



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA



PROFESSIONALISM

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ACCOUNTABILITY

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October 28, 2022

CUSTOMS MEMORANDUM CIRCULAR
NO. 160-2022

TO: The Assistant Commissioner
All Deputy Commissioners
All Service Directors
All District/Port Collectors
All Others Concerned

SUBJECT: **EXPIRATION OF THE IMPOSITION OF DEFINITIVE SAFEGUARD DUTY ON THE IMPORTATION OF CEMENT FROM VARIOUS COUNTRIES UNDER AHTN CODES 2523.29.29 AND 2523.90.00**

With reference to the herein attached letter dated 22 October 2022, from Eduardo A. Sahagun, President and CEO, Phlcement A Phinma Company, said company requested the Bureau of Customs (BOC) to remove the existing Safeguard Duty on Tariff Headings 2523.29.90 and 2523.90.00 pursuant to DTI-DAO No. 19-13 series of 2019 and CMO No. 39-2021.

The said Order imposed a definitive safeguard duty on the importation of cement from various countries under AHTN codes 2523.29.29 and 2523.90.00. The DTI-DAO No. 19-13 specifically states that the Definitive Safeguard Duty on imported cement from various countries has a three (3) year implementation period. Furthermore, CMO No. 39-2021, issued on 20 December 2021, implemented the Safeguard Duty rate for the third and last year which officially started last 22 October 2021.

Based on DTI-DAO 19-13 as implemented by CMO No. 39-2021, the third and last year of the three (3) year implementation period runs from 22 October 2021 to 21 October 2022 only. Therefore, Safeguard Duty for imported cement is no longer applicable.

For your information and guidance.

For records purposes, please confirm the dissemination of this Circular throughout your offices within fifteen (15) days from receipt thereof.

NOV 10 2022
YOGI FILEMON L. RUIZ
Acting Commissioner



A Modernized and Credible Customs Administration That is Among the World's Best

South Harbor, Gate 3, Port Area, Manila 1099
8527-4537, 8527-1935 | www.customs.gov.ph | boc.cares@customs.gov.ph



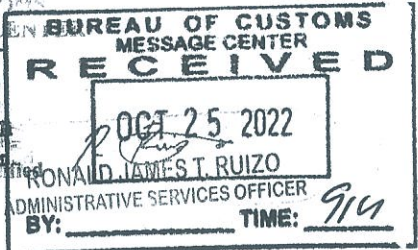
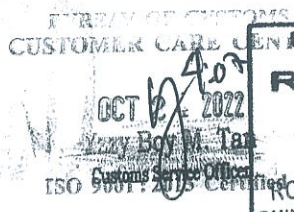
MASTER COPY



22 October 2022

Hon. Yogi Filemon L. Ruiz
Commissioner
Bureau of Customs
Port Area, Manila

1-26
7:25



Attention : Atty. Edward James A. Dy Buco
Deputy Commissioner, Assessment and Operations
Coordinating Group

Atty. Kriden F. Balgomera
Officer-In-Charge, Management Information System
and Technology Group

Subject : Safeguard Duty Validity
Cement under Tariff Heading 2523.29.90 and 2523.90.00

Dear Commissioner Ruiz:

We would like to respectfully request for the updating of the Bureau of Customs E2M system to remove the existing Safeguard Duty on Tariff Headings 2523.29.90 and 2523.90.00 pursuant to Department of Trade and Industry Department Administrative Order (DTI-DAO) No. 19-13 series of 2019 and Customs Memorandum Order No. 39-2021.

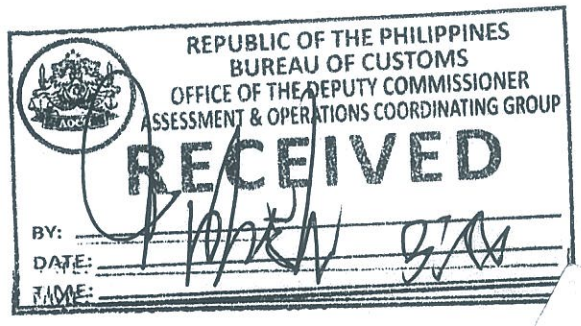
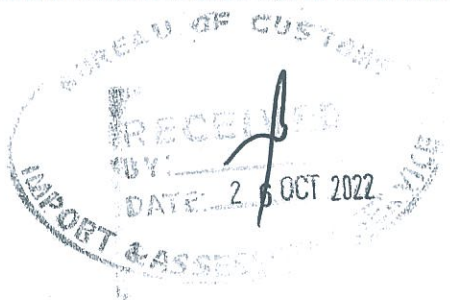
We note that DTI DAO No. 19-13 specifically states that the Definitive Safeguard Duty on imported cement from covered countries has a three (3) year implementation period. The specific provision provides:

