*10 June 2021*

**Ministry of Trade, Industry and Tourism of Colombia**

**Contribution to French Draft Decree on the obligation to present for sale unprocessed fresh fruit and vegetables without packaging made entirely or partly of plastic - Law no. 2020-105 of February 10, 2020 on the fight against waste and the circular economy. Banana sector**

**Notification Number: 2021/149/F (France )- C50A**

Colombia, like the European Union and in particular France, is committed to encourage environmentally sustainable responsible production chains. Concerning this initiative, the production and export of bananas (all types of bananas including baby bananas) to EU countries is of particular importance to the economy of Colombia. **France** imported from Colombia in 2020 more than 10,787,000 Kg[[1]](#footnote-1). Therefore, France is an essential market for Colombian producers and exporters, who are also necessary to meet the demand for bananas by the French population.

**Implications of article 77 of the law against waste and for a circular economy (AGEC):**

The Law on Combating Waste and on the Circular Economy of 10 February 2020 provides that retail outlets displaying unprocessed fresh fruit and vegetables for sale will be required, as from 1 January 2022, to present them for sale without plastic packaging (Article 77 of the Act). The law also specifies that this obligation does not apply to fruit and vegetables packaged in batches of 1.5 kilograms or more, and to fruit and vegetables presenting a risk of deterioration when sold in bulk, the list of which is fixed by decree.

The draft Decree establishes the list of fruits and vegetables exempted from the obligation referred to in the first sentence of the 16th paragraph of Article III of L. 541-15-10, and in accordance with the second sentence of that paragraph.

In that sense, the draft Decree sets out an exemption list for fruit and vegetables for which a risk of deterioration when sold in bulk has been identified. However, banana has not been included.

We would like to submit to your consideration the following reasons for the inclusion of bananas (all types of bananas including baby bananas) in the above-mentioned list of products:

First, even though it is mentioned that the Decree would relate only to the presentation for sale of these products and therefore do not apply to the steps preceding presentation for sale, i.e. production, packaging and transport, the reality is that for the past few years, bananas have been packaged and labeled at origin. Due to the **short adaptation period** established by the AGEC law, producers and exporters - who are mostly small and medium producers - would have to bear substantial economic losses to avoid exporting packaged bananas and to invest in alternative materials to plastic.

The global economic crisis of the COVID-19 pandemic does not create a favorable context for making these changes and investments, as most producers and exporters are focused on maintaining their crops and meeting global demand.

On the other hand, banana is a fruit that has an important risk of **deterioration when sold in bulk**. Bananas are climacteric fruits that must be harvested "green" (their pulp is in the form of starch) because, despite their apparently thick skin, once ripe, they are very sensitive to bruising and handling, which makes them difficult to transport. In addition, the **European Commission's Implementing Regulation (EU) No. 1333/2011 of December 19, 2011** requires that bananas be imported into the European Union at their "green" stage, i.e., unripe. Before being consumed, bananas that arrive green in the EU are ripened by reproducing the natural process. The ripening plants are located as close as possible to the places of consumption, in order to limit the economic losses and food waste, which are major problems for the sector.

The distribution and consumption stages are therefore the most sensitive to waste. Blows to the skin, once the banana is ripe, further accelerate ripening and shorten the shelf life of the product. In this regard, packaging and tape can protect the fruit at the point of sale.

As a third argument, we want to point out that plastic packaging also helps to limit **food waste:** consumers frequently handle products in the supermarket and sometimes tear the fruit from the banana hand. Pieces left isolated on the shelf become too spotted to be marketable in a few hours and are therefore thrown away at the end of the day, contributing to food waste.

Discontinuing plastic banana packaging by January 1, 2022 **without an alternative solution** would hinder the responsible measures taken by all banana stakeholders, and could lead to an increase in food waste, which is already a sensitive issue, at a time when post-harvest treatment products are also banned.

We would appreciate the inclusion of bananas within the exemption list in order to avoid that the draft legislation puts both packaging and foodstuff producers from Colombia in a disadvantage, forcing the adaptation to the new provisions in a very restricted period of time, especially, taking into account that there is no a similar rule at the European level.

In the event that bananas are not included in the exemption list, and irrespective of the Commission's legal considerations on the draft Decree, we kindly request a 4 year period of time be granted for the entry into force of these rules so that different scenarios can be assessed in relation to the measure. This period would also allow all actors in the value chain to prepare alternatives, while maintaining their objectives of differentiation and loss reduction.

**Law no. 2020-105 of February 10, 2020, Article 80:**

We take this opportunity to also refer to Article 80 of the Law, although we understand that the consultation refers to Article 77, but as this article was not notified as a technical regulation we did not have the opportunity to submit comments previously.

The self-adhesive labels have a fundamental function in the banana industry: to trace and improve the differentiation processes, which are most often based on environmental and social aspects (organic banana, fair trade...), so as to guide consumers in their purchases. Being certified and having these labels is an essential condition to access to the European market and it is what confirms to the consumer that the banana has been produced according to a series of standards of sustainability, fair trade, social criteria, etc.

However, if the presence of labels on bananas is prevented, it will be the producer who will have to bear the costs of certifications, without receiving adequate remuneration, since this will generate a sorting problem in the supermarket, hindering the value of each sticker. This will lead to a problem of redistribution of costs and an effort of sustainability lost in vain. In addition, the stickers serve to guarantee the protection against fraud and guarantee the traceability of the products.

Finally, at this time, there are no other options available or technology at our reach to use alternative labels made of biodegradable material. Their cost exceeds and even triples the price of conventional stickers. Therefore, a transition to more affordable options for producers must be considered.

For those reasons, we are requesting a postponement of the entry into force of the regulation to 2026, in order to have the possibility to analyze it and adopt the relevant measures to avoid negative effects on the flow of banana trade from Colombia.

1. <https://trade.ec.europa.eu/access-to-markets/es/results?product=08031010&origin=CO&destination=FR> [↑](#footnote-ref-1)