

**IN THE MATTER OF THE FINAL APPLICATION FOR
THE DEFINITIVE GENERAL SAFEGUARD
MEASURE AGAINST THE IMPORTATION OF
TESTLINER BOARD FROM VARIOUS COUNTRIES
(AHTN Codes 4805.2400, 4805.2510 & 4805.2590)
(Safeguard Measure Case No. 01-2010)**

**Philippine Testliner Board Industry
Petitioner**

X-----X

ORDER

On 24 November 2010, the Department of Trade and Industry (DTI) received the Tariff Commission's Formal Investigation Report on the application for general safeguard measure against the importation of testliner board from various countries classified under ASEAN Harmonized Tariff Nomenclature (AHTN) Code Nos. 4805.24.00, 4805.25.10 and 4805.25.90.

The Commission, in accordance with RA 8800 and the WTO Agreement on Safeguards, concluded that:

1. The domestic industry accounted for 63% of the total domestic production of testliner boards from 2004 to 2009.
2. Locally produced testliner board regardless of the weight in grams per square meter is a like product to imported testliner board.
3. Testliner board was imported in significantly increased quantities, both in absolute terms and relative to domestic production, from 2005 through 2008. Imports peaked in the first six (6) months of 2010.
4. The domestic testliner board industry suffered and is suffering significant impairment in its overall condition in terms of shrinking market share; declining production and sales; underutilization of rated capacity; and operating losses.
5. While there were other factors that contributed to the impairment of the overall condition of the domestic industry, increased importations of testliner board were the substantial cause of the serious injury to the domestic industry.

The existence of a causal link between the increased imports of testliner board and serious injury to the domestic industry having been established, the Commission recommended the appropriate definitive general safeguard measure to be imposed on imports of testliner board. The measure shall be effective for three (3) years starting from 16 September 2010 i.e. the date the provisional measure took effect.

OFFICE OF THE SECRETARY

4/F Industry & Investments Building, 385 Sen. Gil J. Puyat Avenue, 1200 Makati City, Philippines
Telephone: (+632) 899-7450 • Fax: (+632) 896-1166 • E-mail: secretary@dti.gov.ph
www.dti.gov.ph

Section 5 of RA 8800 states that:

“The Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as to be a substantial cause of serious injury or threat thereof to the domestic industry; **however, in the case of non-agricultural products, the Secretary shall first establish that the application of such safeguard measures will be in the public interest.**”

Accordingly, the DTI has reviewed the Commission’s findings and recommendations and has established that the application of general safeguard measures shall be in the public interest.

IN VIEW THEREOF, and in accordance with Section 13 of RA 8800, the following is hereby issued:

1. For the first year of its implementation, the definitive general safeguard measure in the amount of ₱ 1,342/MT shall be imposed on testliner board imported from various countries which are classified under AHTN Code Nos. 4805.24.00, 4805.25.10 and 4805.25.90, regardless of the weight in grams per square meter.
2. Section 15(3) of RA 8800 provides further that **“an action described in Section 13(a), (b) or (c) that has an effective period of more than one (1) year shall be phased down at regular intervals within the period in which the action is in effect”**. Thus, the measure shall continue to be liberalized annually for the second and third year of the three-year implementation period to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to increased imports.
3. Pursuant to Section 13 of RA 8800 and Rule 13.1.d of its IRR, **“a general safeguard measure shall not be applied to a product originating from a developing country if its share to total Philippine imports of the said product is less than three percent (3%): Provided, however, that developing countries with less than three percent (3%) share collectively account for not more than nine percent (9%) of the total Philippine imports of the product concerned”**. The countries and separate customs territories listed in Annex A are therefore excluded from the imposition of the definitive general safeguard measure on testliner board. The composition of the developing countries on the *de minimis* list may change depending on the most recent data available during the period of annual review which will be conducted by the DTI during the implementation period.
4. Rule 13.3.c of the IRR of RA 8800 also provides that: **“In the case a cash bond has been filed, the same shall be applied to the safeguard duty assessed**. In case of a negative finding or if the cash bond is in excess of the definitive safeguard duty assessed, the remainder shall be immediately returned to the importer within ten (10) calendar days from the date a final decision has been made: Provided, that no interest shall be payable by the government on the amount to be returned”. All cash bonds that may have been imposed on

shipments originating from countries listed in Annex A and which entered in or are withdrawn from warehouses in the Philippines for consumption starting 16 September 2010, i.e. the date the provisional safeguard measure took effect, shall be immediately returned to the concerned importer.

Importers of testliner board originating from a country that is exempt from the safeguard duty shall submit a Certificate of Country of Origin (CO) issued by the authorized agency/office in the source country of manufacture authenticated by the Philippine Embassy/Consulate thereat.

The notification and consultation requirements under Article 12 of the WTO Safeguards Agreement and Section 17 of RA 8800 and its IRR shall be complied with. Imports originating from ASEAN Member states shall be governed by the provisions of Articles 11 and 23 of the ASEAN Trade and Goods Agreement (ATIGA).