"WHEREFORE, IN VIEW THEREOF, and pursuant to Section 13 of RA 8800, the DTI hereby, issued the following:

1. *A definitive safeguard duty effective for three (3) years shall be imposed on imported cement from various countries to encourage and challenge the local cement industries to be globally competitive. The amount of the safeguard duty to be imposed for the first year shall be P250/MT or P10.00 per 40kg bag, for the second year- P225.00/MT or P9.00 per 40kg bag, and for the third year- P200.00/MT or P8.00 per 40kg bag.¹*

Furthermore, Customs Memorandum Order No. 39-2021, issued on 20 December 2021, implemented the Safeguard Duty rate for the third and last year which officially started last 22 October 2021. It provides:

¹ Department Administrative Order No. 19-13 series of 2019



25 OCT 2022



"Pursuant to the Letter dated 26 November from the Department of Trade and Industry (DTI) and in view of the directive dated 16 December 2021 from the Secretary of Finance, the previously determined definitive safeguard duty of P200/MT or P8.00/40 kg bag under DTI DAO No. 19-13 for the third, and last year of implementation of the safeguard duty on imported cement, classified under AHTN Codes 2523.29.90 and 2523.90.00 from covered countries starting October 22, 2021 is hereby imposed.²"

We would like to emphasize that based on DTI DAO 19-13 as implemented by Customs Memorandum Order No. 39-2021, the third and last year of the three (3) year implementation period runs from 22 October 2021 to 21 October 2022 only. Therefore, the Safeguard Duty for imported cement is no longer applicable.

Based on the foregoing, we would like to respectfully request for the updating of the E2M system to reflect the removal of Safeguard Duty pursuant to DTI DAO No. 19-13 and CMO No. 39-2021.

We hope for your favorable response on the matter. Thank you.

Very truly yours,


EDUARDO A. SAHAGUN
President and CEO

² Customs Memorandum Order No. 39-2021

cmc No. 160-2022 P. 4

HMMK #

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TRABAH
NEGOSYO
KONSUMER

Department Administrative Order No. 20-08
Series of 2020

**IN THE MATTER OF THE DEFINITIVE GENERAL
SAFEGUARD MEASURES ON THE
IMPORTATION OF CEMENT FROM VARIOUS
COUNTRIES**

(AHTN Codes 2523.29.90 and 2523.90.00)

X ----- X

ORDER

On 27 August 2019, the Department of Trade and Industry (DTI) issued DTI Administrative Order (DAO) No. 19-13 imposing a definitive general safeguard duty on imported cement under AHTN Codes 2523.29.90 and 2523.90.00, effective for an initial period of three (3) years. Under the subject DTI-DAO the amount of the safeguard duty to be imposed for the first year shall be P250.00/MT or P10.00 per 40kg bag, for the second year – P225.00/MT or P9.00 per 40kg bag, and for the third year – P200.00/MT or P8.00 per 40kg bag. Further, it provides that the said amount shall be subject to regular review, to give DTI the opportunity to modify the same if necessary.

The DTI-DAO took effect upon issuance by the Bureau of Customs (BOC) of Customs Memorandum Circular (CMC) No. 239-2019 on October 22, 2019. Thus, the first year of the implementing period will end on 22 October 2020.

On 28 July 2020, the Cement Manufacturers' Association of the Philippines (CeMAP) wrote to the DTI Secretary requesting for the postponement of the reduction of the current Php10/bag imposed on imported cement and appealed instead for DTI to consider adding Php2/bag or increasing the duty to Php12/bag, equivalent to the provisional safeguards duty and within the recommendation of the Tariff Commission.

