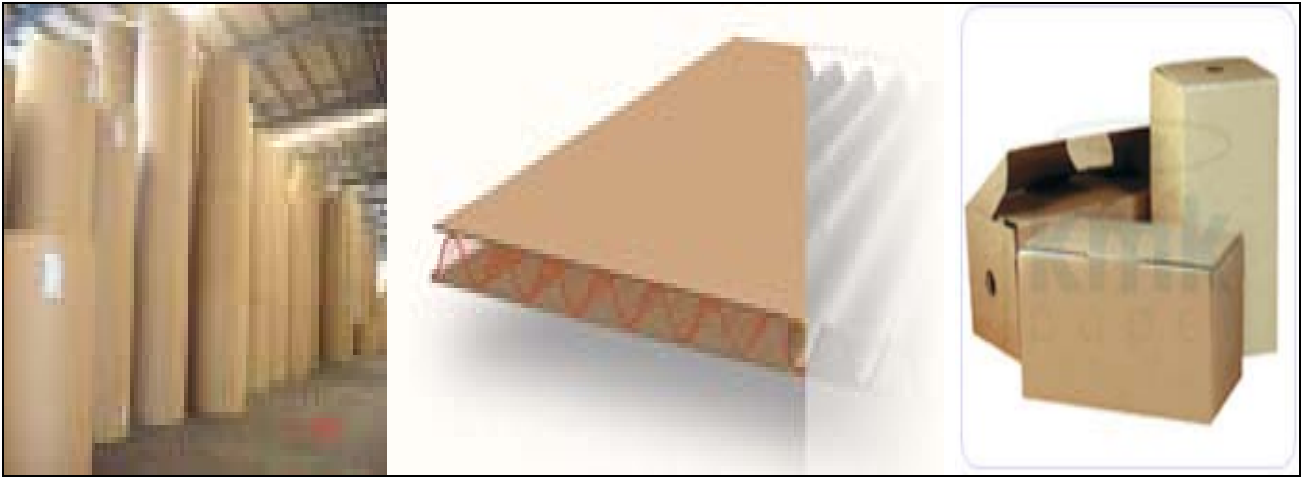


STAFF REPORT

**Formal Investigation of Safeguard Measure Case
Against Importation of Testliner Boards
from Various Countries
(AHTN CODES 4805.24.00, 4805.25.10 and 4805.25.90)
(SG Investigation No. 01-2010)**



20 August 2010

1. TERMS OF REFERENCE

1.1 The Application for General Safeguard Measure

On 09 November 2009, the Department of Trade and Industry (DTI) accepted a properly documented application from the domestic testliner board industry represented by United Pulp and Paper Co., Inc. (UPPC) for the imposition of safeguard measures against imports of testliner boards from various countries under Republic Act (RA) No. 8800 (otherwise known as the "Safeguard Measures Act"). The domestic industry alleged that testliner boards are being imported in increased quantities and that as a result thereof, causes serious injury to the domestic industry.

The petition covers imported testliner boards classified under AHTN Code Nos. 4805.24.00, 4805.25.10 and 4805.25.90

1.2 The Preliminary Investigation

On 16 November 2009, the DTI Secretary issued a report on the initiation of the safeguard measure investigation on testliner board. The investigation established the existence of a causal link between the increased imports of the product under consideration and serious injury to the domestic industry particularly in terms of declining market share, domestic sales, capacity utilization, production, profitability and productivity.

On 05 May 2010, the DTI Secretary issued a Department Order (DO) imposing a provisional safeguard measure in the form of a cash bond amounting to ₱1,480.00/MT for a period of two hundred (200) days from the date of issuance of the Bureau of Customs of the relevant Customs Memorandum Order (CMO) or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

The Order covers imported testliner board with basis weight of 125gsm, 140gsm, 150gsm, 160gsm, 175gsm, 185gsm, 200gsm and 230gsm classified under AHTN Codes 4805.24.00, 4805.25.10 and 4805.25.90. Excluded from the imposition of the provisional measure are imports from developing countries listed in Annex A of said DTI Order and covered by Rule 8.8 of the Implementing Rules and Regulations (IRR) of RA 8800.

On 25 May 2010, the DTI Secretary endorsed the case to the Tariff Commission (Commission) for the conduct of formal investigation to determine the merits of imposing a definitive duty on subject articles pursuant to Section 9 of RA 8800 and its IRRs.

2. THE FORMAL INVESTIGATION

Section 9 of RA 8800 provides that:

“Within five (5) working days from receipt of the request from the Secretary, the Commission shall publish the notice of the commencement of the investigation, and public hearings which shall afford interested parties and consumers an opportunity to be present, or to present evidence, to respond to the presentation of other parties and consumers and otherwise be heard. Evidence and positions with respect to the importation of the subject article shall be submitted to the Commission within fifteen (15) days after the initiation of the investigation by the Commission

The Commission shall complete its investigation and submit its report to the Secretary within one hundred twenty (120) calendar days from receipt of the referral by the Secretary, except when the Secretary certifies that the same is urgent, in which case the Commission shall complete the investigation and submit the report to the Secretary within sixty (60) days.”

2.1 Notifications

2.1.1 Commencement of Formal Investigation

Notice of formal investigation was published on 29 May 2010 in *The Manila Times* and *Manila Standard Today* (Annexes “A” and “B”). Individual notices were sent to all identified interested parties (Annex “C”). The same parties were advised to attend the Preliminary Conference on 08 June 2010.

