



Republic of the Philippines  
Department of Finance  
**BUREAU OF CUSTOMS**  
1099 Manila

17 June 2019

**CUSTOMS MEMORANDUM ORDER**  
NO. 28 2019

To: All Deputy Commissioners  
All District/Port Collectors  
All Deputy Collectors for Operations  
All Chiefs, Law Division  
All Others Concerned

**Subject: IMPOSITION OF A PROVISIONAL SAFEGUARD DUTY**

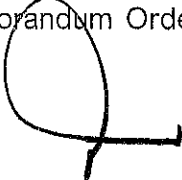
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It is the policy of the State to promote the competitiveness of domestic industries and producer based on sound industrial and agricultural development policies, and technical resources. In pursuit of this goal and in the public interest the State shall provide safeguard measures to protect domestic industries and producers from increased imports, which caused or threaten to cause serious injury to those domestic industries and producers.<sup>1</sup>

Based on Department Order No. 19-06, Series of 2019, issued by the Department of Trade and Industry (DTI), it was determined that the domestic industry has suffered serious injury caused by the increased importation of ceramic floor and wall tiles. The DTI has recommended the imposition of provisional safeguard duty in the form of cash bond pursuant to Section 8 of R.A. 8800 (The Philippine Safeguard Measures Act) and its Implementing Rules and Regulations (IRR).

In this regard, you are hereby directed to impose and collect a provisional safeguard duty in the amount of P3.00/kg on imported ceramic floor and wall tiles in the form of cash bond, classified as AHTN Codes 6907.2214, 6907.2121, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394, and 6907.4092 for a period of 200 days, effective after fifteen (15) days from the publication of this Customs Memorandum Order (CMO) in two (2) newspapers of general circulation.

For your strict compliance.

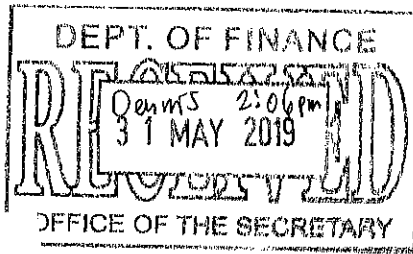
  
**REY LEONARDO B. GUERRERO**  
Commissioner



BOC-09-02687

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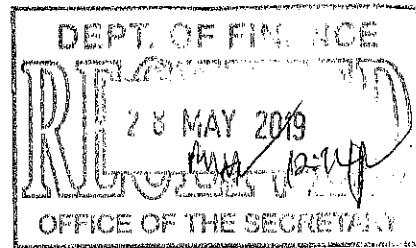
<sup>1</sup> Section 2, RA 8800, or known as the Philippine Safeguard Measure Act.



10 May 2019

**SEC. CARLOS G. DOMINGUEZ**

Department of Finance  
DOF Building, BSP Complex  
Roxas Blvd., Manila



Dear **Secretary Dominguez**,

This is to respectfully furnish your good office with copies of the **Department of Trade and Industry's Order and Report (Non-Confidential version)** of its preliminary determination that increased importation of ceramic floor and wall tiles is a substantial cause of serious injury to the domestic ceramic industry.

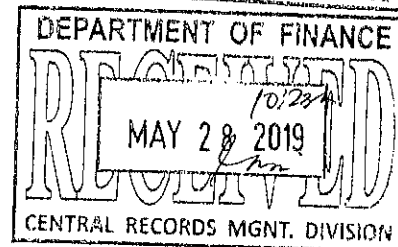
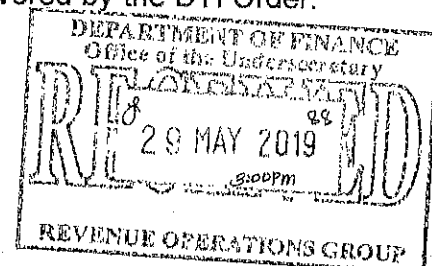
Pursuant to **Section 8 of R.A. 8800 (The Philippine Safeguard Measures Act)** and its IRR, the Secretary shall, within three (3) calendar days from making a decision, issue through the Secretary of Finance, written instructions to the Commissioner of Customs authorizing the imposition of the **provisional safeguard duty** in the form of a cash bond in the amount of **₱3.00/kg of imported ceramic floor and wall tiles** classified under **AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092** for a period of **200 days**. The Order shall take effect upon the issuance of the relevant Customs Memorandum Order or after fifteen (15) days from its publication in two (2) newspapers of general circulation, whichever comes earlier.

May we therefore request your office to direct the Commissioner of Customs to issue the Customs Memorandum Order and collect the appropriate amount of the provisional safeguard duty on imported ceramic floor and wall tiles covered by the DTI Order.

Thank you for your cooperation.

Very truly yours,

**RAMON M. LOPEZ**  
Secretary



cc: **Commissioner Rey Leonardo Guerrero**  
Bureau of Customs

OFFICE OF THE SECRETARY



Republic of the Philippines  
**DEPARTMENT OF FINANCE**

Roxas Boulevard Corner Pablo Ocampo, Sr. Street  
Manila 1004

03 June 2019

**REY LEONARDO B. GUERRERO**

*Commissioner*

Bureau of Customs

South Harbor, Port Area Manila

**SUBJECT : Imposition of a provisional safeguard duty**

Dear Commissioner Guerrero,

Pursuant to DTI Department Administrative Order No. 19-06 Series of 2019 and in compliance with Section 8 of R.A. 8800 (The Philippine Safeguard Measures Act) and its IRR, you are directed to impose a provisional safeguard duty in the form of a cash bond in the amount of Php 3.00/kg of imported ceramic floor and wall tiles classified under AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 for a period of 200 days.

Please issue the necessary Customs Memorandum Order and collect the appropriate amount of the provisional safeguard duty on imported ceramic floor and wall tiles covered by the DTI Order.

Thank you very much.

Very truly yours,

  
**CARLOS G. DOMINGUEZ**  
*Secretary*

Department of Finance

JUN 04 2019



CC:

**RAMON M. LOPEZ**

Secretary, Department of Trade and Industry

5/F Industry and Investment Building

385 Sen. Gil J. Puyat Ave., Makati City 1200

Department Administrative Order No. 19 - 06  
Series of 2019

IN THE MATTER OF THE PRELIMINARY  
DETERMINATION OF THE SAFEGUARD  
MEASURES CASE AGAINST THE  
IMPORTATION OF CERAMIC FLOOR AND  
WALL TILES FROM VARIOUS COUNTRIES  
(AHTN Codes 6907.2123, 6907.2124,  
6907.2193, 6907.2194, 6907.2213, 6907.2214,  
6907.2293, 6907.2294, 6907.2313, 6907.2314,  
6907.2393, 6907.2394 and 6907.4092)  
(Safeguard Measures Case No. 02-2018)

ORDER

The Department of Trade and Industry (DTI) initiated a preliminary investigation to determine whether increased imports of ceramic floor and wall tiles is causing or threatening to cause serious injury to the domestic industry. The products covered by the investigation are classified under AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092. The period of investigation (POI) are the years 2013 to 2017. Updated data for 2018 were also presented.

Pursuant to Section 7 of the Safeguard Measures Act (RA 8800), "x x x the Secretary shall, on the basis of the evidence and submission of the interested parties, make a preliminary determination that increased imports of the product under consideration are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry. x x x"

A review of the evidence made available to DTI shows:

1. that the volume of imports of ceramic floor and wall tiles
  - in absolute terms, increased from 2013 to 2016. In 2017, imports are lower by 13% over the 2016 level, but higher by 2,170% in 2014 or the pre-surge level.
  - in relative terms, the share of imports to domestic production increased from 4% in 2013 to 641% in 2016. In 2017, the share of imports was recorded at 549% lower by 92% to 2016 level, but higher by 523% in 2014 or the pre-surge level. In 2018, share of imports was recorded at 542%, lower by 7% to 2016 level, but higher by 516% in 2014.
2. that the domestic industry has suffered serious injury caused by increased imports based on the following:
  - during the POI, despite significant increases in market size, the market share of domestic manufacturers declined from 96% in 2013 to 15% in 2017 and 2018;

OFFICE OF THE SECRETARY

- the share of imported ceramic wall and floor tiles grew from 4% in 2013 to 87% in 2016;
  - earnings before interest and tax exhibited a declining trend of 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry's operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018;
3. that increased imports are the substantial cause of serious injury to the domestic industry based on the following:
- significant increase in the volume of imported ceramic floor and wall tiles preceded the serious injury to the industry from 2015 to 2017; and
  - The conditions of the competition show that the market share of locally produced ceramic floor and wall tiles was essentially displaced during the POI as the share of imports in the domestic market significantly increased.

WHEREFORE, IN VIEW THEREOF, the DTI, acting under Section 7 of RA 8800, the "Safeguard Measures Act", found after preliminary determination that increased imports of ceramic floor and wall tiles have caused serious injury to the domestic industry.

Further, pursuant to Section 8 of RA 8800 which provides that "*in critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a preliminary determination that increased imports are the substantial cause of serious injury to the domestic industry*", provisional safeguard measures in the form of a cash bond amounting to ₱3.00/kg shall be imposed on imported ceramic floor and wall tiles classified under AHTN Codes 6907.2123, 6907.2124, 6907.2103, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 for a period of 200 days from the date of issuance by the Bureau of Customs (BOC) of the relevant Customs Memorandum Order (CMO) or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

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 provisional safeguard measure. Also, unglazed, porcelain, mosaic, and marble tiles are excluded from the investigation since they are not produced locally. Further, the preliminary investigation excluded glazed ceramic tiles imported from the European Union since said tiles do not compete with locally produced tiles.

Importers of ceramic floor and wall tiles originating from a country that is exempt from the provisional safeguard duty shall submit a Certificate of Origin (CO) issued by the authorized agency/office in the source country of manufacture authenticated by the Philippine Embassy/Consulate General.

Moreover, Rule 5.2 of the Implementing Rules and Regulations (IRR) of RA 8800 provides that "*the Secretary when establishing that the application of a safeguard measure will be in the public interest shall take into consideration the following*

factors; among others: x x x (ii) the extent to which such imposition will cause a shortage of a product under consideration in the domestic market".

The case records will be transmitted to the Tariff Commission for a formal investigation to determine whether or not there is a need to impose a definitive safeguard measure.

The non-confidential report of the preliminary safeguard measures investigation can be accessed at the DTI website: <https://www.dti.gov.ph/media/advisories/12805-preliminary-determination-of-the-safeguard-measures-case-against-the-importation-of-ceramic-floor-and-wall-tiles-from-various-countries>

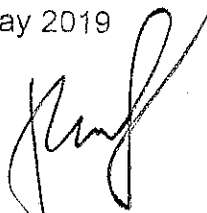
The notification and consultation requirements under Article 12 of the WTO Safeguards Agreement and Section 17 of RA 8800 and its IRR shall be complied with. Imports originating from ASEAN member states shall be governed by the provisions of Articles 11 and 23 of the ASEAN Trade in Goods Agreement (ATIGA).

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 fifteen (15) days after publication or from the date of the issuance of relevant BOC-CMO, whichever comes earlier.

SO ORDERED.

07 May 2019



**RAMON M. LOPEZ**  
Secretary *f a*



ANNEX A

**List of Developing Countries and Separate Customs Territories  
Excluded from the Imposition of Provisional Safeguard Measure on  
Ceramic Floor and Wall Tiles**

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.	Johnston Is.
Greenland	United Arab Emirates	Cayman Is.	Kiribati
Hungary	West Bank & Gaza	Chile	Korea, Dem. Rep.
Kazakhstan	Yemen, Rep.	Colombia	Korea, Rep.
Kyrgyz Republic		Costa Rica	Lao PDR
Latvia		Cuba	Macau, China
Lithuania		Dominica	Malaysia
Macedonia, FYR		Dominican Rep.	Marshall Islands
Malta		Ecuador	Micronesia, Fed. Sts.
Moldova		El Salvador	Midway Is.
Poland		Falkland Is. (Malvinas)	Mongolia
Romania		French Guiana	Myanmar
Russian Federation		Grenada	Nauru
Slovakia		Guadeloupe	New Caledonia
Slovenia		Guatemala	Niue
Tajikistan		Guyana	Northern Marianas Is.
Turkey		Haiti	Palau
Turkmenistan		Honduras	Papua New Guinea
Ukraine		Jamaica	Pitcairn Is.
Uzbekistan		Martinique	Samoa
Yugoslavia, Fed. Rep.		Mexico	Singapore
		Montserrat	Solomon Islands
		Netherlands Antilles	Taiwan, (R.O.C.)
		Nicaragua	Thailand
		Norfolk Is.	Tokelau
		Panama	Tonga
		Paraguay	Tuvalu
		Peru	Vanuatu
		Puerto Rico	Wake Is.
		St. Helena	Wallis & Futuna Is.
		St. Kitts & Nevis	
		St. Lucia	
		St. Pierre & Miquelon	
		St. Vincent & the Grenadines	
		Suriname	
		Trinidad & Tobago	
		Turks & Caicos Is.	
		Uruguay	
		US Virgin Is.	
		Venezuela	



**DEPARTMENT OF TRADE AND INDUSTRY**

**SAFEGUARD MEASURES CASE NAME:**

**APPLICATION OF PHILIPPINE  
CERAMIC FLOOR AND WALL TILES  
INDUSTRY**

**PUBLIC VERSION**

**SGM CASE NO. : 02-2018**

**DATE : 07 May 2019**

**REPORT ON THE PRELIMINARY  
AFFIRMATIVE FINDINGS APPLICATION  
FOR SAFEGUARD MEASURES ON THE  
IMPORTATION OF CERAMIC FLOOR AND  
WALL TILES FROM VARIOUS  
COUNTRIES**

# REPORT ON THE PRELIMINARY AFFIRMATIVE FINDINGS ON THE APPLICATION FOR SAFEGUARD MEASURES ON THE IMPORTATION OF CERAMIC FLOOR AND WALL TILES FROM VARIOUS COUNTRIES

## I. INTRODUCTION

This is a report on the preliminary determination conducted by the Department of Trade and Industry (DTI) under Section 7 of Republic Act (RA) 8800, the Safeguard Measures Act, on the petition filed by the domestic ceramic floor and wall tiles industry represented by Mariwasa Siam Ceramics, Inc. (MSC). The subject products are classified under ASEAN Harmonized Tariff Nomenclature (AHTN 2017) Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092. This report addresses the issue of whether the evidence submitted by the domestic industry, the importers, exporters and other interested parties show that increased imports are the substantial cause of, or threaten to substantially cause serious injury to the local industry.

The period of investigation (POI) for the import surge and injury to the domestic industry is from 2013 to 2017. Updated data for 2018 were also presented.

### A. The Philippine Industry's Petition

#### A.1 Parties to the Petition - Domestic Industry/Petitioner

Section 4 (f) of RA 8800 defines "domestic industry" as referring to the "*domestic producers, as a whole, of like or directly competitive products manufactured or produced in the Philippines or those whose collective output of like or directly competitive products constitutes a major proportion of the total production of those products*".

Rule 4.1 of the Implementing Rules and Regulations (IRRs) of RA 8800 further provides that: "*(1) in the case of a domestic producer which also imports the product under consideration, only its domestic production of the like or directly competitive product shall be treated as part of the domestic production, or (2) in the case of a domestic producer which produces more than one product, only that portion of its production of the like or directly competitive product may be treated as part of such domestic industry*".

The petitioner, MSC accounts for 86% of the total domestic production in 2017. This satisfies the domestic industry requirement under Section 4(f) of RA 8800.

In 2017, MSC and Formosa Ceramic Tiles Manufacturing Corp. (Formosa) are the two producers of ceramic tiles in the Philippines. MSC has an annual production of xxx MT while Formosa with an annual production of xxx MT.

Eurotiles Industrial Corporation, a company which was engaged in producing ceramic tiles stopped operations in March 2017 and is presently engaged in importation. Lepanto Ceramics, Inc., another ceramic tile producer, stopped its manufacturing operations in 2013.

## **A.2. Ceramic Tiles Industry (2013 to 2017)**

In 2013, the Philippine ceramic tile industry had four (4) companies in the market with a total annual production capacity of xxx MT. MSC has the highest annual production capacity of xxx MT which represents 53% of the total industry capacity. The second largest producer was First Lepanto Ceramics with a capacity of xxx MT or accounted for 26% of the total annual capacity. Eurotiles Industrial Corp. was the third largest producer with a production capacity of xxx MT or 12% of the total annual capacity, followed by Formosa Ceramic Tiles Mfg. Corp. with a xxx MT capacity or 9% of the total domestic capacity.

From 2014 to 2016, three (3) ceramic tiles manufacturers remained in the market with an annual production capacity of xxx MT. MSC has a production capacity of xxx MT or 72% of the total industry capacity. Eurotiles Industrial Corp. has a capacity of xxx MT or 16% of the total capacity while Formosa has a capacity of xxx MT or equivalent to 12% of the total capacity. In 2013, First Lepanto Ceramics suffered a decline in income and stopped operation in 2014.

Currently, the ceramic tile industry is comprised of only two (2) companies, namely MSC and Formosa.

## **A.3. Ceramic Tile Manufacturers**

### **1) Mariwasa Siam Ceramics, Inc. (MSC)**

MSC started as Mariwasa Manufacturing, Inc. (MMI) founded in March 1966 which was one of the pioneers in the Philippine ceramic tile industry. MSC was established after a joint venture between MMI and Siam Cement Group, one of the leading conglomerates in Thailand and the ASEAN region that engage in various businesses, i.e. chemicals, paper, cement building materials, and distribution.

MSC has an authorized capital stock of ₱ xxx. Its manufacturing facility is situated in Sto. Tomas, Batangas. MSC carries the brand name Mariwasa Tiles. It is operating under ISO 9001:2000 and complies with PNS/ISO 13006:2007 quality standards. Cementhai Ceramics Co., Ltd. acquired an 80% shareholding of MSC and the 20% are from other stockholders. It is a member of the Ceramic Tile Manufacturers' Association (CTMA).

In addition to its ceramic tile production, MSC imports sanitary wares and bathroom fixtures to complement its product lines. Product distribution is done through the company's network of dealers that are positioned strategically throughout the Philippines. Finished products are also exported to Thailand, Singapore, Korea, Saipan, Guam, Palau, Canada, and Africa.

MSC manufactures high-quality floor and wall ceramic tiles of various sizes, texture, colors, types, and patterns, which as follows:

Type	Size	Texture	Color	Special Feature	Pattern
Floor Tiles Wall Tiles	20 x 20 20 x 60 30 x 30 30 x 60 40 x 40 60 x 60	Glossy Matte Rustic	Beige, Black, Blue, Brown, Green, Grey, Lavander, Mocha, Ochre, Pink, Red, White & Yellow	Rectified Files  Full HD Tiles	Random prints - 2 & 3 faces

## 2) Formosa Ceramic Tiles Mfg. Corp. (Formosa)

Formosa, established in 1997, has a manufacturing facility located in Quezon Road, Brgy. San Isidro, San Simon, Pampanga. Formosa specializes in manufacturing glazed floor and wall ceramic tiles. Their products undergo quality control procedures such as absorption and crushing resistance, acid, alkali, chemical resistance under the International Standard PNS-ISO 13006:2007. The company carries the brand name Ten Zen Tiles and Manila Tiles which are marketed by their sister company, Caesar Ceramics Tiles Corporation. It is one of the leading ceramic tiles manufacturers in the world. Their products are directly delivered to their distributors and dealers. It has an authorized capital stock of ₱ xxx. They have no direct-selling stores in the Philippines to avoid conflict with their distributors and dealers.

## 3) Eurotiles Industrial Corporation

Eurotiles Industrial Corporation is a manufacturer of Philippine ceramic tiles that carry the brand name Eurotiles Superior Ceramic Tiles. Aside from tiles, they also produce construction chemicals such as tile adhesive and grout, waterproofing paints and architectural coatings/finishes. They also import Caesar sanitary wares, a leading brand in Taiwan. It was registered in June 1989 and started operation in 1992. Its 6.5-hectare plant facility is located at Silang, Cavite. Nationwide distribution of Eurotiles Superior Ceramic tiles is coursed through major construction stores, each with a network of dealers covering key cities and selected growth areas in Luzon, Visayas, and Mindanao. In Metro Manila, Ceramic Plaza and Federal Hardware are flagship retailers of Eurotiles. It stopped manufacturing operations in March 2017 and is presently engaged in importation.

## 4) Lepanto Ceramics, Inc.

Lepanto Ceramics, Inc. (LCI), established in April 1990, was one of the top manufacturers of ceramic floor and wall tiles for residential, commercial and industrial projects in the country with its known brand Lepanto Tiles. In 2012, with the total lifting of safeguard duty on imported ceramic tiles, LCI stopped its manufacturing operations in 2013. At present, part of its 15-hectare tile manufacturing facility in Calamba, Laguna is being leased as warehouses.

#### **A.4. Importers and Exporters of Ceramic Tiles**

The ceramic tile industry provided a list of importers and exporters of ceramic tiles during the period of the investigation. Further, an additional list of importers and exporters had been identified from the Bureau of Customs' Single Administrative Document – Import Entry and Internal Revenue Document (SAD-IERD). These lists are attached as Annexes A and B.

#### **A.5. Others**

DTI notified other interested parties such as consumer groups and industry associations regarding the application for safeguard measure investigation and requested them to submit their positions thereof. The list of associations and consumer groups is attached as Annex C.

### **B. Role of the DTI under RA 8800 (The Safeguard Measures Act)**

#### **B.1 Examination of Evidence to Justify Initiation of Investigation**

In establishing whether there is sufficient evidence to justify the initiation of the investigation, the Secretary relied on Section 6 paragraph 3 of RA 8800 and its IRRs. The said provision provides, *"the Secretary shall review the accuracy and adequacy of the evidence adduced in the petition to determine the existence of a prima facie case that will justify the initiation of a preliminary investigation within five (5) days from receipt of the petition."*

#### **B.2 The Meaning of Preliminary Investigation in the Context of the Safeguard Measures Law**

In making a preliminary determination, Section 7 of RA 8800 states that:

*"Not later than thirty (30) days from receipt of the petition...the Secretary, shall on the basis of the evidence and submission of the interested parties, make a preliminary determination that increased imports of the product under consideration are a substantial cause of or threaten to substantially cause, serious injury to the domestic industry. In the process of conducting a preliminary determination, the Secretary shall notify the interested parties and shall require them to submit their answers within five (5) working days from the date of transmittal to the respondent or appropriate diplomatic representative of the country of exportation or origin of the imported product under consideration."*

Further, the law also states that:

*"Upon a positive preliminary determination that increased importation of the product under consideration is a substantial cause of, or threatens to substantially cause, serious injury to the domestic industry, the Secretary shall, without delay, transmit its records to the Commission for immediate formal investigation."*

Rule 7.1 of the IRR essentially restates the law to wit:

"Not later than thirty (30) calendar days from receipt of the properly documented application xxx, the Secretary shall, on the basis of the petition, the answers of the respondents, and the respective supporting documents or information, make a preliminary determination that increased imports of the product under consideration are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry."

## II. THE EVIDENCE PRESENTED BY THE INDUSTRY

### A. The Product Subject to the Petition

Section 4 (h) of RA 8800 defines like product as "a domestic product which is identical, i.e. alike in all respects to the imported product under consideration, or in the absence of such a product, another domestic product which, although not alike in all respects, has characteristics closely resembling those of the imported product under consideration".

Section 4 (e) of RA 8800 further provides, "directly competitive product shall mean domestically produced substitutable products".

A comparison of the imported ceramic tiles with the domestic product is required to determine if these are like or directly competitive products.

#### A.1 Domestic Product

MSC manufactures high-quality floor and wall ceramic tiles of various sizes, texture, colors, types, and patterns which complies with PNS ISO 13006 as follows:

Type	Size	Texture	Color	Special Feature	Pattern
Floor Tiles	20x20	Glossy	Beige, Black,		
	20x60	Matte	Blue, Brown,	Rectified	Random
Wall Tiles	30x30	Rustic	Green, Grey,	Files	prints - 2 & 3
	30x60		Lavander, Mocha,		faces
	40x40		Ochre, Pink, Red,	Full HD	
	60x60		White & Yellow	Tiles	

#### A.2. Uses and Applications

Ceramic tiles are used as floor and wall covering for indoor and outdoor areas in residential and commercial buildings. They are available in various types, sizes, texture, colors, special features, patterns, and technical specifications. Ceramic tiles are made available to customers through distributors, dealers, and retailers.

#### A.3 Composition of Raw Materials

The major raw materials in the domestic ceramic floor and wall tiles industry are locally sourced clay and imported glaze and ink. The following are the raw materials used for the production of floor and wall ceramic tiles:

#### A.4 Production Process

XXX

## B. Imported Product

### Product Description under the Tariff and Customs Code

Tariff Heading Map AHTN Code / Description			Applicable Tariff Rate (%)																			
			MF	AANZFTA		ACFTA	AIFTA			AJCEPA				AKFTA		ATIGA	PJEPA					
			2013 - 2017	2013 - 2014	2015 - 2017	2013 - 2017	2013	2014 - 2015	2016 - 2017	2013	2014	2015	2016	2017	2013 - 2015	2016 - 2017	2013 - 2017	2013	2014	2015	2016	2017
69.07 Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics.	6907.21 - - Of a water absorption coefficient by weight not exceeding 0.5 %	6907.21.23 - - - - Paving, hearth or wall tiles, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.21.24 - - - - Other, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.21.93 - - - - Paving, hearth or wall tiles, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
		6907.21.94 - - - - Other, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
	6907.22 - - Of a water absorption coefficient by weight exceeding 0.5 % but not exceeding 10 %	6907.22.13 - - - - Paving, hearth or wall tiles, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.22.14 - - - - Other, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.22.93 - - - - Paving, hearth or wall tiles, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
		6907.22.94 - - - - Other, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
	6907.23 - - Of a water absorption coefficient by weight exceeding 10 %	6907.23.13 - - - - Paving, hearth or wall tiles, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.23.14 - - - - Other, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.23.93 - - - - Paving, hearth or wall tiles, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
		6907.23.94 - - - - Other, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
	6907.40 - Finishing ceramics	6907.40.92 - - - Glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1

Source: Classification based on The Philippine Tariff Finder (PTF) of the Tariff Commission. Retrieved from <http://tariffcommission.gov.ph/finder>

AHTN ASEAN Harmonized Tariff Nomenclature  
 MFN Most Favoured Nation  
 AANZFTA ASEAN-Australia/New Zealand Free Trade Agreement  
 ACFTA ASEAN-China Free Trade Agreement  
 AIFTA ASEAN-India Free Trade Agreement  
 AJCEPA ASEAN-Japan Comprehensive Economic Partnership Agreement  
 AKFTA ASEAN-Korea Free Trade Agreement  
 ATIGA ASEAN Trade in Goods Agreement  
 PJEPA Philippines-Japan Economic Partnership Agreement

### C. Comparison between Imported and Domestic Product

Locally manufactured and imported glazed ceramic floor and wall tiles are like and directly competitive products in terms of the following:

#### Product Classification

- Both are classified under same tariff headings

#### Uses and Applications

- Both are used for floor and wall covering
- Both can be applied in any residential and commercial buildings

#### Production Process and Raw Materials

- Both have the same process method - manufactured by tile pressing, glaze/décor application, and firing

#### Appearance and Characteristics

- Both have the same surface appearance i.e. glossy, matte and rustic
- Both have the same characteristics acquired through its chemical and physical properties

According to PCPIA, AHTN Codes 6907.2123, 6907.2124, 6907.2193 and 6907.2194 are tiles with water absorption not exceeding 0.5%. These products are called porcelain tiles. Unlike ceramic, processing of the porcelain composition involved very high pressure and extremely high temperature. The result is very dense and less porous material. It is much stronger than ceramic.

The Government of Indonesia stated that subject product has different specifications, designs, and sizes and it caters to a different market.

Embassy of Spain explained that imports from Spain are of distinctive quality and price so they should be treated as a different category of products.

### D. Period of Investigation

The POI covers imports of ceramic floor and wall tiles from 2013 to 2017. Updated data for 2018 were also presented. The domestic ceramic tile industry's performance for the same period is also assessed to determine whether the increased imports are the substantial cause of serious injury to the domestic industry.

## III. THE PROCESS OF PRELIMINARY INVESTIGATION

### A. Acceptance of the Petition and Decision for Preliminary Investigation

In accepting the petition of the Philippine ceramic floor and wall tiles industry, the Secretary was guided by Rule 6.4a of the IRRs of RA 8800 which provides that:

*"The Secretary shall, within five (5) calendar days from the date of his letter of acceptance of the properly documented application referred to in Rule 6.3.d, examine the accuracy and adequacy of the evidence submitted to determine the existence of a prima facie case that will justify the initiation of a preliminary investigation. In assessing*



*the sufficiency of evidence provided in the application, the Secretary shall satisfy himself that based on the documents available to him, he can determine that the increased imports of the product under consideration are the substantial cause of the serious injury or threat thereof to the domestic producers of the product under consideration."*

On 17 December 2018, the Secretary officially informed the domestic ceramic floor and wall tiles industry that their application is accepted as properly documented. On 20 December 2018, the Secretary issued a report on the initiation of the safeguard investigation.

## **A.2 Preliminary Investigation Proper**

### **A.2.a Notice to Parties and Due Process**

On 28 December 2018, Notices of Initiation were published at the Business Mirror and Manila Standard Today as provided under Rule 6.5a of the IRR which states that:

*"Within two (2) calendar days after the Secretary makes the decision to initiate a preliminary investigation, the Secretary shall cause the publication of the notice of initiation of preliminary investigation in two (2) newspapers of general circulation. The date of publication shall be considered as day one (1) of the initiation of investigation."*

On 03 January 2019, notices were sent to the domestic industry and the diplomatic or official representatives of the concerned governments of the identified exporting countries. Individual notices were sent to importers, exporters, and associations. The importers and exporters were requested to submit their responses to the questionnaires as well as evidence and information relevant to the said investigation within five (5) working days from receipt of notice as provided under Section 7 of RA 8800 and its IRR.

### **A.2.b Submission of Evidence and Position Papers**

As provided under Rule 6.5b of the IRR:

*"The respondents are required to submit within five (5) working days from the receipt of such notice their responses or comment and other evidence and information to dispute all allegations contained in the petition. The notice shall be deemed to have been received five (5) working days from the date on which it was transmitted to the respondent or the appropriate diplomatic or official representative of the country of export or origin of the product under consideration. In cases where the number of known interested parties is so large that it is impractical to provide a non-confidential copy of the documents to each of them, a copy will be given to the government of the country of export or origin and/or to the representative organizations. These documents shall also be made available to other interested parties upon request."*

### **A.2.c Importers Responses to the Questionnaire**

Out of eighty-two (82) identified importers, only three (3) submitted responses to the DTI Questionnaire, as follows:

## 1. Floor Center Group of Companies

On 29 January and 21 February 2019, Floor Center Group of Companies, a member of the Philippine Ceramics Products Importers' Association, Inc. (PCPIA), through its Counsel Britanico Sarmiento & Ringler Law Offices submitted its statements on the investigation as follows:

- The finding of DTI that the domestic producers had a 96% market share in 2013 is not supported by either of the industry's application or previous Tariff Commission's formal investigation reports on safeguard measures on ceramic tiles. The application showed that the market share of domestic producers in 2013 is only 40%.
- The volume of imported ceramic tiles in 2013 at 6,098MT reflected in the DTI report is not supported by the industry's application and statistics of the Philippine Statistics Authority (PSA). In 2013, the volume of imports reached almost 612,700MT as provided by Mariwasa and 649,346MT based on PSA data.
- There is no existence of serious injury to the domestic industry:
  - share of the domestic market taken by increased imports was what the domestic industry cannot supply;
  - sales and production volume increased from the start to the end of POI (2017);
  - domestic industry is fully utilized so the safeguard measure can possibly increase their sales from 12 Million sqm per year to 14 Million sqm per year since the industry has no statement regarding new investments that will significantly increase total production capacity.
  - decline in net income is not caused by the increase in imports but due to expenses related to establishment of retail stores, investment in computer systems and increase in employee benefits
- Based on the application, market share in 2013 is 39.47%, not 96%. Moreover, the evaluation report released by the Tariff Commission last 13 November 2013 further bolsters the fact that market share never reached 96%. Market share sank to its lowest level at 26% in 2012 when the safeguard measure finally ended in January.
- The imposition of safeguard measures will not be in the public interest:
  - Imposition of safeguard measure will certainly increase importation costs.
  - Even if the domestic producers are supported by the government with SG measures, they can only produce and sell 13.73% (14M capacity over 102M demand in 2017) of the total demand.
  - The imposition of SG measures will only benefit 2 domestic producers to reach their maximum capacity and affecting 100 importers not to mention the buying public.
  - Domestic producers are 2 foreign investments (as of 2016, Mariwasa is 80.08% Thai-owned and Formosa is 67.01% Taiwanese and 32.9% BVI-owned) while the importers are generally Filipino businesses.
  - Between the domestic industry and the importers, the importers have more contributions to the economy.
- The domestic industry did not improve its competitiveness under the previously imposed safeguard measures from 2002 to 2012

## 2. Castilex Trading Corporation

On 11 February 2019, Castilex Trading Corporation informed DTI that the last importation of ceramic floor tiles made by the company was in 2014. Therefore, they will not complete the questionnaire.

## 3. Worldwide Interiors Design Center Corp.

On 15 April 2019, Worldwide Interiors Design Center Corp. replied to DTI Importer's Questionnaire. They stated that they import ceramic tiles, porcelain tiles, sanitary wares, and bathroom accessories. Also, in terms of quality, there is no difference between local and imported ceramics, but the price of the domestic product is more expensive than imported products. They alleged that in terms of volume, the domestic manufacturer cannot supply the market demand.

### A.2.d Exporters responses to the questionnaire

Three (3) identified exporters submitted their replies to the DTI Questionnaire as follows:

#### 1. P.T. Chang Jui Fang Indonesia (CJFI)

On 28 February 2019, DTI granted CJFI's request to submit a reply to the exporter's questionnaire until 07 March 2019. According to CJFI, the Philippines' construction has increased in recent years that created demand for tiles both for local industry and ASEAN country. The demand is higher than the capacity to supply. This gap was fulfilled by the imported tiles, which is mostly from non-ASEAN country exporters.

The imposition of the safeguard measures would not be effective if applied to Indonesia due to the small quantity of export to the Philippines. Further, the company stated that they exported glazed floor tiles with water absorption categories (6% to 10%), under HS Code 6907.2393.

#### 2. P.T. MuliaKeramik IndahRaya

In their 15 March 2019 submission, P.T. MuliaKeramik IndahRaya stated that based on the trade map data, the products they exported to the Philippines under HS Code 6907.2293, 6907.2294, 6907.2393 and 6907.2394 in a minimal quantity compared to the imports from other countries.

They further said that when the safeguard measures ended, imported products had increased again, which shows that the domestic industry was not able to meet the demand of the domestic market and was unable to carry out the necessary structural adjustments to be competitive. Also, they claimed that the increasing volume of imported ceramic floor and wall tiles is not from Indonesia. PT Muliakeramic appealed that Indonesia be excluded from the Philippines' safeguard measures since Indonesia's export to the Philippines is not that significant.

### **3. ITX Merken BV FB-Switzerland**

On 17 April 2019, ITX Merken BV FB – Switzerland stated that their company is not a producer of ceramic floor and wall tiles, but an exporter of building materials and furniture.

#### **A.2.e Foreign Embassies**

The following foreign embassies submitted their comments relevant to the investigation:

##### **1. Embassy of Brazil**

On 21 January 2019, Embassy of Brazil submitted its position as follows:

Article 9.1 of the Agreement on Safeguards states, “Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 per cent, provided that developing country Members with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product concerned”.

Also, Footnote 2, “A Member shall immediately notify an action taken under paragraph 1 of Article 9 to the Committee on Safeguards”. Thus, imports of Brazil should be excluded. Notice of Initiation does not specify exemptions and transparency and high standard should be observed throughout the investigation.

