Commission Implementing Regulation (EU) 2019/67 of 16 January 2019 imposing safeguard measures with regard to imports of Indica rice originating in Cambodia and Myanmar/Burma

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008[(1)], and in particular Article 26 thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 16 February 2018, the Commission received a request from Italy pursuant to Article 22 of Regulation (EU) No 978/2012 (hereinafter 'the GSP-Regulation'). The request called for the adoption of safeguard measures concerning rice of the type 'Indica' originating in Cambodia and Myanmar/Burma. Other rice producing Union Member States, i.e. Spain, France, Portugal, Greece, Romania, Bulgaria and Hungary supported the request made by Italy.

(2) Having determined that the request contained sufficient evidence showing that Indica rice originating in Myanmar/Burma and Cambodia was imported in volumes and at prices causing serious difficulties to the Union industry, the Commission published, on 16 March 2018, after informing the Member States, a Notice of Initiation of a safeguard investigation[(2)].

(3) In order to obtain the information necessary to carry out an in-depth assessment, the Commission informed the known producers ('millers') of the like or directly competitive products in the Union and their association, and the known exporting millers and their federations, including their governments, and invited them to participate to the investigation.

1.2. Sampling

(4) In view of the large number of Union producers, exporting millers and importers involved in this proceeding and, in order to complete the investigation within the statutory time limits, the Commission has decided to limit the investigation to a reasonable number of individual Union millers. Pursuant to Article 11(6) of

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Commission Delegated Regulation (EU) No 1083/2013[3], the Commission has based its investigation by selecting a representative sample.

(5) In its notice of initiation, the Commission stated that it had provisionally selected a sample of Union millers based on the largest representative volume of production of the like product, whilst ensuring a geographical spread. Whereas rice is grown in eight Member States, production is very much concentrated in Italy and Spain: these two countries account for 80 % of total rice production in the Union (approximately 50 % in Italy and 30 % in Spain) and are thus representative for the Union industry. On this basis, the Commission considered sending questionnaires to three Italian millers and one Spanish miller as justified.

(6) One party questioned whether the sample was representative. It asked the Commission to confirm how much production the sampled millers represented as compared to the total Union production and how their situation developed as compared to the Union industry. As explained, in recital (5), the selection of the sample was based on the largest representative volume of production which could be reasonably investigated within the time available. The three Italian sampled millers represented 50 % of the Italian production during the marketing year 2016/2017 and the sampled Spanish miller represented 17 % of the Spanish production in the same year. Together, the sampled millers represented 26 % of total Union production. Furthermore, during the period investigated, i.e. from 1 September 2012 to 31 August 2017, the production of the sampled companies developed in a similar fashion as the production of the entire industry. The production decreased by 36 % for the sampled producers and by 38 % for the entire Union industry. This reinforces the conclusion that the sample is indeed representative.

(7) Questionnaires were also sent to some growers (‘farmers’), but given the high fragmentation of the sector (around 4 000) this only gives a very limited picture of the situation[4].

(8) As to the selection of the exporters, the Commission received in total 13 replies to the sampling exercise from exporting millers from Cambodia and 15 replies from exporting millers from Myanmar/Burma. Sampling was therefore necessary and all parties were informed accordingly. On the basis of the information received from the exporting millers, the Commission initially selected a sample of three exporters in Cambodia and three exporters in Myanmar/Burma. They were selected on the basis of the highest export volume to the Union. However, following further assessment and comments received by the Cambodian Rice Federation, two exporters from Cambodia were not in a position to cooperate and were therefore replaced. Only one company finally replied to the questionnaire. As regards Myanmar/Burma, all three selected companies finally replied to the questionnaire.

(9) In reaction to the notice of initiation, four unrelated importers made themselves known. In view of the limited number of cooperating importers, a sampling was not deemed necessary. The Commission sent questionnaire to all four companies, which did however not all provide a complete reply.

1.3. **Verification visits**

(10) The Commission sought and verified all information deemed necessary for its investigations. Verification visits were carried out at the premises of the following companies, pursuant to Article 12 of Delegated Regulation (EU) No 1083/2013:

(a) Millers:

— Riso Scotti S.p.a. and the related company (Riso Scotti Danubio), Italy;

— Curti S.r.l. and the related company (Riso Ticino Soc. Coop.), Italy;

— Riso Viazzo S.r.l., Italy;

— Herba Ricemills S.L., Spain.

(b) Associations:

— Ente Nazionale Risi (Enterisi), Italy

1.4. **Investigation period**

(11) The investigation covered the five last marketing years, i.e. the period from 1 September 2012 to 31 August 2017 (‘the investigation period’).

1.5. **Disclosure**

(12) After disclosure, the Commission received eight submissions, including submissions from Italy and Spain. The Commission also received submissions from three companies and one association that were not interested parties. Even though these parties were not registered as interested parties, their comments were to a large extent taken into account and addressed in the Commission conclusions since they mostly corresponded to comments made by registered interested parties.

