



JANUARY 2018



# UNITED STATES OF AMERICA

Non-tariff measures (NTMs) applicable to biodiversity and BioTrade products: Personal care, food and phytopharma sectors

## TECHNICAL FACT SHEET

### 1. INTRODUCTION

#### Key findings for the United States of America market

The majority of product groups studied faced sanitary and phytosanitary measures (SPS), accounting for 54 per cent of the measures identified, particularly for oil seeds, edible vegetables, vegetable fats and oils. Some 40 per cent of the measures were technical barriers to trade (TBT), affecting the product categories of oil seeds, gums and resins and extracts, and vegetable alkaloids. The most burdensome NTMs identified by participating exporting and importing companies, as well as exporting governments, relate to the implementation of the Food Safety Modernization Act, particularly the requirement of the “qualified individual”, and the existing listings of ingredients/substances under Codex Alimentarius and the Personal Care Products Council. For native species and derived products, challenges included the information requirements from the United States’ Food and Drug Administration (FDA) and GRAS (Generally Recognized as Safe), as well as information needed for claims and labels. Understanding of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) import and export requirements was also seen as a limitation for companies trading those species, as well as topics related to border and domestic requirements and standards.




To address those burdensome NTMs, actions include product standardization; human resources development at the company and government level, including customs; contingency planning and risk management; revision of the Harmonized System (HS) codes; product documentation and traceability; and inclusion of native biodiversity ingredients and products into official listing in importing and exporting markets. Further information can be found in Sections 6, 7 and 8.

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## Biodiversity and BioTrade

Source: Adapted from Lojenga and Oliva, 2016.

|   |   |  |
|---|---|--|
| <p><b>Biodiversity</b></p> <p>The variety of life on Earth, including the wide range of plants, animals and microorganisms, the genetic variety within the species, and the different ecosystems.</p>  | <p><b>Sectors involved in BioTrade activities:</b></p> <ul style="list-style-type: none"> <li>• Personal care</li> <li>• Pharmaceuticals/ phytopharma</li> <li>• Food</li> <li>• Fashion</li> <li>• Ornamental flora and fauna</li> </ul>  | <p><b>BioTrade impact in figures</b></p> <p><b>€4.3 billion</b></p> <p>Sales of BioTrade beneficiary companies and associations (2015).</p> <p>A significant increase from \$40 million in 2003.</p> |
| <p><b>BioTrade</b></p> <p>Collection, production, transformation and commercialization of goods and services derived from native biodiversity (species and ecosystems) under environmental, social and economic sustainability criteria.</p>  | <ul style="list-style-type: none"> <li>• Handicrafts</li> <li>• Textiles and natural fibres</li> <li>• Sustainable tourism</li> <li>• Forestry-based carbon credit activities.</li> </ul>    | <p><b>5 million</b></p> <p>Number of beneficiaries* worldwide</p> <p><i>*Includes producers, farmers, collectors, hunters</i></p>  |

Non-tariff measures (NTMs) are policy measures, other than ordinary customs tariffs, that can potentially have an economic effect on international trade in goods – changing quantities traded, or prices, or both. (UNCTAD)

### Examples of NTMs:

#### Sanitary and phytosanitary measures (SPS)

Measures applied to protect human or animal life from risks arising from: additives, contaminants, toxins or disease-causing organisms in food. For example:

- **Geographical restrictions on eligibility:** Imports of dairy products from countries.
- **Registration requirements for importers:** Importers of certain food items need to be registered at the ministry of health.
- **Irradiation:** This technology may be applied to meat products, fresh fruits, spices and dried vegetable seasonings.

#### Technical barriers to trade (TBT)

Measures referring to technical regulations and procedures to assess conformity with technical regulations and standards.

For example:

- **Product identity requirements:** For a product to be identified as “chocolate”, it must contain a minimum of 30 per cent cocoa.
- **Labelling requirements:** To facilitate the comparison of products in different packaging sizes, it is appropriate to retain the requirement that the mandatory nutrition declaration should refer to 100 g or 100 ml amounts and, if appropriate, allow additional portion-based declarations. (European Union law on food information to consumers, Regulation EU No. 1169/2011.)

### BioTrade projects on NTMs

| Identify HS codes  | Mapping of NTMs used  | Company survey  | National workshops   | NTMs fact sheets  | Online database: <a href="http://unctad.org/ntm">unctad.org/ntm</a>   |
|--|---|---|--|---|---|
| <p><b>58 HS codes identified and listed</b> for BioTrade products from Colombia, Peru and Viet Nam in the selected sectors (Section 3)</p> | <p><b>5 importing countries' NTMs</b> mapped for the 58 HS codes, in collaboration with UNCTAD Trade Analysis Branch (TAB) (Sections 3 and 4)</p> | <p><b>231 surveyed companies</b> involved in BioTrade and biodiversity-based products from the selected exporting and importing markets (Section 5)</p> | <p><b>3 national workshops</b> (Colombia, Peru and Viet Nam) for sharing and validating the NTMs mapping and company survey findings and recommendations (Section 6)</p> | <p><b>4 fact sheets</b>, one per import market, providing the findings of the BioTrade NTMs project</p> | <p>NTMs information available in UNCTAD TAB online databases: <a href="http://i-tip.unctad.org/">http://i-tip.unctad.org/</a></p> |

**Three exporting countries**

- Colombia
- Peru
- Viet Nam

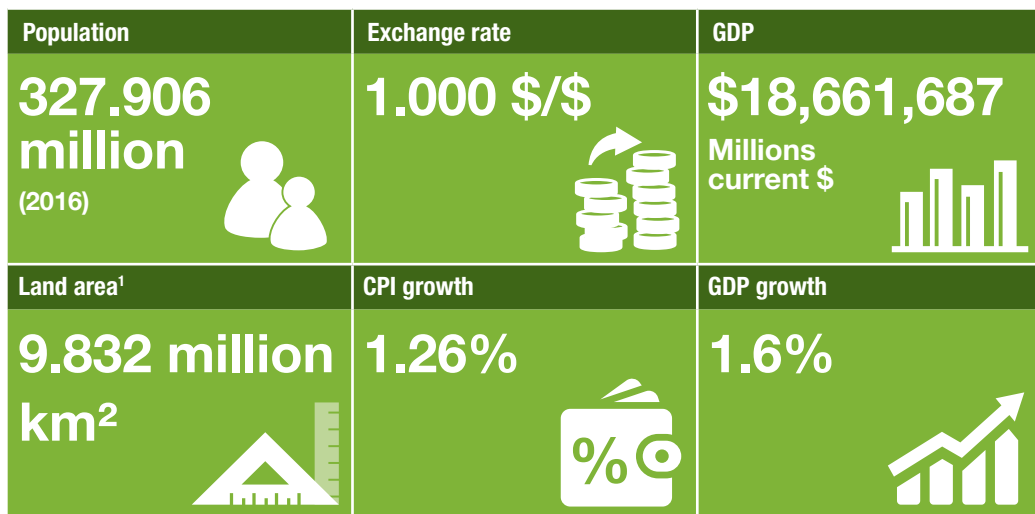
**Five importing countries/region**

- China
- European Union
- Japan
- Switzerland
- United States of America

## 2. MARKET INFORMATION: UNITED STATES OF AMERICA

### Country overview 2016

#### General Information 2016



Sources:  
 UNCTADSTAT. <http://unctadstat.unctad.org/CountryProfile/GeneralProfile/en-GB/842/index.html> (14 September 2017).

1 World Bank. <http://databank.worldbank.org/data/reports.aspx?source=2&country=USA> (1 March 2018).

#### International merchandise trade

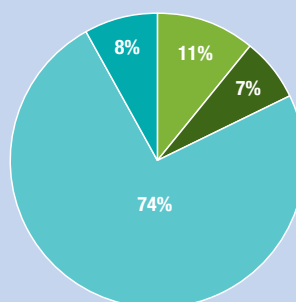
| Total merchandise trade (millions of \$) |           |           |           |           |
|--|-----------|-----------|-----------|-----------|
|  | 2005      | 2010      | 2015      | 2016      |
| Merchandise exports                      | 901,082   | 1,278,495 | 1,502,572 | 1,454,607 |
| Merchandise imports                      | 1,732,706 | 1,969,184 | 2,315,301 | 2,251,351 |
| Merchandise trade balance                | -831,624  | -690,689  | -812,729  | -796,744  |

Source:  
 UNCTADSTAT. <http://unctadstat.unctad.org/CountryProfile/GeneralProfile/en-GB/757/index.html> (12 September 2017).