##### **2. Embassy of Turkey**

On 23 January 2019, Embassy of Turkey submitted their comments on the said petition. They pointed out that Turkey’s individual shares in the Philippines subject merchandise imports in terms of quantity corresponds to less than 3%. Collective import shares of developing countries with a ratio below 3% are far from reaching 9% of Philippines’ total imports to the subject merchandise between 2013 and 2018 which should be interpreted under the prevailing provisions of Art. 9.1 of Agreement on Safeguards. Given the negligible import levels of products under investigation from Turkey into the Philippines, Turkey is requesting to give full consideration to the above points and exclude Turkey from the application of any possible safeguard measure.

##### **3. European Commission**

On 28 January 2019, Office of the Directorate-General for Trade, Directorate H – Trade Defence of the European Commission (EC) submitted its comments and position regarding the initiation of a safeguard investigation on imported ceramic floor and wall tiles from various countries through the Trade Section of European Union – Delegation to the Philippines. EC statements on the application are as follows:

- Frequent recourse by the Philippines to the safeguard measures instrument for ceramic floor and wall tiles.
  - From 2002 to 2012, the Philippine maintained a safeguard measure without interruption on imported ceramic floor and wall tiles. If after 10 years of uninterrupted safeguard measures on ceramic floor and wall tiles, the industry has not adjusted, there may be other causes to the industry’s situation than imports.

- Development of imports
  - Total imports of ceramic floor and wall tiles increased from 2013 to 2017 during the period of investigation (POI). However, the safeguard measures then for the subject product were lifted in 2012, which may explain an artificially low level of imports at the start of POI;
  - Any safeguard measures would limit legitimate market access for imports from the EU in particular, as these imports are not causing injury to the domestic industry due to their low volumes and high prices.
  
- Injury determination – injury indicators listed below do not demonstrate the existence of an overall impairment of the domestic industry. In particular, the domestic industry is not suffering serious injury caused by increased imports but due to other factors.
  - Production volume increase marginally during the POI
  - Production capacity was flat during the POI; capacity utilization increased marginally during the POI
  - Market share of the domestic industry decreased over the POI, however, this has to be seen in the light of a significant increase in consumption
  - Inventories increased substantially over the POI
  - Costs of production decreased during the POI due to technological improvements in the manufacturing process
  - Selling, General and Administrative expenses (SGA) increased by 60% over the POI due to increased local taxes that recorded losses during the POI.
  - Employment decreased during the POI as a result of automation efforts.
  - Productivity increased during the POI
  
- Causality
  - The difficulties suffered by the domestic industry are the result of an increase in local taxes and is not linked to imports.
  
- Unforeseen developments
  - Customs or trade defense actions undertaken by Viet Nam, Argentina, and Indonesia were solely mentioned
  - Although the share of imports from China rose dramatically in 2017 due to the bilateral tariff duty on imports from China is 0%, while the MFN rate is 10%, any unforeseen development involving China was not mentioned
  
- Appropriateness of the WTO Safeguard Measures instrument
  - Safeguard measures may cause unnecessary collateral damage to other trade partners like EU who may not have caused any injury to the domestic industry. EU exports are limited, and prices are higher than the domestic. Thus, not causing any injury.

In view of the above statements, the EU concluded that the conditions for the imposition of safeguard measures on ceramic tiles are not met. Thus, the Commission request the Philippine government to terminate the investigation in respect of its WTO obligations.

#### **4. Embassy of Indonesia**

On 29 January 2019, Embassy of Indonesia expressed their position against the preliminary investigation. They cited that the product coming from Indonesia possess different specifications, designs, and sizes as well as target market. Also, the

Government of Indonesia (GOI) stated that no causal link was established. The decline in employment, market size and increase in productivity are not due to the surge in imports of ceramic tiles to the Philippines. Overall productivity showed an increase even with fluctuations from the base index in 2013. The concern lies in the ability of the domestic industry to supply domestic demand. The imposition of a safeguard measure will halt the local industry's growing demand and related industry in the Philippines.

For the unforeseen development, petitioner did not address unforeseen development, which is essential and necessary in order to impose safeguard measures. Also, the investigating authority did not offer a reasonable and adequate explanation of why and how the trade measures adopted by some third countries can be regarded as unforeseen development that resulted in an increase in imports. The GOI did not find any legal justification in the WTO Agreement. Article XIX: 1(a) of GATT 1994 merely states that "any product is being imported into the territory of that contracting party in such an increased quantity" which relates only to the past increase and not potential increase. A more appropriate and direct measure such as anti-dumping should be used to tackle the source of the problem. Safeguard measures, while available to any country, should be implemented exceptionally because they affect imports from all countries.

The GOI requested to terminate this safeguard investigation and opt for a more appropriate trade remedy instrument.

## **5. Embassy of Spain**

On 31 January 2019, Embassy of Spain submitted its position on the said investigation. The WTO erga omnes SG instrument is not the appropriate instrument to deal with a bilateral situation. Other instruments that specifically target injurious imports like anti-dumping measures, anti-subsidy measures or bilateral safeguards would be more appropriate. In this case, only Chinese, Indonesian and Vietnamese imports may be regarded as damaging either through its sheer volume or through its selling price. Imports from Spain are of distinctive quality and price so they should be treated as a different category of products.

Also, injury indicators do not demonstrate the existence of an overall impairment of the domestic industry such as domestic sales remain stable, production shows a slightly upward trend along with capacity utilization, gross profit increased 12% in POI, a negligible 0.28% of undercutting on average basis, absence of price suppression and only a single year of price depression. Thus, causality is not properly established, and no other factors are examined.

## **6. Royal Thai Embassy**

On 20 February 2019, the embassy submitted its position/views. The Embassy indicated that Article 9.1 of the Agreement on Safeguards, safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 percent. Imports from Thailand were below 3 percent during the past five years and six months. The Department of Foreign Trade requested DTI to exclude Thailand from the imposition of measures in accordance with the requirements of Art. 9.1 of the WTO Agreement on Safeguards.

## 7. Taipei Economic & Cultural Office (TECO) in the Philippines

On 26 February 2019, DTI received the official comments of TECO. According to TECO, the Philippine imports from Taiwan does not exceed 3% of total imports. The total imports from Taiwan decreased from 0.44% in 2014 to 0.0007% in 2017, that should hardly constitute the source of injury to Philippine domestic ceramic industry. Taiwan did not export tiles of less than 60cm x 60cm size.

Further, the price of Taiwan's tiles with dimensions above 60cm x 60cm is much higher in comparison to the price of Philippine tiles due to the high cost of manufacturing, environmental protection, labor and tariffs, and therefore cannot be regarded as the source of serious injury, or threat of serious injury to the Philippine tile industry.

### A.2.e Associations (Foreign and Local)

The following associations submitted their comments relevant to the investigation:

#### 1. China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters

On 24 January 2019, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters in behalf of Chinese ceramic industry and exporters of ceramic tiles submitted the following comments on the investigation:

- Failure to establish unforeseen development
  - It is foreseeable that the recovery growth of imports would occur with the removal of previous safeguard measures on ceramic tiles in 2012.
- Failure to satisfy the criteria that the import growth should be recent enough
  - The increase in import is the result of the increase in demand and meet the market needs rather than taking over the market share taken by the domestic producers. The production and sales of domestic producers remain stable

even when the volume of import increases. The import growth coincides with the expiration of the previous safeguard measures. The determination of rapid growth in imports lacks reasonable ground. In 2013, exports from either of the three major exporting countries, i.e. China, Viet Nam, and Indonesia or other countries are at a low level. Years 2014 and 2015 were the recovery period from the restricted trade environment. Import growth peaked in 2016. From 2016, imports from China and Indonesia decline in 2017. Imports during the recent period did not increase but decreased.

- Serious injury does not exist
  - relevant indicators i.e. production and capacity utilization of the Philippine industry show that it has not suffered any injury.
- Causal link does not exist
  - Most of the operating indicators of the domestic industry are in good condition i.e. gross profits and labor productivity, except for net profit which declined. The decline in net profit was not due to the impact of imports but mainly due to an increase in selling, general and administrative expenses (SG&A) of the

domestic industry. The increase in SG&A expenses was faster than the increase in sales profits.

- The capacity utilization rate of the domestic industry is at full capacity. Under this circumstance, the domestic industry is unable to meet the rapidly growing market demand. In this case, the imposition of a safeguard measure to restrict imports is not in the public interest. The domestic industry is far less in terms of employment and overall welfare compared to importers, building decoration companies and general downstream users. The previous long-term imposition of safeguard measures on imported ceramic tiles illustrated that it eventually does not produce a dynamic and competitive industry.
- Procedural defects relevant to the submission of responses/comments on the petition by interested parties, notification and methods, and content of investigation including unreasonable indexed disclosure.

Further, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters suggested to the Philippine investigating authority to take into consideration the non-application period of the safeguard measures and refrain from using it again.

## **2. Cerame-Unie (The European Ceramic Industry Association)**

On 29 January 2019, Cerame-Unie (The European Ceramic Industry Association) / CET (European Federation of the Manufacturers of Ceramic tiles) and in behalf of ASCER (Asociación Española de Fabricantes de Azulejos y Pavimentos Cerámicos) and Confindustria Ceramica submitted its comments to the report on the initiation of the preliminary safeguard measures investigation. Cerame-Unie represents European manufacturers of wall and floor tiles in several European countries, including Spain, Italy, Portugal, France, Germany, United Kingdom, Netherlands, Czech Republic, Bulgaria, and Austria.

Cerame-Unie highlighted some concerns on the investigation as follows:

- the application of safeguard measures should remain exceptional because it affects imports from all countries and does not require the existence of an unfair element like anti-dumping or anti-subsidy measures do.
- applicant must prove that the increase in imports is sharp due to unforeseen developments. Said developments must cause or threaten to cause serious injury to the domestic industry, a higher level of injury required than for anti-dumping and/or anti-subsidy measures.

They also enumerated the following points to consider based on data presented in the application and other data sources i.e. Eurostat or UN Comtrade and Prometeia.

- Import trends based on Eurostat or UN Comtrade
  - Imports in the Philippines have gradually increased during the POI. EU has not been a relevant factor in the said rise in imports. EU ceramic tile exports have experienced a 16% increase during the POI. On the same period, exports from China to the Philippines increased by 139%, a Compound Annual Growth Rate (CAGR) of 19% over the POI. Similarly, imports from Indonesia and Vietnam increased by 129% and 54% respectively.



- Market share based on the data presented by DTI and Eurostat or UN Comtrade.
  - China exports have consistently gained market share over the POI. EU exports, despite a mild increase in the same period, represent only a residual part of ceramic tiles imports to the Philippines. EU ceramic tiles exports are also a victim of the constant increase in Chinese exports to the Philippines. EU exports have not caused injury to the domestic industry.
- Domestic consumption, production, and sales based on Prometeia (2018)
  - Consumption of ceramic tiles in the Philippines during the POI has increased by almost 40% from 80.5 million sqm in 2013 to 110.9 million sqm in 2017. During the same period, both production and sales of the domestic industry also increased by 10.2% and 9.4% respectively. China exports cover 53% of the domestic consumption, whereas EU exports represent less than 2% of it.
- Average prices based on the investigation report
  - Average export prices of EU exports are consistently higher than the domestic prices and import prices from major export countries.
  - Weighted average landed cost of imports from major sources i.e. China, Indonesia, and Vietnam is lower than the domestic selling price with a price undercutting of 3.27%.
  - EU imported products and domestic products do not compete in the same market segment.
- Existing trade barriers in the Philippines
  - A 10% tariff rate is applied to EU imports
  - Imported ceramic tiles are required to comply with Philippine Standard PNS ISO 13006:2007 quality standard

In this regard, the EU industry believes that direct bilateral measures under the ASEAN-China FTA or anti-dumping/anti-subsidy measures are more appropriate to apply than safeguard measures. Also, EU exports should be exempt from the safeguard measures. Likewise, EU industry anticipates that existing tariffs & non-tariff barriers will be removed relevant to the on-going EU-Philippines FTA negotiation.

### **3. Spanish Ceramic Tile Manufacturer's Association (ASCER)**

On 30 January 2019, Spanish Ceramic Tile Manufacturer's Association (ASCER) submitted its comments to the initiation of safeguard measures on ceramic floor and wall tiles by the Philippines. ASCER represents almost the whole Spanish manufacturers of wall and floor tiles. Also, it is part of Cerame-Unie (the European Ceramic-Industry Association)/CET (European Federation of the Manufacturers of Ceramic tiles).

ASCER pointed out the following information/data based on the initiation report of a safeguard investigation on imported ceramic floor and wall tiles from various countries:

- In 2017, top sources for imports of ceramic tiles came from China (81.75% share), Indonesia (7.71% share) and Viet Nam (3.32% share) while Spain was 2.38% and EU at 3.02% respectively.
- Weighted average landed cost of imports from China, Indonesia, and Viet Nam are lower than the domestic selling price with a price undercutting of 3.27%. There is no evidence of price undercutting from other source countries.

- Philippines impose a 10% tariff rate on EU imports and require a specific mandatory labeling requirement. While imports from China, Indonesia, and Viet Nam has 0% tariff rate due to trade agreements.
- Although the production process is similar, Spanish manufacturers do not compete in the same market segment of the Philippine industry in terms of quality and versatility
- Average prices of Spanish made ceramic floor and wall tiles are significantly higher than the domestic prices. Therefore, it does not compete nor represent a threat to the local market.
- There is no evidence of industry injury caused by imports increase. The domestic ceramic industry has been facing an increase in local taxes, additional expenses due to business investments, increased salaries for the POI, lack of government support, etc. Thus, any existing injury of the domestic industry is not attributable to increased imports.
- China is the largest ceramic exporter to the Philippines with an increasing market share. While the EU has a low market share and decreasing in share during the POI. Thus, an anti-dumping investigation should be used instead of safeguard measures as it could strike the main problem without damaging other trade partners.

Accordingly, ASCER concluded that there is no causality between the injury of local industry and the increase in imports in the Philippines. And since there is a single trade partner who has the largest share of imports, a bilateral measure should be used to preserve fair trade rather than a safeguard measure.

In addition, as the EU-Philippines Free Trade Agreement (FTA) negotiation is in process, the Spanish industry hopes that the existing tariffs and non-tariff barriers be removed. Also, considering the lack of evidence which warrants the inclusion of the EU industry in the safeguard investigation, the Spanish ceramic industry asks for the termination of the current safeguard measures investigation.

#### **4. City of Parañaque - Consumer Welfare Office**

On 31 January 2019, the City of Parañaque, the Consumer Welfare Office submitted its views relevant to the initiation of the said safeguard investigation. According to them, local ceramic tile manufacturers can create more employment and can produce skilled-workers such as tile cutters, machine operators, heavy truck and heavy equipment drivers/operators, designers, supervisors, etc. will be utilized. Thus, if the importation of ceramic tiles continuous, local manufacturers will lose their business orders. Also, for the law of supply and demand, if the importation of tiles will continue and assuming there will be high demand from the end-users, there is a tendency of hoarding, if demand increase, consumers will have a great impact to embrace the high price or what the other countries might dictate. If incurred or have accepted poor quality products, the process of returning is complicated. The income of the country will decrease since the buying of imported goods is investing money in other countries. Importation can lead to destroying domestic industry which will reduce the economic growth of the country.

#### **5. Philippine Ceramic Products Importers Association, Inc.**

On 04 January and 04 February 2019, the Philippine Ceramic Products Importers Association, Inc. submitted supplemental comments and position on the petition for the imposition of safeguard measures for ceramic floor and wall tiles.

Based on the application, they enumerated the following reasons that the petition for the imposition for ceramic floor and wall tiles should be denied:

- No existence of serious injury and significant impairment to the domestic industry
  - The domestic producers cannot supply from their maximum production the substantial increase in demand brought about by the construction boom.
  - The average domestic sales and production for 2017 are higher than in 2016.
  - Domestic labor productivity and capacity utilization increased especially in 2017.
  - Revenue and gross profit of the domestic industry increased during the POI especially in 2017.
  - Net income of the domestic industry decreased due to an increase in their selling, general and administrative expenses during the POI.
  
- The imposition of safeguard measures will not be in the public interest.
  - It will increase importation costs, decrease the volume of imports and cause a shortage of ceramic tiles in the domestic market.
  - It will increase the prices of imported tiles which supplies the substantial share of the total demand which domestic production cannot supply
  - It will dampen the increasing demand for tiles as a construction material
  - It will slow down the growth in the industry construction which is a major contributor to economic development in terms of employment, home/condominium sales, bank loans, and government tax collection.
  - It will only benefit two (2) domestic producers at the cost of affecting at least one hundred (100) importers and the buying public.
  - Domestic producers are foreign investments: as of 2016, Mariwasa being a Thailand owned and Formosa being a Taiwanese and BVI owned while importers are Filipino businesses.
  - Importers give a bigger contribution to the Philippine economy. The tax collected by the government from the tile importers is more than what domestic producers provide on its domestic sales.
  - For 2017, tile importers supply a substantial rate of the total demand for ceramic tiles while domestic producers only supply at a lesser rate.
  - Importers employ more personnel than domestic producers. There are at least one hundred (100) tile importers with a minimum seventeen (17) employees or a total of 1,700 personnel compared to two (2) tile manufacturers that employ 1,257.
  
- The domestic industry did not improve its competitiveness under the previously imposed safeguard measures from 2002 to 2012.
  - Domestic producers still failed to be competitive and capture consumer market and demand. During said implementation, out of six (6) domestic producers, three (3) ceased operations, two (2) had intermittent operations and only one (1) had normal operations.
  - The domestic industry does not produce porcelain tiles which had created a new market as consumers preferred it over the locally produced ceramic tiles. Henceforth, the domestic industry hardly regained market losses and the opportunity to supply the increase in demand.
  - When the previous safeguard measure was lifted in 2012, a construction boom followed which can be inferred that it stunted the growth of construction.

### A.3.a. Additional Documents Requested from the Petitioner

On 11 February, 12 March and 04 April 2019, MSC submitted the following information:

- That the imposition of provisional safeguard measure will not result in political and economic crisis and will not cause a shortage of ceramic tiles.
- Updated information on domestic sales, export sales, cost to produce and sell, actual production, rated capacity, profit and losses statement, number of employees, salaries and wages, finished goods inventory, domestic selling price as well as the adjustment plan.

### III. APPRECIATION OF AVAILABLE EVIDENCE

Rule 6.5.c of the IRR states that:

*"Whenever any interested party fails to respond adequately or is unable to produce information requested, refuses access to, or otherwise does not provide any other information within the period allowed for the investigation, or otherwise significantly impedes the investigation, the preliminary determination of the conditions required in a safeguard investigation shall proceed on the basis of facts derived from the evidence at hand. Even though the information provided by interested party may not be complete in all respects, this shall not be disregarded provided the interested party is deemed to have acted to the best of his ability."*

The DTI evaluated and considered all the information provided by the interested parties. Out of two hundred thirty-three (233) identified exporters, three (3) submitted responses to the DTI Questionnaire. For the importers, out of eighty-two (82) identified importers, only three (3) submitted responses to the DTI Questionnaire. Seven (7) foreign embassies of the country of exports and five (5) associations (foreign and local) submitted position/comments on the said investigation. All submitted position/comments were considered in the analysis and evaluation of the report.

### IV. SAFEGUARD MEASURES: PARAMETERS FOR EVALUATION

#### A. The Concept and Purpose of Safeguards

Section 2 of RA 8800 provides that *"the state shall promote the competitiveness of domestic industries and producers based on sound industrial and agricultural development policies, and the efficient use of human, natural and technical resources. In pursuit of this goal and in the public interest, the state shall provide safeguard measures to protect domestic industries and producers from increased imports which cause or threaten to cause serious injury to those domestic industries and producers."*

#### B. The Elements Required by Law

As stated under Section 5 of RA 8800 and its IRRs *"the Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product*

*is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as to be a substantial cause of serious injury or threat thereof to the domestic industry; however, in the case of non-agricultural products, the Secretary shall first establish that the application of such safeguard measures will be in the public interest".*

### **C. Relevant Provisions**

*Rule 7.2 of the IRRs of RA 8800 states that "the Secretary shall essentially determine the following in the preliminary determination: (a) The volume of imports, in particular, whether there has been an increase, either in absolute terms or relative to production in the Philippines. The Secretary shall evaluate import data for the last five (5) years preceding the application to substantiate claims of a significant increase in import volume. Provided, however, that in some cases, the period may be adjusted to cover a shorter period, if necessary, in order to take into account other considerations that will ensure the appropriateness of the chosen period, e.g. seasonality of product, availability of data or facility in verification of data; (b) Presence and extent of serious injury or threat thereof to the domestic industry producing the like or directly competitive product; (c) Causal relationship between the increased imports of the product under consideration and the serious injury or threat thereof to the affected domestic industry and (d) The Secretary shall take into account the effects of the seasonality of products, whenever applicable, in the preliminary determination of whether or not the elements for the imposition of a provisional safeguard measure exist."*

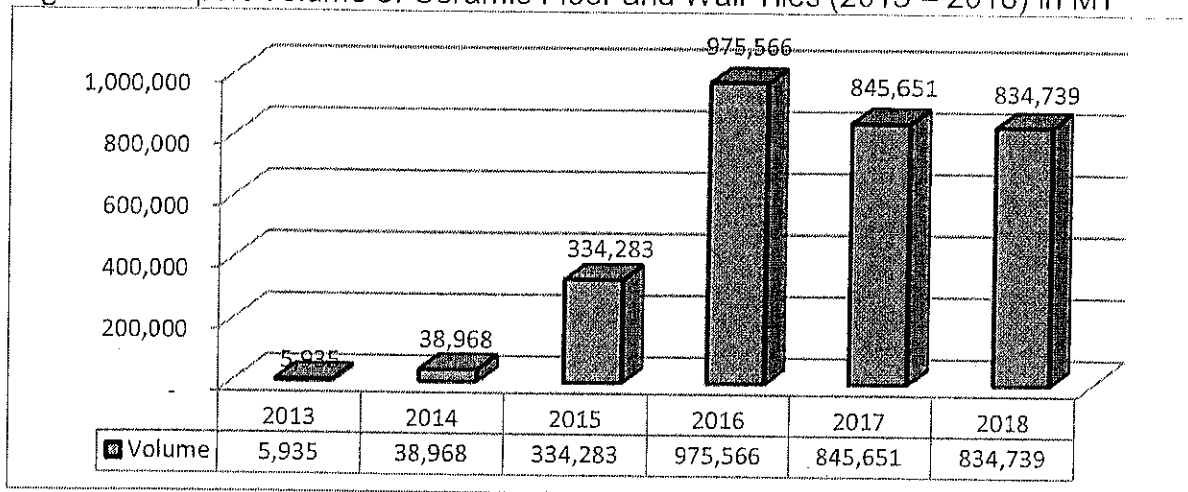
*Rule 7.3 of the IRRs of RA 8800 further provides that "in a preliminary determination under critical circumstances, the Secretary shall establish that there has been a substantial increase in imports taking into account their volume and whether or not there has been a rapid accumulation of inventories of the domestic product and a reduction in sales and profit margins of the domestic industry."*

## D. Determination of Increased Volume of Imports

### D.1. Absolute Terms

#### 1.a. Import Volume

Figure 1: Import Volume of Ceramic Floor and Wall Tiles (2013 – 2018) in MT



Source: Bureau of Customs, Single Administrative Document-Import Entry and Internal Revenue Document (SAD-IEIRD)

The period of investigation (POI) covers ceramic floor and wall tiles (glazed tiles) imported into the Philippines from 2013 to 2017. DTI updated the data for the whole year of 2018. The data on importations were sourced from the Bureau of Customs (BOC).

Table 1: Import Volume of Ceramic Floor and Wall Tiles (2013 – 2018) in MT

Year	2013	2014	2015	2016	2017	2018
Volume (MT)	5,935	38,968	334,283	975,566	845,651	834,739
Absolute (Increase/(Decrease))	-	33,033	295,315	641,283	(129,915)	(10,912)
Growth Rate	-	556.57	757.84	191.84	(13.32)	(1.29)

Source: Bureau of Customs (SAD-IEIRD)

During 2013-2014, imports of ceramic tiles increased by 33,033MT or 557%. In 2015, it continued to increase by 295,315MT or 758% over the previous level. In 2016, imports soared high by 641,283 MT or 192%. In 2017, although imports of ceramic tiles declined by 13% over the 2016 level, the level is still significantly higher by 2,070% compared to 2014 or the pre-surge level. In 2018, imports slightly decreased by 1% and already surpassed the 2013 to 2015 imports levels.

It was observed that during the POI, ceramic tiles are being imported in increased quantities in absolute terms.

According to the European Commission, total imports of ceramic floor and wall tiles increased from 2013 to 2017 during the period of investigation (POI). However, the safeguard measures for the subject product were lifted in 2012, which may explain an artificially low level of imports at the start of POI.

Floor Center Group of Companies claimed that the volume of imported ceramic tiles in 2013 at 6,098MT reflected in the DTI report is not supported by the industry's application and statistics of the Philippine Statistics Authority (PSA). In 2013, the volume of imports reached almost 612,700MT as provided by Mariwasa and 649,346MT based on PSA data.

PCPIA stated that the AHTN Codes 6907.2123, 6907.2124, 6907.2193 and 6907.2194 are tiles with water absorption not exceeding 0.5%. These products are called porcelain tiles. Unlike ceramic, processing of the porcelain composition involved very high pressure and extremely high temperature. The result is very dense and less porous material. It is much stronger than ceramic. Thus, the application for safeguard measures submitted by MSC should exclude products under these AHTN Codes. Further, PCPIA stated that mosaic tile and marble tiles should be excluded from the data gathering as they are distinct from ceramic tiles.

DTI used import data from BOC-SAD during the investigation because it covers the complete description of the imported product under consideration, i.e. AHTN Code, tariff rate, complete description of the like or directly competitive domestic product concerned, names of the countries of export or origin, identity of all known foreign exporters or producers and the list of known importers among others.

DTI excluded the imported products which are not like or directly competitive to the product under investigation i.e. porcelain tiles, mosaic tiles and marble tiles. Also, imports of the domestic industry during the period were excluded to make an objective assessment of the industry's condition.

#### 1.b. Share of Imports (by Country)

Table 2: Share of Imports By Country (2013 – 2018) in MT

Country	2013	% Share	2014	% Share	2015	% Share	2016	% Share	2017	% Share	2018	% Share
PROC	229	4	23,832	61	280,120	84	846,954	87	713,876	84	666,034	80
Indonesia	2,180	37	2,701	7	16,552	5	62,828	6	62,519	7	88,733	11
Viet Nam	2,941	50	10,028	26	21,320	6	27,008	3	29,681	4	33,893	4
<i>Total (Major Suppliers)</i>	5,350	90	36,562	94	317,992	95	936,790	96	806,075	95	788,661	94
<i>Total (Other sources)</i>	585	10	2,407	6	16,290	5	38,776	4	39,576	5	46,078	6
<b>TOTAL IMPORTS</b>	<b>5,935</b>	<b>100</b>	<b>38,968</b>	<b>100</b>	<b>334,283</b>	<b>100</b>	<b>975,566</b>	<b>100</b>	<b>845,651</b>	<b>100</b>	<b>834,739</b>	<b>100</b>

Source: Bureau of Customs (SAD-IEIRD)

For the period 2013 to 2018, the top source countries for imports of ceramic tiles are the People's Republic of China (PROC), Indonesia and Viet Nam.

PROC

PROC accounted for the largest share of the Philippines' ceramic tiles importation from 2014 to 2018. In 2014, its share of imports was recorded at 23,832MT or 61%, from 229 MT or 4% in 2013. In 2015, PROC's share increased to 280,120MT or 84% and recorded its biggest share of 87% to total Philippine imports in 2016. Chinese tiles slightly declined its share to 713,876MT or 84% in 2017. In 2018, PROC's share accounted for 80% of the total Philippine imports.

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters in behalf of Chinese ceramic industry and exporters of ceramic tiles commented that the investigation failed to satisfy the criteria that the import growth should be recent enough. They further stated that it is necessary for the competent authorities to examine recent imports and not simply trends in imports during the past five years. The import growth coincides with the expiration of the previous safeguard measures. The determination of rapid growth in imports lacks reasonable ground. In 2013, exports from either of the three major exporting countries i.e. China, Viet Nam, and Indonesia or other countries are at a low level. Years 2014 and 2015 were the recovery period from the restricted trade environment. Import growth peaked in 2016. From 2016, imports from China and Indonesia decline in 2017 and a further decline in imports from China and a decrease from Viet Nam in the first half of 2018 compared to 2017. On these, imports during the recent period did not increase but decreased.

Viet Nam

Imported ceramic tiles from Viet Nam accounted for the second highest share to total Philippine imports from 2013 to 2015.

In 2013, Viet Nam was the top supplier of ceramic tiles in the country which accounted for 2,941 MT or 50% share of the total Philippine imports. Imports from Viet Nam continued to increase from 10,028MT in 2014 to 29,681MT in 2017. However, the import share of Viet Nam to the total Philippine imports for the same period has declined from 26% (2014) to 4% (2017 & 2018).

Indonesia

Indonesia ranked third as the top supplier of ceramic tiles in the country from 2013 to 2015 and became the second top supplier from 2016 to 2018.

Indonesian tiles accounted for 2,180MT or 37% share to total Philippine imports in 2013. From 2014 to 2016, imports from Indonesia continued to increase from 2,701 MT or 7% in 2014 to 62,828 MT or 6% in 2016. In 2017, its total share to Philippine imports increased to 7% and further to 11% in 2018.



Other Sources

Other sources of ceramic floor and wall tiles for the POI include: Australia, Bahrain, Brazil, Bulgaria, Egypt, France, Germany, Hong Kong, India, Italy, Japan, Kuwait, Malaysia, Netherlands, New Zealand, Portugal, Singapore, South Korea (ROK), Spain, Switzerland, Taiwan, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom and US.

Table 3: Import Volume – Other Sources (2013 to 2018) in MT

COUNTRY	2013	% Share	2014	% Share	2015	% Share	2016	% Share	2017	% Share	2018	% Share
Australia	-	-	-	-	32	0.01	1	0.0001	0.01	0.000001	2	0.0002
Bahrain	-	-	-	-	-	-	25	0.0026	-	-	-	-
Brazil	-	-	-	-	47	0.01	71	0.01	10	0.001	20	0.002
Bulgaria	-	-	-	-	-	-	142	0.01	246	0.03	634	0.08
Egypt	-	-	-	-	-	-	-	-	-	-	376	0.04
France	-	-	-	-	-	-	-	-	1	0.0001	-	-
Germany	-	-	-	-	23	0.01	7	0.001	53	0.01	91	0.01
Hong Kong	9	0.15	0.11	0.0003	71	0.02	110	0.011	3	0.0004	15	0.002
India	-	-	82	0.21	3	0.001	125	0.01	1,135	0.13	4,619	1
Italy	307	5	606	2	3,535	1	7,882	0.81	5,785	1	3,188	0.4
Japan	-	-	5	0.01	3	0.001	75	0.01	5	0.001	324	0.04
Kuwait	-	-	-	-	16	0.005	-	-	-	-	-	-
Malaysia	242	4	558	1	2,518	1	2,935	0.30	3,744	0.44	2,739	0.3
Netherlands	-	-	98	0.25	-	-	-	-	0.03	0.000004	-	-
New Zealand	-	-	-	-	-	-	-	-	-	-	-	-
Portugal	-	-	-	-	21	0.01	-	-	-	-	0.01	0.000001
Singapore	-	-	-	-	9	0.003	33	0.003	1	0.0001	5	0.001
South Korea (ROK)	0.49	0.01	-	-	24	0.01	110	0.01	51	0.01	75	0.01
Spain	17	0.28	1,010	3	5,581	2	18,202	2	21,832	3	25,144	3
Switzerland	-	-	0.34	0.001	1	0.0004	-	-	-	-	-	-
Taiwan	-	-	-	-	47	0.01	6	0.001	6	0.001	21	0.002
Thailand	0.07	0.001	3	0.01	4,308	1	8,997	1	6,292	1	7,862	1
Tunisia	-	-	-	-	-	-	0.05	0.00001	-	-	-	-
Turkey	9	0.16	0.01	0.00002	47	0.01	48	0.005	163	0.02	12	0.001
United Arab Emirates	-	-	38	0.10	-	-	-	-	230	0.03	949	0.11
United Kingdom	-	-	-	-	-	-	4	0.0004	0.33	0.00004	-	-
US	0.07	0.001	6	0.01	2	0.001	2	0.0002	19	0.002	3	0.0003
<b>Total</b>	<b>585</b>	<b>10</b>	<b>2,407</b>	<b>6</b>	<b>16,290</b>	<b>5</b>	<b>38,776</b>	<b>4</b>	<b>39,576</b>	<b>5</b>	<b>46,078</b>	<b>6</b>

Source: Bureau of Customs (SAD-IEIRD)

Embassy of Brazil emphasized that pursuant to Article 9.1 of the Agreement on Safeguards, "Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 per cent, provided that developing country Members with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product concerned". Imports of Brazil should be excluded from the measure.

Embassy of Turkey commented that Turkey's individual shares in the Philippines subject merchandise imports in terms of quantity corresponds to less than 3%. Collective import shares of developing countries with a ratio below 3% are far from reaching 9%. Given the

negligible import levels of products under investigation from Turkey, it should be excluded from the application of any possible safeguard measure.

Royal Thai Embassy stated that Article 9.1 of the Agreement on Safeguards provides that “Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 percent”. Imports from Thailand was below 3 percent during the past five years and six months. Thus, the Embassy requested DTI to exclude Thailand from the imposition of measures in accordance with the requirements of Art. 9.1 of the WTO Agreement on Safeguards.

Taipei Economic & Cultural Office stated that Philippine imports from Taiwan do not exceed 3% of total imports. Taiwan did not export tiles of less than 60cm x 60cm size.

Cerami-Unie, the European Ceramic Industry Association, claimed that import trends based on Eurostat or UN Comtrade showed that imports in the Philippines have gradually increased during the POI. EU has not been a relevant factor in the said rise in imports. EU ceramic tile exports have experienced a 16% increase during the POI. On the same period, exports from China to the Philippines increased by 139%, a Compound Annual Growth Rate (CAGR) of 19% over the POI. Similarly, imports from Indonesia and Vietnam increased by 129% and 54% respectively.

Spanish Ceramic Tile Manufacturers' Association (ASCER) pointed out that in 2017, top sources for imports of ceramic tiles came from China (81.75% share), Indonesia (7.71% share) and Viet Nam (3.32% share). Also, the share of imports of ceramic floor and wall tiles from Spain was 2.38% and the EU at 3.02% respectively. Further, the Philippines imposes a 10% tariff rate on EU imports and require a specific mandatory labeling requirement. While imports from China, Indonesia, and Viet Nam has 0% tariff rate due to trade agreements. The Philippines had imposed a previous safeguard measures on ceramic floor and wall tiles for 12 years. China is the largest ceramic exporter to the Philippines with an increasing market share. While the EU has a low market share and decreasing in the share during the POI. The increase of Spanish imports during the POI is much lower than the increase in imports from the three major source countries.

## D.2. Relative Terms

Table 4: Comparison of Volume of Imports to Domestic Production of Ceramic Tiles

Year	Imports (MT)	Domestic Production (MT)*	Share of Imports to Domestic Production (%)
2013	5,935	100	xxx
2014	38,968	100	xxx
2015	334,283	109	xxx
2016	975,566	103	xxx
2017	845,651	104	xxx
2018	834,739	104	xxx

Sources: Bureau of Customs (BOC-SAD-IEIRD) – Import Volume  
Domestic Industry – Domestic Production

\*Figures indexed due to confidentiality

For the period 2013 to 2016, the share of imported ceramic tiles to domestic production significantly increased from xxx% in 2013, xxx% in 2014, xxx% in 2015 and xxx% in 2016, the highest share of imports to domestic production during the POI.

In 2017, the share of imports relative to domestic production recorded at xxx%, lower by 92% share in 2016 (highest share) but higher by 523% share in 2014 or the pre-surge level. Imports of ceramic tiles relative to domestic production significantly increased during the POI. In 2018, the share of imports was recorded at xxx%, lower by 7% to 2016 level, but higher by 516% in 2014.