2. PRODUCT CONCERNED AND LIKE OR DIRECTLY COMPETING PRODUCT

2.1. **Product concerned**

(13) The ‘product concerned’ is semi-milled or milled Indica rice originating in Cambodia and Myanmar/Burma benefiting from an exemption from customs duties in light of the GSP Regulation currently falling within CN codes 1006 30 27, 1006 30 48, 1006 30 67 and 1006 30 98.

(14) The product concerned is imported into the Union either in bulk, for further processing (milling, cleaning and packaging), or in small bags up to 5 kg or between 5 kg and 20 kg that can be sold by retailers directly without further processing.

2.2. **Like or directly competing product**

(15) Indica and Japonica are the two main types of rice. The first type is long grain rice which stays separate after cooking. The second type, Japonica, is a rather round type of rice. The rice sticks together and is used for dishes like paella or risotto.

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(16) When the rice is harvested, the rice has a husk and is referred to as 'paddy rice'. After the harvest, the rice goes through a series of milling processes. 'Husked rice' is the rice from which the husk has been removed. Further milling is necessary to obtain 'semi-milled' or 'milled rice'.

(17) In this assessment, the Commission has determined that the Indica milled or semi-milled rice produced in the Union is like or directly competing with the product concerned.

(18) Both the Union-produced and the imported Indica milled or semi-milled rice have indeed the same basic physical, technical and chemical characteristics. They have the same uses and are sold via similar or identical sales channels, to the same type of customers. These customers are either retailers or processors in the Union.

2.3. Comments by the parties

(19) After the disclosure, several interested parties[(5)] have claimed that aromatic Indica rice should be excluded from the scope of the investigation since it has different characteristics than other types of Indica rice and since it does not compete with rice produced in the Union. They also claimed that aromatic rice is, since 2017, classified under a different CN code, which would reinforce the conclusions that this type of rice is different than the others.

(20) First of all, and as confirmed by various interested parties, Indica rice covers a wide range of specific rice types and rice varieties, including fragrant or aromatic rice. Even if there are slight differences between all these types, e.g. in taste and structure, they nevertheless all share the same basic physical, technical and chemical characteristics.

(21) Furthermore, all these different types serve the same end use, are milled by the same millers, are sold through the same commercial channels and compete with each other. The fact that since 2017 there is a specific CN code for aromatic rice is not relevant since, as mentioned in the Notice of initiation, CN codes are given for information only and are not a decisive factor for defining a product within the framework of a trade defence investigation. The claims were therefore rejected.

3. EXISTENCE OF SERIOUS DIFFICULTIES

3.1. Definition of the Union industry

(22) According to the GSP regulation, the relevant industry should consist of millers of like or directly competing products. In this case, the Commission considers that the Union industry consists of rice millers. Millers of rice process rice grown/produced in the Union that directly competes with the Indica milled or semi-milled rice exported from Myanmar/Burma or Cambodia.

(23) In its request, Italy has argued that, given the close interrelationship between the farmers and the millers, both millers and farmers should be examined for the injury assessment. Even though the situation of farmers may also be strongly affected by

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imports of rice from Cambodia and Myanmar/Burma, they should rather be considered as a supplier of raw material, but not as a miller of like or directly competing products.

3.2. **Union consumption**

(24) The consumption of Indica rice in the Union was established on the basis of the data collected from the Member States by the Commission and import statistics available through Eurostat[6].

(25) The consumption in the Union developed as follows:

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Total Union consumption (in tonne)	1 061 793	1 146 701	1 090 662	1 040 969	993 184
Index (2012/13 = 100)	*100*	*108*	*103*	*98*	*94*

Source: Data compiled by the Commission based on data received from the Member States and Eurostat — Indica milled rice equivalent

(26) The consumption of Indica rice in the Union has decreased by 6 % over the investigation period. The highest consumption was reached in 2013/2014 (+ 8 %) coinciding with an important increase in imports on Indica rice from Cambodia and Myanmar/Burma which led a saturation of the market. In the following marketing years the consumption showed a downward trend.

3.3. **Development of imports**

(27) The imports into the Union from Cambodia and Myanmar/Burma of the product concerned have developed as follows:

		2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Cambodia	tonne	163 337	228 878	251 666	299 740	249 320
	index	*100*	*140*	*154*	*184*	*153*
Myanmar/ Burma	tonne	2 075	28 856	52 680	36 088	62 683
	index	*100*	*1 391*	*2 539*	*1 739*	*3 021*
Total	tonne	165 412	257 734	304 346	335 828	312 003

Source: Eurostat statistics (semi-milled converted into milled equivalent (for the purpose of converting quantities relating to the various stages of the processing of rice (paddy, husked, semi-milled or milled), a conversion rate has been fixed by the Commission in Regulation (EC) No 1312/2008 of 19 December 2008 fixing the conversion rates, the processing costs and the value of the by-products for the various stages of rice processing (OJ L 344, 20.12.2008, p. 56). For example, the conversion rate between husked Indica rice and milled Indica rice is 0.69. It applies both to imports as well as rice produced in the Union) and data compiled by the Commission based on data received from the Member States.