2.1.2 Preliminary Conference

A preliminary conference was held on 08 June 2010 to discuss the following: schedules and procedures of the public consultations; nature of administrative and fact-finding proceedings; non-applicability of the technical rules of procedures in the Rules of Court; submission/presentation of parties’ documentary evidences and position papers; confidentiality of information; timeframe of the formal investigation; and other relevant matters necessary for the expeditious and/or otherwise orderly conduct of the hearing.

In attendance were representatives from the following:

A. Local Manufacturers/Associations/Government Offices

- United Pulp and Paper Corporation (UPPC)
- Rivera Santos Maranan Law Office counsel for UPPC
- Pulp and Paper Manufacturers Association (PULPAPEL)
- Department of Natural Resources-Environmental Management Bureau (DENR-EMB)
- Philippine International Trading Center (PITC)

B. Importers

- Sound Future Brokerage
- Multipack Container Co., Inc.
- Megapack Container Corp.
- Solid Future Marketing, Inc.
- ELI
- MTEC Water Treatment Tech. Inc.
- Basic Box, Inc.
- DaiEi Papers International Corp.
- Constant Packaging Corp.
- Dowell Packaging Corporation
- United Container Corp.
- Sunpack Container Packaging Corporation

C. Exporter

- PT Indah Kiat Pulp and Paper

D. Embassies/Commercial Attaché'

- Consulate of Sweden
- Royal Thai Embassy
- Malaysian Embassy
- Korea Trade and Investment Office

E. Media

- Business World

Matters taken up and agreed upon by the parties during the preliminary conference were contained in the Order (Annex "C") issued by the Commission on 09 June 2010.

2.2 Plant Visit and/or Verification of Data

The Commission sent letter-requests for ocular inspection and/or verification of data to thirty-eight (38) identified local parties: six (6) testliner board producers, twenty-five (25) importers of testliner boards and seven (7) non-producers of testliner boards but of other types/kinds of paper.

Out of these parties, only the following consented to the Commission's request.

- United Pulp and Paper Co., Inc. (15 June 2010 and 22 June 2010)
- United Container Corporation (29 June 2010)
- Superior Packaging Corporation (5 July 2010)
- Jennson Packaging Corporation (13 July 2010)
- Republic Corrugated Cartons (15 July 2010)
- Sunpack Container Packaging Corporation (being scheduled)
- SP Mamplasan Corporation (being scheduled)

3. PARTICIPANTS' VIEWS

3.1 The Domestic Industry's Case

3.1.1 The Petitioner: United Pulp and Paper Corporation (UPPC)

UPPC, made the following claims:

- From 2004 up to the present, there was an increase in the volume of imported testliner board
- Domestic industry suffered serious injury
- Causal linkage existed between the continuing surge in imports of testliner board and serious injury suffered by the domestic industry
- Imposition of safeguard measure will give the local industry a chance to regain its market share and adjust to import competition.

Submission of Adjustment Plan

Rule 4.1 of the IRRs of RA 8800 defines adjustment plan as an *“action plan which a domestic industry is required to submit, that describes a set of quantified goals, specific plans, and timetables that a concerned industry commits to undertake in order to facilitate positive adjustment of the industry to import competition.”*

Petitioner, following the Commission's directive contained in the Commission Order dated 09 June 2010, submitted on 15 July 2010 its adjustment plan for 2010-2014. The following are the priority measures they commit to adopt to facilitate positive adjustment to import competition:

Measures to be undertaken	Timetable
<p>A. Profitability improvement (Cost Reduction and Power Efficiency)</p> <ul style="list-style-type: none"> • Actively seek long-term supply agreements and possible joint or group purchases of strategic materials to enjoy related benefits such as bulk-purchase discounts and secured supply; • Minimize the impact of increasing prices of raw materials; • Promote efficient generation and use of power and reduction of power cost 	<p>2010-2014</p> <p>2010-2014 2010-2014</p>
<p>B. Strengthen manufacturing capability</p> <ul style="list-style-type: none"> • Gain economies of scale advantage • Utilize existing technology to reduce fiber loss and improve yield • Promote efficient use of chemicals and other raw materials 	<p>2010-2014 2010-2013</p> <p>2010-2014</p>

<p>C. Marketing improvements</p> <ul style="list-style-type: none"> • Defend market share through effective product and price strategy • Maintain market leadership by building and maintaining long-term customer partnerships for sustainable business • Minimize credit risk exposure • Explore and pursue opportunities for expansion 	<p>2010-2014</p> <p>2010-2014</p> <p>2010-2014 2014</p>
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3.1.2 Parties Supporting the Petition

Pulp and Paper Manufacturers Association, Inc. (PULPAPEL), Gatherers and Dealers of Second Hand and Waste Paper, and United Pulp and Paper Co., Inc. Employees Union are the associations that submitted their positions to the DTI and expressed their support to the petition because of the following:

- Due to its positive impact on employment, job generation, contribution to government revenue, solid waste management, source of water for irrigation/farming, conservation of forest resources, paper supply assurance and foreign investments
- The continued survival of the testliner board industry is vital to the livelihood of their members

3.2. The Opposing Case

Oppositors to the application for safeguard action submitted the following arguments to support their position:

3.2.1 Importers/Association

Out of fifty (50) identified importers and one (1) association that were notified by the Commission, only five (5) submitted their positions.

3.2.1.1 Containerboard Manufacturers Association of the Philippines (CMAP)

- Despite the import surge during the POI, the domestic testliner board industry was able to increase production by 5.07% in 2006 and 25.73% in 2007. Both imports and domestic production were increasing in response to an increase in market size and import surge is not dislodging the share of domestic production at all. The domestic industry retained 92.23% of market share as of the end of 2008.
- There is both absence of “significant overall impairment of the industry” and proof of injury. The financial statements of UPPC shows it was able to increase sales from ₱3.8 billion in 2006 to ₱3.9 billion in 2007 and ₱4.0 billion in 2008, with a net income of ₱281

million in 2006 and ₱191 million in 2007. A minimal net loss occurred in 2008 which is attributable to the global economic crisis.

