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Working Party on State Trading Enterprises

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STATE TRADING

NEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVII:4(A) OF THE GATT 1994 AND PARAGRAPH 1 OF THE UNDERSTANDING ON THE INTERPRETATION OF ARTICLE XVII

MALAYSIA

The following communication, dated and received on 12 October 2021, is being circulated at the request of the delegation of Malaysia.

I am pleased to submit herewith Malaysia's notification pursuant to Article XVII:4(a) of the GATT 1994 and paragraph 1 of the Understanding on the Interpretation of Article XVII, and in response to the calls for notifications contained in documents G/STR/N/17 and G/STR/N/18, for the years 2016-2017 and 2018-2019, respectively.

1 ENUMERATION OF STATE TRADING ENTERPRISES

A. *Identification of state trading enterprise.*

Padiberas Nasional Berhad (BERNAS).

B. *Description of products affected (including tariff item number(s) encompassed in product description).*

Rice (HS 10.06)

2 REASON AND PURPOSE

A. *Reason or purpose for establishing and/or maintaining state trading enterprise.*

Padiberas Nasional Berhad (BERNAS) acts as a State Trading Enterprise for rice importation. It performs non-commercial activities on behalf of the Government of Malaysia.

B. *Summary of legal basis for granting the relevant exclusive or special rights or privileges, including legal provisions and summary of statutory or constitutional powers.*

The National Paddy and Rice Board (hereinafter referred to as NPRB) was corporatized on 7 July 1994 and later privatised on 12 January 1996. Following this corporatization exercise, the Board was dissolved and all its regulatory functions and activities were transferred to the Ministry of Agriculture. The Padiberas Nasional Berhad (BERNAS) was then created as a public limited company limited by shares registered under the Companies Act 1965 to carry out the relevant function for the Government besides its own commercial activities. The Government of Malaysia via the Ministry of Finance (MOF) Incorporated holds one Special Right Redeemable Preference Share in BERNAS.

3 DESCRIPTION OF THE FUNCTIONING OF THE STATE TRADING ENTERPRISE

A. Summary statement providing overview of operations of the state trading enterprise.

BERNAS carries out non-commercial activities on behalf of the Government including:

- i. conserve, maintain and manage the National Rice Stockpile;
- ii. act as a buyer of last resort for the Paddy Farmers;
- iii. manage the disbursement of subsidies to Paddy Farmers under the Paddy Price Subsidy Scheme;
- iv. undertake to manage the Bumiputera Rice Millers Schemes and Bumiputera Wholesalers including Bumiputera owned Cooperatives Schemes;
- v. manage and administer the supply farm machinery and paddy harvesting mechanization;
- vi. develop and manage the large-scale farming in paddy fields as well as local special Paddy and Rice;
- vii. administer and manage the National Paddy Seed Stockpile;
- viii. contribute to the natural disaster fund established by the Government to facilitate Paddy Farmers;
- ix. support the Paddy and Rice industry development information system to be established by the Government; and
- x. support the development of soil nutrient of paddy fields managed by the Government.

The commercial activities of BERNAS include:

- i. paddy seed production;
- ii. paddy farming;
- iii. paddy procurement and rice processing;
- iv. distribution and trading of rice and its by-products; and
- v. rice importation.

B. Specification of exclusive or special rights or privileges enjoyed by the state trading enterprise.

For the non-commercial activities undertaken on behalf of the Government, BERNAS was given the right to import rice into Malaysia (previously undertaken by NPRB). However, as a company, BERNAS has no statutory power or authority. On the contrary, it is subjected to the same laws and rules as other rice millers and traders in the country.

C. Type of entities other than the state trading enterprise that are allowed to engage in importation/exportation and conditions for participation.

BERNAS is the only company permitted to import rice without restriction of origin country. The distribution of the imported rice in the country by BERNAS is by direct sales to wholesalers that in turn distribute rice to retailers. BERNAS is not in competition with wholesalers that distribute rice directly to retailers. Beginning 2023, other companies are permitted to import rice from Australia (only for Australian rice) as a result of the free trade agreement between the two countries.

D. How import/export levels are established by the state trading enterprise.

Rice is imported to supplement domestic production and for food security purposes. The two main criteria used for determining the annual quantity to be imported are the annual rice deficit in the country and the rice stockpile requirement for food security. The deficit is determined by the shortfall in production against the estimated national consumption and requirement. The quantity is also determined by the level of rice stockholding in the stockpile.

E. How export prices are determined.

BERNAS is not involved in the export of rice.