#### E. Period of Investigation

The POI covers imports of ceramic floor and wall tiles from 2013 to 2017. Import data were updated to cover the whole year of 2018. The domestic ceramic tile industry's performance for the same period is also assessed to establish whether the increased imports are the substantial cause of serious injury to the domestic industry.

### V. EVIDENCE OF SERIOUS INJURY

Rule 3.1 of the IRRs of RA 8800 provides that "a general safeguard measure under Chapter II of these IRRs shall apply where there is an increase in the quantity of a product being imported, whether absolute or relative to the domestic production, which is determined to be a substantial cause of serious injury or threat thereof to the domestic industry".

Section 4 (o) of RA 8800 also provides that "*a serious injury shall mean a significant impairment in the position of the 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, profit and losses, and employment*".

Section 12 of RA 8800 further provides that "*in reaching a positive determination that the increase in the importation of the product under consideration is causing serious injury or threat thereof to a domestic industry producing like products or directly competitive products, all relevant factors having a bearing on the situation of the domestic industry shall be evaluated. These shall include, in particular, the rate and amount of the increase in imports of the products concerned in absolute and relative terms, the share of the domestic market taken by the increased imports, and changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment*".

*Such positive determination shall not be made unless the investigation demonstrates on the basis of objective evidence, the existence of the causal link between the increased imports of the product under consideration and serious injury or threat thereof to the domestic industry. When factors other than increased imports are causing injury, such injury shall not be attributed to increased imports.*"

## **1. Allegations**

### **1.a Petitioner's Allegations**

The following allegations were made by the domestic industry:

- Incurred losses as imports increased which resulted in negative figures due to low sales volume;
- Due to a surge in imports, production volume was reduced resulted to shut down of four (4) roller kilns for wall tile which led to a reduction in manpower.

## **2. Respondents' Allegations (Foreign Embassies / Importers / Exporters / Associations)**

### **a. Floor Center Group of Companies**

The findings of DTI that the domestic producers had a 96% market share in 2013 is not supported by either of the industry's application or previous Tariff Commission's formal investigative reports on safeguard measures on ceramic tiles. The application showed that the market share of domestic producers in 2013 is only 40%.

### **b. European Commission**

Market share of the domestic industry decreased over the POI, however, this has to be seen in the light of a significant increase in consumption.

### **c. China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters**

The increase in import is the result of the increase in demand rather than taking over the market share of the domestic producers. The production and sales of domestic producers remain stable even when the volume of import increases.

### **d. Cerame-Unie (The European Ceramic Industry Association)**

Market share based on the data presented by DTI and Eurostat or UN Comtrade. China exports have consistently gained market share over the POI. EU exports, despite a mild increase in the same period, represent only a residual part of ceramic tiles imports to the Philippines. EU ceramic tiles exports are also a victim of the constant increase in Chinese exports to the Philippines. EU exports have not caused injury to the domestic industry.

### **e. PT Muliakeramic Indahraya**

Philippine Import data in 2017 showed that injury was due to imports from China which accounted to 85% of total Philippine imports.

## i. Share of the Domestic Industry

### 1) Market Size

Table 5: Total Apparent Philippine Market (in MT)

Year	Imports (MT)	Domestic Industry Sales Volume (MT)*	Total Apparent Philippine Market (MT)*	% Increase/ (Decrease)
2013	5,935	100	100	-
2014	38,968	96	117	17
2015	334,283	102	310	164
2016	975,566	99	714	130
2017	845,651	100	633	(11)
2018	834,739	98	624	(1)

Sources: Bureau of Customs (BOC-SAD-IEIRD) – Import Volume  
Domestic Industry – Domestic Sales Volume  
\*Figures indexed due to confidentiality

During the POI, the total apparent Philippine market for ceramic tiles grew at an accelerated rate from 2013 to 2016.

In 2014, the apparent Philippine market increased by 17%. It continued to increase by 164% in 2015 and further by 130% in 2016. In 2017, the total apparent consumption declined to 11%, as imports dropped by 13%, while domestic sales slightly increased by 0.69%.

### 2) Market Share

Table 6: Volume of Imports of Ceramic Tiles vi's-à-vi's Domestic Sales (in MT)

Country	2013	2014	2015	2016	2017	2018
Total Imports	5,935	38,968	334,283	975,566	845,651	834,739
Domestic Sales*	100	96	102	99	100	98
Total Phil. Market*	100	117	310	714	633	624
<b>% Share to Phil. Market</b>						
Imports	xxx	xxx	xxx	xxx	xxx	xxx
Domestic Sales	xxx	xxx	xxx	xxx	xxx	xxx

Sources: BOC-IEIRD – Volume of Imports  
Domestic Industry– Domestic Sales  
\*Figures indexed due to confidentiality

Domestic sales relative to the Philippine market for ceramic tiles dominated the market with a xxx share in 2013 but started to deteriorate from 2014 to 2018 compared to the 2013 level. The share of domestic sales to the Philippine market decreased to xxx or a decline of 18% in 2014, xxx or a decline of 60% in 2015 and further decline of 58% in 2016. Domestic sales experienced growth of 13% in 2017, but still has a significant decline of 84% from the 2013 level.

The share of imports relative to apparent Philippine market increased at a faster rate from a mere xxx (2013) to xxx (2015). In 2016, imports captured xxx share of the Philippine market and to xxx in 2017 to 2018.

Cerame-Unie emphasized that consumption of ceramic tiles in the Philippines during the POI has increased by almost 40% from 80.5 million sqm in 2013 to 110.9 million sqm in

2017. During the same period, both production and sales of the domestic industry also increased by 10.2% and 9.4% respectively. China exports cover 53% of the domestic consumption, whereas EU exports represent less than 2% of it. On this, it implies that there is no clear evidence of injury to the domestic industry.

PCPIA claimed that the domestic industry does not produce porcelain tiles which had created a new market as consumers preferred it over the locally produced ceramic tiles. Henceforth, the domestic industry hardly regained market losses and the opportunity to supply the increase in demand.

Floor Center Group of Companies stated that the findings of DTI that the domestic producers had a 96% market share in 2013 is not supported by either of the industry's application or previous Tariff Commission's formal investigative reports on safeguard measures on ceramic tiles. The application showed that the market share of domestic producers in 2013 is only 40%.

DTI used the confidential data submitted by the petitioner and other reliable source of import data, i.e. BOC-IEIRD. The petitioner clarified in its application that they only produce glazed ceramic floor and wall tiles. Thus, DTI excluded in the investigation the volume of unglazed ceramic tiles from the total import volume. Unlike in the previous safeguard measures investigation, both glazed and unglazed ceramic floor and wall tiles were included in the investigation. This explains the discrepancies of market share in the report as against the submission of MSC and the report of Tariff Commission.

## B.1. Domestic Sales

Table 7: Domestic Sales Volume and Value of Ceramic Tiles

Year	Sales Volume (in MT)*	% Increase (Decrease)	Sales Value (Php Million)*	% Increase (Decrease)
2013	100	-	100	-
2014	96	(3.75)	100	(0.25)
2015	102	6.07	100	0.04
2016	99	(3.04)	94	(5.42)
2017	100	0.69	98	4.26
2018	98	(1.44)	106	7.24

Source: Domestic Industry

\*Figures indexed due to confidentiality

Table 7 shows that the domestic sales volume and value fluctuated from 2013 to 2018. Sales volume and value declined by 3.75% and 0.25% in 2014, increased by 6.07% and 0.04% in 2015, declined by 3.04% and 5.42% in 2016 and increased by 0.69% and 4.26% in 2017. In 2018, sales value increased by 7.24% despite the decrease in sales volume by 1.44%. According to the domestic industry, this is due to their 10% price increase in 2018 to cope with the increased production cost.

The Cerame-Unie (The European Ceramic Industry Association)/CET (European Federation of the Manufacturers of Ceramic tiles) also alleged that based on Prometeia (2018), the consumption of ceramic tiles in the Philippines during the POI has increased by almost 40% from 80.5 million sqm in 2013 to 110.9 million sqm in 2017. During the

same period, both production and sales of the domestic industry also increased by 10.2% and 9.4% respectively. This implies that there is no clear evidence of injury to the domestic industry.

MSC explained that the lower retail prices of imported tiles resulted in a decline in their sales and they incurred losses in manufacturing operations. However, Floor Center Group of Companies alleged that there is no serious injury experienced by the domestic industry since the sales volume increased from the start to the end of POI (2017).

## B.2. Export Sales

Table 8: Export Sales Volume and Value of Ceramic Tiles

Year	Sales Volume (in MT)*	% Increase (Decrease)	Sales Value (Php Million)*	% Increase (Decrease)
2013	100	-	100	-
2014	65	(34.88)	77	(23.08)
2015	28	(56.65)	31	(60.00)
2016	65	128.89	69	125.00
2017	35	(45.24)	38	(44.44)
2018	28	(20.21)	38	-

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows that the export sales volume decreased with a percentage decline from 2013 to 2015 by 35% and 57%, respectively. In 2016, export sales volume increased by 129%, declined in 2017 by 45% and further declined in 2018 by 20%.

Also, the export sales value reflected a percentage decline from 2013 to 2015 by 23% and 60%, respectively. In 2016, export sales value increased by 125%, declined in 2017 by 44%. In 2018, export sales value was maintained at 2017 level.

## C. Production

### 1. Total Production

Table 9: Total Production of Ceramic Tiles (in MT)

Year	Production (in MT)*	% Increase (Decrease)
2013	100	-
2014	100	0.02
2015	109	8.67
2016	103	(5.63)
2017	104	1.33
2018	104	(0.15)

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows an increasing trend in production from 2013 to 2015 by 0.02% and 8.67%, respectively. There was a 5.63% decline in production in 2016 and an increase of 1.33% in 2017. In 2018, production slightly decreased by 0.15%. The highest

production level was recorded at xxx MT in 2015 when domestic sales volume was also at the highest level. The decrease in production in 2018 was due to the decrease in sales volume for that year by 1.44%.

Floor Center Group of Companies alleged that there is no serious injury experienced by the domestic industry since the production volume increased from the start to the end of POI (2017). This is also alleged by the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters, the European Commission and the Embassy of Spain. Further, the Philippine Ceramic Products Importers Association, Inc. attested that the average domestic sales for 2017 is higher than in 2016.

According to MSC, due to the high influx of imported tiles, sales volume decreased, thus, the production volume of local tiles was reduced which led to the shutdown of 4 production roller kilns for wall tiles as of May 2018.

## 2. Capacity Utilization

Table 10: Capacity Utilization Rate

Year	Rated Capacity in MT (A)*	Actual Production in MT (B)*	Capacity Utilization Rate (%) (B/A)	% Increase (Decrease)
2013	100	100	82.40	-
2014	100	100	82.42	0.02
2015	100	109	89.56	8.67
2016	100	103	84.52	(5.63)
2017	100	104	85.65	1.34
2018	100	104	85.52	(0.15)

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows an increasing trend in the rate of capacity utilization from 2013 to 2015 and a fluctuating trend from 2015 to 2018. The highest capacity utilization rate which is also the highest volume of production was recorded in 2015 at 89.56%.

Floor Center Group of Companies assumed that the domestic industry is fully utilized so the safeguard measure can possibly increase their sales from 12 Million sqm per year to 14 Million sqm per year since the industry has no statement regarding new investments that will significantly increase total production capacity. The Philippine Ceramic Products Importers Association, Inc. alleged that there is no existence of serious injury and significant impairment to the domestic industry since capacity utilization increased especially in 2017.

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters claimed that relevant indicators such as production and capacity utilization of the Philippine industry show that it has not suffered any injury.

According to the domestic industry, they will be investing for new kiln which will give them additional capacity.



## D. Inventories

Table 11: Finished Goods Inventory of Ceramic Tiles (in MT)

Year	Volume (in MT)*	% Increase (Decrease)	Value (PhP M)*	% Increase (Decrease)
2013	100	-	100	-
2014	110	9.76	115	14.53
2015	142	29.33	140	22.01
2016	150	5.51	156	11.62
2017	164	9.48	168	7.67
2018	189	15.07	209	24.68

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows an increasing trend in inventory from 2013 to 2018 by 10%, 29%, 6%, 9%, and 15%, respectively. The highest production volume was in 2015 which is also the highest recorded increase in finished goods inventory by 29%. The increasing level of inventory indicates the inability of the industry to dispose of their products despite the increasing demand for ceramic floor and wall tiles in the domestic market.

## E. Cost of Production

Table 12: Cost of Production of Ceramic Tiles (₱/MT)

Particulars	2013	2014	2015	2016	2017	2018
Raw Materials*	73	72	69	68	70	68
Direct Labor*	2	2	2	3	2	2
<b>Manufacturing Overhead*</b>						
Variable*	25	26	29	29	27	29
Fixed*	14	14	17	19	16	17
	12	12	12	11	11	12
<b>Cost to produce per unit*</b>	100	100	100	100	100	100
<b>% Increase (Decrease)**</b>	-	5.36	(6.07)	(5.37)	(1.05)	20.04

Source: Domestic Industry

\*Figures in percentage of the cost to produce per unit

\*\*Computed based on the absolute figures of cost to produce per unit

The domestic industry's cost to produce consists of the following: (1) raw materials such as clay, glaze, and ink; (2) direct labor such as salaries and wages; (3) manufacturing overhead classified as variable and fixed cost. Variable costs include power consumption, fuel, packaging, supplies, and spare parts, etc. Fixed cost includes plant depreciation, rent, etc.

The domestic industry's raw materials include locally manufactured and imported materials, allocated as 65% and 35%, respectively.

The cost to produce per unit increased in 2014 by 5% and declined every year from 2014 to 2017 by 6%, 5%, and 1%, respectively. The lowest cost to produce was recorded at PhP xxx per MT in 2017. However, in 2018, the cost to produce increased by 20%, recorded as the highest cost at PhP xxx per MT.

According to MSC, the decline in the production cost can be attributed to the initiatives of the company. Investments in gasifier facility and hot air generators replaced fossil fuel with biomass waste to convert syngas. Heat recovery where waste heat generated from the kiln exhaust also contributed to lessening fuel consumption. In addition, digital printing machines reduced wastage on glaze. Other external factors were inflation declining at 2% and the peso at PhP42 during the period 2013-2017 which resulted to lower power rate and lower prices of imported raw materials and spare parts. Despite the cost reduction initiatives of the industry in the previous years, cost to produce spiked in 2018 due to higher inflation, increase in fuel cost coupled with peso depreciation and implementation of train law.

## F. Profitability

### 1. Profit and Loss

Table 13: Earnings Before Interest and Tax for Domestic Sales of Ceramic Tiles (in Million Pesos)

Particulars	2013	2014	2015	2016	2017	2018	% Increase (Decrease) 2013-2014	% Increase (Decrease) 2014-2015	% Increase (Decrease) 2015-2016	% Increase (Decrease) 2016-2017	% Increase (Decrease) 2017-2018
Sales*	100	100	100	94	98	106	(0.25)	0.04	(5.42)	4.26	7.24
Cost of Goods Sold*	100	100	100	90	95	102	0.21	(0.26)	(10.29)	5.73	7.66
Gross Profit*	100	98	99	112	112	119	(2.00)	1.22	13.10	(0.18)	5.89
Selling, General and Administrative Expenses*	100	123	145	153	162	186	22.83	18.36	5.42	5.50	14.79
Earnings Before Interest*	100	29	(30)	(2)	(27)	(68)	(71.21)	(202.63)	92.31	(1,066.67)	(157.14)

Source: Domestic Industry

\*Figures indexed due to confidentiality

Table 13 shows the domestic earnings before interest and tax (EBIT) of the ceramic tiles industry.

Sales revenue fluctuated from 2013 to 2017 and an increase of 7% in 2018. The lowest decline was recorded at 5.42% in 2016 and the highest increase was recorded at 7.24% in 2018 due to price hike of 10% by the domestic producer. Cost of goods sold also fluctuated. From an increase of 0.21% in 2014, it declined by 0.26% in 2015 and 10.29% in 2016. An increase of 5.73% in 2017 and a further increase of 7.66% was recorded in 2018. Gross profit declined by 2% in 2014, increased by 1.22% in 2015 and 13.10% in 2016, declined by 0.18% in 2017 and increased by 5.89% in 2018.

Selling, general and administrative expenses (SGAE) increased from 2013 to 2018 with a percentage increase of 22.83%, 18.36%, 5.42%, 5.5% and 14.79%, respectively. According to the domestic industry, the continuous increase in SGAE was due to increases in payment of local taxes for the establishment of their retail stores in the 4<sup>th</sup>

quarter of 2016. This included fees for business permits based on revenue. The company also invested in a business management software called enterprise resource planning (ERP) system, increased salaries, and benefits, and created a retirement benefit plan for all eligible regular employees.

Earnings before interest and tax (EBIT) decreased from ₱xxx in 2013 to ₱xxx in 2014 or a decline of 71%. In 2015, the ceramic tile industry started to experience losses of ₱xxx and continued in 2016, 2017 and 2018 with amounts of ₱xxx, ₱xxx and ₱xxx, respectively. Throughout the POI, the EBIT exhibited a declining trend of 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry's operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018.

The Philippine Ceramic Products Importers Association, Inc. alleged that there is no existence of the serious injury and significant impairment to the domestic industry since revenue and gross profit of the domestic industry increased during the POI especially in 2017 while net income decreased due to an increase in their selling, general and administrative expenses. This is supported by the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters which stated that the decline in net profit was not due to the impact of imports but mainly due to an increase in selling, general and administrative expenses (SG&A) of the domestic industry. Also, the increase in SG&A expenses was faster than the increase in sales profits. The Embassy of Spain alleged that the industry remains stable since gross profit increased by 12% in POI.

## 2. Return on Sales

Table 14: Return on Sales

Particulars	2013	2014	2015	2016	2017	2018
Sales*	100	100	100	94	98	106
Earnings Before Interest and Tax*	100	29	(30)	(2)	(27)	(68)
<b>Return on Sales (%)</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>

Source: Domestic Industry

\*Figures indexed due to confidentiality

Return on sales is a profitability ratio which provides insight into how much profit is being produced per peso of sales.

The return on sales from 2013 to 2018 showed a declining and unstable trend. Table 14 shows that return on sales was xxx in 2013, xxx in 2014, xxx in 2015, xxx in 2016, xxx in 2017 and xxx in 2018.

## G. Employment and Wages

Table 15: Employment and Wages

Year	Number of Employees*	% Increase (Decrease)	Wages (Million)*	% Increase (Decrease)
2013	100	-	100	-
2014	103	2.95	117	17.46
2015	100	(3.08)	117	0.00
2016	97	(3.29)	100	(14.53)
2017	80	(16.76)	119	18.18
2018	77	(4.49)	108	(8.70)

Source: Domestic Industry

\*Figures indexed due to confidentiality

Table 15 shows an increase in the number of employees by 3% in 2014. From 2014 to 2017, the number of employees declined by 20% and further declined by 4% in 2018.

Wages increased by 17% in 2014 and remained the same even with a decrease in the number of employees in 2015. The highest decline in wages was recorded at 15% in 2016. In 2017, there was an increase in wages by 18% despite the decrease in the number of employees. In 2018, the wages decreased by 9% due to the decrease in the number of employees by 4%. According to the ceramic tiles industry, there was an increase in salary and benefits of the employees.

According to MSC, to stay competitive, automation was implemented in the production of tiles by investing in new digital printing machines which required lesser staff in the glazing line. Investment in automatic packing palletizing machine to automate the sorting and preparation of goods from boxes arranged in pallets was also made. In addition to automation, the shutdown of 4 production roller kilns for wall tile as of May 2018 also resulted to reduction of manpower.

## H. Productivity

Table 16: Productivity

Year	Production*	Number of Employees*	Labor Productivity (MT/employee)	% Increase (Decrease)
2013	100	100	xxx	-
2014	100	103	xxx	(2.85)
2015	109	100	xxx	12.12
2016	103	97	xxx	(2.42)
2017	104	80	xxx	21.74
2018	104	77	xxx	4.11

Source: Domestic Industry

\*Figures indexed due to confidentiality

Based on the industry's submission, labor productivity shows a fluctuating trend from 2013 to 2017. Labor productivity declined by 3% in 2014, increased by 12% in 2015, declined by 2% in 2016, increased by 22% in 2017 and further increased by 4% in 2018 due to decrease in the number of employees.

The Philippine Ceramic Products Importers Association, Inc. alleged that there is no existence of serious injury and significant impairment to the domestic industry since labor productivity increased especially in 2017.

## I. Price Undercutting

Table 17: Average Selling Price of Domestic Product vs. Landed Cost of Imports for 2017 (P/MT)

Country	Wtd. Ave. Landed Cost (P/MT) (a)	% Share to Total Imports	Domestic Selling Price (P/MT) (b)	% Undercutting (b-a)/b*100
<b>Major Sources:</b>				
PROC	xxx	84	xxx	(1.61)
Indonesia	xxx	7		50.02
Vietnam	xxx	4		6.42
<b>Wtd. Average</b>	xxx	<b>95</b>		<b>0.96</b>
Other Sources	xxx	5		(50.69)
<b>Wtd. Average</b>	xxx	<b>100.00</b>		<b>(1.28)</b>

Sources: BOC-SAD-IERD – Wtd. Ave. Landed Cost  
Domestic Industry – Domestic Selling Price

Weighted average landed cost of imports from the major sources is lower than the domestic selling price of the domestic product indicating a price undercutting of 0.96%.

The Embassy of Spain alleged that the industry remains stable since there is negligible 0.28% of undercutting on an average basis, absence of price suppression and only a single year of price depression. European Commission stated that there was undercutting amounting to 3.3% for imports from China, Indonesia and Viet Nam which are major sources of imports accounting for 95% of total imports; no undercutting for imports from other sources which were actually 60% higher than local industry prices

TECO claimed that the price of Taiwan's tiles with dimensions above 60cm x 60cm is much higher in comparison to the price of Philippine tiles due to high cost of manufacturing, environmental protection, labor and tariffs, and therefore cannot be regarded as the source of serious injury, or threat of serious injury to the Philippine tile industry.

Cerame-Unie and ASCER stated that the average export prices of EU exports are consistently higher than the domestic prices and import prices from major export countries. Weighted average landed cost of imports from major sources i.e. China,

Indonesia, and Vietnam is lower than the domestic selling price with a price undercutting of 3.27%. Even though the production process is similar, EU products cannot be compared in terms of quality or versatility to the domestic product. EU imported products and domestic products do not compete in the same market segment.

Table 18: Average Selling Price of Domestic Product vs. Landed Cost of Imports for 2018 (P/MT)

Country	Wtd. Ave. Landed Cost (P/MT) (a)	% Share to Total Imports	Domestic Selling Price (P/MT) (b)	% Undercutting (b-a)/b*100
<b>Major Sources:</b>				
PROC	xxx	80	xxx	(31.09)
Indonesia	xxx	11		30.37
Vietnam	xxx	4		8.41
<b>Wtd. Average</b>	<b>xxx</b>	<b>95</b>		<b>(22.42)</b>
Other Sources	xxx	5		(45.80)
<b>Wtd. Average</b>	<b>xxx</b>	<b>100.00</b>		<b>(23.58)</b>

Sources: BOC-SAD-IERD – Wtd. Ave. Landed Cost  
Domestic Industry – Domestic Selling Price

Weighted average landed cost of imports from Viet Nam and Indonesia was lower than the domestic selling price of the domestic product indicating a price undercutting of 30% and 8%, respectively.

## J. Price Depression

Price depression reflects the extent to which the domestic producer decreases its selling price in order to compete with the imported product.

Table 19: Domestic Selling Price of the Locally Produced Ceramic floor and wall tiles (P/MT)

Year	Average Selling Price of Domestic Industry (P/MT)*	% Increase/ (Decrease)
2013	100	-
2014	100	-
2015	94	(5.55)
2016	94	-
2017	94	-
2018	104	10.05

Source: Domestic Industry

\*Figures indexed due to confidentiality

The industry declined its average selling price by 6% in 2015 and remained constant until 2017. In 2018, the average selling price increased by 10% to cover the increase in product cost.

### K. Price Suppression

Price suppression refers to the extent to which the imported product prevents the domestic producer from increasing its selling price to a level that will allow full recovery of its cost of production.

Table 20: Price Suppression of Locally Produced ceramic floor and wall tiles (₱/MT)

Year	Ave. Selling Price of Domestic Product (Php/MT)*	Cost of Production (Php/MT)*	Difference (Php/MT)	% Price Suppression
2013	100	100	xxx	xxx
2014	100	105	xxx	xxx
2015	94	99	xxx	xxx
2016	94	94	xxx	xxx
2017	94	93	xxx	xxx
2018	104	111	xxx	xxx

Source: Domestic Industry

\*Figures indexed due to confidentiality

The industry's domestic selling price managed to cover its cost of production during the POI. Hence, no price suppression was recorded.

### L. Other Causes of Injury

According to the domestic industry, imported tile had an advantage in pricing due to the support provided by the government of the exporting country. Also, manufacturers in other countries, especially China, are highly subsidized by their government in terms of:

1. Logistics cost – most of the time the freight cost per container on TEU 20 x 20 is \$1 compared to the Philippines of \$784.
2. The infrastructure cost in China is heavily supported by the government such that the cost is \$0.16 to any distance, unlike in the Philippines where the domestic industry pays around \$20 from Calabarzon to Northern Luzon.
3. Electricity and power are also not subjected to government taxes in other countries unlike in the Philippines which is heavily burdened by taxes even for very basic service such as power and electricity.

In 2012, the cost of importation went down after the termination of safeguard duties imposed on ceramic tiles.

The European Commission noted that despite the uninterrupted safeguard measures on ceramic floor and wall tiles from 2002 to 2012, the domestic industry has not adjusted, therefore, there may be other causes of injury other than increased in imports such as increased in local taxes. The Spanish Ceramic Tile Manufacturer's Association (ASCER) also alleged that any existing injury of the domestic industry is not attributable to increased imports since the domestic ceramic industry has been facing an increase in local taxes, additional expenses due to business investments, increased salaries for the POI, lack of government support, etc.

#### **M. Other Issue – Existing Trade Barrier**

EU emphasized that a 10% tariff rate is applied to EU imports. Also, imported ceramic tiles are required to comply with Philippines Standard PNS ISO 13006:2007 quality standard. Further, the EU industry believes that direct bilateral measures under the ASEAN-China FTA or anti-dumping/anti-subsidy measures are more appropriate to apply than safeguard measures. Also, EU exports should be exempt from the safeguard measures.

### **V. PUBLIC INTEREST CLAUSE**

Rule 8.2 of the IRR of RA 8800 states, *“in the case of non-agricultural products, the Secretary shall first establish that the imposition of the provisional safeguard measure would be in the public interest.”*

Rule 5.2 of the IRR of RA 8800 provides, *“The Secretary, when establishing that the application of a safeguard measure will be in the public interest, shall take into consideration the following factors, among others: i) whether the imposition of the provisional measure will result in a political or economic crisis; and ii) the extent to which such imposition will cause a shortage of the product under consideration in the domestic market.”*

The DTI informed the identified importers, foreign embassies of concerned countries, consumer groups, associations, Federation of Philippine Industries (FPI) and the Philippine Chamber of Commerce and Industry (PCCI) relevant to the public interest clause.

Embassy of Government of Indonesia stated that imposition of safeguard measure will halt local industry's growing demand and related industry in the Philippines.

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters claimed that the capacity utilization rate of the domestic industry is at full capacity. Under this circumstance, the domestic industry is unable to meet the rapidly growing market demand. In this case, the imposition of safeguard measures to restrict imports is not in the public interest. The domestic industry cannot meet the rapid growth of demand and the perspective of product diversity. The domestic industry is far less in terms of employment and overall welfare compared to importers, building decoration companies and general downstream users. The previous long-term imposition of safeguard measures on imported ceramic tiles illustrated that it eventually does not produce a dynamic and competitive industry. Once the measure is lifted, the domestic industry had to face normal competition, where the lack of competitiveness is likely to happen.



Cerame-Unie (The European Ceramic Industry Association) stated that the application of safeguard measures should remain exceptional because it affects imports from all countries and does not require the existence of an unfair element like anti-dumping or anti-subsidy measures do. The WTO jurisprudence has established strict criteria for the application of safeguard measures. The application must demonstrate that safeguard measures is in the domestic interest.

According to the Philippine Ceramic Products Importers Association, Inc., the imposition of safeguard measures will not be in the public interest. It will increase importation costs, decrease the volume of imports and cause a shortage of ceramic tiles in the domestic market. It will increase the prices of imported tiles which supplies the substantial share of the total demand which domestic production cannot supply. It will dampen the increasing demand for tiles as a construction material. It will slow down the growth in the industry construction which is a major contributor to economic development in terms of employment, home/condominium sales, bank loans, and government tax collection. It will only benefit two (2) domestic producers at the cost of affecting at least one hundred (100) importers and the buying public. Domestic producers are foreign investments: as of 2016, Mariwasa being a Thailand owned and Formosa being a Taiwanese and BVI owned while importers are Filipino businesses. Importers give a bigger contribution to the Philippine economy. The taxes collected by the government from the tile importers are more than what domestic producers provide on its domestic sales. For 2017, tile importers supply a substantial rate of the total demand for ceramic tiles while domestic producers only supply at a lesser rate. Importers employ more personnel than domestic producers. There are at least one hundred (100) tile importers with a minimum seventeen (17) employees or a total of 1,700 personnel compared to two (2) tile manufacturers that employ 1,257.

DTI is mandated by RA 8800 (The Safeguard Measures Act) to protect domestic industry from serious injury caused by a surge in imports. While DTI is also mandated to protect consumers, there is a need to balance this taking into account other sectors such as investors and industry which provides 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 ceramic floor and wall tiles retain their option to choose between the local and imported ceramic floor and wall tiles since imports will still be allowed. The imposition of a safeguard measure is not expected to cause a shortage of ceramic floor and wall tiles in the domestic market. For these reasons, DTI has determined that it is in the public interest to impose the provisional safeguard measure.

## **VI. FINDINGS AND CONCLUSIONS**

### **VI. A Volume of Imports**

#### **VI.A.1 In Absolute Terms**

- Imports rapidly increased from 2013 to 2016.
- In 2017, imports declined by 13% over the 2016 level, but still higher by 153% than the 2015 level.
- In 2018, imported tiles slightly declined by 1% over the 2017 level, but already surpassed the 2013 to 2015 imports.
- PROC, Indonesia and Viet Nam are the major suppliers of the imported product.

#### **VI.A.2 In Relative Terms**

- From 2013 to 2015, the share of imported ceramic tiles to domestic production increased at a faster rate from a mere xxx in 2013 to xxx in 2015. Share of imports in 2016 rose to its highest level at xxx.
- In 2017, the share of imports relative to domestic production declined from xxx (2016) to xxx and further to xxx in 2018.

### **VI.B Serious Injury**

#### **VI.B.1 Market Size**

- The total Philippine apparent market increased from 2013 to 2016 but declined in 2017.
- In 2014, the apparent Philippine market increased by 17%. It continued to increase by 164% in 2015 and further by 130% in 2016.
- In 2017, the total apparent consumption declined by 11%, as imports dropped by 13% and the domestic sales slightly increased by 0.69%. In 2018, market demand further declined by a mere 1%.

#### **VI.B.2 Market Share**

- Share of imports to total Philippine market increased significantly from a mere xxx in 2013 to xxx in 2015. Share of imports eaten up the market to as high as xxx in 2016 and to xxx in 2017 and 2018.
- Share of domestic sales to the Philippine market recorded its biggest decline in 2016 at 13%. In 2017 and 2018, domestic sales slightly recovered by less than 2%. However, from a xxx market share in 2013, the industry's domestic sales shrank to xxx.

#### **VI.B.3.a. Domestic Sales**

##### **VI.B.3.a.1 Sales Volume and Value**

- Sales volume and value reflected a fluctuating trend from 2013 to 2018. Sales volume and value declined by 3.75% and 0.25% in 2014, increased by 6.07%

and 0.04% in 2015, declined by 3.04% and 5.42% in 2016 and increased by 0.69% and 4.26% in 2017. In 2018, sales value increased by 7.24% despite the decrease in sales volume by 1.44%.

#### **VI.B.3.b. Export Sales**

- Export sales volume and value reflected a decreasing trend from 2013 to 2015, increased in 2016 but declined in 2017. Export sales volume further declined in 2018 while the export sales value was maintained at 2017 level.

#### **VI.B.4 Production**

##### **VI.B.4.a Total Production**

- Increasing trend from 2013 to 2015.
- In 2016, production volume declined by 5.63% but slightly increased by 1.33% in 2017. In 2018, production slightly decreased by 0.15%.

##### **VI.B.4.b Capacity Utilization**

- Increasing trend of capacity utilization rate from 2013 to 2015.
- Fluctuating trend from 2015 to 2018.
- The highest capacity utilization rate which is also the highest volume of production was recorded in 2015 at 89.56%.

##### **VI.B.4.c Inventories**

- Increasing trend in inventory from 2013 to 2018.
- The highest production volume was in 2015 which is also the highest recorded increase in finished goods inventory by 29%.

##### **VI.B.4.d Cost of Production**

- The cost to produce per unit increased from 2013 to 2014 and declined from 2015 to 2017
- In 2018, the cost to produce increased by 20%, recorded as the highest cost.

#### **VI.B.5 Profits and Losses**

- Sales revenue fluctuated from 2013 to 2017 and an increase of 7% in 2018.
- Selling, general and administrative expenses (SGAE) increased from 2013 to 2018
- Earnings before interest and tax (EBIT) decreased in 2014. The ceramic tile industry sustained losses since 2015.

##### **VI.B.5.b Return on Sales**

- The return on sales from 2013 to 2018 showed a declining and unstable trend.

### **VI.B.6 Employment**

- Increased number of employees in 2014 but declined from 2015 to 2017 further declined by 4% in 2018.
- Lowest recorded number of employees was xxx in 2018.

### **VI.B.7 Productivity**

- Productivity showed a fluctuating trend from 2013 to 2017 and increased in 2018.

### **VI.B.8 Prices**

#### **VI.B.8.1 Price Undercutting**

- Weighted average landed cost of imports from the major sources is lower by 0.96% than the domestic selling price of the domestic product in 2017.

#### **VI.B.8.2 Price Depression**

- The domestic industry did not increase its average domestic selling price from 2015 to 2017. In 2018, the average selling price increased to cover the increase in product cost.

#### **VI.B.8.3 Price Suppression**

- The domestic industry average domestic selling price managed to cover its costs of production during the POI.

## **VII. CAUSATION**

The above evidence shows that serious injury to the domestic industry was caused by increased imports based on the following:

1. that the volume of imports of ceramic floor and wall tiles
  - in absolute terms increased from 2013 to 2016. In 2017, imports are lower by 13% over the 2016 level, but higher by 2,170% in 2014 or the pre-surge level.
  - in relative terms, the share of imports to domestic production increased from 4% in 2013 to 641% in 2016. In 2017, the share of imports was recorded at 549%, lower by 92% to 2016 level, but higher by 523% in 2014 or the pre-surge level. In 2018, the share of imports was recorded at 542%, lower by 7% to 2016 level, but higher by 516% in 2014.
2. that the domestic industry has suffered serious injury caused by increased imports based on the following:
  - during the POI, despite significant increases in market size, the market share of domestic manufacturers declined from 96% in 2013 to 15% in 2017 and 2018;

- the share of imported ceramic wall and floor tiles grew from 4% in 2013 to 87% in 2016;
  - earnings before interest and tax exhibited a declining trend of 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry's operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018;
3. that increased imports are the substantial cause of serious injury to the domestic industry based on the following:
- significant increase in the volume of imported ceramic floor and wall tiles preceded the serious injury to the industry from 2015 to 2017; and
  - The conditions of the competition show that the market share of locally produced ceramic floor and wall tiles were essentially displaced during the POI

The China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters alleged that causal link does not exist since most of the operating indicators of the domestic industry are in good condition, i.e. gross profits and labor productivity, except for net profit which declined due to an increase in selling, general and administrative expenses (SG&A).

