



**IN THE MATTER OF THE FINAL EXTENSION OF THE
DEFINITIVE GENERAL SAFEGUARD MEASURE
AGAINST THE IMPORTATION OF FIGURED GLASS
FROM VARIOUS COUNTRIES (HS Code No. 7003.1290
or AHTN Nos. 7003.1220 & 7003.1290 and HS Code No.
7003.1990 or AHTN No. 7003.1990)
(Safeguard Investigation No. 01-2006)**

**AGC Flat Glass Philippines, Inc. (AGPH)
(formerly Asahi Glass Philippines)
Petitioner**

ORDER

On 10 December 2007, DTI issued an Order suspending the imposition of the definitive general safeguard measure on figured glass due to AGPH's decision to temporarily stop production of regular commodity figured glass for the domestic market and shift to the production of Ultra Clear Figured Glass (for solar glass panels) for exports to take advantage of the big demand for solar cells in the international market. The suspension shall take effect for the duration of the extension period of the safeguard measure unless AGPH can show that it has resumed normal operations, whichever comes earlier.

On 17 August 2009, DTI received a letter from AGPH requesting for a maximum extension allowed by law for the safeguard measure against imported figured glass. According to AGPH, they need the additional period in order to continue and complete the positive adjustment to import competition that the domestic industry has undertaken.

On 19 August 2009, DTI referred to the Tariff Commission the said request of AGPH for the extension of the measure for their appropriate action.

On 23 November 2009, the Department of Trade and Industry (DTI) received the Tariff Commission's Formal Investigation Report on the petition of AGPH for the maximum extension of the safeguard measure against imports of figured glass.

The Commission concluded that the safeguard measure on figured glass continues to be necessary to prevent the recurrence of serious injury and that there is evidence that the domestic industry is making adjustments to import competition. The Commission recommended the following:

- 1) Imposition of the safeguard measure be extended for another three (3) years to be progressively liberalized each year at a linear rate of reduction of five (5%) percent or limited to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects

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directly attributed to the increased imports. The extension shall allow the industry to fully adjust to import competition.

- 2) The Commission recommended further the conduct of a monitoring review after the first quarter of 2010 to determine if AGPH has complied with its commitment to resume production failing which, the termination of the safeguard measure should be considered.
- 3) The suspension of the imposition of the safeguard measure as contained in the DTI Order dated 10 December 2007 shall stay until lifted by another Order of the Secretary and;
- 4) The applicable safeguard duty upon the lifting of the suspension shall be equal to the amount which DTI would have applied according to the schedule of progressive liberalization each year at a linear rate of reduction of 5% from the issuance of the last DTI Order dated 06 November 2006 liberalizing the imposed safeguard measure as if there was no suspension in the imposition of the measure.

Accordingly, the DTI has reviewed the Commission's findings and recommendations and has established that the extension of the measure should be in the public interest.

IN VIEW THEREOF and in accordance with Section 19 (2) of RA 8800, the following is hereby issued:

1. Considering that Section 15, paragraph 2 of RA 8800 and Rule 15.2 of its IRR provide that the effective period of the measure, including any extension thereof may not in the aggregate exceed ten (10) years, the imposition of the definitive general safeguard measure shall be extended for another four (4) years. Therefore, this is the final extension of this measure. Moreover, as provided under Section 15 (4) of RA 8800 and Rule 15.8 of its IRR, any further petition for safeguard measure for the same articles shall not be accepted within two (2) years after the expiration of this measure.
2. The imposition of the measure shall be suspended until the Secretary issues another Order either lifting the suspension or terminating the measure based on the results of the Commission's monitoring review to be conducted after the first quarter of 2010 to determine whether AGPH has complied with its commitment to resume production.
3. In case the suspension is lifted, the applicable safeguard duty upon the lifting of the suspension shall be equal to the amount which DTI would have applied according to the schedule of progressive liberalization each year at a linear rate of reduction of 5% from the issuance of the last DTI Order dated 06 November 2006 liberalizing the imposed safeguard measure as if there was no suspension in the imposition of the measure.

The notification and consultation requirements of 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 countries shall be governed by the provisions of Articles 6 and 8 of the Agreement on the CEPT Scheme.