#### Export structure by product group in 2016

(as % of total exports)

- All food items
- Fuels
- Manufactured goods
- Other



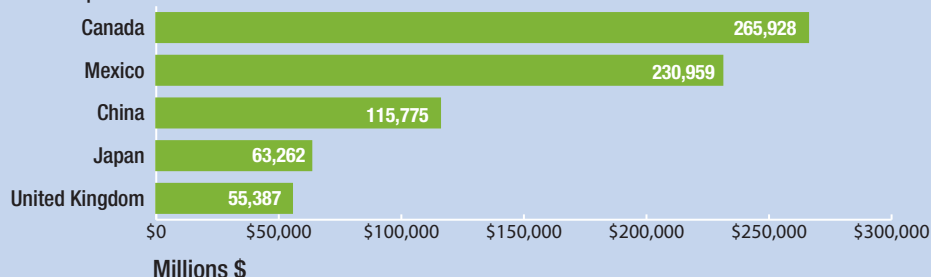
# -3.2%

Merchandise exports  
 growth rate in 2016

#### Top five partners in 2016

(exports, millions \$)

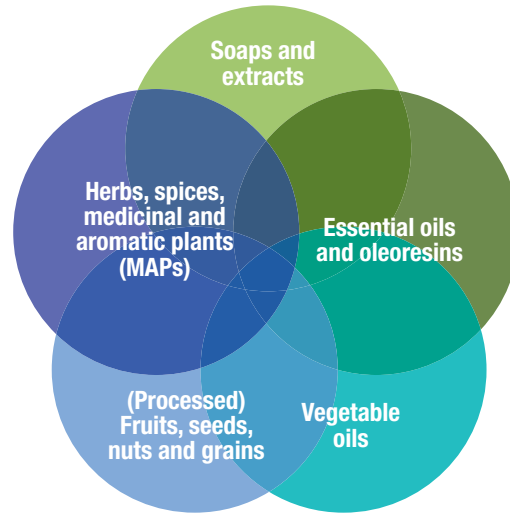
United States of America  
 exports to



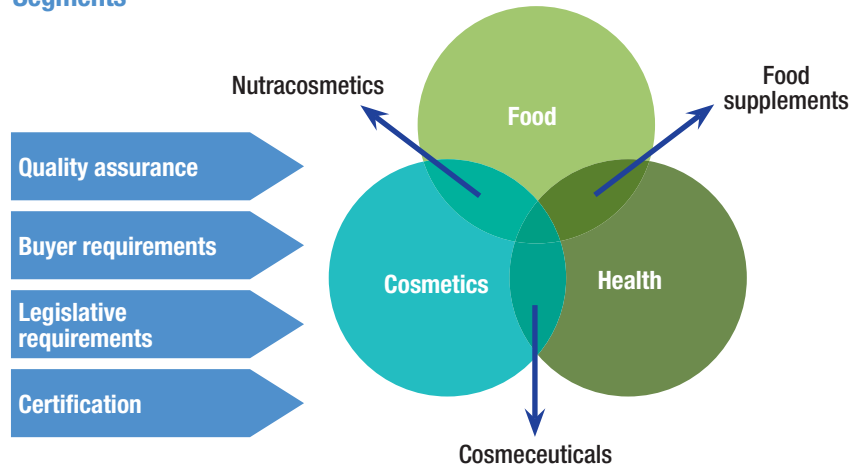
## Market information by sector

### Products

Source: Centre for the Promotion of Imports from developing countries (CBI) and ProFound (2016). Trade segments, channels and structures for food, food ingredients and natural ingredients for health products. CBI Expo Vitafoods 2016: Natural Ingredients Export Coaching Programme - Pakistan (adapted with permission of Klaus Duerbeck Consulting [KDC]).

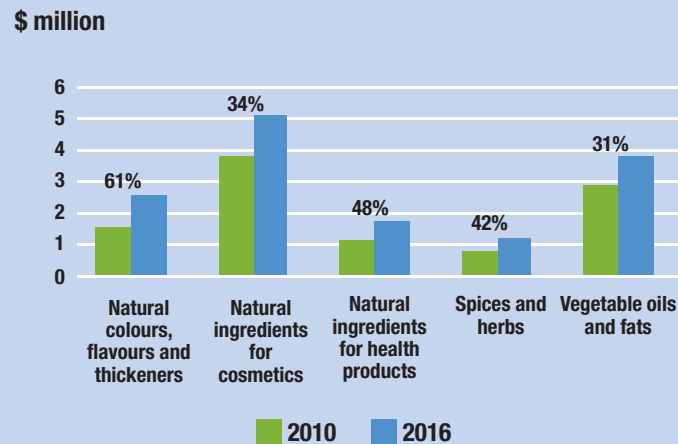


### Segments



Source: International Trade Centre (ITC) (2017). Trade statistics (<http://www.intracen.org/itc/market-info-tools/trade-statistics/>).

### Natural ingredients imported by the United States of America in 2010 and 2016



Note: The percentage change between 2010 and 2016 is shown above each category.

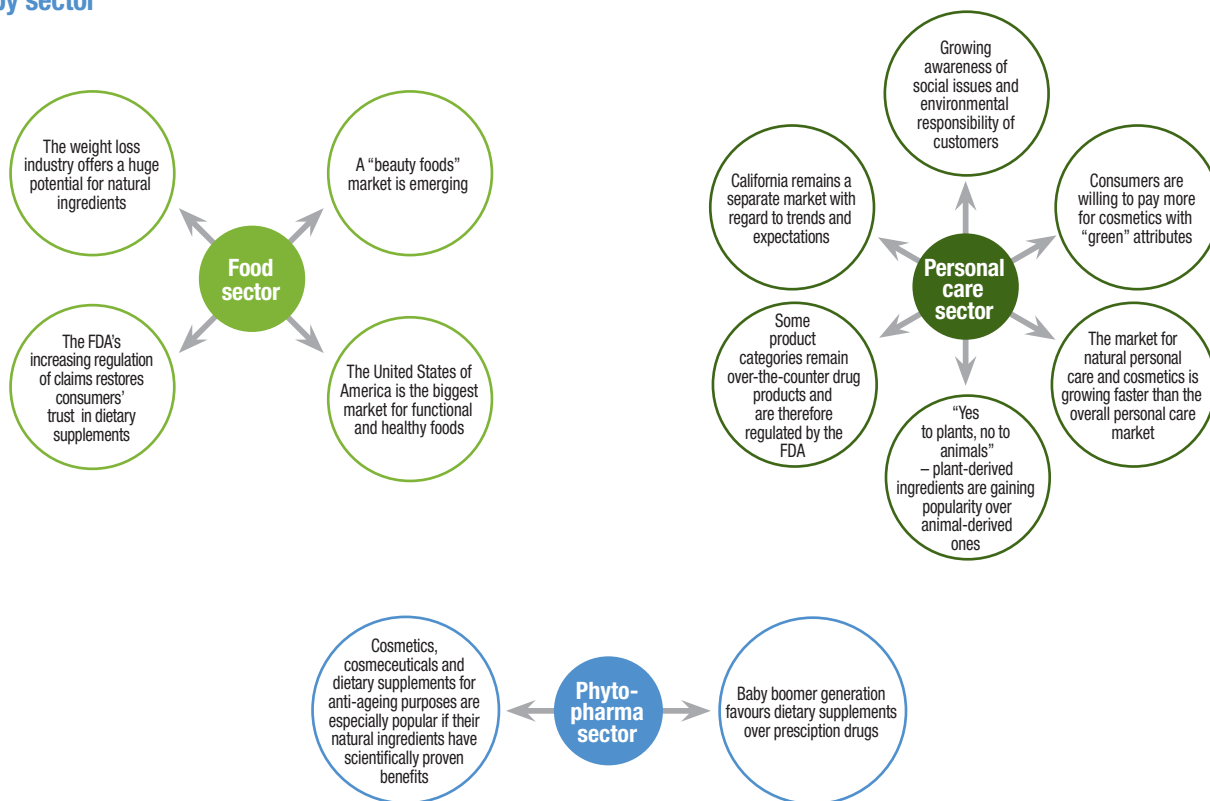
Colombia, Peru and Viet Nam's (combined) import share in the United States of America's natural ingredients sector is slightly above 1 per cent for the years analysed.

However, the Vietnamese spices and herbs accounts for 28.8 per cent of the country's total imports of the ingredients in this category.

Colombia, Peru and Viet Nam's (combined) import share in the United States of America's natural ingredients sector is slightly above 1 per cent for the years analysed.

# Market trends in the United States of America

## Trends by sector



Source: CBI and ProFound (2015). Market information. Study. Oilseeds (as adapted with permission of KDC (2016) and Véronique Rossow (2017).

## General trends

- Complex ingredient supply chains need more traceability
- Trust the intelligence of past cultures to inform modern ingredients
- Digital media and natural products industry
- Agriculture and climate change
- New bottom line – purpose
- Brand research indicates steadily growing erosion of trust by consumers
- Natural products are mainstream now
- More opportunities for higher level of use of new ingredients (as compared with the European market), which stimulate new product launches and marketing concepts

Source: KDC (2016) and Gustavo Ferro, ProFound (2017).

### 3. Mapping NTMs and HS codes used

#### NTMs classification (TAB, UNCTAD)

The classification of NTMs includes those measures considered relevant to international trade today, divided into two broad categories.