- The 2008 audited financial statement of UPPC showed a gross profit of ₱166,921,626 or 4.16% of net sales, yet it claims gross loss of 3.89% for testliners in the initiation report.
- Examination of the financial statements of other industry players showed that they are not at all affected by the so-called “import surge” as claimed by UPPC.
- The “coincidence analysis” is the centerpiece of the causation analysis wherein an increase in imports normally should coincide with a decline in the relevant injury factors. This was not so in the instant case.
 - (i) Domestic sales value for testliners increased by 5.93% in 2005, 17.64% in 2007 and 6.88% in 2008 notwithstanding that there was an import surge.
 - (ii) While volume of domestic sales decreased in 2005, 2006 and 2008, the peso sales increased, and the industry was able to implement successive price increases despite import surge during the POI.
 - (iii) UPPC allotted significant portion of its production to export market in 2005 and 2006 resulting to shortage of testliner available for domestic consumption. The downstream industries imported the deficiency in supply which explained the import surge of 465% and 97% for 2005 and 2006, respectively.
 - (iv) The number of employees steadily increased from 377 employees to 416 employees during the period of investigation.
 - (v) From 2006-2007, a 97.10% and 24.67% increase in imports was observed and labor productivity increased by 5% for 2006 and 5% in 2007. The effect should be downwards if import surge is really causing injury.
- Demand for finished paper products collapsed as a result of the 2008 economic crisis, even imports stopped by the last quarter of 2008 due to depressed demand in the Philippines and the world.
- Adverse effects of unwarranted and unlawful grant of safeguard duty on testliners to UPPC include:
 - (i) UPPC controls 70% of domestic production of testliners while the remaining 30% are by other producers for their own consumption. This means that UPPC has a monopoly of supply of testliner.
 - (ii) Artificially increasing the cost of testliner through safeguard duties will impact on the competitiveness of downstream industries which employ a far greater number of direct and indirect workers.
 - (iii) An artificial increase in packaging will seriously impact on export competitiveness since practically all Philippine export products use recyclable packaging produced by the downstream industries.

- (iv) There is currently a global shortage of packaging paper and any imposition of safeguard duty will aggravate the situation of downstream factories.

3.2.1.2 United Container Corporation (UCC), Superior Packaging Corporation, Jennson Packaging Corporation (Jennson) and Republic Corrugated Cartons (RCC)

- Failed to submit position papers but allowed the Commission to conduct plant visits and data gathering.
- During the DTI preliminary investigation, UCC, Jennson and RCC submitted their position papers and responses to the questionnaires of the DTI. They expressed concern on the following:
 - ✓ lack of supply of quality testliner boards
 - ✓ uncompetitive price and cost savings.
 - ✓ the imposition of the safeguard measure will be detrimental to the corrugators in case of an unforeseen shutdown or labor strike

3.2.2 Foreign Governments

3.2.2.1 Department of Foreign Trade, Ministry of Commerce of Thailand

- Despite the lack of data provided for 2009 to the present time, TC has made reference to the 2009 import levels in the DTI's report without providing the data to enable all interested parties to comment
- Requests to provide statistics on import volumes on a country-by-country basis as well as continued data from UPPC from the beginning of 2009 until the present time to enable DFT to give further comment
- Although the domestic industry claimed that it suffered serious injury from imports during the POI, the market share of imports was limited to approximately 13% while the domestic industry was still able to capture the domestic market of about 87%
- despite a slight decrease of 2% in sales volumes in 2008, domestic sales performance demonstrated brilliant prospects and contributed to its increase in overall sales revenues
- the financial loss incurred in 2008 was primarily the result of cost pressures of increased raw material, factory overhead and inventory adjustment costs
- no economic factors indicate appreciable negative trends which raises doubts that serious injury to the domestic industry was actually caused by imports but by other factors
- petitioner has enjoyed significant increase in production between 2004 and 2007 and by 2008, production levels were 10% higher than 2004
- while the quantity of imports rose substantially between 2004-2008 by over 200%, the quantity of testliner boards imported remained at an extremely low level of 13.34% by 2008

- petitioner's domestic performance consistently improved during the POI while their export performance exploded from 2004 levels
- the combined impact of an additional 10% in the workforce and the substantial increase in wages significantly raised cost for the company but failed to increase productivity
- petitioner's lack of competitiveness in the international market and the analysis of the impact of the economic and financial crisis seem to be the main cause of the worsened situation rather than the increased imports of testliner boards
- cost of production rose considerably in 2006, increasing by 29.98% between 2006-2008 which is very likely the cause of the decrease in profits observed in 2007-2008 rather than the impact of imports

3.2.2.2 Ministry of Trade of the Republic of Indonesia

- Thailand, with an average of 72% share to total imports, is the major source of imports to the Philippines during the period 2004-2008.
- Market share of imports was 12.27% in 2005, 19.04% in 2006 and 10.02% in 2008 and no imports from Indonesia in 2004 and 2007.
- The imposition of safeguard measure will allow the domestic industry to monopolize the domestic market, contrary to the spirit of trade liberalization.
- Requests that (i) imports from related parties in Thailand be excluded and to reassess whether the resulting import value meets the requirement of Article 2 of the WTO Safeguard Agreement, and (ii) if the volume of imports is significant, unforeseen developments linked to the increase in imports is not justified as the domestic industry would be fully aware of the capacity increase in Thailand and they would be responsible for the imports.

