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Committee on Sanitary and Phytosanitary Measures

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**RESTRICTIONS ON EXPORTS OF CHOCOLATE AND COCOA PRODUCTS
DUE TO THE APPLICATION OF MAXIMUM LEVELS OF CADMIUM
WITHOUT SCIENTIFIC JUSTIFICATION**

COMMUNICATION FROM PERU

The following communication, received on 18 June 2020, is being circulated at the request of the delegation of Peru.

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1. Peru wishes to remind WTO Members that the purpose of the Codex Alimentarius is to protect consumer health and ensure fair practices in the food trade. In this connection, Peru wishes to address the development and discussion of maximum levels of cadmium in chocolate and cocoa products within the Codex Committee on Contaminants in Food (CCCF), as well as the importance of having an international standard for a sector that is of great social and economic significance to Peru, as 90,000 families in the country are economically dependent on it. Many of these families live in areas with high levels of poverty, where comprehensive and sustainable programmes for the development of alternatives to coca leaf production are run.
 2. First, the lack of a Codex standard for maximum levels of cadmium in chocolate and cocoa has led to the adoption of standards, by countries, that are not necessarily supported by proper scientific evidence, resulting in sanitary measures that more are trade restrictive than necessary.
 3. Peru is facing a number of difficulties as a result of different standards being applied to its cocoa powder exports. For example, maximum cadmium levels of 0.4mg/kg are applied to both cocoa powder and chocolate with a cocoa content of 40%, despite the fact that, in the final uses of both products, the concentrations of cocoa consumed differ significantly. Moreover, maximum cadmium levels of 0.6 mg/kg are applied to cocoa powder used in chocolate powder, even though the importing country's regulations only apply to the final product.
 4. This situation has, in some cases, led importers to apply the maximum levels of cadmium established in these standards to products that are not necessarily covered by them, in order to avoid possible restrictions from their respective governments. This situation not only affects safety, a legitimate goal of this type of sanitary measure, but also fair, transparent and predictable trade.
 5. Additionally, importers require producers to submit an analysis of the cadmium in their beans, despite the fact that such a requirement is not specified in any existing standard. This leads to importers reducing purchase prices with no real grounds for doing so.
 6. Levels of cadmium for chocolate and cocoa products have become a point of negotiation for cocoa beans, even though they do not apply to these products. This has had an impact on the areas of Peru growing the largest quantity of high-quality hybrid, criollo and native varieties.
 7. Moreover, maximum levels of cadmium for chocolate and cocoa products are still being discussed under the CCCF discussions. However, Peru regrets that, during these discussions, some countries have submitted proposals that are not supported by proper scientific evidence.

8. Peru therefore wishes to stress that any proposed Codex standard must be developed in a transparent manner and based on science and the data collected. It should also be noted that the existence, prior to the discussion beginning at the committee level, of proposed drafts that are not based on data provided by countries is counterproductive. This situation creates distrust between countries, delays the adoption of an international standard and leads to the possibility of no consensus being reached at the next meeting of the CCCF, thereby bringing to an indefinite halt work to establish maximum levels of cadmium in chocolate and cocoa products. This is despite the fact that it was agreed that a criterion of proportionality would be applied when establishing these levels.

9. Peru therefore invites WTO Members to coordinate with their respective health authorities, in order to achieve consensus by honouring the agreement to apply a criterion of proportionality when establishing, at the next meeting of the CCCF in 2021, maximum levels of cadmium for the following categories: (1) cocoa powder ready for consumption containing or declaring 100% total cocoa solids and (2) chocolate containing between 30% and 50% of total dry cocoa solids.

10. Peru requests the Codex Secretariat to ensure that the development of all Codex standards is based on science and data, in order to guarantee safety and avoid unjustified barriers to trade.

11. Lastly, Peru asks WTO Members having already established maximum levels of cadmium for chocolate and cocoa products to review their standards on the basis of the findings presented within the CCCF, and to inform their trade operators that in no case do these standards apply to cocoa beans.