CeMAP stated that while the implementation of the safeguard measure had slowed down on cement arrivals and has helped the industry to level the playing field during the second half of 2019, it was observed that cement imports seem to be bouncing back in the first half of 2020 due to the following: a) Higher surplus from countries like Viet Nam, b) lower prices i.e., value of cement and clinker exports per MT declined about 15% during the 2nd quarter of 2020, c) lower freight cost because of lower demand of maritime transport, and d) Viet Nam did not impose any hard lockdown or ECQ. Viet Nam cement manufacturing continued their operation during the pandemic period, unlike the Philippines where Luzon and Davao plants ceased to operate during the ECQ period.

Due to the onslaught of the ongoing COVID-19 pandemic, the country's economy sank into deep recession in Q2 of 2020. At the forefront of this decline are the Manufacturing, Mining, Quarrying, and the Construction Sectors.

OFFICE OF THE SECRETARY

Accordingly, the DTI conducted further review on the increased in imports of cement. Prior to the imposition of the provisional and definitive safeguard measures, imports from 2013 to 2018 significantly increased. Annual growth per year has been dramatically increasing i.e. 7,248% in 2015, 491% in 2016, 77% in 2017 and 51% in 2018. In 2019, with the imposition of the safeguard measure on cement, imports increased by 12%. According to CeMAP, in anticipation of the safeguard measure, the high volume in the 1H of 2019 of cement importation can be attributed to the traders increasing their inventories. In 2020 (January to August), imports was already 73% of 2019 despite the pandemic. Annualized 2020 cement imports is to increase by 9%.

There are indications that the significant increase in the volume of imports of cement affected the performance of the local industry. The condition of competition shows that the market share of locally produced cement was displaced even with the imposition of the definitive safeguard duty of ₱250/MT or ₱10/40 kg bag as the shares of imports in the Philippine market significantly increased resulting to domestic industry's increased inventory, reduced capacity utilization and incurred declined in profitability. The pandemic aggravated the overall operation of the cement industry for the first half of 2020 which resulted to the closure and slowdown of operations due to the quarantine measures and low market demand. The scheduled adjustment plan by the cement industry in 2020 is delayed as the cement industry was unable to quickly resume and complete the necessary investments due to the business disruptions resulting from the quarantine measures implemented to fight the pandemic.

WHEREFORE, in view of the foregoing, and pursuant to Section 13 of RA 8800, the following are hereby issued:

For the second year of the three (3) year implementing period, a definitive safeguard duty shall be imposed on imported cement from various countries amounting to ₱245/MT or ₱9.80/40 kg bag covering the period 22 October 2020 to 21 October 2021. The duty shall be applied to cement classified under AHTN Codes 2523.29.90 and 2523.90.00. All other terms and provisions of DTI DAO No. 19-13 shall remain in full force and effect.

Let this Order be published in two (2) newspapers of general circulation and let individual notices be sent to all interested parties including the country members concerned.

This Order shall take effect upon the issuance of the relevant Customs Memorandum Order or fifteen (15) days after the publication of the Order in two (2) newspapers of general circulation, whichever comes earlier.

The DTI Order can be accessed at the DTI website: <http://bit.ly/2yrSGimportcement>.

SO ORDERED.

26 October 2020


RAMON M. LOPEZ
Secretary



22 October 2022

Hon. Yogi Filemon L. Ruiz
Commissioner
Bureau of Customs
Port Area, Manila

Attention : **Atty. Edward James A. Dy Buco**
Deputy Commissioner, Assessment and Operations
Coordinating Group

Atty. Kriden F. Balgomera
Officer-In-Charge, Management Information System
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EDUARDO A. SAHAGUN
President and CEO

