

**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**

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 <sup>(1)</sup>, 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 <sup>(2)</sup>.
- (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 Commission Delegated Regulation (EU) No 1083/2013 <sup>(3)</sup>, 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

<sup>(1)</sup> OJ L 303, 31.10.2012, p. 1.

<sup>(2)</sup> OJ C 100, 16.3.2018, p. 30.

<sup>(3)</sup> Commission Delegated Regulation (EU) No 1083/2013 of 28 August 2013 establishing rules related to the procedure for temporary withdrawal of tariff preferences and adoption of general safeguard measures under Regulation (EU) No 978/2012 of the European Parliament and the Council applying a scheme of generalised tariff preferences (OJ L 293, 5.11.2013, p. 16).

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 (\*).
- (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.

(\*) Questionnaires were sent to and verification visits were carried out at the premises of the following growers: Laguna de Santaolalla S.L., Spain, Vercellino Flavio e Paolo S.S., Italy, Coppo e Garrione Societa' Agricola S.S., Italy, Maro Giovanni, Paolo e Pietro, Italy, Locatelli Francesco, Italy.

## 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.
- (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 <sup>(9)</sup> 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.

<sup>(9)</sup> These interested parties were Haudecoeur, Amru Rice, the government of Cambodia and the Myanmar Rice Federation (MRF).

- (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 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 <sup>(6)</sup>.
- (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
<i>Index</i> (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
	<i>index</i>	100	140	154	184	153
Myanmar/Burma	tonne	2 075	28 856	52 680	36 088	62 683
	<i>index</i>	100	1 391	2 539	1 739	3 021
Total	tonne	165 412	257 734	304 346	335 828	312 003
	<i>index</i>	100	156	184	203	189

*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.

- (28) Import volumes from Cambodia increased from 163 000 tonnes to 249 000 tonnes. They have increased significantly until 2015/2016 and then slightly decreased coinciding with a decrease in consumption in 2016/2017. Despite the decrease, imports remained 50 % higher than in 2012/2013. Cambodia represented at the end of the investigation period 25 % of the total imports.

<sup>(6)</sup> Data is publicly available data on Europa Webpage: [https://ec.europa.eu/agriculture/cereals/trade\\_en](https://ec.europa.eu/agriculture/cereals/trade_en)

(29) As to imports from Myanmar/Burma, they also increased remarkably during the investigation period, from 2 000 tonnes to 62 000 tonnes. They however remained at a lower level as compared to Cambodia. Imports from Myanmar/Burma represented 6,3 % of the total Union rice imports at the end of the investigation period (cf. table on market share below).

(30) In terms of market shares, the imports developed as such:

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Market share of Cambodia (%)	15,4	20,0	23,1	28,8	25,1
Market share of Myanmar/Burma (%)	0,2	2,5	4,8	3,5	6,3
Total	15,6	22,5	27,9	32,3	31,4

Source: Eurostat and data compiled by the Commission based on data received from the Member States in milled equivalent

(31) Cambodia significantly increased its market share from 15,4 % to 25,1 % while the market share of Myanmar/Burma increased from 0,2 % to 6,3 %.

(32) The development of prices followed the following trends:

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Import price from Cambodia (EUR/tonne)	588,4	512,8	562,6	547,4	552,2
Index (2012/13 = 100)	100	87	96	93	94
Import price from Myanmar/Burma (EUR/tonne)	420,0	366,5	414,7	410,1	405,4
Index (2012/13 = 100)	100	87	99	98	97
Weighted average	586,3	496,2	536,7	532,6	523,1
Index (2012/13 = 100)	100	85	92	91	89

Source: Eurostat

(33) Cambodian import prices overall decreased by 6 %, while import price of Myanmar/Burma decreased by 3 %. Despite the limited decrease in prices of imports from Cambodia and Myanmar/Burma, based on a comparison of the average import price with the unit sales prices of the Union industry (see recital (64), prices of imports from Cambodia and Myanmar/Burma (based on Eurostat data) were both found to significantly undercut Union prices by respectively 22 % and 43 %.