- **Import measures:** These are applied by the government of the importing country on the imported goods. They encompass technical measures (sanitary or environmental protection measures) and others traditionally used as instruments of commercial policy (e.g. quotas, price control).
- **Export measures:** These are applied by the government of the exporting country on exported goods. These can be restrictions on the quantity of goods exported to a specific country for reasons such as shortage of goods in the domestic market, regulating domestic prices or export price-control measures, measures on re-export, etc.

The classification is shown below and more information is available in UNCTAD's International classification of non-tariff measures (Version 2012).

| Import measures  |   |  | Export measures   |
|--|---|--|---|
| Technical measures   | Non-technical measures  |  | P: Export-related measures (e.g. export taxes, export quotas and export prohibitions) |
| A: Sanitary and phytosanitary (SPS)<br>B: Technical barriers to trade (TBT)<br>C: Pre-shipment inspection and other formalities<br>D: Contingent trade-protective measures | E: Non-automatic licensing, quotas, prohibitions and quantity control measures other than for SPS or TBT reasons<br>F: Price-control measures, including additional taxes and charges<br>G: Finance measures<br>H: Measures affecting competition | I: Trade-related investment measures<br>J: Distribution restrictions<br>K: Restrictions on post-sales services<br>L: Subsidies<br>M: Government procurement restrictions<br>N: Intellectual property<br>O: Rules of origin |   |

Source: UNCTAD (2015). International classification of non-tariff measures (Version 2012). United Nations. (UNCTAD/DITC/TAB/2012/2/Rev.1). Available at: [http://unctad.org/en/PublicationsLibrary/ditctab20122\\_en.pdf](http://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf)

#### HS codes analysed for the United States of America

Based on information from BioTrade partners in Colombia, Peru and Viet Nam

| Preparations of cereal, flour, starch or milk | Preparations of vegetables, fruits, nuts or other parts of plants | Miscellaneous edible preparations | Beverages, spirits and vinegar | Vegetable alkaloids | Oil seeds  | Gums and resins, extracts       | Vegetable fats and oils              | Tannins, dyes | Essential oils |
|---|---|-----------------------------------|--------------------------------|---------------------|--|---------------------------------|--------------------------------------|---------------|----------------|
| 1904  | 2007<br>2009  | 2106                              | 2202                           | 2939                | 1207<br>1211 and 121190<br>1212, 121220 and 121292 | 1301<br>1302 and 130231<br>1404 | 1508<br>1513<br>1515<br>1516<br>1521 | 3201<br>3203  | 3301           |

| Edible vegetables | Edible fruits and nuts | Coffee, tea, maté and spices | Cocoa | Cereals | Products of the milling industry | Sugar, syrups and candies | Beauty, make-up, etc.                           | Odoriferous substances and mixtures | Medicaments n.e.c |
|-------------------|------------------------|------------------------------|-------|---------|----------------------------------|---------------------------|---|-------------------------------------|-------------------|
| 0709              | 0801                   | 0902                         | 1801  | 1001    | 1106                             | 1702                      | 3304, 330410, 330420, 330430, 330491 and 330499 | 3302                                | 3004 and 300490   |
| 0710              | 0802                   | 0903                         | 1803  | 1005    |                                  |                           |   |                                     |                   |
| 0712              | 0804                   | 0909                         | 1804  | 1008    |                                  |                           |   |                                     |                   |
| 0713              | 0810                   | 0910                         | 1805  |         |                                  |                           |   |                                     |                   |
| 0714              | 0811                   |                              | 1806  |         |                                  |                           |   |                                     |                   |
|                   | 0813                   |                              |       |         |                                  |                           |   |                                     |                   |

Note: n.e.c. (not elsewhere classified).

## 4. NTMs analysis: United States of America

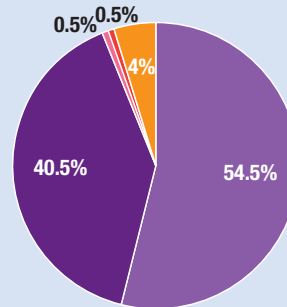
Source: UNCTAD Trade Analysis Branch (2017). Mapping of United States of America NTMs (Excel sheets).

### Most frequently identified NTMs for all product groups

For the United States of America market, exporters of the selected biodiversity and BioTrade products commonly encounter technical measures:

- Related to SPS
- Related to TBT

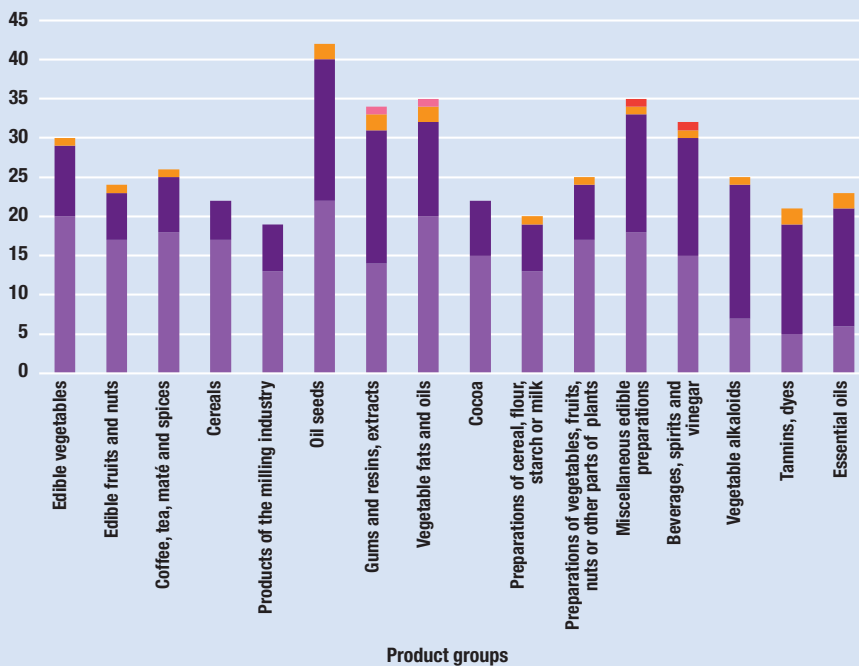
Total measures identified for the United States of America: **435**



#### Key

- A Sanitary and phytosanitary (SPS)
- B Technical barriers to trade (TBT)
- C Pre-shipment inspection and other formalities
- E Non-automatic licensing, quotas, prohibitions and quantity-control measures other than for SPS or TBT reasons
- F Price-control measures, including additional taxes and charges

### Number of distinct NTMs by product for selected product groups



The majority of product groups face SPS. These measures are highest for oil seeds, followed by vegetable fats and oils and edible vegetables. These products are also affected by TBT, particularly the product categories oil seeds, gums and resins, extracts, and vegetable alkaloids.

