STAFF REPORT

Formal Investigation of Safeguard Measure Case
Against Importation of Ceramic Floor and Wall Tiles
(SG Investigation No. 01-2007)

IN THE MATTER OF PETITION FOR
EXTENSION OF THE IMPOSITION OF
SAFEGUARD MEASURE AGAINST THE
IMPORTATION OF CERAMIC FLOOR AND
WALL TILES
(AHTN Nos. 6907.90.10; 6907.90.90; 6908.90.11;
6908.90.19; 6908.90.21; 6908.90.29; 6908.90.90)

FOR: SAFEGUARD MEASURE
(R.A. 8800)
S.G. INV. NO. 01-2007

PHILIPPINE CERAMIC TILE INDUSTRY,
AS REPRESENTED BY CERAMIC TILES
MANUFACTURERS' ASSOCIATION, INC.
Petitioner
x --- x

15 October 2007

TERMS OF REFERENCE

1. The Definitive Safeguard Measure

On 11 April 2002 the DTI Secretary (hereinafter "Secretary"), after reviewing the Tariff Commission's Formal Investigation Report (SG Inv. No. 01-002), issued a decision imposing a definitive general safeguard duty for a period of three (3) years on imports of ceramic floor and wall tiles.

On 26 May 2004, the Ceramic Tile Manufacturers' Association (CTMA)[1] applied for extension of the definitive general safeguard measure. On 15 October 2004, the Commission submitted its Formal Investigation Report and recommendation to the Secretary to extend the safeguard action for three (3) years to allow the domestic industry to fully implement its adjustment plan.

On 21 December 2004, the Secretary issued a Department Order extending the definitive measure on ceramic tile for another three (3) years beginning 12 January 2005.

Based on the Department Orders and subsequent annual monitoring review conducted by DTI, the definitive safeguard duties for the two (2) three-year period are shown in Table A.

Table A. Definitive Safeguard Duty on Ceramic Tiles (₱/kg)

Original Imposition			Extension		
1ST Year* (2002)	2nd Year (2003)	3rd Year (2004)	1st Year (2005)	2nd Year (2006)	3rd Year (2007)
5.40	4.30	3.50	2.80	2.45	2.15

* The first year implementation took effect on 09 January 2002, the date of issuance of Customs Memorandum Order 4-2002 imposing provisional safeguard duty

2. Petition for Extension of the Measure

Section 19 (Extension and Re-application of Safeguard Measure) of RA 8800 (Safeguard Measures Act) provides the requirements and procedures in applying for extension of the measure.

Section 19 (1) of RA 8800 provides that, subject to the review under Section 16 (Monitoring), 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.

Section 19 (2) of RA 8800 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.

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[1] CTMA is a non-stock business organization organized on 27 September 1999, primarily to promote the advancement of the ceramic industry.

On 03 September 2007, DTI referred the letter request, dated 16 August 2007, of CTMA to the Tariff Commission pursuant to Section 19 (2) of RA 8800.

CTMA requests for a final extension of four (4) years of the definitive safeguard duty. The domestic industry is asking for additional time to implement its adjustment plan and make it globally competitive. Petitioner cites the Commission's Monitoring Report to attest that the domestic industry has been serious and has invested time and resources in its adjustment plan.

CTMA cites that an additional element of its adjustment plan is a project to reduce the cost of energy using alternative resources. And it expects to implement the same on a commercial basis in the period of the last extension applied for. A final extension would ensure that it would be able to complete the same.

THE FORMAL INVESTIGATION

1. Period under Review

The period under review is the period when the safeguard measure is in place, i.e., starting year 2002 up to the present or where latest data is available.

The Commission shall evaluate 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 during the period when the definitive safeguard was extended for another three (3) years.

2. Commencement of Formal Investigation

The formal investigation commenced on 10 September 2007 upon receipt by the Commission of the endorsement from DTI.

The Notice of Formal Investigation was published on 13 September 2007 in *Manila Standard Today* and *The Manila Times*. The Notice indicated the date of the Preliminary Conference and the matters for discussion in that conference. The Commission sent individual notices to the following:

- The Ceramic Tile Manufacturers' Association (CTMA) representing the domestic ceramic tile industry;

- The identified importer association, Philippine Ceramic Products Importers Association, Inc. (PCPIA), oppositor in the original investigation;

- Britanico Sarmiento & Franco Law Offices, which requested the Commission that they be notified in case a petition for extension of the safeguard measure is filed;

- Embassies in the Philippines of the following exporting countries whose exports of subject articles are imposed the safeguard duty: Brazil; People's Republic China/ Hong Kong; India; Indonesia; Korea; Malaysia; Thailand; UAE; and Vietnam; Cultural Office of Taiwan, Taipei Economic and Cultural Office (TECO);

- Embassies in the Philippines of developed countries: USA and Australia;

- Identified importers and exporters of ceramic tiles from above-mentioned countries/economies;

- Concerned government agencies; and

- Non-governmental organizations/ professional organization/ consumer group

- Philippine Commercial Attaches based in above-mentioned countries.

2.1 Preliminary Conference

On 18 September 2007, the preliminary conference was held at the Tariff Commission. In attendance were counsel for petitioner, CTMA; representative from PCPIA; counsels for oppositor, Golden Ocre Trading Corporation. Other parties who registered their appearances were representatives from Mariwasa-Siam Ceramics and Lepanto Ceramics Inc..