(34) After the disclosure, the Ministry of Commerce of Cambodia (hereinafter 'Cambodia') questioned the methodology used by the Commission to calculate the undercutting margins. They claimed that post-importation costs were not added to calculate the Cambodian export price and that price undercutting has been based on a comparison between average prices, not considering the different level of trade. Cambodia also questioned whether the data provided by the cooperating exporters were used for the injury determination.

(35) In view of the arguments received after disclosure, the Commission decided to review its undercutting calculations, in order to include relevant post-importation or transport costs, to reflect the differences in level of trade affecting price comparability and to use data provided by the cooperating exporters, to the extent possible.

- (36) In order to ensure a fair comparison, the Commission decided to adjust import prices as claimed by Cambodia, by taking into account the post-importation costs. On the other hand, the Commission considered that Union industry prices should also be adjusted in order to take into account the transportation costs of the rice from southern Europe (Italy and Spain in this case) to northern Europe as the competition for semi-milled and milled Indica rice predominantly takes place in northern Europe. Based on the information available (data obtained in the framework of a previous investigation concerning another food product, i.e. satsumas) the Commission estimated post-importation costs to be around 2 % of the import price and transport costs into the Union are estimated at 49 EUR/tonne, based on information included in the complaint and verified during the on-spot investigation.
- (37) Furthermore, in order to reflect differences in levels of trade, the Commission has carried out the price comparison between sales of milled rice in bulk and sales in small packages. It should be noted that, based on the statistics derived from the CN codes, while Cambodia exports rice in bulk and in small packages, Myanmar/Burma almost exclusively exports rice in bulk.
- (38) Finally, it was decided to determine the export price based on questionnaire replies received from exporting producers. In the case of Cambodia, since only 1 Cambodian exporter replied to the questionnaire, the sample exercise failed. Since the cooperating exporter only represents a very small portion of the imports from Cambodia, the Commission had to make use of the best facts available, pursuant to Article 13 of Delegated Regulation (EU) No 1083/2013. Eurostat prices were therefore used in the case of Cambodia. For Myanmar/Burma, the prices from the questionnaire replies were used.
- (39) On the basis of the above, the Commission came to the conclusion that the price undercutting for bulk sales is 13 % for Cambodia and 43 % for Myanmar/Burma. As regards the price comparison of the packaged rice, the price undercutting found was 14 % for Cambodia.
- (40) This price difference between the imported and the Union produced rice is thus significant in particular when considering that rice is in general a price-sensitive product. In general, consumers do not make any distinction between various origins.
- (41) Cambodia also claimed that the Commission's determination of serious difficulties was based on a cumulative assessment of the volume and price effect of rice import from Cambodia and Myanmar/Burma. This claim is however rejected since the above analysis clearly distinguishes the situation between Cambodia and Myanmar/Burma.
- (42) In conclusion, imports from Cambodia and Myanmar/Burma increased substantially in absolute terms as well as in terms of market share during the investigation period. Even if the combined import volume slightly decreased in 2016/2017, it remained overall much higher than at the beginning of the investigation period. In addition, the combined weighted average import price of both countries decreased during the period of investigation and significantly undercut Union prices.

### **3.4. Economic situation of the Union industry**

#### *3.4.1. General remarks*

- (43) Pursuant to Article 23 of the GSP Regulation, serious difficulties should be considered to exist where Union millers suffer deterioration in their economic and/or financial situation. In examining whether such deterioration exists, the Commission should take account the factors listed in Article 23, concerning Union millers, where such information is available.
- (44) As mentioned in recital (5), the Commission used sampling for the determination of serious difficulties suffered by the Union industry. For the purpose of its injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators.
- (45) The Commission evaluated the macroeconomic indicators (market share, production, and stocks — imports are analysed above) based on the general market data collected on a monthly basis based on rice output converted into milled rice equivalent. Reliable data on bankruptcies and employment for the Union industry is not available and therefore could not be included in the analysis.