3.2.2.3 Taipei Economic and Cultural Office (TECO)

- Chinese Taipei only accounted for 6.03% market share during the POI and export quantities from Chinese Taipei were 681.72 MT and 1,122.43 MT in 2007 and 2008, respectively.
- With the advent of global crisis in 2008, Chinese Taipei's paper mills only took steps to reduce their production to avoid further losses and also endeavored to explore domestic market.
- Most of Chinese Taipei's products were either not manufactured by Philippine local companies or were custom made to meet the Philippine buyer's special demand.

3.2.2.4 European Commission (EC)

- The DTI's analysis on the increase in imports of the product concerned stops at the end of 2008, whereas the investigation was initiated in November 2009. In order to impose safeguard measures, there is WTO jurisprudence interpreting the WTO Agreement that requires the investigating authority to prove the

existence of a sudden, sharp and recent increase in imports of the product concerned (Argentina footwear case).

- The Commission submits that as long as the analysis of the import trends stops at the end of 2008 and does not cover also the most recent statistics available covering the year 2009, DTI will not be in a position to impose safeguard measures.
- Limiting the analysis to 2008 where it appears that the imports of the product concerned seem to have increased, this increase must be seen in a context of substantial increase of the domestic consumption.
- Causal link analysis is missing in the report. The domestic industry enjoyed a good performance in 2004 to 2007, at the time imports increased. If there was an injury this would be due to reasons other than increased imports.
- All injury indicators analyzed in this case followed a positive trend during the period considered. Domestic sales volume and value increased by 5% and 30%, production increased by 13%, capacity utilization increased by 8%, inventories drastically decreased, sales revenue, employment and wages increased, domestic price increased by 23% and no undercutting was established during the year 2008.
- In 2004, the local producer had a virtually monopolistic position on the market (more than 99% market share) and that despite a fall of 13% in market share during the period considered, it still holds a significant part of the market i.e., 87% market shares.
- Profit showed a negative trend but only in 2008 since profit between 2004 and 2007 more than doubled.
- The domestic industry reached a capacity utilization rate of 78% in 2004 and has substantially increased this rate since then, despite increased imports.
- The Commission would respectfully urged the substantial flaws in DTI's preliminary analysis, by (i) extending the analysis of the sharp import increase to cover the most recent statistics available for the year 2009; (ii) analyzing all detail the injury indicators (iii) effecting a proper causal link giving the appropriate weight to the other factors than imports causing a worsening of the domestic industry situation after the end of 2007.

3.2.2.5 Embassy of the Republic of Korea

- Formally signified its interest in the case.

3.2.2.6 Manila Economic and Cultural Office (MECO) (Taiwan Trade Representative in the Philippines) Embassy of the Federal Republic of Germany in the Phil. Embassy of Malaysia and Royal Thai Embassy

- Submitted their respective positions to the DTI during the preliminary determination. The succeeding views were indicated:

- ✓ MECO stated that its exporter Ban Yu Mill Co., Ltd., has closed its operation due to bankruptcy while exports to the Philippines of Sun Favorite Ltd. are based on current prices and market situation
- ✓ Embassy of Federal Republic of Germany indicated that their exporter, Pacific Dragon International PTE Ltd., is not listed in their official directories, hence, the embassy did not forward the documents to Germany
- ✓ Embassy of Malaysia informed that minimal exports of Malaysia cannot be a contributing factor to UPPC's injury
- ✓ Royal Thai Embassy stated the non-existence of causal link between the total importations and serious injury suffered by the local industry

3.2.3 Exporters

Out of thirty-five (35) identified exporters, only eleven (11) exporters submitted positions to the Commission:

3.2.3.1 P.T. Indah Kiat Pulp and Paper Products (Indonesia)

- total market in the Philippines exceeded domestic production and demand and supply is balanced only with the help of imports
- there will be shortage in the Philippine market if imports will not be allowed or if safeguard measures will be applied which will lead to the profiteering by the domestic industry.
- price undercutting is manifested only in Thailand and there is no price depression or suppression

3.2.3.2 HM Trading Corporation (South Korea)

- Denies that importation of testliner caused serious injury to Philippine domestic industry.
- UPPC imported testliner from Thailand.
- UPPC had tank explosion accident in its factory a few months ago.
- Importation of testliner has contributed to Philippine packaging industry and its economy.

3.2.3.3 Mondo Ventures, Inc. and group of companies, namely: Pacific Dragon, Inc., PT Surabaya Mekabox, PT Lestari Karya Makmur and PT Integra Lestari (Indonesia)

- Has not exported more than 200 to 300 MT (8 to 12 containers) of Testliner over the past two (2) years
- Alleged that the bulk of testliner board imports came mostly from UPPC's own parent company, Siam Kraft.
- Exports to the Philippines are already much more expensive than to other ASEAN countries. Shipping costs are double in Manila port.

**3.2.3.4 Hiang Seng Fibre Container Co., Ltd, Thailand
Panjapol Paper Industry Co. Ltd, Thailand
P.T. Fajar Surya Wisesa Tbk (Fajar Paper), Indonesia,
Muda Paper Mills Sdn Bhd, Malaysia,
Ban Yu Paper Mill Co., Ltd, Chinese Taipei
Carter Holt Harvey Pulp and Paper, New Zealand
Confederation of European Paper Industries (CEPI)**

The above named exporters were notified by the Tariff Commission but failed to submit their positions. During the DTI's preliminary determination the following positions were expressed:

- ✓ Hiang Seng Fibre stated that it had not exported any testliner to the Philippines since the end of 2008 because market price of paper in the Philippines was very low while freight charge to Manila port was high.
- ✓ Fajar Paper indicated that it did not export to the Philippines during the POI and has no plan to sell testliner to the Philippines for the next two years because the company projected that its production will be absorbed by Indonesian market.
- ✓ Muda Paper Mills, Inc. informed that it exported corrugating medium and testliner in 2006 and 2007 at 399 MT and 100 MT, respectively. Accordingly, Philippines is not their regular market, since 70% of the company's products are mainly sold in Malaysia only 30% were exported
- ✓ Ban Yu Paper Mill Co. Ltd. reported that the company had begun bankruptcy procedures in November 2008
- ✓ Panjapol Paper Industry Co. Ltd. stated that the company exported kraftliner board to the Philippines under HS Code 48.04 with the description of uncoated kraft paper and paperboard with corresponding PSCC Code of 64141101 (kraftliner, uncoated, in rolls, unbleached). It was not the product under investigation.
- ✓ Carter Holt Harvey and Pulp and Paper, declared that the company produced kraft based grades and recycle medium but not testliner.
- ✓ CEPI commented that EU's minimal exports did not cause serious injury to the local industry

3.3 Other submissions

The following local companies informed the Commission that they manufacture other kinds of paper board and/or do not import testliner board:

3.3.1 Fibre Sorting, Inc.

- Produces 100% recycled paper not testliner board.

3.3.2 Mega Packaging Corporation

- Manufactures expandable polystyrene (EPS) products or styropor/styrofoam for industrial packaging.

3.3.3 Trust International Paper Corporation (TIPCO)

- Does not produce testliner board.

3.3.4 APP (Philippines), Inc.

- Has not directly imported any type of testliner board.

The following exporters informed the Commission that it has not exported testliner board to the Philippines:

3.3.5 Central National-Gottesman, Inc. (South Africa)

- Supplies kraft linerboard, a different product from testliner board.

3.3.6 StoraEnso Oyj (Finland)

- Does not export testliner board to the Philippines.

3.3.7 Canusa Corporation (USA)

- Does not supply testliner, only kraft linerboard.

3.3.8 CMA CGM (France)

- Solely engaged as a shipping company carrying containers from various countries abroad, as such, is not in any way a manufacturer, distributor, agent or importer of testliner boards brought to the country.

4. THE DOMESTIC INDUSTRY AND MARKET

4.1 Domestic Industry Requirement

Section 4(f) of R.A. 8800 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 those products.”

Rule 4.1 of the IRRs of R.A. 8800 further provides that:

“(1) in the case of a domestic producer which also imports the product under consideration, only its domestic production of the like or directly competitive product shall be treated as part of the domestic production, or (2) in the case of a domestic producers which produces more than one product, only that portion of its production of the like or directly competitive product may be treated as part of such domestic production.”

Table 1. Domestic Production of Testliner Board: 2004-2008

Year	Actual Production (MT)			Share to Total Production	
	Applicant Company	Other Local Manufacturers	Total	Applicant Company	Other Local Manufacturers
2004	125,765	67,680	193,445	65.01	34.99
2005	121,635	67,680	189,315	64.25	35.75
2006	131,237	67,680	198,917	65.98	34.02
2007	141,506	107,760	249,266	56.77	43.23
2008	138,468	82,360	220,828	62.70	37.30
Total	658,611	393,160	1,051,771	62.62	37.38

Source: UPPC

Applicant company UPPC accounted for 63% of the total domestic production of testliner board during the POI (2004-2008). This satisfies the domestic industry requirement.

4.2 Market Participants

4.2.1 Local Manufacturers

UPPC is the major producer of testliner board in the Philippines having installed capacity of 160,000 MT per year. Other testliner board manufacturers include the following:

Name of Company
✓ Container Corporation of the Philippines*
✓ Milestone Paper Products, Inc.
✓ Liberty Paper Mills*
✓ Bataan 2020
✓ St.Thomas (formerly Makban and Megapack Corp.)
✓ Cascade Paper Corp. (formerly Trans-National Paper)*

*/ - Engaged in corrugating/box-making

4.2.2 Importers

The following importers (corrugators) of testliner boards appearing in the BOC-IEDs database during the POI were notified by the Tariff Commission of the formal investigation. These importers were previously required by DTI to fill up the DTI Importers Questionnaire during the Initiation:

	Name of Importer		Name of Importer
1	Cavite Packaging Corporation	14	Banner Plasticard, Inc.
2	Central Corrugated Box Mfg. Corporation	15	Combox, Inc.
3	Dowell Container and Packaging Corporation	16	Constant Packaging Corporation
4	Jennson Packaging Corporation*	17	Green Kraft Corporation
5	Malinta Corrugated Boxes Mfg. Corporation	18	Lamina Graphics Corporation
6	Megapack Container Corporation	19	Mandaue Foam Industries, Inc.
7	Packageworld, Inc.	20	Mondo Ventures, Inc.
8	Superior Packaging Corporation*	21	MTEC Water Treatment Tech., Inc.
9	Twinpack Container Corporation	22	Papertech, Inc.
10	United Container Corporation*	23	SP Mamplasan Packaging Corp.
11	Valenzuela Packaging Corporation	24	Takano, Inc.
12	Boxboard Containers Corporation	25	Tamiya Phils., Inc.
13	Republic Corrugated Cartons*	26	Veco Paper Corporation

*/- Allowed the Commission to conduct ocular inspection and data gathering.

The following importers (corrugators) of testliner boards provided by UPPC had no record of importation in the BOC-IEDs database during the POI but were also notified by the Tariff Commission of the formal investigation. These parties were not required to fill up DTI Importers Questionnaire during the Initiation.

