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Safeguards Committee

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**NOTIFICATION UNDER ARTICLE 12.1 (B) OF THE AGREEMENT ON
SAVINGS, OF THE FINDING OF THE EXISTENCE OF A
SERIOUS DAMAGE OR THREAT OF SERIOUS DAMAGE
CAUSED BY INCREASED IMPORTS**

**NOTIFICATION UNDER ARTICLE 12.1 (C) OF
THE SAFEGUARDS AGREEMENT**

**NOTIFICATION UNDER ARTICLE 9, Footnote
FROM PAGE 2, OF THE SAFEGUARDS AGREEMENT**

M ADAGASCAR

Pasta

Extra charge

The following communication, dated February 20, 2020, is distributed at the request of the delegation from Madagascar.

In accordance with Article 12.1 (B) and Article 12.1 (C) of the Agreement on Safeguards, the Committee on backups is notified of the finding of serious damage or a threat of serious injury caused by increased imports and the decision to apply a safeguard measure on imports of pasta in the form of spaghetti, macaroni, noodles and any other form. It is also notified, in accordance with article 9, footnote 2, of the Agreement on Safeguards, of the decision not to apply the measure safeguard envisaged for imports from developing countries.

In accordance with Article 12.3 of the Agreement on Safeguards, Madagascar is ready to initiate consultations with Members with a substantial interest as exporters of the product considered.

**1 NOTIFICATION UNDER ARTICLE 12: 1 B) AND 12: 1 C) OF THE AGREEMENT ON
SAVINGS, RECORDING OF THE EXISTENCE OF A SERIOUS DAMAGE OR A**

THREAT OF SERIOUS DAMAGE CAUSED BY INCREASED IMPORTS, AND OF THE DECISION TO APPLY A SAFEGUARD MEASURE**1.1 Evidence of serious injury or threat of serious injury caused by increased imports**

The determination of serious injury to the domestic industry of pasta was founded on an objective and quantifiable basis of all relevant factors influencing the situation of this industry. The data available to the Authority have allowed to analyze the serious injury suffered by the domestic industry.

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i. Rate of increase in imports**i.1 Rate of increase in absolute and relative terms of imports**

Imports of pasta have experienced a sudden, recent and notable increase, especially in 2017 whose growth rate compared to 2016 reached 50% while this rate was only 3% between 2015 and 2016. In four years, from 2015 to 2018, the increase in imports reached 73%.

i.2 Downward trend in import prices

The analysis of imports showed that the average "Cost Insurance Freight" (CIF) prices for imports dropped significantly from 2,386 to 2,067 ariary per kilogram from 2015 to 2018.

ii. Effect on prices of domestic products

Part of the domestic industry sells its products at a loss, while another has saw its profit deteriorate during the analysis period. A strong temporal coincidence between the substantial decrease in import prices and decrease in prices of domestic products in 2017 compared to 2016 was observed. This situation is not sustainable for a long time and threatens the cessation of activities of all enterprises in the industry.

iii. Domestic market share absorbed by increased imports

Imports absorbed a significant market share during the period considered from the survey, despite the entry into operation of HABIBO MILLS in 2017. The share of imports in 2018 remains 87% of the market.

iv. Analysis of indicators of the domestic industry**A - SECTORAL ANALYSIS OF THE SITUATION OF THE PRODUCTION BRANCH NATIONAL**

Given the difference between the situation of enterprises in the domestic industry, a sectoral analysis of the domestic industry's injury indicators, those of the company having started its activity in 2017, i.e. HABIBO MILLS, on the one hand and those of two national producers, SALONE SA and SOCOBIS, who exercised this activity well before the

investigation period on the other hand, was carried out.

Apart from indicators of the achievement of HABIBO MILLS over the first two years, the Authority has completed the damage analysis using the company's business plan, drawn up in 2014, with the aim of drawing relevant conclusions.

