



**IN THE MATTER OF THE REDUCTION OF
THE DEFINITIVE GENERAL SAFEGUARD
MEASURES AGAINST THE IMPORTATION
OF CLEAR FLOAT GLASS – HS Heading
No. 7005.2990 or AHTN No. 7005.2990 and
TINTED FLOAT GLASS - HS Heading No.
7005.2190 or AHTN No. 7005.2190 FROM
VARIOUS COUNTRIES
(Safeguard Investigation No. 02-2006)**

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

ORDER

On 17 August 2009, DTI received a letter from AGPH requesting for the extension of the definitive general safeguard measures on clear and tinted float glass from various countries for another four (4) years. AGPH claimed that the domestic industry needed additional time to implement its adjustment plan and make it globally competitive. They stated that an extension of the safeguard measure is necessary to prevent and remedy the serious injury caused by the imported clear and tinted float glass.

On 19 August 2009, pursuant to Section 19(2) of RA 8800, DTI referred to the Tariff Commission the said request of AGPH.

On 23 November 2009, DTI received a copy of the Commission's Report of Findings on the petition for the final extension of the definitive safeguard measure on clear and tinted float glass from various countries. The Commission concluded that: (1) the current safeguard measure is effective and although the volume of imports increased from 2006 to 2008 it was still below the surge level (2) the domestic industry showed improvements in its production, sales, market shares, productivity and capacity utilization, but still incurred losses indicating serious impairment in the financial condition of the domestic industry (3) should the safeguard measure be terminated, China and Indonesia, because of their proximity to the Philippines and their sufficient freely disposable production capacities, and as major sources of imports since 2002, pose a threat to the domestic industry as exports to the Philippines is likely to increase substantially (4) several anti-dumping and safeguard cases filed against China and Indonesia further support the likelihood that exports from these countries will be diverted to the Philippines (5) despite the continued imposition of the safeguard measure, imports came in at very low prices. In an attempt to maintain its market share, AGPH has to sell below cost resulting to

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: PBFavila@boi.gov.ph
www.dti.gov.ph

serious impairment of AGPH's financial condition (6) if safeguard measure is removed, AGPH will be forced to price its float glass even below its cost to protect its market share which will further worsen the financial condition of AGPH. There is a threat of recurrence of serious injury if the safeguard measure is not extended (7) the domestic industry made serious efforts to comply with its adjustment plan and there is evidence that the industry is making positive adjustment to import competition. However, factors beyond their control negated the gains resulting from its adjustment plan. AGPH requires more time to fully put in place its commitments in the adjustment plan to effectively face import competition, and (8) non-extension of the safeguard measure will likely led to increased imports of float glass which will cause serious injury to the domestic industry.

The Commission recommended that the imposition of the safeguard measure be extended for another three (3) years. The measure shall continue to be liberalized by at least five percent (5%) or limited to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to the increased imports. The extension will allow the industry to adjust fully to import competition and thus prepare it for the time when the action terminates.

The DTI reviewed the Commission's findings and recommendations and has established that the final extension of the definitive general safeguard measure is in the public interest. There was a marked improvement in the local industry's performance as evidence by increased production, sales, market share, productivity, rated capacity and capacity utilization. However, other factors i.e. rising fuel and raw material prices and very low priced imports, have adversely affected the industry's cost competitiveness. Thus, the industry has not fully realized the full potential of its cost savings from the efficiency measures implemented. It requires more time to undertake the improvements committed in its adjustment plan.

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. The definitive safeguard measure shall be imposed on the first year of the final extension in the amount of ₱3,404.64/MT for clear float glass and ₱4,300.59/MT for tinted float glass, respectively, from various countries. The measure shall continue to be liberalized annually for the remaining years of

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the extension 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.

2. 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**”.

Considering that imports of clear float glass from Saudi Arabia (which was previously exempt) have exceeded the three (3%) threshold in 2009, henceforth, such imports shall be subject to the extended definitive general safeguard measure.

However, imports from countries listed in Annexes A and B shall continue to be excluded from the definitive general safeguard measure on float glass products (clear and tinted). The composition of the developing countries in the *de minimis* list may change depending on the most recent data available during the annual review which will be conducted by DTI within the extension period. All importers of float glass (clear and tinted), regardless of port of exportation, are required to obtain a Certificate of Origin (CO) from the agency/office in the country of manufacture to be authenticated by the Philippine Embassy/Consulate thereat.