Government representatives from the DTI - Bureau of Import Services (BIS); DTI – Construction Industry Authority of the Philippines (CIAP); and Bureau of Customs (BOC) attended.

Representatives from the Embassy of Australia and Embassy of Indonesia also attended.

The agreements reached during the preliminary conference were the following: the timetable of investigation; entry of appearance of interested parties; names of counsels; sufficient notice; accessibility of documents in the public file; treatment of documents marked confidential; submission of position papers; additional data required by the Commission; and verification thereof, including submission of adjustment plans by the domestic industry; conduct of ocular inspection; and schedule of public consultations.

Petitioner was also required to submit to the Commission the attachments to the instant petition as filed with DTI.

These agreements were contained in an Order dated 18 September 2007 and sent to the following parties: counsel for the petitioner – CTMA; counsel for PCPIA; counsel for Golden Ocre Trading Corporation; importers and exporters identified by the Commission; non-governmental organizations; concerned government agencies; and the embassies of above-mentioned countries.

2.2 Schedule of Public Consultation

The Notice of Public Consultation was published in the *Manila Standard Today* and *The Manila Times* both on 10 October 2007. As agreed during the Preliminary Conference, the consultation will be held on 22-26 October 2007 at 9:00 a.m. at the Tariff Commission. Individual notices were likewise sent to the following parties: counsel for petitioner, CTMA; oppositor, PCPIA; counsels for other oppositors: Golden Ocre Trading Corp. and Citrinum Corporation; importers and exporters; non-governmental organizations; concerned government agencies; and the embassies of above-mentioned countries.

In the Commission Order of 18 September 2007, parties are given an opportunity to comment on the Commission's Staff Report on October 19, 2007.

Parties are also required to submit to the Commission not later than 19 October 2007, a list of issues they want to explore other than the issues of product comparability. A party who does not submit a list of issues is deemed to have no controversial/contestable matter to raise, hence, will be given less priority in the order of parties to ask clarificatory questions during the public consultation. Parties are also required to submit to the Commission the affidavits of their witnesses three (3) days prior to the public consultation.

Furthermore, all principal parties, counsels, affiants, deponents and other interested parties are required to appear before the Commission on the first day of the public consultation.

3. Submissions to the Commission

As agreed during the Preliminary Conference, interested parties were given until 28 September 2007 to submit their respective preliminary/supplemental position papers/documentary evidences. Following the granting of a Motion by counsel of Golden Ocre Trading Corporation to extend their time for filing of position papers, the deadline for all parties to submit their respective position papers was extended to 08 October 2007. Counsels were duly notified of the extension.

3.1 Position Papers

The **<u>Petitioner</u>**

In its position paper received by the Commission on 03 October 2007, CTMA cites that:

- *the safeguard is still necessary as imported ceramic tiles remain a threat to the domestic industry;*
- *the volume of imports increased as the amount of safeguard duty decreased from the time the safeguard measure was imposed;*

- *the market share of the domestic industry also decreased as the amount of safeguard measure decreased;*

- *following the trend, the above data indicate that once the measure is terminated, increased volume of cheaper imported ceramic tiles would enter the local market;*

- *removing the safeguard measure at this time would jeopardize the industry's adjustment plan;*

- *the threat of cheaper imported tiles as there is overcapacity in the global production of ceramic tiles with reports of more plants being constructed.*

Petitioner mentioned that it is serious in its adjustment plans by taking steps towards a positive adjustment to import competition and that the imposition of safeguard measure and the adoption of its adjustment plan has resulted in its financial recovery. Petitioner claims that it was not able to complete its adjustment plan for reasons beyond its control.

The **Oppositors**

- **PCPIA,** submitted its position paper on 28 September 2007.

PCPIA, in its paper, states that it has not yet received a copy of the position paper to make a full comment on the subject as it does not know the grounds for the subject petition.[2] The preliminary statements opposing the petition for extension are based on the following grounds:

- *The safeguard duty in the first three (3) years of imposition was above that recommended by the Tariff Commission. It was extended for another three (3) years; the six (6) years of protection is already reasonable for the local industry to make adjustments to foreign competition. Beyond this period, it would give the local industry an undue advantage and it would be against the principle of fair competition;*

- *Several circumstances have transpired that significantly changed the situation, foremost is the implementation by BOC of a minimum threshold value on imported ceramic tiles of US$0.20/kg for sizes less than 60x60 cm and US$0.30/kg for sizes 60x60 cm and up, regardless of whether their actual FOB is below US$0.20/kg;*

- *Starting October 1, 2007, all ceramic tiles are required to obtain product certification or import commodity clearance (ICC) from the Bureau of Product Standards (BPS). All imported ceramic tiles must meet quality standard PNS*

[2] The Commission, in its letter of 02 October 2007 to PCPIA, mentioned that the grounds for petition are stated in the Briefing Paper. PCPIA and counsel for Golden Ocre Trading were provided with a copy of petition/(non-confidential) attachment of CTMA petition as filed with DTI Secretary. This document forms part of the public file. PCPIA was reminded that submission of preliminary position papers is until 08 October 2007.

ISO 13006. Cheap tiles from China which are mostly also poor in quality will no longer be allowed with the implementation of this new regulation from BPS. This is another reason why the extension of the safeguard measure is no longer necessary.

