

STAFF REPORT

**FORMAL INVESTIGATION ON THE PETITION
FOR EXTENSION OF SAFEGUARD MEASURES
ON IMPORTS OF STEEL ANGLE BARS FROM VARIOUS COUNTRIES
HS Heading Nos. 7216.2100 (2007 AHTN Subheading No. 7216.21.00)
7216.5011 (2007 AHTN Subheading No. 7216.50.10) and
7216.5091 (2007 AHTN Subheading No. 7216.50.10)**



(SG Investigation No. 01-2011)

08 August 2011

1. INTRODUCTION

1.1 Background

The Secretary of the Department of Trade and Industry (DTI), following the positive findings of the Tariff Commission (herein referred to as the “Commission”), issued on 27 July 2009 a Department Order for the imposition of a definitive safeguard duties against imports of steel angle bars from various countries for a period of three (3) years in the amount shown below:

2004 HS Hdg. No./ 2007 AHTN Code	Product Description	Safeguard Duty (P/MT)		
		1 st year	2 nd year	3 rd year
HS Hdg. No. 7216.21.00 (AHTN No. 7216.21.00); HS Hdg. No. 7216.50.11 (AHTN No. 7216.50.10); HS Hdg. No. 7216.50.91 (AHTN No. 7216.50.10)	Equal and unequal leg steel angle bars, of a height of less than 80 mm	7,700.00 *	5,133.00 **	

Sources: * DTI Department Order dated 27 July 2009
** DTI Department Order dated 19 April 2010

The 3-year implementation period commenced on 10 March 2009 when the imposition of the provisional measure took effect. The DTI Secretary is yet to issue a Department Order on the amount of the definitive safeguard measure to be imposed on the third year. The imposition of the definitive safeguard duty is set to expire on 10 March 2012.

Recently, the Commission, pursuant to Section 16 of RA 8800 (Monitoring of the Domestic Industry) conducted a public hearing on 24 March 2011 for purposes of monitoring the domestic industry’s adjustment plan¹ and thereafter, on 24 May 2011, submitted to the DTI Secretary the results of its monitoring. The domestic steel angle bar industry has complied substantially with its commitments as stated in its adjustment plan.

¹ 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 which said industry commits to undertake in order to facilitate positive adjustment of the industry to import competition.

1.2 Petition for Extension of the Safeguard Measures

On 28 February 2011, the Philippine Steel Angle Bar Industry as represented by Cathay Metal Corporation (Cathay Metal), Dragon Asia Rolling Mills, Inc. (Dragon Asia) and Lunar Steel Corporation (Lunar Steel) filed to the DTI a petition for the maximum extension of the imposition of the safeguard duty on imported steel angle bars for the following reasons:

- i. to prevent or remedy the serious injury inflicted by imported steel angle bars on the domestic industry; and
- ii. for the domestic industry to continue and/or complete the positive adjustment it has undertaken to gain competitiveness *vis-à-vis* imports.

The DTI Secretary, in his letter dated 27 June 2011, endorsed the petition to the Commission for formal investigation. The endorsement was received on 29 June 2011, the same date the Commission commenced its formal investigation.

1.3 Role of the Commission

Section 19 of RA 8800 (Safeguard Measures Act) provides the legal basis for the Commission to conduct a formal investigation on the petition, to wit:

“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 19, 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.”

2. THE COMMISSION'S FORMAL INVESTIGATION

2.1 Product under Consideration

The product under consideration, as determined by the DTI in the original investigation, is a right angle steel bar (hereinafter referred to as "steel angle bars"), which is L-shape in cross section, that is normally intended for bolted, riveted, or welded iron structures in forming the corners, or connecting or sustaining the sides of said structures.

The steel angle bars under investigation are limited to equal and unequal leg steel angle bars, of a height of less than 80mm. Unequal leg bars are included in the investigation since they have the same application and are directly competitive to domestically-produced products.

2.2 Domestic Industry Requirement

Cathay Metal, Dragon Asia and Lunar Steel, having accounted for 75% of the total domestic production of steel angle bars during the period of investigation (POI), complies with the domestic industry requirement set forth in Section 4(f) of the IRR of R.A. 8800.

