
STAFF REPORT
(Public Version)

**In the Matter of the Petition for Maximum Extension of Safeguard Measure
on the Importation of Clear and Tinted Float Glass (AHN Code Nos.
7005.21.90 and 7005.29.90) and Figured Glass (AHN Code Nos.
7003.12.20, 7003.12.90 and 7003.19.90)**

(SG Investigation No. 02/03-2009)

Tariff Commission
12 October 2009

INTRODUCTION

1. Background

On 11 September 2003, the Department of Trade and Industry (DTI) Secretary officially endorsed to the Tariff Commission the application of Asahi Glass Philippines, Inc. (Asahi) for the Commission's formal investigation to determine the merits of imposing a definitive safeguard duty on imports of figured, clear and tinted float glass, and glass mirror.

On 30 March 2004, the Commission concluded its formal investigation and submitted its report to the DTI.

Following the positive findings of the Commission, the DTI Secretary issued, on 14 April 2004, the Department Orders imposing definitive safeguard duties for three (3) years on imports of the aforementioned articles. The duties (shown below) would expire on 13 October 2006.

Table 1. Amount of Definitive Safeguard Duty (₱/MT)

2007 AHTN Code	Product	1 st year	2 nd year	3 rd year
7003.12.20 7003.12.90 7003.19.90	Figured Glass	2,655	2,520	2,394
7005.21.90	Tinted Float Glass	5,850	5,560	5,280
7005.29.90	Clear Float Glass	4,630	4,400	4,180
7009.91.00 7009.92.00	Glass Mirror	5,110	4,855	4,615

On 12 May 2006, Asahi filed a petition with DTI for the extension of the imposition of the safeguard duties.

On 17 May 2006, the DTI Secretary endorsed the petition to the Commission for formal investigation. The endorsement was received by the Commission on 21 June 2006.

On 05 October 2006, the Commission submitted its report for the extension of the imposition of the safeguard duty to the DTI.

On 06 November 2006, the DTI Secretary issued the Department Orders extending the definitive safeguard measure for another three (3) years (the timeframe needed by the company to fully implement its adjustment plan and be competitive against imports). The imposition of the definitive safeguard duties (shown below) will expire on 08 December 2009.

Table 2. Amount of Definitive Safeguard Duty (P/MT)

2007 AHTN Code	Product	4th year	5th year	6th year
7003.12.20 7003.12.90 7003.19.90	Figured Glass	2,274.30	-	-
7005.21.90	Tinted Float Glass	5,016	4,765.20	4,526.94
7005.29.90	Clear Float Glass	3,971	3,772.45	3,583.83
7009.91.00 7009.92.00	Glass Mirror	4,384.25	4,165.04	-

On 28 November 2007, Asahi informed DTI that they would temporarily be suspending domestic production of figured glass and would shift production to Ultra Clear Figured Glass (for solar glass panels) for the export market, to take advantage of the increasing demand for solar cells in the international market.

On 29 July 2008, AGC Flat Glass Philippines, Inc. (AGPH) (formerly Asahi Glass Philippines, Inc.), informed DTI that they would temporarily discontinue domestic production on glass mirrors since modernizing the mirror line is not a viable option in relation to potential market demand due to the high cost of new equipment and raw materials, and instead decided to re-align and focus their resources on their core products.

As a result, the DTI Secretary ordered the suspension of the imposition of the definitive safeguard measure on figured glass (DTI Order dated 10 December 2007) and glass mirrors (DTI Order dated 01 September 2008). The suspension is effective for the duration of the extension period of the safeguard measure unless AGPH can show that it has resumed normal operations.

2. The Petition for Maximum Extension of the Measure

On 02 September 2009, the Tariff Commission received an official endorsement from the DTI Secretary on the request of AGPH for the maximum extension of the safeguard measure against the importation of figured glass, and clear and tinted float glass.

The petitioner alleges that extension of the safeguard measures on figured and float glass is necessary to prevent or remedy the serious injury inflicted by imported clear and tinted float glass and figured glass on the domestic industry. The continuation and extension of the safeguard measure is also necessary in order that the positive adjustments to import competition that the domestic industry has undertaken may continue and be completed.