- **Golden Ocre Trading Corp.**, through counsel, submitted its position paper on 08 October 2007. This oppositor presented the following grounds for denial of the petition for extension:

  - *the petition failed to comply with the requirements of Sec. 19 of R.A. 8800. The Monitoring Report of the Commission shows the absence of the condition that the extension of the safeguard measures continues to be necessary to prevent or remedy the serious injury, as required by Section 19 of the same law;*

  - *petition, by way of letter-request, did not comply with the requisites provided by Sec. 19 (2) of RA 8800. Concrete reasons for the necessity of an extension were not stated. Failure to state in the petition the requirements of the law necessitates the dismissal of the petition;*

  - *it is the task of the Commission to determine whether the petition for extension of imposition of safeguard measures may be given due course;*

  - *there is no showing that increased quantity of imported ceramic tile is a substantial cause of serious injury or threat thereof to the domestic industry, as a requisite for the grant of extension;*

  - *further extension of the imposition of the measure will not be in the public interest;*

  - *there is failure on the part of the domestic industry to show positive adjustment to the extension of the measure.*

- - **Indonesian Ministry of Trade, Directorate General of International Trade Cooperation**

  - *the Government of Indonesia (GOI) is really concerned about the length of the safeguard measure and hopes that the Commission will not recommend an extension of the measure;*

  - *From the Monitoring Report, imported products do not cause injury of domestic industry. The domestic industry suffer from loss in the period of safeguard measure being implemented;*

  - *GOI has delivered proposal for trade compensation to DTI but the Philippines has not yet bring any proposal for GOI to discuss trade compensation;*

- *The imposition of safeguard measure against importation of ceramic tiles originating from Indonesia since 2002 is being considered as a conduct of over protectionism by Philippine authorities.*

- **Taiwan Economic and Cultural Office (TECO)**

  - *the average import share of products from Taiwan for the past five (5) years was less than 3%.*

  - *Suggests that Taiwan be deleted from the list of exporting countries since its exports to the Philippines is less than 3% of the total imports.*

  - *if there is a decision to extend the measure, the Philippines must provide the evidence supporting its decision as prescribed under Article 12.2 of the WTO Agreement on Safeguards;*

  - *Exporting members should be notified and consulted with or even compensated according to Articles 8 and 12 of the Agreement.*

3.2 Other Submissions

- **Citrinum Corporation**, through counsel, filed on 04 October 2007 a Motion to enter appearance and additional time of twenty (20) days or until 28 October 2007 to file its position paper.

  The Motion for additional time to file its position paper was denied given the schedule of public consultation is on 22-26 October 2007 and the issuance of the Staff Report on 15 October 2007.

- **Taicera Enterprise Company (Vietnam)**

  It has no opposition to the said petition. It cites that it is a licensed manufacturing corporation in Vietnam and exports only homogeneous tiles and has no existing branch in the Philippines.

- **Embassy of Malaysia**

  The Trade Commissioner acknowledged receipt of the Order issued by the Commission and will appreciate if his office is updated from time to time.

- **Guocera Tiles (Malaysia)**

  Guocera requests trade data on ceramic tile imports of the Philippines; customs duties for 2008; and latest report on the safeguard measure on ceramic tiles.

3.3 Adjustment Plan

Rule 4.1 (a) of the IRR to R.A. 8800 defines "Adjustment Plan" as an action 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.

> "The adjustment plan shall provide a clear quantification of its proposed goals and detail the efforts that the domestic industry and other concerned parties will make to place the domestic industry in a more competitive position. The goals shall be presented using objectively verifiable indicators that will cover the period for which safeguard measures are sought. Measures covering more than one year shall include specific efforts to be undertaken by the domestic industry for each year of progressive liberalization of the measure. It shall likewise include a time frame to enable the Commission to monitor their attainment over the specified period."

Submissions [3]

A. Mariwasa-Siam Ceramics, Inc. (2008-2011)

CTMA, in its letter dated September 28, 2007, submitted to the Commission the confidential and non-confidential version of Mariwasa's adjustment plan for the period 2008 – 2011. Among the schemes it plans to implement in order for it to be more competitive are:

1. To continue with the company's commitment of providing better and new designs, at least 370 new designs will be launched in 2008 – 2011. The products being developed and introduced are comparable with their foreign counterparts in terms of design and quality.

2. Have a more extensive distribution network by appointing additional dealers, a minimum of 40 new dealers within the 2008-2011 period. This would ensure that the company would be able to tap potential markets on areas not currently being served by Mariwasa.

3. Increase product/brand awareness. In order to boost sales, the company has come up with a more intensified and aggressive marketing program.

4. Optimization of production capacity. With the projected increase in sales, Mariwasa would be able to optimize its capacity and consequently lower production cost. In the succeeding years, capacity utilization is expected to reach more than 75%.

5. Reduce major cost components. The company is putting more effort in bringing down further the consumption of its major cost components to cushion the negative impact of increasing cost inputs. Mariwasa would be focusing on energy and glaze.

[3] Submissions marked as non-confidential are available in the public file of the Commission.

Quantitative targets:

1. Reduce power consumption by 8% by year 2011.
2. Lower fuel (LPG) consumption by 10% by year 2011.
3. Lower fuel cost by 40% by year 2011.
4. Reduce glaze cost by 3% by year 2011.

