

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/132****of 18 January 2023****on safeguard measures with regards to imports of Indica rice originating in Cambodia following the re-opening of the investigation in order to implement the judgment of the General Court of 9 November 2022 in Case T-246/19, with regard to Implementing Regulation (EU) 2019/67**

THE EUROPEAN COMMISSION,

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

Having regard to Article 310(5) of the Treaty on the Functioning of the European Union,

Having regard to Articles 22 and 26 of 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>,

Whereas:

**1. PROCEDURE**

- (1) On 17 January 2019 the European Commission ('the Commission') published Commission Implementing Regulation (EU) 2019/67 <sup>(2)</sup> imposing safeguard measures with regard to imports of Indica rice originating in Cambodia and Myanmar/Burma falling within CN codes 1006 30 27, 1006 30 48, 1006 30 67 and 1006 30 98, by which the Commission reintroduced the Common Customs Tariff duties on imports of that rice for a period of 3 years and introduced a progressive reduction in the rate of duty applicable ('the Regulation at issue') insofar as it concerned the imports of rice from Cambodia and Myanmar/Burma.
- (2) The Kingdom of Cambodia and the Cambodia Rice Federation challenged the Regulation at issue before the General Court ('the General Court').
- (3) By judgement of 9 November 2022 in Case T-246/19 Kingdom of Cambodia and Cambodia Rice Federation v Commission ('the judgment'), the General Court annulled the Regulation at issue.
- (4) The General Court found that the Commission erred in law and made a manifest error of assessment by arbitrarily limiting the scope of its investigation concerning the injury caused to the Union industry solely to millers of milled or semi-milled Indica rice processed from paddy rice grown or harvested in the European Union. The incorrect definition of Union producers thus also vitiated the analysis of the existence of serious difficulties, since the Commission excluded some of the producers from the injury assessment.
- (5) The General Court also found that the Commission failed to provide evidence to the requisite standard with respect to the adjustments made to the undercutting analysis.
- (6) Finally, the General Court found that the Commission infringed the applicants' rights of defence and the obligation to disclose the essential facts and considerations and the details underlying them. In particular, the Commission failed to disclose the data underlying the consumption and injury indicators and the undercutting analysis and the adjustments made following the comments of the interested parties on the general disclosure document.

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

<sup>(2)</sup> 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 (OJ L 15, 17.1.2019, p. 5).

## 2. GROUNDS FOR REOPENING THE INVESTIGATION AND SUSPENSION OF REPAYMENT OF DUTIES

- (7) Following the judgment, the Commission decided by means of a Notice ('the reopening Notice') <sup>(3)</sup>, to reopen the investigation and to resume it at the point at which the irregularity occurred.
- (8) As explained in the re-opening Notice the purpose of reopening the original investigation is to fully address the errors identified by the General Court, and to assess whether the application of the rules as clarified by the General Court warrants the re-imposition of the measures, which would lead to the reintroduction of the Common Customs Tariff duties on imports of Indica rice originating in Cambodia falling within CN codes 1006 30 27, 1006 30 48, 1006 30 67 and 1006 30 98 for the original period of 3 years, namely between 18 January 2019 and 18 January 2022.
- (9) Based on its new findings and the outcome of the reopened investigation, which is unknown at this stage, the Commission may adopt a new Regulation. Since the measures were terminated, any re-imposition of Common Customs Tariff duties would only concern imports made during the original period of application of the regulation at issue (namely, imports made between 18 January 2019 and 18 January 2022).
- (10) In accordance with Article 310(5) of the Treaty on the Functioning of the European Union, the budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle. For this purpose, national customs authorities are instructed to await the outcome of the re-examination before deciding on any repayment claim concerning the duties annulled by the General Court. Customs authorities are thus directed to put on hold any claims for reimbursements of the annulled duties until the outcome of the re-examination is published in the Official Journal;

HAS ADOPTED THIS REGULATION:

### *Article 1*

The national customs authorities shall await the publication of the relevant Commission Implementing Regulation concluding the investigation with regard to imports of Indica rice originating in Cambodia and Myanmar/Burma before deciding on any claim for repayment and remission of the ordinary duties collected on imports of Indica rice originating in Cambodia.

### *Article 2*

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, 18 January 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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<sup>(3)</sup> OJ C 18, 19.1.2023, p. 8.