3. Role of the Commission

Section 19 of R.A. 8800 (Safeguard Measures Act) and its Implementing Rules and Regulations (IRR) provides the legal basis for the Commission to conduct an investigation on the petition. The provision states:

Section 19. Extension and Re-application of Safeguard Measures. (1) Subject to the review under Rule 16, an extension of the measure may be requested by the petitioner 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.

(2) The petitioner may appeal to the Secretary at least ninety (90) days before the expiration of the measure for an extension of the period by stating concrete reasons for the need thereof and a description of the industry's adjustment performance and future plan. The Secretary will immediately refer the request to the Commission. Following the procedures required under Section 9, the Commission shall then submit a report to the Secretary not later than sixty (60) days from its receipt of the request. Within seven (7) days from receipt of the report, the Secretary shall issue an order granting or denying the petition. In case an extension is granted, the same shall be more liberal than the initial application.

Section 15 of RA 8800 likewise provides the basis for the application for the maximum extension of the safeguard measure. The provision reads in part, as follows:

Section 15. Limitations of Actions. – The duration of the period of an action taken under the General Safeguard provisions of this Act shall not exceed four (4) years. Such period shall include the period, if any, in which provisional safeguard relief under Section 8 was in effect.

The effective period of any safeguard measure, including any extensions thereof under Section 19 may not, in the aggregate, exceed ten (10) years.

THE COMMISSION'S FORMAL INVESTIGATION

1. Product under Consideration

The products under consideration are the following:

- Float glass is basically made from feldspar, dolomite, silica sand, soda ash, salt coke, calumite, cobalt oxide, and nickel sulfate. It is produced using the universal method for the manufacture of high-quality flat glass, i.e., the float process. It is used for the following applications: showcase windows; curtain walls; interior room partitions; exterior and interior window and door openings; huge scenic openings (glacade-suspended glass systems); decorative applications; furniture applications (tabletops, dressers, etc.); basic glass for mirrors, heat-treated safety glass, laminated glass, and ballistic glass; and basic glass for tinted mirrors, automotive and building tempered glass.
- Figured glass is a translucent glass having a repetitive pattern on one surface to permit light to pass through but diffuses it so that the objects are not clearly visible. It is designed for use as light diffuser in interior lighting. Thickness ranges from 3.0 mm to 6.0 mm and with a maximum size of 72 inches by 48 inches. Figured glass is used primarily by residential and commercial construction industries, and the furniture making industry as well as direct purchasers at retail level.

In the original investigation, it was established that locally produced float glass and figured glass are “like product” to the imported ones.

2. Domestic Industry Requirement

AGP is the only manufacturer of clear and tinted float glass in the Philippines and thus accounted for 100% of total domestic production of subject articles. This satisfies the requirement under Section 4(f) of the IRR of R.A. 8800 which, for purposes of determining serious injury or the threat thereof, defines “domestic industry” as *“the domestic producers as a whole, of like or directly competitive products manufactured or produced in the Philippines, or those whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of these products.”*

3. 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.

4. Notifications

The Notices of Formal Investigation and of Public Hearing/Consultations were published on 10 September 2009 and 10 October 2009, respectively, both in *Manila Standard Today* and *The Manila Times*. Individual notices were sent to all known interested parties and concerned government agencies and private entities. It was likewise posted in the Commission's website: www.tariffcommission.gov.ph

In the Notice of public hearing/consultation all concerned parties were directed to submit to the Commission within five (5) calendar days before the scheduled consultation a list of issues they want to explore other than the issues of product comparability and volume of imports.

Likewise, parties were required to submit to the Commission the affidavits of their witnesses three (3) days prior to the public hearing/consultation. All principal parties, counsels, affiants, deponents and other interested parties were required to appear before the Commission on the first day of the public hearing/consultation.

The public hearing/consultation will be held on 19 to 23 October 2009, 9:00 am at the Tariff Commission Conference Room.