The Government of Indonesia also alleged that there is no causal link between the increased imports and decline in the domestic industry's economic indicators such as a decline in employment, market size and increase in productivity. As the Philippine ceramic floor and wall tiles grew, so does the domestic industry. Overall productivity increased even with fluctuations from the base index in 2013. The concern lies in the ability of the domestic industry to supply domestic demand.

EU stated that any safeguard measures would limit legitimate market access for imports from the EU in particular, as these imports are not causing injury to the domestic industry due to their low volumes and high prices. EU further stated that the difficulties suffered by the domestic industry are the result of an increase in local taxes and is not linked to imports.

ASCER claimed that there is no evidence of industry injury caused by imports increase. The domestic ceramic industry has been facing an increase in local taxes, additional expenses due to business investments, increased salaries for the POI, lack of government support, etc. Thus, any existing injury to the domestic industry is not attributable to increased imports.

According to Philippine Ceramic Products Importers Association, Inc., the domestic industry did not improve its competitiveness under the previously imposed safeguard measures from 2002 to 2012. Domestic producers still failed to be competitive and capture consumer market and demand. During said implementation, out of six (6) domestic producers, three (3) ceased operations, two (2) had intermittent operations and only one (1) had normal operations.

## a) Imposition of Provisional Safeguard Measures

Section 8 of RA 8800 states that:

*“in critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a preliminary determination that increased imports are substantial cause of, threaten to substantially cause, serious injury to the domestic industry, the Secretary shall immediately issue, through the Secretary of finance, a written instruction to the Commissioner of Customs authorizing the imposition of a provisional general safeguard measures.*

*Such measure shall take the form of a tariff increase, either ad valorem or specific, or both, to be paid out through a cash bond set at a level sufficient to redress or to prevent serious injury to the domestic industry x x x The cash bond shall be deposited with a government depository bank and shall be held trust for the importer who posted the bond. The duration of the provisional measure shall not exceed two hundred (200) days from the date of imposition xxx”.*

There are indications that the significant increase in the volume of imports affected the performance of the local industry. The conditions of the competition show that the market share of locally produced ceramic floor and wall tiles were essentially displaced during the POI as the share of imports in the domestic market significantly increased. This resulted to decline in earnings before interest and tax by 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry's operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018.

There are also other factors that contributed to the existence of critical circumstances, such as zero tariff rates for imported ceramic floor and wall tiles which allowed exporters to easily penetrate the market. Further, the implementation of trade remedy measures by other countries may result to surge in imports of ceramic tiles in the local market.

On the other hand, DTI noted the concerns raised by the importers and other interested parties that the imposition of a provisional safeguard measure on imported ceramic floor and wall tiles will increase the prices of ceramic tiles and lead to a shortage of supply. Thus, affecting the government's construction project.

In determining the public interest, Rule 5.2 of the IRR of RA 8800 provides, *“The Secretary, when establishing that the application of a safeguard measure will be in the public interest, shall take into consideration the following factors, among others: x x x ii) the extent to which such imposition will cause a shortage of the product under consideration in the domestic market.”*

It must be noted that users of ceramic floor and wall tiles retain their option to choose between the local and imported ceramic floor and wall tiles since imports will still be allowed. The imposition of a safeguard measure is not expected to cause a shortage of ceramic floor and wall tiles in the domestic market. It will provide a level playing field to enable the domestic industry to compete with imports. This will allow expansion of the

country's manufacturing base and generate more jobs for Filipinos. For these reasons, DTI has determined that it is in the public interest to impose the provisional safeguard measure.

DTI computed the amount of the provisional safeguard duty by comparing the ex-plant price of locally produced ceramic floor and wall tiles with the weighted average landed cost of imported ceramic tiles in 2017, i.e. ₱xxx/MT for locally produced and ₱xxx/MT for imported ceramic tiles with a price difference of ₱3,018/MT or ₱3.00/kg.

Imports originating from developing countries covered by Rule 8.8 of the IRR of RA 8800 shall not be subject to the provisional safeguard measure. Also, unglazed, porcelain, mosaic, and marble tiles are excluded from the investigation since they are not produced locally. Further, the preliminary investigation excluded glazed ceramic tiles imported from the European Union since said tiles do not compete with locally produced tiles.

## **b) Recommended Measures**

The existence of a causal link between the increased imports of the product under consideration and serious injury to the domestic industry has been established in the investigation. The evidence submitted by all interested parties justifies the imposition of the provisional measure to prevent further injury to the local industry which is difficult to repair.

The case records will be forwarded to the Tariff Commission for its formal investigation. It must be emphasized that a formal investigation by the Commission is wider in scope as it includes marathon public hearings to give all parties directly affected and such other interested parties the opportunity to be heard and to present evidence including the opportunity to respond to the presentations of other parties and to submit their views.

Considering the above premises, the Department thereby recommends a ₱3.00/kg provisional safeguard measure in the form of a cash bond on imported ceramic floor and wall tiles, classified under AHTN Codes AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 while the case is under formal investigation by the Tariff Commission. The measure shall be effective for a period of 200 days from the date of issuance of BOC of the relevant Customs Memorandum Order or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

## **VIII. ADJUSTMENT PLAN**

According to the domestic industry, to facilitate positive adjustment of the industry's position to import competition, they will undertake the implementation of an adjustment plan as follows:

- a) At least 200 new designs will be introduced.
- b) The company will continue to appoint 40 new dealers and open additional 10 retail outlets in the next four years to have a more comprehensive distribution network to penetrate other areas than those of the primary markets currently being served.

- c) The company will continue to strengthen brand equity by implementing various marketing programs thru advertising and promotional activities.
- d) The company will continue to promote sustainability driven by investment in its Biomass Gasifier Project in order to completely replace fossil fuel and become 100% renewable energy user for its requirement for synthetic gas and electricity.
- e) Additional planned investments, i.e. new press machine, rectifying machine and automatic packing, additional digital printing machine, new big kiln, additional units of gas engine generator, install solar panels, and dry process.

The company stated that they will be able to complete its new adjustment plan by 2023.

## IX. THE WORLD TRADE ORGANIZATION AGREEMENT ON SAFEGUARDS

Article XIX (Emergency Action on Imports of Particular Products) of the General Agreement on Tariffs and Trade (GATT) 1994 provides that: *"If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession."*

The WTO Appellate Body in **Argentina – Footwear and Korea – Certain Dairy Products** established that safeguard measures may be applied only when the prerequisites of Article XIX of GATT 1994 and the conditions of the Agreement on Safeguards (both Multilateral Trade Agreements and as such are integral parts of the WTO Agreement) are clearly demonstrated.

Ceramic tile is not the subject of any tariff concession under the WTO Agreement. The investigation is also governed by RA 8800, the Safeguard Measures Act, and the terms and conditions of the Agreement on Safeguards.

### IX.a. Unforeseen Development

As a WTO Member, the Philippines is bound by Article XIX GATT 1994 and the Safeguards Agreement. The applicant domestic industry must, therefore, allege and prove that unforeseen developments and the effect of the obligations of the Philippines under the WTO Agreement, including tariff concessions, have led to the increase in importation as well as the presence of the resulting serious injury or threat thereof.

Since other countries imposed trade remedy measures on floor and wall tiles, the Philippines, according to the domestic industry, are expected to be flooded with imports. The local ceramics industry stated that the following unforeseen developments affecting the local industry:

- According to customs news.vn, the General Department of Vietnam Customs requested the units to intensify the collection and processing of information of



pre-clearance, clearance, and post-clearance for shipment of ceramic tiles importing from China to Vietnam to take inspection measures, supervise and control the customs clearance and post-clearance inspection for those shipments. Particularly, units should pay attention to intensify the collection and processing of information in cases where there were signs of violation such as Information on selling goods on the market as enameled tile, however, enterprises declared imported items were unglazed tiles to reduce the value of the tax,...At the same time, strengthening the inspection of dossiers, to conduct physical inspection during the process of implementing customs procedure for importing ceramic tiles from China which have signs of taking advantages of incorrect declaration in quantity, type, HS code for tax fraud, customs valuation or shirking the implementation of regulation conformity announcement. (<https://customsnews.vn/strengthen-to-manage-ceramic-tiles-imported-from-china-7792.html>)

- On 16 February 2018, the Argentinian authorities imposed a definitive anti-dumping duty on imports of certain porcelain tiles from India, Malaysia, Viet Nam, Brazil, and China. The products subject to dumping duties are now classified under 2017 HS code subheading 6907.21.00. The rate of duty on imports from India is ad valorem 75.8% of the FOB value. The rate of duty on imports from Veit Nam is ad valorem 31.15% of the FOB value. The rate of duty on imports from Brazil is ad valorem 10.06% or 48.2% of the FOB value depending on the company. The rate of duty on imports from China is ad valorem 27.7% of the FOB value. The rate of duty on imports from Malaysia is ad valorem 32% of the FOB value. The duty is in force for a period of five years. (<https://www.globaltradealert.org/intervention/15002/anti-dumping/argentina-definitive-antidumping-duty-on-imports-of-certain-plates-and-tiles-from-china-india-malaysia-viet-nam-and-brazil>)
- On 3 April 2018, Indonesia notified the WTO's Committee on Safeguards that it initiated on 29 March 2018 a safeguard investigation on ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing. ([https://www.wto.org/english/news\\_e/news18\\_e/safe\\_idn\\_03apr18\\_e.htm](https://www.wto.org/english/news_e/news18_e/safe_idn_03apr18_e.htm))
- On 10 April 2019, The Coalition for Fair Trade in Ceramic Tile (Petitioner), comprised of eight U.S. producers of ceramic tile products, filed antidumping (AD) and countervailing duty (CVD) against ceramic tile products from China. Under U.S. trade laws, a domestic industry can petition the U.S. Department of Commerce ("DOC") and U.S. International Trade Commission ("ITC") to investigate whether the named subject imports are being sold to the United States at less than fair value ("dumping") or benefit from unfair government subsidies. Chinese ceramic tiles have already been the subject of antidumping duties by the European Union, South Korea, Mexico, India, and Pakistan. The additional AD duties in these countries likely pushed Chinese ceramic tile exports away from these markets and resulted in increased export volumes to the U.S. market. Having seen how ceramic tile producers in other countries have used anti-dumping duties to limit Chinese imports into their markets, U.S. ceramic tile producers are now seeking their own antidumping and countervailing duties to protect the U.S. market. (<https://www.chinalawblog.com/2019/04/ceramic-tile-from-china-and-the-fight-against-china-imports.html>)

According to the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters, there is a failure to establish unforeseen development since it is foreseeable that the recovery growth of imports would occur with the removal of previous safeguard measures on ceramic tiles in 2012.

EU emphasized that customs or trade defense actions undertaken by Viet Nam, Argentina, and Indonesia were solely mentioned. Although the share of imports from China rose dramatically in 2017 due to the bilateral tariff duty on imports from China is 0%, while the MFN rate is 10%, any unforeseen development involving China was not mentioned.

The Government of Indonesia does not find any legal justification in the WTO agreement for "unforeseen development to further increase imports. Article XIX: 1(a) of GATT 1994 merely states "any product is being imported into the territory of that contracting party in such an increased quantity" which relates only to the past increase and not potential increase. A more appropriate and direct measure such as anti-dumping should be used to tackle the source of the problem. Safeguard measures, while available to any country, should be implemented exceptionally because they affect imports from all countries of origin.

Embassy of Spain stressed that other instruments that specifically target injurious imports like anti-dumping measures, anti-subsidy measures or bilateral safeguards would be more appropriate. In this case, only Chinese, Indonesian and Vietnamese imports may be regarded as damaging either through its sheer volume or through its selling price.

Cerame-Unie claimed that the applicant must prove that an increase in imports is sharp due to unforeseen developments. Said developments must cause or threaten to cause serious injury to the domestic industry, a higher level of injury required than for anti-dumping and/or anti-subsidy measures.

#### **IX.b. Notification Requirement**

Article 12.1 of the WTO Agreement on safeguards provides that a Member shall immediately notify the Committee on Safeguards upon:

- (a) Initiating an investigatory process relating to serious injury or threat thereof and the reasons for it;
- (b) making a finding of serious injury or threat thereof caused by increased imports; and
- (c) taking a decision to apply or extend a safeguard measure.

On 20 December 2018, the Philippine Permanent Mission in Geneva was officially notified of the application for safeguard measures investigation on imported ceramic floor and wall tiles.

#### **IX.c. Articles 11 & 23 of the ASEAN Trade in Goods Agreement (ATIGA)**

Articles 11 and 23 of the ATIGA provide provisions on the Notification Procedures and Temporary Modification or Suspension of Concessions as follows:

*“Article 11 - Notification Procedures*

1. *Unless otherwise provided in this Agreement, Member States shall notify any action or measure that they intend to take:*
  - (a) *which may nullify or impair any benefit to other Member States, directly or indirectly under this Agreement; or*
  - (b) *when the action or measure may impede the attainment of any objective of this Agreement.*
2. *x x x*
3. *A Member State shall make a notification to Senior Economic Officials Meeting (SEOM) and the ASEAN Secretariat before effecting such action or measure referred to in paragraph 1 of this Article. Unless otherwise provided in this Agreement, notification shall be made at least sixty (60) days before such an action or measure is to take effect. A Member State proposing to apply an action or measure shall provide adequate opportunity for prior discussion with those Member States having an interest in the action or measure concerned.”*

*“Article 23 - Temporary Modification or Suspension of Concessions*

1. *In exceptional circumstances other than those covered under Article 10, Article 24 and Article 86 where a Member State faces unforeseen difficulties in implementing its tariff commitments, that Member State may temporarily modify or suspend a concession contained in its Schedules under Article 19.*
2. *A Member State which seeks to invoke the provision of paragraph 1 of this Article (hereinafter referred to as the “applicant Member State”), shall notify in writing of such temporary modification or suspension of concessions to the ASEAN Free Trade Area (AFTA) Council at least one hundred and eighty (180) days prior to the date when the temporary modification or suspension of concessions is to take effect.*
3. *Member States who are interested in engaging in consultations or negotiations with the applicant Member State, pursuant to paragraph 4 of this Article, shall notify all ASEAN Member States of this interest within ninety (90) days following the applicant Member State’s notification of the temporary modification or suspension of concessions. ”*

The Philippines is required to notify any safeguard action to the Senior Economic Officials Meeting (SEOM) and the ASEAN Secretariat before effecting such action or measure and adequate opportunity for consultation for the affected ASEAN Member States.

On 20 December 2018, the ASEAN Secretariat was notified of the application for safeguard measures investigation on imported ceramic floor and wall tiles.

**X. DECISION**

DTI, acting under Section 8 of RA 8800, authorizes the imposition of provisional safeguard measures in the form of a cash bond amounting to ₱3.00/kg on imported ceramic floor and wall tiles classified under AHTN Codes AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 for a period of 200 days

from the date of issuance by the Bureau of Customs of an order or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

However, imports originating from developing countries covered by Rule 8.8 of the IRR of RA 8800 shall not be subject to the provisional safeguard measure. Attached as Annex D is the list of said developing countries. Also, unglazed, porcelain, mosaic, and marble tiles are excluded from the investigation since they are not produced locally. Further, the preliminary investigation excluded glazed ceramic tiles imported from the European Union since said tiles do not compete with locally produced tiles.

Importers of ceramic floor and wall tiles originating from a country that is exempt from the safeguard duty shall submit a Certificate of Origin (CO) issued by the authorized agency/office in the source country of manufacture authenticated by the Philippine Embassy/Consulate General.

The notification and consultation requirements of Article 12 of the WTO Safeguards Agreement and Section 17 of RA 8800 and its IRR shall be complied with.

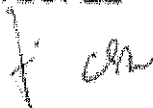
The case records will be transmitted to the Tariff Commission for a formal investigation to determine whether or not there is a need to impose a definitive safeguard measure.

SO ORDERED.

07 May 2019



RAMON M. LOPEZ  
Secretary



## Annex A

## LIST OF IMPORTERS

## I. Identified by Mariwasa Siam Ceramics, Inc.

Acierto Marketing Inc	Khugan Trading Corp
Cebu Oversea Hardware Co. Inc.	Lusterplus Inc
Chersky Trading Corporation	Marmo Pizzara Trading Inc.
Eurotiles Industrial Corporation	Pointersone Enterprises
Felport International Marketing	R.S. Manalo Enterprises
Fortune Anatibol Enterprises Inc.	TKH Marketing
Gaotu Trading Inc	United Harvest Corporation
Granat Marketing Corp	Westpoint Industrial Sales Co. Inc.
Great Mind Marketing	Wilcon aka Glockner Mktg./Kurthar/Zethus Trading/Bynar
Karakam Marketing Corp	

## II. Sourced from the Bureau of Customs (BOC-SAD-IERD)

No.	Company Name	No.	Company Name
1	1986 Construction Supply	34	KCC Property Holdings Inc
2	AB Wee Enterprise	35	Kinshen Trading
3	Abundanceyield Trading Corporation	36	Koryak Marketing Inc
4	Active Global Sourcing Inc	37	Kurthar Trading Corp.
5	Apo International Trading	38	Kuysen Enterprises Inc.
6	Bisazza Philippines Inc.	39	La Europa Ceramica Tile Center Inc.
7	Castilex Trading Corporation	40	Lachica Enterprises
8	Cebu Diamond Ind'l And Mfg. Corp.	41	Morin Marketing Corp.
9	Citihardware Bacolod Inc.	42	MSK Group Work Clark Inc.
10	Citihardware Gensan Inc.	43	NMW Enterprises
11	Copperfield Marketing	44	North & South Builders Supply Inc
12	Cornerstone Diversified Goods Trading Inc.	45	Ortigas & Company Ltd. Partnership
13	Cr8vmat Inc	46	Our Tiles Marketing
14	Davao Citihardware Inc	47	Performance Trading
15	Deco Arts Marketing Inc.	48	Philfirst Global Marketing Inc
16	Dionysus Trading	49	Phlr Enterprises
17	Double Infinity World Trade Inc	50	Premiere Oak Lumber & Wood Products
18	E.G. Cortez Enterprises	51	Primary Structures Corporation
19	EDSA Shangrila Hotel & Resort Inc.	52	Prosper Jade Trading
20	Expeditious Cargo Logistics	53	R2H Trading
21	F-A Trading	54	Racal Ceramics Bargain Center Inc.
22	FAHB Commodities Trading	55	Rosequarts Enterprises
23	Fairplay Marketing	56	Seacat Enterprises
24	FC Solutions Corp.	57	Semirara Mining Corporation
25	Fibreboard Laminates And Plyboard	58	Sen And Sons Realty Inc
26	Foremost Pre-Press Supplies Inc.	59	Seven Myth Marketing
27	Glockner Marketing Corp	66	Shakesville Enterprises
28	Great Speed Trading	67	Sky Blazers Global Trading
29	Highbundance Trading Corporation	68	Southzone Trading Inc
30	Homeoptions Inc	69	Spectrum Highlands Mktg Corp
31	Intranet Trade Int'l Inc	70	Star Dynasty Trading
32	JB Cresta Corp	71	Starbright Sales Enterprises Inc
33	Jolivette Inc.	72	Stargaze Enterprises

No.	Company Name	No.	Company Name
73	Sunrisebountiful Trading Corp.	78	Wilcon Builders Depot Inc
74	The Tileexpo Trading Inc	79	Wild Stone Enterprises
75	Triple-A Homesource Inc.	80	Worldwide Building Solutions Inc.
76	Trisho General Merchandise	81	Worldwide Interiors Design Center Corp.
77	White Horse Ceramic Philippines Inc		

## Annex B

## LIST OF EXPORTERS

## I. Identified by Mariwasa Siam Ceramics, Inc.

No.	Company Name	Country	No.	Company Name	Country
1	FC Xiamen Co., Ltd.	PROC	10	Guangzhou Hongthai Imp & Exp. Co. Ltd.	PROC
2	Foshan Benito Imp & Exp Co., Ltd.	PROC	11	Guangzhou Yangtao Trading Co. Ltd.	PROC
3	Foshan Di Xin Trading Co., Ltd.	PROC	12	Prime Trade Inc.	Viet Nam
4	Foshan Junjing Industrial Co. Ltd.	PROC	13	PT Kia Serpih Mas	Indonesia
5	Foshan Mainland Import & Export Co. Ltd.	PROC	14	White Horse Ceramic Industries Sdn.	Malaysia
6	Foshan Navonato Co. Ltd.	PROC	15	Xiamen Cerarock Imp. And Exp. Co. Ltd.	PROC
7	Foshan Yishi Building Material Co. Ltd.	PROC	16	Xiamen King Bridge I & E Corp. Ltd.	PROC
8	Fuzhou Baohua Imp & Exp Co. Ltd.	PROC	17	Xiamen Luckymark Imp. & Exp. Co. Ltd.	PROC
9	Guangzhou Fu De Lu Trading Co. Ltd.	PROC			

## II. Sourced from Bureau of Customs (BOC-SAD-IERD)

No.	Company Name	Country	No.	Company Name	Country
1	Aapt Distribution Pvt Limited	Indonesia	19	Brix SRL	Italy
2	Abk Group Industry Ceramiche Spa	Italy	20	Centrepoint Xiamen Imp & Exp Co., Ltd.	PROC
3	Addex Imp. Exp., S.L.	Spain	21	Ceramica Fioranese	Italy
4	Airsealand F. Bonaretti Srl	Italy	22	Ceramica Gomez S.A	Spain
5	Alcalagres S.A.	Spain	23	Ceramica Indah Sdn Bhd	Malaysia
6	Alessanderx Spa	Italy	24	Ceramica Sant Agostino S.P.A	Italy
7	Ape Ceramica Slu	Spain	25	Ceramicas Aparici S.A	Spain
8	Apollon Co. Ltd.	South Korea	26	Ceramiche Atlas Concorde Spa	Italy
9	Apt Showfreight Shanghai Co., Ltd.	PROC	27	Ceramiche Keope Mag	Italy
10	Armonie By Arte Casa Ceramiche Spa	Italy	28	Ceramica Tile Intl S L U	Spain
11	Atlas Concorde Ceramiche Spa	Italy	29	China Oriental Express Co., Ltd.	Hong Kong
12	Azulejos Plaza S A	Spain	30	Cicogres S.A	Spain
13	Azulev S A U	Spain	31	Cooperativa Ceramica D' Imola	Italy
14	Bach Thanh Ceramic Co., Ltd.	Viet Nam	32	Corporation Of The President Of The Church Of Jesus Christ Of Latter-Day Saints	USA
15	Bae Shin International Trading Limited	Chinese Taipei	33	CTO (China) Sinolog Limited	Hong Kong
16	Baldocer Ceramicas	Spain	34	Dachser Spain S.A.	Spain
17	Bisazza Spa	Italy	35	Daltile Corporation	USA
18	Brightland Industry And Trade Co., Ltd.	PROC	36	Dongguan City Wonderful Ceramics Indl Park Co., Ltd.	PROC

No.	Company Name	Country	No.	Company Name	Country
37	Dong Tam Trading Co Ltd	Viet Nam	67	Foshan Yuanya Trading Co. Ltd.	PROC
38	Dual Gres S.A	Spain	68	Foshan Zongnan Import & Export Trading Co Ltd	PROC
39	Dynasty Ceramic Public Co., Ltd.	Thailand	69	Fuzhou Fullitong Imp & Exp Co. Ltd.	PROC
40	Emigres S L	Spain	70	Fuzhou Hengyueng Import And Export Co. Ltd.	PROC
41	Emil Ceramica S P A	Italy	71	Fuzhou Long Heng Imp & Exp Co. Ltd.	PROC
42	E Trade Co., Ltd.	PROC	72	Fuzhou Yixin Jianyu Import And Export Trade Co.Ltd	PROC
43	Ever Commercial Co., Ltd.	Hong Kong	73	General Courier Madrid	Spain
44	Ever Sunshine Limited	Hong Kong	74	General Noli Spa	Italy
45	Evoque Living Ceramics S.L	Spain	75	Global Products Inc.	USA
46	Exim Deccorner Company Ltd	Thailand	76	Grand Glory Trading (Hk) Co. Ltd.	Hong Kong
47	Fincibec S.P.A.	Italy	77	Gresolution (Hk) Co. Limited	PROC
48	Florim Ceramiche S.P.A.	Italy	78	Guangdong Agribusiness Group Imp. & Exp. Co. Ltd.	PROC
49	Foshan Ceraviva Ceramics Co., Ltd.	PROC	79	Guangdong Bode Fine Bldg Material Co. Ltd.	PROC
50	Foshan City Sanshui Dongsheng Trading Co., Ltd.	PROC	80	Guangdong Overland Ceramic Co. Ltd.	PROC
51	Foshan Dihai Trading Development Co. Ltd.	PROC	81	Guangzhou Ahresty Casting Co. Ltd.	PROC
52	Foshan Dongpeng Ceramic Co. Ltd.	PROC	89	Guangzhou Dunhong Imp. & Exp. Co. Ltd.	PROC
53	Foshan Dwj Building Materials Co. Ltd.	PROC	90	Guangzhou Hongthai Imp & Exp. Co. Ltd.	PROC
54	Foshan Everlasting Enterprises Co. Ltd,	PROC	91	Guangzhou Jz Forever Trade Co. Ltd.	PROC
55	Foshan Griffith Building Material Ltd.	PROC	92	Guangzhou Xunrui Trading Co. Ltd.	PROC
56	Foshan Harvest Enterprises Ltd.	PROC	93	Guangzhou Yaohuang Trade Co. Ltd.	PROC
57	Foshan Hongshun Import & Export Trading Co. Ltd.	PROC	94	Guangzhou Y.Z.F Imp. & Exp. Trading Co. Ltd.	PROC
58	Foshan Nanhai Qiming Investment Co. Ltd.	PROC	95	Guocera Sdn Bhd	Malaysia
59	Foshan Nanhai Sea Road Trading Inc. Ltd.	PROC	96	H&K Distribution	United Kingdom
60	Foshan Sincere Bldg Materials Co. Ltd.	PROC	97	H&R Johnson (India)	Indonesia
61	Foshan Sundare Building Materials Co. Ltd.	PROC	98	Hijos De Cipriano Castello Alfonso	Spain
62	Foshan Tonghai International Imp. & Exp. Trading Co. Ltd.	PROC	99	Huida Sanitary Ware Co. Ltd.	PROC
63	Foshan Wantai Import & Export Co. Ltd.	PROC	100	Hung Anh Investment Construction JSC	Viet Nam
64	Foshan Winning Enterprise Co. Ltd.	PROC	101	Ital Graniti Group Spa	Italy
65	Foshan Xinzhongwei Economic & Trade Co. Ltd.	PROC	102	ITX Merken B.V. Fb	Switzerland
66	Foshan Yinghui Industrial Co. Ltd.	PROC	103	JDD Industry Co. Ltd.	PROC



No.	Company Name	Country	No.	Company Name	Country
104	Jingdezhen Kito Ceramic Co. Ltd.	PROC	132	PT Liwayway	Indonesia
105	Kale Italia S.R.L. Socio Unico	Italy	133	PT Muliakeramik Indahraya	Indonesia
106	Kaleseramik Canakkale Kalebodur Seramik Sanayi As	Turkey	134	PT Platinum Ceramics Industry	Indonesia
107	KBRM General Trading Lic	UAE	135	PT Roman Ceramic International	Indonesia
108	La Fabbrica Ceramiche S.P.A.	Italy	136	PT Satyaraya Keramindo Indah	Indonesia
109	Levantina Y Asociados De Minerales	Spain	137	PT Tunas Abadi Bayu Sentosa	Indonesia
110	Machinery & Chemical Industrial Center	Turkey	138	Qingliuxian Xinxing Trade Co. Ltd.	PROC
111	Magna Tiles SL	Spain	139	Royal Ceramic Tiles Co. Ltd.	Viet Nam
112	Malaysian Mosaic Sdn Bhd	Malaysia	140	Saint Marc	Japan
113	Mateylama S.L.	Spain	141	Sakamoto Co. Ltd.	Japan
114	Mirage Granito Ceramico S.P.A.	Italy	142	Sanming Meiliqu Jieliantong Import & Export Co Ltd	PROC
115	MKD Hanoi Export Import Jsc	Viet Nam	143	Sanming Zhenghua Trading Co. Ltd.	PROC
116	Natucer S L	Spain	144	Santa Margarita Spa	Italy
117	Ningbo Ocean Imp & Exp Co. Ltd.	PROC	145	SCG Trading Co. Ltd.	Thailand
118	Ningbo Yaxiya Imp & Exp Co. Ltd.	PROC	146	Serenissima Cir Industrie Ceramiche	Italy
119	Niro Ceramica Espana Slu	Spain	147	Set Up Rather County China Trade Co. Ltd.	PROC
120	Niro Ceramic Labuan Limited	PROC	148	Shenzhen Chenglijia Trading Co. Ltd.	PROC
121	Omni Global Corporation Ltd.	PROC	149	Shenzhen Come To Full Trade Co. Ltd.	PROC
122	Oriental Building Material Ltd.	Hong Kong	150	Shenzhen Grand Imp. & Exp. Co. Ltd.	PROC
123	Oriental Enterprise Company	Hong Kong	151	Shenzhen Guanghuatai Imp & Exp Co. Ltd.	PROC
124	Overland Ceramics Co. Ltd.	PROC	152	Shenzhen Guangyulong Trade Co. Ltd.	PROC
125	Panariagroup Industrie Ceramiche S.P.A.	Italy	153	Shenzhen Gui Hao Cheng Trade Co. Ltd.	PROC
126	P M Van Geffen Bv	Netherlands	154	Shenzhen Huaguangshun Import & Export Co. Ltd.	PROC
127	Porcelanite Dos S.L.	Spain	155	Shenzhen Huankai Industry Co. Ltd.	PROC
128	PT Chang Jui Fang Indonesia	Indonesia	156	Shenzhen Jiayuhe Imp & Exp Co. Ltd.	PROC
129	PT Javastone Perkasa	Indonesia	157	Shenzhen Jiazhihong Trading Co. Ltd.	PROC
130	PT Keramik Diamond Industries	Indonesia	158	Shenzhen J&D Drinking Water Equipment Co. Ltd.	PROC
131	PT Kuda Laut Mas	Indonesia	159	Shenzhen Jinchengli Trdg.Co. Ltd.	PROC

No.	Company Name	Country	No.	Company Name	Country
160	Shenzhen Luye East Industry Co. Ltd.	PROC	187	Shenzhen Zhongrui Tianhong Commerce Co. Ltd.	PROC
161	Shenzhen Miti Import & Export Trading Co. Ltd.	PROC	188	Sosuco And Group (2008) Co. Ltd.	Thailand
162	Shenzhen New Chino E Import & Export Co. Ltd.	PROC	189	Spanish Tile From Nules S A U	Spain
163	Shenzhen Nice Fit Imp. & Exp. Co. Ltd.	PROC	190	Starbucks Corporation	PROC
164	Shenzhen Noriteru Investment Development Co. Ltd.	PROC	191	Stone Source Llc	USA
165	Shenzhen Peng Sheng Imp. Exp. Co. Ltd.	PROC	192	Suncity Art Exporters	Indonesia
166	Shenzhen Qifengyuan Trading Co. Ltd.	PROC	193	Sunflower Trading Co. Ltd.	PROC
167	Shenzhen Qile Imp. & Exp. Co. Ltd.	PROC	194	System Services Of America	USA
168	Shenzhen Red-Sun Import & Export Co. Ltd.	PROC	195	Taicera Enterprise Company	Viet Nam
169	Shenzhen RZR Trading Co. Ltd.	PROC	196	Tangshan Imex Industrial Co. Ltd.	PROC
170	Shenzhen Shenruixing Trading Co. Ltd.	PROC	197	Tci New Zealand 1995 Ltd.	New Zealand
171	Shenzhen Shi Huahengxianda Imp & Exp Co. Ltd.	PROC	198	Tecnosped Express S.R.L.	Italy
172	Shenzhen Speedy Imp. & Exp. Co. Ltd.	PROC	199	Thai Binh Ceramic Tiles Jsc	Viet Nam
173	Shenzhen Top China Imp & Exp Co. Ltd.	PROC	200	Toko Vietnam Co. Ltd.	Viet Nam
174	Shenzhen Thyrite Trading Co. Ltd.	PROC	201	Venis S.A.	Spain
175	Shenzhen Weidexin Trade Co. Ltd.	PROC	202	Venus Ceramic Tile Enterprise	Malaysia
176	Shenzhen Xindesheng Trading Co. Ltd.	PROC	203	Viglacera Trading Jsc	Viet Nam
177	Shenzhen Xingming Imp & Exp Trading Co. Ltd.	PROC	204	Vives Azulejos Y Gres S.A.	Spain
178	Shenzhen Yihaodi Import & Export Co. Ltd.	PROC	205	Walker & Zanger Inc.	US
179	Shenzhen Yinghui Chuangzhan Trade Co. Ltd.	PROC	206	Weiteng Import & Export Company Ltd.	PROC
180	Shenzhen Yong Jia Le Trading Co. Ltd.	PROC	207	Wenzhou Jf Foreign Trade Co. Ltd.	PROC
181	Shenzhen Yuluo Imp. & Exp.Co. Ltd.	PROC	208	White Horse Ceramic Industries Sdn.	Malaysia
182	Shenzhen Yupeng Trading Co. Ltd.	PROC	209	White Horse Ceramic Industries (Vietnam) Co. Ltd.	Viet Nam

No.	Company Name	Country	No.	Company Name	Country
210	Winner Furniture Co. Ltd.	PROC	221	Xiamen Xingyuanchang Imp & Exp Co. Ltd.	PROC
211	Wuhan Youneng Information Technology Co. Ltd.	PROC	222	Xiamen Yufengda Trade Co. Ltd.	PROC
212	Xiamen Bichen Trading Co. Ltd.	PROC	223	Yekalon Industry Inc.	PROC
213	Xiamen Dazhou Import And Export Co. Ltd.	PROC	224	Yingfei International Ltd.	PROC
214	Xiamen Laishun Trading Co. Ltd.	PROC	225	Ymy Ceramic Tiles Corporation	VN
215	Xiamen Leadsun Corporation	PROC	226	Yoto Import & Export Co. Ltd.	PROC
216	Xiamen Longtengda Trade Co. Ltd.	PROC	227	Zhangping City, Minfeng Co. Ltd.	PROC
217	Xiamen Mingxinjie Imp. & Exp. Co. Ltd.	PROC	228	Zhong Lian Bldg., Material Co. Ltd.	PROC
218	Xiamen Senstar Imp. & Exp. Co. Ltd.	PROC	229	Zibo Ceramics Export Service Co. Ltd.	PROC
219	Xiamen Welf Trading Co. Ltd.	PROC	230	Zibo Golden-Stone Import & Export Co. Ltd.	PROC
220	Xiamen Xieshunda Manufactory And Trading Co. Ltd.	PROC	231	Zibo Karry Import & Export Co. Ltd.	PROC

### List of Associations and Consumer Groups

No.	Association Name
1	Association of Structural Engineers of the Philippines, Inc. (ASEP)
2	Bataan Construction Association of the Phils
3	Cebu Chamber of Commerce & Industry
4	Coalition for Consumer Protection & Welfare, Inc. (CCPW)
5	Citizenwatch Philippines
6	Consumer Welfare Office of Parañaque
7	Chamber of Real State and Builders Associations (CREBA)
8	Consumers Right for Economic Welfare (CREW)
9	The Consumers Union of the Philippines (CUP)
10	Davao Constructors Association Center, Inc.
11	EcoWaste Coalition
12	Federation of Filipino-Chinese Chambers of Commerce and Industry, Inc.
13	Federation of Philippine Industries, Inc.
14	The Japanese Chamber of Commerce and Industry of the Philippines, Inc.
15	National Consumer Council of the Philippines
16	Philippine Constructors Association, Inc.
17	Philippine Chamber of Commerce and Industry
18	Privileged, Empowered and Responsive Consumer Society, Inc. (PERCS)
19	Philippine Institute of Civil Engineers, Inc.
20	Society of Contractors of Agusan-Surigao and Butuan City
21	United Architects of the Philippines (UAP)
22	Nationwide Association of Consumers, Inc. (NACI)

### Additional Associations Participated in the Investigation

No.	Association Name
1	Association of Spanish Ceramic Tile Manufacturers (ASCER)
2	China Chamber of Commerce of Metals, Minerals & Chemicals Importers and Exporters (CCCMC)
3	European Ceramic Industry Association
4	Philippine Ceramic Products Importers' Association, Inc (PCPIA)

## ANNEX D

**List of Developing Countries and Separate Customs Territories Excluded from the Imposition of Provisional Safeguard Measure on Ceramic Floor and Wall Tiles**

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



Republic of the Philippines  
**DEPARTMENT OF FINANCE**

Roxas Boulevard Corner Pablo Ocampo, Sr. Street  
Manila 1004

03 June 2019

**REY LEONARDO B. GUERRERO**

*Commissioner*

Bureau of Customs

South Harbor, Port Area Manila

**SUBJECT : Imposition of a provisional safeguard duty**

Dear Commissioner Guerrero,

Pursuant to DTI Department Administrative Order No. 19-06 Series of 2019 and in compliance with Section 8 of R.A. 8800 (The Philippine Safeguard Measures Act) and its IRR, you are directed to impose a provisional safeguard duty in the form of a cash bond in the amount of Php 3.00/kg of imported ceramic floor and wall tiles classified under AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 for a period of 200 days.