2.3 Period under Review

The period under review is the period when the safeguard measure was put in place, i.e., starting from 2009 up to the present or where latest data is available.

The Commission, in its evaluation, will compare the prevailing condition of domestic industry during the period under review and the original POI.

2.4 Notifications

The Notices of Formal Investigation and of Public Hearing/Consultations were published on 07 July 2011 and 05 August 2011, 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.

The public hearing/consultation will be held on 23-26 August 2011, 9:00 am at the Tariff Commission Conference Room.

2.5 Preliminary Conference

The preliminary conference was held on 14 July 2011 at the Tariff Commission. In attendance were representatives from the petitioner-companies (Cathay, Dragon Asia and Lunar), Steel Angles, Shapes and Sections Manufacturers Association (SASSMAPI), Philippine Iron and Steel Traders Association (PISTA), Pacific Cargo Service & Trading Corp., Keppel Philippines Marine, Department of Trade and Industry - Bureau of Import Services (DTI-BIS), Bureau of Customs (BOC), Senate of the Philippines, Embassy of Japan, and Consulate of Ukraine.

A Commission Order containing the matters taken up and agreed by the parties present during the preliminary conference/meeting was issued to all interested parties on 15 July 2011.

2.6 Submission of Position Papers

The domestic industry, in its position paper submitted to the Commission on 22 July 2011, cited the following justifications for the petition:

- i) Extension of the safeguard action is still necessary to prevent or remedy the serious injury.
 - equivalent landed cost of imported steel angle bars is below the petitioner's cost to produce and sell and make a reasonable amount of profit that would financially justify additional capital investments required to be able to adjust to global competition;
 - petitioners are being forced to sell their products below cost to produce and sell because of the threat of imports;
 - global excess in capacity of steel plants producing angle bars;
 - local prices in the countries of origin or exporting countries is lower than the local selling price in the Philippines;
 - once the safeguard measure is removed, exporting countries will have more financial motivation to export their angle bars to the Philippines to maximize their returns than selling in their own countries; and
 - tariff duty on steel angle bars coming from China is scheduled to reduction to zero by January 2012 under ACFTA that would further decrease the landed cost of imported angle bars.
- ii) Imposition of safeguard measure has been effective in providing relief to the domestic industry as evidenced by the improvements in its market share, production, sales, capacity utilization, cost of production and profitability.
- iii) Domestic industry has been continuously making positive adjustment to import competition on its adjustment plan.

Jocelyn Forge, Inc., in a letter dated 14 July 2011, indicated their opposition to the petition for the following reasons:

- i) Their importation is for own product requirement and not for resell to the local market.
- ii) The Standard Grade they imported is very different from the materials manufactured by the Philippine Steel Angle Bar Industry.
- iii) The Standard Grade they import is set by their customer requirements for the sizes and quality.

Based on the agreed schedule of activities, parties have until 01 August 2011 to submit their supplemental position papers/documentary evidences for/against the petition.

3. VOLUME OF IMPORTS

3.1 Volume of Imports in Absolute Terms

In the original investigation, the Commission concluded that steel angle bars are being imported in increased quantities, both in absolute terms and relative to domestic production. The surge in imports started in year 2006.

