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Via Electronic Submission

Docket No. USTR-2013-0019  
Office of the United States Trade Representative  
Trade Policy Staff Committee  
600 17th Street NW  
Washington, DC 20208

**Re: Request for Comments Concerning the Proposed Transatlantic Trade and Investment Partnership**

The USA Rice Federation (USA Rice), located at 2101 Wilson Blvd., Suite 610, Arlington, VA 22201, is the global advocate for all segments of the U.S. rice industry with a mission to promote and protect the interests of producers, millers, merchants and allied businesses. USA Rice members are active in all major rice-producing states: Arkansas, California, Florida, Louisiana, Mississippi, Missouri and Texas. The USA Rice Producers' Group, USA Rice Council, USA Rice Merchants' Association and the USA Rice Millers' Association are members of the USA Rice Federation.

USA Rice submits the following in response to the *Federal Register* notice (Vol. 78, No. 62) of April 1, 2013, requesting comments concerning the proposed Transatlantic Trade and Investment Agreement. This statement covers all rice listed under chapter 1006 of the Harmonized Tariff System.

USA Rice appreciates the opportunity to comment on the Transatlantic Trade and Investment Partnership (T-TIP) agreement. The U.S. rice sector is a key player in the global rice market and the economic health of the rice industry is tied to exports. While the United States produces only 2 percent of global rice output, the United States ranks, in any year, as the third or fourth largest global exporter, and between 45 and 50 percent of the U.S. rice crop is exported.

***Summary of USA Rice Interests and Priorities***

The EU has traditionally been a major export destination for U.S. rice, particularly long grain varieties from the mid-South. However, U.S. access is sharply constrained by EU import policies designed to protect the brown rice milling industry in northern Europe; to provide specific tariff concessions on rice from former EU colonies; and to provide duty free access to least developed countries. These policy priorities have left U.S. access restricted to brown rice because of prohibitive import duties on milled rice. The United States does benefit from a small tariff rate quota for a specific amount of fully milled rice granted as a concession due to EU expansion in 1995.

U.S. access suffered a devastating blow in August 2006, from which it has yet to recover, following announcement by USDA/APHIS of the accidental contamination of the U.S. long grain commercial rice supply with the genetically modified (GM) traits Liberty Link 62 and Liberty Link 601 (LL62, LL601). These GM traits were and remain illegal for feed and animal consumption in the EU, and a robust long grain rice export market nearly vanished overnight. The EU's biotechnology regulatory failure has thwarted U.S. rice industry attempts to restore this market despite the U.S. industry's success in effectively removing these two GM traits from the commercial long grain rice supply. This success is widely recognized in the United States and the EU.

Because of the history of discriminatory and differential tariff treatment afforded U.S. rice and the unscientific bias of the EU's biotechnology policy, USA Rice is urging USTR to negotiate a T-TIP agreement that provides for free trade in all forms and types of rice between the United States and the EU and that provides for a regulatory solution that includes a low level presence policy (LLP). Such an LLP is warranted in recognition of U.S. industry efforts to remove LL traits from the U.S. long grain rice supply, and in recognition of U.S. and EU regulatory reviews that demonstrate no plant or human health threats from LL62 and the close variant, LL601.

USA Rice members appreciate the likely sensitive nature in the EU of rice in these negotiations. These sensitivities may influence the staging and structure of liberalization, but it should not deter U.S. negotiators from achieving a robust result that lays out a transparent and attainable route to free trade in rice.

#### ***The EU Market for U.S. Rice & EU Import Duties***

Below are tables detailing U.S. rice exports to the EU by quantity and value in August-July marketing years 2005/2006 through 2011/2012. Data are provided by HS code.