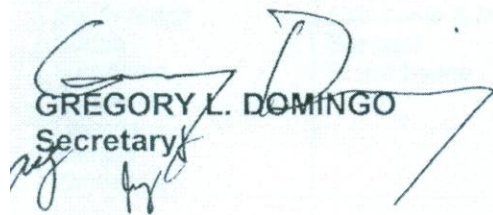
The application of the definitive general safeguard measure shall be monitored and reviewed in accordance with Sections 15 and 16 of RA 8800. Applicant of testliner board industry is also directed to comply with its adjustment plan.

This Order shall take effect upon the issuance of the relevant Memorandum Order by the Bureau of Customs or 15 days after the publication of this Order in two (2) newspapers of general circulation, whichever comes earlier.

Let this Order be published in two (2) newspapers of general circulation and let individual notices be sent to all interested parties including the country members concerned.

SO ORDERED.

15 July 2011


GREGORY L. DOMINGO
Secretary

ANNEX A**List of Developing Countries and Separate Customs Territories Excluded from the Imposition of Definitive Safeguard Measure on Testliner Boards**

East & Southern Africa	West Africa	North Africa	South Asia
Angola	Benin	Algeria	Afghanistan
Botswana	Burkina Faso	Egypt, Arab Rep.	Bangladesh
Burundi	Cameroon	Libya	Bhutan
Comoros	Cape Verde	Morocco	British Indian Ocean Territory
Congo, Dem. Rep.	Central African Rep.	Tunisia	East Timor
Djibouti	Chad		India
Eritrea	Congo, Rep.		Maldives
Ethiopia	Cote d' Ivoire		Nepal
Kenya	Equatorial Guinea		Pakistan
Lesotho	Gabon		Sri Lanka
Madagascar	Gambia, The		
Malawi	Ghana		
Mauritius	Guinea		
Mozambique	Guinea, Bissau		
Namibia	Liberia		
Reunion	Mali		
Rwanda	Mauritania		
Seychelles	Niger		
Somalia	Nigeria		
South Africa	Sao Tome & Principe		
Sudan	Senegal		
Swaziland	Sierra Leone		
Tanzania	Togo		
Uganda			
Zambia			
Zimbabwe			

Europe & Central Asia	Middle East	Americas	East Asia & Pacific
Albania	Bahrain	Anguilla	American Samoa
Armenia	Iran, Islamic Rep.	Antigua & Barbuda	Brunei Darussalam
Azerbaijan	Iraq	Argentina	Cambodia
Belarus	Israel	Aruba	Chinese Taipei
Bosnia & Herzegovina	Jordan	Bahamas	Christmas Is.
Bulgaria	Kuwait	Barbados	Cocos (Keeling) Is.
Croatia	Lebanon	Belize	Cook Is.
Cyprus	Oman	Bermuda	Fiji
Czech Republic	Qatar	Bolivia	French Polynesia
Estonia	Saudi Arabia	Brazil	Guam
Georgia	Syrian Arab Rep.	British Virgin Is.	Hong Kong, China
Greenland	United Arab Emirates	Cayman Is.	Indonesia
Hungary	West Bank & Gaza	Chile	Johnston Is.
Kazakhstan	Yemen, Rep.	Colombia	Kiribati
Kyrgyz Republic		Costa Rica	Korea, Dem. Rep.
Latvia		Cuba	Lao PDR
Lithuania		Dominica	Macau, China
Macedonia, FYR		Dominican Rep.	Marshall Islands
Malta		Ecuador	Micronesia, Fed. Sts.
Moldova		El Salvador	Midway Is.
Poland		Falkland Is. (Malvinas)	Mongolia
Romania		French Guiana	Myanmar
Russian Federation		Grenada	Nauru
Slovakia		Guadeloupe	New Caledonia
Slovenia		Guatemala	Niue
Tajikistan		Guyana	Northern Marianas Is.
Turkey		Haiti	Palau
Turkmenistan		Honduras	Pitcairn Is.
Ukraine		Jamaica	Papua New Guinea
Uzbekistan		Martinique	People's Republic of China
Yugoslavia, Fed. Rep.		Mexico	Samoa
		Montserrat	Singapore
		Netherland Antilles	Solomon Islands
		Nicaragua	Tokelau
		Norfolk Is.	Tonga
		Panama	Tuvalu
		Paraguay	Vanuatu
		Peru	Wake Is.
		Puerto Rico	Wallis & Futuna Is.
		St. Helena	
		St. Kitts & Nevis	
		St. Lucia	
		St. Pierre & Miquelon	
		St. Vincent & the Grenadines	
		Suriname	
		Trinidad & Tobago	
		Turks & Caicos Is.	
		Uruguay	
		US Virgin Is.	
		Venezuela	