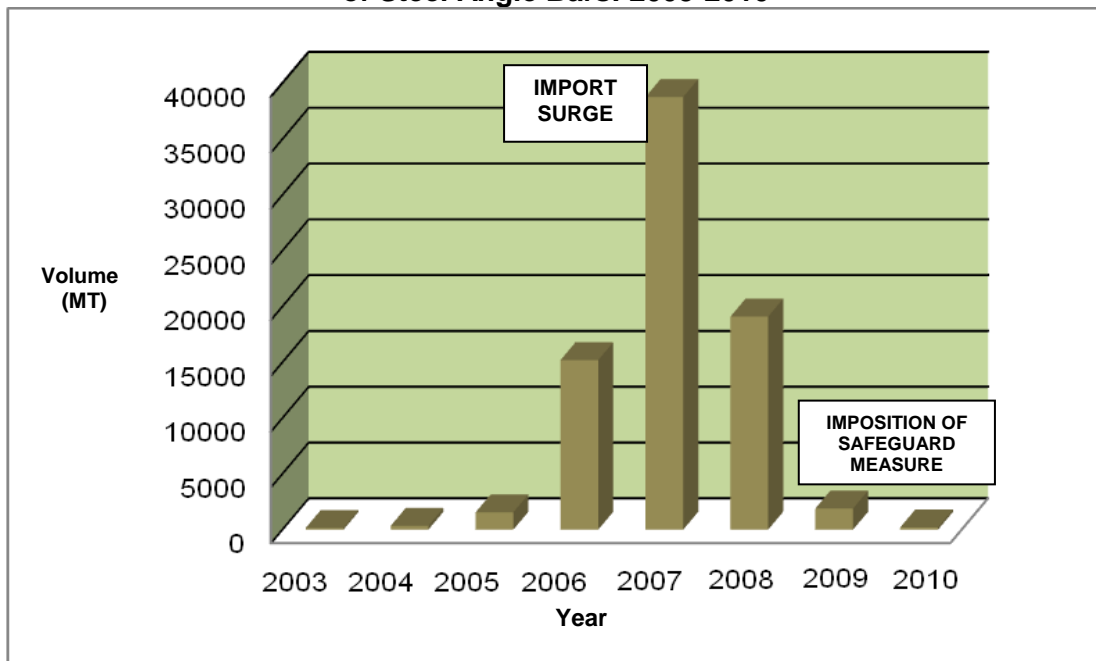
In 2008, when the domestic industry filed a petition for safeguard measure with the DTI, imports of steel angle bars dropped significantly by 51% or about 19 thousand metric tons (MT). In 2009, with the imposition of a definitive safeguard measure on imported steel angle bars, imports further declined by 90% or almost 2 thousand MT. In 2010, imports continuously fell by 97% or about 60 metric tons.

Table 1. Import Volume of Steel Angle Bars: 2003-2010

Year	Volume (MT)	Growth Rate (%)
2003	154	-
2004	338	119
2005	1,551	359
2006	15,193	880
2007	38,767	155
2008	19,088	(51)
2009	1,888	(90)
2010	60	(97)

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

Figure 1. Actual Increase/Decrease in Volume of Imports of Steel Angle Bars: 2003-2010



Source: BOC-EIED

3.2 Major Country Suppliers of Imported Steel Angle Bars

Table 2. Imports of Steel Angle Bars by Country of Origin (MT): 2003-2010

Country of Origin	2003	2004	2005	2006	2007	2008	2009	2010	Total	% Share to Total	Rank
China	--	218	1,100	15,124	34,929	11,901	1,335	60	64,667	83.94	1
Chinese Taipei	3	21	--	--	2,992	7,187	489	0.162	10,692	13.88	2
Japan	99	99	169	21	261	--	--	--	649	0.84	3
Hong Kong	--	--	--	--	561	--	--	--	561	0.73	4
Ukraine	--	--	148	--	--	--	--	--	148	0.19	5
Philippines*	52	--	24	48	23	--	--	--	147	0.19	6
Russia	--	--	110	--	--	--	--	--	110	0.14	7
Korea	--	--	--	--	1	--	64	--	65	0.08	8
Australia	--	--	--	--	--	--	--	--			
Singapore	--	--	--	--	--	--	--	--			
USA	--	--	--	--	--	--	--	--			
Germany	--	--	--	--	--	--	--	--			
Total	154	338	1,551	15,193	38,767	19,088	1,888	60	77,039	100	

*/- Manufacturer(s) registered with PEZA
Source: BOC-EIED

Record showed that from 2008 to 2010 (period of review), China and Chinese Taipei were still the leading suppliers of steel angle bars to the Philippines. Singapore, USA and Germany also exported steel angle bars to the Philippines in 2009 but at small volumes.

4. 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.*”

The Commission, in its evaluation, shall compare the prevailing condition of domestic industry during the period under review and the original period of investigation to determine 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 adjustments to import competition.