- (46) The Commission evaluated the microeconomic indicators (prices and profitability) based on the verified data at the level of the sample. In the absence of data at macro level, production capacity was also analysed at the level of the sample.

#### 3.4.2. Macroeconomic indicators

- (47) The Union industry market share during the investigation period developed as follows:

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Market shares (%)	61,4	54,8	46,7	40,5	39,3
<i>Index (2012/13 = 100)</i>	100	101	80	66	62

Source: Data compiled by the Commission based on data received from the Member States

- (48) The market shares also dropped significantly from 61 % to 39 %, i.e. a decrease of more than 20 % points.

- (49) The production of Indica rice by the Union industry also followed a significant decreasing trend during the investigation period:

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Production volume (tonnes)	685 183	692 740	547 908	449 313	423 962
<i>Index (2012/13 = 100)</i>	100	101	80	66	62

Source: Data compiled by the Commission based on data received from the Member States

- (50) The production decreased by almost 40 %, from 685 000 tonnes to 424 000 tonnes.

- (51) The stocks of milled rice in the Union increased by 4 % during the investigation period from 255 000 thousand tonnes to 265 000 tonnes. They first increased significantly by 11 % and then slightly decreased.

- (52) Cambodia has claimed after disclosure that the Union production data is flawed as the Union production data minus the sales data do not match the closing stock as reported below. Indeed, the Commission has provided only a partial calculation as the data do not reflect the opening stock, the use of rice as seeds, etc. Nevertheless, the calculation is in line with the calculation of the balance sheet that is being used by the Commission (cf. recital (24)).

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Closing Stocks (tonnes)	255 301	280 507	283 126	272 136	264 766
<i>Index (2012/13 = 100)</i>	100	110	111	107	104

Source: Data compiled by the Commission based on data received from the Member States

- (53) In the absence of data of production capacity at macro level, the Commission examined these data at the level of the sample. The area dedicated to growing Indica rice in the Union however gives a fairly good indication of Indica rice available for millers, and therefore their potential capacity utilisation. This area generally showed a decrease of 37 % during the investigation period and developed as such:

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Area (hectares)	145 781	145 783	124 270	101 865	91 685
<i>Index (2012/13 = 100)</i>	100	100	85	70	63

Source: Data compiled by the Commission based on data received from the Member States

3.4.3. *Micro-economic indicators*

- (54) On the basis of the questionnaire replies received from the Union millers, the prices and profitability developed as follows:

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Price (EUR/ton)	667,3	649,5	693,3	728,3	711,5
<i>Index</i> (2012/13 = 100)	100	97	104	109	107
Profitability (%)	1,4	0,1	1,5	4,3	1,2
<i>Index</i> (2012/13 = 100)	100	8	107	312	88

*Source:* Questionnaire replies (The data provided by the millers is based on calendar years and not marketing years. Given the fact that there is significant overlap between these periods, the trends nevertheless remain representative for the investigation period).

