to restore trade in these products.
2. Peru wishes to point out that, pursuant to Articles 2.2 and 5 of the WTO SPS Agreement, Members shall establish sanitary and phytosanitary measures only where they are applied, *inter alia*, to protect plants, and that such measures must be based on a risk assessment. Moreover, Article 5.4 of the Agreement specifies that Members should take into account the objective of minimizing negative trade effects. However, it is regrettable that Panama has not taken into account the above-mentioned provisions and has instead applied restrictive and unjustified measures to trade in potatoes and onions from Peru.
3. Regarding trade in Peruvian onions, Panama suspended imports of this product in 2016 despite not having detected any quarantine pest in the shipments that would justify the suspension of imports as an emergency measure (section 5.1.6.4, ISPM No. 20, Guidelines for a phytosanitary import regulatory system). It should be noted that this suspension was based solely on an updated pest risk analysis (PRA), without there being any technical reason - as required under Article 5 of the SPS Agreement - to interrupt trade between the two Parties. This step is also contrary to the principle of "technical justification" under the International Plant Protection Convention, which states that the parties should technically justify phytosanitary measures on the basis of conclusions reached by using an appropriate pest risk analysis or, where applicable, another comparable examination and evaluation of available scientific information.
4. Turning to trade in potatoes for consumption, the importation of this product has been suspended by Panama since 2009 following the interception of a pest in a consignment at destination. Moreover, in May 2010, following an exchange of comments with its counterpart, Peru's phytosanitary authority sent Panama a proposed phytosanitary protocol for the exportation of potatoes, to which no response has been received to date. In this context, there is no technical justification for not reopening the Panamanian market.
5. In accordance with Article 8 and Annex C, sanitary and phytosanitary procedures, *inter alia*, must be undertaken and completed without undue delay, with information being provided to the interested party and requirements limited to what is reasonable and necessary. In view of this situation, Peru has continued to provide a steady stream of technical information relating to the PRA in order to secure the reopening of the Panamanian market for potatoes and onions; however, Panama's health authority has failed to respond to the results of its risk analysis and has even asked again for the same information that was sent in good time by the Peruvian health authority, causing the process to be unnecessarily and unjustifiably prolonged.

6. The measures applied by Panama have had a negative impact on exports of Peruvian potatoes and onions. The last year for which export figures for potatoes to Panama were recorded, in terms of both volume and value, was 2009. It is important to highlight that 2008 was the best year for the exportation of Peruvian potatoes to Panama, owing to the fact that over 604 tonnes were sent, with a value of USD 249,000. However, in 2009, exports of Peruvian potatoes to Panama fell drastically by as much as 69%.

7. Similarly, in 2017, Peruvian fresh onion exports to Panama fell significantly in terms of both value and volume. By the end of that year, exports of this product had fallen by around 98.04% in relation to 2016 and, as a result, the annual average growth for the period 2012–2017 decreased by 53.17%, despite the fact that the export potential of this sector is USD 2.3 million.¹

8. In light of the foregoing, and in order to prevent a violation of Articles 2, 5 and 8 of, and Annex C to, the SPS Agreement, Peru requests Panama to reopen the market to Peruvian potato and onion exports and to avoid any other action that may unnecessarily prolong this process, thereby creating unnecessary and unjustified barriers to trade.

¹ According to the ITC's Export Potential Map for tariff heading 070310.