Please issue the necessary Customs Memorandum Order and collect the appropriate amount of the provisional safeguard duty on imported ceramic floor and wall tiles covered by the DTI Order.

Thank you very much.

Very truly yours,

  
**CARLOS G. DOMINGUEZ**  
*Secretary*

Department of Finance

JUN 04 2019

006880

CC:

**RAMON M. LOPEZ**

Secretary, Department of Trade and Industry

5/F Industry and Investment Building

385 Sen. Gil J. Puyat Ave., Makati City 1200



TRABAH  
NEG. SYO  
KONSUMER



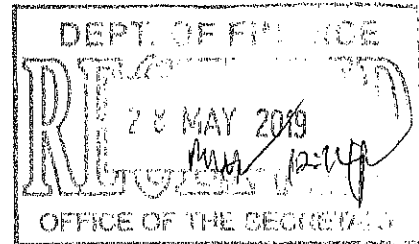
DEPARTMENT OF FINANCE  
Republic of the Philippines



10 May 2019

**SEC. CARLOS G. DOMINGUEZ**

Department of Finance  
DOF Building, BSP Complex  
Roxas Blvd., Manila



Dear **Secretary Dominguez**,

This is to respectfully furnish your good office with copies of the **Department of Trade and Industry's Order and Report (Non-Confidential version)** of its preliminary determination that increased importation of ceramic floor and wall tiles is a substantial cause of serious injury to the domestic ceramic industry.

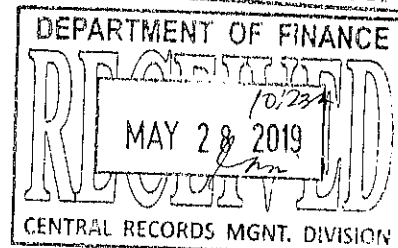
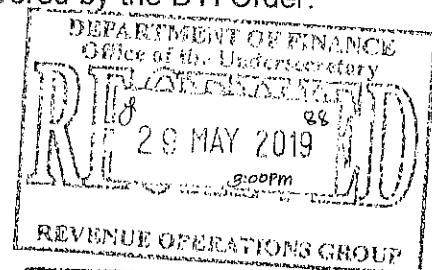
Pursuant to **Section 8 of R.A. 8800 (The Philippine Safeguard Measures Act)** and its IRR, the Secretary shall, within three (3) calendar days from making a decision, issue through the Secretary of Finance, written instructions to the Commissioner of Customs authorizing the imposition of the **provisional safeguard duty** in the form of a cash bond in the amount of **₱3.00/kg of imported ceramic floor and wall tiles** classified under **AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092** for a period of **200 days**. The Order shall take effect upon the issuance of the relevant Customs Memorandum Order or after fifteen (15) days from its publication in two (2) newspapers of general circulation, whichever comes earlier.

May we therefore request your office to direct the Commissioner of Customs to issue the Customs Memorandum Order and collect the appropriate amount of the provisional safeguard duty on imported ceramic floor and wall tiles covered by the DTI Order.

Thank you for your cooperation.

Very truly yours,

**RAMON M. LOPEZ**  
Secretary



cc: **Commissioner Rey Leonardo Guerrero**  
Bureau of Customs

OFFICE OF THE SECRETARY



Department Administrative Order No. 19 - 06  
Series of 2019

**IN THE MATTER OF THE PRELIMINARY  
DETERMINATION OF THE SAFEGUARD  
MEASURES CASE AGAINST THE  
IMPORTATION OF CERAMIC FLOOR AND  
WALL TILES FROM VARIOUS COUNTRIES  
(AHTN Codes 6907.2123, 6907.2124,  
6907.2193, 6907.2194, 6907.2213, 6907.2214,  
6907.2293, 6907.2294, 6907.2313, 6907.2314,  
6907.2393, 6907.2394 and 6907.4092)  
(Safeguard Measures Case No. 02-2018)**

X-----X

**ORDER**

The Department of Trade and Industry (DTI) initiated a preliminary investigation to determine whether increased imports of ceramic floor and wall tiles is causing or threatening to cause serious injury to the domestic industry. The products covered by the investigation are classified under AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092. The period of investigation (POI) are the years 2013 to 2017. Updated data for 2018 were also presented.

Pursuant to Section 7 of the Safeguard Measures Act (RA 8800), "x x x the Secretary shall, on the basis of the evidence and submission of the interested parties, make a preliminary determination that increased imports of the product under consideration are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry. x x x"

A review of the evidence made available to DTI shows:

1. that the volume of imports of ceramic floor and wall tiles
  - in absolute terms, increased from 2013 to 2016. In 2017, imports are lower by 13% over the 2016 level, but higher by 2,170% in 2014 or the pre-surge level.
  - in relative terms, the share of imports to domestic production increased from 4% in 2013 to 641% in 2016. In 2017, the share of imports was recorded at 549% lower by 92% to 2016 level, but higher by 523% in 2014 or the pre-surge level. In 2018, share of imports was recorded at 542%, lower by 7% to 2016 level, but higher by 516% in 2014.
2. that the domestic industry has suffered serious injury caused by increased imports based on the following:
  - during the POI, despite significant increases in market size, the market share of domestic manufacturers declined from 96% in 2013 to 15% in 2017 and 2018;

OFFICE OF THE SECRETARY

- the share of imported ceramic wall and floor tiles grew from 4% in 2013 to 87% in 2016;
  - earnings before interest and tax exhibited a declining trend of 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry's operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018;
3. that increased imports are the substantial cause of serious injury to the domestic industry based on the following:
- significant increase in the volume of imported ceramic floor and wall tiles preceded the serious injury to the industry from 2015 to 2017; and
  - The conditions of the competition show that the market share of locally produced ceramic floor and wall tiles was essentially displaced during the POI as the share of imports in the domestic market significantly increased.

WHEREFORE, IN VIEW THEREOF, the DTI, acting under Section 7 of RA 8800, the "Safeguard Measures Act", found after preliminary determination that increased imports of ceramic floor and wall tiles have caused serious injury to the domestic industry.

Further, pursuant to Section 8 of RA 8800 which provides that "*in critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a preliminary determination that increased imports are the substantial cause of serious injury to the domestic industry*", provisional safeguard measures in the form of a cash bond amounting to ₱3.00/kg shall be imposed on imported ceramic floor and wall tiles classified under AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 for a period of 200 days from the date of issuance by the Bureau of Customs (BOC) of the relevant Customs Memorandum Order (CMO) or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

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 provisional safeguard measure. Also, unglazed, porcelain, mosaic, and marble tiles are excluded from the investigation since they are not produced locally. Further, the preliminary investigation excluded glazed ceramic tiles imported from the European Union since said tiles do not compete with locally produced tiles.

Importers of ceramic floor and wall tiles originating from a country that is exempt from the provisional safeguard duty shall submit a Certificate of Origin (CO) issued by the authorized agency/office in the source country of manufacture authenticated by the Philippine Embassy/Consulate General.

Moreover, Rule 5.2 of the Implementing Rules and Regulations (IRR) of RA 8800 provides that "*the Secretary when establishing that the application of a safeguard measure will be in the public interest shall take into consideration the following*

factors; among others: x x x (ii) the extent to which such imposition will cause a shortage of a product under consideration in the domestic market".

The case records will be transmitted to the Tariff Commission for a formal investigation to determine whether or not there is a need to impose a definitive safeguard measure.

The non-confidential report of the preliminary safeguard measures investigation can be accessed at the DTI website: <https://www.dti.gov.ph/media/advisories/12805-preliminary-determination-of-the-safeguard-measures-case-against-the-importation-of-ceramic-floor-and-wall-tiles-from-various-countries>

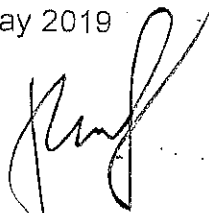
The notification and consultation requirements under Article 12 of the WTO Safeguards Agreement and Section 17 of RA 8800 and its IRR shall be complied with. Imports originating from ASEAN member states shall be governed by the provisions of Articles 11 and 23 of the ASEAN Trade in Goods Agreement (ATIGA).

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 fifteen (15) days after publication or from the date of the issuance of relevant BOC-CMO, whichever comes earlier.

SO ORDERED.

07 May 2019



RAMON M. LOPEZ  
Secretary



ANNEX A

**List of Developing Countries and Separate Customs Territories  
Excluded from the Imposition of Provisional Safeguard Measure on  
Ceramic Floor and Wall Tiles**

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.	Johnston Is.
Greenland	United Arab Emirates	Cayman Is.	Kiribati
Hungary	West Bank & Gaza	Chile	Korea, Dem. Rep.
Kazakhstan	Yemen, Rep.	Colombia	Korea, Rep.
Kyrgyz Republic		Costa Rica	Lao PDR
Latvia		Cuba	Macau, China
Lithuania		Dominica	Malaysia
Macedonia, FYR		Dominican Rep.	Marshall Islands
Malta		Ecuador	Micronesia, Fed. Sts.
Moldova		El Salvador	Midway Is.
Poland		Falkland Is. (Malvinas)	Mongolia
Romania		French Guiana	Myanmar
Russian Federation		Grenada	Nauru
Slovakia		Guadeloupe	New Caledonia
Slovenia		Guatemala	Niue
Tajikistan		Guyana	Northern Marianas Is.
Turkey		Haiti	Palau
Turkmenistan		Honduras	Papua New Guinea
Ukraine		Jamaica	Pitcairn Is.
Uzbekistan		Marlinique	Samoa
Yugoslavia, Fed. Rep.		Mexico	Singapore
		Montserrat	Solomon Islands
		Netherlands Antilles	Taiwan, (R.O.C.)
		Nicaragua	Thailand
		Norfolk Is.	Tokelau
		Panama	Tonga
		Paraguay	Tuvalu
		Peru	Vanuatu
		Puerto Rico	Wake Is.
		St. Helena	Wallis & Futuna Is.
		St. Kitts & Nevis	
		St. Lucia	
		St. Pierre & Miquelon	
		St. Vincent & the Grenadines	
		Suriname	
		Trinidad & Tobago	
		Turks & Caicos Is.	
		Uruguay	
		US Virgin Is.	
		Venezuela	

# **DEPARTMENT OF TRADE AND INDUSTRY**

**SAFEGUARD MEASURES CASE NAME:**

## **APPLICATION OF PHILIPPINE CERAMIC FLOOR AND WALL TILES INDUSTRY**

### **PUBLIC VERSION**

**SGM CASE NO. : 02-2018**

**DATE : 07 May 2019**

#### **REPORT ON THE PRELIMINARY AFFIRMATIVE FINDINGS APPLICATION FOR SAFEGUARD MEASURES ON THE IMPORTATION OF CERAMIC FLOOR AND WALL TILES FROM VARIOUS COUNTRIES**

# REPORT ON THE PRELIMINARY AFFIRMATIVE FINDINGS ON THE APPLICATION FOR SAFEGUARD MEASURES ON THE IMPORTATION OF CERAMIC FLOOR AND WALL TILES FROM VARIOUS COUNTRIES

## I. INTRODUCTION

This is a report on the preliminary determination conducted by the Department of Trade and Industry (DTI) under Section 7 of Republic Act (RA) 8800, the Safeguard Measures Act, on the petition filed by the domestic ceramic floor and wall tiles industry represented by Mariwasa Siam Ceramics, Inc. (MSC). The subject products are classified under ASEAN Harmonized Tariff Nomenclature (AHTN 2017) Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092. This report addresses the issue of whether the evidence submitted by the domestic industry, the importers, exporters and other interested parties show that increased imports are the substantial cause of, or threaten to substantially cause serious injury to the local industry.

The period of investigation (POI) for the import surge and injury to the domestic industry is from 2013 to 2017. Updated data for 2018 were also presented.

### A. The Philippine Industry's Petition

#### A.1 Parties to the Petition - Domestic Industry/Petitioner

Section 4 (f) of RA 8800 defines "domestic industry" as referring to the "*domestic producers, as a whole, of like or directly competitive products manufactured or produced in the Philippines or those whose collective output of like or directly competitive products constitutes a major proportion of the total production of those products*".

Rule 4.1 of the Implementing Rules and Regulations (IRRs) of RA 8800 further provides that: "*(1) in the case of a domestic producer which also imports the product under consideration, only its domestic production of the like or directly competitive product shall be treated as part of the domestic production, or (2) in the case of a domestic producer which produces more than one product, only that portion of its production of the like or directly competitive product may be treated as part of such domestic industry*".

The petitioner, MSC accounts for 86% of the total domestic production in 2017. This satisfies the domestic industry requirement under Section 4(f) of RA 8800.

In 2017, MSC and Formosa Ceramic Tiles Manufacturing Corp. (Formosa) are the two producers of ceramic tiles in the Philippines. MSC has an annual production of xxx MT while Formosa with an annual production of xxx MT.

Eurotiles Industrial Corporation, a company which was engaged in producing ceramic tiles stopped operations in March 2017 and is presently engaged in importation. Lepanto Ceramics, Inc., another ceramic tile producer, stopped its manufacturing operations in 2013.

## A.2. Ceramic Tiles Industry (2013 to 2017)

In 2013, the Philippine ceramic tile industry had four (4) companies in the market with a total annual production capacity of xxx MT. MSC has the highest annual production capacity of xxx MT which represents 53% of the total industry capacity. The second largest producer was First Lepanto Ceramics with a capacity of xxx MT or accounted for 26% of the total annual capacity. Eurotiles Industrial Corp. was the third largest producer with a production capacity of xxx MT or 12% of the total annual capacity, followed by Formosa Ceramic Tiles Mfg. Corp. with a xxx MT capacity or 9% of the total domestic capacity.

From 2014 to 2016, three (3) ceramic tiles manufacturers remained in the market with an annual production capacity of xxx MT. MSC has a production capacity of xxx MT or 72% of the total industry capacity. Eurotiles Industrial Corp. has a capacity of xxx MT or 16% of the total capacity while Formosa has a capacity of xxx MT or equivalent to 12% of the total capacity. In 2013, First Lepanto Ceramics suffered a decline in income and stopped operation in 2014.

Currently, the ceramic tile industry is comprised of only two (2) companies, namely MSC and Formosa.

### A.3. Ceramic Tile Manufacturers

#### 1) Mariwasa Siam Ceramics, Inc. (MSC)

MSC started as Mariwasa Manufacturing, Inc. (MMI) founded in March 1966 which was one of the pioneers in the Philippine ceramic tile industry. MSC was established after a joint venture between MMI and Siam Cement Group, one of the leading conglomerates in Thailand and the ASEAN region that engage in various businesses, i.e. chemicals, paper, cement building materials, and distribution.

MSC has an authorized capital stock of ₱ xxx. Its manufacturing facility is situated in Sto. Tomas, Batangas. MSC carries the brand name Mariwasa Tiles. It is operating under ISO 9001:2000 and complies with PNS/ISO 13006:2007 quality standards. Cementhai Ceramics Co., Ltd. acquired an 80% shareholding of MSC and the 20% are from other stockholders. It is a member of the Ceramic Tile Manufacturers' Association (CTMA). In addition to its ceramic tile production, MSC imports sanitary wares and bathroom fixtures to complement its product lines. Product distribution is done through the company's network of dealers that are positioned strategically throughout the Philippines. Finished products are also exported to Thailand, Singapore, Korea, Saipan, Guam, Palau, Canada, and Africa.



MSC manufactures high-quality floor and wall ceramic tiles of various sizes, texture, colors, types, and patterns, which as follows:

Type	Size	Texture	Color	Special Feature	Pattern
Floor Tiles Wall Tiles	20 x 20 20 x 60 30 x 30 30 x 60 40 x 40 60 x 60	Glossy Matte Rustic	Beige, Black, Blue, Brown, Green, Grey, Lavander, Mocha, Ochre, Pink, Red, White & Yellow	Rectified Files Full HD Tiles	Random prints - 2 & 3 faces

## 2) Formosa Ceramic Tiles Mfg. Corp. (Formosa)

Formosa, established in 1997, has a manufacturing facility located in Quezon Road, Brgy. San Isidro, San Simon, Pampanga. Formosa specializes in manufacturing glazed floor and wall ceramic tiles. Their products undergo quality control procedures such as absorption and crushing resistance, acid, alkali, chemical resistance under the International Standard PNS-ISO 13006:2007. The company carries the brand name Ten Zen Tiles and Manila Tiles which are marketed by their sister company, Caesar Ceramics Tiles Corporation. It is one of the leading ceramic tiles manufacturers in the world. Their products are directly delivered to their distributors and dealers. It has an authorized capital stock of ₱ xxx. They have no direct-selling stores in the Philippines to avoid conflict with their distributors and dealers.

## 3) Eurotiles Industrial Corporation

Eurotiles Industrial Corporation is a manufacturer of Philippine ceramic tiles that carry the brand name Eurotiles Superior Ceramic Tiles. Aside from tiles, they also produce construction chemicals such as tile adhesive and grout, waterproofing paints and architectural coatings/finishes. They also import Caesar sanitary wares, a leading brand in Taiwan. It was registered in June 1989 and started operation in 1992. Its 6.5-hectare plant facility is located at Silang, Cavite. Nationwide distribution of Eurotiles Superior Ceramic tiles is coursed through major construction stores, each with a network of dealers covering key cities and selected growth areas in Luzon, Visayas, and Mindanao. In Metro Manila, Ceramic Plaza and Federal Hardware are flagship retailers of Eurotiles. It stopped manufacturing operations in March 2017 and is presently engaged in importation.

## 4) Lepanto Ceramics, Inc.

Lepanto Ceramics, Inc. (LCI), established in April 1990, was one of the top manufacturers of ceramic floor and wall tiles for residential, commercial and industrial projects in the country with its known brand Lepanto Tiles. In 2012, with the total lifting of safeguard duty on imported ceramic tiles, LCI stopped its manufacturing operations in 2013. At present, part of its 15-hectare tile manufacturing facility in Calamba, Laguna is being leased as warehouses.

#### **A.4. Importers and Exporters of Ceramic Tiles**

The ceramic tile industry provided a list of importers and exporters of ceramic tiles during the period of the investigation. Further, an additional list of importers and exporters had been identified from the Bureau of Customs' Single Administrative Document – Import Entry and Internal Revenue Document (SAD-IERD). These lists are attached as Annexes A and B.

#### **A.5. Others**

DTI notified other interested parties such as consumer groups and industry associations regarding the application for safeguard measure investigation and requested them to submit their positions thereof. The list of associations and consumer groups is attached as Annex C.

### **B. Role of the DTI under RA 8800 (The Safeguard Measures Act)**

#### **B.1 Examination of Evidence to Justify Initiation of Investigation**

In establishing whether there is sufficient evidence to justify the initiation of the investigation, the Secretary relied on Section 6 paragraph 3 of RA 8800 and its IRRs. The said provision provides, *"the Secretary shall review the accuracy and adequacy of the evidence adduced in the petition to determine the existence of a prima facie case that will justify the initiation of a preliminary investigation within five (5) days from receipt of the petition."*

#### **B.2 The Meaning of Preliminary Investigation in the Context of the Safeguard Measures Law**

In making a preliminary determination, Section 7 of RA 8800 states that:

*"Not later than thirty (30) days from receipt of the petition...the Secretary, shall on the basis of the evidence and submission of the interested parties, make a preliminary determination that increased imports of the product under consideration are a substantial cause of or threaten to substantially cause, serious injury to the domestic industry. In the process of conducting a preliminary determination, the Secretary shall notify the interested parties and shall require them to submit their answers within five (5) working days from the date of transmittal to the respondent or appropriate diplomatic representative of the country of exportation or origin of the imported product under consideration."*

Further, the law also states that:

*"Upon a positive preliminary determination that increased importation of the product under consideration is a substantial cause of, or threatens to substantially cause, serious injury to the domestic industry, the Secretary shall, without delay, transmit its records to the Commission for immediate formal investigation."*

Rule 7.1 of the IRR essentially restates the law to wit:

"Not later than thirty (30) calendar days from receipt of the properly documented application xxx, the Secretary shall, on the basis of the petition, the answers of the respondents, and the respective supporting documents or information, make a preliminary determination that increased imports of the product under consideration are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry."

## II. THE EVIDENCE PRESENTED BY THE INDUSTRY

### A. The Product Subject to the Petition

Section 4 (h) of RA 8800 defines like product as "a domestic product which is identical, i.e. alike in all respects to the imported product under consideration, or in the absence of such a product, another domestic product which, although not alike in all respects, has characteristics closely resembling those of the imported product under consideration".

Section 4 (e) of RA 8800 further provides, "directly competitive product shall mean domestically produced substitutable products".

A comparison of the imported ceramic tiles with the domestic product is required to determine if these are like or directly competitive products.

#### A.1 Domestic Product

MSC manufactures high-quality floor and wall ceramic tiles of various sizes, texture, colors, types, and patterns which complies with PNS ISO 13006 as follows:

Type	Size	Texture	Color	Special Feature	Pattern
Floor Tiles	20x20 20x60	Glossy Matte	Beige, Black, Blue, Brown,	Rectified Files	Random prints - 2 & 3 faces
Wall Tiles	30x30 30x60 40x40 60x60	Rustic	Green, Grey, Lavander, Mocha, Ochre, Pink, Red, White & Yellow	Full HD Tiles	

#### A.2. Uses and Applications

Ceramic tiles are used as floor and wall covering for indoor and outdoor areas in residential and commercial buildings. They are available in various types, sizes, texture, colors, special features, patterns, and technical specifications. Ceramic tiles are made available to customers through distributors, dealers, and retailers.

#### A.3 Composition of Raw Materials

The major raw materials in the domestic ceramic floor and wall tiles industry are locally sourced clay and imported glaze and ink. The following are the raw materials used for the production of floor and wall ceramic tiles:

#### A.4 Production Process

XXX

## B. Imported Product

### Product Description under the Tariff and Customs Code

Tariff Heading Map AHTN Code / Description		Applicable Tariff Rate (%)																				
		MF	AANZFTA <sup>A</sup>			ACFT	AIFTA			AJCEPA					AKFTA	ATIGA	PJEPA					
		2013 - 2017	2013 - 2014	2015 - 2017	2013 - 2017	2013	2014 - 2015	2016 - 2017	2013	2014	2015	2016	2017	2013 - 2015	2016 - 2017	2013 - 2017	2013	2014	2015	2016	2017	
69.07 Ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics.	6907.21 - - Of a water absorption coefficient by weight not exceeding 0.5 %	6907.21.23 - - - - Paving, hearth or wall tiles, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.21.24 - - - - Other, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.21.93 - - - - Paving, hearth or wall tiles, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
		6907.21.94 - - - - Other, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
	6907.22 - - Of a water absorption coefficient by weight exceeding 0.5 % but not exceeding 10 %	6907.22.13 - - - - Paving, hearth or wall tiles, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.22.14 - - - - Other, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.22.93 - - - Having a largest surface area of which is capable of being enclosed in a square the side of which is less than 7 cm	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
		6907.22.94 - - - - Other, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
	6907.23 - - Of a water absorption coefficient by weight exceeding 10 %	6907.23.13 - - - - Paving, hearth or wall tiles, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.23.14 - - - - Other, glazed	10	0	0	0	8	7	6	5	4	3	2	1	0	0	0	5	4	3	2	1
		6907.23.93 - - - Having a largest surface area of which is capable of being enclosed in a square the side of which is less than 7 cm	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
		6907.23.94 - - - - Other, glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1
	6907.40 - Finishing ceramics	6907.40.92 - - - Glazed	10	3	0	0	8	7	6	5	4	3	2	1	10	5	0	5	4	3	2	1

Source: Classification based on The Philippine Tariff Finder (PTF) of the Tariff Commission. Retrieved from <http://tariffcommission.gov.ph/finder>

AHTN ASEAN Harmonized Tariff Nomenclature  
 MFN Most Favoured Nation  
 AANZFTA ASEAN-Australia/New Zealand Free Trade Agreement  
 ACFTA ASEAN-China Free Trade Agreement  
 AIFTA ASEAN-India Free Trade Agreement  
 AJCEPA ASEAN-Japan Comprehensive Economic Partnership Agreement  
 AKFTA ASEAN-Korea Free Trade Agreement  
 ATIGA ASEAN Trade in Goods Agreement  
 PJEPA Philippines-Japan Economic Partnership Agreement

### C. Comparison between Imported and Domestic Product

Locally manufactured and imported glazed ceramic floor and wall tiles are like and directly competitive products in terms of the following:

#### Product Classification

- Both are classified under same tariff headings

#### Uses and Applications

- Both are used for floor and wall covering
- Both can be applied in any residential and commercial buildings

#### Production Process and Raw Materials

- Both have the same process method - manufactured by tile pressing, glaze/décor application, and firing

#### Appearance and Characteristics

- Both have the same surface appearance i.e. glossy, matte and rustic
- Both have the same characteristics acquired through its chemical and physical properties

According to PCPIA, AHTN Codes 6907.2123, 6907.2124, 6907.2193 and 6907.2194 are tiles with water absorption not exceeding 0.5%. These products are called porcelain tiles. Unlike ceramic, processing of the porcelain composition involved very high pressure and extremely high temperature. The result is very dense and less porous material. It is much stronger than ceramic.

The Government of Indonesia stated that subject product has different specifications, designs, and sizes and it caters to a different market.

Embassy of Spain explained that imports from Spain are of distinctive quality and price so they should be treated as a different category of products.

### D. Period of Investigation

The POI covers imports of ceramic floor and wall tiles from 2013 to 2017. Updated data for 2018 were also presented. The domestic ceramic tile industry's performance for the same period is also assessed to determine whether the increased imports are the substantial cause of serious injury to the domestic industry.

## III. THE PROCESS OF PRELIMINARY INVESTIGATION

### A. Acceptance of the Petition and Decision for Preliminary Investigation

In accepting the petition of the Philippine ceramic floor and wall tiles industry, the Secretary was guided by Rule 6.4a of the IRRs of RA 8800 which provides that:

*"The Secretary shall, within five (5) calendar days from the date of his letter of acceptance of the properly documented application referred to in Rule 6.3.d, examine the accuracy and adequacy of the evidence submitted to determine the existence of a prima facie case that will justify the initiation of a preliminary investigation. In assessing*

*the sufficiency of evidence provided in the application, the Secretary shall satisfy himself that based on the documents available to him, he can determine that the increased imports of the product under consideration are the substantial cause of the serious injury or threat thereof to the domestic producers of the product under consideration.”*

On 17 December 2018, the Secretary officially informed the domestic ceramic floor and wall tiles industry that their application is accepted as properly documented. On 20 December 2018, the Secretary issued a report on the initiation of the safeguard investigation.

## **A.2 Preliminary Investigation Proper**

### **A.2.a Notice to Parties and Due Process**

On 28 December 2018, Notices of Initiation were published at the Business Mirror and Manila Standard Today as provided under Rule 6.5a of the IRR which states that:

*“Within two (2) calendar days after the Secretary makes the decision to initiate a preliminary investigation, the Secretary shall cause the publication of the notice of initiation of preliminary investigation in two (2) newspapers of general circulation. The date of publication shall be considered as day one (1) of the initiation of investigation.”*

On 03 January 2019, notices were sent to the domestic industry and the diplomatic or official representatives of the concerned governments of the identified exporting countries. Individual notices were sent to importers, exporters, and associations. The importers and exporters were requested to submit their responses to the questionnaires as well as evidence and information relevant to the said investigation within five (5) working days from receipt of notice as provided under Section 7 of RA 8800 and its IRR.

### **A.2.b Submission of Evidence and Position Papers**

As provided under Rule 6.5b of the IRR:

*“The respondents are required to submit within five (5) working days from the receipt of such notice their responses or comment and other evidence and information to dispute all allegations contained in the petition. The notice shall be deemed to have been received five (5) working days from the date on which it was transmitted to the respondent or the appropriate diplomatic or official representative of the country of export or origin of the product under consideration. In cases where the number of known interested parties is so large that it is impractical to provide a non-confidential copy of the documents to each of them, a copy will be given to the government of the country of export or origin and/or to the representative organizations. These documents shall also be made available to other interested parties upon request.”*

### **A.2.c Importers Responses to the Questionnaire**

Out of eighty-two (82) identified importers, only three (3) submitted responses to the DTI Questionnaire, as follows:

## 1. Floor Center Group of Companies

On 29 January and 21 February 2019, Floor Center Group of Companies, a member of the Philippine Ceramics Products Importers' Association, Inc. (PCPIA), through its Counsel Britanico Sarmiento & Ringler Law Offices submitted its statements on the investigation as follows:

- The finding of DTI that the domestic producers had a 96% market share in 2013 is not supported by either of the industry's application or previous Tariff Commission's formal investigation reports on safeguard measures on ceramic tiles. The application showed that the market share of domestic producers in 2013 is only 40%.
- The volume of imported ceramic tiles in 2013 at 6,098MT reflected in the DTI report is not supported by the industry's application and statistics of the Philippine Statistics Authority (PSA). In 2013, the volume of imports reached almost 612,700MT as provided by Mariwasa and 649,346MT based on PSA data.
- There is no existence of serious injury to the domestic industry:
  - share of the domestic market taken by increased imports was what the domestic industry cannot supply;
  - sales and production volume increased from the start to the end of POI (2017);
  - domestic industry is fully utilized so the safeguard measure can possibly increase their sales from 12 Million sqm per year to 14 Million sqm per year since the industry has no statement regarding new investments that will significantly increase total production capacity.
  - decline in net income is not caused by the increase in imports but due to expenses related to establishment of retail stores, investment in computer systems and increase in employee benefits
- Based on the application, market share in 2013 is 39.47%, not 96%. Moreover, the evaluation report released by the Tariff Commission last 13 November 2013 further bolsters the fact that market share never reached 96%. Market share sank to its lowest level at 26% in 2012 when the safeguard measure finally ended in January.
- The imposition of safeguard measures will not be in the public interest:
  - Imposition of safeguard measure will certainly increase importation costs.
  - Even if the domestic producers are supported by the government with SG measures, they can only produce and sell 13.73% (14M capacity over 102M demand in 2017) of the total demand.
  - The imposition of SG measures will only benefit 2 domestic producers to reach their maximum capacity and affecting 100 importers not to mention the buying public.
  - Domestic producers are 2 foreign investments (as of 2016, Mariwasa is 80.08% Thai-owned and Formosa is 67.01% Taiwanese and 32.9% BVI-owned) while the importers are generally Filipino businesses.
  - Between the domestic industry and the importers, the importers have more contributions to the economy.
- The domestic industry did not improve its competitiveness under the previously imposed safeguard measures from 2002 to 2012

## 2. Castilex Trading Corporation

On 11 February 2019, Castilex Trading Corporation informed DTI that the last importation of ceramic floor tiles made by the company was in 2014. Therefore, they will not complete the questionnaire.

## 3. Worldwide Interiors Design Center Corp.

On 15 April 2019, Worldwide Interiors Design Center Corp. replied to DTI Importer's Questionnaire. They stated that they import ceramic tiles, porcelain tiles, sanitary wares, and bathroom accessories. Also, in terms of quality, there is no difference between local and imported ceramics, but the price of the domestic product is more expensive than imported products. They alleged that in terms of volume, the domestic manufacturer cannot supply the market demand.

### A.2.d Exporters responses to the questionnaire

Three (3) identified exporters submitted their replies to the DTI Questionnaire as follows:

#### 1. P.T. Chang Jui Fang Indonesia (CJFI)

On 28 February 2019, DTI granted CJFI's request to submit a reply to the exporter's questionnaire until 07 March 2019. According to CJFI, the Philippines' construction has increased in recent years that created demand for tiles both for local industry and ASEAN country. The demand is higher than the capacity to supply. This gap was fulfilled by the imported tiles, which is mostly from non-ASEAN country exporters.

The imposition of the safeguard measures would not be effective if applied to Indonesia due to the small quantity of export to the Philippines. Further, the company stated that they exported glazed floor tiles with water absorption categories (6% to 10%), under HS Code 6907.2393.

#### 2. P.T. MuliaKeramik IndahRaya

In their 15 March 2019 submission, P.T. MuliaKeramik IndahRaya stated that based on the trade map data, the products they exported to the Philippines under HS Code 6907.2293, 6907.2294, 6907.2393 and 6907.2394 in a minimal quantity compared to the imports from other countries.

They further said that when the safeguard measures ended, imported products had increased again, which shows that the domestic industry was not able to meet the demand of the domestic market and was unable to carry out the necessary structural adjustments to be competitive. Also, they claimed that the increasing volume of imported ceramic floor and wall tiles is not from Indonesia. PT Muliakeramic appealed that Indonesia be excluded from the Philippines' safeguard measures since Indonesia's export to the Philippines is not that significant.



### **3. ITX Merken BV FB-Switzerland**

On 17 April 2019, ITX Merken BV FB – Switzerland stated that their company is not a producer of ceramic floor and wall tiles, but an exporter of building materials and furniture.

#### **A.2.e Foreign Embassies**

The following foreign embassies submitted their comments relevant to the investigation:

##### **1. Embassy of Brazil**

On 21 January 2019, Embassy of Brazil submitted its position as follows:

Article 9.1 of the Agreement on Safeguards states, “Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 per cent, provided that developing country Members with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product concerned”.

Also, Footnote 2, “A Member shall immediately notify an action taken under paragraph 1 of Article 9 to the Committee on Safeguards”. Thus, imports of Brazil should be excluded. Notice of Initiation does not specify exemptions and transparency and high standard should be observed throughout the investigation.

##### **2. Embassy of Turkey**

On 23 January 2019, Embassy of Turkey submitted their comments on the said petition. They pointed out that Turkey’s individual shares in the Philippines subject merchandise imports in terms of quantity corresponds to less than 3%. Collective import shares of developing countries with a ratio below 3% are far from reaching 9% of Philippines’ total imports to the subject merchandise between 2013 and 2018 which should be interpreted under the prevailing provisions of Art. 9.1 of Agreement on Safeguards. Given the negligible import levels of products under investigation from Turkey into the Philippines, Turkey is requesting to give full consideration to the above points and exclude Turkey from the application of any possible safeguard measure.

##### **3. European Commission**

On 28 January 2019, Office of the Directorate-General for Trade, Directorate H – Trade Defence of the European Commission (EC) submitted its comments and position regarding the initiation of a safeguard investigation on imported ceramic floor and wall tiles from various countries through the Trade Section of European Union – Delegation to the Philippines. EC statements on the application are as follows:

- Frequent recourse by the Philippines to the safeguard measures instrument for ceramic floor and wall tiles.
  - From 2002 to 2012, the Philippine maintained a safeguard measure without interruption on imported ceramic floor and wall tiles. If after 10 years of uninterrupted safeguard measures on ceramic floor and wall tiles, the industry has not adjusted, there may be other causes to the industry’s situation than imports.

