

DEPARTMENT OF TRADE AND INDUSTRY
Philippines

IN THE MATTER OF THE EXTENSION
OF THE DEFINITIVE GENERAL SAFEGUARD
MEASURES AGAINST THE IMPORTATION OF
CERAMIC FLOOR AND WALL TILES
FROM VARIOUS COUNTRIES
(Safeguard Case No. 01-2004)

Ceramic Tile Manufacturer's Association
Petitioner

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ORDER

On 26 May 2004, the Department of Trade and Industry (DTI) received a letter from the Ceramic Tile Manufacturer's Association (CTMA) requesting for the extension of the definitive general safeguard measures against imported ceramic floor and wall tiles classified under H.S. Codes Nos. 6907.9010; 6907.9090 and 6908.9011; 6908.9019; 6908.9021; 6908.9029; 6908.9090. CTMA claimed that while the safeguard action has been of immeasurable help to the domestic industry, it still needs more time to complete the implementation of its adjustment plan and become import competitive. The safeguard measure will expire on 11 January 2005.

Section 19 (2) of RA 8800 (Safeguard Measures Act) provides that *“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 shall 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.*

Pursuant to the above-cited provision of RA 8800, the DTI referred to the Tariff Commission, the request of CTMA for an extension of the definitive general safeguard measures on imported ceramic floor and wall tiles.

On 26 October 2004, DTI received a copy of the Commission's report on the petition of CTMA. The Commission concluded that *“the collective output of the two (2) applicant companies constitutes a major proportion of the total domestic production of ceramic tiles. 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. The current safeguard measure is effective. The volume of imports returned to the pre-surge level. The*

domestic industry saw improvement in its production; sales; market shares; productivity; capacity utilization and employment. Although the safeguard measure is effective, it is not sufficient to remove the threat of serious injury. The shift of import sourcing to countries in the de minimis list indicates that tiles are substitutable and sourcing patterns are sensitive to price changes. Generally, export prices from these countries (i.e. de minimis) were at a low level to the point that the domestic industry is forced to maintain their 2001 prices (import parity pricing) to protect market share. Consequently, the industry continued to incur losses despite improvements in sales. The full extent of the relief provided to the domestic industry was not maximized. Without a safeguard duty, domestic selling prices will fall below levels not enough to recover cost to produce and sell. There is a substantial threat of serious injury if safeguard duty is not extended. Many exporting countries in the Asian region, especially China, continue to increase their production capacities to tap the export market. These ceramic tiles are intended for export to countries mainly within the region, including the Philippines indicating the likelihood of substantially increased exports to the Philippines and that, unless safeguard action is extended, serious injury can occur. Without the extension of the safeguard measure, the positive gains made by the domestic industry will be negated as it still needs time to fully put in place its adjustment plan to effectively face import competition. Non-extension of the safeguard measure will likely lead to imports coming in at increased quantities which will be the dominant cause of serious injury to the domestic industry.”

It should also be noted that Mariwasa Siam Ceramics, Inc. has been issued an ISO 9001 certification on 19 September 2002, which is valid for three (3) years.

Accordingly, the DTI has reviewed the Commission’s findings and recommendations and has established that the application of the extended definitive general safeguard measure shall be in the public interest. Considering that the latest landed cost of imports from China is lower than the domestic selling price of the local industry, TC’s recommended rate for the second and third years are not sufficient to provide the protection needed by the local industry to complete its adjustment efforts. Instead it will only encourage importers to shift their imports to countries with the lowest landed cost. It was observed during the first three (3) years of implementation of the measure that source countries have shifted to those which were in the de minimis list. The DTI also considered the impact of the foreign exchange fluctuations and the trends in the costs of imports from the major exporting countries during the period of the imposition of the original measure.

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

1. The imposition of the definitive general safeguard measure shall be extended for another three (3) years and the amount for 2004 which stand at P3.50/kg shall be reduced by 20%. Thus, the definitive safeguard measure of P2.80/kg shall be imposed on the first year of the extension period. The amount of the measure shall be subject to an annual review for the purpose of liberalizing or reducing its intensity as provided under Rule 15.6 of the IRR of RA 8800. The first year of

implementation of the extended definitive general safeguard measure shall start on 12 January 2005.

