



Republic of the Philippines
Department of Finance
Bureau of Customs
1099 Manila

14 February 2008

CUSTOMS MEMORANDUM ORDER
No. 8-2008

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

SUBJECT : General Safeguard Duty for Ceramic and Wall Tiles

Pursuant to the Order dated 21 January 2008 of the Hon. PETER B. FAVILA, Secretary of the Department of Trade and Industry, Customs Memorandum Order No. 2-2008 is hereby modified, viz:

All importations of ceramic floor and wall tiles from various countries **shall be imposed a General Safeguard Duty of TWO PESOS (Php2.00) per kilogram** in accordance with the provisions of Sections 15 and 16 of Republic Act 8800. Likewise, all importers of ceramic floor and wall tiles, regardless of port of exportation are **required to secure a Certificate of Country of Origin (CO)** issued by the authorized agency/office in the source country of manufacture as authenticated by the Philippine Embassy/Consulate thereat.

For strict implementation.

NAPOLEON D. MORALES
Commissioner





Republic of the Philippines
Department of Finance
Bureau of Customs
1099 Manila



MEMORANDUM

For : **NAPOLEON L. MORALES**
Commissioner, Bureau of Customs

From : **ATTY. REYNALDO V. UMALI**
Deputy Commissioner, RCMG

Subject : General Safeguard Duty on the Importation of Ceramic Floor and Wall Tiles from Various Countries


Date : February 13, 2008

Apropos to your directive in Customs Memorandum Order (CMO) 2-2008 issued on January 18, 2008 regarding the posting of cash bond of **Php 2.15/kilogram** on the importation of ceramic tiles floor and wall tiles from various countries pursuant to the imposition of safeguard measures as provided by law, please be informed that the Department of Trade and Industry (DTI) has extended for another four (4) years the imposition of safeguard duties at the rate of **Php 2.00 per kilogram**. Hence, there is a need to amend CMO 2-2008 and adjust the treatment of payment of safeguard duties in the accounting books of the bureau.

To be sure, the payment should no longer be treated as cash bond and classified as Trust Fund in the books. Instead, payment should now be treated a revenue pursuant to the generally accepted accounting and auditing rules. It is suggested that the different collection districts/operating units of the bureau be accordingly advised as to the proper treatment of these collections from Trust Fund to Revenue (Income) as well as to the adjustment of rate from **Php 2.15/kilogram** to **Php 2.00/kilogram** pursuant to the order of the DTI Secretary Peter B. Favila dated 21 January 2008 herein attached for your reference.

Accordingly, attached is the amendatory Customs Memorandum Order to this effect for your signature.

For consideration.


ATTY. REYNALDO V. UMALI

Copy



MEMORANDUM

For : NAPOLEON L. MORALES
Commissioner, Bureau of Customs

From : ATTY. REYNALDO V. UMALI
Deputy Commissioner, RCMG

Subject : General Safeguard Duty on the Importation of Ceramic Floor
and Wall Tiles from Various Countries

Date : February 13, 2008

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To be sure, the payment should no longer be treated as cash bond and classified as Trust Fund in the books. Instead, payment should now be treated a revenue pursuant to the generally accepted accounting and auditing rules. It is suggested that the different collection districts/operating units of the bureau be accordingly advised as to the proper treatment of these collections from Trust Fund to Revenue (Income) as well as to the adjustment of rate from **Php 2.15/kilogram** to **Php 2.00/kilogram** pursuant to the order of the DTI Secretary Peter B. Favila dated 21 January 2008 herein attached for your reference.

Accordingly, attached is the amendatory Customs Memorandum Order to this effect for your signature..

For consideration


ATTY. REYNALDO V. UMALI

IN THE MATTER OF THE FINAL EXTENSION OF
THE DEFINITIVE GENERAL SAFEGUARD
MEASURE AGAINST THE IMPORTATION OF
CERAMIC FLOOR AND WALL TILES FROM
VARIOUS COUNTRIES

(AHTN Code Nos. 6907.9010, 6907.9090,
6908.9011, 6908.9018, 6908.9021, 6908.9029,
6908.9090)
(Safeguard Investigation No. 01-2007)

Ceramic Tile Manufacturers' Association
Petitioner

X

ORDER

On 16 August 2007, the DTI received a letter from the Ceramic Tile Manufacturers' Association (CTMA) requesting for the extension of the definitive general safeguard measure on ceramic floor and wall tiles from various countries for another four (4) years. CTMA claimed that the domestic industry needed additional time to implement its adjustment plan and make it globally competitive. They cited the Tariff Commission's Monitoring Report to attest that the domestic industry has been serious and invested time and resources in its adjustment plan. They stated that the final extension would ensure that they would be able to commercially implement their project to reduce cost of energy using alternative sources. Petitioner claimed that they were not able to complete their adjustment plan for reasons beyond their control.

Section 19 (2) of RA 8800 (Safeguard Measures Act) provides that "the petitioner may appeal to the Secretary at least ninety (90) days before the expiration of the measure for an extension of the period by stating concrete reasons for the need thereof and a description of the industry's adjustment performance and future plan. The Secretary shall immediately refer the request to the Commission. Following the procedures required under Section 9, the Commission shall then submit a report to the Secretary not later than sixty (60) days from its receipt of the request. Within seven (7) days from receipt of the report, the Secretary shall issue an order granting or denying the petition. In case an extension is granted, the same shall be more liberal than the initial application".