- (55) The unit prices of the sampled millers increased by 7 % during the investigation period. Based on the result of the verifications carried out by the Commission, it appears that given the increasing pressure of low price imports, the Union sampled millers decided, when possible, to concentrate their sales on smaller volumes of semi-milled and milled Indica rice and focus on branded products rather than selling under a private label to the distributors.
- (56) By changing their original product-mix, Union millers were thus able to maintain a stable degree of profitability at the expense of their market share, which dramatically decreased. Nevertheless, this change in product-mix may have helped especially in 2015/2016 (when the profitability even increased), but in 2016/2017, the profit levels had come down again. In a situation whereby import prices were found to significantly undercut Union prices in 2016/2017 (by 22 and 43 % respectively), this strategy can only be a short-term solution. Millers will face increasingly pressure with low import prices in the near future. Indeed, Cambodia has already moved partially from bulk sales to sales of small packaged products that are sold at retailer's level. This sales channel is more remunerative than bulk sales and it is likely that Cambodia will increasingly sell and compete with Union industry at this level, including on niche markets.
- (57) As far as profitability is concerned, it remained at a relatively stable – but low – level since the increase of price could compensate for the loss of volume. A profitability level of 1 %-2 % is moreover far below the 6 % that is considered the adequate level of profitability needed to cover full costs and investments, research and development (R & D) and innovation.
- (58) Following disclosure, one party requested further information on the 6 % used in the above paragraph. With the modernisation of the EU's trade defence instruments in 2018, it has been laid down in the respective legislation that when calculating the injury margin, the level of profit to be expected in normal conditions of competition shall not be lower than 6 % <sup>(7)</sup>. This benchmark used in trade defence investigations is also relevant in a safeguard investigation. That explains why the Commission has also used in this case this benchmark.
- (59) The production capacity of the Union industry for the like products, i.e. Indica rice, is difficult to assess since the processing industry can use its capacity to mill both Indica and Japonica rice whether imported or grown in the Union. In addition, there is no macro data available (see above). Based on the sample, the capacity utilisation, as showed below, decreased from 22 % to 14 %. While these percentages may seem relatively low because they are based on a comparison of the output of the like product (Indica rice) as compared a production capacity installed for all types of rice.

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Capacity. Utilisation (%)	22,1	21,1	19,0	13,0	14,0
<i>Index</i> (2012/13 = 100)	100	96	86	59	64

*Sources:* Questionnaire replies

<sup>(7)</sup> Regulation (EU) 2018/825 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (OJ L 143, 7.6.2018, p. 1).

#### 3.4.4. Conclusion

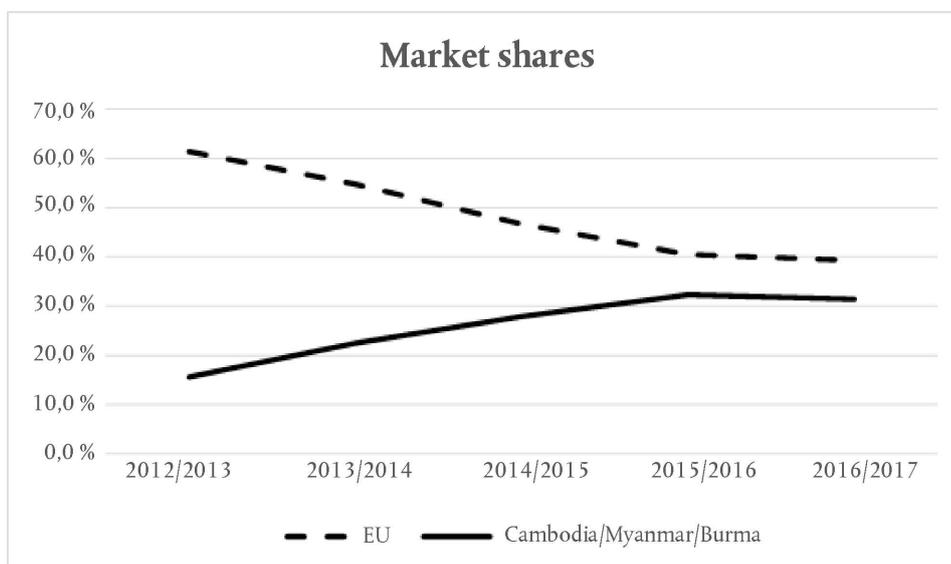
- (60) In conclusion, the situation of the Union industry deteriorated in economic terms. While the imports from Cambodia and Myanmar/Burma increased substantially in absolute terms, the Union industry lost around 6 % of market share to Myanmar/Burma and 10 % to Cambodia. The Union industry was also subject to an important price undercutting of 22 % and 43 %. The production in the Union further decreased by 38 %. The economic difficulties therefore mainly materialised in terms of volume during the investigation period. Union millers decided not to decrease their price level despite the competition of low price imports and maintained a certain level of profit. Where possible, Union millers indeed decided to change their product mix and focus on niche segments and branded products in order to maintain their level of profit despite a decrease of their sales and production volume. This is however only a temporary solution as imports from Cambodia and Myanmar/Burma have already moved, albeit to a limited extent, from bulk sales to small packaged sales, also competing with the Union industry at retail level. It is expected that both countries will increase their low price imports on this more remunerative sales channel, and also compete on niche markets and branded products, with negative consequences also for the financial situation of the Union industry.