## NTMs identified by product group

| Edible vegetables | Edible fruits and nuts | Coffee, tea, maté and spices | Cereals | Products of the milling industry | Oil seeds | Gums and resins, extracts | Vegetable fats and oils | Cocoa | Preparations of cereals, flour, starch or milk | Preparations of vegetables, fruit, nuts or other parts of plants | Miscellaneous edible preparations | Beverages, spirits and vinegar | Vegetable alkaloids | Tannins, dyes | Essential oils |
|-------------------|------------------------|------------------------------|---------|----------------------------------|-----------|---------------------------|-------------------------|-------|--|--|-----------------------------------|--------------------------------|---------------------|---------------|----------------|
| A14               | A14                    | A14                          | A14     | A15                              | A11       | A15                       | A13                     | A14   | A15  | A13  | A13                               | A15                            | A14                 | A21           | A21            |
| A15               | A15                    | A15                          | A19     | A19                              | A14       | A19                       | A14                     | A15   | A19  | A14  | A14                               | A19                            | A31                 | A22           | A22            |
| A19               | A19                    | A19                          | A21     | A22                              | A15       | A22                       | A15                     | A19   | A22  | A15  | A15                               | A22                            | A33                 | A51           | A31            |
| A21               | A21                    | A21                          | A31     | A31                              | A19       | A31                       | A19                     | A22   | A31  | A19  | A19                               | A31                            | A42                 | A53           | A51            |
| A22               | A22                    | A22                          | A32     | A33                              | A21       | A33                       | A21                     | A31   | A33  | A21  | A21                               | A33                            | A51                 | A89           | A53            |
| A31               | A31                    | A31                          | A33     | A41                              | A22       | A41                       | A22                     | A33   | A41  | A22  | A22                               | A41                            | A53                 | B14           | A89            |
| A32               | A33                    | A33                          | A41     | A42                              | A31       | A42                       | A31                     | A41   | A42  | A31  | A31                               | A42                            | A89                 | B15           | B14            |
| A33               | A41                    | A41                          | A51     | A51                              | A33       | A51                       | A33                     | A42   | A51  | A33  | A33                               | A51                            | B14                 | B21           | B15            |
| A41               | A42                    | A42                          | A53     | A53                              | A41       | A53                       | A41                     | A51   | A53  | A41  | A41                               | A53                            | B15                 | B22           | B21            |
| A42               | A51                    | A51                          | A59     | A63                              | A42       | A63                       | A42                     | A53   | A63  | A42  | A42                               | A63                            | B21                 | B31           | B22            |
| A51               | A53                    | A53                          | A64     | A82                              | A51       | A82                       | A51                     | A63   | A82  | A51  | A51                               | A8                             | B22                 | B32           | B31            |
| A53               | A63                    | A59                          | A69     | A84                              | A53       | A84                       | A53                     | A64   | A84  | A53  | A53                               | A82                            | B31                 | B33           | B32            |
| A63               | A69                    | A63                          | A82     | A85                              | A59       | A85                       | A63                     | A82   | A85  | A63  | A63                               | A85                            | B32                 | B7            | B33            |
| A64               | A82                    | A64                          | A84     | B21                              | A63       | A89                       | A8                      | A84   | B21  | A8   | A8                                | A852                           | B33                 | B8            | B6             |
| A82               | A83                    | A82                          | A85     | B31                              | A64       | B14                       | A82                     | A85   | B31  | A82  | A82                               | A89                            | B41                 | B82           | B7             |
| A83               | A84                    | A84                          | A851    | B33                              | A69       | B15                       | A83                     | B21   | B33  | A84  | A685                              | B14                            | B49                 | B83           | B8             |
| A84               | A85                    | A85                          | A86     | B7                               | A82       | B21                       | A84                     | B31   | B7   | A85  | A852                              | B15                            | B6                  | B84           | B82            |
| A85               | B21                    | A89                          | B21     | B8                               | A84       | B22                       | A85                     | B33   | B8   | B21  | A89                               | B21                            | B8                  | B85           | B83            |
| A86               | B31                    | B21                          | B31     | B82                              | A85       | B31                       | A852                    | B6    | B82  | B31  | B14                               | B31                            | B82                 | B9            | B84            |
| A89               | B33                    | B31                          | B33     |                                  | A851      | B33                       | A89                     | B7    | F61  | B33  | B15                               | B32                            | B83                 | F61           | B85            |
| B21               | B7                     | B33                          | B8      |                                  | A86       | B41                       | B11                     | B8    |  | B6   | B21                               | B33                            | B84                 | F69           | B9             |
| B31               | B8                     | B6                           | B82     |                                  | A89       | B49                       | B14                     | B82   |  | B7   | B31                               | B41                            | B85                 |               | F61            |
| B33               | B82                    | B7                           |         |                                  | B14       | B6                        | B15                     | F61   |  | B8   | B32                               | B42                            | B853                |               | F69            |
| B6                | F61                    | B8                           |         |                                  | B15       | B7                        | B21                     |       |  | B82  | B33                               | B6                             | B9                  |               |                |
| B7                |                        | B82                          |         |                                  | B21       | B8                        | B22                     |       |  | F61  | B41                               | B7                             | F69                 |               |                |
| B8                |                        | F61                          |         |                                  | B22       | B81                       | B31                     |       |  |  | B42                               | B8                             |                     |               |                |
| B82               |                        |                              |         |                                  | B31       | B82                       | B33                     |       |  |  | B6                                | B82                            |                     |               |                |
| B83               |                        |                              |         |                                  | B33       | B83                       | B41                     |       |  |  | B7                                | B83                            |                     |               |                |
| B85               |                        |                              |         |                                  | B41       | B84                       | B6                      |       |  |  | B8                                | B84                            |                     |               |                |
| F61               |                        |                              |         |                                  | B42       | B85                       | B7                      |       |  |  | B82                               | B85                            |                     |               |                |
|                   |                        |                              |         |                                  | B49       | B89                       | B8                      |       |  |  | B83                               | E6                             |                     |               |                |
|                   |                        |                              |         |                                  | B6        | C3                        | B82                     |       |  |  | B84                               | F61                            |                     |               |                |
|                   |                        |                              |         |                                  | B7        | F61                       | C3                      |       |  |  | B85                               |                                |                     |               |                |
|                   |                        |                              |         |                                  | B8        | F69                       | F61                     |       |  |  | E6                                |                                |                     |               |                |
|                   |                        |                              |         |                                  | B81       |                           | F69                     |       |  |  | F61                               |                                |                     |               |                |
|                   |                        |                              |         |                                  | B82       |                           |                         |       |  |  |                                   |                                |                     |               |                |
|                   |                        |                              |         |                                  | B83       |                           |                         |       |  |  |                                   |                                |                     |               |                |
|                   |                        |                              |         |                                  | B84       |                           |                         |       |  |  |                                   |                                |                     |               |                |
|                   |                        |                              |         |                                  | B85       |                           |                         |       |  |  |                                   |                                |                     |               |                |
|                   |                        |                              |         |                                  | B89       |                           |                         |       |  |  |                                   |                                |                     |               |                |
|                   |                        |                              |         |                                  | F61       |                           |                         |       |  |  |                                   |                                |                     |               |                |
|                   |                        |                              |         |                                  | F69       |                           |                         |       |  |  |                                   |                                |                     |               |                |

**A** Sanitary and phytosanitary (SPS)

**B** Technical barriers to trade (TBT)

**C** Pre-shipment inspection and other formalities

**E** Non-automatic licensing, quotas, prohibitions and quantity control measures other than for SPS or TBT reasons

**F** Price-control measures, including additional taxes and charges

For more information on the NTMs classification and the description of each measure (e.g. A, B, C, E and F), see UNCTAD's International classification of non-tariff measures (Version 2012). Available at: [http://unctad.org/en/PublicationsLibrary/ditctab20122\\_en.pdf](http://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf).

### Highlights

Oil seeds, edible vegetables and vegetable fats and oils have the most SPS measures, the most common being:

- **A1: Prohibitions/restrictions of imports for SPS reasons**, e.g. the Fruits and Vegetables Import Requirements (FAVIR).
- **A8: Conformity assessments related to SPS**, e.g. requirements for quality control which are applicable to dietary supplements (e.g. the US FDA Part 111 CFR Title 21 – Current good manufacturing practice [GMP] in manufacturing, packaging, labelling or holding operations for dietary supplements), or the requirement to establish, keep and make records available.

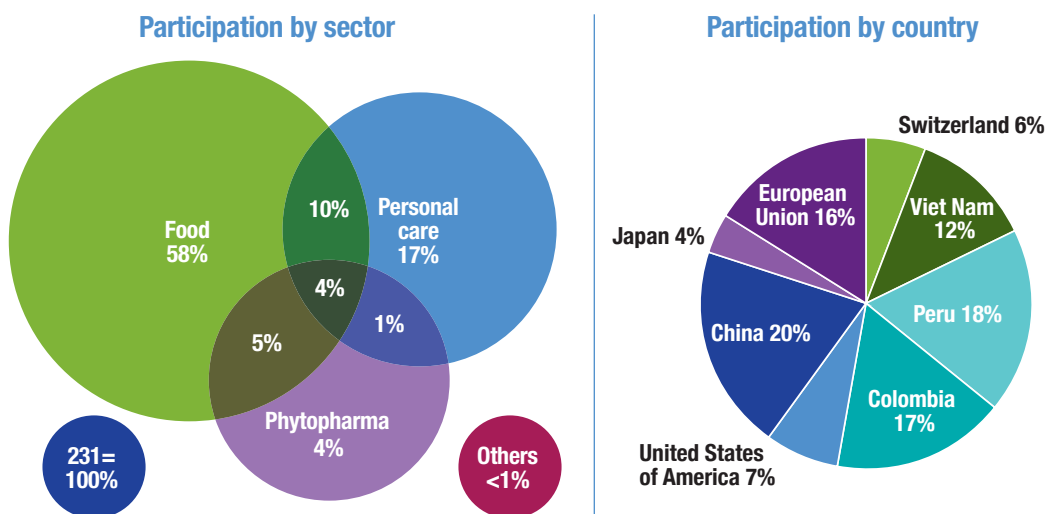
For more information on NTMs and to access full regulatory data, visit: TAB, UNCTAD [www.unctad.org/ntm](http://www.unctad.org/ntm)



## 5. NTMs company survey

Source: UNCTAD BioTrade Initiative (2016).

### General overview



**42%**  
of the surveyed companies  
apply BioTrade principles

**43%**  
of the surveyed companies  
know BioTrade

**18%**  
of the United States of  
America companies apply  
BioTrade Principles and  
Criteria

### General information from 231 surveyed companies

Most surveyed companies from Colombia, Peru and Viet Nam are exporters, whereas most companies from the European Union, Japan, Switzerland and the United States of America are both importers and exporters.

| Number employees  | Turnover in \$  | Trade experience   | Value chain actor   |
|---|---|--|---|
| <ul style="list-style-type: none"> <li>&lt;20: 31.6%</li> <li>20–250: 44.6%</li> <li>&gt;250: 16.9%</li> <li>N/A: 6.9%</li> </ul> | <ul style="list-style-type: none"> <li>&lt; 1 million: 21.2%</li> <li>1 to 5 million: 11.3%</li> <li>&gt; 5 million: 29.9%</li> <li>N/A: 37.7%</li> </ul> | <ul style="list-style-type: none"> <li>Importing: 4.3%</li> <li>Exporting: 54.1%</li> <li>Importing and exporting: 37.2%</li> <li>No international experience: 4.3%</li> </ul> | <ul style="list-style-type: none"> <li>Producer: 27.4%</li> <li>Processor: 27.4%</li> <li>Manufacturer: 33.5%</li> <li>Service provider: 11.8%</li> </ul> |

### Information from United States of America companies surveyed

Some 35 per cent of the United States of America companies employ between 20 and 250 employees and 23 per cent have an annual turnover of more than \$5 million.

