

**STATEMENT BY PERU ON REGULATION NO. 258/97
OF THE EUROPEAN COMMUNITIES**

Statement by Peru at the Meeting Held on 27 and 28 June 2006

The following communication, received on 6 July 2006, is being circulated at the request of the delegation of Peru.

1. Peru would like to thank the European Communities for its reply in its communication G/SPS/GEN/699 and welcomes the consultations initiated through document G/SPS/GEN/700 with a view to introducing changes to Regulation No. 258/97 of the European Parliament and of the Council.
2. Peru wishes to present to the WTO Members additional arguments to those contained in its communication G/SPS/GEN/681 of 5 April 2006, in which it expressed concern regarding the application of the Regulation, which restricts entry into the European market of certain foods and food ingredients (described as "novel foods") that were not marketed in Europe prior to 15 May 1997.
3. One of the main problems of the Regulation is that it makes no distinction between strictly novel foods and ingredients, that is to say, those that have not been consumed anywhere in the world, and those that are novel only in the European Union. The second category mainly includes exotic traditional products mostly originating from developing countries.
4. According to paragraph 9 of document G/SPS/GEN/699 of the European Communities, the aim of the Regulation is to protect human health on the basis of scientific principles. Consequently, if it is to conform with the provisions of the SPS Agreement, that measure should be based on a proper assessment of existing risks to human health from the products in question, including exotic traditional products, to which the Regulation is being applied. Accordingly, we call upon the European Communities to provide us with information on the studies undertaken in accordance with the requirements of the SPS Agreement in connection with the need to apply the measure to exotic traditional products.
5. Peru considers that the Regulation and its application constitute an unnecessary and unjustified barrier to international trade in exotic traditional products, owing to the high costs resulting from the scientific studies required and the length of time of the process needed to approve the entry into the market of a product considered to be a "novel food". The SPS Agreement requires that Members, when establishing and maintaining sanitary or phytosanitary measures, ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of protection. The measures adopted by the European Communities are unnecessary and excessive since they equate strictly novel products with those products which already have a history of safe consumption in other markets and which do not therefore represent any risk whatsoever for the

European consumer, as is the case of exotic traditional foods. Furthermore, by linking approval of entry to a specific applicant, trade is unnecessarily restricted.

6. As an example, it is worth mentioning the case of "noni" juice (fruit of the *Morinda* genus), which took three years to be approved for entry into the European Union market and required many scientific studies to prove that it was safe. Authorization is not only restricted to the product in question (in addition, each product derived from "noni" must go through the same process to be accepted in the European Union market), but is also confined to the applicant.

7. The case of "lúcuma" shows the deleterious effect of the application of the Regulation on the flow of trade with the European Communities, as since it was included in the category of "novel foods" (in 2000) there has been a significant drop in exports, which, prior to lúcuma's classification as a novel food, had shown considerable increases.

8. Further evidence of the potential economic impact of this kind of measure on trade is provided by paprika, which began to be cultivated in Peru on a commercial basis less than ten years ago and which, since it has not been considered to be a "novel food", has achieved sustained growth in the European market, achieving an f.o.b. value of US\$42 million per annum in 2005, with forecasts of greater increases with the industrialization of the raw material in oleoresins. This product has shown an increase not only in the European Union but also in other markets.

9. Another example is the case of "camu camu", a traditional Peruvian product with a high natural ascorbic acid content, a major antioxidant for human health and rich in vitamin C, having more than twice the level in azarole and 56 times more than lemons. The nutritional benefits of "camu camu" and its safety have been proved through scientific studies and it is currently consumed in such exacting markets as the United States and Japan. This product is currently cultivated and exported with organic certification by the international organic certification body SKAL.

10. Bearing in mind these examples, as well as the rules and principles laid down in the SPS Agreement, Peru reiterates its request to the European Communities not to include the exotic traditional products in the category of novel foods and, furthermore, to make a distinction between strictly novel foods and ingredients and those that are novel solely in the European Union, since some of these products are already being exported to regions other than Europe, as in the case of such products as lúcuma, yacón, camu camu, etc. In this way, the traditional use in the country of origin and in other countries would be taken into account and exotic traditional products that have a history of safe consumption would be allowed entry. In addition, that would have the effect of ensuring compliance of the Regulation with the SPS Agreement, which establishes that in determining the level of sanitary and phytosanitary protection Members must take into account the objective of minimizing the negative effects on trade.

11. The adverse effects on trade in traditional products originating for the most part from developing countries could thus be avoided, since the inclusion of exotic traditional products within the regulation on novel foods has considerable effects on the developing countries. Consequently, we should be grateful if the European Communities would explain how the special needs of the developing and least developed countries have been taken into account in the preparation and application of this measure, as required under Article 10 of the SPS Agreement.