In order to attain these targets, Mariwasa needs to increase further its productivity and efficiency, continue sourcing cheaper alternative sources of fuel and cheaper raw materials. Production and the Technical Group are working closely to improve quality of body powder and glazes. Research and reformulation are being done to replace high cost raw materials with cheaper raw materials.

6. Improve product quality. Mariwasa has to improve more on the quality of its product by having higher extraction rates of Grade A tiles. Planned extraction rates by 2011 are as follows:

   Floor tiles (grade A/ grade B) = 90%/ 10%
   Wall tiles (grade A/ grade B) = 94%/ 6%

B. <u>Lepanto Ceramics, Inc. (2008-2011)</u>

In its letter dated 09 October 2007, Lepanto Ceramics submitted its Adjustment Plan (2008-2011) marked as confidential. There was no non-confidential version of the submitted adjustment plan of Lepanto Ceramics, Inc.

In summary, the programs to be undertaken by Lepanto to enable it to be competitive with imported ceramic tiles are:

1. Organizational changes
2. Key Result Areas:
   a. Capacity maximization
   b. Cost reduction and management, and
   c. Extraction improvement
3. Sales and Marketing Programs
4. New Designs
5. Improvement in financial position

4. Plant Visit/ Verification of Data

The manufacturing plants of Mariwasa Siam Ceramics, Inc. and Lepanto Ceramics, Inc. were visited on September 21 and September 26, 2007, respectively. Aside from ocular inspection of production lines in operation, documents inspected were the financial records on production levels, cost, sales, selling price, employment and inventory levels.

THE DOMESTIC INDUSTRY AND MARKET

1. The Domestic Product[4]

The domestic industry produces glazed ceramic floor and wall tiles. Ceramic tiles are used as outdoor and indoor floor and wall coverings in private dwellings, commercial and industrial buildings, urban facilities, etc. The more common sizes in the local market for floor tiles are 20 x 20 cm (8” x 8”), 30 x 30 (12” x 12”) and 40 x 40 (16” x 16”). In the case of wall tiles, 20 x 20 cm (8” x 8”) and 20 x 25 are common. In the domestic industry, first class tiles are called commercial grade and those with slight glaze and body defects are labeled B grade. Tiles with very visible defects are tagged rejects.

The major raw materials used to form the tile body are ball clay and feldspar which are locally available. Glazing materials are imported from Europe, China and Taiwan.

The domestic industry utilizes the dry pressing (dust pressing) method, single or double firing process.

2. Market Participants

2.1 Domestic Producers

Table 1. Domestic Producers

COMPANY	LOCATION	PRODUCT
Mariwasa Siam Ceramics, Inc. (ISO certified)	Bgy. San Antonio, Sto. Tomas, Batangas	Glazed ceramic floor and wall tiles
Lepanto Ceramics, Inc.	Km. 545, Makiling, Calamba, Laguna	Glazed ceramic floor and wall tiles
Eurotiles Industrial Corporation (ISO certified)	Silang, Cavite	Glazed ceramic floor and wall tiles (white body)
Filcera Manufacturing, Inc. (Ceased operations)	San Vicente, San Pedro, Laguna	Glazed wall tiles 4”x4” and 8”x8”)
Italfil Manufacturing, Inc. (Shutdown)	AIP-SEZ, Calibutbut, Bacolor, Pampanga	Unglazed floor tiles
Formosa Ceramic Tiles Mfg. Corp. (Grand Caesar)	San Simon, Pampanga	Glazed floor tiles
Pioneer Ceramic, Inc. (Tri-Little Dragon)	Sotero Laurel St., Mandaluyong City	Glazed floor tiles

2.1.1 Status of Operations

Based on the updates of CTMA, the following domestic tile manufacturers are currently in operation:

- Lepanto Ceramics, Inc.
- Mariwasa Siam Ceramics, Inc.

[4] For details, refer to Report on SG Inv. 2001-02

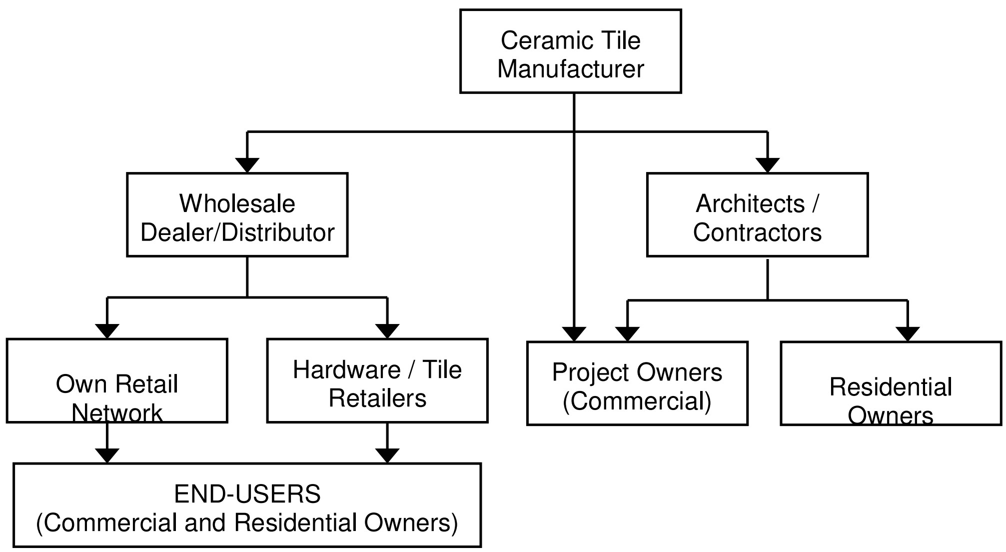
- Eurotiles Industrial Corporation.
- Grand Ceasar Ceramic Tiles Corp. (Tenzen)
- Pioneer Ceramic, Inc. (Tri-Little Dragon)

Filcera Manufacturing, Inc. ceased operations in June 2003. Italfil Manufacturing ceased productions in July 21, 2004. No information was yet obtained from Pioneer Ceramics, Inc. regarding the current status of its operations.