Pursuant to the above-cited provisions of RA 8000, on 03 September 2007, DTI referred to the Tariff Commission the request of CTMA for final extension of the definitive general safeguard measures on imported ceramic floor and wall tiles.

On 10 December 2007, DTI received a copy of the Commission's Report of Findings on the petition for the final extension of the definitive general safeguard measure on ceramic floor and wall tiles from various countries. The Commission concluded that: *"the collective output of the two (2) applicant companies constitutes a major proportion of the total domestic production of ceramic tiles. The volume of imports in 2006 returned to surge level. With excess production capacity of tile manufacturers (especially China), imports are expected to continue to enter the country. Serious injury caused by increased imports is still being suffered by the domestic industry and will likely continue if the safeguard measure is removed. Despite the price advantage with the safeguard measure, market share continues to erode resulting to increasing financial losses. Without the measure, the domestic industry will not be able to finance its adjustment plan. The domestic industry is making positive adjustment to import competition. It was able to enhance its efficiency through energy conservation measures, reduced glazing material cost and expansion of distribution network. Unless safeguard action is extended, the industry will find difficulty to complete its adjustment plan to effectively face import competition"*.

The Commission found that an extension of the measure is necessary to prevent and remedy the serious injury as the domestic industry is making positive adjustment to import competition. Since the anticipated distribution pipelines (Malampaya-Batangas) for natural gas, which could have reduced production cost by about 40%, is not likely in the near future, the industry has to find alternative sources of energy in the short term if it is to reduce its costs and make the industry competitive against imports. Thus, the Commission recommended that the action be extended for another three (3) years - the timeframe given to the industry to fully implement its adjustment plan and be competitive against imports.

The DTI reviewed the Commission's findings and recommendations and has established that the final extension of the definitive general safeguard measure shall be in the public interest. The proposed measure is only temporary and will progressively be liberalized. Competition will return to its normal level. The consumers retain the option to choose between local and imported tiles as there are no quantitative restrictions on imports. The domestic industry has made adequate efforts to comply with its adjustment plans by reducing its energy consumption, intensifying its marketing programs, expanding its distribution network and introducing new designs and loan reduction programs. Investments in waste-heat recovery systems and modification of various equipment were made to soften the impact of escalating fuel costs. The continuation of the imposition of the definitive general safeguard measure will give additional time to the domestic industry to fully implement its adjustment plan.

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

1. Considering that Section 15, paragraph 2 of RA 8800 and Rule 15.2 of its IRR provide that the effective period of the measure, including any extension thereof may not in the aggregate exceed ten (10) years, the imposition of the definitive general safeguard measure shall be extended for another four (4) years. Therefore, this is the final extension of this measure. Moreover, as provided under Section 15 (4) of RA 8800 and Rule 15.8 of its IRR, any further petition for safeguard measure for the same articles shall not be accepted within two (2) years after the expiration of this measure. The amount of P2.00/kg shall be imposed on the first year of the final extension of the definitive general safeguard measure on ceramic floor and wall tiles from various countries. The measure shall continue to be liberalized annually for the remaining years of the extension period to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to increased imports.
2. The imported ceramic tiles, however, from Japan and the member states of the European Union, which cannot be considered "like product or directly competitive product" as defined in Section 4 of RA 8800, are excluded from the imposition of the extended definitive general safeguard measure.
3. 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". The following countries and separate customs territories are therefore excluded from the imposition of the extended definitive general safeguard measure on ceramic floor and wall tiles:

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

Anguilla Antigua and Barbuda Argentina Aruba Bahamas Barbados Belize Bermuda Bolivia British Virgin Is. Cayman Islands Chile Colombia Costa Rica Cuba Dominica	Dominican Rep. Ecuador El Salvador Falkland Islands (Malvinas) French Guiana Grenada Guadeloupe Guatemala Guyana Haiti Honduras Jamaica Martinique Mexico Montserrat Netherlands 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 and Caicos Is. Uruguay US Virgin Island Venezuela
Europe or Central Asia	Middle East	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. West Bank & Gaza Yemen, Rep.	American Samoa Brunei Darussalam Cambodia Christmas Is. Cocos (Keeling) Is. Cook Is. Fiji French Polynesia Guam Johnston Is. Kiribati Korea, Dem. Rep. Lao PDR Macao, China Marshall Islands Micronesia, Fed. Sts. Midway Is. Mongolia Myanmar Nauru New Caledonia Niue Northern Mariana Island Palau Papua New Guinea Pitcairn Is. Samoa Singapore Solomon Islands Tokelau Tonga Tuvalu Vanuatu Wake Is. Wallis and Futuna Is.

The composition of the developing countries on the *de minimis* list may change depending on the most recent data available during the annual review which will be conducted by DII within the extension period.

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

All importers of ceramic floor and wall tiles, regardless of port of exportation are required to secure a Certificate of Country of Origin (CO) issued by the authorized agency/office in the source country of manufacture as authenticated by the Philippine Embassy/Consulate thereof.

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.

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.

SO ORDERED

January 2008

Peter B. Favila
PETER B. FAVILA
Secretary