

IN THE MATTER OF THE FINAL APPLICATION
FOR THE DEFINITIVE GENERAL SAFEGUARD
MEASURE AGAINST THE IMPORTATION OF
STEEL ANGLE BARS FROM VARIOUS
COUNTRIES

(HS Heading No. 7216.2100 (2007 AHTN
Subheading No. 7216.2100); 7216.5011 (2007
AHTN Subheading No. 7216.5010); and 7216.5091
(2007 AHTN Subheading No. 7216.5010))
(Safeguard Formal Investigation No. 01-2009)

Philippine Steel Angle Bar Industry
Petitioner

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ORDER

On 29 June 2009, 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 steel angle bars from various countries classified under HS Heading Nos. 7216.21.00 (2007 AHTN Subheading No. 7216.21.00); 7216.50.11 (2007 AHTN Subheading No. 7216.5010); and 7216.50.91 (2007 AHTN Subheading No. 7216.50.10).

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

1. Applicant companies, Cathay Metal Corporation, Dragon Asia Rolling Mills and Lunar Steel Corporation accounted for 75% of the total domestic production of steel angle bars during the period of investigation (POI).
2. Locally produced steel angle bar is a like product to imported steel angle bar.
3. The product under consideration was imported in significantly increased quantities, both in absolute terms and relative to domestic production, in 2006 and 2007.
4. The domestic steel angle bar industry suffered and is suffering significant impairment in its position particularly in terms of shrinking market share; declining production and sales; diminishing employment and productivity; underutilization of rated capacity and deterioration of operating income.
5. While there were other factors that contributed to the impairment of the position of the domestic industry, increased importation of the product under consideration was the substantial cause of serious injury to the domestic industry.

The existence of a causal link between the increased imports of steel angle bars 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 steel angle bars. The measure shall be effective for three (3) years starting from 10 March 2009, i.e. the date the provisional measure took effect.

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 P7, 700.00/ MT shall be Imposed on equal and unequal leg steel angle bars, of a height of less than 80mm imported from various countries which are classified under 2004 HS Heading Nos. 7210.21.00 (2007 AHTN Subheading No. 7216.21.00); 7216.50.11 (2007 AHTN Subheading No. 7216.5010); and 7216.50.91 (2007 AHTN Subheading No. 7216.50.10).
2. Unequal leg angle bars are included since they have the same application and are directly competitive to domestically produced products. However, marine grade steel angle bars are excluded from the Imposition of the definitive general safeguard measure.
3. 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.
4. Pursuant to Section 13 of RA 8800 and Rule 13.1.d of its IRR, **"a general safeguard measure shall not be applied to 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 steel angle bars. 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.
5. 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 10 March 2009, i.e. the date the

provisional safeguard measure took effect, shall be immediately returned to the concerned importer.

Importers of steel angle bars 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 6 and 8 of the Agreement on the CEPT Scheme.

The application of the definitive general safeguard measure shall be monitored and reviewed in accordance with Sections 15 and 16 of RA 8800. Applicant steel angle bar 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.

27 July 2009

(signed)
PETER B. FAVILA
Secretary

**List of Developing Countries and Separate Customs
Territories Excluded from the Imposition of Definitive
Safeguard Measures on Steel Angle Bars**

East & Southern Africa	West Africa	North Africa	South Asia
Angola	Benin	Algeria	Afghanistan
Botswana	Burkina Faso	Eqypt, 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		
Sudan	Sao Tome & Principe		
Swaziland	Senegal		
Tanzania	Sierra Leone		
Uganda	Togo		
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	Christmas Is.
Bosnia & Herzegovina	Jordan	Bahamas	Cocos(Keeling) Is.
Bulgaria	Kuwait	Barbados	Cook Is.
Croatia	Lebanon	Belize	Fiji
Cyprus	Oman	Bermuda	French Polynesia
Czech Republic	Qatar	Bolivia	Guam
Estonia	Saudi Arabia	Brazil	Hongkong
Georgia	Syrian Arab Rep.	British Virgin Is.	Indonesia
Greenland	United Arab Emirates	Cayman Is.	Johnston Is.
Hungary	West Bank & Gaza	Chile	Kiribati
Kazakhstan	Yemen, Rep.	Colombia	Korea, Dem. Rep.
Kyrgyz Republic		Costa Rica	Korea, Rep. of
Latvia		Cuba	Lao PDR
Lithuania		Dominica	Macau
Macedonia, FYR		Dominican Rep.	Malaysia
Malta		Ecuador	Marshall Islands
Moldovia		El Salvador	Micronesia, Fed. Sts.
Poland		Falkland Is. (Malvinas)	Midway Is.
Romania		French Guiana	Mongolia
Russian Federation		Grenada	Myanmar
Slovakia		Guadeloupe	Nauru
Slovenia		Guatemala	New Caledonia
Tajikistan		Guyana	Niue
Turkey		Haiti	Northern Marianas Is.
Turkmenistan		Honduras	Palau
Ukraine		Jamaica	Pitcairn Is.
Uzbekistan		Martinique	Papua New Guinea
Yugoslavia, Fed. Rep.		Mexico	Samoa
		Montserrat	Singapore
		Netherland Antilles	Solomon Islands
		Nicaragua	Taiwan
		Norfolk Is.	Tokelau
		Panama	Tonga
		Paraguay	Tuvalu
		Peru	Vanautu
		Puerto Rico	Vietnam
		St. Helena	Wake Is.
		St. Kitts & Navis	Wallis & Futuna Is.
		St. Lucia	
		St. Pierre & Miquelon	
		St. Vincent & the Grenadines	
		Suriname	
		Trinidad & Tobago	
		Turks & Caicos Is.	
		Uruguay	
		US Virgin IS.	
		Venezuela	