F. How the resale prices of imported products are determined.

Under the Rice Order (Control of Grades and Prices) 1992, rice marketed in Malaysia is classified according to three major grades, i.e. super grade, premium grade and standard grade. The maximum prices of the lower grades, i.e. premium grade and standard grade, are fixed by law. The imported rice super grade does not have a ceiling price and price levels are determined by the market. However, for local super grade consumer, the ceiling price is regulated by the Government.

The pricing strategy adopted by BERNAS is determined by quality and target markets. Rice imported into Malaysia falls under the super grade, according to preferences of the consumers. The quality of the imported rice is mostly of a higher quality compared to the local super grade and as such it is priced higher than the local super grades and is targeted mainly at the niche segments of the market.

G. Whether long-term contracts are negotiated by the state trading enterprise. Whether the state trading enterprise is used to fulfil contractual obligations entered into by the government.

BERNAS does not buy rice on long-term contracts. BERNAS buys rice on the spot or short term contracts depending on the international market and supply conditions. Rice contracts are normally for a period of 3-6 months.

H. Brief description of market structure.

Rice imports are also based on commercial and marketing considerations. The type, grade and quality of rice that is imported are determined by domestic market preferences and needs. Import sources are chosen on the basis of commercial considerations namely quality, price, availability and demand. BERNAS procures the rice through international traders and exporters in the relevant exporting countries mostly by way of quotations or tenders. For strategic reasons BERNAS has also diversified its sources of supply in order to reduce its dependence on a single source whose supply could be affected during period of drought or crisis.

4 STATISTICAL INFORMATION (SEE ATTACHED TABLES I - III)**5 REASON WHY NO FOREIGN TRADE HAS TAKEN PLACE (AS APPROPRIATE)**

Malaysia is a net importer of rice.

6 ADDITIONAL INFORMATION (AS APPROPRIATE)

TABLE I**STATE TRADING: PADIBERAS NASIONAL BERHAD (BERNAS)****STATISTICAL INFORMATION, IMPORTS**

Description of product(s) (including HS number(s))	Total quantity imported¹ ('000 MT)	Quantity imported by state trading enterprise¹	Average import price (RM/MT)	Average representative domestic sales price³ (RM/MT)	Mark-up²	National production ('000 MT)
1	2	3	4	5	6	7
RICE (HS 10.06)						
2013	Not Applicable	853	1,918	2,100 – 2,800	Not Applicable	1,685
2014	Not Applicable	863	1,855	2,100 – 2,800	Not Applicable	1,847
2015	Not Applicable	960	2,068	2,100 – 2,800	Not Applicable	1,909
2016	Not Applicable	748	2,540	2,100 – 2,800	Not Applicable	1,969
2017	Not Applicable	726	2,599	2,100 – 2,800	Not Applicable	1,735
2018	Not Applicable	776	2,689	2,100 – 2,800	Not Applicable	1,748
2019	Not Applicable	890	2,618	2,100 – 2,800	Not Applicable	1,686
2020	Not Applicable	1,110	2,632	2,100 – 2,800	Not Applicable	1,817

¹ All rice import was done through STE (BERNAS).

² Members may report either under columns 4 and 5 or under column 6.

³ Denotes the typical rice prices sold in the retail market, quality of those rice ranges from good to acceptable.

TABLE II

STATE TRADING: PADIBERAS NASIONAL BERHAD (BERNAS)

STATISTICAL INFORMATION, EXPORTS

Description of product(s) (including HS number(s))	Total quantity exported ¹	Quantity exported by state trading enterprise ¹	Average procurement price ²	Average representative domestic sales price	Average export price	National production
1	2	3	4	5	6	7
Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable

¹ In cases where no exports have taken place under columns 2 or 3, provide an explanation under Section V of this questionnaire.

² In cases where the initial procurement price is augmented by other payments, additional payments should also be reported.

TABLE III

STATE TRADING: PADIBERAS NASIONAL BERHAD (BERNAS)

STATISTICAL INFORMATION, DOMESTIC ACTIVITIES

Description of product(s) (including HS number(s))	Domestic purchases by state trading enterprise ('000 MT)	National production ¹ ('000 MT)	Domestic sales by state trading enterprise ² ('000 MT)	National consumption ³ ('000 MT)
1	2	3	4	5
RICE (HS 10.06)				
2013	527	1,685	1,274	2,666
2014	623	1,847	1,311	2,728
2015	681	1,909	1,476	2,815
2016	861	1,969	1,289	2,721
2017	744	1,735	1,170	2,826
2018	554	1,748	1,003	2,827
2019	440	1,686	1,069	2,617
2020	448	1,817	1,191	2,654