#### 4. CAUSATION

- (61) The Commission has made a determination that there is a causal link between the volume of imports of the product concerned on the one hand and the serious difficulties of the Union millers on the other hand, on the following basis. The Commission has also analysed whether the serious difficulties are not attributable to factors other than imports and prices.

##### 4.1. Effects of imports from Cambodia and Myanmar/Burma

- (62) The graph below clearly establishes a coincidence in time between the imports from Cambodia and Myanmar/Burma and the situation of the Union industry, evidenced by a substantial loss of market shares, causing serious difficulties to the Union millers.



Source: Eurostat and data compiled by the Commission based on data received from the Member States

- (63) The Commission considers that the imports from Cambodia and Myanmar/Burma have also individually caused serious difficulties. Indeed, imports from both Cambodia and Myanmar/Burma have increased individually both in absolute volume (by 53 % and more than 2 000 % respectively) and in terms of market shares (by 9,7 percentage points and 6,1 percentage points respectively). In addition, imports from Cambodia and Myanmar/Burma have each undercut the Union price individually (by around 22 % and 43 % respectively). Therefore, the conclusion can be drawn that imports from both Cambodia as well as Myanmar/Burma have caused serious difficulties to the Union industry as well.
- (64) The rapid expansion of imports from Cambodia and Myanmar/Burma is explained by their low price level, which significantly undercut the prices of the Union industry. Indica rice is a price sensitive product, especially because

consumers do generally not make the difference between Union and imported products. To consumers buying rice at the retailers, the origin of the rice is largely unknown. This is in particular the case when rice is sold under a private label, i.e. the brand of the retailer. By supplying rice at a very low price, as illustrated by the levels of undercutting as referred to in recital (33), Cambodia and Myanmar/Burma managed to significantly and rapidly expand their rice exports to Union market. Moreover, Cambodia — which used to export mostly rice in bulk for further processing in the Union — increasingly sells packaged rice directly to Union retailers, which is causing additional price pressure and competition at the level of the millers in the Union.

#### 4.2. Other factors

- (65) Other factors that may have contributed to the serious difficulties suffered by the Union industry have also been assessed.

##### 4.2.1. Imports from other third countries

- (66) The imports from other third countries have also increased during the investigation period from 23 % to 29,3 % (+ 6,3 %) in terms of market share.

Market share (%)	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
<b>Union</b>	<b>61,4</b>	<b>54,8</b>	<b>46,7</b>	<b>40,5</b>	<b>39,3</b>
Cambodia	15,4	20,0	23,1	28,8	25,1
Myanmar/Burma	0,2	2,5	4,8	3,5	6,3
<b>Cambodia &amp; Myanmar/Burma</b>	<b>15,6</b>	<b>22,5</b>	<b>27,9</b>	<b>32,3</b>	<b>31,4</b>
Thailand	12,2	11,5	11,8	12,9	13,8
India	4,7	4,0	5,8	6,8	7,3
Pakistan	2,5	2,9	3,3	3,3	3,2
Other countries	3,7	4,4	4,5	4,3	5,1
<b>All other countries together</b> (Cambodia and Myanmar/Burma excluded)	<b>23,0</b>	<b>22,8</b>	<b>25,4</b>	<b>27,3</b>	<b>29,3</b>

Source: Eurostat

- (67) Even if imports from other third countries may partially explain the decrease in Union market shares, the increase in market share of these countries, even cumulatively, is much more limited than that of Cambodia and Myanmar/Burma (+ 15 %).
- (68) Furthermore, and most importantly, as shown in the table below, the weighted average prices of other imports are during the investigation period much higher than imports from Cambodia and Myanmar/Burma, and those of the Union <sup>(8)</sup>. Comparing the price of imports from Thailand with Myanmar/Burma shows that there is a price difference of 85 %. When comparing prices of imports from India with Cambodia, the price difference is 72 %. This also reinforces the above conclusion that lower prices allowed Myanmar/Burma and Cambodia to rapidly expand their Union exports during the investigation period.