- Development of imports
  - Total imports of ceramic floor and wall tiles increased from 2013 to 2017 during the period of investigation (POI). However, the safeguard measures then for the subject product were lifted in 2012, which may explain an artificially low level of imports at the start of POI;
  - Any safeguard measures would limit legitimate market access for imports from the EU in particular, as these imports are not causing injury to the domestic industry due to their low volumes and high prices.
- Injury determination – injury indicators listed below do not demonstrate the existence of an overall impairment of the domestic industry. In particular, the domestic industry is not suffering serious injury caused by increased imports but due to other factors.
  - Production volume increase marginally during the POI
  - Production capacity was flat during the POI; capacity utilization increased marginally during the POI
  - Market share of the domestic industry decreased over the POI, however, this has to be seen in the light of a significant increase in consumption
  - Inventories increased substantially over the POI
  - Costs of production decreased during the POI due to technological improvements in the manufacturing process
  - Selling, General and Administrative expenses (SGA) increased by 60% over the POI due to increased local taxes that recorded losses during the POI.
  - Employment decreased during the POI as a result of automation efforts.
  - Productivity increased during the POI
- Causality
  - The difficulties suffered by the domestic industry are the result of an increase in local taxes and is not linked to imports.
- Unforeseen developments
  - Customs or trade defense actions undertaken by Viet Nam, Argentina, and Indonesia were solely mentioned
  - Although the share of imports from China rose dramatically in 2017 due to the bilateral tariff duty on imports from China is 0%, while the MFN rate is 10%, any unforeseen development involving China was not mentioned
- Appropriateness of the WTO Safeguard Measures instrument
  - Safeguard measures may cause unnecessary collateral damage to other trade partners like EU who may not have caused any injury to the domestic industry. EU exports are limited, and prices are higher than the domestic. Thus, not causing any injury.

In view of the above statements, the EU concluded that the conditions for the imposition of safeguard measures on ceramic tiles are not met. Thus, the Commission request the Philippine government to terminate the investigation in respect of its WTO obligations.

#### 4. Embassy of Indonesia

On 29 January 2019, Embassy of Indonesia expressed their position against the preliminary investigation. They cited that the product coming from Indonesia possess different specifications, designs, and sizes as well as target market. Also, the

Government of Indonesia (GOI) stated that no causal link was established. The decline in employment, market size and increase in productivity are not due to the surge in imports of ceramic tiles to the Philippines. Overall productivity showed an increase even with fluctuations from the base index in 2013. The concern lies in the ability of the domestic industry to supply domestic demand. The imposition of a safeguard measure will halt the local industry's growing demand and related industry in the Philippines.

For the unforeseen development, petitioner did not address unforeseen development, which is essential and necessary in order to impose safeguard measures. Also, the investigating authority did not offer a reasonable and adequate explanation of why and how the trade measures adopted by some third countries can be regarded as unforeseen development that resulted in an increase in imports. The GOI did not find any legal justification in the WTO Agreement. Article XIX: 1(a) of GATT 1994 merely states that "any product is being imported into the territory of that contracting party in such an increased quantity" which relates only to the past increase and not potential increase. A more appropriate and direct measure such as anti-dumping should be used to tackle the source of the problem. Safeguard measures, while available to any country, should be implemented exceptionally because they affect imports from all countries.

The GOI requested to terminate this safeguard investigation and opt for a more appropriate trade remedy instrument.

## **5. Embassy of Spain**

On 31 January 2019, Embassy of Spain submitted its position on the said investigation. The WTO erga omnes SG instrument is not the appropriate instrument to deal with a bilateral situation. Other instruments that specifically target injurious imports like anti-dumping measures, anti-subsidy measures or bilateral safeguards would be more appropriate. In this case, only Chinese, Indonesian and Vietnamese imports may be regarded as damaging either through its sheer volume or through its selling price. Imports from Spain are of distinctive quality and price so they should be treated as a different category of products.

Also, injury indicators do not demonstrate the existence of an overall impairment of the domestic industry such as domestic sales remain stable, production shows a slightly upward trend along with capacity utilization, gross profit increased 12% in POI, a negligible 0.28% of undercutting on average basis, absence of price suppression and only a single year of price depression. Thus, causality is not properly established, and no other factors are examined.

## **6. Royal Thai Embassy**

On 20 February 2019, the embassy submitted its position/views. The Embassy indicated that Article 9.1 of the Agreement on Safeguards, safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 percent. Imports from Thailand were below 3 percent during the past five years and six months. The Department of Foreign Trade requested DTI to exclude Thailand from the imposition of measures in accordance with the requirements of Art. 9.1 of the WTO Agreement on Safeguards.

## 7. Taipei Economic & Cultural Office (TECO) in the Philippines

On 26 February 2019, DTI received the official comments of TECO. According to TECO, the Philippine imports from Taiwan does not exceed 3% of total imports. The total imports from Taiwan decreased from 0.44% in 2014 to 0.0007% in 2017, that should hardly constitute the source of injury to Philippine domestic ceramic industry. Taiwan did not export tiles of less than 60cm x 60cm size.

Further, the price of Taiwan's tiles with dimensions above 60cm x 60cm is much higher in comparison to the price of Philippine tiles due to the high cost of manufacturing, environmental protection, labor and tariffs, and therefore cannot be regarded as the source of serious injury, or threat of serious injury to the Philippine tile industry.

### A.2.e Associations (Foreign and Local)

The following associations submitted their comments relevant to the investigation:

#### 1. China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters

On 24 January 2019, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters in behalf of Chinese ceramic industry and exporters of ceramic tiles submitted the following comments on the investigation:

- Failure to establish unforeseen development
  - It is foreseeable that the recovery growth of imports would occur with the removal of previous safeguard measures on ceramic tiles in 2012.
- Failure to satisfy the criteria that the import growth should be recent enough
  - The increase in import is the result of the increase in demand and meet the market needs rather than taking over the market share taken by the domestic producers. The production and sales of domestic producers remain stable

even when the volume of import increases. The import growth coincides with the expiration of the previous safeguard measures. The determination of rapid growth in imports lacks reasonable ground. In 2013, exports from either of the three major exporting countries, i.e. China, Viet Nam, and Indonesia or other countries are at a low level. Years 2014 and 2015 were the recovery period from the restricted trade environment. Import growth peaked in 2016. From 2016, imports from China and Indonesia decline in 2017. Imports during the recent period did not increase but decreased.

- Serious injury does not exist
  - relevant indicators i.e. production and capacity utilization of the Philippine industry show that it has not suffered any injury.
- Causal link does not exist
  - Most of the operating indicators of the domestic industry are in good condition i.e. gross profits and labor productivity, except for net profit which declined. The decline in net profit was not due to the impact of imports but mainly due to an increase in selling, general and administrative expenses (SG&A) of the

domestic industry. The increase in SG&A expenses was faster than the increase in sales profits.

- The capacity utilization rate of the domestic industry is at full capacity. Under this circumstance, the domestic industry is unable to meet the rapidly growing market demand. In this case, the imposition of a safeguard measure to restrict imports is not in the public interest. The domestic industry is far less in terms of employment and overall welfare compared to importers, building decoration companies and general downstream users. The previous long-term imposition of safeguard measures on imported ceramic tiles illustrated that it eventually does not produce a dynamic and competitive industry.
- Procedural defects relevant to the submission of responses/comments on the petition by interested parties, notification and methods, and content of investigation including unreasonable indexed disclosure.

Further, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters suggested to the Philippine investigating authority to take into consideration the non-application period of the safeguard measures and refrain from using it again.

## **2. Cerame-Unie (The European Ceramic Industry Association)**

On 29 January 2019, Cerame-Unie (The European Ceramic Industry Association) / CET (European Federation of the Manufacturers of Ceramic tiles) and in behalf of ASCER (Asociación Española de Fabricantes de Azulejos y Pavimentos Cerámicos) and Confindustria Ceramica submitted its comments to the report on the initiation of the preliminary safeguard measures investigation. Cerame-Unie represents European manufacturers of wall and floor tiles in several European countries, including Spain, Italy, Portugal, France, Germany, United Kingdom, Netherlands, Czech Republic, Bulgaria, and Austria.

Cerame-Unie highlighted some concerns on the investigation as follows:

- the application of safeguard measures should remain exceptional because it affects imports from all countries and does not require the existence of an unfair element like anti-dumping or anti-subsidy measures do.
- applicant must prove that the increase in imports is sharp due to unforeseen developments. Said developments must cause or threaten to cause serious injury to the domestic industry, a higher level of injury required than for anti-dumping and/or anti-subsidy measures.

They also enumerated the following points to consider based on data presented in the application and other data sources i.e. Eurostat or UN Comtrade and Prometeia.

- Import trends based on Eurostat or UN Comtrade
  - Imports in the Philippines have gradually increased during the POI. EU has not been a relevant factor in the said rise in imports. EU ceramic tile exports have experienced a 16% increase during the POI. On the same period, exports from China to the Philippines increased by 139%, a Compound Annual Growth Rate (CAGR) of 19% over the POI. Similarly, imports from Indonesia and Vietnam increased by 129% and 54% respectively.

- Market share based on the data presented by DTI and Eurostat or UN Comtrade.
  - China exports have consistently gained market share over the POI. EU exports, despite a mild increase in the same period, represent only a residual part of ceramic tiles imports to the Philippines. EU ceramic tiles exports are also a victim of the constant increase in Chinese exports to the Philippines. EU exports have not caused injury to the domestic industry.
- Domestic consumption, production, and sales based on Prometeia (2018)
  - Consumption of ceramic tiles in the Philippines during the POI has increased by almost 40% from 80.5 million sqm in 2013 to 110.9 million sqm in 2017. During the same period, both production and sales of the domestic industry also increased by 10.2% and 9.4% respectively. China exports cover 53% of the domestic consumption, whereas EU exports represent less than 2% of it.
- Average prices based on the investigation report
  - Average export prices of EU exports are consistently higher than the domestic prices and import prices from major export countries.
  - Weighted average landed cost of imports from major sources i.e. China, Indonesia, and Vietnam is lower than the domestic selling price with a price undercutting of 3.27%.
  - EU imported products and domestic products do not compete in the same market segment.
- Existing trade barriers in the Philippines
  - A 10% tariff rate is applied to EU imports
  - Imported ceramic tiles are required to comply with Philippine Standard PNS ISO 13006:2007 quality standard

In this regard, the EU industry believes that direct bilateral measures under the ASEAN-China FTA or anti-dumping/anti-subsidy measures are more appropriate to apply than safeguard measures. Also, EU exports should be exempt from the safeguard measures. Likewise, EU industry anticipates that existing tariffs & non-tariff barriers will be removed relevant to the on-going EU-Philippines FTA negotiation.

### **3. Spanish Ceramic Tile Manufacturer's Association (ASCER)**

On 30 January 2019, Spanish Ceramic Tile Manufacturer's Association (ASCER) submitted its comments to the initiation of safeguard measures on ceramic floor and wall tiles by the Philippines. ASCER represents almost the whole Spanish manufacturers of wall and floor tiles. Also, it is part of Cerame-Unie (the European Ceramic-Industry Association)/CET (European Federation of the Manufacturers of Ceramic tiles).

ASCER pointed out the following information/data based on the initiation report of a safeguard investigation on imported ceramic floor and wall tiles from various countries:

- In 2017, top sources for imports of ceramic tiles came from China (81.75% share), Indonesia (7.71% share) and Viet Nam (3.32% share) while Spain was 2.38% and EU at 3.02% respectively.
- Weighted average landed cost of imports from China, Indonesia, and Viet Nam are lower than the domestic selling price with a price undercutting of 3.27%. There is no evidence of price undercutting from other source countries.

- Philippines impose a 10% tariff rate on EU imports and require a specific mandatory labeling requirement. While imports from China, Indonesia, and Viet Nam has 0% tariff rate due to trade agreements.
- Although the production process is similar, Spanish manufacturers do not compete in the same market segment of the Philippine industry in terms of quality and versatility
- Average prices of Spanish made ceramic floor and wall tiles are significantly higher than the domestic prices. Therefore, it does not compete nor represent a threat to the local market.
- There is no evidence of industry injury caused by imports increase. The domestic ceramic industry has been facing an increase in local taxes, additional expenses due to business investments, increased salaries for the POI, lack of government support, etc. Thus, any existing injury of the domestic industry is not attributable to increased imports.
- China is the largest ceramic exporter to the Philippines with an increasing market share. While the EU has a low market share and decreasing in share during the POI. Thus, an anti-dumping investigation should be used instead of safeguard measures as it could strike the main problem without damaging other trade partners.

Accordingly, ASCER concluded that there is no causality between the injury of local industry and the increase in imports in the Philippines. And since there is a single trade partner who has the largest share of imports, a bilateral measure should be used to preserve fair trade rather than a safeguard measure.

In addition, as the EU-Philippines Free Trade Agreement (FTA) negotiation is in process, the Spanish industry hopes that the existing tariffs and non-tariff barriers be removed. Also, considering the lack of evidence which warrants the inclusion of the EU industry in the safeguard investigation, the Spanish ceramic industry asks for the termination of the current safeguard measures investigation.

#### **4. City of Parañaque - Consumer Welfare Office**

On 31 January 2019, the City of Parañaque, the Consumer Welfare Office submitted its views relevant to the initiation of the said safeguard investigation. According to them, local ceramic tile manufacturers can create more employment and can produce skilled-workers such as tile cutters, machine operators, heavy truck and heavy equipment drivers/operators, designers, supervisors, etc. will be utilized. Thus, if the importation of ceramic tiles continuous, local manufacturers will lose their business orders. Also, for the law of supply and demand, if the importation of tiles will continue and assuming there will be high demand from the end-users, there is a tendency of hoarding, if demand increase, consumers will have a great impact to embrace the high price or what the other countries might dictate. If incurred or have accepted poor quality products, the process of returning is complicated. The income of the country will decrease since the buying of imported goods is investing money in other countries. Importation can lead to destroying domestic industry which will reduce the economic growth of the country.

#### **5. Philippine Ceramic Products Importers Association, Inc.**

On 04 January and 04 February 2019, the Philippine Ceramic Products Importers Association, Inc. submitted supplemental comments and position on the petition for the imposition of safeguard measures for ceramic floor and wall tiles.

Based on the application, they enumerated the following reasons that the petition for the imposition for ceramic floor and wall tiles should be denied:

- No existence of serious injury and significant impairment to the domestic industry
  - The domestic producers cannot supply from their maximum production the substantial increase in demand brought about by the construction boom.
  - The average domestic sales and production for 2017 are higher than in 2016.
  - Domestic labor productivity and capacity utilization increased especially in 2017.
  - Revenue and gross profit of the domestic industry increased during the POI especially in 2017.
  - Net income of the domestic industry decreased due to an increase in their selling, general and administrative expenses during the POI.
  
- The imposition of safeguard measures will not be in the public interest.
  - It will increase importation costs, decrease the volume of imports and cause a shortage of ceramic tiles in the domestic market.
  - It will increase the prices of imported tiles which supplies the substantial share of the total demand which domestic production cannot supply
  - It will dampen the increasing demand for tiles as a construction material
  - It will slow down the growth in the industry construction which is a major contributor to economic development in terms of employment, home/condominium sales, bank loans, and government tax collection.
  - It will only benefit two (2) domestic producers at the cost of affecting at least one hundred (100) importers and the buying public.
  - Domestic producers are foreign investments: as of 2016, Mariwasa being a Thailand owned and Formosa being a Taiwanese and BVI owned while importers are Filipino businesses.
  - Importers give a bigger contribution to the Philippine economy. The tax collected by the government from the tile importers is more than what domestic producers provide on its domestic sales.
  - For 2017, tile importers supply a substantial rate of the total demand for ceramic tiles while domestic producers only supply at a lesser rate.
  - Importers employ more personnel than domestic producers. There are at least one hundred (100) tile importers with a minimum seventeen (17) employees or a total of 1,700 personnel compared to two (2) tile manufacturers that employ 1,257.
  
- The domestic industry did not improve its competitiveness under the previously imposed safeguard measures from 2002 to 2012.
  - Domestic producers still failed to be competitive and capture consumer market and demand. During said implementation, out of six (6) domestic producers, three (3) ceased operations, two (2) had intermittent operations and only one (1) had normal operations.
  - The domestic industry does not produce porcelain tiles which had created a new market as consumers preferred it over the locally produced ceramic tiles. Henceforth, the domestic industry hardly regained market losses and the opportunity to supply the increase in demand.
  - When the previous safeguard measure was lifted in 2012, a construction boom followed which can be inferred that it stunted the growth of construction.



### A.3.a. Additional Documents Requested from the Petitioner

On 11 February, 12 March and 04 April 2019, MSC submitted the following information:

- That the imposition of provisional safeguard measure will not result in political and economic crisis and will not cause a shortage of ceramic tiles.
- Updated information on domestic sales, export sales, cost to produce and sell, actual production, rated capacity, profit and losses statement, number of employees, salaries and wages, finished goods inventory, domestic selling price as well as the adjustment plan.

### III. APPRECIATION OF AVAILABLE EVIDENCE

Rule 6.5.c of the IRR states that:

*"Whenever any interested party fails to respond adequately or is unable to produce information requested, refuses access to, or otherwise does not provide any other information within the period allowed for the investigation, or otherwise significantly impedes the investigation, the preliminary determination of the conditions required in a safeguard investigation shall proceed on the basis of facts derived from the evidence at hand. Even though the information provided by interested party may not be complete in all respects, this shall not be disregarded provided the interested party is deemed to have acted to the best of his ability."*

The DTI evaluated and considered all the information provided by the interested parties. Out of two hundred thirty-three (233) identified exporters, three (3) submitted responses to the DTI Questionnaire. For the importers, out of eighty-two (82) identified importers, only three (3) submitted responses to the DTI Questionnaire. Seven (7) foreign embassies of the country of exports and five (5) associations (foreign and local) submitted position/comments on the said investigation. All submitted position/comments were considered in the analysis and evaluation of the report.

### IV. SAFEGUARD MEASURES: PARAMETERS FOR EVALUATION

#### A. The Concept and Purpose of Safeguards

Section 2 of RA 8800 provides that *"the state shall promote the competitiveness of domestic industries and producers based on sound industrial and agricultural development policies, and the efficient use of human, natural and technical resources. In pursuit of this goal and in the public interest, the state shall provide safeguard measures to protect domestic industries and producers from increased imports which cause or threaten to cause serious injury to those domestic industries and producers."*

#### B. The Elements Required by Law

As stated under Section 5 of RA 8800 and its IRRs *"the Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product*

*is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as to be a substantial cause of serious injury or threat thereof to the domestic industry; however, in the case of non-agricultural products, the Secretary shall first establish that the application of such safeguard measures will be in the public interest".*

### **C. Relevant Provisions**

Rule 7.2 of the IRRs of RA 8800 states that *"the Secretary shall essentially determine the following in the preliminary determination: (a) The volume of imports, in particular, whether there has been an increase, either in absolute terms or relative to production in the Philippines. The Secretary shall evaluate import data for the last five (5) years preceding the application to substantiate claims of a significant increase in import volume. Provided, however, that in some cases, the period may be adjusted to cover a shorter period, if necessary, in order to take into account other considerations that will ensure the appropriateness of the chosen period, e.g. seasonality of product, availability of data or facility in verification of data; (b) Presence and extent of serious injury or threat thereof to the domestic industry producing the like or directly competitive product; (c) Causal relationship between the increased imports of the product under consideration and the serious injury or threat thereof to the affected domestic industry and (d) The Secretary shall take into account the effects of the seasonality of products, whenever applicable, in the preliminary determination of whether or not the elements for the imposition of a provisional safeguard measure exist."*

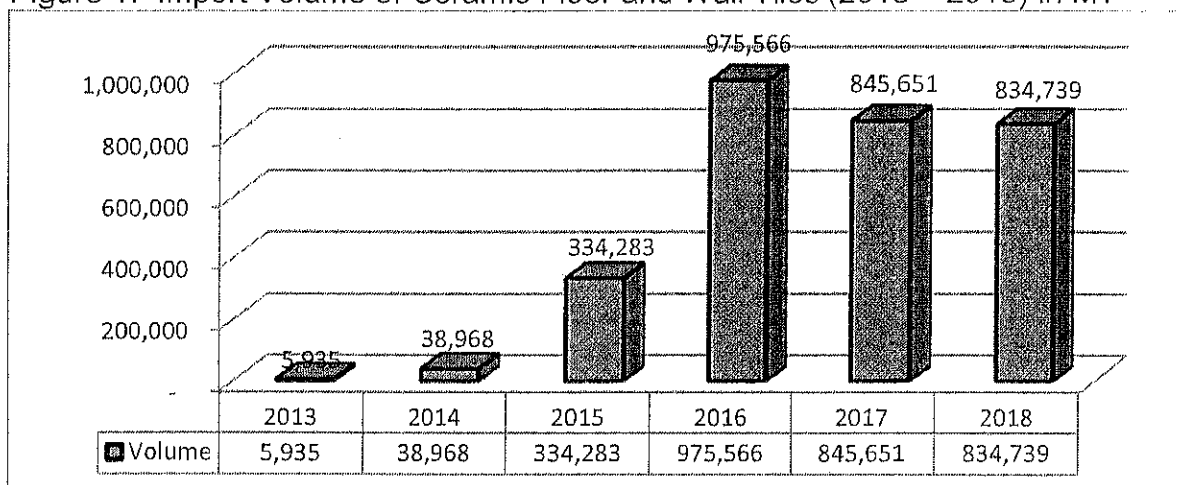
Rule 7.3 of the IRRs of RA 8800 further provides that *"in a preliminary determination under critical circumstances, the Secretary shall establish that there has been a substantial increase in imports taking into account their volume and whether or not there has been a rapid accumulation of inventories of the domestic product and a reduction in sales and profit margins of the domestic industry."*

## D. Determination of Increased Volume of Imports

### D.1. Absolute Terms

#### 1.a. Import Volume

Figure 1: Import Volume of Ceramic Floor and Wall Tiles (2013 – 2018) in MT



Source: Bureau of Customs, Single Administrative Document-Import Entry and Internal Revenue Document (SAD-IEIRD)

The period of investigation (POI) covers ceramic floor and wall tiles (glazed tiles) imported into the Philippines from 2013 to 2017. DTI updated the data for the whole year of 2018. The data on importations were sourced from the Bureau of Customs (BOC).

Table 1: Import Volume of Ceramic Floor and Wall Tiles (2013 – 2018) in MT

Year	2013	2014	2015	2016	2017	2018
Volume (MT)	5,935	38,968	334,283	975,566	845,651	834,739
Absolute (Increase/(Decrease))	-	33,033	295,315	641,283	(129,915)	(10,912)
Growth Rate	-	556.57	757.84	191.84	(13.32)	(1.29)

Source: Bureau of Customs (SAD-IEIRD)

During 2013-2014, imports of ceramic tiles increased by 33,033MT or 557%. In 2015, it continued to increase by 295,315MT or 758% over the previous level. In 2016, imports soared high by 641,283 MT or 192%. In 2017, although imports of ceramic tiles declined by 13% over the 2016 level, the level is still significantly higher by 2,070% compared to 2014 or the pre-surge level. In 2018, imports slightly decreased by 1% and already surpassed the 2013 to 2015 imports levels.

It was observed that during the POI, ceramic tiles are being imported in increased quantities in absolute terms.

According to the European Commission, total imports of ceramic floor and wall tiles increased from 2013 to 2017 during the period of investigation (POI). However, the safeguard measures for the subject product were lifted in 2012, which may explain an artificially low level of imports at the start of POI.

Floor Center Group of Companies claimed that the volume of imported ceramic tiles in 2013 at 6,098MT reflected in the DTI report is not supported by the industry's application and statistics of the Philippine Statistics Authority (PSA). In 2013, the volume of imports reached almost 612,700MT as provided by Mariwasa and 649,346MT based on PSA data.

PCPIA stated that the AHTN Codes 6907.2123, 6907.2124, 6907.2193 and 6907.2194 are tiles with water absorption not exceeding 0.5%. These products are called porcelain tiles. Unlike ceramic, processing of the porcelain composition involved very high pressure and extremely high temperature. The result is very dense and less porous material. It is much stronger than ceramic. Thus, the application for safeguard measures submitted by MSC should exclude products under these AHTN Codes. Further, PCPIA stated that mosaic tile and marble tiles should be excluded from the data gathering as they are distinct from ceramic tiles.

DTI used import data from BOC-SAD during the investigation because it covers the complete description of the imported product under consideration, i.e. AHTN Code, tariff rate, complete description of the like or directly competitive domestic product concerned, names of the countries of export or origin, identity of all known foreign exporters or producers and the list of known importers among others.

DTI excluded the imported products which are not like or directly competitive to the product under investigation i.e. porcelain tiles, mosaic tiles and marble tiles. Also, imports of the domestic industry during the period were excluded to make an objective assessment of the industry's condition.

#### 1.b. Share of Imports (by Country)

Table 2: Share of Imports By Country (2013 – 2018) in MT

Country	2013	% Share	2014	% Share	2015	% Share	2016	% Share	2017	% Share	2018	% Share
PROC	229	4	23,832	61	280,120	84	846,954	87	713,876	84	666,034	80
Indonesia	2,180	37	2,701	7	16,552	5	62,828	6	62,519	7	88,733	11
Viet Nam	2,941	50	10,028	26	21,320	6	27,008	3	29,681	4	33,893	4
<i>Total (Major Suppliers)</i>	5,350	90	36,562	94	317,992	95	936,790	96	806,075	95	788,661	94
<i>Total (Other sources)</i>	585	10	2,407	6	16,290	5	38,776	4	39,576	5	46,078	6
<b>TOTAL IMPORTS</b>	5,935	100	38,968	100	334,283	100	975,566	100	845,651	100	834,739	100

Source: Bureau of Customs (SAD-IEIRD)

For the period 2013 to 2018, the top source countries for imports of ceramic tiles are the People's Republic of China (PROC), Indonesia and Viet Nam.

### PROC

PROC accounted for the largest share of the Philippines' ceramic tiles importation from 2014 to 2018. In 2014, its share of imports was recorded at 23,832MT or 61%, from 229 MT or 4% in 2013. In 2015, PROC's share increased to 280,120MT or 84% and recorded its biggest share of 87% to total Philippine imports in 2016. Chinese tiles slightly declined its share to 713,876MT or 84% in 2017. In 2018, PROC's share accounted for 80% of the total Philippine imports.

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters in behalf of Chinese ceramic industry and exporters of ceramic tiles commented that the investigation failed to satisfy the criteria that the import growth should be recent enough. They further stated that it is necessary for the competent authorities to examine recent imports and not simply trends in imports during the past five years. The import growth coincides with the expiration of the previous safeguard measures. The determination of rapid growth in imports lacks reasonable ground. In 2013, exports from either of the three major exporting countries i.e. China, Viet Nam, and Indonesia or other countries are at a low level. Years 2014 and 2015 were the recovery period from the restricted trade environment. Import growth peaked in 2016. From 2016, imports from China and Indonesia decline in 2017 and a further decline in imports from China and a decrease from Viet Nam in the first half of 2018 compared to 2017. On these, imports during the recent period did not increase but decreased.

### Viet Nam

Imported ceramic tiles from Viet Nam accounted for the second highest share to total Philippine imports from 2013 to 2015.

In 2013, Viet Nam was the top supplier of ceramic tiles in the country which accounted for 2,941 MT or 50% share of the total Philippine imports. Imports from Viet Nam continued to increase from 10,028MT in 2014 to 29,681MT in 2017. However, the import share of Viet Nam to the total Philippine imports for the same period has declined from 26% (2014) to 4% (2017 & 2018).

### Indonesia

Indonesia ranked third as the top supplier of ceramic tiles in the country from 2013 to 2015 and became the second top supplier from 2016 to 2018.

Indonesian tiles accounted for 2,180MT or 37% share to total Philippine imports in 2013. From 2014 to 2016, imports from Indonesia continued to increase from 2,701 MT or 7% in 2014 to 62,828 MT or 6% in 2016. In 2017, its total share to Philippine imports increased to 7% and further to 11% in 2018.

Other Sources

Other sources of ceramic floor and wall tiles for the POI include: Australia, Bahrain, Brazil, Bulgaria, Egypt, France, Germany, Hong Kong, India, Italy, Japan, Kuwait, Malaysia, Netherlands, New Zealand, Portugal, Singapore, South Korea (ROK), Spain, Switzerland, Taiwan, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom and US.

Table 3: Import Volume – Other Sources (2013 to 2018) in MT

COUNTRY	2013	% Share	2014	% Share	2015	% Share	2016	% Share	2017	% Share	2018	% Share
Australia	-	-	-	-	32	0.01	1	0.0001	0.01	0.000001	2	0.0002
Bahrain	-	-	-	-	-	-	25	0.0026	-	-	-	-
Brazil	-	-	-	-	47	0.01	71	0.01	10	0.001	20	0.002
Bulgaria	-	-	-	-	-	-	142	0.01	246	0.03	634	0.08
Egypt	-	-	-	-	-	-	-	-	-	-	376	0.04
France	-	-	-	-	-	-	-	-	1	0.0001	-	-
Germany	-	-	-	-	23	0.01	7	0.001	53	0.01	91	0.01
Hong Kong	9	0.15	0.11	0.0003	71	0.02	110	0.011	3	0.0004	15	0.002
India	-	-	82	0.21	3	0.001	125	0.01	1,135	0.13	4,619	1
Italy	307	5	606	2	3,535	1	7,882	0.81	5,785	1	3,188	0.4
Japan	-	-	5	0.01	3	0.001	75	0.01	5	0.001	324	0.04
Kuwait	-	-	-	-	16	0.005	-	-	-	-	-	-
Malaysia	242	4	558	1	2,518	1	2,935	0.30	3,744	0.44	2,739	0.3
Netherlands	-	-	98	0.25	-	-	-	-	-	-	-	-
New Zealand	-	-	-	-	-	-	-	-	0.03	0.000004	-	-
Portugal	-	-	-	-	21	0.01	-	-	-	-	0.01	0.000001
Singapore	-	-	-	-	9	0.003	33	0.003	1	0.0001	5	0.001
South Korea (ROK)	0.49	0.01	-	-	24	0.01	110	0.01	51	0.01	75	0.01
Spain	17	0.28	1,010	3	5,581	2	18,202	2	21,832	3	25,144	3
Switzerland	-	-	0.34	0.001	1	0.0004	-	-	-	-	-	-
Taiwan	-	-	-	-	47	0.01	6	0.001	6	0.001	21	0.002
Thailand	0.07	0.001	3	0.01	4,308	1	8,997	1	6,292	1	7,862	1
Tunisia	-	-	-	-	-	-	0.05	0.00001	-	-	-	-
Turkey	9	0.16	0.01	0.00002	47	0.01	48	0.005	163	0.02	12	0.001
United Arab Emirates	-	-	38	0.10	-	-	-	-	230	0.03	949	0.11
United Kingdom	-	-	-	-	-	-	4	0.0004	0.33	0.00004	-	-
US	0.07	0.001	6	0.01	2	0.001	2	0.0002	19	0.002	3	0.0003
<b>Total</b>	<b>585</b>	<b>10</b>	<b>2,407</b>	<b>6</b>	<b>16,290</b>	<b>5</b>	<b>38,776</b>	<b>4</b>	<b>39,576</b>	<b>5</b>	<b>46,078</b>	<b>6</b>

Source: Bureau of Customs (SAD-IEIRD)

Embassy of Brazil emphasized that pursuant to Article 9.1 of the Agreement on Safeguards, "Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 per cent, provided that developing country Members with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product concerned". Imports of Brazil should be excluded from the measure.

Embassy of Turkey commented that Turkey's individual shares in the Philippines subject merchandise imports in terms of quantity corresponds to less than 3%. Collective import shares of developing countries with a ratio below 3% are far from reaching 9%. Given the

negligible import levels of products under investigation from Turkey, it should be excluded from the application of any possible safeguard measure.

Royal Thai Embassy stated that Article 9.1 of the Agreement on Safeguards provides that "Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 percent". Imports from Thailand was below 3 percent during the past five years and six months. Thus, the Embassy requested DTI to exclude Thailand from the imposition of measures in accordance with the requirements of Art. 9.1 of the WTO Agreement on Safeguards.

Taipei Economic & Cultural Office stated that Philippine imports from Taiwan do not exceed 3% of total imports. Taiwan did not export tiles of less than 60cm x 60cm size.

Cerami-Unie, the European Ceramic Industry Association, claimed that import trends based on Eurostat or UN Comtrade showed that imports in the Philippines have gradually increased during the POI. EU has not been a relevant factor in the said rise in imports. EU ceramic tile exports have experienced a 16% increase during the POI. On the same period, exports from China to the Philippines increased by 139%, a Compound Annual Growth Rate (CAGR) of 19% over the POI. Similarly, imports from Indonesia and Vietnam increased by 129% and 54% respectively.

Spanish Ceramic Tile Manufacturers' Association (ASCER) pointed out that in 2017, top sources for imports of ceramic tiles came from China (81.75% share), Indonesia (7.71% share) and Viet Nam (3.32% share). Also, the share of imports of ceramic floor and wall tiles from Spain was 2.38% and the EU at 3.02% respectively. Further, the Philippines imposes a 10% tariff rate on EU imports and require a specific mandatory labeling requirement. While imports from China, Indonesia, and Viet Nam has 0% tariff rate due to trade agreements. The Philippines had imposed a previous safeguard measures on ceramic floor and wall tiles for 12 years. China is the largest ceramic exporter to the Philippines with an increasing market share. While the EU has a low market share and decreasing in the share during the POI. The increase of Spanish imports during the POI is much lower than the increase in imports from the three major source countries.

## D.2. Relative Terms

Table 4: Comparison of Volume of Imports to Domestic Production of Ceramic Tiles

Year	Imports (MT)	Domestic Production (MT)*	Share of Imports to Domestic Production (%)
2013	5,935	100	xxx
2014	38,968	100	xxx
2015	334,283	109	xxx
2016	975,566	103	xxx
2017	845,651	104	xxx
2018	834,739	104	xxx

Sources: Bureau of Customs (BOC-SAD-IEIRD) – Import Volume  
Domestic Industry – Domestic Production

\*Figures indexed due to confidentiality

For the period 2013 to 2016, the share of imported ceramic tiles to domestic production significantly increased from xxx% in 2013, xxx% in 2014, xxx% in 2015 and xxx% in 2016, the highest share of imports to domestic production during the POI.

In 2017, the share of imports relative to domestic production recorded at xxx%, lower by 92% share in 2016 (highest share) but higher by 523% share in 2014 or the pre-surge level. Imports of ceramic tiles relative to domestic production significantly increased during the POI. In 2018, the share of imports was recorded at xxx%, lower by 7% to 2016 level, but higher by 516% in 2014.

#### **E. Period of Investigation**

The POI covers imports of ceramic floor and wall tiles from 2013 to 2017. Import data were updated to cover the whole year of 2018. The domestic ceramic tile industry's performance for the same period is also assessed to establish whether the increased imports are the substantial cause of serious injury to the domestic industry.

### **V. EVIDENCE OF SERIOUS INJURY**

Rule 3.1 of the IRRs of RA 8800 provides that "a general safeguard measure under Chapter II of these IRRs shall apply where there is an increase in the quantity of a product being imported, whether absolute or relative to the domestic production, which is determined to be a substantial cause of serious injury or threat thereof to the domestic industry".

Section 4 (o) of RA 8800 also provides that "*a serious injury shall mean a significant impairment in the position of the 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, profit and losses, and employment*".

Section 12 of RA 8800 further provides that "*in reaching a positive determination that the increase in the importation of the product under consideration is causing serious injury or threat thereof to a domestic industry producing like products or directly competitive products, all relevant factors having a bearing on the situation of the domestic industry shall be evaluated. These shall include, in particular, the rate and amount of the increase in imports of the products concerned in absolute and relative terms, the share of the domestic market taken by the increased imports, and changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment*".

