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Committee on Sanitary and Phytosanitary Measures

Original: Spanish

**EUROPEAN UNION RESTRICTIONS ON EXPORTS OF CHOCOLATE AND COCOA PRODUCTS  
DUE TO THE APPLICATION OF COMMISSION REGULATION (EU) NO. 488/2014  
OF 12 MAY 2014 AMENDING REGULATION (EC) NO. 1881/2006  
AS REGARDS MAXIMUM LEVELS OF CADMIUM  
IN FOODSTUFFS (PCE NO. [503](#))**

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 present to WTO Members its trade concern with respect to Commission Regulation (EU) No. 488/2014 of 12 May 2014 amending Regulation (EC) No. 1881/2006 as regards maximum levels of cadmium in foodstuffs. In specific terms, the European Regulation establishes maximum levels for cadmium in chocolate and other cocoa products that, in practice, have a negative impact on trade in cocoa beans and cocoa powder.

2. Peru considers that Commission Regulation (EU) No. 488/2014 violates Article 2 of the SPS Agreement because sanitary measures should be applied only to the extent necessary to protect, *inter alia*, human health and life; however, the European Union has not taken into account:

- a. The opinion of the Joint FAO/WHO Expert Committee on Food Additives (JECFA), at its 77<sup>th</sup> meeting in 2013, which did not consider cadmium in cocoa to pose a risk to public health;
- b. The statements made by FAO on behalf of the JECFA Secretariat at the 42<sup>nd</sup> Session of the Codex Alimentarius Commission in July 2019, according to which dietary exposure to cadmium from cocoa is insignificant compared to other sources of dietary exposure and does not amount to a public health concern;
- c. Document JECFA/91/SC of 5 March 2021, which indicates that the cadmium contribution of cocoa products continues to be minor, even in countries where the consumption of such products is high;
- d. The endorsement of the JECFA position at the 15<sup>th</sup> meeting of the Codex Committee on Contaminants in Foods (CCCF) in May 2022 to the effect that a reduction in maximum cadmium levels in cocoa products would have no observable impact on health.

3. The European Union has established maximum cadmium levels in different types of chocolate based on a possible maximum tolerable intake (TWI) of 2.5 µg/kg body weight per week<sup>1</sup>, while the level used by the JECFA is 5.8 µg/kg body weight per week. Thus, the level established by the European Food Safety Authority is less than half (43.1%) of that established by the JECFA, resulting in lower maximum levels in its regional regulations. We therefore call on the European Union to

<sup>1</sup> Recital 3 of Regulation No. 488/2014:

*"(3) In the scientific opinion on cadmium in food, the CONTAM Panel concluded that the mean dietary exposures to cadmium in European countries are close to or slightly exceeding the TWI of 2.5 µg/kg body weight. Certain subgroups of the population may exceed the TWI by about 2 fold. The CONTAM Panel further concluded that, although adverse effects on kidney function are unlikely to occur for an individual exposed at this level, exposure to cadmium at the population level should be reduced."*

share scientific evidence demonstrating that European Union citizens are 232% more sensitive to cadmium than citizens elsewhere in the world.

4. Furthermore, Peru remains concerned that maximum cadmium levels in chocolate and cocoa products are still being used as a negotiation tool against producers, who have seen their incomes fall owing to maximum levels ranging from 0.3 to 1.0 ppm for cocoa beans, cocoa cakes, cocoa husks, cocoa paste, etc.

5. Moreover, the European Regulation is being used for all cocoa powder, regardless of the risk that it may pose. This situation is made worse by the inaccurate messages sent out by the European Union, which indicate that a maximum cadmium level of 0.6 ppm is applicable to all cocoa powder.<sup>2</sup>

6. In light of the above, Peru calls upon the European Union to rescind Commission Regulation (EU) No. 488/2014 with respect to chocolate and other cocoa products, since it is inconsistent with the WTO SPS Agreement and creates unnecessary barriers to trade. In addition, Peru encourages the European Union to review its Regulation in line with the conclusions of the CCCF.

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<sup>2</sup> European Union fact sheet:  
[https://ec.europa.eu/food/system/files/2019-03/cs\\_contaminants\\_catalogue\\_cadmium\\_chocolate\\_en.pdf](https://ec.europa.eu/food/system/files/2019-03/cs_contaminants_catalogue_cadmium_chocolate_en.pdf).