#### **U.S. Rice Exports to the EU, Aug-July 2005/2006 - 2011/2012, 1,000 mt**

	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
<b>Rice Product/1,000 mt</b>							
<b>1006309020 MLD,MED,NES</b>	14,446	14,064	12,978	16,413	14,850	17,992	19,456
<b>1006301020 PB,LONG GR</b>	126,204	11,197	15,577	7,735	16,979	15,071	9,968
<b>1006309010 MLD,LG,NES</b>	7,571	8,720	45,380	26,501	35,715	29,835	24,790
<b>1006309030 MLD,SHT,NES</b>	3,816	5,659	7,328	5,537	3,837	3,188	3,508
<b>1006309040 MLD,MXD NES</b>	1,054	1,427	988	528	470	748	1,081
<b>1006204040 MED,BRN</b>	443	2,678	1,996	7,219	153	159	101
<b>1006204020 LNG GRN,BRN</b>	132,805	19,301	5,353	11,540	8,331	4,780	577
<b>1006400000 BROKEN</b>	7,727	6,485	13,423	15,783	5,060	19,429	42
<b>1006204080 MXD,BRN</b>	781	2,038	2,165	988	36	0	6
<b>1006301040 MLD,PB,NES</b>	4,907	546	163	620	136	65	44
<b>1006204060 SHT GRN,BRN</b>	184	147	293	66	361	12	486
<b>1006100000 PADDY</b>	21,355	1,298	1,854	361	112	14	99
<b>1006202000 BASMATI,BRN</b>	503	0	152	21	14	11	39
<b>Grand Total</b>	321,795	73,558	107,650	93,312	86,054	91,305	60,197

Source: U.S. Bureau of the Census.

**U.S. Rice Exports to the EU, Aug-July 2005/2006-2011/2012, \$1,000**

	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
<b>Product/\$1,000</b>							
1006309020 MLD,MED,NES	8,045	9,713	10,941	17,683	15,118	18,923	18,877
1006301020 PB,LONG GR	39,076	4,376	7,355	6,602	10,965	9,507	7,244
1006309010 MLD,LG,NES	2,879	3,612	22,349	15,548	20,020	14,864	14,271
1006309030 MLD,SHT,NES	1,981	3,844	4,887	6,141	4,986	3,920	4,099
1006309040 MLD,MXD NES	386	651	676	687	597	819	1,220
1006204040 MED,BRN	185	1,279	1,258	5,358	159	158	102
1006204020 LNG GRN,BRN	33,597	6,160	3,258	7,368	4,539	2,106	421
1006400000 BROKEN	1,870	1,772	3,664	9,690	5,363	6,045	46
1006204080 MXD,BRN	211	498	428	427	24	0	4
1006301040 MLD,PB,NES	3,275	320	120	534	102	52	30
1006204060 SHT GRN,BRN	48	36	57	95	282	19	449
1006100000 PADDY	3,674	267	388	180	61	24	603
1006202000 BASMATI,BRN	125	0	52	14	9	5	37
<b>Grand Total</b>	<b>95,352</b>	<b>32,529</b>	<b>55,432</b>	<b>70,326,237</b>	<b>62,225</b>	<b>56,444,053</b>	<b>47,402</b>

Source: U.S. Bureau of the Census.

Notes: MLD=milled, MED=medium, NES=not elsewhere specified, PB=parboiled, GR=grain, LG=long grain, SHT=short, MXD=mixed, BRN=brown

**EU: WTO Bound Rates and Applied Duties on Rice**

Product	HTS	Bound Rate	Applied Rate 1/	TRQ	In-quota Rate
Paddy Rice	1006.1	€211 MT	€211 MT	NA	NA
Brown Rice	1006.2	€65 MT	€30-€65 MT*	20,000 MT	€88 MT
Milled Rice	1006.3	€175 MT	€145-€175 MT	63,000 MT	0%
Broken Rice	1006.4	€128 MT	€65 MT	100,000 MT	€28 reduction from standard duty

1/ Zero duty on rice from least developed countries (under Everything But Arms concession).

\* Exports of Basmati rice from India and Pakistan have zero duty treatment.