² Customs Memorandum Order No. 39-2021



TRABAH
NEG. SYO
KONSYUMER

Department Administrative Order No. 20-08
Series of 2020

**IN THE MATTER OF THE DEFINITIVE GENERAL
SAFEGUARD MEASURES ON THE
IMPORTATION OF CEMENT FROM VARIOUS
COUNTRIES**

(AHN Codes 2523.29.90 and 2523.90.00)

x ----- x

ORDER

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CeMAP stated that while the implementation of the safeguard measure had slowed down on cement arrivals and has helped the industry to level the playing field during the second half of 2019, it was observed that cement imports seem to be bouncing back in the first half of 2020 due to the following: a) Higher surplus from countries like Viet Nam, b) lower prices i.e., value of cement and clinker exports per MT declined about 15% during the 2nd quarter of 2020, c) lower freight cost because of lower demand of maritime transport, and d) Viet Nam did not impose any hard lockdown or ECQ. Viet Nam cement manufacturing continued their operation during the pandemic period, unlike the Philippines where Luzon and Davao plants ceased to operate during the ECQ period.

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There are indications that the significant increase in the volume of imports of cement affected the performance of the local industry. The condition of competition shows that the market share of locally produced cement was displaced even with the imposition of the definitive safeguard duty of P250/MT or P10/40 kg bag as the shares of imports in the Philippine market significantly increased resulting to domestic industry's increased inventory, reduced capacity utilization and incurred declined in profitability. The pandemic aggravated the overall operation of the cement industry for the first half of 2020 which resulted to the closure and slowdown of operations due to the quarantine measures and low market demand. The scheduled adjustment plan by the cement industry in 2020 is delayed as the cement industry was unable to quickly resume and complete the necessary investments due to the business disruptions resulting from the quarantine measures implemented to fight the pandemic.

WHEREFORE, in view of the foregoing, and pursuant to Section 13 of RA 8800, the following are hereby issued:

For the second year of the three (3) year implementing period, a definitive safeguard duty shall be imposed on imported cement from various countries amounting to P245/MT or P9.80/40 kg bag covering the period 22 October 2020 to 21 October 2021. The duty shall be applied to cement classified under AHTN Codes 2523.29.90 and 2523.90.00. All other terms and provisions of DTI DAO No. 19-13 shall remain in full force and effect.

Let this Order be published in two (2) newspapers of general circulation and let individual notices be sent to all interested parties including the country members concerned.

This Order shall take effect upon the issuance of the relevant Customs Memorandum Order or fifteen (15) days after the publication of the Order in two (2) newspapers of general circulation, whichever comes earlier.

The DTI Order can be accessed at the DTI website: <http://bit.ly/2yrSGimportcement>.

SO ORDERED.

26 October 2020


RAMON M. LOPEZ

Secretary



Department Administrative Order No. 19 - 13
Series of 2019

**IN THE MATTER OF THE DEFINITIVE
GENERAL SAFEGUARD MEASURE
ON THE IMPORTATION OF CEMENT FROM
VARIOUS COUNTRIES
(AHTN Codes 2523.29.90 and 2523.90.00)
(Safeguard Measures Case No. 01-2018)**

X-----X

ORDER

On 09 August 2019, the Department of Trade and Industry (DTI) received the Tariff Commission's (Commission) Formal Investigation Report on the general safeguard measure against the importation of cement from various countries classified under ASEAN Harmonized Tariff Nomenclature AHTN Codes 2523.29.90 and 2523.90.00. The period covered by the investigation (POI) are the years 2013 to 2017 with updated data of 2018.

The Commission, in accordance with the Safeguard Measures Act (RA 8800), concluded that:

1. Eight (8) out of 10 local cement manufacturers represented the domestic cement industry in the formal investigation. This satisfies the domestic industry requirement under Section 4(f) of RA No. 8800;
2. Locally produced Type I and Type IP cement are "like" to imported Type I and Type IP cement;
3. Type I and Type IP cement were imported into the Philippines in increased quantities, both in absolute and relative to domestic production, starting in 2016. The increase in volume of imports was recent enough, sudden enough, sharp enough, and significant enough;
4. While the domestic cement industry suffered injury, as evidenced by deteriorating trends in industry market share, sales, production, profits and capacity utilization during the POI, the overall impairment in its position was not of a degree that may constitute serious injury;
5. There exists an imminent threat of serious injury and significant overall impairment to the position of the domestic cement industry in the near future, as shown by:
 - a. Significant rate of increase in cement importations starting 2016 until the first semester of 2019. Thus, indicating to the high likelihood that substantially increased importations will continue in the near future;