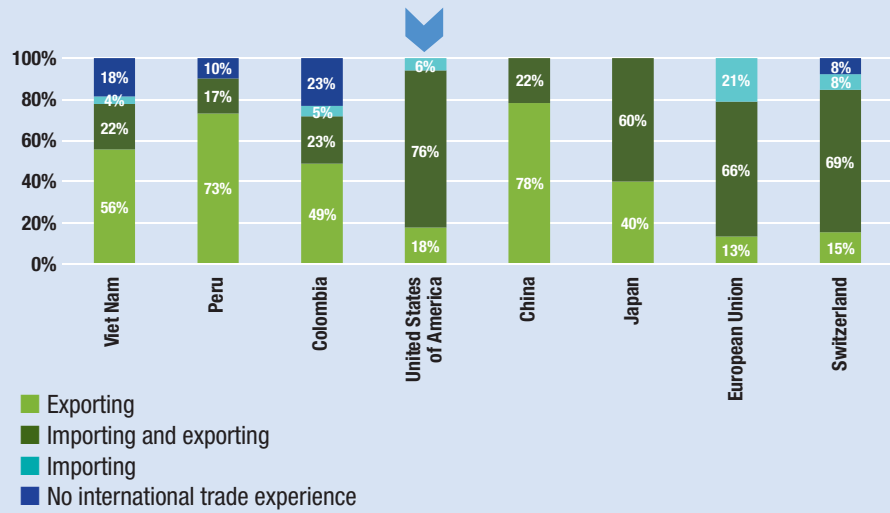
| Number employees   | Turnover in \$   | Trade experience  | Value chain actor  |
|--|--|---|--|
| <ul style="list-style-type: none"> <li>&lt;20: 7</li> <li>20–250: 6</li> <li>&gt;250: 1</li> <li>N/A: 3</li> </ul> | <ul style="list-style-type: none"> <li>&lt; 1 million: 0</li> <li>1 to 5 million: 2</li> <li>&gt; 5 million: 4</li> <li>N/A: 11</li> </ul> | <ul style="list-style-type: none"> <li>Importing: 1</li> <li>Exporting: 3</li> <li>Importing and exporting: 13</li> <li>No international experience: 0</li> </ul> | <ul style="list-style-type: none"> <li>Producer: 6</li> <li>Processor: 7</li> <li>Manufacturer: 11</li> <li>Service provider: 2</li> </ul> |

**23%**  
have an annual  
turnover of more than  
**\$5 million**

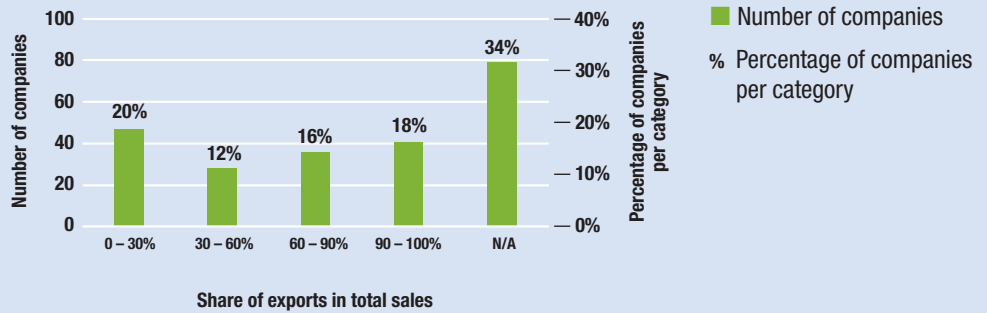
## Trade experience and share of biodiversity-based exports

Some **94%** of the United States of America companies are exporters, out of which **76%** are also importers.

### Trade experience of surveyed participants by country (percentage)

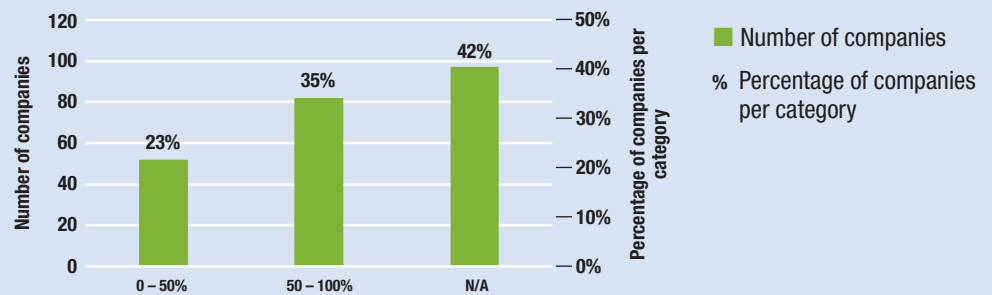


### Percentage of exports in total sales



More than half of the United States of America companies analysed have a biodiversity-based products share between **0%** and **50%**

### Number and share of companies with biodiversity-based exports



### NTMs in the other markets analysed (China, European Union, Japan and Switzerland) compared with the United States of America market

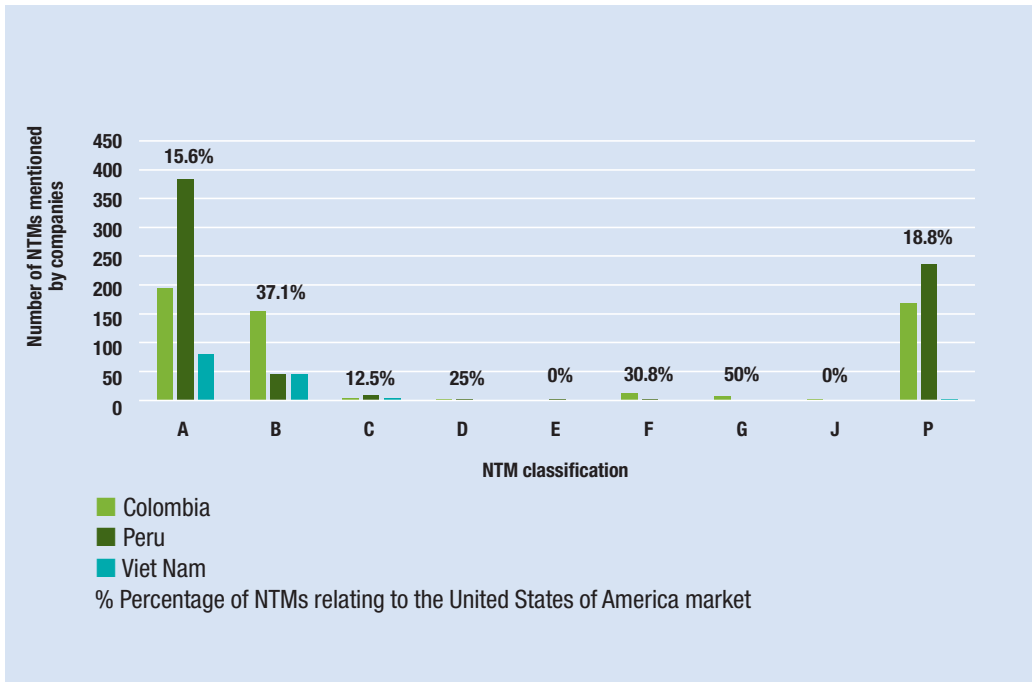
#### For other markets

SPS measures (A) are the most commonly identified by the surveyed participants. Category A1, which deals with prohibitions and restrictions of imports for SPS and its subcategories, represents 16 per cent of all the identified NTMs. Peruvian companies identified more NTMs than Colombia and Viet Nam.

