



01 February 2021

CUSTOMS MEMORANDUM ORDER (CMO)

NO. 6-2021

SUBJECT: ORDER FROM THE DEPARTMENT OF TRADE AND INDUSTRY FOR THE IMPOSITION OF PROVISIONAL SAFEGUARD DUTIES ON IMPORTED VEHICLES IN THE FORM OF CASH BOND

As provided under the Department of Trade and Industry (DTI) Order dated 29 December 2020 (Annex "A"), and pursuant to the directive dated 27 January 2021 from the Secretary of Finance (Annex "B"), the Bureau hereby imposes provisional safeguard duties on imported vehicles in the form of a cash bond amounting to the following:

1. Seventy Thousand Pesos (P70,000) per unit of any four-wheeled passenger cars (PCs) designed to transport less than ten (10) persons and not primarily to transport goods classified under ASEAN Harmonized Tariff Nomenclature (AHTN) Code 8703. Imported PCs that are completely knocked-down (CKD), semi knocked-down (SKD), used, with electric motors, and those designed for a special purpose such as ambulances and hearses are excluded from the coverage of the provisional duty. Also excluded from the provisional duty are luxury PCs that have a Free On Board (FOB) value of Twenty-Five Thousand United States Dollars (US\$25,000) or higher.
2. One Hundred Ten Thousand Pesos (P110,000) per unit of imported light commercial vehicles (LCVs) whether fourwheeled drive or not which are designed to carry both passenger and cargo that are classified under AHTN Codes 8704.21.19 and 8704.21.29. Imported LCVs that are completely knocked-down, semi knocked-down, used, with electric motors, and those designed for a special purpose such as ambulances, hearses, are excluded from the coverage of the provisional duty. Further, LCVs that have a FOB value of Twenty-Eight Thousand United States Dollars (US\$28,000) or higher are also excluded from the provisional duty.

Furthermore, pursuant to the Letter from the Secretary of Finance, the imposition of the provisional safeguard duties shall likewise be subject to the following:

- a. The imposition of provisional safeguard duty shall be reckoned from the issuance of this CMO;
- b. The provisional safeguard duty imposed and collected herein shall not form part of the landed cost that is used as basis for the Value-Added Tax (VAT) to be paid upon importation, and
- c. For purposes of computing excise tax, the provisional safeguard duty shall be deducted from the net importer's selling price and suggested retail price.

Finally, the imposition of the provisional duty will last for two hundred (200) days upon the issuance of this CMO.

All District and Sub-Port Collectors, and all others concerned are hereby directed to confirm the dissemination of this Order throughout their offices within five (5) days from receipt thereof for records purposes.

This Order shall take effect immediately.



REY LEONARDO B. GUERRERO

† Commissioner & FEB 01 2021



Republic of the Philippines
DEPARTMENT OF FINANCE
Roxas Boulevard Corner Pablo Ocampo, Sr. Street
Manila 1004

HON. REY LEONARDO B. GUERRERO
Commissioner, Bureau of Customs
OCOM Building, 16th St. South Harbor
Port Area, Manila

SUBJECT : Issuance of Relevant Customs Memorandum Order in Relation to the Imposition of Provisional Safeguard Duties on the Importation of Motor Vehicles from Various Countries [ATHN Codes 8703 (Passenger Cars), 8704.21.19 and 8704.21.29 (Light Commercial Vehicles)]

Dear Commissioner Guerrero:

We write to you in relation to the Department of Trade and Industry (DTI) Administrative Order (AO) No. 20-11 dated 29 December 2020 which provides for the imposition of provisional safeguard duties on imported vehicles in the form of a cash bond amounting to ₱70,000/unit for passenger cars/vehicles under AHTN Code 8703 and ₱110,000/unit for light commercial vehicles under AHTN Codes 8704.21.19 and 8704.21.29.