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

Considering that clear and tinted float glass are covered by the ASEAN-CEPT Agreement and as provided under Article 6 and 8 of the said Agreement, the Philippines shall notify and accord adequate opportunity for consultation with the governments of the ASEAN countries concerned which maybe affected by the application of provisional safeguard measures on imports sourced from said ASEAN countries.

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.

The 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.

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.

SO ORDERED.

13 January 2010



PETER B. FAVILA

Secretary



Annex A

List of Developing Countries Excluded from the Imposition of Definitive Safeguard Measure on Clear Float Glass

East & Southern Africa	West Africa	North Africa	South Asia
Angola	Benin	Algeria	Afghanistan
Botswana	Burkina Faso	Egypt, Arab Rep.	Bhutan
Burundi	Cameroon	Libya	British Indian Ocean Territory
Comoros	Cape Verde	Morocco	East Timor
Congo, Dem. Rep.	Central African Rep.	Tunisia	Maldives
Djibouti	Chad		Nepal
Eritrea	Congo, Rep.		Sri Lanka
Ethiopia	Cote d' Ivoire		
Kenya	Equatorial Guinea		
Lesotho	Gabon		
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	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	Syrian Arab Rep.	Brazil	Hong Kong
Georgia	United Arab Emirates	British Virgin Is.	Johnston Is.
Greenland	West Bank & Gaza	Cayman Is.	Kiribati
Hungary	Yemen, Rep.	Chile	Korea, Dem. Rep.
Kazakhstan		Colombia	Lao PDR
Kyrgyz Republic		Costa Rica	Macau
Latvia		Cuba	Marshall Islands
Lithuania		Dominica	Micronesia, Fed. Sts.
Macedonia, FYR		Dominican Rep.	Midway Is.
Malta		Ecuador	Mongolia
Moldova		El Salvador	Myanmar
Poland		Falkland Is. (Malvinas)	Nauru
Romania		French Guiana	New Caledonia
Russian Federation		Grenada	Niue
Slovakia		Guadeloupe	Northern Marianas Is.
Slovenia		Guatemala	Palau
Tajikistan		Guyana	Pitcairn Is.
Turkey		Haiti	Papua New Guinea
Turkmenistan		Honduras	Samoa
Ukraine		Jamaica	Solomon Islands
Uzbekistan		Martinique	Tokelau
Yugoslavia, Fed. Rep.		Mexico	Tonga
		Montserrat	Tuvalu
		Netherlands Antilles	Vanuatu
		Nicaragua	Wake Is.
		Norfolk Is.	Wallis & Futuna Is.
		Panama	
		Paraguay	
		Peru	
		Puerto Rico	
		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	

Annex B

**List of Developing Countries Excluded from the Imposition
of Definitive Safeguard Measure
on Tinted Float Glass**

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		Maldives
Eritrea	Congo, Rep.		Nepal
Ethiopia	Cote d' Ivoire		Pakistan
Kenya	Equatorial Guinea		Sri Lanka
Lesotho	Gabon		
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	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	Hong Kong
Georgia	Syrian Arab Rep.	British Virgin Is.	Johnston Is.
Greenland	United Arab Emirates	Cayman Is.	Kiribati
Hungary	West Bank & Gaza	Chile	Korea, Dem. Rep.
Kazakhstan	Yemen, Rep.	Colombia	Lao PDR
Kyrgyz Republic		Costa Rica	Macau
Latvia		Cuba	Marshall Islands
Lithuania		Dominica	Micronesia, Fed. Sts.
Macedonia, FYR		Dominican Rep.	Midway Is.
Malta		Ecuador	Mongolia
Moldova		El Salvador	Myanmar
Poland		Falkland Is. (Malvinas)	Nauru
Romania		French Guiana	New Caledonia
Russian Federation		Grenada	Niue
Slovakia		Guadeloupe	Northern Marianas Is.
Slovenia		Guatemala	Palau
Tajikistan		Guyana	Pitcairn Is.
Turkey		Haiti	Papua New Guinea
Turkmenistan		Honduras	Samoa
Ukraine		Jamaica	Solomon Islands
Uzbekistan		Martinique	Thailand
Yugoslavia, Fed. Rep.		Mexico	Tokelau
		Montserrat	Tonga
		Netherland Antilles	Tuvalu
		Nicaragua	Vanuatu
		Norfolk Is.	Wake Is.
		Panama	Wallis & Futuna Is.
		Paraguay	
		Peru	
		Puerto Rico	
		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	