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- b. The substantial freely disposable production capacities of exporters that can accommodate increasing exports to the Philippines and the importance of the Philippines as an export market by top suppliers Vietnam and China indicates the high chance of increased exports of cement to the Philippines in the near future;
 - c. Significant deterioration in the overall position of the domestic cement industry during the period of import surge (i.e., declines in sales, market share, production, profits and capacity utilization, and reduced ability to generate capital and/or investments to further modernize and expand capacities).
6. There is a direct causal relationship between increased imports of cement and the imminent threat of serious injury and significant overall impairment to the position of the domestic cement industry in the near future. While there were other factors that contributed to the impairment of the domestic cement industry, these were not substantial to cause serious injury to the local cement industry during the period of import surge.
 7. Serious injury to the domestic cement industry would occur imminently if a definitive safeguard measure against importations of cement is not applied.
 8. The circumstances provided in Article XIX or GATT 1994 need to be demonstrated since the product under consideration (type I and Type IP cement) is not the subject of any Philippine obligation or tariff concession under the WTO Agreement. Nonetheless, such inquiry is governed by the national legislation (RA No. 8800) and the terms and conditions of the Agreement on Safeguards.

The Commission recommended that the imposition of the safeguard measure be imposed for a period of three (3) years, i.e. from 2019 to 2022.

Accordingly, the DTI has reviewed the Commission's findings and recommendations and has established that the imposition of the definitive general safeguard measure shall be in the public interest. While DTI is mandated to protect consumers, there is a need to balance this taking into account other sectors such as investors and industry which provide employment to Filipinos. There is also a need to moderate imports to balance trade. If local manufacturers can adequately supply domestic requirements, they need to be provided a level playing field to enable them to compete with imports. This will allow expansion of the country's manufacturing base and generate more jobs for Filipinos. Further, users of cement retain their option to choose between the local and imported cement since imports will still be allowed. The imposition of a safeguard measure is not expected to cause a shortage of cement in the domestic market considering that the cement manufacturers have sufficient capacity to meet domestic demand.

WHEREFORE, IN VIEW THEREOF, and pursuant to Section 13 of RA 8800, the DTI hereby, issued the following:

1. A definitive safeguard duty effective for three (3) years shall be imposed on imported cement from various countries to encourage and challenge the local cement industries to be globally competitive. The amount of the safeguard duty to be imposed for the first year shall be ₱250.00/MT or ₱10.00 per 40kg bag, for the second year – ₱225.00/MT or ₱9.00 per 40kg bag, and for the third year – ₱200.00/MT or ₱8.00 per 40kg bag.

2. The amount of the measure shall be subject to regular review to give DTI the opportunity to modify the amount of the duty if necessary. The duty shall be applied to cement classified under AHTN Codes 2523.29.90 and 2523.90.00

Imports originating from developing countries listed in Annex A covered by Rule 8.8 of the IRR of RA 8800 shall not be subject to the definitive general safeguard measure. The composition of the developing countries on the de minimis list may change based on a review of the most recent data available as part of the annual review which will be conducted by the DTI during the implementation period.

3. Importers of cement originating from a country that is exempt from the safeguard duty shall submit a Certificate of Country of Origin (CO) issued by the authorized agency/office in the source country of manufacture subject to affixation of "Apostille" to the document or authenticated by the Philippine Embassy/Consulate General, as applicable.

The application of the definitive general safeguard measure shall be monitored and reviewed in accordance with Sections 15 and 16 of RA 8800. The domestic cement industry is also directed to comply with its adjustment plan.

The DTI Order of the definitive general safeguard measures can be accessed at the DTI website: <https://www.dti.gov.ph/media/advisories/13172-advisory-dti-order-in-the-matter-of-the-definitive-general-safeguard-measure-on-the-importation-of-cement-from-various-countries>.


The notification and consultation requirements under Article 12 of the WTO Safeguards Agreement and Section 17 of RA 8800 and its IRR shall be complied with. Imports originating from ASEAN Member states shall be governed by the provisions of Articles 11 and 23 of the ASEAN Trade in Goods Agreement (ATIGA).

