
FORMAL INVESTIGATION REPORT

**Petition for Extension of Safeguard Measure
On the Importation of Figured Glass**
(SG Investigation No. 01 - 2006)

(PUBLIC VERSION)

04 October 2006

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ANNEXES

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A-2	Notice of Formal Investigation, published in the Manila Times on 24 June 2006
B-1	Notice of Public Hearing/Consultation, published in The Manila Times on 18 July 2006
B-2	Notice of Public Consultation, published in the Manila Standard Today on 18 July 2006
C	List of Attendees: Preliminary Conference (28 June 2006)
D	List of Attendees: Public Hearing/Consultation (31 July 2006 to 04 August 2006)
E	List of Submissions

ABBREVIATIONS

ACCPAC	Accounting Package
AFTA	ASEAN Free Trade Area
AGP	Asahi Glass Philippines
AHTN	ASEAN Harmonized Tariff Nomenclature
ASEAN	Association of Southeast Asian Nation
Asahi	Asahi Glass Phils., Inc.
BIS	The Bureau of Import Services
CEPT	Common Effective Preferential Tariff
CFG	Clear Float Glass
CIF	Cost, Freight and Insurance
CTA	Court of Tax Appeals
Comglasco	Comglasco Aguila Glass Corporation
Commission	Tariff Commission
DCRS	Data Collection and Reporting System
DTI	Department of Trade and Industry
GATT	General Agreement on Tariff and Trade
Ghani	Ghani Float Glass Ltd.
IRRs	Implementing Rules and Regulations
LPG	Liquefied Petroleum Gas
MAV	Minimum Access Volume (Tariff-rate Quota)
MFN	Most Favored Nation
MT	Metric Tons
RA	Republic Act
RAGC	Republic-Asahi Glass Corporation
RGC	Republic Glass Corporation
RGHC	Republic Glass Holdings Corporation
SEC	Securities and Exchange Commission
SSG	Special Safeguard
TECO	Taipei Economic and Cultural Office
WTO	World Trade Organization

EXECUTIVE SUMMARY

This report is about extension of safeguard action against imports of figured glass.

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

Background

In 2004, the Secretary ordered the imposition of safeguard duty for three (3) years in the form of a specific duty on figured glass. Unless extended, the measure will terminate on 13 October 2006.

The domestic industry petitioned to extend the measure for at least four (4) years.

The domestic industry requested the Secretary to extend the measure for at least 4 years as it still needs more time to complete the implementation of its adjustment plan and become import competitive.

... pursuant to the provisions of the Safeguard Measures Act.

The Secretary referred the request of the domestic industry to the Tariff Commission pursuant to Section 19 (2) of RA 8800.

The Safeguard Action and the Role of the Commission

The Safeguard Measures Act, in consonance with the WTO Agreement on Safeguards, allows extension of definitive safeguard action against imports.

An extension of the measure may be extended 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.

A safeguard inquiry must follow the requirements spelled out in the Safeguard Measures Act and the procedures prescribed by the WTO.

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

Findings

Asahi ...represents the Domestic Industry.....

Asahi is the only manufacturer of figured glass in the Philippines and thus accounted for 100% of total domestic production of subject article. This complies with Section 4(f) of the IRR of R.A. 8800 .

During the period under review...

The period under review starts when the safeguard measure was put in place, i.e., from the year 2003 up to the time of the latest available data.

....there is evidence that the domestic industry is making positive adjustment to import competition.

The domestic industry made serious efforts to comply with its adjustment plan and there is evidence that the industry is making positive adjustment to import competition.

....the current safeguard is effective...

The imposition of safeguard measures proved to be effective in providing relief to the domestic industry.

....imports decreased below pre-surge level.

The volume of imports decreased below the pre-surge level.

....marked improvement in market shares, productivity, and profitability.

There was a marked improvement in the industry performance as evidenced by the increased market shares, productivity and profitability.

....external factors have affected industry's cost competitiveness.

However, other factors, namely, rise in power and fuel prices and China's massive import demand which pushed up prices of most commodities and transport costs, have adversely affected the industry's cost competitiveness. Thus, the potential financial gains, from the safeguard duty imposition and the efficiency measures implemented, have not been fully realized by the domestic industry.

....the potential gains have not been fully realized by the industry.

If safeguard measure is terminated....

..... the proximityand sufficient freely disposable production capacity....

The proximity of China to the Philippines and their sufficient freely disposable production capacities indicate the likelihood of substantially increased exports to the Philippines if the safeguard measure is terminated.

..... indicate the likelihood of substantially increased exports to the Philippines.....

Without the safeguard duty

..... domestic selling prices will fall below levels not enough to recover cost to produce and sell.

....if it is to protect its market share.

There is a substantial threat of serious injury....

..... if safeguard duty is not extended.

Factors outside the control of Asahi negated the gains from its stalled adjustment plan.

.....Asahi needs more time to fully put it in place to effectively face import competition.

Non-extension of safeguard measure....

.....likely lead to increased imports...

.....which will cause serious injury to the domestic industry.

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

Without the safeguard duty, the landed cost of imported figured glass has a price advantage over the industry's domestic selling price. The wider the gap between landed cost and domestic selling price which worsened in 2006, the more likely the import surge would recur. Asahi will be forced to price its figured glass at par with its imported counterpart even below its cost to produce and sell, to protect its market share.

Without the safeguard duty, market share, production, sales, capacity utilization, employment and productivity would revert to levels approximating the conditions during the import surge when the industry suffered serious injury.

Factors outside the control of Asahi negated the gains resulting from its stalled adjustment plan.

Further adjustment must be made by the domestic figured glass industry to alleviate the pressure exerted by external factors. The current safeguard measure provides the domestic industry with the needed relief to respond to import competition by undertaking the improvements as contained in the adjustment plan requires more time to achieve its objective.

Non-extension of the safeguard measure will likely lead to increased imports of figured glass which will cause serious injury to the domestic industry.

Conclusion and Recommendation

Based on its evaluation of the foregoing information, the Commission concludes that safeguard action on figured glass continues to be necessary to prevent serious injury and that there is evidence that the domestic industry is making positive adjustment to import competition.

The extension of the safeguard measure will help the industry to complete its adjustment plan to positively adjust to import competition

The Commission recommends that the definitive general safeguard action be extended for three (3) years the timeframe needed by the industry to fully implement its adjustment plan and be competitive against imports. The measure shall continue to be liberalized by at least 5% or limited to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to the increased imports.

Effects of the Affirmative Recommendation

....on competition,

As the measure is only temporary and will be progressively liberalized, competition will return to its normal level.

The option to choose between local and imported figured glass remains as there are no quantitative restraints on imports.

....on domestic industry,

Imports will be maintained at their pre-surge levels; additional time will be provided to the domestic industry to complete its adjustment plan and put in place efficiency measures to attain competitiveness *vis-à-vis* imports; increase in output will facilitate the attainment of economies of scale; and recovered market share will be maintained enabling the industry to benefit from any growth of the market.

... on user industries and consumer welfare,

Continued existence of a viable domestic industry assures consumers of on-time delivery of volume and small lot orders and after-sales services for replacements of breakages and defects; credit line is extended by local industry to buyers, and; presence of local products mitigates foreign exchange risk because transactions are on peso basis.

... on employment, and...

The continued increase in output and sales would ensure the tenure of employment not only in manufacturing but also the related sales and distribution services.

... on regional development ...

The imposition of the definitive safeguard measure will ensure continuous operation of the industry. This will bring continuing community development to the city and nearby areas where Asahi is located.