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- A-2 Notice of Formal Investigation, Published in The *Manila Standard* on 19 September 2003
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## *ABBREVIATIONS*

AHTN	ASEAN Harmonized Tariff Nomenclature
AEM	ASEAN Economic Ministers
AFTA	ASEAN Free Trade Area
AGC	Asahi Glass Company Limited
AGP	Asahi Glass Philippines
ASEAN	Association of South East Asian Nations
BIS	Bureau of Import Services
BOC	Bureau of Customs
CEPT	Common Effective Preferential Tariff
CIF	Cost, Insurance and Freight
CMO	Customs Memorandum Order
Commission	Tariff Commission
COP	Cost of Production
COPS	Cost to Produce and Sell
DA	Department of Agriculture
DTI	Department of Trade and Industry
E.O.	Executive Order
EBIT	Earnings Before Interest and Taxes
GATT	General Agreement on Tariffs and Trade
GK	Gross Kilogram
HS	Harmonized System
IRR	Implementing Rules and Regulations
ISO	International Standards Organization
Kg.	Kilograms
mm	Millimeter
MFN	Most-Favoured-Nation
MT	Metric Ton
NEDA	National Economic and Development Authority
PNS	Philippine National Standard
POI	Period of Investigation
PROC	People's Republic of China
R.A.	Republic Act

R.A. 8800	Republic Act 8800, otherwise known as the Safeguard Measures Act of 2000
RAGC	Republic-Asahi Glass Corporation
RGC	Republic Glass Corporation
RGHC	Republic Glass Holdings Corporation
SEC	Securities and Exchange Commission
US	United States
VAT	Value Added Tax
Wtd.	Weighted
WTO	World Trade Organization

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## **EXECUTIVE SUMMARY**

*This report is about safeguard action against imports.*

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

### **Safeguards Investigation**

*The Safeguard Measures Act, in consonance with the WTO Agreement on Safeguards, allows temporary safeguard action against imports.*

The Act provides for:

- general safeguard measures to afford relief to domestic industries suffering from serious injury or the threat thereof as a result of increased imports, and
- special safeguard measures (additional duty not exceeding 1/3 of the existing rate of duty) on agricultural products marked "SSG" in Schedule LXXV-Philippines, when the import volume exceeds its trigger level or when the actual CIF import price falls below a trigger price level.

*A safeguard inquiry must follow the requirements spelled out in the Safeguard Measures Act...*

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

*...and the procedures prescribed by the WTO Agreement on Safeguards.*

In particular, the Commission is required to determine:

- if the domestic product is like product or a product directly competitive to the imported product under consideration;
- if the product is being imported into the Philippines in increased quantities (absolute or relative to domestic production);
- the presence and extent of serious injury or threat thereof to the domestic industry that produces like or directly competitive product; and

the existence of a causal relationship between the increased imports of the product under consideration and the serious injury or threat thereof to the affected domestic industry.

## Findings

<i>Locally produced figured glass is a like product to the imported figured glass</i>	The figured glass produced by AGP and the imported figured glass are like products. They are both made from similar raw materials, conform to recognized product standards, fall under the same tariff classification, and have the same end-use and function.
<i>AGP's output constituted the total domestic production.</i>	Asahi Glass Philippines (AGP), the sole domestic manufacturer of figured glass in the Philippines, accounts for 100% of total domestic production of the subject article.
<i>During the period under review, imports increased significantly...</i>	For purposes of the Commission's formal investigation, the period of investigation covered the years 1998 to 2002.
<i>...in absolute terms...</i>	Imports of figured glass increased from 4,035 MT in 1998 to 6,685 MT in 1999 and to 8,092 MT in 2000. In 2001, imports fell to 6,183 MT. In 2002, imports reached 9,795 MT, a leap of 58% or equivalent to 3,612 MT more than the 2001 level.
<i>..and relative to domestic production.</i>	<p>Imports of figured glass represented 12% of total domestic production in 1998. Share of imports continuously increased to 22% in 1999 and 30% in 2000. In 2001, the share dropped to 20%.</p> <p>In 2002, the share of imports rose to 33% vis-a-vis domestic production.</p>
<i>Significant increase in imports commenced in 2002.</i>	<p>The biggest growth in imports of figured glass occurred in 2002, when total imports peaked at 9,795 metric tons, or almost a 60% increase from the 2001 level and more than 100% of 1998 level.</p> <p>The percentage share of imported figured glass relative to domestic production recorded its highest level in 2002 at 33% from 12% in 1998.</p>
<i>The industry has suffered and is suffering a significant impairment in its overall market position,...</i>	Imports eroded AGP's competitive position. Reduction in AGP's market share from 84% in 1998 to 68% in 2002 indicates impairment in its overall market position.
<i>..production and sales...</i>	Annual production dropped in 1999 by 11.43% from the 1998 level and further by 12.90% in 2000. The production of 27,000 MT in 2000 was the lowest level throughout the

POI. In 2001, production recovered by almost 15% and managed to regain its 1999 level. However, a 3% decline occurred in 2002.

Similar with production, sales volume declined in 1999. Despite production cut in 2000, sales increased for both domestic and export market. The slight decrease in 2001 domestic sales was compensated by a 33% increase in exports sales which included sales of finished goods to Asahi Glass Singapore Pte. Ltd. Domestic sales declined in 2002 by 0.48%.

Despite market expansion for figured glass, production and sales remained relatively stable in absolute terms. On the other hand, relative to demand, sales and production did not improve due to the increase in imports.

*...and profitability*

Audited financial statements revealed that income from operation dropped drastically during the POI. Significant increase in imports in 2002 forced AGP to cut its price by almost 12%, i.e., sold below cost in order to maintain its market. This led to a significant operating loss of ₱23 million in 2002.

*The serious impairment in the industry's overall market position, production, sales and profitability is directly attributable to the significant increase in imports in 2002.*

AGP dominated the market with a share of 84% during the first year of the POI. When imports started to grow, AGP's market share dropped to a mere 68% in 2002. The decline in market share of the domestic industry and the erosion of its competitive position are directly attributable to the significant increase in imports in 2002.

In absolute terms, production and sales remained stable. However, relative to domestic consumption, the movement of sales and production indicates impairment in the company's operation in 2002 when imports peaked at 9,795 metric tons. Imports constrained production and sales from benefiting from the market growth.

The continuous increase in low-priced imports forced AGP to adopt import parity pricing i.e., sell below cost. The price reduction below costs resulted in huge operating loss of ₱23 million in 2002, the year when imports soared to their highest level during the POI.

### **Safeguard Action**

*Imposition of safeguard action is justified in terms of R.A. 8800 and the WTO Agreement on Safeguards.*

The existence of causal link between increased imports of figured glass and serious injury to the domestic industry having been established, the Commission recommends tariff rate quota as the form of definitive safeguard measure to be imposed on the importation of figured glass.

The measure shall be effective for three (3) years starting 13 October 2003, i.e., the date the provisional measure took effect.

For purposes of import quota allocations by country, the Commission determined that the three-year period preceding the import surge, i.e., 1999 to 2001, serves as a desirable base period for computing the beginning in-quota volume.

Based on AGP's market growth forecast of 2.5% for 2005 and 2006, which is consistent with the average annual growth of domestic consumption of 2.03% during the base period, allocation of in-quota volumes for the succeeding years is proportionately increased by such rate (2.5%).

For imports exceeding the in-quota allocation, the definitive safeguard measure shall be a specific duty of ₱689.00/MT