2. The imported ceramic tiles, however, from Japan and the member states of the European Union, which cannot be considered “like product or directly competitive product” as defined in Section 4 of RA 8800, are excluded from the imposition of the extended definitive general safeguard measure.
3. 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”**. The following countries are therefore excluded from the imposition of the extended definitive general safeguard measure on ceramic floor and wall tiles:

Europe & Central Asia	Middle East	East Asia & Pacific
Albania	Bahrain	American Samoa
Armenia	Iran, Islamic Rep.	Brunei Darussalam
Azerbaijan	Iraq	Cambodia
Belarus	Israel	Christmas Is.
Bosnia & Herzegovina	Jordan	Cocos (Keeling) Is.
Bulgaria	Kuwait	Cook Is.
Croatia	Lebanon	Fiji
Cyprus	Oman	French Polynesia
Czech Republic	Qatar	Guam
Estonia	Saudi Arabia	Johnston
Georgia	Syrian Arab Rep.	Is.
Greenland	West Bank and Gaza	Kiribati
Hungary	Yemen, Rep.	Korea, Dem. Rep.
Kazakhstan		Lao PDR
Kyrgyz Republic		Macau
Latvia		Marshall Islands
Lithuania		Micronesia, Fed. Sts.
Macedonia, FYR		Midway Is.
Malta		Mongolia
Moldova		Myanmar
Poland		Nauru
Romania		New Caledonia
Russian Federation		Niue
Slovakia		Northern Marianas Island
Slovenia		Palau
Tajikistan		Papua New Guinea
Turkey		Pitcaim Is.

Turkmenistan Ukraine Uzbekistan Yugoslavia, Fed. Rep.		Samoa Singapore Solomon Islands Tokelau Tonga Tuvalu Vanuatu Wake Is. Wallis and Tutuna Is.
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North Africa		South Asia	
Algeria Egypt, Arab Rep. Libya Morocco Tunisia		Afghanistan Bangladesh Bhutan British Indian Ocean Territory East Timor Maldives Nepal Pakistan Sri Lanka	
East & Southern Africa		West Africa	
Angola Botswana Burundi Comoros Congo. Dem. Rep Djibouti Eritrea Ethiopia Kenya Lesotho Madagascar Malawi Mauritius	Mozambique Namibia Reunion Rwanda Seychelles Somalia South Africa Sudan Swaziland Tanzania Uganda Zambia Zimbabwe	Benin Burkina Faso Cameroon Cape Verde Central African Rep. Chad Congro, Rep. Cote d' Ivore Equitorial Guinea Gabon Gamibi, The Ghana	Guinea Guinea-Bissau Liberia Mali Mauritania Niger Nigeria Sao Tome & Principe Senegal Sierra Leone Togo

Americas		
Anguilla	Dominican Rep.	Norfolk Is.
Antigua and Barbuda	Ecuador	Panama
Argentina	El Salvador	Paraguay
Aruba	Falkland Islands (Malvinas)	Peru
Bahamas	French Guiana	Puerto Rico
Barbados	Granada	St. Helena
Belize	Guadaloupe	St. Kitts & Nevis
Bermuda	Guatemala	St. Lucia
Bolivia	Guyana	St. Pierre & Miquelon
British Virgin Is.	Haiti	St. Vincent & the
Cayman Islands	Honduras	Grenadines
Chile	Jamaica	Suriname
Colombia	Martinique	Trinidad & Tobago
Costa Rica	Mexico	Turks and Caicos Is.
Cuba	Montserrat	Uruguay
Dominica	Netherland Antilles	US Virgin Island
	Nicaragua	Venezuela

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 DTI during the extension period.

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 states shall be governed by the provisions of Articles 6 and 8 of the Agreement on the CEPT Scheme.

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

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.

21 December 2004.

(signed)
CESAR V. PURISIMA
Secretary