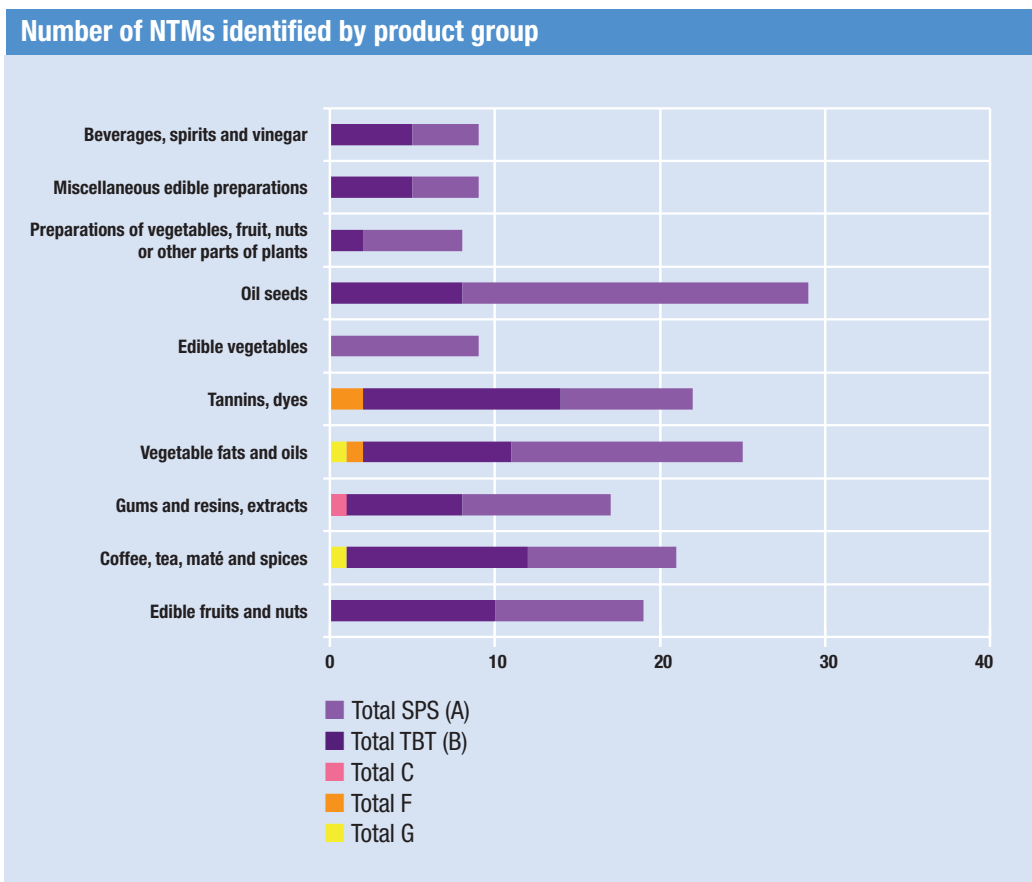
#### For the United States of America market

50 per cent of the NTMs identified for finance measures (G), 37 per cent of the TBT (B), 30.8 per cent of the price-control measures, including additional taxes and charges (F), and 25 per cent of the contingent trade protective measures (D) were from this market.

## NTMs identified in the company surveys for the United States of America market



## Challenging United States of America NTMs identified for selected HS codes



Total NTMs identified:

**168**

SPS (A): 93

TBT (B): 69

Pre-shipment inspection and other formalities (C): 1

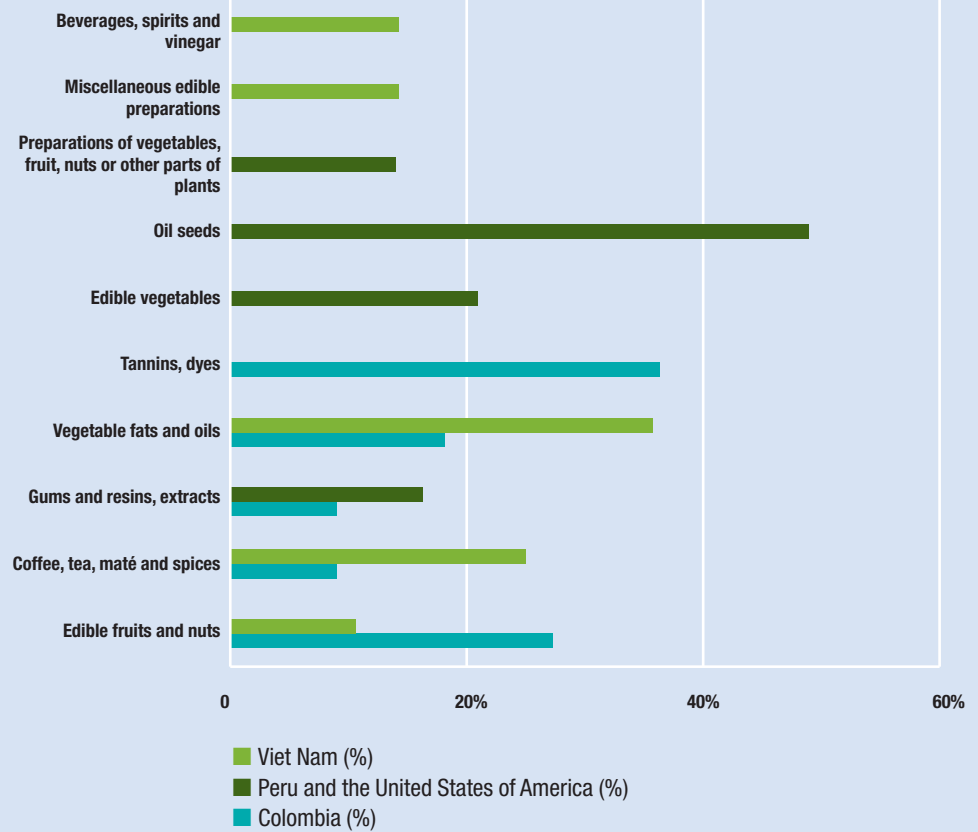
Price-control measures, including additional taxes and charges (F): 3

Finance measures (G): 2

**List of HS codes identified during the survey**

- Edible fruits and nuts: **0810**
- Coffee, tea, maté and spices: **0902; 0903; 0909**
- Gums and resins, extracts: **1302; 1307**
- Vegetable fats and oils: **1513; 1515**
- Tannins, dyes: **3201; 3203**
- Edible vegetables: **0712**
- Oil seeds: **1207; 1211**
- Preparations of vegetables, fruit, nuts or other parts of plants: **2007**
- Miscellaneous edible preparations: **2106**
- Beverages, spirits and vinegar: **2202**

**SPS measures identified by product group in each exporting country (percentage)**



Note: Accuracy is related to number of interviewers.

**NTMs most frequently identified by surveyed participants**

**A** SPS

**A13:** Systems approach

**A21:** Tolerance limits for residues of or contamination by certain (non-microbiological) substances

**A31:** Labelling requirements

**B** TBT

**B21:** Tolerance limits for residues of or contamination by certain substances

**B33:** Packaging requirements

**B8:** Conformity assessment related to TBT

**TBT measures identified per product group and country (percentage)**

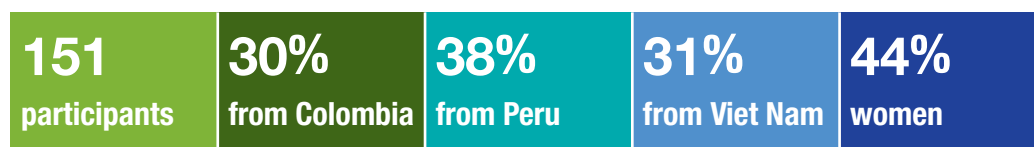


Note: Accuracy is related to number of interviewers.

## 6. Challenging NTMs identified in the workshops

Source: UNCTAD BioTrade Initiative (2016).

The workshops aimed to increase understanding and raise awareness of policymakers and private stakeholders on the main NTMs identified when exporting BioTrade and biodiversity-based products from Colombia, Peru and Viet Nam to the personal care, food and phytopharma sectors of China, the European Union, Japan, Switzerland and the United States of America.



### Specific barriers identified by workshop participants from Colombia, Peru and Viet Nam

#### Personal care sector

| Legislation, NTMs or barrier identified  | HS codes affected                   | Participating countries |
|--|-------------------------------------|-------------------------|
| Personal Care Products Council (for substances to be included in the labelling list), particularly when registering as new ingredients | 3301<br>1515<br>1302                | Colombia                |
| Product certificate of analysis (or certificate of analysis)   | Personal care products in general   | Viet Nam                |
| Good manufacturing practices (GMP) and good laboratory practices (GLP)   | 3304                                | Colombia                |
| Limited knowledge and understanding of CITES   | Not specified                       | Colombia                |
|  | <i>Aquilaria crassna</i> (agarwood) | Viet Nam                |
| Sanitary registration in the importing country; also understood as the “sales permit”, as well as sanitary notifications               | Not specified                       | Colombia                |
| Product traceability and certification   | 3201                                | Colombia                |
| Sustainable sourcing – systems approach (e.g. FairWild, UEFT, HACCP, GACP, GMP, Fair trade, access and benefit-sharing)                | Not specified                       | Viet Nam                |

#### Personal care sector HS codes:

- 1302** (Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products)
- 1515** (Fixed vegetable fats and oils [including jojoba oil] and their fractions, whether or not refined; but not chemically modified)
- 3201** (Tanning extracts of vegetable origin; tannins and their salts, ethers, esters and other derivatives)
- 3301** (Oils; essential [concretes, absolutes]; concentrates thereof in fats, fixed oils, waxes or the like [obtained by enfleurage or maceration]; aqueous distillates, solutions and terpenic by-products thereof; resinoids; extracted oleoresins)
- 3304** (Cosmetic and toilet preparations; beauty, make-up and skin care preparations [excluding medicaments, including sunscreen or sun tan preparations], manicure or pedicure preparations)