	Name of Importer		Name of Importer
1	Basic Box Industry Corporation	9	Winner Ace Cardboard, Inc.
2	Goodyear Container	10	Davao Packaging
3	Greenstone Packaging Corporation	11	Dole Philippines
4	KC Packaging Corporation	12	Luzviminda Bonded Warehouse Service
5	Koufu Color Printing Corporation	13	Mindanao Corrugated Fiberboard
6	San Miguel Rengo Packaging Corporation	14	Philippine International Trading Corp.
7	SunPack Container & Packaging Corp.		
8	Triple Star Packaging		

4.2.3 Exporters

The following exporters of testliner boards appearing in the BOC-IEDs database during the POI were notified by the Tariff Commission of the formal investigation and were previously required to fill up the DTI Exporter's Questionnaire during the Initiation:

Country of Origin/Name of Exporter		Country of Origin/Name of Exporter	
	Australia		Singapore
1	AMCOR Australia	17	Maersk Trading
2	Visy Paper	18	Elof Hanson
	Chinese Taipei		China
3	Ban Yu Paper Mill Co. Ltd.	19	Kwok Fung
4	Sun Favortie Co. Ltd.	20	Sojitz (China) Co. Ltd
5	Trade House Corporation	21	Wang Kei (Macao Commercial Offshore)
	Indonesia		Thailand
6	Fajar Paper (PT Fajar Surya Wisesa TBK)	22	Hiang Seng Fibre Container Co. Ltd.
7	PT Indah Kiat Pulp and Paper Corp.*	23	TS Paper Tube Co. Ltd.
8	PT Surabaya Mekabox Ltd.*	24	Panjapol Paper
9	PT Lestari Karya Makmur, Jl Mastrup*	25	Siam Kraft Industry Co. Ltd.
	Japan	26	Thai Union Paper Industry Co.
10	Itochu Pulp and Paper		Germany
11	Tsubonoya Shigyo Co.	27	Mondo Ventures, Inc.*
12	Chou Packaging Ltd.	28	Pacific Dragon International PTE Ltd.*
13	Daei Papers International Corp.		Sweden
14	Maruzen and Co. Ltd.	29	Hansa International AB
	Malaysia		South Africa
15	Muda Paper Mills	30	Central National Gottesman, Inc.*
	New Zealand		United Kingdom
16	Carter Holt Harvey	31	Paperflex Ltd.

*/- with written submission to TC

The following exporters of testliner boards provided by UPPC had no record of importation in the BOC-IEDs database during the POI but were also notified by the Tariff Commission of the formal investigation. These parties were not required to fill up DTI Exporter's Questionnaire during the Initiation.

Country of Origin/Name of Exporter	
	Finland
1	Stora Enso*
	France
2	CMA CGM*
	Korea
3	HM Trading Corporation*
	USA
4	Canusa Corporation*

*/- with written submission to TC

4.2.4 Users

Major users of testliner board are companies engaged in box making.

4.3 Government Tariff Policy

Table 2. Rates of Duty on Testliner Board

HS Hdg. No.	AHTN Code	DESCRIPTION	2010 Rates of Duty (%)						
			MFN	CEPT-ATIGA	WTO Bound Rate	ACFTA	AKFTA	JPEPA	AANZFTA
48.05		Other uncoated paper and paperboard, in rolls or sheets, not further worked or processed than as specified in Note 3 to this Chapter.							
		- Testliner (recycled liner board):							
	4805.24.00	-- Weighing 150 g/m2 or less	7	0	U	0	0	4	7
	4805.25	-- Weighing more than 150 g/m2:							
	4805.25.10	--- Weighing less than 225 g/m2	7	0	U	0	0	4	7
	4805.25.90	--- Other	7	0	U	0	0	4	7

AHTN – ASEAN Harmonized Tariff Nomenclature; MFN – Most-Favored Nation;
 CEPT - ATIGA – Common Effective Preferential Tariff ASEAN Trade-In-Goods Agreement; WTO – World Trade Organization;
 ACFTA – ASEAN-China Free Trade Agreement; AKFTA – ASEAN – Korea Free Trade Agreement;
 JPEPA – Japan-Philippines Economic Partnership Agreement; AANZFTA – ASEAN-Australia, New Zealand Free Trade Agreement

EOs 814 and 812, issued in June 2009, levied zero rates of duty for the above mentioned articles under the ACFTA and AKFTA, respectively. The 4% rates of duty under EO 767 of the JPEPA took effect in November 2008, while under EO 851 of the AANZFTA, 7% rates of duty were levied in January 2009 until 2011.

5. DETERMINATION OF LIKE OR DIRECTLY COMPETITIVE PRODUCT

A comparison of the imported testliner board with the domestic product is necessary to determine whether they are like or directly competitive products. This is important in establishing whether the domestic industry can rightly claim relief or protection from the application of safeguard measures under RA 8800.

Section 4(h) of RA 8800 states that *“like product” shall mean a domestic product which is identical, i.e., alike in all respects to the imported product under consideration, or in the absence of such a product, another domestic product which, although not alike in all respects, has characteristics closely resembling those of the imported product under consideration.*

Section 4(e) of RA 8800 defines *“directly competitive product” as domestically-produced substitutable products.*

5.1 Product Under Consideration

The product under consideration, as identified in the DTI Preliminary Determination for safeguard measure, is testliner board. Testliner board is one of the raw materials used in the production of corrugated board structures. Made from 100% recycled paper, testliner board is the outside and inside paper lining of the combined board structures.

Locally produced testliner boards, together with corrugating (fluting) medium, are converted into corrugated boxes which protect products from possible damage during shipment and storage. These corrugated boxes are designed for piling or stacking to withstand top and side pressure and for crush resistance.