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Union	667,3	649,5	693,3	728,3	711,5
Cambodia	588,4	512,8	562,6	547,4	552,2
Myanmar/Burma	420,0	366,5	414,7	410,1	405,4

<sup>(8)</sup> These prices do not include post-importation costs nor transport costs.

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Thailand	946,7	863,5	896,8	825,7	751,1
India	925,7	1 054,1	1 061,0	893,0	949,2
Pakistan	924,3	999,7	996,0	846,3	926,3

Source: Eurostat and questionnaire replies

#### 4.2.2. Structural difficulties in the Italian rice sector

- (69) In its submission upon initiation, the Cambodian Rice Federation claimed that the difficulties of the Italian rice sector are generally worse than in the rest of the Union and can therefore not be attributed only to the increase of imports.
- (70) The replies to the questionnaire and the verification have indeed shown that the situation of the Union industry is worse in Italy than in Spain. That is partially due to the fact that the Spanish rice market is organised differently and is therefore more resilient in terms of supply and demand and also in terms of pricing. Nevertheless, the Commission has carried out a Union wide investigation based on the situation of the overall Union industry and based on a representative sample. The investigation showed — as explained above — that there are overall difficulties for the Union industry.

#### 4.2.3. Imports of 'paddy rice' from Guyana

- (71) Interested parties have also claimed that increased imports of rice from Guyana have contributed to the serious difficulties. Rice imported from Guyana is not milled (it consists of so-called 'paddy rice') and therefore falls outside the scope of the investigation and is not included in the above import statistics and not relevant here.

#### 4.2.4. Exports by the Union industry

- (72) The Cambodian government submitted that one of the aspects that have been overlooked in the context of causation is the export orientation of the Union industry. This claim was however not substantiated and, although exports have indeed increased from 3 % of total production to 7 % of total production during the investigation period, they nevertheless represent a very small proportion of the Union production. In addition, the increase of exports (+ 11 000 tonnes) is much smaller than the increase of imports from Cambodia and Myanmar/Burma (+ 147 000 tonnes).

#### 4.2.5. Reduction in production of Indica is due to an increase of production of Japonica

- (73) The Government of Cambodia also claimed that the Union production of Indica rice has not been affected by imports, but is simply subject to a cyclical shift between Japonica and Indica rice based on the decision of Union growers.
- (74) It is correct that growers can shift production between Indica and Japonica rice. Such shift is however based on economic considerations, including demand and market price. In this context, the investigation confirmed that, when faced with the increased competition of low priced imports of Indica rice, some growers indeed had no alternative but to switch to the production of Japonica rice. It is therefore neither a cyclical shift nor a deliberate choice but an act of self-defence. In the medium term, this is however also not a viable option since switching production from Indica to Japonica has in turn caused an oversupply of Japonica rice on the market and price pressure for this type of rice. Farmers are therefore overall in a difficult situation.
- (75) The above argument is however of limited relevance since the Union industry consists of rice millers and not growers, who are suppliers of the raw material.

#### 4.2.6. Conclusion on causality

- (76) The Commission has established a causal link between the serious difficulties suffered by the Union industry and the imports from Cambodia and Myanmar/Burma. The Commission has also identified factors which have also contributed to these difficulties. This is in particular imports from third countries and imports of paddy rice from Guyana. These factors were however not found to attenuate the causal link, even when considering their possible combined effect. Consequently, it appears that any impact of the above mentioned factors on the situation of the Union industry do not attenuate the link between the imports volume and the prices from Cambodia and Myanmar/Burma and the serious difficulties suffered by Union industry.