2.1.2 Distribution Channels

The finished products are distributed to wholesalers, distributors, architects and/or contractors. From the wholesalers or through the company's own retail network, these are then channeled to hardware and tile retailers where end-users can source their tiles.

Distribution Network Flow Chart *



* p.24, Formal Investigation Report SG. Inv. No. 2001-02.

3. Importers

Based on Import Entries on file with the Commission, importers were identified for the period 2004- 2006. The top importers identified are:

Table 2. Top Importers of Ceramic Tiles

Year	Importer	Quantity* (sq.m.)	Country (Port of Origin)
2004			
1	The World of Tiles	202,500	Hong Kong, China
2	Davao Citihardware	150,806	China, Malaysia
3	FC South Trading	69,968	Hong Kong, China
4	Decoarts Marketing	67,783	Thailand, Brazil, Indonesia
5	Wilcon Builders	30,000	China
6	Malogan Ent	27,500	Hong Kong
7	Nakayama Tech Corp	16,577	Japan
8	Adventure Import Export	16,346	Vietnam
9	RS Directo Ent	13,250	Hong Kong
10	Sun-Lor Enterprises	13,250	Hong Kong
2005		-	
1	The World of Tiles	444,798	China, Hong Kong
2	Felport Int'l	195,529	China, Hong Kong, Indonesia, Singapore
3	Davao Citihardware	176,604	China, Malaysia
4	MGO Marketing	134,788	China, Hong Kong
5	Decoarts Marketing	134,384	Brazil, China, Thailand
6	Wilcon Builders	129,563	China
7	Porcellanato	101,206	China, Hong Kong
8	Tryzone Enterprises	86,578	China
9	Asiahome Trading	84,587	China, Hong Kong
10	FC South Trading	70,860	Hong Kong
2006			
1	Citrinum Corp.	1,003,438	China
2	Wilcon Builders	620,593	China, Indonesia, EU
3	Golden Ocre Trading	438,112	China

4	Dau Tiles Center	428,180	China
5	Felport Marketing	293,086	China, EU
6	Futek Ent	258,327	China
7	Davao Citihardware	242,516	China, Malaysia
8	Decoarts Marketing	222,644	China, Indonesia, Thailand
9	Olongapo Home Builders	125,883	China, Hong Kong
10	Frontier Ceramics	88,693	Indonesia, EU

Source: Import Entries (unliquidated) on file with the Commission. Import data do not reflect total importation of identified importers.
* Based on encoded (partial) available import entries; Import volumes converted to sq.m. using the methodology adopted in the original investigation (16 kg/sq.m).

4. Users

The major users of ceramic tiles are construction companies engaged in private and public housing and infrastructure projects as well as direct purchasers at the retail level, e.g., homeowners. Local contractors also utilize ceramic tiles in condominiums and shopping malls.

DETERMINATION OF LIKE PRODUCT

Section 4(h) of R.A. 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.

Rule 9.4.a of the IRR of R.A. 8800 provides that the Commission shall determine "if the domestic product is a like or directly competitive product to the imported product under consideration".

1. Subject to Definitive Safeguard Duty

The application of definitive safeguard duty is directed against imports of ceramic floor and wall tiles, glazed or unglazed, classified under the ASEAN Harmonized Tariff Nomenclature (AHTN) Code Nos. 6907.90.10; 6907.90.90; 6908.90.11; 6908.90.19; 6908.90.21; 6908.90.29; 6908.90.90 . The Order of the Secretary excludes imported ceramic tiles originating from Japan and member states of the EU from the imposition of definitive safeguard duty.

2. Tariff Classification

Table 3. Tariff Schedule

		Regular Duty (% ad. val.)			Additional Duty
HS Code	AHTN Code*	MFN	CEPT AFTA	ACFTA	**Safeguard Duty****
6907.90 00	6907.90.10] 6907.90.90]				
6908.90 00	6908.90.11] 6908.90.19] 6908.90.21] 6908.90.29] 6908.90.90]	10	5	8	₱ 2.15/kg

* Transposition from the Harmonized System (HS) Code to the AHTN Codes following the official adoption in 2004 by the Philippines of the AHTN.

** Imports from Japan, EU and *de minimis* imports from developing countries are excluded from the imposition of the definitive safeguard duty.