Analysis of HABIBO MILLS business plan data as well as verification of sources of information it used allowed the ANMCC to conclude that the forecasts presented are relevant and achievable for the following reasons:

- the average CIF price per kilogram in 2014 was 2,543 Ariary per kilogram, a value which is much higher than the estimated price of (confidential) Ariary per kilogram of the company in 2017. The company probably expected a price increase for years to come when a contrary situation has occurred.
- imports were only 25,172 tonnes in 2014 and followed a rhythm more or less slow and normal increase until 2016. Imports increased abnormally and suddenly increased in 2017, which coincides with the period of realization of the investment, that is to say during the installation of the factory. Indeed, before 2017, the normal rate of annual average increase in imports was 3.2%. With this average annual growth rate, the forecast volume of imports in 2017 should have reached 27,000 tonnes. But that year, the volume of imports

of pasta suddenly reached 40,300 tonnes which made an overshoot of more than 13,000 tonnes compared to the estimate. This difference constitutes an enlargement market that would have benefited the company HABIBO MILLS which set its forecast for this year 2017 at (confidential) tonnes which is still less than 16,784 tonnes, equivalent to the sum of its realization of (confidential) tonnes and the excess of imports of 13,000 tonnes.

- The forecast production quantity of HABIBO MILLS for the first year operating is relatively low. It corresponds to 50% of its production capacity.

A.1 - HABIBO MILLS DAMAGE INDICATORS:

HABIBO MILLS performance indicators are developed from data and those of the company's business plan.

- Sales and turnover

HABIBO MILLS was able to increase its sales and turnover on the domestic market during the 2017-2018 period, however, the results are in deficit. These achievements are extremely below when compared to the forecast sales and turnover on the last two years. The rate of achievement of its 2018 forecasts is 30% in terms sales volume and 22% in terms of turnover.

- Production

As for its sales, the company's production achievements in 2017 and 2018 are far below expectations. It could not exceed 30% of the forecast volume in two years of activity.

- Productivity

A 39% improvement in the company's productivity in 2018 compared to 2017 was noted. Since the workforce remained almost unchanged, the improvement in productivity is reflected by the increase of production during the same period.

- **Use of production capacity**

The achievements during the 2 years of activity are much lower than the initial forecasts, 25% and 30% respectively in 2017 and 2018, even if the use of the capacity of production has increased by around 40%, despite the efforts made by the company to try to recoup his investment and keep his jobs.

- **Sales price and production cost**

Unlike the unit cost of production, the average unit selling price has declined during the investigation period. This situation was the result of stiff competition from imports, causing the inability of the company to adjust prices to cover its costs and generate profits.

- **Result**

Since the start of its activity, the company has suffered a loss which seems normal for the first year. But for the second year, HABIBO was unable to improve its results and continued to rack up financial losses despite its efforts in production and the sales. This situation is explained by the company's inability to increase or maintain its sales prices due to relatively low import prices, below its cost of production.

Furthermore, the temporal coincidence between the sudden increase in imports of around 50% between 2016 and 2017 and the importance of the financial losses accumulated by the company HABIBO

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MILLS concludes that the poor performance of the company cannot be considered as a start-up loss but the direct effect of increased imports.

- **Employment**

The company's employment has remained almost unchanged for the past two years.

- **Break even :**

It has been analyzed that the company's break-even point will never be reached in the face of the situation present, unless there is an opportunity for it to adjust its selling price.

- **Return on investment :**

The company's business plan provides that the return on investment would be realized at the end of the fifth year of operation, in 2021. This breakeven point is considered normal taking into account the amortization period of the fixed assets used which is 10 years. Unfortunately, account given the current situation, this return on investment will never take place, before the total duration depreciation, only if the company will be able to revise its prices.

A.2 - INDICATORS OF DAMAGE TO THE SALONE SA AND SOCOBIS COMPANIES:

(Sources: Actual data from SALONE SA and SOCOBIS companies)

- **Sales and turnover**

The two producers recorded a deterioration in the volume of sales throughout the survey period. Indeed, the sales volume decreased by 19% from 2015 to 2018. At the same time declining sales volume, over the same period, sales experienced a 3% degradation.

- **Production**

Like the development in sales, the production volume of the two domestic producers did not never stopped deteriorating since 2015. This drop was 20% from 2015 to 2018.