5.2 Characteristics

5.2.1 Material Composition

The raw materials used in the production of testliner board are recycled waste paper (old corrugated cartons), alum, sizing agent, regular starch, modified starch, dyes and water.

5.2.2 Mechanical Properties

A. Locally Produced

Grade	Basis weight (gsm)	Min Bursting test (kPa)	Min Ring Crush Test (n/152.4 mm)	Moisture (%)
Super KR	185	590	295	6-9
KR 125	125	265	140	6-9
KR 140	140	285	150	6-9
KR 150	150	300	141	6-9
KR 160	160	390	190	6-9
KR 175	175	450	220	6-9
KR 200	200	520	235	6-9
KR 230	230	600	250	6-9
Keconomy	150	290	140	6-9
KV 140	140	280	135	6-9

B. Imported

Grade	Basis weight (gsm)	Min Bursting test (kgf/cm ²)	Min Ring Crush Test (kgf)	Moisture (%)
KM 200	200	4.90	20.00	10
KM 175	175	4.45	17.50	10
KM 160	160	4.20	16.00	10
KM 150	150	4.00	15.00	10

5.3 Uses

Locally produced and imported testliner boards are used in the manufacture of boxes used for packaging of general consumer products such as toiletries, noodles, canned goods, ceramic tiles, fruits, electronic appliances and other consumer products.

5.4 Conclusion

The locally produced testliner boards and imported counterpart are made of the same material, have the same description, serve the same purpose, cater to the same end-users, and are classified under the same tariff heading. Therefore, locally-produced testliner boards and imported testliner boards are considered like products.

6. DETERMINATION OF VOLUME OF IMPORTS

Rule 9.4(b) of the IRRs of RA 8800 provides that the Commission shall determine “if the product under consideration is being imported into the Philippines in increased quantities whether absolute or relative to domestic production.”

Rule 7.2 of the IRRs of RA 8800 provides that “import data covering the last five (5) years preceding an application for safeguard measure should be evaluated for purposes of substantiating claims of a surge in imports.”

6.1 Period of Investigation (POI)

The investigation covered imports of testliner board from 2004 to 2008.

6.2 Increases in Volume of Imports in Absolute Terms

Import volumes of testliner board steadily increased during the POI with an average annual growth rate of 160%.

Table 3. Import Volumes of Testliner Board: 2004-2008

Year	Volume (MT)	Growth Rate (%)
2004	850	-
2005	4,804	465
2006	9,446	97
2007	11,952	27
2008	18,305	53
Average Annual Growth Rate (2004-2008) = 160%		

Source: Bureau of Customs Electronic Import Entry Declarations (BOC-IEDs)

6.3 Increases in Volume of Imports Relative to Domestic Production

Relative to total domestic production, imports of testliner board have been growing more rapidly. From less than 1% in 2004, its share to domestic production expanded to nearly 4% in 2005 as domestic production declined by 3%.

The share of imported testliner board to total domestic production further grew to 7.20% in 2006 and 8.45% in 2007. While domestic production recovered in 2006 and 2007, expanding by 8% annually, the increases in imports of testliner board were much higher. When imports peaked in 2008, its share to domestic production rose further to 13% as production shrank by 2%.

Table 4. Share of Imports Relative to Domestic Production of Testliner Board (2004-2008)

Year	Imports * (MT)	Domestic Production ** (MT)	Domestic Production Growth Rate (%)	Share of Imports to Total Production (%)
2004	850	125,765		0.68
2005	4,804	121,635	(3.28)	3.95
2006	9,446	131,237	7.89	7.20
2007	11,952	141,506	7.82	8.45
2008	18,305	138,468	(2.15)	13.22

Source: * Bureau of Customs Electronic Import Entry Declarations (IEDs)

** UPPC

6.4 Country Suppliers of Imported Testliner Board

Thailand

Thailand was the top country supplier of imported testliner board with a 72.5% share of total imports during the POI or a total import volume of more than 32 thousand MT.

Indonesia

Indonesia came in second, accounting for 9.12% of total imports during the POI. Volume of testliner board sourced from Indonesia totaled 4 thousand MT.

Other sources

Other country suppliers of subject article include Chinese Taipei, Germany, Australia, Japan, China, Malaysia, Hong Kong, New Zealand, Singapore, United Kingdom, and South Africa.

Table 5. Imports of Testliner Board by Country of Origin: 2004-2008

Country of Origin	2004	2005	2006	2007	2008	Total	% Share to Total	Rank
Thailand	538	3,964	6,208	8,978	13,178	32,866	72.50	1
Indonesia	-	589	1,803	-	1,744	4,136	9.12	2
Chinese Taipei	72	101	517	930	1,123	2,743	6.05	3
Germany	240	100	249	948	383	1,920	4.23	4
Australia	-	-	270	-	787	1,057	2.33	5
Japan	-	-	-	695	113	808	1.78	6
China	-	-	-	-	736	736	1.62	7
Malaysia	-	-	399	100	-	499	1.10	8
Hong Kong	-	-	-	259	-	259	0.57	9
New Zealand	-	-	-	-	151	151	0.33	10
Singapore	-	-	-	-	90	90	0.20	11
United Kingdom	-	50	-	-	-	50	0.11	12
South Africa	-	-	-	42	-	42	0.09	13
Total	850	4,804	9,446	11,952	18,305	45,357	100	
% Increase		465.18	96.63	26.53	53.15			
Actual increase in volume		3,954	4,642	2,506	6,353			

Source: Bureau of Customs Electronic Import Entry Declarations (BOC-IEDs)

6.5 Conclusion

During the POI, the Commission finds that testliner board was imported into the Philippines in increased quantities starting 2005 which continued until 2008, both in absolute terms and relative to domestic production. The increase in the volume of imports is significant.