3. Conclusion

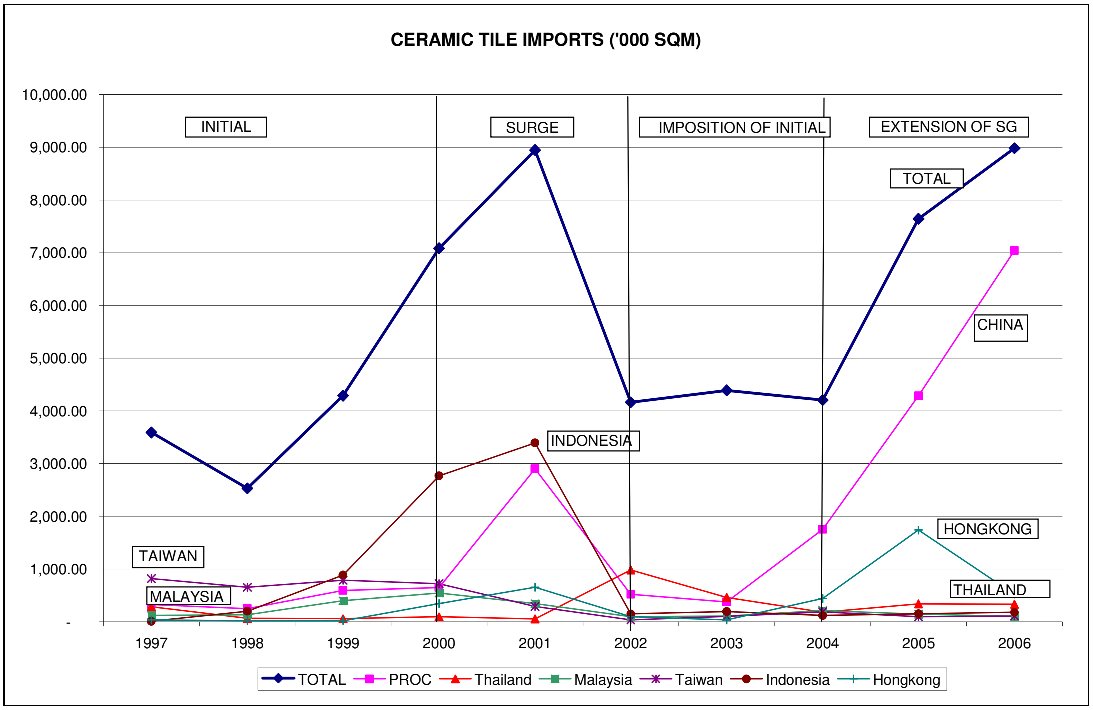
The locally produced and imported ceramic tiles are made from the same raw materials; using the same process and technology; conform to recognized product standards; fall under the same tariff classification and have the same end-use. [5]

[5] Formal Investigation Report (SG. Inv. No. 2001-02)

DETERMINATION OF VOLUME OF IMPORTS

1. Period under Review

Fig. 1. Ceramic Tile Imports ('000 SQM)



<u>Table 4.</u> Total Volume of Ceramic Tile Imports ('000 SQM)

Year	*1997*	*1998*	*1999*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*
Volume	3,591	2,531	4,288	7,086	8945	4,160	4,391	4,206	7,642	8,978
Growth Rate, %		(30)	69	65	26	(53)	6	(4)	82	17

* Data based on NSO Trade Statistics, reported in gross kg converted to sq. m. using methodology used in original Formal Investigation (SG 2001-02).

The original investigation determined that surge in imports commenced in year 2000. The Commission concluded in the original investigation that, in accordance with RA 8800, ceramic tiles are being imported in increased quantities, both in absolute terms and relative to domestic production.

With the imposition of the definitive safeguard measure beginning in 2002, total imports of ceramic tiles for the period 2002-2004 were drastically reduced. However, when the safeguard measure was extended in 2005, the volume of tile imports significantly increased to levels exceeding that of the surge in 2000 - 2001.

3. Country Suppliers

Table 5. Country Suppliers of Ceramic Tiles*

SOURCE COUNTRY	IMPORTS IN '000 SQM			% SHARE TO TOTAL			Growth Rates (%)		
	2004	2005	2006	2004	2005	2006	2004-2005	2005-2006	Average
TOTAL	**4,206**	**7,642**	**8,978**	**100.00**	**100.00**	**100.00**	**81.69**	**17.47**	**49.58**
China, (PROC)	1,756	4,285	7,041	**41.75**	**56.06**	**78.43**	143.96	64.34	104.15
Hong Kong	443	1,738	523	**10.52**	**22.75**	**5.83**	292.75	-69.90	111.42
Thailand	181	339	333	**4.30**	**4.44**	**3.71**	87.87	-1.95	42.96
Taiwan	192	98	112	**4.56**	1.28	1.24	-48.86	13.90	-17.48
Malaysia	212	146	101	**5.04**	1.92	1.12	-30.99	-31.19	-31.09
Vietnam	130	66	17	**3.09**	0.86	0.19	-49.19	-74.49	-61.84
Brazil	325	41	9	**7.72**	0.54	0.10	-87.28	-78.12	-82.70
EU **	626	624	506	14.89	8.16	5.64	-0.35	-18.85	-9.60
Japan **	75	23	70	1.77	0.30	0.78	-69.76	211.28	70.76
Others	267	282	266	6.35	3.69	2.96	5.37	-5.65	-0.14

* Data based on NSO Trade Statistics, reported in gross kg converted to sq. m. using methodology used in original Formal Investigation (SG 2001-02).
** Excluded by DTI from the imposition of safeguard measures.

After the extension of the imposition of safeguard measure, China became the major source of imported ceramic tiles in the Philippine market. Imports from China exhibited an accelerating trend at an average annual growth rate of 104% during the period 2004 - 2006. In 2006, China (together with Hong Kong) accounted for almost 85% of the total volume of imports. Except for Thailand which still accounted for 3.71% share of total ceramic tile imports of the Philippines in 2006, imports in the last two (2) years from other countries covered by the imposition of safeguard duty may be deemed as *de minimis*.