## Food sector

| Legislation, NTMs or barrier identified   | HS codes affected                        | Participating countries |
|---|--|-------------------------|
| Codex Alimentarius, particularly the registration of new ingredients  | 0903<br>0909<br>0910<br>0810             | Colombia                |
| Automated Fingerprint Identification System (AFIS)  | 0903<br>0909<br>0910<br>0810             |                         |
| FDA   | 3201<br>3203                             |                         |
| Maximum residue limits (MRL)  | 0802<br>2101                             |                         |
| Certifications and international standards. For example, laboratories with GLP  | 0802<br>2101                             |                         |
| Certifications and standards  | Not specified                            |                         |
| Maximum residue limit (MRL)   | Paprika                                  |                         |
| BioTrade products should have phytosanitary protocols as required under the (North American Free Trade Agreement [NAFTA]) | Aguaymanto ( <i>Physalis peruviana</i> ) |                         |
| Implementation of the Food Safety Modernization Act (FSMA), particularly relation to the “qualified individual”           | All food processing companies            |                         |
| Quarantine costs (increased)  | All foods                                |                         |
| Generally Recognized as Safe (GRAS)   | Not specified                            |                         |

### Food sector HS codes:

**0802** (Nuts [excluding coconuts, Brazil and cashew nuts]; fresh or dried, whether or not shelled or peeled)

**0810** (Fruit, fresh; n.e.c. in chapter 08)

**0903** (Maté)

**0909** (Seeds of anise, badian, fennel, coriander, cumin, caraway or juniper)

**0910** (Ginger, saffron, turmeric, thyme, bay leaves, curry and other spices)

**2101** (Extracts, essences, concentrates of coffee, tea or maté; preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof)

**3201** (Tanning extracts of vegetable origin; tannins and their salts, ethers, esters and other derivatives)

**3203** (Colouring matter of vegetable or animal origin, including dyeing extracts, not animal black, whether or not chemically defined; preparations based on colouring matter of vegetable or animal origin)

## Phytopharma sector

### Phytopharma sector

#### HS codes:

**21069071** (sacha inchi [*Plukenetia volubilis* L.] capsules)

**210690** (Food preparations [dietary supplements])

| Legislation, NTMs or barrier identified   | HS codes affected                   | Participating countries |
|---|-------------------------------------|-------------------------|
| FDA, limited scientific information on native species or derived products   | 21069071                            | Peru                    |
| Categories or products labels not harmonized (as different use in country of origin and the United States of America)   | 210690                              | Peru                    |
| Product certificate of analysis (or certificate of analysis)  | Not specified                       | Viet Nam                |
| Limited knowledge and understanding of CITES  | Not specified                       | Colombia                |
|   | <i>Aquilaria crassna</i> (agarwood) | Viet Nam                |
| Sanitary registration in the importing country; also understood as the “sales permit”                                   | Not specified                       | Colombia                |
| Sustainable sourcing – systems approach (e.g. FairWild, UEBT, HACCP, GACP, GMP, Fair trade, access and benefit-sharing) | Not specified                       | Viet Nam                |

## Other measures also identified by workshop participants

| Export-related measures by country  | Participating countries     |
|---|-----------------------------|
| Product analysis required at country level  | Colombia                    |
| Clarity regarding the standardization of natural ingredients in line with international standards   |                             |
| Customs procedures and inspections (drug-related inspections)   |                             |
| Limited knowledge of customs authorities regarding the biodiversity product exported (e.g. containers polluted or the frozen chain was broken, under which HS codes they should be included)  |                             |
| P3 Export price-control measures  |                             |
| P6 Export technical measures  |                             |
| Ensure quality of raw material for production   | Viet Nam                    |
| Certificate of origin issued by government institutes and forms as required by buyer  |                             |
| P5 Export taxes and charges   | Colombia, Viet Nam          |
| Limited clarification of the HS codes   | Colombia, Peru and Viet Nam |
| Certifications and permits for products (e.g. phytosanitary and those delivered by Servicio Forestal y de Fauna Silvestre [SERFOR])   | Peru                        |
| Lack of phytosanitary requirements for new products   |                             |
| Identification of species and its corresponding scientific and technical information needed for the trade of biodiversity-based products, such as essential oils, vegetable oils, extracts, etc. (toxicology, nutritional values, etc.). Identified species are: aguaymanto ( <i>Physalis peruviana</i> ), sacha inchi ( <i>Plukenetia volubilis</i> L.), cañihua ( <i>Chenopodium pallidicaule</i> ) and algarrobo or mezquite ( <i>Prosopis pallida</i> ) |                             |
| Harmonization of national and international requirements, regulations and norms related to biodiversity-based products (e.g. aguaymanto [ <i>Physalis peruviana</i> ]) as well as other issues (e.g. accredited laboratories which are accepted by importers)   |                             |
| Limited knowledge/capacity of customs authorities to carry out inspections  |                             |
| Enhance statistics for BioTrade products  |                             |

## Non-sector specific information

| Legislation, NTMs or barrier identified   | HS codes or products affected | Participating countries |
|---|-------------------------------|-------------------------|
| Certification of products (A83 and B83)   | 3201                          | Colombia                |
| A85 Traceability requirements   | 3201                          | Colombia                |
|   | Not specified                 | Viet Nam                |
| Certification of origin (O)   | Not specified                 | Colombia                |
| Sanitary permits in the country of origin   | Not specified                 | Colombia                |
| P62 Certification required by the exporting country   | Not specified                 | Peru                    |
| Limited understanding of the scope and how to implement the Nagoya Protocol, and the differences it has between countries and regions | Not specific                  | Peru*                   |

**Non-sector specific information HS codes:**  
**3201** (Tanning extracts of vegetable origin; tannins and their salts, ethers, esters and other derivatives)

\* This topic was mentioned during the peer review process by experts and organizations, including SERFOR.

**Non-sector specific information HS codes:**

**3201** (Tanning extracts of vegetable origin; tannins and their salts, ethers, esters and other derivatives)

**Non-sector specific information (continued)**

| Legislation, NTMs or barrier identified  | HS codes or products affected | Participating countries |
|--|-------------------------------|-------------------------|
| A5 Treatment for elimination of plant and animal pests and disease-causing organisms in the final product (e.g. post-harvest treatment)<br>A13 Systems approach<br>A14 Special authorization requirement for SPS reasons<br>A15 Registration requirements for importers<br>A21 Tolerance limits for residues of or contamination by certain (non-microbiological) substances<br>A22 Restricted use of certain substances in foods and feeds and their contact materials<br>A31 Labelling requirements<br>A32 Marking requirements<br>A33 Packaging requirements (directly related to food safety)<br>A41 Microbiological criteria of the final product<br>A42 Hygienic practices during production<br>A63 Food and feed processing<br>A82 Testing requirement<br>A83 Certification requirement<br>A84 Inspection requirement<br>A86 Quarantine requirement<br>B33 Packaging requirements<br>C3 Requirement to pass through specified port of customs | Not specified                 | Viet Nam                |
| Identification of potential suppliers for materials, inner and outer carton, hygienic requirements, certified package or not, residuals of the materials made for the package  | Not specified                 | Viet Nam                |
| Market information   | Not specified                 | Viet Nam                |

## 7. Summary of potential trade barriers to the export of biodiversity and BioTrade products to the United States of America

**Summary of potential trade barriers to the export of biodiversity and BioTrade products to Switzerland**

- Limitations to trade – general and specific to the United States of America
- Standards
- Requirements – both at the border (B) and internal/domestic (I)

| Limitations to trade – general and specific to the United States of America                                     | Standards                             |
|---|---------------------------------------|
| <b>General</b>  | Sanitary and phytosanitary conditions |
| Understanding of import and export requirements: CITES  | Process standards                     |
| Claims and labels   | Product standards                     |
| <b>Specific</b>   | Corporate social responsibility       |
| Implementation of the Food Safety Modernization Act, particularly the requirement of the “qualified individual” | Packaging and labelling               |
| Listing of ingredients/substances (e.g. Codex Alimentarius and Personal Care Products Council)                  |                                       |
| Information requirements from the FDA and GRAS, particularly for native species and derived products            |                                       |



| Requirements – both at the border (B) and internal/domestic (I)   |   |
|---|---|
| Safety and security (B)   | Consumer protection (I)   |
| Environmental health (B)  | Inadequate infrastructure (I/B)   |
| Rules of origin (B)   | Intellectual property (I/B)   |
| Lengthy customs procedures (B)  | Corruption (I/B)  |
| HS codes classification – to avoid inconsistencies, overlap in the registration of the biodiversity products exported (B) | Knowledge and understanding of trade policies affecting the products and sectors exported (I/B) |
| Product classification, as the product identity and right classification are essential for export (B)                     |   |