7. DETERMINATION OF SERIOUS INJURY OR THREAT THEREOF

Rule 9.4(c) of the IRRs of R.A. 8800 states that the Commission shall determine “*the presence and extent of serious injury or the threat thereof to the domestic industry that produces like or directly competitive product.*”

Section 4(o) of R.A. 8800 defines “serious injury” as “*a significant impairment in the position of a domestic industry after evaluation by competent authorities of all relevant factors of an objective and quantifiable nature having a bearing on the situation of the industry concerned, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in levels of sales, production, productivity, capacity utilization, profits and losses, and employment.*”

7.1 Serious Injury Factors

7.1.1 Market Share

Table 6. Market Shares: 2004 - 2008

Year	Domestic Sales * (MT)	Imports ** (MT)	Apparent Domestic Consumption (MT)	Market Share (%)	
				Domestic	Imports
2004	122,368	850	123,218	99.31	0.69
2005	115,204	4,804	120,008	96.00	4.00
2006	109,379	9,446	118,825	92.05	7.95
2007	130,512	11,952	142,464	91.61	8.39
2008	128,306	18,305	146,611	87.51	12.49

Sources: * UPPC ; ** Bureau of Customs Electronic Import Entry Declarations (BOC-IEDs)

7.1.2 Production and Sales

Table 7. Production and Sales: 2004-2008

Year	Production Volume (MT)		Sales Volume (MT)				
	Total	% Change	Domestic	% Change	Exports	Total	% Change
2004	125,765	-	122,368	-	1,685	124,053	-
2005	121,635	(3.28)	115,204	(5.85)	17,861	133,065	7.26
2006	131,237	7.89	109,379	(5.06)	19,740	129,119	(2.97)
2007	141,506	7.82	130,512	19.32	12,916	143,428	11.08
2008	138,468	(2.15)	128,306	(1.69)	7,890	136,196	(5.04)

Source: UPPC

7.1.3 Finished Goods Inventory

Table 8. Finished Goods Inventory of Testliner Board: 2004-2008

Year	Finished Goods Inventory	
	Volume (MT)	% Change
2004	13,475	-
2005	1,893	(85.95)
2006	4,007	111.67
2007	2,069	(48.37)
2008	4,303	107.97

Source: UPPC

7.1.4 Capacity Utilization

Table 9. Capacity Utilization: 2004-2008

Year	Rated Capacity (MT)	Actual Production (MT)	Utilization Rate (%)	% Change
2004	160,000	125,765	78.60	-
2005	160,000	121,635	76.02	(3.28)
2006	160,000	131,237	82.02	7.89
2007	160,000	141,506	88.44	7.83
2008	160,000	138,468	86.54	(2.15)

Source: UPPC

7.1.5 Cost of Production (COP)

Table 10. Relative Share of Cost Components to COP: 2004-2008

Cost Components	% Share to COP				
	2004	2005	2006	2007	2008
Direct Raw Materials	53.07	47.80	55.87	54.96	53.28
Direct Labor	1.92	1.86	2.12	1.99	1.82
Manufacturing Overhead	45.01	50.34	42.01	43.05	44.90
Cost to Produce	100.00	100.00	100.00	100.00	100.00

Source: UPPC

7.1.6 Financial Performance/Profitability

Table 11. % Changes on the Profitability of Testliner Board Operations: 2004-2008

Particulars	2004-2005	2005-2006	2006-2007	2007-2008
Revenue	5.93	(2.98)	17.64	6.88
Cost of Sales	(2.39)	(13.76)	29.63	27.99
Gross Profit(Loss)	135.71	66.67	(22.42)	(110.94)
Operating Expenses	(3.28)	82.20	(17.64)	11.86
Income/(Loss) from Operation	4,375	56.42	(26.07)	(215.94)
Other Income/(Expenses) Net	390	(46.94)	69.23	(61.36)
Income/(Loss) Before Income Tax	2,267	98.38	(35.83)	(257.67)
Provision for Income Tax	121.43	(466.67)	(36.36)	(85.71)
Net Income (Loss)	765.00	82.71	(35.80)	(265.38)

Source: UPPC

7.1.7 Return on Sales

Table 12. Return on Sales: 2004 -2008

Year	Return on Sales (%)
2004	0.20
2005	8.10
2006	13.00
2007	8.10
2008	(8.90)

Source: UPPC

7.1.8 Employment

Table 13. Employment: 2004-2008

Year	Total Employees	Absolute Increase(Decrease)
2004	377	-
2005	393	16
2006	404	11
2007	415	11
2008	416	1

Source: UPPC

7.1.9 Labor Productivity

Table 14. Labor Productivity: 2004 - 2008

Year	Production (MT)	No. of Employees	Labor Productivity (MT/Employee)	% Change
2004	125,765	377	334	
2005	121,635	393	310	(7.19)
2006	131,237	404	325	4.84
2007	141,506	415	341	4.92
2008	138,468	416	333	(2.35)

Source: UPPC

7.1.10 Prices

Table 15. Estimated Landed Costs vs. Domestic Selling Prices of Testliner Board: 2008

Country	Price Difference	
	(P/MT)***	(%)
Major Sources:		
Thailand	3,349	15.90
Indonesia	2,063	8.94
Average Prices	2,756	12.31
Other Sources:		
Chinese Taipei	5,560	28.39
Australia	(254)	(1.00)
PROC	(555)	(2.16)
Average Prices	1,675	7.14

Source of basic data: Bureau of Customs Electronic Import Entry Declarations (BOC-IEDs) and UPPC

*** Average Domestic Selling Price – Average Landed Cost