4. Findings

Based on the data presented above, total volume of ceramic tile imports in 2005 - 2006 reached levels when imports surged in 2000 and peaked in 2001.

China (together with Hong Kong), now the principal source of imported ceramic tiles, accounts for almost 85% of the total volume of ceramic tile imports of the Philippines.

PRELIMINARY FINDINGS ON SERIOUS INJURY OR THREAT THEREOF

Rule 9.4(c) of the IRR of RA 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."[6]

1. Domestic Industry Requirements

In the original investigation, Mariwasa Siam Ceramics and Lepanto Ceramics, Inc. accounted for 67% to 69% of the total domestic production of ceramic tiles from 2002-2006. Sec. 4(f) of the IRR of RA 8800 which, for purposes of determining serious injury or the threat thereof, defines "domestic industry" as "the domestic producers, as a whole, of like or directly competitive products manufactured or produced in the Philippines or whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of these products."

Based on available information, production at rated capacity of the three (3) remaining domestic manufacturers in operation will not reach actual production of Mariwasa and Lepanto.

Table 6. Domestic Industry Requirements

	Actual Production (in '000 sqm)
2004	13,996
2005	14,233
2006	13,420
2007*	6,342

Source: Mariwasa and Lepanto
* - January to June 2007

[6] In the original investigation (SG 2001-02), the Commission found that the domestic industry suffered a significant overall impairment in the position of the industry. In SG 01-2004, the Commission concluded that non-extension of the measure will likely lead to significant quantity of low-priced imports which will be the dominant cause again of significant impairment in the overall position of the domestic industry.

2. Injury Factors

2.1 Market Share

Table 7. Apparent Domestic Consumption of Ceramic Tiles

Year	Domestic Sales [/a]	Imports[/b]	Apparent Domestic Consumption	% Share to Estimated Apparent Consumption	
	('000 sqm)	('000 sqm)	('000 sqm)	Domestic	Imports
2004	13,647	4,206	17,853	76	24
2005	13,742	7,642	21,384	64	36
2006	12,957	8,978	21,935	59	41
2007*	6,427				

Source: [/a] - Mariwasa and Lepanto
[/b] - NSO Foreign Trade Statistics
Monitoring Report on the Adjustment Plan of the domestic industry
* January to June 2007

2.2 Production, Sales and Ending Inventory

Table 8. Production, Sales and Ending Inventory

Year	Production ('000 sqm)		Sales ('000 sqm)				Ending Inventory	
	Total	% Change	Domestic	Exports	Total	% Change	Total	% Change
2004	13,996	4	13,647	520	14,167	7	1676	(11)
2005	14,233	2	13,742	70	13,812	(3)	1526	(9)
2006	13,420	(6)	12,957	73	13,030	(6)	1976	29
2007*	6,342		6,427	128	6,555		1709	

Source: Mariwasa and Lepanto
Monitoring Report on the Adjustment Plan of the domestic industry
* - January to June 2007

2.3 Capacity Utilization

Table 9. Annual Rated Capacity, Actual Production and Capacity Utilization of Applicant Companies: 2004-2007

Year	Rated Capacity ('000 sqm)	Production ('000 sqm)	Capacity Utilization (%)
2004	18,394	13,996	76
2005	17,124	14,233	83
2006	16,373	13,420	82
2007*	8,143	6,342	78

Source: Mariwasa and Lepanto
Monitoring Report on Adjustment Plan of the domestic industry
* - January to June 2007

2.4 Cost of Production

Table 10. Percentage Change of Cost Components

Cost Components	2004 (%)	2005 (%)	2006 (%)	June-2007 (%)	% Change (04-05)	% Change (05-06)	% Change (06-07)
Raw Materials	28.72	26.84	25.27	24.84	(0.82)	5.11	4.88
Direct Labor	2.03	1.72	2.29	2.77	(10.00)	48.96	29.02
Variable Overhead	43.72	45.65	47.90	46.01	10.82	17.13	2.51
Fixed Overhead	25.54	25.79	24.53	26.38	7.14	6.21	14.73
Cost of Production	100.00	100.00	100.00	100.00	6.11	11.63	6.72

Source: Mariwasa and Lepanto
Monitoring Report on the Adjustment Plan of the domestic industry

2.5 Profitability

Table 11. Combined Income Statement of Applicant Companies
(in thousand pesos)

Particulars	2004	2005	2006	2007 (Jan.-June)
Sales	2,485,197	2,532,234	2,421,673	1,285,763
Less: Cost of Sales	2,140,789	2,215,032	2,220,059	1,128,534
Gross Profit	344,408	317,202	201,614	157,229
Less: Operating Expenses	450,974	457,634	462,342	181,417
Income(Loss) from Operations	(106,566)	(140,432)	(260,728)	(24,188)
Other Income (Expenses)	(686,298)	(178,659)	(294,481)	(21,754)
Income(Loss) before Income Tax	(792,864)	(319,091)	(555,209)	(45,942)

Source: Mariwasa and Lepanto
Note: Mariwasa uses calendar year as their accounting period while Lepanto uses fiscal year.