- **Productivity**

As noted above, all of the domestic producers have attempted to maintain the size of their employees. Indeed, their workforce has not undergone a significant change. Therefore, the evolution of productivity follows the same trend as that of the volume of production. This trend is decreasing and continuing since 2015, going from 22,856 kilograms per employee in 2015 to 18,228 kilograms per employee in 2018.

- **The use of production capacity**

The capacity utilization rate of the two domestic producers fell by 63% during the period from 2015 to 2018.

- **Results:**

The profit of the two domestic producers fell significantly by around 72% in during the period from 2015 to 2018.

- **Employment**

As assigned above, the domestic industry tried to maintain employment for the period from 2015 to 2018. As a result, the trend in the level of employment has only seen great fluctuation during this period. However, employment increased by 8% between 2015 and 2016 and then decreased by 3% between 2016 and 2017 before returning to its level in 2015.

B - GLOBAL ANALYSIS OF THE SITUATION OF THE PRODUCTION BRANCH NATIONAL

The preceding sectoral analysis highlighted the general and notable deterioration of the situation of all enterprises in the domestic industry. This degradation is noted on almost all of the economic indicators analyzed, with the exception of the last two years, increases in production volume and sales caused by the start-up of the company HABIBO MILLS. The additional quantities of production and sales brought by the HABIBO MILLS Company Did Not Prevent Domestic Industry From Accumulating Losses and have not allowed it to improve its results, which have never stopped deteriorating every year since the start of the survey period.

Thus, the examination of all the relevant factors above made it possible to note the deterioration

general and notable economic indicators of the domestic industry, including production volume, sales volume, market share, results, and use of production capacity, and that imports weigh very heavy and threaten the survival of domestic producers. It is therefore concluded that the domestic industry for the products similar or directly competitive with the product concerned by the investigation, suffered serious injury.

UNFORESEEN CIRCUMSTANCES

It has been determined that there has been a sudden, recent, large and brutal increase in imports of the products under investigation. This increase is due to an evolution unforeseen circumstances, notably the monetary crisis in Egypt in 2016 which led to the Egyptian central bank to devalue the Egyptian Pound by 48% following the collapse of its dollar reserves and move to a floating exchange rate regime. This change in policy monetary policy boosted exports including pasta which is exported to 55% to Madagascar in 2018 if 29% in 2015. Over 70% of the volume of pasta imported by Madagascar is from this country.

INCREASE IN IMPORTS

i. Evolution in absolute terms of imports

According to statistics provided by the Madagascar Customs Administration, the volume import of pasta increased by 3% in 2016 compared to 2015.

The substantial and notable increase is between 2016 and 2017. In one year, this increase reached 50%. This upward trend continued in 2018. During the period of study, the increase in imports is 73%.

Evolution in absolute terms of imports

	2015	2016	2017	2018	Jan. to Sept. 2019
Import	25,967,061	26,808,124	40,300,093	44 909 601	25 120 526
Evolution	100	103	155	173	-

Source: Data compiled from Madagascar Customs statistics.

On a more recent period, from 1st January to 30 September 2019, the import volume was close the annual volume of the first two years of the survey period.

Analysis of monthly averages could be misleading due to fluctuations in monthly imports for each year. Therefore, trend analysis cannot be carried out only on the basis of a comparison of annual data.

ii. Evolution in relative terms of imports compared to national production

Evolution of imports in relation to national production (Index)

Import / Domestic production (three producers)	2015	2016	2017	2018
Import / Domestic production (two pre-existing producers)	100	108	59	52
Import / Domestic production	100	108	182	217
Import / Domestic production	-	-	100	79

Source: Data developed from Malagasy Customs Administration statistics and data domestic producers.

In the first 2 years of the period of investigation, the increase in imports is verified both in absolute terms and in relative terms in relation to national production. The proportion of imports compared to national production changed by 8 points between 2015 and 2016.

The pace of increase in imports relative to domestic production appears to be no maintained over the past two years. This decrease is misleading because the increase in national production volume can not be translated as improving the situation of the domestic industry but due by the entry of the company HABIBO MILLS in the activity pasta production since 2017.

However, the proportion of imports in relation to domestic production remains very high. In 2018, this proportion is more than 600%. It can be concluded that the imported products still have largely dominated the national market.

