



March 9, 2009

CUSTOMS MEMORANDUM ORDER
NO. 12-2009

TO: All Deputy Commissioners
All Directors / Chiefs
All District / Port Collectors
All Others Concerned

**SUBJECT: Definitive General Safeguard Duty on Importations of
Clear and Tinted Float Glass from Various Countries**

Pursuant to the 1st Indorsement dated 26 January 2009 of the Department of Finance signed by Undersecretary Estela V. Sales, referring for implementation the Decision of the Honorable Secretary, Department of Trade and Industry in his Order in Safeguard Investigation No. 02-2006 entitled "In the Matter of the Reduction of the Definitive General Safeguard Measures Against the Importation of Clear Float Glass (HS Heading No. 7005.2990 or AHTN Nos. 7005.2920 and 7005.2990) and Tinted Float Glass (HS Heading No. 7005.2190 or AHTN Nos. 7005.2120 and 7005.2190) from various countries, with AGC Flat Glass Philippines, Inc. (Formerly, Asahi Glass Phils., Inc.) as petitioner," this Office hereby directs the immediate implementation of the said DTI Order, the dispositive portion of which is quoted hereunder:

"IN VIEW THEREOF, and in accordance with Section 19(2) of RA 8800, the following is hereby issued:

- 1. The amount of definitive general safeguard measure for float glass for the third year of the extension period shall be reduced by 5%. Thus, a definitive general safeguard duty of **PhP3,583.83/MT** shall be imposed for **clear float glass** and **PhP4,526.94/MT** for **tinted glass**, respectively.*
- 2. Pursuant to Section 13 of RA 8800 and Rule 13.1.d of its IRR, "a general safeguard measure shall not be applied to a product originating from a developing country if its share to total Philippine imports of the said product is less than three percent (3%); Provided, however, that developing countries with less than three percent (3%) share collectively account for not more than nine percent (9%) of the total Philippine imports of the product concerned"*

Considering that imports of tinted float glass from Chinese Taipei have exceeded the three percent (3%) threshold during the review period, imports from Chinese Taipei shall be subject to the imposition of the safeguard measure for the 3rd year of the extension period.

However, imports from the countries listed in Annexes A and B shall continue to be excluded from the imposition of the definitive general safeguard measure on float glass products (clear and tinted).

All importers of float glass (clear and tinted), regardless of port of exportation, are required to secure a Certificate of Origin (CO) issued by the agency/office in the source country of manufacture as authenticated by the Philippine Embassy/Consulate thereat.

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. Imports originating from ASEAN Member states shall be governed by the provisions of Articles 6 and 8 of the Agreement on the CEPT Scheme.

This Order shall be effective upon signing of the relevant Memorandum Order by the Bureau of Customs or fifteen (15) days after the publication of this Order in two (2) newspapers of general circulation, whichever comes earlier. This Order shall terminate a year after its effectivity, unless further extended by another Order."

For your information and implementation

NAPOLEON J. MORALES
Commissioner



09-02523
BUREAU OF CUSTOMS
MANILA, PHILIPPINES



Republic of the Philippines
DEPARTMENT OF FINANCE

Roxas Boulevard Corner Pablo Ocampo, Sr. Street
Manila 1004

1st Indorsement
26 January 2009


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Handwritten signatures and initials, including 'B/10' and 'A/10'. Below the signatures is a stamp from the Bureau of Customs, Office of the Commissioner, Security Division, with the number 09-01639.

Respectfully referred to the Commissioner of Customs, Port Area, Manila, for implementation, the attached decision of the Honorable Secretary of the Department of Trade and Industry in Safeguard Case No. 02-2006 entitled "In the Matter of the Reduction of the Definitive General Safeguard Measures Against the Importation of Clear Float Glass (HS Heading No. 7005-2990 or AHTN Nos. 7005-2920 and 7005-2990) and Tinted Float Glass (HS Heading No. 7005.2190 or AHTN Nos. 7005.2120 and 7005.2190) From Various Countries, AGC Flat Glass Philippines, Inc., Petitioner." Pursuant to Section 15(3) of Republic Act No. 8800 (The Safeguard Measures Act) and its implementing Rules and Regulations.

The Commissioner of Customs is hereby enjoined to immediately issue the appropriate orders to implement the aforesaid decision.