2.6 Employment and Productivity

Table 12. Employment and Productivity of Applicant Companies

Year	**Production** ('000 sqm)	No. of Employees	% Change	Labor Productivity	% Change
2004	13,996	1,455	39.23	9,619	(11.97)
2005	14,233	1,188	(18.35)	11,981	24.55
2006	13,420	1,194	0.51	11,240	(6.19)
2007*	6,342	1,264	5.86		-

Source: Mariwasa and Lepanto
* - January to June 2007

2.7 Return on Sales

Table 13. Return on Sales (based on Income from Operations)

Year	**Income from Operations** (₱'000)	**Sales Revenue** (₱'000)	**Return on Sales** (%)
2004	(106,566)	2,485,197	(4.29)
2005	(140,432)	2,532,234	(5.55)
2006	(260,728)	2,421,673	(10.77)
2007*	(24,188)	1,285,763	(1.88)

Source: Mariwasa and Lepanto
* - January to June 2007

EFFORTS OF THE INDUSTRY TO ADJUST TO IMPORT COMPETITION

Sec. 19 of RA 8800 provides that subject to the review under Sec. 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.*

In case one or more firms of the benefiting industry which applied for safeguard measure failed to comply with their commitments as reflected in the approved adjustment plan, the safeguard measure shall continue to be in effect, provided however, that the firms which complied with their commitments constitute the majority in accordance with the definition of the domestic industry under Section 4 of paragraph (f) of RA 8800. [7]

In summary, the adjustment plans submitted by Mariwasa Siam Ceramics and Lepanto Ceramics Inc. contained the following:

1. Mariwasa Siam Ceramics, Inc. Adjustment Plan (2005-2007):

A. Provide even better products.
Introduce 180 new designs and features using the latest technology.

Monitoring Report (March, 2007): - *199 new series from 2004 to 2006*

B. Improve distribution
The key to sustaining market leadership is keeping an extensive distribution network. Mariwasa will expand its distribution network by appointing new distributors throughout the country.

Monitoring Report : *13 new distributors from 2004 to 2006*

C. Strengthen brand equity

Various marketing programs are in place to improve the Company's brand equity like increased advertising, participation in trade exhibits and upgrading product displays.

Monitoring Report: *Acquired 35 billboard sites and placed 39 ads on broadsheets and glossy magazines from 2004 to 2006*

D. Reduce manageable costs.

Three variable cost elements have the greatest impact on production costs are power costs, fuel costs and glaze raw material cost. Mariwasa will continue to maintain and operate its own power plant. It also plans to reduce debts in 2005 by asset sales and additional capital infusion.

[7] TC Manual on Safeguards Investigation, p. 11b

Quantifiable targets:

1. Reduce LPG cost by 12% over the next four years.

Monitoring Report : *LPG consumption (kg./sqm) from 2004 to 2006 is less than 1.00 resulting to higher savings. (recognition from DOE.)*

2. Reduce bunker fuel cost by 12% over the next four years.

3. Further reduce electricity consumption by 10% over the next three years.

Monitoring Report: *Power consumption (kwh/sqm) for 2004-2006 is less than 4.00 resulting to higher savings. (Recognition from DOE)*

4. Reduce glaze costs by 8% over the next three years.

Monitoring Report: *Glaze consumption (kg/sqm) for 2004-2006 is less than 1.00 resulting to higher contribution.*

5. Reduce maintenance cost by 8% over the next three years.

6. Lower cost of funding.

E. Increase production yield.

Monitoring Report: *Produced at higher efficiencies above 90% from 2004 to 2006; reduced raw materials costs (P/ton) at 12% from 2004 to 2006 resulting to improved margin.*

1. Improve knowledge and skill of people in production line
2. Improve line management systems
3. Improve equipment performance

Monitoring Report: *Under its Enercon Projects, the following actions were undertaken in 2006:*

1. *Installed heat recovery systems. Invested millions for the heat recovery systems resulted to savings equivalent to 300% of said investment.*
2. *Modification of various equipment. Investments on the modification/reduction of power ratings of several equipments resulted to savings.*

2. <u>Lepanto Ceramics, Inc. Adjustment Plan (2005 – 2008)</u>

A. Competitiveness through Cost Reduction and Efficiency

- Increasing production volume to an average of 600,000 square meters/month
- Cost down scheme to result in 10-12% reduction of production cost.

Monitoring Report: *The rate of rejects was brought sown to 5% in 2006 and targeted to be at 4% in 2007. The efficiency of the spray dryer was increased by increasing the density of the slip (glaze) to reduce milling* *time. The gain made in increasing efficiency was wiped out by increase in cost of fuel and power.*

B. Working Capital Management

- Maintain finished goods inventory at under 60 days stock;
- Trade receivables at maximum of 90 days
- Stockpiling of body materials to hedge on cost and seasonal constraints;
- Terms kept to 120 days maximum;
- Debt reduction by 50%.

Monitoring Report: *Based on Lepanto's submission, substantial compliance to its adjustment plan was not met.*

C. Product and Service Quality

- Rationalization of product mix by reviewing product mix and increase designs by 50%;

Monitoring Report: *Product mix ranges from low to high end; 2-3 new designs every 6 months since 2005.*

- Selective price increases where possible;

Monitoring Report: *Average selling price improved by 9% in 2006.*

- Distribution network

Monitoring Report: *Expansion in distribution is concentrated on the local market. Exports remain a plan in 2007.*

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