

**RESTRICTIONS ON ACCESS TO THE EUROPEAN MARKET
THROUGH THE IMPLEMENTATION OF
REGULATION 258/97 CONCERNING
NOVEL FOODS**

Communication from Peru

The following communication, received on 28 February 2012, is being circulated at the request of the delegation of Peru.

1. Peru reiterates before the WTO Membership its trade concern regarding Regulation No. 258/97 of the European Parliament and of the Council, the implementation of which restricts entry into the European market of certain foods and food ingredients (termed "novel foods") that were not marketed in Europe prior to 15 May 1997.

2. According to Regulation No. 258/97, for food qualified as novel to be able to enter Europe, it must go through a long, complex and very costly registration process which includes providing scientific information on the safety of the product, involving clinical studies that call for significant investments for each product to be registered.

3. The Regulation does not distinguish between foods and ingredients that are new in the strict sense, i.e. that have not been consumed anywhere in the world, and those that are new only in the European Union. For the most part, traditional products deriving from mega biodiversity, the majority of which come from developing countries, fall in the latter category. In light of the above, the measures applied by the European Union are unnecessary and excessive in that they equate products that are new in the strict sense with products that already have a history of safe consumption in other markets and so present no risk whatsoever for consumer health.

4. The Regulation and its implementation constitute an unwarranted barrier to international trade in traditional products, owing to the high costs resulting from the scientific studies required and the long process to approve their entry into the market, which discriminates against traditional products that did not enter or were not marketed in any significant way in the European market prior to May 1997.

5. It is important to highlight how the application of the Regulation is affecting exports of various traditional Peruvian products, such as algarrobo (*Prosopis pallida*), as mentioned in document G/SPS/GEN/1117 dated 12 October 2011. In 2011, the United Kingdom Food Standards Agency and the UK Trading Standards Institute indicated that algarrobo might be considered a novel food, which prompted the Peruvian authorities to submit information on export statistics and shipping documents showing that algarrobo had entered the European market before 15 May 1997. In August 2011, the UK Department for Business, Innovation and Skills responded to the

Peruvian Government, confirming its support for the non-official opinion issued by the UK Foods Standards Agency that considered algarrobo as a novel food. To date, there has been no official announcement from this agency. However, on 21 February 2012, a company established in Spain stated that the Spanish health authority had denied a shipment of algarrobo by-products entry into the country, as they were not deemed for human consumption.

6. Peru asks that it be taken into consideration that many of these traditional products are marketed in various countries and have a history of safe consumption. Having regard to the provisions of WTO Agreement on the Application of Sanitary and Phytosanitary Measures, we therefore request that the European Union refrain from applying Regulation No. 258/97 to traditional products which have a history of safe consumption in Peru or in other countries outside the European market.