By authority of the Secretary:


ESTELA V. SALES
Undersecretary
Legal & Revenue Operations Group

021538

CC:

Hon. Peter B. Favila
Secretary
Department of Trade and Industry
4/F Industry & Investments Bldg.,
385 Sen. Gil J. Puyat Ave.,
Makati City 1200

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16 December 2008

HON. MARGARITO B. TEVES
Secretary
Department of Finance
BSP Complex, Roxas Blvd., Manila

Dear Secretary Teves:

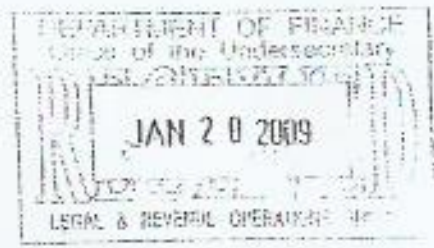
As mandated under Section 15 (3) of RA 8800, The Safeguard Measures Act and its Implementing Rules and Regulations (IRR), the DTI Secretary issued an Order reducing the definitive general safeguard measures on imported clear and tinted float glass for the third year of the extension period. The definitive general safeguard measure shall be in the amount of P3,583.83/MT for clear float glass and P4,526.94/MT for tinted float glass. The measure shall take effect upon the issuance of the relevant Memorandum Order of the Bureau of Customs or fifteen (15) days after the publication of the Order in two (2) newspapers of general circulation, whichever comes earlier.

Pursuant to Rule 13.3.1 of the IRR of RA 8800, we are requesting you to direct the Commissioner of Customs to collect the appropriate amount of the definitive general safeguard duty on the importations of clear and tinted float glass covered by the said DTI Order.

Sincerely,

PETER B. FAVILA
Secretary

cc: Commissioner Napoleon L. Morales
Bureau of Customs



File: Searching company documents & data collection tool

**IN THE MATTER OF THE REDUCTION OF THE
DEFINITIVE GENERAL SAFEGUARD
MEASURES AGAINST THE IMPORTATION OF
CLEAR FLOAT GLASS - HS HEADING NO.
7005.2990 or AHTN Nos. 7005.2920 AND
7005.2990 and TINTED FLOAT GLASS - HS
HEADING NO. 7005.2190 or AHTN Nos.
7005.2120 and 7005.2190 FROM VARIOUS
COUNTRIES**

(Safeguard Investigation No. 02-2006)

AGC Flat Glass Philippines, Inc.
(Formerly Asahi Glass Philippines, Inc.)
Petitioner

ORDER

On 10 December 2007, the Secretary of the Department of Trade and Industry (DTI) issued an Order reducing the definitive general safeguard measure on importations of float glass for the second (2nd) year of the extension period. A definitive general safeguard duty of ₱3,772.45/MT was imposed for clear float glass and ₱4,765.20/MT for tinted float glass. On 27 February 2008 the Bureau of Customs issued Customs Memorandum Circular (CMC) 52-2008. The DTI Order, likewise, provided that the safeguard duty for the third (3rd) year of the extension period will be subject to an annual review as proscribed under Rule 15.6 of the IRR of RA 8800.

On 26 September 2008, DTI notified and requested the domestic industry, importers, exporters and other concerned parties to submit their positions to determine the appropriate amount of the safeguard measure for the third year of the extension period. Responses were received from AGC Flat Glass Philippines, Inc., Comglasco AG, San Francisco Mirror Corporation, Chain Glass Enterprises, Inc., Federation of Philippine Industries, Inc., and Guardian Industries Thailand and the Embassies of Thailand, Malaysia, and Viet Nam.

The DTI evaluated the performance of the local glass industry for the 2007 to 2008 (January to September) period and the status of their compliance to their commitments in their adjustment plan.

The DTI also reviewed the movement in prices for both locally produced and imported clear and tinted float glass as well as the import trends from January 2008 to September 2008. During the period under consideration, China accounted for the biggest share equivalent to 83.05% of total imports of clear float glass, followed by Indonesia at 8.63%. Imports from these two (2) countries already accounted for about 92% of total Philippine imports during the 2008 (January – September) period.

