February 22, 2019

The Director
Office of the National Administrative Register (ONAR)
UP Law Center Dilliman, Quezon City

Sir/Ma'am:

Transmitted are three certified true copies and soft copy (word format in compact disc rewritable) of the following Customs Memorandum Order, to wit:


Thank you.

Very truly yours,

GLADYS C. CABUGAWAN
Chief, CRMD
CUSTOMS MEMORANDUM ORDER (CMO)

No. 12-2019

SUBJECT: PROVISIONAL SAFEGUARD DUTY OF IMPORTED CEMENT CLASSIFIED UNDER AHTN CODES 2523.2990 AND 2523.9000.

INTRODUCTION

The Department of Trade and Industry (DTI) initiated a preliminary investigation conducted for the period of 2013 to 2017 to determine whether increased imports of cement is causing or threatening to cause serious injury to the domestic industry. The preliminary determination conducted by the Secretary of DTI shows that the market share of locally produced cement was essentially displaced and the significant increase in the volume of imported cement preceded the serious injury to the industry in 2017.

This CMO is implemented to provide the provisional safeguard duty to all imported cement in compliance to the directive of the Secretary of Finance.

SECTION 1. SCOPE

1.1. This CMO shall cover all importation of cements with HS Code 2523.2990 and 2523.9000 from various countries.

1.2. The developing countries listed in Annex A, copy attached, covered by Rule 8.8 of the Implementing Rules and Regulations of RA 8800 are excluded from the imposition of provisional safeguard duty on cements.

1.3. The shipments of cement that are in transit prior to the effect of this Order shall be exempted herein.

SECTION 2. OBJECTIVES

2.1. To provide protection to the domestic cement industry.

2.2. To curtail the rising volume of imported cement that causes serious injury to the domestic industry.

SECTION 3. OPERATIONAL BACKGROUND

3.1. Department Administrative Order No. 19-02, duly signed by Ramon M. Lopez, Secretary, Department of Trade and Industry, in relation to Section 7 RA 8800 (Philippine Safeguard Measures Act), provides that 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 substantial cause of, or threaten to substantially cause, serious injury to the domestic industry.

3.2. Section 8 of RA 8800 and its Implementing Rules and Regulations provides that the Secretary of Finance shall, within three (3) calendar days from making a decision, issue written instructions to the Commissioner of Customs authorizing the imposition of the provisional safeguard duty.

3.3. Memorandum dated January 29, 2019 duly signed by Carlos G. Dominguez, Secretary, Department of Finance, authorized the Commissioner of Customs to issue an Order imposing a provisional safeguard duty in the form of cash bond in the amount of Php 210/MT of imported cement classified under AHTN Codes 2523.2900 and 2523.9000.

Section 4. **Imposition of Provisional Safeguard Duty.** The provisional safeguard duty in the form of cash bond amounting to P210/MT is hereby imposed for all importation of cements with HS code 2523.2990 and 2523.9000 for a period of 200 days from the date of effectivity of this CMO.

Section 5. **Repealing Clause.** This CMO repeals all previously issued customs rules and regulations which are inconsistent hereof.

Section 6. **Separability Clause.** If any or part of this Order is declared unconstitutional or contrary to existing laws, the other parts not so declared shall remain in full force and effect.

Section 7. This Order shall take effect immediately until revoked.
MEMORANDUM

TO : REY LEONARDO B. GUERRERO
Commissioner, Bureau of Customs

CC : RAMON M. LOPEZ
Secretary of Trade and Industry

FROM : CARLOS G. DOMINGUEZ
Secretary of Finance

SUBJECT : PROVISIONAL SAFEGUARD DUTY OF IMPORTED CEMENT CLASSIFIED UNDER AHTN 2523.2990 AND 2523.9000

Pursuant to Section 8 of R.A. 8800 (The Philippine Safeguard Measures Act) and its IRR, the Commissioner of Customs is hereby authorized to implement the decision of the Secretary of the Department of Trade and Industry contained in DTI Department Administrative Order No. 19-02 Series of 2019, imposing a provisional safeguard duty in the form of a cash bond in the amount of Php 210/MT of imported cement classified under AHTN Codes 2523.2990 and 2523.9000 for a period of 200 days.

Please furnish this Department and the Department of Trade and Industry - Office of the Secretary with the Order implementing this decision.

Thank you.

CARLOS G. DOMINGUEZ
Secretary of Finance
JAN 2, 2019
17 January 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 cement is a substantial cause of serious injury to the domestic cement 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 P210/MT of imported cement classified under AHTN Codes 2523.2990 and 2523.9000 for a period of 200 days. The Order shall take effect upon the issuance 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.

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 cement 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
ORDER

The Department of Trade and Industry (DTI) initiated, motu proprio, a preliminary investigation to determine whether increased imports of cement is causing or threatening to cause serious injury to the domestic industry. The cement covered by the investigation is classified under AHTN Codes 2523.2990 and 2523.9000. The period covered by the investigation (POI) are the years 2013 to 2017.

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 cement imports
   - in absolute terms, increased continuously from 2013 to 2017, the period of investigation (POI);
   - the increases compared with the previous years are: in 2014 - 70%, in 2015 - 4,401%, in 2016 - 550%, in 2017 - 72%.
   - in relative terms, the share of imports also increased during the POI, from 0.02% in 2013 to 15% in 2017.

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 having a small share in the domestic market from 2013 to 2015, the share of imported cement grew to 8% and 13% in 2016 and 2017, respectively;
   - while the domestic industry’s sales revenues increased from 2013 to 2016, it went down by Ph11.1 billion in 2017, a decline of 12% over the previous year;
   - as earnings before interest and taxes increased from 2013 to 2016 by 6%, 15%, and 8%, respectively, the industry experienced a sharp decline in earnings of 49% in 2017;
   - the weighted average landed cost of imports is lower than the average selling price of the domestic product indicating a price undercutting of 14%;
   - cement manufacturers have been forced to reduce prices by almost 10% to compete with lower-priced imported cement.
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.

17 January 2019

RAMON M. LOPEZ
Secretary

U.P. LAW CENTER
OFFICE OF THE NATIONAL ADMINISTRATIVE REGISTERS
Administrative Rules and Regulations

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