5. Preliminary Conference

The preliminary conference was held on 16 September 2009 at the Commission's Conference Room. In attendance were representatives from the petitioner (AGP), Comglasco Aguila Glass Corp. (Comglasco AG), San Francisco Mirror, Chain Glass, Roosevelt Aluminum, Nitoo Enterprises, Inc. (Nitoo), Korea Trade Center (KOTRA)/Korean Embassy, Thailand Embassy and Bureau of Import Services (BIS).

On 17 September 2009, a Commission Order containing the matters taken up and agreed by the parties during the conference/meeting was issued to all interested parties.

6. Submission of Position Papers

AGP through its counsel, submitted its position paper to the Tariff Commission on 01 October 2009. It alleges that the request for the maximum extension of the safeguard measure is necessary based on the following reasons:

- i. to prevent and/or remedy the serious injury being inflicted by imported float and figured glass to the Philippines.
- ii. to be able to complete its adjustment plan.
- iii. to terminate the safeguard measure at this time would be premature and would result in AGP's incurring financial losses and fatally hinder its adjustment efforts to adjust to global competition since it would make the landed cost of imported products lower than AGP's cost to produce and sell. This would make it more difficult for AGP to source the necessary capital to invest in its adjustment plan and decrease shareholders' confidence forcing AGP to adopt a policy of price parity with imported glass in order to protect its market share which would result to financial losses and derail its adjustment plan.
- iv. the safeguard measure has been effective in giving AGP the time it requires to make positive adjustments to import competition.
- v. volume of imports drastically went down after the safeguard measure was introduced in 2003. As the amount of safeguard measure went down after its initial imposition in 2003, volume of imports went up. Such trend indicates that once the safeguard measure is terminated, imports would surge, cheaper imported float and figured glass will flood the Philippines at a time when the petitioner has not yet completed its adjustment plan.
- vi. the threat of cheaper imported float and figured glass is even greater at this time.
- vii. there is still an overcapacity in the global production of float glass with total demand exceeding the saleable capacity of existing furnace, this will result to AGP having to export the products that the domestic market cannot absorb at lower prices.

Other parties that submitted to the Commission their written position papers who are opposing the request of AGP are the following:

- Guardian, Thailand

The company expressed its continuing opposition to the petition of Asahi on the following grounds to wit:

- i. The six years of relief already granted AGP is more than enough time for any conceivable adjustments to be made especially when new float plants around the world are being built in 18 months or less including time for site work and worker training. After six

years of protection, AGP should be expected to compete beginning this year.

- ii. The Philippines would be handicapping its own economy if it provided another four (4) years of protection for AGP since domestic prices for float glass in the Philippines are now well above prices prevailing in the ASEAN region. These higher prices create an inefficiency that ripples throughout the economy, beginning with glass fabricators and extending to building contractors, owners, and tenants.
- iii. At some point, AGP will need to demonstrate that it can compete with foreign manufacturers - although it is interesting to note that AGP has continued to ship substantial volumes of float glass to Thailand even while its own market has been effectively closed.
- iv. Continued protection beyond this year would be inconsistent with the spirit of the Philippines' commitments under the ASEAN Free Trade Agreement and with more recent commitments among ASEAN members to avoid beggar-thy-neighbor policies in attempting to restore economic growth.

- Comglasco AG

The company restated their continuing opposition to the extension of the safeguard measure to wit:

- i. it is AGP's burden to show necessity for the maximum extension of the safeguard measures. The law is clear that it is the beneficiary of the safeguard measure which has the burden of showing that: (a) it has made positive adjustment, and (b) incur serious injury once the safeguard measure is terminated or not extended.
- ii. AGP should provide and or present concrete evidence before the Commission of its specific efforts undertaken to comply with its positive adjustment plan to be globally competitive.
- iii. no proof of material injury has been presented by AGP to concretely justify its assertion of "serious injury." For each year that AGP enjoys safeguard protection, it is the small local industry that suffers the most. Extending the imposition of the safeguard measure will put importers out of business and further strengthen the monopoly of AGP in the local market. The consumer will be forced to purchase the more expensive glass.

