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ABBREVIATIONS

AEM	ASEAN Economic Ministers
AFTA	ASEAN Free Trade Area
AGC	Asahi Glass Company Limited
AGP	Asahi Glass Philippines
AHTN	ASEAN Harmonized Tariff Nomenclature
ASEAN	Association of South East Asian Nations
BIS	Bureau of Import Services
BOC	Bureau of Customs
CCs	Converted Cases
CEPT	Common Effective Preferential Tariff
CIF	Cost, Insurance, Freight
CMO	Customs Memorandum Order
Commission	Tariff Commission
DA	Department of Agriculture
DTI	Department of Trade and Industry
E.O.	Executive Order
FOB	Freight on Board
GATT	General Agreement on Tariffs and Trade
HS	Harmonized System
IRRs	Implementing Rules and Regulations
kg.	Kilograms
mm	Millimeters
MFN	Most-Favoured-Nation
MT	Metric Ton
PROC	People's Republic of China
R.A.	Republic Act
RAGC	Republic-Asahi Glass Corporation
RGC	Republic Glass Corporation
RGHC	Republic Glass Holdings Corporation
SEC	Securities and Exchange Commission
sq. m.	Square Meter
TC	Tariff Commission
VAT	Value Added Tax
WTO	World Trade Organization

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 float glass, whether clear or tinted.

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 and the procedures prescribed by the WTO Agreement on Safeguards.

In responding to the question of whether safeguard action is warranted against imports of float glass, whether clear or tinted, the Tariff 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.

In particular, the Tariff Commission is required to determine:

- if the domestic product is a like product or a product directly competitive to the imported product under consideration;
- if the product under consideration 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

Locally produced float glass is “like” to imported float glass.

Locally produced and imported clear and tinted float glass are made from similar raw materials, use similar manufacturing technology, conform to recognized product standards, fall under the same tariff classification, and have the same end-uses.

AGP’s output constituted total domestic production.

As the only manufacturer of clear and tinted float glass in the Philippines, Asahi Glass Philippines accounted for 100% of total domestic production of subject articles from 1998 to 2002.

During the period under review,...

For purposes of the Tariff Commission’s formal investigation, the period of investigation covered the years 1998 to 2002.

... imports increased significantly in absolute terms...

Except in 2000, imports of float glass increased annually, from 11,000 metric tons in 1998 to more than 26,000 metric tons in 2002.

... and relative to domestic production.

In 2002, the share of imports of float glass relative to the domestic industry’s output rose to 29% from an average share of only 17% in 1998 to 2000.

Imports increased significantly in 2002.

The annual levels of imports from 1998 to 2002 and the annual shares of imports to domestic production show that imports increased significantly in 2002.

The industry suffered a significant impairment in its overall market position,...

The magnitude of the decline in the domestic market share of the domestic float glass industry, from an average of 78% in 1998 – 2001 to 66% in 2002, despite significant market recovery, and the consequent erosion of its competitive position constitute serious impairment of its overall market position.

... sales and inventory,...

The rate of growth of domestic sales of the industry in 2002, when imports increased significantly, lagged considerably behind the rate of growth of demand. Indicative of the industry's inability to share in the appreciable rise in demand, this weak domestic sales growth in 2002 constitutes serious impairment of the industry's overall condition.

The industry's above-normal inventory level in 2002, which is a direct consequence of its inability to generate more sales in a bigger market, indicates serious impairment of the industry's overall condition.

... profitability,...

The audited financial statements of Asahi Glass Philippines showed that in 2002, when imports increased significantly, the company realized a loss from operation of ₱25 million, which is equivalent to a 122% decline from the 2001 level. Such major loss constitutes serious impairment of the company's overall financial condition.

... and employment.

The extent of the decline in the domestic industry's employment in 2002, compared to the previous years' levels, is significant as to constitute serious impairment of its overall condition.

The improvement in labor productivity supports the finding of serious impairment in industry employment.

While labor productivity improved significantly in 2002, this was due to the sizeable reduction in employment combined with stable production (rather than to increases in output and constant employee numbers). This supports the finding of serious impairment in the domestic float glass industry's employment during the year of the upsurge in imports.

There was no significant impairment in industry production and capacity utilization.

There was no significant adverse trend in the domestic industry's production volumes and capacity utilization rates during the period under review as to constitute serious impairment of its overall condition.

Because the float glass manufacturing process requires that the level of molten glass in the furnace tank is carefully maintained so as not to jeopardize the quality of the glass, capacity utilization rates and production volumes are necessarily constant for a float glass manufacturer.

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

Prior to the increase in imports of float glass in 2002, the domestic industry's domestic market share for float glass averaged 78%. In 2002, this share declined to 66%. Since the remainder of market demand is supplied by imports, it is clear that the contraction in the market share of the domestic industry and the weakening of its competitive position in 2002 were directly caused by the increased imports of float glass in said year.

The industry's domestic sales in 2002 grew by a mere 5% over the previous year's level although demand increased by 16%. This weak sales growth, indicative of serious impairment of the industry's ability to generate more sales in an expanding domestic market and which caused the industry's inventory level to shoot up, is directly attributable to imports of float glass, which surged by 44% during the year.

During the period under review, Asahi Glass Philippines adopted import parity pricing to maintain its domestic sales volume. Low-priced imports in significantly increased quantities in 2002 put considerable pressure on the company to reduce its prices, at the expense of cost recovery. Unable to recover all costs, the company thus suffered a loss from operation of ₱25 million in 2002, which represents a 122% decline from 2001. This is serious impairment of the industry's overall financial condition that is directly attributable to the upsurge of imports in 2002.

Safeguard Action

The imposition of a safeguard measure is justified in terms of R.A. 8800 and the WTO Agreement on Safeguards.

The existence of a casual link between the increased imports of float glass and serious injury to the domestic industry having been established, the Tariff Commission recommends the tariff-rate quota as the form of definitive general safeguard measure to be imposed on imports of float 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 Asahi Glass Philippines' market growth forecast of 2.5% for 2005 and 2006, which is consistent with the average annual growth of domestic consumption of 2.33% 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 allocations, the definitive safeguard measure shall be specific duties of ₱1,583/MT for clear float glass and ₱2,780/MT for tinted float glass.