4.1 Serious Injury Factors

4.1.1 Market Share

Table 3. Market Shares: 2008 – 2010

Year	Domestic Sales * (MT)	Imports ** (MT)	Apparent Domestic Consumption (MT)	Market Share (%)	
				Domestic	Imports
2008	30,667	19,088	62,514	49.06	50.94
2009	97,211	1,888	99,099	98.09	1.91
2010	107,928	60	107,988	99.95	0.05

Sources: * Cathay Metal, Dragon Asia and Lunar Steel
** BOC-EIED

4.1.2 Production and Sales

Table 4. Production and Sales: 2008-2010

Year	Production Volume (MT)		Sales Volume (MT)			
	Total	% Change	Domestic	Exports	Total	% Change
2008	37,727	-	30,667	-	30,667	-
2009	105,261	179.01	97,211	-	97,211	216.99
2010	118,231	12.32	107,928	-	107,928	11.02

Source: Cathay Metal, Dragon Asia and Lunar Steel

4.1.3 Capacity Utilization

Table 5. Capacity Utilization: 2008-2010

Year	Rated Capacity (MT)	Actual Production (MT)	Utilization Rate (%)	% Change
2008	264,000	37,727	14.29	-
2009	264,000	105,261	39.87	179.00
2010	264,000	118,231	44.78	12.32

Source: Cathay Metal, Dragon Asia and Lunar Steel

4.1.4 Cost of Production (COP)

Table 6. Annual Changes in COP: 2008 - 2010

Cost Components	% Changes	
	2008-2009	2009-2010
Direct Raw Materials	(18.95)	(12.82)
Direct Labor	(42.75)	8.09
Manufacturing Overhead	(30.00)	19.54
Cost of Production	(22.22)	(6.69)

Source: Cathay Metal, Dragon Asia and Lunar Steel

4.1.5 Financial Performance/Profitability

Table 7. Statement of Income: (In Million ₱): 2008-2010

Particulars	2008	2009	2010
Sales Revenue	1,261	3,160	3,319
Cost of Sales	1,192	3,108	3,276
Gross Profit(Loss)	69	52	43
Operating Expenses	41	55	78
Income/(Loss) from Operation	28	(3)	(35)
Other Income/(Expenses) Net	(1)	57	44
Interest Expenses	(54)	(88)	(31)
Income/(Loss) Before Income Tax	(27)	(34)	(22)
Provision for Income Tax	-	(1)	(2)
Net Income (Loss)	(27)	(35)	(24)

Source: Cathay Metal, Dragon Asia and Lunar Steel

4.1.6 Return on Sales

Table 8. Return on Sales: 2008-2010

Year	Income from Operations (In Million-₱)	Sales Revenue (In Million-₱)	Return on Sales (%)
2008	28	1,261	2.22
2009	(3)	3,160	(0.09)
2010	(35)	3,319	(105.45)

Source: Cathay Metal, Dragon Asia and Lunar Steel

4.1.7 Employment

Table 9. Employment: 2008-2010

Year	Total Employees	% Change
2008	356	-
2009	447	25.56
2010	493	10.29

Source: Cathay Metal, Dragon Asia and Lunar Steel

4.1.8 Labor Productivity

Table 10. Labor Productivity: 2008 - 2010

Year	Production (MT)	No. of Employees	Labor Productivity (MT/Employee)	% Change
2008	37,727	356	106	-
2009	105,261	447	235	121.70
2010	118,231	493	240	2.13

Source: Cathay Metal, Dragon Asia and Lunar Steel

4.1.9 Prices

Table 11. Landed Cost and Domestic Selling Price of Steel Angle Bar (2010)

Source Country	Wtd. Average Landed Cost * (P/MT)	Average Domestic Selling Price ** (P/MT)	Price Difference	
			(P/MT)	(%)
China	33,327	32,808	(519)	(1.56)
Chinese Taipei	19,295	32,752	13,457	69.74

* Wtd. Average Landed cost with Safeguard duty

Sources: * BOC-EIED

** Cathay Metal, Dragon Asia and Lunar Steel