- Nitoo

The company interposed its strong objection to the petition on the extension of the safeguard measure and argued that:

- i. no serious injury is posed to AGP by importation of clear and tinted float glass and figured glass.

- ii. AGP does not represent the domestic industry and producer insofar as tinted glass products are concerned because they produce only one kind of tinted glass which is bronze while they monopolize the flat glass manufacturing industry.
- iii. AGP is not entirely a Filipino corporation and is therefore of the same nature and footing as other domestic importers.
- iv. AGP being appointed as the operator and developer of the Asahi Special Economic Zone, it has enjoyed continuous preferential tariff protection from the government to the detriment of their industry counterparts that do not enjoy the tax incentives afforded to business located inside the special economic zones (SEZs).
- v. imported glass products augment the supply of locally-manufactured glass products which contrary to AGP's claim, cannot meet all the local demands.
- vi. a viable alternative is for government to implement a system to limit the volume of foreign imported glass products so as to not to reach the de minimis thresholds and negate the perceived negative impact of the import surge on our domestic glass industry.
- vii. AGP was already afforded ample time and opportunity to undertake adjustments against competition.
- viii. the reduction of the punitive duty which translated to a lower definitive general safeguard tariff on float glass has very minimal impact on the suppliers and only benefited AGP in general.

Based on the agreed schedule of activities, parties have until 14 September 2009 to submit their respective preliminary/supplemental position papers/documentary evidences on the petition.

VOLUME OF IMPORTS

1. Float Glass (Clear and Tinted)

1.1 Volume of Imports In Absolute Terms

Table 3. Volume of Imports of Float Glass

Year	2005	2006	2007	2008
Volume (MT)	7,447	15,070	16,282	15,179
Growth Rate (%)		102.28	8.04	(6.77)

Source of basic data: Import Entries

Note: Excludes imports of AGP

In 2006, the volume of imports of float glass significantly increased by 102% from 2005 level. With the extension of the safeguard measure in November 2006, volume of imports increased by 8% in 2007 but slightly dropped by 7% in 2008.

1.2 Volume of Imports Relative to Domestic Production

Table 4. Share of Imports to Domestic Production of Float Glass

Year	Imports (‘000 MT)	Domestic Production (‘000 MT)	Share of Imports to Total Production (%)
2005	7	101	6.93
2006	15	63	23.81
2007	16	89	17.98
2008	15	118	12.71

Source: Import Entries; AGP

The share of float glass imports to total domestic production increased to 24% in 2006 from 7% the previous year. With the extension of the safeguard measure, this share dropped to 18% in 2007 and further to 13% in 2008.

1.3 Country Suppliers

Table 5. Major Country Suppliers of Clear Float Glass

Country of Origin	2005 (MT)	% to Total	2006 (MT)	% to Total	2007 (MT)	% to Total	2008 (MT)	% to Total
China	2,243	45	3,590	32	5,102	53	5,036	76
Indonesia	827	17	--	--	189	2	1,057	16
Thailand	194	4	22	nil	2	nil	-	-
Korea	35	1	23	nil	35	nil	-	-
Chinese Taipei	641	13	--	--	729	8	319	5
India	--	--	3,179	29	--	-	-	-
Vietnam	229	5	1,135	10	2,473	26	256	3
Pakistan	771	15	827	7	--	-	-	-
Bangladesh	--	--	187	2	752	8	-	-
Malaysia			2,139	19	255	3	-	-
Other	72	1	62	1	57	nil	-	-
Total	5,012	100	11,169	100	9,594	100	6,668	100