*Such positive determination shall not be made unless the investigation demonstrates on the basis of objective evidence, the existence of the causal link between the increased imports of the product under consideration and serious injury or threat thereof to the domestic industry. When factors other than increased imports are causing injury, such injury shall not be attributed to increased imports.*"



## **1. Allegations**

### **1.a Petitioner's Allegations**

The following allegations were made by the domestic industry:

- Incurred losses as imports increased which resulted in negative figures due to low sales volume;
- Due to a surge in imports, production volume was reduced resulted to shut down of four (4) roller kilns for wall tile which led to a reduction in manpower.

### **2. Respondents' Allegations (Foreign Embassies / Importers / Exporters / Associations)**

#### **a. Floor Center Group of Companies**

The findings of DTI that the domestic producers had a 96% market share in 2013 is not supported by either of the industry's application or previous Tariff Commission's formal investigative reports on safeguard measures on ceramic tiles. The application showed that the market share of domestic producers in 2013 is only 40%.

#### **b. European Commission**

Market share of the domestic industry decreased over the POI, however, this has to be seen in the light of a significant increase in consumption.

#### **c. China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters**

The increase in import is the result of the increase in demand rather than taking over the market share of the domestic producers. The production and sales of domestic producers remain stable even when the volume of import increases.

#### **d. Cerame-Unie (The European Ceramic Industry Association)**

Market share based on the data presented by DTI and Eurostat or UN Comtrade. China exports have consistently gained market share over the POI. EU exports, despite a mild increase in the same period, represent only a residual part of ceramic tiles imports to the Philippines. EU ceramic tiles exports are also a victim of the constant increase in Chinese exports to the Philippines. EU exports have not caused injury to the domestic industry.

#### **e. PT Muliakeramic Indahraya**

Philippine Import data in 2017 showed that injury was due to imports from China which accounted to 85% of total Philippine imports.

## i. Share of the Domestic Industry

### 1) Market Size

Table 5: Total Apparent Philippine Market (in MT)

Year	Imports (MT)	Domestic Industry Sales Volume (MT)*	Total Apparent Philippine Market (MT)*	% Increase/ (Decrease)
2013	5,935	100	100	-
2014	38,968	96	117	17
2015	334,283	102	310	164
2016	975,566	99	714	130
2017	845,651	100	633	(11)
2018	834,739	98	624	(1)

Sources: Bureau of Customs (BOC-SAD-IEIRD) – Import Volume  
Domestic Industry – Domestic Sales Volume  
\*Figures indexed due to confidentiality

During the POI, the total apparent Philippine market for ceramic tiles grew at an accelerated rate from 2013 to 2016.

In 2014, the apparent Philippine market increased by 17%. It continued to increase by 164% in 2015 and further by 130% in 2016. In 2017, the total apparent consumption declined to 11%, as imports dropped by 13%, while domestic sales slightly increased by 0.69%.

### 2) Market Share

Table 6: Volume of Imports of Ceramic Tiles vi's-à-vi's Domestic Sales (in MT)

Country	2013	2014	2015	2016	2017	2018
Total Imports	5,935	38,968	334,283	975,566	845,651	834,739
Domestic Sales*	100	96	102	99	100	98
Total Phil. Market*	100	117	310	714	633	624
<b>% Share to Phil. Market</b>						
Imports	xxx	xxx	xxx	xxx	xxx	xxx
Domestic Sales	xxx	xxx	xxx	xxx	xxx	xxx

Sources: BOC-IEIRD – Volume of Imports  
Domestic Industry – Domestic Sales  
\*Figures indexed due to confidentiality

Domestic sales relative to the Philippine market for ceramic tiles dominated the market with a xxx share in 2013 but started to deteriorate from 2014 to 2018 compared to the 2013 level. The share of domestic sales to the Philippine market decreased to xxx or a decline of 18% in 2014, xxx or a decline of 60% in 2015 and further decline of 58% in 2016. Domestic sales experienced growth of 13% in 2017, but still has a significant decline of 84% from the 2013 level.

The share of imports relative to apparent Philippine market increased at a faster rate from a mere xxx (2013) to xxx (2015). In 2016, imports captured xxx share of the Philippine market and to xxx in 2017 to 2018.

Cerame-Unie emphasized that consumption of ceramic tiles in the Philippines during the POI has increased by almost 40% from 80.5 million sqm in 2013 to 110.9 million sqm in

2017. During the same period, both production and sales of the domestic industry also increased by 10.2% and 9.4% respectively. China exports cover 53% of the domestic consumption, whereas EU exports represent less than 2% of it. On this, it implies that there is no clear evidence of injury to the domestic industry.

PCPIA claimed that the domestic industry does not produce porcelain tiles which had created a new market as consumers preferred it over the locally produced ceramic tiles. Henceforth, the domestic industry hardly regained market losses and the opportunity to supply the increase in demand.

Floor Center Group of Companies stated that the findings of DTI that the domestic producers had a 96% market share in 2013 is not supported by either of the industry's application or previous Tariff Commission's formal investigative reports on safeguard measures on ceramic tiles. The application showed that the market share of domestic producers in 2013 is only 40%.

DTI used the confidential data submitted by the petitioner and other reliable source of import data, i.e. BOC-IEIRD. The petitioner clarified in its application that they only produce glazed ceramic floor and wall tiles. Thus, DTI excluded in the investigation the volume of unglazed ceramic tiles from the total import volume. Unlike in the previous safeguard measures investigation, both glazed and unglazed ceramic floor and wall tiles were included in the investigation. This explains the discrepancies of market share in the report as against the submission of MSC and the report of Tariff Commission.

## B.1. Domestic Sales

Table 7: Domestic Sales Volume and Value of Ceramic Tiles

Year	Sales Volume (in MT)*	% Increase (Decrease)	Sales Value (Php Million)*	% Increase (Decrease)
2013	100	-	100	-
2014	96	(3.75)	100	(0.25)
2015	102	6.07	100	0.04
2016	99	(3.04)	94	(5.42)
2017	100	0.69	98	4.26
2018	98	(1.44)	106	7.24

Source: Domestic Industry

\*Figures indexed due to confidentiality

Table 7 shows that the domestic sales volume and value fluctuated from 2013 to 2018. Sales volume and value declined by 3.75% and 0.25% in 2014, increased by 6.07% and 0.04% in 2015, declined by 3.04% and 5.42% in 2016 and increased by 0.69% and 4.26% in 2017. In 2018, sales value increased by 7.24% despite the decrease in sales volume by 1.44%. According to the domestic industry, this is due to their 10% price increase in 2018 to cope with the increased production cost.

The Cerame-Unie (The European Ceramic Industry Association)/CET (European Federation of the Manufacturers of Ceramic tiles) also alleged that based on Prometeia (2018), the consumption of ceramic tiles in the Philippines during the POI has increased by almost 40% from 80.5 million sqm in 2013 to 110.9 million sqm in 2017. During the

same period, both production and sales of the domestic industry also increased by 10.2% and 9.4% respectively. This implies that there is no clear evidence of injury to the domestic industry.

MSC explained that the lower retail prices of imported tiles resulted in a decline in their sales and they incurred losses in manufacturing operations. However, Floor Center Group of Companies alleged that there is no serious injury experienced by the domestic industry since the sales volume increased from the start to the end of POI (2017).

## B.2. Export Sales

Table 8: Export Sales Volume and Value of Ceramic Tiles

Year	Sales Volume (in MT)*	% Increase (Decrease)	Sales Value (Php Million)*	% Increase (Decrease)
2013	100	-	100	-
2014	65	(34.88)	77	(23.08)
2015	28	(56.65)	31	(60.00)
2016	65	128.89	69	125.00
2017	35	(45.24)	38	(44.44)
2018	28	(20.21)	38	-

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows that the export sales volume decreased with a percentage decline from 2013 to 2015 by 35% and 57%, respectively. In 2016, export sales volume increased by 129%, declined in 2017 by 45% and further declined in 2018 by 20%.

Also, the export sales value reflected a percentage decline from 2013 to 2015 by 23% and 60%, respectively. In 2016, export sales value increased by 125%, declined in 2017 by 44%. In 2018, export sales value was maintained at 2017 level.

## C. Production

### 1. Total Production

Table 9: Total Production of Ceramic Tiles (in MT)

Year	Production (in MT)*	% Increase (Decrease)
2013	100	-
2014	100	0.02
2015	109	8.67
2016	103	(5.63)
2017	104	1.33
2018	104	(0.15)

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows an increasing trend in production from 2013 to 2015 by 0.02% and 8.67%, respectively. There was a 5.63% decline in production in 2016 and an increase of 1.33% in 2017. In 2018, production slightly decreased by 0.15%. The highest

production level was recorded at xxx MT in 2015 when domestic sales volume was also at the highest level. The decrease in production in 2018 was due to the decrease in sales volume for that year by 1.44%.

Floor Center Group of Companies alleged that there is no serious injury experienced by the domestic industry since the production volume increased from the start to the end of POI (2017). This is also alleged by the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters, the European Commission and the Embassy of Spain. Further, the Philippine Ceramic Products Importers Association, Inc. attested that the average domestic sales for 2017 is higher than in 2016.

According to MSC, due to the high influx of imported tiles, sales volume decreased, thus, the production volume of local tiles was reduced which led to the shutdown of 4 production roller kilns for wall tiles as of May 2018.

## 2. Capacity Utilization

Table 10: Capacity Utilization Rate

Year	Rated Capacity in MT (A)*	Actual Production in MT (B)*	Capacity Utilization Rate (%) (B/A)	% Increase (Decrease)
2013	100	100	82.40	-
2014	100	100	82.42	0.02
2015	100	109	89.56	8.67
2016	100	103	84.52	(5.63)
2017	100	104	85.65	1.34
2018	100	104	85.52	(0.15)

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows an increasing trend in the rate of capacity utilization from 2013 to 2015 and a fluctuating trend from 2015 to 2018. The highest capacity utilization rate which is also the highest volume of production was recorded in 2015 at 89.56%.

Floor Center Group of Companies assumed that the domestic industry is fully utilized so the safeguard measure can possibly increase their sales from 12 Million sqm per year to 14 Million sqm per year since the industry has no statement regarding new investments that will significantly increase total production capacity. The Philippine Ceramic Products Importers Association, Inc. alleged that there is no existence of serious injury and significant impairment to the domestic industry since capacity utilization increased especially in 2017.

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters claimed that relevant indicators such as production and capacity utilization of the Philippine industry show that it has not suffered any injury.

According to the domestic industry, they will be investing for new kiln which will give them additional capacity.

## D. Inventories

Table 11: Finished Goods Inventory of Ceramic Tiles (in MT)

Year	Volume (in MT)*	% Increase (Decrease)	Value (PhP M)*	% Increase (Decrease)
2013	100	-	100	-
2014	110	9.76	115	14.53
2015	142	29.33	140	22.01
2016	150	5.51	156	11.62
2017	164	9.48	168	7.67
2018	189	15.07	209	24.68

Source: Domestic Industry

\*Figures indexed due to confidentiality

The table shows an increasing trend in inventory from 2013 to 2018 by 10%, 29%, 6%, 9%, and 15%, respectively. The highest production volume was in 2015 which is also the highest recorded increase in finished goods inventory by 29%. The increasing level of inventory indicates the inability of the industry to dispose of their products despite the increasing demand for ceramic floor and wall tiles in the domestic market.

## E. Cost of Production

Table 12: Cost of Production of Ceramic Tiles (P/MT)

Particulars	2013	2014	2015	2016	2017	2018
Raw Materials*	73	72	69	68	70	68
Direct Labor*	2	2	2	3	2	2
<b>Manufacturing Overhead*</b>						
Variable*	25	26	29	29	27	29
Fixed*	14	14	17	19	16	17
	12	12	12	11	11	12
<b>Cost to produce per unit*</b>	100	100	100	100	100	100
<b>% Increase (Decrease)**</b>	-	5.36	(6.07)	(5.37)	(1.05)	20.04

Source: Domestic Industry

\*Figures in percentage of the cost to produce per unit

\*\*Computed based on the absolute figures of cost to produce per unit

The domestic industry's cost to produce consists of the following: (1) raw materials such as clay, glaze, and ink; (2) direct labor such as salaries and wages; (3) manufacturing overhead classified as variable and fixed cost. Variable costs include power consumption, fuel, packaging, supplies, and spare parts, etc. Fixed cost includes plant depreciation, rent, etc.

The domestic industry's raw materials include locally manufactured and imported materials, allocated as 65% and 35%, respectively.

The cost to produce per unit increased in 2014 by 5% and declined every year from 2014 to 2017 by 6%, 5%, and 1%, respectively. The lowest cost to produce was recorded at PhP xxx per MT in 2017. However, in 2018, the cost to produce increased by 20%, recorded as the highest cost at PhP xxx per MT.

According to MSC, the decline in the production cost can be attributed to the initiatives of the company. Investments in gasifier facility and hot air generators replaced fossil fuel with biomass waste to convert syngas. Heat recovery where waste heat generated from the kiln exhaust also contributed to lessening fuel consumption. In addition, digital printing machines reduced wastage on glaze. Other external factors were inflation declining at 2% and the peso at PhP42 during the period 2013-2017 which resulted to lower power rate and lower prices of imported raw materials and spare parts. Despite the cost reduction initiatives of the industry in the previous years, cost to produce spiked in 2018 due to higher inflation, increase in fuel cost coupled with peso depreciation and implementation of train law.

## F. Profitability

### 1. Profit and Loss

Table 13: Earnings Before Interest and Tax for Domestic Sales of Ceramic Tiles (in Million Pesos)

Particulars	2013	2014	2015	2016	2017	2018	% Increase (Decrease) 2013-2014	% Increase (Decrease) 2014-2015	% Increase (Decrease) 2015-2016	% Increase (Decrease) 2016-2017	% Increase (Decrease) 2017-2018
Sales*	100	100	100	94	98	106	(0.25)	0.04	(5.42)	4.26	7.24
Cost of Goods Sold*	100	100	100	90	95	102	0.21	(0.26)	(10.29)	5.73	7.66
Gross Profit*	100	98	99	112	112	119	(2.00)	1.22	13.10	(0.18)	5.89
Selling, General and Administrative Expenses*	100	123	145	153	162	186	22.83	18.36	5.42	5.50	14.79
Earnings Before Interest*	100	29	(30)	(2)	(27)	(68)	(71.21)	(202.63)	92.31	(1,066.67)	(157.14)

Source: Domestic Industry

\*Figures indexed due to confidentiality

Table 13 shows the domestic earnings before interest and tax (EBIT) of the ceramic tiles industry.

Sales revenue fluctuated from 2013 to 2017 and an increase of 7% in 2018. The lowest decline was recorded at 5.42% in 2016 and the highest increase was recorded at 7.24% in 2018 due to price hike of 10% by the domestic producer. Cost of goods sold also fluctuated. From an increase of 0.21% in 2014, it declined by 0.26% in 2015 and 10.29% in 2016. An increase of 5.73% in 2017 and a further increase of 7.66% was recorded in 2018. Gross profit declined by 2% in 2014, increased by 1.22% in 2015 and 13.10% in 2016, declined by 0.18% in 2017 and increased by 5.89% in 2018.

Selling, general and administrative expenses (SGAE) increased from 2013 to 2018 with a percentage increase of 22.83%, 18.36%, 5.42%, 5.5% and 14.79%, respectively. According to the domestic industry, the continuous increase in SGAE was due to increases in payment of local taxes for the establishment of their retail stores in the 4<sup>th</sup>

quarter of 2016. This included fees for business permits based on revenue. The company also invested in a business management software called enterprise resource planning (ERP) system, increased salaries, and benefits, and created a retirement benefit plan for all eligible regular employees.

Earnings before interest and tax (EBIT) decreased from ₱xxx in 2013 to ₱xxx in 2014 or a decline of 71%. In 2015, the ceramic tile industry started to experience losses of ₱xxx and continued in 2016, 2017 and 2018 with amounts of ₱xxx, ₱xxx and ₱xxx, respectively. Throughout the POI, the EBIT exhibited a declining trend of 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry's operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018.

The Philippine Ceramic Products Importers Association, Inc. alleged that there is no existence of the serious injury and significant impairment to the domestic industry since revenue and gross profit of the domestic industry increased during the POI especially in 2017 while net income decreased due to an increase in their selling, general and administrative expenses. This is supported by the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters which stated that the decline in net profit was not due to the impact of imports but mainly due to an increase in selling, general and administrative expenses (SG&A) of the domestic industry. Also, the increase in SG&A expenses was faster than the increase in sales profits. The Embassy of Spain alleged that the industry remains stable since gross profit increased by 12% in POI.

## 2. Return on Sales

Table 14: Return on Sales

Particulars	2013	2014	2015	2016	2017	2018
Sales*	100	100	100	94	98	106
Earnings Before Interest and Tax*	100	29	(30)	(2)	(27)	(68)
<b>Return on Sales (%)</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>	<b>xxx</b>

Source: Domestic Industry

\*Figures indexed due to confidentiality

Return on sales is a profitability ratio which provides insight into how much profit is being produced per peso of sales.

The return on sales from 2013 to 2018 showed a declining and unstable trend. Table 14 shows that return on sales was xxx in 2013, xxx in 2014, xxx in 2015, xxx in 2016, xxx in 2017 and xxx in 2018.



## G. Employment and Wages

Table 15: Employment and Wages

Year	Number of Employees*	% Increase (Decrease)	Wages (Million)*	% Increase (Decrease)
2013	100	-	100	-
2014	103	2.95	117	17.46
2015	100	(3.08)	117	0.00
2016	97	(3.29)	100	(14.53)
2017	80	(16.76)	119	18.18
2018	77	(4.49)	108	(8.70)

Source: Domestic Industry

\*Figures indexed due to confidentiality

Table 15 shows an increase in the number of employees by 3% in 2014. From 2014 to 2017, the number of employees declined by 20% and further declined by 4% in 2018.

Wages increased by 17% in 2014 and remained the same even with a decrease in the number of employees in 2015. The highest decline in wages was recorded at 15% in 2016. In 2017, there was an increase in wages by 18% despite the decrease in the number of employees. In 2018, the wages decreased by 9% due to the decrease in the number of employees by 4%. According to the ceramic tiles industry, there was an increase in salary and benefits of the employees.

According to MSC, to stay competitive, automation was implemented in the production of tiles by investing in new digital printing machines which required lesser staff in the glazing line. Investment in automatic packing palletizing machine to automate the sorting and preparation of goods from boxes arranged in pallets was also made. In addition to automation, the shutdown of 4 production roller kilns for wall tile as of May 2018 also resulted to reduction of manpower.

## H. Productivity

Table 16: Productivity

Year	Production*	Number of Employees*	Labor Productivity (MT/employee)	% Increase (Decrease)
2013	100	100	xxx	-
2014	100	103	xxx	(2.85)
2015	109	100	xxx	12.12
2016	103	97	xxx	(2.42)
2017	104	80	xxx	21.74
2018	104	77	xxx	4.11

Source: Domestic Industry

\*Figures indexed due to confidentiality

Based on the industry's submission, labor productivity shows a fluctuating trend from 2013 to 2017. Labor productivity declined by 3% in 2014, increased by 12% in 2015, declined by 2% in 2016, increased by 22% in 2017 and further increased by 4% in 2018 due to decrease in the number of employees.

The Philippine Ceramic Products Importers Association, Inc. alleged that there is no existence of serious injury and significant impairment to the domestic industry since labor productivity increased especially in 2017.

## I. Price Undercutting

Table 17: Average Selling Price of Domestic Product vs. Landed Cost of Imports for 2017 (P/MT)

Country	Wtd. Ave. Landed Cost (P/MT) (a)	% Share to Total Imports	Domestic Selling Price (P/MT) (b)	% Undercutting (b-a)/b*100
<b>Major Sources:</b>				
PROC	xxx	84	xxx	(1.61)
Indonesia	xxx	7		50.02
Vietnam	xxx	4		6.42
<b>Wtd. Average</b>	xxx	<b>95</b>		<b>0.96</b>
Other Sources	xxx	5		(50.69)
<b>Wtd. Average</b>	xxx	<b>100.00</b>		<b>(1.28)</b>

Sources: BOC-SAD-IERD – Wtd. Ave. Landed Cost  
Domestic Industry – Domestic Selling Price

Weighted average landed cost of imports from the major sources is lower than the domestic selling price of the domestic product indicating a price undercutting of 0.96%.

The Embassy of Spain alleged that the industry remains stable since there is negligible 0.28% of undercutting on an average basis, absence of price suppression and only a single year of price depression. European Commission stated that there was undercutting amounting to 3.3% for imports from China, Indonesia and Viet Nam which are major sources of imports accounting for 95% of total imports; no undercutting for imports from other sources which were actually 60% higher than local industry prices

TECO claimed that the price of Taiwan's tiles with dimensions above 60cm x 60cm is much higher in comparison to the price of Philippine tiles due to high cost of manufacturing, environmental protection, labor and tariffs, and therefore cannot be regarded as the source of serious injury, or threat of serious injury to the Philippine tile industry.

Cerame-Unie and ASCER stated that the average export prices of EU exports are consistently higher than the domestic prices and import prices from major export countries. Weighted average landed cost of imports from major sources i.e. China,

Indonesia, and Vietnam is lower than the domestic selling price with a price undercutting of 3.27%. Even though the production process is similar, EU products cannot be compared in terms of quality or versatility to the domestic product. EU imported products and domestic products do not compete in the same market segment.

Table 18: Average Selling Price of Domestic Product vs. Landed Cost of Imports for 2018 (P/MT)

Country	Wtd. Ave. Landed Cost (P/MT) (a)	% Share to Total Imports	Domestic Selling Price (P/MT) (b)	% Undercutting (b-a)/b*100
<b>Major Sources:</b>				
PROC	xxx	80	xxx	(31.09)
Indonesia	xxx	11		30.37
Vietnam	xxx	4		8.41
<b>Wtd. Average</b>	<b>xxx</b>	<b>95</b>		<b>(22.42)</b>
Other Sources	xxx	5		(45.80)
<b>Wtd. Average</b>	<b>xxx</b>	<b>100.00</b>		<b>(23.58)</b>

Sources: BOC-SAD-IERD – Wtd. Ave. Landed Cost  
Domestic Industry – Domestic Selling Price

Weighted average landed cost of imports from Viet Nam and Indonesia was lower than the domestic selling price of the domestic product indicating a price undercutting of 30% and 8%, respectively.

## J. Price Depression

Price depression reflects the extent to which the domestic producer decreases its selling price in order to compete with the imported product.

Table 19: Domestic Selling Price of the Locally Produced Ceramic floor and wall tiles (P/MT)

Year	Average Selling Price of Domestic Industry (P/MT)*	% Increase/ (Decrease)
2013	100	-
2014	100	-
2015	94	(5.55)
2016	94	-
2017	94	-
2018	104	10.05

Source: Domestic Industry

\*Figures indexed due to confidentiality

The industry declined its average selling price by 6% in 2015 and remained constant until 2017. In 2018, the average selling price increased by 10% to cover the increase in product cost.

## K. Price Suppression

Price suppression refers to the extent to which the imported product prevents the domestic producer from increasing its selling price to a level that will allow full recovery of its cost of production.

Table 20: Price Suppression of Locally Produced ceramic floor and wall tiles (₱/MT)

Year	Ave. Selling Price of Domestic Product (Php/MT)*	Cost of Production (Php/MT)*	Difference (Php/MT)	% Price Suppression
2013	100	100	xxx	xxx
2014	100	105	xxx	xxx
2015	94	99	xxx	xxx
2016	94	94	xxx	xxx
2017	94	93	xxx	xxx
2018	104	111	xxx	xxx

Source: Domestic Industry

\*Figures indexed due to confidentiality

The industry's domestic selling price managed to cover its cost of production during the POI. Hence, no price suppression was recorded.

## L. Other Causes of Injury

According to the domestic industry, imported tile had an advantage in pricing due to the support provided by the government of the exporting country. Also, manufacturers in other countries, especially China, are highly subsidized by their government in terms of:

1. Logistics cost – most of the time the freight cost per container on TEU 20 x 20 is \$1 compared to the Philippines of \$784.
2. The infrastructure cost in China is heavily supported by the government such that the cost is \$0.16 to any distance, unlike in the Philippines where the domestic industry pays around \$20 from Calabarzon to Northern Luzon.
3. Electricity and power are also not subjected to government taxes in other countries unlike in the Philippines which is heavily burdened by taxes even for very basic service such as power and electricity.

In 2012, the cost of importation went down after the termination of safeguard duties imposed on ceramic tiles.

The European Commission noted that despite the uninterrupted safeguard measures on ceramic floor and wall tiles from 2002 to 2012, the domestic industry has not adjusted, therefore, there may be other causes of injury other than increased in imports such as increased in local taxes. The Spanish Ceramic Tile Manufacturer's Association (ASCER) also alleged that any existing injury of the domestic industry is not attributable to increased imports since the domestic ceramic industry has been facing an increase in local taxes, additional expenses due to business investments, increased salaries for the POI, lack of government support, etc.

#### **M. Other Issue – Existing Trade Barrier**

EU emphasized that a 10% tariff rate is applied to EU imports. Also, imported ceramic tiles are required to comply with Philippines Standard PNS ISO 13006:2007 quality standard. Further, the EU industry believes that direct bilateral measures under the ASEAN-China FTA or anti-dumping/anti-subsidy measures are more appropriate to apply than safeguard measures. Also, EU exports should be exempt from the safeguard measures.

### **V. PUBLIC INTEREST CLAUSE**

Rule 8.2 of the IRR of RA 8800 states, *"in the case of non-agricultural products, the Secretary shall first establish that the imposition of the provisional safeguard measure would be in the public interest."*

Rule 5.2 of the IRR of RA 8800 provides, *"The Secretary, when establishing that the application of a safeguard measure will be in the public interest, shall take into consideration the following factors, among others: i) whether the imposition of the provisional measure will result in a political or economic crisis; and ii) the extent to which such imposition will cause a shortage of the product under consideration in the domestic market."*

The DTI informed the identified importers, foreign embassies of concerned countries, consumer groups, associations, Federation of Philippine Industries (FPI) and the Philippine Chamber of Commerce and Industry (PCCI) relevant to the public interest clause.

Embassy of Government of Indonesia stated that imposition of safeguard measure will halt local industry's growing demand and related industry in the Philippines.

China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters claimed that the capacity utilization rate of the domestic industry is at full capacity. Under this circumstance, the domestic industry is unable to meet the rapidly growing market demand. In this case, the imposition of safeguard measures to restrict imports is not in the public interest. The domestic industry cannot meet the rapid growth of demand and the perspective of product diversity. The domestic industry is far less in terms of employment and overall welfare compared to importers, building decoration companies and general downstream users. The previous long-term imposition of safeguard measures on imported ceramic tiles illustrated that it eventually does not produce a dynamic and competitive industry. Once the measure is lifted, the domestic industry had to face normal competition, where the lack of competitiveness is likely to happen.

Cerame-Unie (The European Ceramic Industry Association) stated that the application of safeguard measures should remain exceptional because it affects imports from all countries and does not require the existence of an unfair element like anti-dumping or anti-subsidy measures do. The WTO jurisprudence has established strict criteria for the application of safeguard measures. The application must demonstrate that safeguard measures is in the domestic interest.

According to the Philippine Ceramic Products Importers Association, Inc., the imposition of safeguard measures will not be in the public interest. It will increase importation costs, decrease the volume of imports and cause a shortage of ceramic tiles in the domestic market. It will increase the prices of imported tiles which supplies the substantial share of the total demand which domestic production cannot supply. It will dampen the increasing demand for tiles as a construction material. It will slow down the growth in the industry construction which is a major contributor to economic development in terms of employment, home/condominium sales, bank loans, and government tax collection. It will only benefit two (2) domestic producers at the cost of affecting at least one hundred (100) importers and the buying public. Domestic producers are foreign investments: as of 2016, Mariwasa being a Thailand owned and Formosa being a Taiwanese and BVI owned while importers are Filipino businesses. Importers give a bigger contribution to the Philippine economy. The taxes collected by the government from the tile importers are more than what domestic producers provide on its domestic sales. For 2017, tile importers supply a substantial rate of the total demand for ceramic tiles while domestic producers only supply at a lesser rate. Importers employ more personnel than domestic producers. There are at least one hundred (100) tile importers with a minimum seventeen (17) employees or a total of 1,700 personnel compared to two (2) tile manufacturers that employ 1,257.

DTI is mandated by RA 8800 (The Safeguard Measures Act) to protect domestic industry from serious injury caused by a surge in imports. While DTI is also mandated to protect consumers, there is a need to balance this taking into account other sectors such as investors and industry which provides 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 ceramic floor and wall tiles retain their option to choose between the local and imported ceramic floor and wall tiles since imports will still be allowed. The imposition of a safeguard measure is not expected to cause a shortage of ceramic floor and wall tiles in the domestic market. For these reasons, DTI has determined that it is in the public interest to impose the provisional safeguard measure.

## **VI. FINDINGS AND CONCLUSIONS**

### **VI. A Volume of Imports**

#### **VI.A.1 In Absolute Terms**

- Imports rapidly increased from 2013 to 2016.
- In 2017, imports declined by 13% over the 2016 level, but still higher by 153% than the 2015 level.
- In 2018, imported tiles slightly declined by 1% over the 2017 level, but already surpassed the 2013 to 2015 imports.
- PROC, Indonesia and Viet Nam are the major suppliers of the imported product.

#### **VI.A.2 In Relative Terms**

- From 2013 to 2015, the share of imported ceramic tiles to domestic production increased at a faster rate from a mere xxx in 2013 to xxx in 2015. Share of imports in 2016 rose to its highest level at xxx.
- In 2017, the share of imports relative to domestic production declined from xxx (2016) to xxx and further to xxx in 2018.

### **VI.B Serious Injury**

#### **VI.B.1 Market Size**

- The total Philippine apparent market increased from 2013 to 2016 but declined in 2017.
- In 2014, the apparent Philippine market increased by 17%. It continued to increase by 164% in 2015 and further by 130% in 2016.
- In 2017, the total apparent consumption declined by 11%, as imports dropped by 13% and the domestic sales slightly increased by 0.69%. In 2018, market demand further declined by a mere 1%.

#### **VI.B.2 Market Share**

- Share of imports to total Philippine market increased significantly from a mere xxx in 2013 to xxx in 2015. Share of imports eaten up the market to as high as xxx in 2016 and to xxx in 2017 and 2018.
- Share of domestic sales to the Philippine market recorded its biggest decline in 2016 at 13%. In 2017 and 2018, domestic sales slightly recovered by less than 2%. However, from a xxx market share in 2013, the industry's domestic sales shrank to xxx.

#### **VI.B.3.a. Domestic Sales**

##### **VI.B.3.a.1 Sales Volume and Value**

- Sales volume and value reflected a fluctuating trend from 2013 to 2018. Sales volume and value declined by 3.75% and 0.25% in 2014, increased by 6.07%

and 0.04% in 2015, declined by 3.04% and 5.42% in 2016 and increased by 0.69% and 4.26% in 2017. In 2018, sales value increased by 7.24% despite the decrease in sales volume by 1.44%.

#### **VI.B.3.b. Export Sales**

- Export sales volume and value reflected a decreasing trend from 2013 to 2015, increased in 2016 but declined in 2017. Export sales volume further declined in 2018 while the export sales value was maintained at 2017 level.

#### **VI.B.4 Production**

##### **VI.B.4.a Total Production**

- Increasing trend from 2013 to 2015.
- In 2016, production volume declined by 5.63% but slightly increased by 1.33% in 2017. In 2018, production slightly decreased by 0.15%.

##### **VI.B.4.b Capacity Utilization**

- Increasing trend of capacity utilization rate from 2013 to 2015.
- Fluctuating trend from 2015 to 2018.
- The highest capacity utilization rate which is also the highest volume of production was recorded in 2015 at 89.56%.

##### **VI.B.4.c Inventories**

- Increasing trend in inventory from 2013 to 2018.
- The highest production volume was in 2015 which is also the highest recorded increase in finished goods inventory by 29%.

##### **VI.B.4.d Cost of Production**

- The cost to produce per unit increased from 2013 to 2014 and declined from 2015 to 2017
- In 2018, the cost to produce increased by 20%, recorded as the highest cost.

#### **VI.B.5 Profits and Losses**

- Sales revenue fluctuated from 2013 to 2017 and an increase of 7% in 2018.
- Selling, general and administrative expenses (SGAE) increased from 2013 to 2018
- Earnings before interest and tax (EBIT) decreased in 2014. The ceramic tile industry sustained losses since 2015.

##### **VI.B.5.b Return on Sales**

- The return on sales from 2013 to 2018 showed a declining and unstable trend.



### **VI.B.6 Employment**

- Increased number of employees in 2014 but declined from 2015 to 2017 further declined by 4% in 2018.
- Lowest recorded number of employees was xxx in 2018.

### **VI.B.7 Productivity**

- Productivity showed a fluctuating trend from 2013 to 2017 and increased in 2018.

### **VI.B.8 Prices**

#### **VI.B.8.1 Price Undercutting**

- Weighted average landed cost of imports from the major sources is lower by 0.96% than the domestic selling price of the domestic product in 2017.

#### **VI.B.8.2 Price Depression**

- The domestic industry did not increase its average domestic selling price from 2015 to 2017. In 2018, the average selling price increased to cover the increase in product cost.

#### **VI.B.8.3 Price Suppression**

- The domestic industry average domestic selling price managed to cover its costs of production during the POI.

## **VII. CAUSATION**

The above evidence shows that serious injury to the domestic industry was caused by increased imports based on the following:

1. that the volume of imports of ceramic floor and wall tiles
  - in absolute terms increased from 2013 to 2016. In 2017, imports are lower by 13% over the 2016 level, but higher by 2,170% in 2014 or the pre-surge level.
  - in relative terms, the share of imports to domestic production increased from 4% in 2013 to 641% in 2016. In 2017, the share of imports was recorded at 549%, lower by 92% to 2016 level, but higher by 523% in 2014 or the pre-surge level. In 2018, the share of imports was recorded at 542%, lower by 7% to 2016 level, but higher by 516% in 2014.
2. that the domestic industry has suffered serious injury caused by increased imports based on the following:
  - during the POI, despite significant increases in market size, the market share of domestic manufacturers declined from 96% in 2013 to 15% in 2017 and 2018;

- the share of imported ceramic wall and floor tiles grew from 4% in 2013 to 87% in 2016;
  - earnings before interest and tax exhibited a declining trend of 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry's operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018;
3. that increased imports are the substantial cause of serious injury to the domestic industry based on the following:
- significant increase in the volume of imported ceramic floor and wall tiles preceded the serious injury to the industry from 2015 to 2017; and
  - The conditions of the competition show that the market share of locally produced ceramic floor and wall tiles were essentially displaced during the POI

The China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters alleged that causal link does not exist since most of the operating indicators of the domestic industry are in good condition, i.e. gross profits and labor productivity, except for net profit which declined due to an increase in selling, general and administrative expenses (SG&A).

The Government of Indonesia also alleged that there is no causal link between the increased imports and decline in the domestic industry's economic indicators such as a decline in employment, market size and increase in productivity. As the Philippine ceramic floor and wall tiles grew, so does the domestic industry. Overall productivity increased even with fluctuations from the base index in 2013. The concern lies in the ability of the domestic industry to supply domestic demand.

EU stated that any safeguard measures would limit legitimate market access for imports from the EU in particular, as these imports are not causing injury to the domestic industry due to their low volumes and high prices. EU further stated that the difficulties suffered by the domestic industry are the result of an increase in local taxes and is not linked to imports.

ASCER claimed that there is no evidence of industry injury caused by imports increase. The domestic ceramic industry has been facing an increase in local taxes, additional expenses due to business investments, increased salaries for the POI, lack of government support, etc. Thus, any existing injury to the domestic industry is not attributable to increased imports.

According to Philippine Ceramic Products Importers Association, Inc., the domestic industry did not improve its competitiveness under the previously imposed safeguard measures from 2002 to 2012. Domestic producers still failed to be competitive and capture consumer market and demand. During said implementation, out of six (6) domestic producers, three (3) ceased operations, two (2) had intermittent operations and only one (1) had normal operations.