U.S. rice exports to the EU were nearly 322,000 mt, valued at \$95.4 million, in 2005/2006, before the impact of the Liberty Link contamination. Exports have remained below 100,000 mt annually since then with one exception. Exports in 2011/2012 were the lowest since the contamination at 60,197 mt, valued at \$47.4 million.

The composition of U.S. exports has also changed dramatically. Prior to August 2006, long grain brown and parboiled rice dominated, accounting for 80 percent of the volume of U.S. rice exports to the EU in 2005/2006. By 2011/2012, this share had dropped to 18 percent, replaced by medium grain sales (32 percent) and long grain white rice (41 percent).

Sales of U.S. medium grain, which was unaffected by the LL contamination, have risen slowly over recent years, accounting for the rising share in a much reduced market. The share of long grain white rice has benefited from a specific EU zero-duty tariff rate quota (TRQ) for U.S. fully milled rice.

### ***EU Rice Import Policies***

The EU has multiple import regimes for rice consisting of tariff rate quotas (TRQ), variable applied duties, and country-specific concessions. The current regimes as a whole severely distort the import market, raise serious questions about compliance with the EU's obligations to the World Trade Organization (WTO), and are detrimental to U.S. export interests.

Below is a summary of the EU's rice import regimes as understood by USA Rice. **Highlighted headers indicate applicability to U.S. rice and/or U.S. benefit.**

**White rice regime.** The white rice (fully milled) import duty is bound at €175/mt, but the applied duty is determined twice within a marketing year (Sept-Aug) – on September 1 and February 1 – based on actual imports in the preceding 12 and 6 month reference period, respectively. Based on the level of imports in the reference period relative to a predetermined reference level, the applied rate is either €175/mt or €145/mt. The current duty is €175.

**Brown rice regime.** Brown rice exporters, including the United States, are subject to a complex variable levy system that provides for one of three applied duties -- €30, €42.5, or €60/mt – depending on brown rice imports in a preceding 6- or 12-month period. Duties are reset every six months, and the current duty is €30/mt. The current import regime for brown rice dates to 2005, and USA Rice believes this regime should be replaced by a straight duty of zero.

**Broken rice regime.** The bound EU duty on broken rice is €128/mt, but the applied, or current rate, is €65/mt. The EU also has four country-specific TRQs (including one for the United States) and a TRQ for all origins that collectively equal 100,000 mt at a duty that is 33.77% less than the applied duty. The U.S. TRQ equals 9,000 mt. There is also a zero-duty TRQ for broken rice from all origins of 31,788 mt.

**Basmati Rice regime.** Specified varieties of basmati rice – whether in brown or white form – from India and Pakistan enter the EU at zero duty. There is no quantity cap to this concession.

**Everything But Arms Concession.** All agricultural products, including rice, enter duty-free from a list of least developed countries. There is no quantity restriction on this concession. EBA-eligible rice producing countries, particularly Cambodia, have established markets in the EU.

**TRQ for EU Enlargement--Sweden, Finland and Austria (1995).** Following negotiations with the United States, Australia, and Thailand, the EU established two global calendar-year TRQs: one for 63,000 metric tons of *milled rice* and another for 20,000 tons of *brown rice*. The U.S. share of the *milled rice TRQ*, is 38,721 tons at a zero duty. The U.S. share of *brown rice TRQ*, is 7,642 tons at a duty of €88/mt. The

brown rice concession is currently effectively worthless because the bound, or maximum, EU duty on brown rice is €65/mt.

**TRQ for Enlargement—to EU-27.** Five country-specific TRQs and two TRQs for all origins were established for milled rice for a total of 81,049 mt with a zero in-quota duty. The U.S. share is 2,388 mt.

TRQs for Netherlands Antilles and Aruba. A combined annual 25,000-mt TRQ for all rice with no duty.

TRQ for least developed OCTs. A combined annual 10,000mt TRQ for all rice at zero duty for 9 specified least developed overseas trusts and colonies of EU member states.