Source of basic data: Import entries excluding imports of AGP

Table 6. Major Country Suppliers of Tinted Float Glass

Country of Origin	2005 (MT)	% to Total	2006 (MT)	% to Total	2007 (MT)	% to Total	2008 (MT)	% to Total
Indonesia	1,465	60	627	16	3,106	46	4,088	48
India	--	--	--	--	--	--	--	--
China	707	29	1,579	40	2,730	41	3,257	38
Singapore	100	4	41	1	29	nil	--	--
Thailand*	--	--	--	--	--	--	--	--
Chinese Taipei	--	--	--	--	103	2	1,146	14
Korea*	--	--	684	18	172	3	--	--
Malaysia			851	22	547	8	--	--
Vietnam	--	--	117	3	--	--	20	Nil
USA	163	7	--	--	--	--	--	--
Total	2,435	100	3,899	100	6,687	100	8,511	100

**countries excluded from the imposition of safeguard duty*

China continued to be the major source of imported clear float glass in the Philippine market. From 2005-2008, imports from said country grew by an annual average rate of 33%. In 2006, China and India accounted for 60% of the total volume of imports while China and Vietnam accounted for 79% in 2007. However, in 2008, China alone accounted for 76% of the total import volume.

From 2005-2008, volume of imports of tinted float glass posted an increasing trend with an average annual growth of 53%.

Except for 2006 when China accounted for 41% of the total volume of imports of tinted float glass, Indonesia was the top supplier with 46% and 48% of the total volume of imports for 2007 and 2008, respectively.

2. Figured Glass

2.1 Volume of Imports in Absolute Terms

Table 7. Volume of Imports of Figured Glass

Year	2005	2006	2007	2008
Volume (MT)	2,660	2,561	7,481	20,300
Growth Rate (%)		(3.72)	171.35	121.86

Source of basic data: Import Entries

Note: Excludes imports of AGP

In 2007 and 2008, import volumes increased by 171% and 121%, respectively, coinciding with the cessation of AGP's production of figured glass starting January 2007.

2.2 Volume of Imports Relative to Domestic Production

Table 8. Share of Imports to Domestic Production of Figured Glass

Year	Imports ('000 MT)	Domestic Production ('000 MT)	Share of Imports to Total Production (%)
2005	2.66	18.64	14.30
2006	3.84	9.55	38.40
2007*	9.15	-	-
2008*	20.30	-	-

Source: Import Entries; AGP

*AGP has temporarily stopped its operation starting 2007

In 2005, the share of imported figured glass to total domestic production was 14.30%. In 2006, this share more than doubled from the 2005 level. In 2007 and 2008, imports of figured glass captured the domestic market since AGP temporarily ceased domestic production of said product.

Table 9. Figured Glass Imports by Country Suppliers

China	2005 (MT)	% to Total	2006 (MT)	% to Total	2007 (MT)	% to Total	2008 (MT)	% to Total
China	1,340	50	1,629	64	5,021	67	11,785	58
Australia	-	-	-	-	-	-	-	-
Korea*	-	-	-	-	-	-	-	-
S. Africa*	20	1	120	5	20	nil	60	nil
Thailand	570	21	-	-	1,664	22	7,855	39
Belgium	-	-	-	-	-	-	-	-
Chinese Taipei	235	9	-	-	-	-	87	nil
Indonesia	430	16	342	13	-	-	58	nil
Malaysia*	-	-	468	18	751	10	-	-
Singapore*	-	-	-	-	25	nil	120	1
USA	65	2	2	nil	-	-	-	-
Other							334	2
Total	2,660	100	2,561	100	7,481	100	20,299	100

Source: Import Entries

* countries excluded from the imposition of safeguard duty

China was the top supplier of figured glass with an average annual share of 63% of total imports from 2006-2008. Thailand followed in 2007-2008 with shares of 22% and 39%, respectively.

**PRELIMINARY DETERMINATION OF SERIOUS INJURY OR
THREAT THEREOF**

Rule 19.1 of the IRRs provides for the requirements in the application for extension, to wit:

“Subject to the review under Rule 16, an extension of the measure may be requested by the petitioner 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.”

Likewise, Rule 9.4.c requires the determination of the “presence and extent of serious injury or the threat thereof to the domestic industry that produces like or directly competitive product.”