## 5. CONCLUSIONS AND ADOPTION OF MEASURES

- (77) It is concluded that Indica rice from Cambodia and Myanmar/Burma is imported in volumes and at prices which cause serious difficulties to the Union industry and consequently safeguard measures are warranted.
- (78) According to Article 22(1) of the GSP Regulation, the Common Customs Tariff applied duties of 175 EUR/tonne should therefore be reinstated.
- (79) Pursuant to Article 28 of the GSP Regulation the safeguard measures should be reintroduced as long as necessary to counteract the deterioration in the economic and financial situation of Union millers. The period of reintroduction should however not exceed three years, unless it is extended in duly justified circumstances.
- (80) The Commission considers that in this case measures should be introduced for a period of three years in order to allow the Union industry to fully recover from the effects of the imports from Cambodia and Myanmar/Burma.
- (81) The Commission is however of the view that the safeguard measures should be progressively liberalised during this period for the following reasons.
- (82) The GSP Regulation has the prime objective to assist developing countries in their efforts to reduce poverty and promote good governance and sustainable development, by helping them to generate in particular employment, industrialisation and additional revenue through international trade. The special arrangement Everything But Arms (EBA), as laid down in the GSP Regulation, helps the world's poorest and weakest countries to take advantage of trading opportunities. These countries largely share a similar economic profile. They are vulnerable because of low and non-diversified export base and enjoy, therefore, certain protections under the GSP Regulation such as, for example, exemption from product graduation and from the application of automatic safeguards.
- (83) Therefore the Commission considered that, in principle, a progressive reduction in the duty rate over the period of three years, as outlined below, is warranted for EBA beneficiaries.
- (84) A progressive reduction would also be sufficient to counteract the deterioration in the economic and/or financial situation of the Union millers. On the other hand, Cambodia and Myanmar/Burma would not be facing full duties for the full three years making exports more difficult but would gradually be able to export more Indica rice to the Union.
- (85) Accordingly, the following reintroduction of the tariff duty is foreseen for a period three years:

	year 1	year 2	year 3
Tariff duty (EUR/tonne)	175	150	125

- (86) The currently applied Common Customs Tariff duty rate of 175 EUR/tonne is potentially subject to downward adjustments pursuant to Article 180 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>(9)</sup>. Therefore, if — as a result of these adjustments — the applied Common Customs Tariff duties would become lower than the duties referred to in recital (85), the latter should be aligned so that it does not exceed the applied Common Customs Tariff duty at any point in time during the period of imposition of measures. The applicable safeguard measures shall therefore be the lower of the adjusted customs duties and the applicable duty referred to in recital (85).
- (87) Finally, in order to provide legal certainty to the importers of the products concerned, various interested parties requested that products that are already on their way to the Union should not be covered by the above measures. In line with its current practice in safeguard cases, the Commission considers that such a 'shipping clause' is indeed warranted in this case and the claims were therefore accepted.
- (88) The measures provided for in this Regulation are in accordance with the opinion of the Generalised Preferences Committee referred to in Article 39(3) of Regulation (EU) No 978/2012,

<sup>(9)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The Common Customs Tariff duties are temporarily reintroduced on imports of Indica rice originating in Cambodia and Myanmar/Burma and currently falling within CN codes 1006 30 27, 1006 30 48, 1006 30 67 and 1006 30 98.
2. The duty applicable in EUR per tonne of the product described in paragraph 1 shall be 175 for the first year, 150 for the second year and 125 for the third year from the date on which this Regulation enters into force.
3. If the Commission adjusts the Common Customs Tariff duty pursuant to Article 180 of Regulation (EU) No 1308/2013, the tariff duty referred to in paragraph 2 should be set at the level of the lower of the adjusted Common Customs Tariff and the tariff duty referred to in paragraph 2.

*Article 2*

Imports of the products referred to in Article 1, which are already on the way to the Union on the date of entry into force of this Regulation, provided that the destination of such products cannot be changed, shall not be subject to the duty specified in Article 1(2).

*Article 3*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 January 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

---