For tinted float glass, China again registered the highest share to total Philippine imports at 52.37%, followed by Indonesia at 32.57%. These countries accounted for 85% of total Philippine imports. Chinese Taipei, which was previously exempt from the safeguard duty, registered a 14.46% share to total imports during the period of review from only a 1.39% share to total imports in 2007.

It was observed that the weighted average landed cost of clear float glass from all sources without safeguard duty decreased by 1% in 2007 and further declined by 14% in 2008 (January to September). On the other hand, selling price of domestic clear float glass went down by 11% in 2007 and further reduced by 4% in January-September 2008.

For tinted float glass, the average landed cost from all sources without safeguard duty declined by 15% in 2007 and by 4% in 2008 (January-September). Selling price of domestic tinted float glass was reduced by 10% in 2007 and again by 13% in January to September 2008.

IN VIEW THEREOF, and in accordance with Section 19(2) of RA 8800, the following is hereby issued:

1. The amount of the definitive general safeguard measure for float glass for the third year of the extension period shall be reduced by 5%. Thus, a definitive general safeguard duty of P3,583.83/MT shall be imposed for clear float glass and P4,526.94/MT for tinted float glass, respectively.
2. Pursuant to Section 13 of RA 8800 and Rule 13.1 d of its IRR, "a **general safeguard measure shall not be applied to a product originating from a developing country if its share to total Philippine imports of the said product is less than three percent (3%): Provided, however, that developing countries with less than three percent (3%) share collectively account for not more than nine percent (9%) of the total Philippine imports of the product concerned**".

Considering that imports of tinted float glass from Chinese Taipei have exceeded the three percent (3%) threshold during the review period, imports from Chinese Taipei shall be subject to the imposition of the safeguard measure for the 3rd year of the extension period.

However, imports from the countries listed in Annexes A and B shall continue to be excluded from the imposition of the definitive general safeguard measure on float glass products (clear and tinted).

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All importers of float glass (clear and tinted), regardless of port of exportation, are required to secure a Certificate of Origin (CO) issued by the agency/office in the source country of manufacture as authenticated by the Philippine Embassy/Consulate thereat.

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. Imports originating from ASEAN Member states shall be governed by the provisions of Articles 6 and 8 of the Agreement on the CEPT Scheme.

The application of the extended definitive general safeguard measure shall be monitored and reviewed in accordance with Sections 15 and 16 of RA 8800.

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

This Order shall take effect upon the issuance of the relevant Memorandum Order by the Bureau of Customs or 15 days after the publication of this Order in two (2) newspapers of general circulation, whichever comes earlier. The Order shall terminate a year after its effectivity, unless further extended by another Order.

SO ORDERED.

16 December 2008


PETER B. FAVILA
Secretary 

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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 Hongkong Johnston Is. Kiribati Korea, Dem. Rep. Lao PDR Macau Marshall Islands Micronesia, Fed. Sts. Midway Is. Mongolia Myanmar Nauru New Caledonia Niue Northern Marianas Is. Palau Pitcairn Is. Papua New Guinea Samoa Solomon Islands Tokelau Tonga Tuvalu Vanuatu Wake Is. Wallis & Futuna Is.

**List of Developing Countries Excluded from the Imposition
of Definitive Safeguard Measure
on Tinted Float Glass**

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		Maldives
Eritrea	Congo, Rep.		Nepal
Ethiopia	Cote d'Ivoire		Pakistan
Kenya	Equatorial Guinea		Sri Lanka
Lesotho	Gabon		
Madagascar	Gambia, The		
Malawi	Ghana		
Mauritius	Guinea		
Mozambique	Guinea, Bissau		
Namibia	Liberia		
Reunion	Mali		
Rwanda	Mauritania		
Seychelles	Niger		
Somalia	Nigeria		
South Africa	Sao Tome &		
Sudan	Principe		
Swaziland	Senegal		
Tanzania	Sierra Leone		
Uganda	Togo		
Zambia			
Zimbabwe			

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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 Hongkong Johnston Is. Kiribati Korea, Dem. Rep. Lao PDR Macau Marshall Islands Micronesia, Fed. Sts. Midway Is. Mongolia Myanmar Nauru New Caledonia Niue Northern Marianas Is. Palau Pitcairn Is. Papua New Guinea Samoa Solomon Islands Thailand Tokelau Tonga Tuvalu Vanuatu Wake Is. Wallis & Futuna Is.