TRQs for Egypt. As part of an Association Agreement, the EU provides a zero-duty TRQ for 11,667 mt of *brown rice* on an annual basis. Egypt also receives a *milled-rice* TRQ of 40,883 mt at zero duty as a concession for the EU-27 enlargement.

TRQ for Bangladesh. A brown-rice equivalent TRQ of 4,000 mt, excluding paddy rice, at within quota duties of at least 50% less than applied duties based on type and form of rice imported.

TRQ for all WTO members. There is an annual brown rice TRQ for 1,634 mt with an in-quota duty of 15%.

**The total quantity of rice potentially entering EU at less than applied duties is approximately 370,000 mt (product weight basis), excluding basmati rice.**

The present EU white, brown, and broken rice duty regimes replaced an EU trade concession called the margin of preference (MOP) in 2005. Under WTO rules, the EU was required to put in place a duty regime no less favorable to imports when it withdrew the MOP. Because of uncertainty over U.S. market access, the United States reserved its WTO rights to challenge the new brown rice regime if access was found to be less than what would have existed under the MOP.

USA Rice calculates that the duty on U.S. brown rice would be zero today if the MOP were still in place. Because of this finding and because of the EU's WTO obligation and overall dissatisfaction in the EU and U.S. trade with the complexity of the current system, the United States has exercised its WTO rights and requested that the regime be renegotiated. The European Commission has agreed in principle, but it has been unable to get a negotiating mandate from the EU member states.

The Commission's most recent reported position is that a solution must 1) represent an applied duty that is either a percentage of the bound rate (€65/ton) or an absolute reduction from the bound rate that leaves the applied duty at or above €40/ton; 2) any long term solution on brown rice must be part of a Doha Round agreement; and 3) in the interim, the Commission will not allow the applied duty to reset to €65/ton. None of these points reflects the EU's obligations.

It is clear that the Doha Round of negotiations will not be the vehicle for improving U.S. market access or for rationalizing the EU's import regime. It now falls to the T-TIP as the mechanism to negotiate fully liberalized rice trade between the United States and the EU.

### ***Biotechnology Regulation***

The EU's regulatory approval structure for plant products containing genetically modified traits is the single largest obstacle to regaining historic levels of U.S. rice exports to this region.

Following the unintended contamination of the commercial supply of U.S. long grain rice in August 2006 with the Liberty Link 601 and 62 GM traits, U.S. rice exports to the EU plummeted. Despite the successful effort of the U.S. rice industry to effectively remove the LL traits from the commercial supply, trade has not returned and the lack of a functioning EU biotechnology regulatory approval process is responsible. The EU maintains a zero-tolerance regulatory policy towards the presence of unapproved GM traits in food and feed, and EU importers are unwilling to take the legal risk of large-scale imports of U.S. long grain rice, notwithstanding the effective elimination of LL traits.

The LL62 trait has the dubious distinction of being the longest-standing GM trait in the EU biotechnology approval pipeline. The trait has received a positive assessment from the European Food Safety Authority but final approval is languishing because of lack of political will by the European Commission and the Member States. While approval of LL62 would not remove the complete market access barrier, it is a necessary step.

USA Rice believed the Commission was poised in mid-2012 to implement a technical interpretation of zero presence for unapproved GM traits in food much along the same line as has been done for feed. Unfortunately, that has not occurred. As with approval of LL62, a technical definition of zero for foods would not completely remove the regulatory barriers facing U.S. long grain rice, but would be an important confidence building step.

USA Rice urges the U.S. government to use the T-TIP to negotiate a functioning, science-based EU regulatory regime for biotechnology in general, and to press for adoption of an EU low-level presence policy (LLP) for foods that would include specifically the LL601 trait. Because of the effective non-existence of LL traits in the U.S. supply, such an LLP would remove the regulatory road block from reestablishing a market presence for U.S. long grain rice in the EU.