1. Float Glass

1.1 Market Share

Table 10. Estimated Apparent Consumption and Market Share

Year	% Share to Apparent Consumption	
	Domestic Industry ¹⁷	Imports ¹²
2005	91	9
2006	79	21
2007	79	21
2008	80	20

Sources: ¹⁷ - AGP
¹² - Import Entries from TC

1.2 Production and Sales

Table 11. Production and Sales Output

Year	Production % Change	Sales		
		Domestic % Change	Export % Change	Total % Change
2005-2006	(38)	(20.92)	338.17	(5)
2006-2007	42	5.64	99.07	25
2007-2008	32	4.88	105.48	38

Sources: AGP; Formal Investigation Report (SG No. 02-2006)

1.3 Capacity Utilization

Table 12. Actual Capacity Utilization

Year	Actual Utilization (%)
2005	93.00
2006	84.55
2007	62.80
2008	83.05

Sources: AGP; Formal Investigation Report (SG No. 02-2006)

1.4 Cost of Production

Table 13. Cost to Produce and Sell

Particulars	% Change		
	(2005-2006)	(2006-2007)	(2007-2008)
Clear Float:			
Raw Materials	(4)	18	(22)
Direct Labor	12	14	(13)
Manufacturing Overhead	11	16	(4)
Cost of Production	7	17	(9)
Operating Expenses	20	(29)	3
Cost to Produce and Sell	8	11	(8)
Tinted Float:			
Raw Materials	9	(14)	28
Direct Labor	44	(4)	-
Manufacturing Overhead	(13)	(4)	20
Cost of Production	(6)	(7)	22
Operating Expenses	19	(13)	(5)
Cost to Produce and Sell	(4)	(8)	19

Sources: AGP; Formal Investigation Report (SG No. 02-2006)

1.5 Employment and Productivity

Table 14. Employment and Labor Productivity

Year	Employment % Change	Labor Productivity % Change
2005-2006	12	(45)
2006-2007	(6)	51
2007-2008	13	18

Sources: AGP; Formal Investigation Report (SG No. 02-2006)

1.6 Profitability

Table 15. Statement of Income (2005-2008)

Particulars	(P'000)			
	2005	2006	2007	2008
Sales Revenue	2,452,450	2,721,365	3,085,350	3,481,100
Cost of Sales	1,674,905	2,162,786	2,903,686	3,237,355
Gross Profit /(Loss)	777,545	558,579	181,664	243,745
Selling and Administrative Expenses	(356,250)	(401,482)	(446,896)	(565,544)
Other Income and Expenses - Net	(37,512)	12,115	3,730	(7,604)
Income(Loss) from Operations	383,783	169,212	(261,502)	(329,403)
Finance Income (Expenses)-Net	(42,808)	(33,360)	74,578	(250,129)
Income (Loss) Before Income Tax	340,975	135,852	(186,924)	(579,532)
Income Tax Expenses	14,201	7,054	1,830	2,618
Net Income (Loss)	326,774	128,798	(188,754)	(582,150)

Source: AGP Audited Financial Statement

1.7 Return on Sales

Table 16. Return Sales based on Income from Operation

Year	Return on Sales (%)
2005	16
2006	6
2007	(8)
2008	(9)

Sources: AGP; Formal Investigation Report (SG No. 02-2006)

2. **Figured Glass**

2.1 Market Share

Table 17. Apparent Domestic Consumption and Market Shares

Year	% Share to Apparent Consumption	
	Domestic Industry ¹	Imports ²
2005	88	12
2006	84	16
2007	61	39
2008	19	81

Sources: ¹ - AGP
² - Import Entries

2.2 Production and Sales

Table 18. Production and Sales

Year	Production % Change	Sales		
		Domestic % Change	Export % Change	Total % Change
2005-2006	(49)	(9)	-	(9)
2006-2007*	-	(22)	-	(22)
2007-2008*	-	(66)	-	(66)

Sources: AGP; Formal Investigation Report (SG No. 01-2006)

*AGP has temporarily ceased its operation starting 2007.

2.3 Capacity Utilization

Table 19. Actual Capacity Utilization

Year	Actual Utilization Rate (%)
2005	56
2006	58
2007*	-
2008*	-

Sources: AGP; Formal Investigation Report (SG Inv. No. 01-2006)

*AGP has temporarily ceased its operation starting 2007.