## 8. Recommendations for addressing the NTMs identified

|  |   |
|--|---|
| Standardization  | Standardization of processes and documentation along the entire chain (production processes, harvesting, processing, sampling, documentation, etc.); standard operating procedures (SOPs), GMP, GACP (WHO), etc. This standardization should be aligned with international market requirements, including those from the export market.   |
| Human resource development                               | Raise awareness and capacity-building of second-line leadership, regular training of staff regarding procedures, trade development, language, etc. Importantly, another training course should refer to the NTMs identified per sector, as depending on the material to be traded, obligations vary. Training should also address the gaps between what is identified by practitioners versus what importers need to fulfil in terms of obligations. Therefore, pragmatic support should be provided, for example, by listing obligations by HS code (e.g. traded material), by sectorial use, and in using this information to train the various categories of stakeholders (to complement this point, see listing of legal obligations point below). Additionally, there is a need to enhance the capacity of public and private stakeholders to implement and understand biodiversity-related agreements and protocols, such as CITES and the Nagoya Protocol, and their implications for biodiversity-based businesses. |
| Contingency plan and risk management                     | Develop a risk management tool, which will provide a clear action plan indicating what to do in case an outcome is different from what was expected. For example, if the product has different qualities between samples and lots; if the company has storage problems; or there are disruptions in the production chain.   |
| Revision of HS codes                                     | Consistency of HS codes to better identify biodiversity and BioTrade-related products; revision of botanical identification.  |
| Product documentation and traceability for certification | Carry out extensive, in-depth and coherent compilation of documents, studies and other information needed beforehand to obtain and maintain the products' traceability and certification.   |
| Training for customs                                     | Raise awareness, capacity-building and regular updates on the most recent changes in policies by the customs authorities, and the differences between countries and products in relation to, for example, rules on the validity of the exit of the product from the country of origin as well as its entry into the destination country.  |
| Transport costs  | Realistic cost calculation and knowledge on inter-/national packaging and transportation requirements, documentation and the respective costs.  |
| Better infrastructure                                    | Improve infrastructure in every possible context – company, internal, national and international. For example, establishing quality laboratories that are recognized in international markets.  |

### Recommendations for addressing the NTMs identified:

- Standardization
- Human resource development
- Contingency plan and risk management
- Revision of HS codes
- Product documentation and traceability for certification
- Training for customs
- Transport costs
- Better infrastructure
- Inclusion of native biodiversity-based ingredients and products in official listings at national and international levels
- Listing of legal obligations either by HS code or by sector

## Recommendations for addressing the NTMs identified (continued)

|   |  |
|---|--|
| Inclusion of native biodiversity-based ingredients and products in official listings at national and international levels | Adding to standardization and product documentation, exporting countries and companies need support to include their native biodiversity-based ingredients into importing markets listings such as PCPC, Codex Alimentarius or country-specific (e.g. the Inventory of Existing Chemical Substances Produced or Imported in China [IECSC]). This also applies in domestic markets, e.g. the Colombian approval process and technical requirements to include new ingredients derived from native biodiversity into official listings in cosmetic products are challenging. |
| Listing of legal obligations either by HS code or by sector   | Mapping of NTMs by selected HS codes and by sector is important, so that companies and government representatives have access to a list of legal obligations. This is already done by TAB (UNCTAD) for all HS codes, and accessible at: <a href="http://www.unctad.org/ntm">www.unctad.org/ntm</a> . However, training on this online database could be envisaged for BioTrade and biodiversity-related companies, governments and other relevant stakeholders.  |

## 9. Sources of market and NTMs information

- UNCTAD BioTrade Initiative: [www.biobtrade.org](http://www.biobtrade.org)
- UNCTAD Integrated Trade Intelligence Portal (i-TIP): <http://i-tip.unctad.org>
- UNCTAD Integrated Trade Intelligence Portal (ASEAN): <http://asean.i-tip.org>
- World Integrated Trade Solutions (WITS): <http://wits.worldbank.org>
- Organisation for Economic Co-operation and Development (OECD): [www.oecd.org](http://www.oecd.org)
- European Commission (Trade): <http://ec.europa.eu/trade>
- Centre for the Promotion of Imports from developing countries (CBI): [www.cbi.eu](http://www.cbi.eu)
- Swiss Import Promotion Programme (SIPPO): [www.sippo.ch](http://www.sippo.ch)
- Asociación Latinoamericana de Integración (ALADI): [www.aladi.org](http://www.aladi.org)
- Comunidad Andina: [www.comunidadandina.org](http://www.comunidadandina.org)
- Sistema Integrado de Información de Comercio Exterior (Peru): [www.siicex.gob.pe](http://www.siicex.gob.pe)
- Ministry of Health (Peru): [www.digesa.minsa.gob.pe](http://www.digesa.minsa.gob.pe)
- Drug Administration of Viet Nam: [www.dav.gov.vn](http://www.dav.gov.vn)

## 10. Partners

### Country partners

| Colombia   | Peru  | Viet Nam  |
|--|---|---|
| Ministry of Environment and Sustainable Development (MADS)                                       | Ministry of Foreign Trade and Tourism (MINCETUR)    | BioTrade Implementation Group (BIG Viet Nam)      |
| Ministry of Commerce, Industry and Tourism (MinCIT)  | National Commission for the Promotion of BioTrade   | Vietnam Trade Promotion Agency (VIETRADE)         |
| ProColombia  | Peru Export and Tourism Promotion Agency (PROMPERU) | Vietnam Society for Medicinal Materials (VIMAMES) |
| Cámara de la Industria Cosmética y de Aseo/Asociación Nacional de Empresarios de Colombia (ANDI) | Ministry of Environment (MINAM)                     | HELVETAS Swiss Intercooperation - Viet Nam        |
| Cámara de Comercio de Bogotá   |   |   |

### Global partners

| Global   |
|--|
| UNCTAD BioTrade Initiative and Trade Analysis Branch (TAB) |
| Klaus Duerbeck Consulting (KDC)                            |
| Asociación Latinoamericana de Integración (ALADI)          |
| Union for Ethical BioTrade (UEBT)                          |

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- CBI and ProFound (2016). Trade segments, channels and structures for food, food ingredients and natural ingredients for health products. CBI Expo Vitafoods 2016: Natural Ingredients Export Coaching Programme - Pakistan.
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- KDC (2016). Company survey information (internal documents).
- Lojenga RK, Oliva MJ (2016). Business engagement in BioTrade: Contributing to the Sustainable Development Goals. Union for Ethical BioTrade. Internal document.
- UNCTAD (2015). International classification of non-tariff measures Version 2012). United Nations. (UNCTAD/DITC/TAB/2012/2/Rev.1). Available at: [http://unctad.org/en/PublicationsLibrary/ditctab20122\\_en.pdf](http://unctad.org/en/PublicationsLibrary/ditctab20122_en.pdf).
- UNCTAD BioTrade Initiative (2016). NTMS workshop reports from Colombia, Peru and Viet Nam (prepared by Lorena Jaramillo, with inputs from ALADI and KDC).
- UNCTAD Trade Analysis Branch (2017). Mapping of United States of America NTMs (Excel sheets).
- UNCTADSTAT. <http://unctadstat.unctad.org/CountryProfile/GeneralProfile/en-GB/842/index.html>.
- World Bank. <http://databank.worldbank.org/data/reports.aspx?source=2&country=USA>.

## Acronyms

|              |   |               |  |
|--------------|---|---------------|--|
| <b>AFIS</b>  | Automated Fingerprint Identification System                                     | <b>ITC</b>    | International Trade Centre                         |
| <b>CBI</b>   | Centre for the Promotion of Imports from developing countries                   | <b>KDC</b>    | Klaus Duerbeck Consulting                          |
| <b>CITES</b> | Convention on International Trade in Endangered Species of Wild Fauna and Flora | <b>MAPs</b>   | medicinal and aromatic plants                      |
| <b>FAVIR</b> | Fruit and Vegetables Import Requirements  | <b>MRL</b>    | maximum residue limits                             |
| <b>FDA</b>   | Food and Drug Administration  | <b>NAFTA</b>  | North American Free Trade Agreement                |
| <b>FSMA</b>  | Food Safety Modernization Act   | <b>NTMs</b>   | non-tariff measures                                |
| <b>GLP</b>   | good laboratory practices   | <b>SERFOR</b> | Servicio Forestal y de Fauna Silvestre (Peru)      |
| <b>GMP</b>   | good manufacturing practices  | <b>SOPs</b>   | standard operating procedures                      |
| <b>GRAS</b>  | Generally Recognized as Safe  | <b>SPS</b>    | sanitary and phytosanitary measures                |
| <b>HS</b>    | Harmonized System   | <b>TAB</b>    | Trade Analysis Branch (UNCTAD)                     |
| <b>IECSC</b> | Inventory of Existing Chemical Substances Produced or Imported in China         | <b>TBT</b>    | technical barriers to trade                        |
|              |   | <b>UEBT</b>   | Union for Ethical BioTrade                         |
|              |   | <b>UNCTAD</b> | United Nations Conference on Trade and Development |

## Acknowledgements

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