Let this Order be published in two (2) newspapers of general circulation and let individual notices be sent to all interested parties including the country members concerned.

This Order shall take effect upon the issuance of the relevant Customs Memorandum Order or fifteen (15) days after the publication of the Order in two (2) newspapers of general circulation, whichever comes earlier.

SO ORDERED.

27 August 2019


RAMON M. LOPEZ
Secretary



ANNEX A

**List of Developing Countries and Separate Customs Territories
Excluded from the Imposition of Definitive General Safeguard
Measure on Cement**

East & Southern Africa	West Africa	North Africa	South Asia
Angola	Benin	Algeria	Afghanistan
Botswana	Burkina Faso	Egypt, Arab Rep.	Bangladesh
Burundi	Cameroon	Libya	Bhutan
Comoros	Cape Verde	Morocco	British Indian Ocean Territory
Congo, Dem. Rep.	Central African Rep.	Tunisia	East Timor
Djibouti	Chad		India
Eritrea	Congo, Rep.		Maldives
Ethiopia	Cote d' Ivoire		Nepal
Kenya	Equatorial Guinea		Pakistan
Lesotho	Gabon		Sri Lanka
Madagascar	Gambia, The		
Malawi	Ghana		
Mauritius	Guinea		
Mozambique	Guinea, Bissau		
Namibia	Liberia		
Reunion	Mali		
Rwanda	Mauritania		
Seychelles	Niger		
Somalia	Nigeria		
South Africa	Sao Tome & Principe		
Sudan	Senegal		
Swaziland	Sierra Leone		
Tanzania	Togo		
Uganda			
Zambia			
Zimbabwe			

Europe & Central Asia	Middle East	Americas	East Asia & Pacific
Albania	Bahrain	Anguilla	American Samoa
Armenia	Iran, Islamic Rep.	Antigua & Barbuda	Brunei Darussalam
Azerbaijan	Iraq	Argentina	Cambodia
Belarus	Israel	Aruba	Christmas Is.
Bosnia & Herzegovina	Jordan	Bahamas	Cocos (Keeling) Is.
Bulgaria	Kuwait	Barbados	Cook Is.
Croatia	Lebanon	Belize	Fiji
Cyprus	Oman	Bermuda	French Polynesia
Czech Republic	Qatar	Bolivia	Guam
Estonia	Saudi Arabia	Brazil	Hong Kong, China
Georgia	Syrian Arab Rep.	British Virgin Is.	Indonesia
Greenland	United Arab Emirates	Cayman Is.	Johnston Is.
Hungary	West Bank & Gaza	Chile	Kiribati
Kazakhstan	Yemen, Rep.	Colombia	Korea, Dem. Rep.
Kyrgyz Republic		Costa Rica	Korea, Rep.
Latvia		Cuba	Lao PDR
Lithuania		Dominica	Macau, China
Macedonia, FYR		Dominican Rep.	Malaysia
Malta		Ecuador	Marshall Islands
Moldova		El Salvador	Micronesia, Fed. Sts.
Poland		Falkland Is. (Malvinas)	Midway Is.
Romania		French Guiana	Mongolia
Russian Federation		Grenada	Myanmar
Slovakia		Guadeloupe	Nauru
Slovenia		Guatemala	New Caledonia
Tajikistan		Guyana	Niue
Turkey		Haiti	Northern Marianas Is.
Turkmenistan		Honduras	Palau
Ukraine		Jamaica	Papua New Guinea
Uzbekistan		Martinique	Pitcairn Is.
Yugoslavia, Fed. Rep.		Mexico	Samoa
		Montserrat	Singapore
		Netherland Antilles	Solomon Islands
		Nicaragua	Tokelau
		Norfolk Is.	Tonga
		Panama	Tuvalu
		Paraguay	Vanuatu
		Peru	Wake Is.
		Puerto Rico	Wallis & Futuna Is.
		St. Helena	
		St. Kitts & Nevis	
		St. Lucia	
		St. Pierre & Miquelon	
		St. Vincent & the Grenadines	
		Suriname	
		Trinidad & Tobago	
		Turks & Caicos Is.	
		Uruguay	
		US Virgin Is.	
		Venezuela	