## a) Imposition of Provisional Safeguard Measures

Section 8 of RA 8800 states that:

*“in critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a preliminary determination that increased imports are substantial cause of, threaten to substantially cause, serious injury to the domestic industry, the Secretary shall immediately issue, through the Secretary of finance, a written instruction to the Commissioner of Customs authorizing the imposition of a provisional general safeguard measures.*

*Such measure shall take the form of a tariff increase, either ad valorem or specific, or both, to be paid out through a cash bond set at a level sufficient to redress or to prevent serious injury to the domestic industry x x x The cash bond shall be deposited with a government depository bank and shall be held trust for the importer who posted the bond. The duration of the provisional measure shall not exceed two hundred (200) days from the date of imposition xxx”.*

There are indications that the significant increase in the volume of imports affected the performance of the local industry. The conditions of the competition show that the market share of locally produced ceramic floor and wall tiles were essentially displaced during the POI as the share of imports in the domestic market significantly increased. This resulted to decline in earnings before interest and tax by 71% in 2014, a sharp decline of 203% in 2015 when the operations resulted to loss, an increase of 92% in 2016 which means that there was an improvement in operation compared to 2015 but the industry remained at loss. In 2017, the industry’s operation continued to exhibit losses with the highest decline of 1,067% and further decline of 157% in 2018.

There are also other factors that contributed to the existence of critical circumstances, such as zero tariff rates for imported ceramic floor and wall tiles which allowed exporters to easily penetrate the market. Further, the implementation of trade remedy measures by other countries may result to surge in imports of ceramic tiles in the local market.

On the other hand, DTI noted the concerns raised by the importers and other interested parties that the imposition of a provisional safeguard measure on imported ceramic floor and wall tiles will increase the prices of ceramic tiles and lead to a shortage of supply. Thus, affecting the government’s construction project.

In determining the public interest, Rule 5.2 of the IRR of RA 8800 provides, *“The Secretary, when establishing that the application of a safeguard measure will be in the public interest, shall take into consideration the following factors, among others: x x x ii) the extent to which such imposition will cause a shortage of the product under consideration in the domestic market.”*

It must be noted that users of ceramic floor and wall tiles retain their option to choose between the local and imported ceramic floor and wall tiles since imports will still be allowed. The imposition of a safeguard measure is not expected to cause a shortage of ceramic floor and wall tiles in the domestic market. It will provide a level playing field to enable the domestic industry to compete with imports. This will allow expansion of the

country's manufacturing base and generate more jobs for Filipinos. For these reasons, DTI has determined that it is in the public interest to impose the provisional safeguard measure.

DTI computed the amount of the provisional safeguard duty by comparing the ex-plant price of locally produced ceramic floor and wall tiles with the weighted average landed cost of imported ceramic tiles in 2017, i.e. ₱xxx/MT for locally produced and ₱xxx/MT for imported ceramic tiles with a price difference of ₱3,018/MT or ₱3.00/kg.

Imports originating from developing countries covered by Rule 8.8 of the IRR of RA 8800 shall not be subject to the provisional safeguard measure. Also, unglazed, porcelain, mosaic, and marble tiles are excluded from the investigation since they are not produced locally. Further, the preliminary investigation excluded glazed ceramic tiles imported from the European Union since said tiles do not compete with locally produced tiles.

#### **b) Recommended Measures**

The existence of a causal link between the increased imports of the product under consideration and serious injury to the domestic industry has been established in the investigation. The evidence submitted by all interested parties justifies the imposition of the provisional measure to prevent further injury to the local industry which is difficult to repair.

The case records will be forwarded to the Tariff Commission for its formal investigation. It must be emphasized that a formal investigation by the Commission is wider in scope as it includes marathon public hearings to give all parties directly affected and such other interested parties the opportunity to be heard and to present evidence including the opportunity to respond to the presentations of other parties and to submit their views.

Considering the above premises, the Department thereby recommends a ₱3.00/kg provisional safeguard measure in the form of a cash bond on imported ceramic floor and wall tiles, classified under AHTN Codes AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 while the case is under formal investigation by the Tariff Commission. The measure shall be effective for a period of 200 days from the date of issuance of BOC of the relevant Customs Memorandum Order or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

### **VIII. ADJUSTMENT PLAN**

According to the domestic industry, to facilitate positive adjustment of the industry's position to import competition, they will undertake the implementation of an adjustment plan as follows:

- a) At least 200 new designs will be introduced.
- b) The company will continue to appoint 40 new dealers and open additional 10 retail outlets in the next four years to have a more comprehensive distribution network to penetrate other areas than those of the primary markets currently being served.

- c) The company will continue to strengthen brand equity by implementing various marketing programs thru advertising and promotional activities.
- d) The company will continue to promote sustainability driven by investment in its Biomass Gasifier Project in order to completely replace fossil fuel and become 100% renewable energy user for its requirement for synthetic gas and electricity.
- e) Additional planned investments, i.e. new press machine, rectifying machine and automatic packing, additional digital printing machine, new big kiln, additional units of gas engine generator, install solar panels, and dry process.

The company stated that they will be able to complete its new adjustment plan by 2023.

## **IX. THE WORLD TRADE ORGANIZATION AGREEMENT ON SAFEGUARDS**

Article XIX (Emergency Action on Imports of Particular Products) of the General Agreement on Tariffs and Trade (GATT) 1994 provides that: *"If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession."*

The WTO Appellate Body in **Argentina – Footwear and Korea – Certain Dairy Products** established that safeguard measures may be applied only when the prerequisites of Article XIX of GATT 1994 and the conditions of the Agreement on Safeguards (both Multilateral Trade Agreements and as such are integral parts of the WTO Agreement) are clearly demonstrated.

Ceramic tile is not the subject of any tariff concession under the WTO Agreement. The investigation is also governed by RA 8800, the Safeguard Measures Act, and the terms and conditions of the Agreement on Safeguards.

### **IX.a. Unforeseen Development**

As a WTO Member, the Philippines is bound by Article XIX GATT 1994 and the Safeguards Agreement. The applicant domestic industry must, therefore, allege and prove that unforeseen developments and the effect of the obligations of the Philippines under the WTO Agreement, including tariff concessions, have led to the increase in importation as well as the presence of the resulting serious injury or threat thereof.

Since other countries imposed trade remedy measures on floor and wall tiles, the Philippines, according to the domestic industry, are expected to be flooded with imports. The local ceramics industry stated that the following unforeseen developments affecting the local industry:

- According to customs news.vn, the General Department of Vietnam Customs requested the units to intensify the collection and processing of information of

pre-clearance, clearance, and post-clearance for shipment of ceramic tiles importing from China to Vietnam to take inspection measures, supervise and control the customs clearance and post-clearance inspection for those shipments. Particularly, units should pay attention to intensify the collection and processing of information in cases where there were signs of violation such as Information on selling goods on the market as enameled tile, however, enterprises declared imported items were unglazed tiles to reduce the value of the tax,...At the same time, strengthening the inspection of dossiers, to conduct physical inspection during the process of implementing customs procedure for importing ceramic tiles from China which have signs of taking advantages of incorrect declaration in quantity, type, HS code for tax fraud, customs valuation or shirking the implementation of regulation conformity announcement. (<https://customsnews.vn/strengthen-to-manage-ceramic-tiles-imported-from-china-7792.html>)

- On 16 February 2018, the Argentinian authorities imposed a definitive anti-dumping duty on imports of certain porcelain tiles from India, Malaysia, Viet Nam, Brazil, and China. The products subject to dumping duties are now classified under 2017 HS code subheading 6907.21.00. The rate of duty on imports from India is ad valorem 75.8% of the FOB value. The rate of duty on imports from Viet Nam is ad valorem 31.15% of the FOB value. The rate of duty on imports from Brazil is ad valorem 10.06% or 48.2% of the FOB value depending on the company. The rate of duty on imports from China is ad valorem 27.7% of the FOB value. The rate of duty on imports from Malaysia is ad valorem 32% of the FOB value. The duty is in force for a period of five years. (<https://www.globaltradealert.org/intervention/15002/anti-dumping/argentina-definitive-antidumping-duty-on-imports-of-certain-plates-and-tiles-from-china-india-malaysia-viet-nam-and-brazil>)
- On 3 April 2018, Indonesia notified the WTO's Committee on Safeguards that it initiated on 29 March 2018 a safeguard investigation on ceramic flags and paving, hearth or wall tiles; ceramic mosaic cubes and the like, whether or not on a backing. ([https://www.wto.org/english/news\\_e/news18\\_e/safe\\_idn\\_03apr18\\_e.htm](https://www.wto.org/english/news_e/news18_e/safe_idn_03apr18_e.htm))
- On 10 April 2019, The Coalition for Fair Trade in Ceramic Tile (Petitioner), comprised of eight U.S. producers of ceramic tile products, filed antidumping (AD) and countervailing duty (CVD) against ceramic tile products from China. Under U.S. trade laws, a domestic industry can petition the U.S. Department of Commerce ("DOC") and U.S. International Trade Commission ("ITC") to investigate whether the named subject imports are being sold to the United States at less than fair value ("dumping") or benefit from unfair government subsidies. Chinese ceramic tiles have already been the subject of antidumping duties by the European Union, South Korea, Mexico, India, and Pakistan. The additional AD duties in these countries likely pushed Chinese ceramic tile exports away from these markets and resulted in increased export volumes to the U.S. market. Having seen how ceramic tile producers in other countries have used anti-dumping duties to limit Chinese imports into their markets, U.S. ceramic tile producers are now seeking their own antidumping and countervailing duties to protect the U.S. market. (<https://www.chinalawblog.com/2019/04/ceramic-tile-from-china-and-the-fight-against-china-imports.html>)

According to the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters, there is a failure to establish unforeseen development since it is foreseeable that the recovery growth of imports would occur with the removal of previous safeguard measures on ceramic tiles in 2012.

EU emphasized that customs or trade defense actions undertaken by Viet Nam, Argentina, and Indonesia were solely mentioned. Although the share of imports from China rose dramatically in 2017 due to the bilateral tariff duty on imports from China is 0%, while the MFN rate is 10%, any unforeseen development involving China was not mentioned.

The Government of Indonesia does not find any legal justification in the WTO agreement for “unforeseen development to further increase imports. Article XIX: 1(a) of GATT 1994 merely states “any product is being imported into the territory of that contracting party in such an increased quantity” which relates only to the past increase and not potential increase. A more appropriate and direct measure such as anti-dumping should be used to tackle the source of the problem. Safeguard measures, while available to any country, should be implemented exceptionally because they affect imports from all countries of origin.

Embassy of Spain stressed that other instruments that specifically target injurious imports like anti-dumping measures, anti-subsidy measures or bilateral safeguards would be more appropriate. In this case, only Chinese, Indonesian and Vietnamese imports may be regarded as damaging either through its sheer volume or through its selling price.

Cerame-Unie claimed that the applicant must prove that an increase in imports is sharp due to unforeseen developments. Said developments must cause or threaten to cause serious injury to the domestic industry, a higher level of injury required than for anti-dumping and/or anti-subsidy measures.

#### **IX.b. Notification Requirement**

Article 12.1 of the WTO Agreement on safeguards provides that a Member shall immediately notify the Committee on Safeguards upon:

- (a) Initiating an investigatory process relating to serious injury or threat thereof and the reasons for it;
- (b) making a finding of serious injury or threat thereof caused by increased imports; and
- (c) taking a decision to apply or extend a safeguard measure.

On 20 December 2018, the Philippine Permanent Mission in Geneva was officially notified of the application for safeguard measures investigation on imported ceramic floor and wall tiles.

#### **IX.c. Articles 11 & 23 of the ASEAN Trade in Goods Agreement (ATIGA)**

Articles 11 and 23 of the ATIGA provide provisions on the Notification Procedures and Temporary Modification or Suspension of Concessions as follows:

*"Article 11 - Notification Procedures*

1. *Unless otherwise provided in this Agreement, Member States shall notify any action or measure that they intend to take:*
  - (a) *which may nullify or impair any benefit to other Member States, directly or indirectly under this Agreement; or*
  - (b) *when the action or measure may impede the attainment of any objective of this Agreement.*
2. *x x x*
3. *A Member State shall make a notification to Senior Economic Officials Meeting (SEOM) and the ASEAN Secretariat before effecting such action or measure referred to in paragraph 1 of this Article. Unless otherwise provided in this Agreement, notification shall be made at least sixty (60) days before such an action or measure is to take effect. A Member State proposing to apply an action or measure shall provide adequate opportunity for prior discussion with those Member States having an interest in the action or measure concerned."*

*"Article 23 - Temporary Modification or Suspension of Concessions*

1. *In exceptional circumstances other than those covered under Article 10, Article 24 and Article 86 where a Member State faces unforeseen difficulties in implementing its tariff commitments, that Member State may temporarily modify or suspend a concession contained in its Schedules under Article 19.*
2. *A Member State which seeks to invoke the provision of paragraph 1 of this Article (hereinafter referred to as the "applicant Member State"), shall notify in writing of such temporary modification or suspension of concessions to the ASEAN Free Trade Area (AFTA) Council at least one hundred and eighty (180) days prior to the date when the temporary modification or suspension of concessions is to take effect.*
3. *Member States who are interested in engaging in consultations or negotiations with the applicant Member State, pursuant to paragraph 4 of this Article, shall notify all ASEAN Member States of this interest within ninety (90) days following the applicant Member State's notification of the temporary modification or suspension of concessions. "*

The Philippines is required to notify any safeguard action to the Senior Economic Officials Meeting (SEOM) and the ASEAN Secretariat before effecting such action or measure and adequate opportunity for consultation for the affected ASEAN Member States.

On 20 December 2018, the ASEAN Secretariat was notified of the application for safeguard measures investigation on imported ceramic floor and wall tiles.

**X. DECISION**

DTI, acting under Section 8 of RA 8800, authorizes the imposition of provisional safeguard measures in the form of a cash bond amounting to ₱3.00/kg on imported ceramic floor and wall tiles classified under AHTN Codes AHTN Codes 6907.2123, 6907.2124, 6907.2193, 6907.2194, 6907.2213, 6907.2214, 6907.2293, 6907.2294, 6907.2313, 6907.2314, 6907.2393, 6907.2394 and 6907.4092 for a period of 200 days



from the date of issuance by the Bureau of Customs of an order or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

However, imports originating from developing countries covered by Rule 8.8 of the IRR of RA 8800 shall not be subject to the provisional safeguard measure. Attached as Annex D is the list of said developing countries. Also, unglazed, porcelain, mosaic, and marble tiles are excluded from the investigation since they are not produced locally. Further, the preliminary investigation excluded glazed ceramic tiles imported from the European Union since said tiles do not compete with locally produced tiles.

Importers of ceramic floor and wall tiles originating from a country that is exempt from the safeguard duty shall submit a Certificate of Origin (CO) issued by the authorized agency/office in the source country of manufacture authenticated by the Philippine Embassy/Consulate General.

The notification and consultation requirements of Article 12 of the WTO Safeguards Agreement and Section 17 of RA 8800 and its IRR shall be complied with.

The case records will be transmitted to the Tariff Commission for a formal investigation to determine whether or not there is a need to impose a definitive safeguard measure.

SO ORDERED.

07 May 2019

  
RAMON M. LOPEZ  
Secretary

*f. cr*

## Annex A

## LIST OF IMPORTERS

## I. Identified by Mariwasa Siam Ceramics, Inc.

Acierto Marketing Inc	Khugan Trading Corp
Cebu Oversea Hardware Co. Inc.	Lusterplus Inc
Chersky Trading Corporation	Marmo Pizzara Trading Inc.
Eurotiles Industrial Corporation	Pointersone Enterprises
Felport International Marketing	R.S. Manalo Enterprises
Fortune Anatibol Enterprises Inc.	TKH Marketing
Gaotu Trading Inc	United Harvest Corporation
Granat Marketing Corp	Westpoint Industrial Sales Co. Inc.
Great Mind Marketing	Wilcon aka Glockner Mktg./Kurthar/Zethus Trading/Bynar
Karakam Marketing Corp	

## II. Sourced from the Bureau of Customs (BOC-SAD-IERD)

No.	Company Name	No.	Company Name
1	1986 Construction Supply	34	KCC Property Holdings Inc
2	AB Wee Enterprise	35	Kinshen Trading
3	Abundanceyield Trading Corporation	36	Koryak Marketing Inc
4	Active Global Sourcing Inc	37	Kurthar Trading Corp.
5	Apo International Trading	38	Kuysen Enterprises Inc.
6	Bisazza Philippines Inc.	39	La Europa Ceramica Tile Center Inc.
7	Castilex Trading Corporation	40	Lachica Enterprises
8	Cebu Diamond Ind'l And Mfg. Corp.	41	Morin Marketing Corp.
9	Citihardware Bacolod Inc.	42	MSK Group Work Clark Inc.
10	Citihardware Gensan Inc.	43	NMW Enterprises
11	Copperfield Marketing	44	North & South Builders Supply Inc
12	Cornerstone Diversified Goods Trading Inc.	45	Ortigas & Company Ltd. Partnership
13	Cr8vmat Inc	46	Our Tiles Marketing
14	Davao Citihardware Inc	47	Performance Trading
15	Deco Arts Marketing Inc.	48	Philfirst Global Marketing Inc
16	Dionysus Trading	49	Philr Enterprises
17	Double Infinity World Trade Inc	50	Premiere Oak Lumber & Wood Products
18	E.G. Cortez Enterprises	51	Primary Structures Corporation
19	EDSA Shangrila Hotel & Resort Inc.	52	Prosper Jade Trading
20	Expeditious Cargo Logistics	53	R2H Trading
21	F-A Trading	54	Racal Ceramics Bargain Center Inc.
22	FAHB Commodities Trading	55	Rosequarts Enterprises
23	Fairplay Marketing	56	Seacat Enterprises
24	FC Solutions Corp.	57	Semirara Mining Corporation
25	Fibreboard Laminates And Plyboard	58	Sen And Sons Realty Inc
26	Foremost Pre-Press Supplies Inc.	59	Seven Myth Marketing
27	Glockner Marketing Corp	66	Shakesville Enterprises
28	Great Speed Trading	67	Sky Blazers Global Trading
29	Highabundance Trading Corporation	68	Southzone Trading Inc
30	Homeoptions Inc	69	Spectrum Highlands Mktg Corp
31	Intranet Trade Int'l Inc	70	Star Dynasty Trading
32	JB Cresta Corp	71	Starbright Sales Enterprises Inc
33	Jolivette Inc.	72	Stargaze Enterprises

No.	Company Name	No.	Company Name
73	Sunrisebountiful Trading Corp.	78	Wilcon Builders Depot Inc
74	The Tileexpo Trading Inc	79	Wild Stone Enterprises
75	Triple-A Homesource Inc.	80	Worldwide Building Solutions Inc.
76	Trisho General Merchandise	81	Worldwide Interiors Design Center Corp.
77	White Horse Ceramic Philippines Inc		

## Annex B

## LIST OF EXPORTERS

## I. Identified by Mariwasa Siam Ceramics, Inc.

No.	Company Name	Country	No.	Company Name	Country
1	FC Xiamen Co., Ltd.	PROC	10	Guangzhou Hongthai Imp & Exp. Co. Ltd.	PROC
2	Foshan Benito Imp & Exp Co., Ltd.	PROC	11	Guangzhou Yangtao Trading Co. Ltd.	PROC
3	Foshan Di Xin Trading Co., Ltd.	PROC	12	Prime Trade Inc.	Viet Nam
4	Foshan Junjing Industrial Co. Ltd.	PROC	13	PT Kia Serpilh Mas	Indonesia
5	Foshan Mainland Import & Export Co. Ltd.	PROC	14	White Horse Ceramic Industries Sdn.	Malaysia
6	Foshan Navonato Co. Ltd.	PROC	15	Xiamen Cerarock Imp. And Exp. Co. Ltd.	PROC
7	Foshan Yishi Building Material Co. Ltd.	PROC	16	Xiamen King Bridge I & E Corp. Ltd.	PROC
8	Fuzhou Baohua Imp & Exp Co. Ltd.	PROC	17	Xiamen Luckymark Imp. & Exp. Co. Ltd.	PROC
9	Guangzhou Fu De Lu Trading Co. Ltd.	PROC			

## II. Sourced from Bureau of Customs (BOC-SAD-IERD)

No.	Company Name	Country	No.	Company Name	Country
1	Aapt Distribution Pvt Limited	Indonesia	19	Brix SRL	Italy
2	Abk Group Industry Ceramiche Spa	Italy	20	Centrepoint Xiamen Imp & Exp Co., Ltd.	PROC
3	Addex Imp. Exp., S.L.	Spain	21	Ceramica Fioranese	Italy
4	Airsealand F. Bonaretti Srl	Italy	22	Ceramica Gomez S.A	Spain
5	Alcalagres S.A.	Spain	23	Ceramica Indah Sdn Bhd	Malaysia
6	Alessanderx Spa	Italy	24	Ceramica Sant Agostino S.P.A	Italy
7	Ape Ceramica Slu	Spain	25	Ceramicas Aparici S.A	Spain
8	Apollon Co. Ltd.	South Korea	26	Ceramiche Atlas Concorde Spa	Italy
9	Apt Showfreight Shanghai Co., Ltd.	PROC	27	Ceramiche Keope Mag	Italy
10	Armonie By Arte Casa Ceramiche Spa	Italy	28	Ceramica Tile Intl S L U	Spain
11	Atlas Concorde Ceramiche Spa	Italy	29	China Oriental Express Co., Ltd.	Hong Kong
12	Azulejos Plaza S A	Spain	30	Cicogres S.A	Spain
13	Azulev S A U	Spain	31	Cooperativa Ceramica D' Imola	Italy
14	Bach Thanh Ceramic Co., Ltd.	Viet Nam	32	Corporation Of The President Of The Church Of Jesus Christ Of Latter-Day Saints	USA
15	Bae Shin International Trading Limited	Chinese Taipei	33	CTO (China) Sinolog Limited	Hong Kong
16	Baldocer Ceramicas	Spain	34	Dachser Spain S.A.	Spain
17	Bisazza Spa	Italy	35	Daltile Corporation	USA
18	Brightland Industry And Trade Co., Ltd.	PROC	36	Dongguan City Wonderful Ceramics Indi Park Co., Ltd.	PROC

No.	Company Name	Country	No.	Company Name	Country
37	Dong Tam Trading Co Ltd	Viet Nam	67	Foshan Yuanya Trading Co. Ltd.	PROC
38	Dual Gres S.A	Spain	68	Foshan Zongnan Import & Export Trading Co Ltd	PROC
39	Dynasty Ceramic Public Co., Ltd.	Thailand	69	Fuzhou Fulitong Imp & Exp Co. Ltd.	PROC
40	Emigres S L	Spain	70	Fuzhou Hengyueng Import And Export Co. Ltd.	PROC
41	Emil Ceramica S P A	Italy	71	Fuzhou Long Heng Imp & Exp Co. Ltd.	PROC
42	E Trade Co., Ltd.	PROC	72	Fuzhou Yixin Jianyu Import And Export Trade Co.Ltd	PROC
43	Ever Commercial Co., Ltd.	Hong Kong	73	General Courier Madrid	Spain
44	Ever Sunshine Limited	Hong Kong	74	General Noli Spa	Italy
45	Evoque Living Ceramics S.L	Spain	75	Global Products Inc.	USA
46	Exim Deccorner Company Ltd	Thailand	76	Grand Glory Trading (Hk) Co. Ltd.	Hong Kong
47	Fincibec S.P.A.	Italy	77	Gresolution (Hk) Co. Limited	PROC
48	Florim Ceramiche S.P.A.	Italy	78	Guangdong Agribusiness Group Imp. & Exp. Co. Ltd.	PROC
49	Foshan Ceraviva Ceramics Co., Ltd.	PROC	79	Guangdong Bode Fine Bldg Material Co. Ltd.	PROC
50	Foshan City Sanshui Dongsheng Trading Co., Ltd.	PROC	80	Guangdong Overland Ceramic Co. Ltd.	PROC
51	Foshan Dihai Trading Development Co. Ltd.	PROC	81	Guangzhou Ahresty Casting Co. Ltd.	PROC
52	Foshan Dongpeng Ceramic Co. Ltd.	PROC	89	Guangzhou Dunhong Imp. & Exp. Co. Ltd.	PROC
53	Foshan Dwj Building Materials Co. Ltd.	PROC	90	Guangzhou Hongthai Imp & Exp. Co. Ltd.	PROC
54	Foshan Everlasting Enterprises Co. Ltd,	PROC	91	Guangzhou Jz Forever Trade Co. Ltd.	PROC
55	Foshan Griffith Building Material Ltd.	PROC	92	Guangzhou Xunrui Trading Co. Ltd.	PROC
56	Foshan Harvest Enterprises Ltd.	PROC	93	Guangzhou Yaohuang Trade Co. Ltd.	PROC
57	Foshan Hongshun Import & Export Trading Co. Ltd.	PROC	94	Guangzhou Y.Z.F Imp. & Exp. Trading Co. Ltd.	PROC
58	Foshan Nanhai Qiming Investment Co. Ltd.	PROC	95	Guocera Sdn Bhd	Malaysia
59	Foshan Nanhai Sea Road Trading Inc. Ltd.	PROC	96	H&K Distribution	United Kingdom
60	Foshan Sincere Bidg Materials Co. Ltd.	PROC	97	H&R Johnson (India)	Indonesia
61	Foshan Sundare Building Materials Co. Ltd.	PROC	98	Hijos De Cipriano Castello Alfonso	Spain
62	Foshan Tonghai International Imp. & Exp. Trading Co. Ltd.	PROC	99	Huida Sanitary Ware Co. Ltd.	PROC
63	Foshan Wantai Import & Export Co. Ltd.	PROC	100	Hung Anh Investment Construction JSC	Viet Nam
64	Foshan Winning Enterprise Co. Ltd.	PROC	101	Ital Graniti Group Spa	Italy
65	Foshan Xinzhongwei Economic & Trade Co. Ltd.	PROC	102	ITX Merken B.V. Fb	Switzerland
66	Foshan Yinghui Industrial Co. Ltd.	PROC	103	JDD Industry Co. Ltd.	PROC

No.	Company Name	Country	No.	Company Name	Country
104	Jingdezhen Kito Ceramic Co. Ltd.	PROC	132	PT Liwayway	Indonesia
105	Kale Italia S.R.L. Socio Unico	Italy	133	PT Muliakeramik Indahraya	Indonesia
106	Kaleseramik Canakkale Kalebodur Seramik Sanayi As	Turkey	134	PT Platinum Ceramics Industry	Indonesia
107	KBRM General Trading Llc	UAE	135	PT Roman Ceramic International	Indonesia
108	La Fabbrica Ceramiche S.P.A.	Italy	136	PT Satyaraya Keramindo Indah	Indonesia
109	Levantina Y Asociados De Minerales	Spain	137	PT Tunas Abadi Bayu Sentosa	Indonesia
110	Machinery & Chemical Industrial Center	Turkey	138	Qingliuxian Xinxing Trade Co. Ltd.	PROC
111	Magna Tiles SL	Spain	139	Royal Ceramic Tiles Co. Ltd.	Viet Nam
112	Malaysian Mosaic Sdn Bhd	Malaysia	140	Saint Marc	Japan
113	Mateylama S.L.	Spain	141	Sakamoto Co. Ltd.	Japan
114	Mirage Granito Ceramico S.P.A.	Italy	142	Sanming Meiliqu Jieliangong Import & Export Co Ltd	PROC
115	MKD Hanoi Export Import Jsc	Viet Nam	143	Sanming Zhenghua Trading Co. Ltd.	PROC
116	Natucer S L	Spain	144	Santa Margarita Spa	Italy
117	Ningbo Ocean Imp & Exp Co. Ltd.	PROC	145	SCG Trading Co. Ltd.	Thailand
118	Ningbo Yaxiya Imp & Exp Co. Ltd.	PROC	146	Serenissima Cir Industrie Ceramiche	Italy
119	Niro Ceramica Espana Slu	Spain	147	Set Up Rather County China Trade Co. Ltd.	PROC
120	Niro Ceramic Labuan Limited	PROC	148	Shenzhen Chenglijia Trading Co. Ltd.	PROC
121	Omni Global Corporation Ltd.	PROC	149	Shenzhen Come To Full Trade Co. Ltd.	PROC
122	Oriental Building Material Ltd.	Hong Kong	150	Shenzhen Grand Imp. & Exp. Co. Ltd.	PROC
123	Oriental Enterprise Company	Hong Kong	151	Shenzhen Guanghuatai Imp & Exp Co. Ltd.	PROC
124	Overland Ceramics Co. Ltd.	PROC	152	Shenzhen Guangyulong Trade Co. Ltd.	PROC
125	Panariagroup Industrie Ceramiche S.P.A.	Italy	153	Shenzhen Gui Hao Cheng Trade Co. Ltd.	PROC
126	P M Van Geffen Bv	Netherlands	154	Shenzhen Huaguangshun Import & Export Co. Ltd.	PROC
127	Porcelanite Dos S.L.	Spain	155	Shenzhen Huankai Industry Co. Ltd.	PROC
128	PT Chang Jui Fang Indonesia	Indonesia	156	Shenzhen Jiayuhe Imp & Exp Co. Ltd.	PROC
129	PT Javastone Perkasa	Indonesia	157	Shenzhen Jiazhihong Trading Co. Ltd.	PROC
130	PT Keramik Diamond Industries	Indonesia	158	Shenzhen J&D Drinking Water Equipment Co. Ltd.	PROC
131	PT Kuda Laut Mas	Indonesia	159	Shenzhen Jinchengli Trdg.Co. Ltd.	PROC

No.	Company Name	Country	No.	Company Name	Country
160	Shenzhen Luye East Industry Co. Ltd.	PROC	187	Shenzhen Zhongrui Tianhong Commerce Co. Ltd.	PROC
161	Shenzhen Miti Import & Export Trading Co. Ltd.	PROC	188	Sosuco And Group (2008) Co. Ltd.	Thailand
162	Shenzhen New Chino E Import & Export Co. Ltd.	PROC	189	Spanish Tile From Nules S A U	Spain
163	Shenzhen Nice Fit Imp. & Exp. Co. Ltd.	PROC	190	Starbucks Corporation	PROC
164	Shenzhen Noriteru Investment Development Co. Ltd.	PROC	191	Stone Source Llc	USA
165	Shenzhen Peng Sheng Imp. Exp. Co. Ltd.	PROC	192	Suncity Art Exporters	Indonesia
166	Shenzhen Qifengyuan Trading Co. Ltd.	PROC	193	Sunflower Trading Co. Ltd.	PROC
167	Shenzhen Qile Imp. & Exp. Co. Ltd.	PROC	194	System Services Of America	USA
168	Shenzhen Red-Sun Import & Export Co. Ltd.	PROC	195	Taicera Enterprise Company	Viet Nam
169	Shenzhen RZR Trading Co. Ltd.	PROC	196	Tangshan Imex Industrial Co. Ltd.	PROC
170	Shenzhen Shenruixing Trading Co. Ltd.	PROC	197	Tci New Zealand 1995 Ltd.	New Zealand
171	Shenzhen Shi Huahengxianda Imp & Exp Co. Ltd.	PROC	198	Tecnosped Express S.R.L.	Italy
172	Shenzhen Speedy Imp. & Exp. Co. Ltd.	PROC	199	Thai Binh Ceramic Tiles Jsc	Viet Nam
173	Shenzhen Top China Imp & Exp Co. Ltd.	PROC	200	Toko Vietnam Co. Ltd.	Viet Nam
174	Shenzhen Thyrite Trading Co. Ltd.	PROC	201	Venis S.A.	Spain
175	Shenzhen Weidexin Trade Co. Ltd.	PROC	202	Venus Ceramic Tile Enterprise	Malaysia
176	Shenzhen Xindesheng Trading Co. Ltd.	PROC	203	Viglacera Trading Jsc	Viet Nam
177	Shenzhen Xingming Imp & Exp Trading Co. Ltd.	PROC	204	Vives Azulejos Y Gres S.A.	Spain
178	Shenzhen Yihaodi Import & Export Co. Ltd.	PROC	205	Walker & Zanger Inc.	US
179	Shenzhen Yinghui Chuangzhan Trade Co. Ltd.	PROC	206	Weiteng Import & Export Company Ltd.	PROC
180	Shenzhen Yong Jia Le Trading Co. Ltd.	PROC	207	Wenzhou Jf Foreign Trade Co. Ltd.	PROC
181	Shenzhen Yuluo Imp. & Exp.Co. Ltd.	PROC	208	White Horse Ceramic Industries Sdn.	Malaysia
182	Shenzhen Yupeng Trading Co. Ltd.	PROC	209	White Horse Ceramic Industries (Vietnam) Co. Ltd.	Viet Nam

No.	Company Name	Country	No.	Company Name	Country
210	Winner Furniture Co. Ltd.	PROC	221	Xiamen Xingyuanchang Imp & Exp Co. Ltd.	PROC
211	Wuhan Youneng Information Technology Co. Ltd.	PROC	222	Xiamen Yufengda Trade Co. Ltd.	PROC
212	Xiamen Bichen Trading Co. Ltd.	PROC	223	Yekalon Industry Inc.	PROC
213	Xiamen Dazhou Import And Export Co. Ltd.	PROC	224	Yingfei International Ltd.	PROC
214	Xiamen Laishun Trading Co. Ltd.	PROC	225	Ymy Ceramic Tiles Corporation	VN
215	Xiamen Leadsun Corporation	PROC	226	Yoto Import & Export Co. Ltd.	PROC
216	Xiamen Longtengda Trade Co. Ltd.	PROC	227	Zhangping City, Minfeng Co. Ltd.	PROC
217	Xiamen Mingxinjie Imp. & Exp. Co. Ltd.	PROC	228	Zhong Lian Bldg., Material Co. Ltd.	PROC
218	Xiamen Senstar Imp. & Exp. Co. Ltd.	PROC	229	Zibo Ceramics Export Service Co. Ltd.	PROC
219	Xiamen Welf Trading Co. Ltd.	PROC	230	Zibo Golden-Stone Import & Export Co. Ltd.	PROC
220	Xiamen Xieshunda Manufactory And Trading Co. Ltd.	PROC	231	Zibo Karry Import & Export Co. Ltd.	PROC



## ANNEX C

## List of Associations and Consumer Groups

No.	Association Name
1	Association of Structural Engineers of the Philippines, Inc. (ASEP)
2	Bataan Construction Association of the Phils
3	Cebu Chamber of Commerce & Industry
4	Coalition for Consumer Protection & Welfare, Inc. (CCPW)
5	Citizenwatch Philippines
6	Consumer Welfare Office of Parañaque
7	Chamber of Real State and Builders Associations (CREBA)
8	Consumers Right for Economic Welfare (CREW)
9	The Consumers Union of the Philippines (CUP)
10	Davao Constructors Association Center, Inc.
11	EcoWaste Coalition
12	Federation of Filipino-Chinese Chambers of Commerce and Industry, Inc.
13	Federation of Philippine Industries, Inc.
14	The Japanese Chamber of Commerce and Industry of the Philippines, Inc.
15	National Consumer Council of the Philippines
16	Philippine Constructors Association, Inc.
17	Philippine Chamber of Commerce and Industry
18	Privileged, Empowered and Responsive Consumer Society, Inc. (PERCS)
19	Philippine Institute of Civil Engineers, Inc.
20	Society of Contractors of Agusan-Surigao and Butuan City
21	United Architects of the Philippines (UAP)
22	Nationwide Association of Consumers, Inc. (NACI)

## Additional Associations Participated in the Investigation

No.	Association Name
1	Association of Spanish Ceramic Tile Manufacturers (ASCER)
2	China Chamber of Commerce of Metals, Minerals & Chemicals Importers and Exporters (CCCMC)
3	European Ceramic Industry Association
4	Philippine Ceramic Products Importers' Association, Inc (PCPIA)

## ANNEX D

## List of Developing Countries and Separate Customs Territories Excluded from the Imposition of Provisional Safeguard Measure on Ceramic Floor and Wall Tiles

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