By carrying out a separate analysis of the evolution of the increase in imports compared to the domestic production, the rate of relative increase in imports is clear if we stay on the evolution of the production of the companies SALONE and SOCOBIS. The volume of their production has never stopped degrading over the entire period covered by the investigation.

1.2 Precise designation of the product in question

Pasta in the form of spaghetti, macaroni, noodles and any other relevant form codes: 19021190, 19021990, 19022090 and 19023090 of the customs tariff of Madagascar.

1.3 Precise designation of the planned measure

In order to prevent or remedy the serious injury caused to domestic producers by imports of pasta in such increased quantities, it is planned to apply a measure of definitive safeguard in the form of an additional duty of 30% of the CIF value of the product in cause.

1.4 Projected date for the introduction of the measure

The definitive safeguard measure will enter into force from the date of the decision y related.

1.5 Probable duration of the measure

The duration of the definitive safeguard measure is four years, including the period of application of the provisional measure.

1.6 Proposed date for review (under Article 7.4)

The review, under Article 7.4 of the Agreement on Safeguards, will take place no later than the middle the period of application of the final measure.

1.7 Timetable for the progressive liberalization of the measure

The release schedule is as follows:

Period	Rate of additional duty
August 01, 2019 - July 31, 2020	30%
August 01, 2020 - July 31, 2021	29%
August 01, 2021 - July 31, 2022	28%
August 01, 2022 - July 31, 2023	27%

1.8 Date of prior consultation with Members with a substantial interest in as exporters of the goods

In accordance with Article 12.3 of the WTO Agreement on Safeguards, Madagascar is willing to consult with Members with a substantial interest as exporters of product considered no later than **March 16, 2020**.

The request for consultation must be sent to the Director General of the ANMCC at e-mail address : dg.anmcc@gmail.com.

2 NOTIFICATION UNDER ARTICLE 9, Footnote 2, OF THE AGREEMENT ON SAFEGUARDS, FROM THE NON-APPLICATION OF A SAFEGUARD MEASURE TO DEVELOPING COUNTRIES

2.1 Designation of the measure

In order to prevent or remedy the serious injury caused to domestic producers by imports of pasta in such increased quantities, it is planned to apply a measure of definitive safeguard in the form of an additional duty of 30% of the CIF value of the product in cause.

2.2 Products covered by the measure

Pasta in the form of spaghetti, macaroni, noodles and any other relevant form codes: 19021190, 19021990, 19022090 and 19023090 of the customs tariff of Madagascar.

2.3 Developing countries to which the measure is not applied under Article 9.1 of the Agreement on Safeguards

Imports from the following countries will not be subject to the definitive safeguard as long as imports from each of these countries do not exceed not 3% of Madagascar's total imports and that they will not collectively contribute to more than 9%:

Afghanistan, South Africa, Albania, Angola, Antigua and Barbuda, Saudi Arabia, Argentina, Armenia, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Plurinational State, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Chile, Colombia, Congo, Costa Rica, Ivory Coast, Cuba, Djibouti, Dominica, El Salvador, United Arab Emirates, Ecuador, Eswatini, The former Yugoslav Republic of Macedonia, Fiji, Gabon, The Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Marshall Islands, Solomon Islands, India, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Lesotho, Liberia, Malaysia, Malawi, Maldives, Mali, Morocco, Mauritania, Mexico, Moldova, Mongolia, Montenegro, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Uganda, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Central African Republic, Democratic Republic of the Congo, Lao People's Democratic Republic, Republic Dominican Republic, Kyrgyz Republic, Rwanda, Saint Vincent and the Grenadines, Saint Lucia, Saint Kitts and Nevis, Samoa, Senegal, Seychelles, Sierra Leone, Sri Lanka, Suriname, Swaziland, Tajikistan, Tanzania, Chad, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Ukraine, Uruguay, Vanuatu, Venezuela Bolivarian Republic, Viet Nam, Yemen, Zambia, Zimbabwe.

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2.4 Additional information

Information regarding the decision to apply the definitive safeguard measure to affected products can be obtained at the following address:

The Director General of the ANMCC
Ex-Conquest Antanimena, Antananarivo 101 - Madagascar
Email : dg.anmcc@gmail.com
