
EXECUTIVE SUMMARY

This report is about the maximum extension of safeguard action against imports of figured glass

This report addresses the question of whether the maximum extension of the definitive general safeguard action, in accordance with Republic Act No. 8800 ("Safeguard Measures Act") and the WTO Agreement on Safeguards, would be justified against imports of figured glass.

Background

On 14 April 2004, the DTI Secretary issued an order for the imposition of safeguard duty for three (3) years. In its Department Order dated 06 November 2006, the Secretary extended the definitive safeguard duty for another three (3) years.

In November 2007, domestic industry informed the DTI Secretary of the temporary suspension of their production ...

In 28 November 2007, AGPH informed DTI of the temporary suspension of their production on regular commodity figured glass for the domestic market and shifted to the production of ultra clear figured glass (for solar glass panels) for the export market.

In December 2007, DTI Secretary suspended the imposition of the definitive safeguard measure for the duration of the extension...

In 10 December 2007, the Secretary ordered the suspension of the imposition of the definitive safeguard measure on figured glass for the duration of the extension period of the safeguard measure unless AGPH can show that it has resumed normal operations.

The domestic industry requests for a final extension of four (4) years of the safeguard measure

The domestic industry requests a final extension of four (4) years of the definitive safeguard measure. The domestic industry is asking for additional time for the positive adjustments to import competition undertaken by the domestic industry may continue and be completed.

... pursuant to the provision of the Safeguard Measures Act

The Secretary endorsed the request of AGPH to the Tariff Commission pursuant to Section 19(2) of RA 8800.

The Safeguard Action and the Role of the Commission

The Safeguard Measures Act, in consonance with the WTO Agreement on Safeguards, allows extension of definitive safeguard action against imports.

An extension of the measure may be extended if:

- the action continues to be necessary to prevent or remedy the serious injury, and
- there is evidence that the domestic industry is making positive adjustment to import competition.

A safeguard inquiry must follow the requirements spelled out in the Safeguard Measures Act and the procedures prescribed by the WTO

In responding to the question of whether the extension of safeguard action against imports of figured glass is warranted, the Commission was careful to conduct its inquiry process in accordance with the requirements of the Act and the procedures prescribed by the WTO Agreements on Safeguards.

Findings

During the period under review...

The period under review covers the last three (3) years, from 2006 to 2008 and up to the time of the latest available data.

*the current safeguard is effective from 2003-2005...
...imports below the surge level..
...showed improvements in market share, productivity and profitability..*

The imposition of the safeguard measures from 2003-2005 proved to be effective. The volume of imports were below the surge level in 2002. The domestic industry showed improvements in its market share, productivity and profitability.

If safeguard measure is terminated..

...China...its proximity... and sufficient freely disposable production capacity, and as a major source of imports since 2002...

Should the safeguard measure be terminated, China, because of its proximity to the Philippines and its sufficient freely disposable production capacity, and as a major source of imports since 2002, poses a threat to the domestic industry as exports to the Philippines is likely to increase substantially. This likelihood was seen in 2008 with the significant increase of low priced imports from China when the imposition of the safeguard measure was suspended in December 2007.

...likelihood...was evident

...significant increase of low priced imports from China in 2008

Despite...imposition...in 2006, landed cost was priced much lower than... cost to produce and sell...

Despite the continued imposition of the safeguard duty in 2006, the landed cost of imported figured glass was priced much lower than AGPH's cost to produce and sell in that year.

...AGPH will sell below cost...

Without the safeguard measure when AGPH resume production of regular commodity figured glass, it will sell below cost and serious injury would recur. There is a threat of recurrence of serious injury if the safeguard measure is not extended.

There is a threat of recurrence of serious injury

...there is evidence that the domestic industry is making positive adjustment to import competition..

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.

Factors outside the control of AGPH negated the gains from its adjustment plan...

Factors outside the control of AGPH negated the gains resulting from its adjustment plan. AGPH needs more time to fully put in place its commitments in the adjustment plan to effectively face import competition.

...needs more time to fully put in place its commitments...

*...temporary suspension of production of figured glass...
...shifted to production of solar glass for export...*

AGPH decided to temporarily suspend its production of regular commodity figured glass and instead shifted the production solely for ultra clear figured glass which is intended for export.

...can shift production to commodity figured glass at anytime...

AGPH can, at anytime, shift to the production of regular commodity figured glass since production of ultra clear figured glass uses the same furnace.

*..once AGPH resume production of figured glass...
...would need temporary protection to complete adjustment plan to effectively deal with import competition.*

Once AGPH resume production of regular commodity figured glass, given the present market condition, it would need temporary protection to complete its adjustment plan to enable its figured glass operation to become viable and effectively deal with import competition.

Conclusion and Recommendation

Extension of the imposition of safeguard action is justified in terms of R.A. 8800 and the WTO Agreements on Safeguards.

The Commission concludes 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 positive adjustments to import competition.

...recommends that the safeguard measure be extended for another three (3) years

The Commission recommends that the imposition of safeguard measure be extended for another three (3) years.

...conduct of monitoring review after first quarter of 2010...

The Commission recommends 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. The Commission recommends finally the stay of the suspension of the imposition of the safeguard measure as contained in the DTI Order dated 10 December 2007 until lifted by another Order of the Secretary.

...suspension of the imposition of the safeguard measure to stay...

*If secretary adopt the recommendation to extend...
... the measure should continue to be liberalized...
The extension ... will help the industry to complete its adjustment plan to positively adjust to import competition*

Should the Secretary adopt the recommendation of the Commission to extend the safeguard measure, the Commission recommends that the measure shall continue to be progressively liberalized each year at a linear rate of reduction of 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.

*If Secretary adopt the recommendation...
to stay the suspension....and then...lift
The Commission recommends...
...applicable safeguard duty, upon the lifting ...
.... shall be equal to the amount which DTI would have applied according to the schedule of progressive liberalization...*

After extending the safeguard measure, should the Secretary adopt the recommendation of the Commission to stay the suspension of the imposition of the safeguard measure as contained in the DTI Order dated 10 December 2007 and then eventually orders its lifting, the Commission recommends that the applicable safeguard duty upon the lifting of the suspension shall be equal to the amount which DTI would have been 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.

...as if there was no suspension..

Effects of the Affirmative Recommendation

...on competition,

The option to choose between local and imported figured glass remains as there are no quantitative restraints on imports.

As the measure is only temporary and will be progressively liberalized, competition will return to its normal level.

...on domestic industry,

Imports will be maintained at their pre-surge levels; additional time will be provided to the domestic industry to complete its adjustment plan and put in place efficiency measures that will allow it to attain competitiveness *vis-à-vis* imports; increase in output will facilitate the attainment of economies of scale; recovered market share will be maintained enabling the industry to benefit from any growth of the market.

... on user industries and consumer welfare,

Continued existence of a viable domestic industry assures consumers of on-time delivery of volume and small lot orders and after-sales services for replacements of breakages and defects; credit line is extended by local industry to buyers; presence of local products mitigates foreign exchange risk because transactions are on peso basis.

... on employment, and...

The expected continued increase in output and sales would ensure the tenure of employment not only in manufacturing but also in related sales and distribution services.

... on regional development ...

The imposition of the definitive safeguard measure will ensure continuous operation of the industry. This will bring continuing community development to the city and nearby areas where AGPH is located.