2.4 Cost of Production

Table 20. Cost to Produce and Sell

Particulars	% Change		
	2005-2006	2006-2007*	2007-2008*
Raw Materials	17	-	-
Direct Labor	55	-	-
Manufacturing Overhead	10	-	-
Cost of Production	14	-	-
Operating Expenses	85	-	-
Cost to Produce and Sell	22	-	-

Sources: AGP; Formal Investigation Report (SG Inv. No. 01-2006)

*AGP has temporarily stopped its operation starting 2007

2.5 Employment and Productivity

Table 21. Employment and Labor Productivity

Year	Employment % Change	Labor Productivity % Change
2005-2006	6	(45)
2006-2007	-	-
2007-2008	-	-

Sources: AGP; Formal Investigation Report (SG No. 02-2006)

*AGP has temporarily stopped its operation starting 2007

2.6 Profitability

Please refer to Table 15.

2.7 Return on Sales

Please refer to Table 16.

DETERMINATION ON EFFORTS OF THE INDUSTRY TO ADJUST TO IMPORT COMPETITION

Sec. 19 of RA 8800 provides that subject to the review under Sec. 16, an extension of the measure may be requested by the petitioner 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.*

In case one or more firms of the benefiting industry which applied for safeguard measure failed to comply with their commitments as reflected in the approved adjustment plan, the safeguard measure shall continue to be in effect, provided however, that the firms which complied with their commitments constitute the majority in accordance with the definition of the domestic industry under Section 4 of paragraph (f) of RA 8800.

Based on the adjustment plan submitted by AGP in 2006, outlined below are the following measures the applicant company committed to adopt in order to facilitate positive adjustment to import competition:

1. Profitability improvement / Cost Down

- ✓ group-wide purchase of strategic materials to attain low-cost production inputs
- ✓ benchmarking and transfer of best practices to improve operating systems and controls
- ✓ region-wide optimum production allocation to maximize group synergy and economies of scale
- ✓ reduction of power and fuel oil costs
- ✓ explore and continue sourcing of alternative local raw materials
- ✓ pursue petition for reduction of tariffs on raw materials and inputs not locally produced

2. Strengthened manufacturing capability

- ✓ cold repair of furnace
- ✓ implement line improvements and modernization of glass mirroring plant

3. Marketing improvements

- ✓ expansion of market coverage of present products and increase sales of high-value product types
- ✓ re-alignment of sales channels/network
- ✓ strengthening of market intelligence
- ✓ improvement of key buying factors

4. Addition of new value-added products for the domestic and foreign markets
 - ✓ cover glass for solar cells
 - ✓ fire-resistant glass
5. Streamlining of organization thru re-engineering of basic processes, re-train work force and pursue culture change program
6. Proposed utilization of funds derived from collected safeguard duties
 - ✓ development and installation of anti-pollution system to comply with the Clean Air Act
 - ✓ logistic support to prevent RA 8800 circumvention and to strengthen government's anti-smuggling efforts
 - ✓ other competitiveness-enhancing measures for local industries

Efforts of the Industry to adjust to import competition

On 26 November 2008, the Commission conducted a public hearing on the monitoring of the domestic industry pursuant to Section 16 of RA 8800 (Monitoring of the Domestic Industry). The Commission on 30 January 2009 submitted to the DTI its report of findings that the domestic flat glass industry has complied substantially with its commitments as stated in the adjustment plan. Among the specific efforts that have been undertaken by AGP to comply with its adjustment plan and thereby gained competitiveness *vis-a-vis* imports are the following:

- Group-wide purchases and/or pool-buying scheme of imported raw materials
- Use of more recycled cullet
- Simplification of glass stock sizes
- Power efficiency measures
- Benchmarking with AGC affiliates through the use of Curriculum Development Based on Ability Structure (CUDBAS) Training
- Expansion of clear and tinted float glass production by investing new machines
- Production of solar glass panel