This is pursuant to DTI's determination of an existence of a causal link between the increased imports of the products under consideration (imports from 2014-2019) and serious injury to the domestic industry. Accordingly, the imposition will level the playing field to enable the domestic industry to compete with imports market and will allow the expansion of the country's manufacturing base and generate more jobs for Filipinos. For these reasons, the DTI determined that it is in the public interest to impose the provisional safeguard measure while the case is under formal investigation by the Tariff Commission.

The duration of the imposition of the provisional duty is 200 days, reckoned from the issuance of the relevant Customs Memorandum Order (CMO), pursuant to Section 8 of Republic Act No. 8800, otherwise known as the "Safeguard Measures Act," which provides:

SECTION 8. Provisional Measures. — In critical circumstances where a delay would cause damage which would be difficult to repair, and pursuant to a

Imposition of Provisional Safeguard Duties: Imported Motor Vehicles

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preliminary determination that increased imports are a substantial cause of, or 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 measure.

xxx

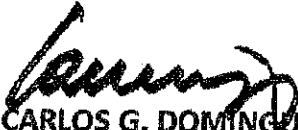
xxx [t]he duration of the provisional measure shall not exceed two hundred (200) days from the date of imposition during which period the requirements of the subsequent sections of this Act on the initiation of a formal investigation, notification and consultation shall have been met: xxx

Hence, pursuant to the clear mandate of the law, the Commissioner of Customs is hereby directed to issue a CMO relative to the imposition of provisional safeguard duties on imported motor vehicles, which shall contain the following provisions:

- a. that the imposition of provisional safeguard duty shall be reckoned from the issuance of the CMO;
- b. that the provisional safeguard duty imposed and collected herein shall not form part of the landed cost that is used as basis for the value-added tax (VAT) to be paid upon importation; and
- c. that for purposes of computing excise tax, the provisional safeguard duty shall be deducted from the net importer's selling price and suggested retail price.

Thank you.

Very truly yours,


CARLOS G. DOMINGUEZ
Secretary of Finance

JAN 27 2021



CC: HON. RAMON M. LOPEZ
Secretary, Department of Trade and Industry

Department Administrative Order No.: **20-11**
Series of 2020

**IN THE MATTER OF THE PRELIMINARY
DETERMINATION OF THE SAFEGUARD
MEASURES CASE ON THE IMPORTATION
OF MOTOR VEHICLES FROM VARIOUS
COUNTRIES**

**(AHTN Codes 8703 (Passenger Cars),
8704.21.19 and 8704.21.29 (Light
Commercial Vehicles)**

(Safeguard Measures Case No. SG01-2020)

X _____ X

ORDER

The Philippine Metalworkers' Alliance (PMA), belonging to the motor vehicle industry filed a petition for safeguard measures on the importation of motor vehicles under AHTN Codes 8703 (passenger cars/vehicles), 8704.21.19 and 8704.21.29 (light commercial vehicles) from various countries.

The period of investigation covered imports from 2014 to 2018. Updated data for 2019 were also presented. For injury determination, the Department considered relevant information for the same period.

The Department, acting under Section 7 of RA 8800, the "Safeguard Measures Act" and on the basis of the submissions of interested parties and pieces of evidence made available to the Department, has established the existence of a causal link between the increased imports of the products under consideration and 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*", a provisional safeguard measure in the form of a cash bond amounting to ₱70,000/unit for passenger cars/vehicles under AHTN Code 8703 and ₱110,000/unit for light commercial vehicles under AHTN Codes 8704.21.19 and 8704.21.29, shall be imposed while the case is under formal investigation by the Tariff Commission for a period of 200 days from the date of issuance by the Bureau of Customs of an Order.

OFFICE OF THE SECRETARY

Imported passenger cars/vehicles that are described as completely knocked -down (CKD), semi knocked-down (SKD), and used vehicles are excluded from the investigation. Also excluded are special purpose vehicles such as ambulance, hearse, electric motor vehicles, and luxury cars that have high-end features that go above and beyond the average necessities amounting to more than US\$25,000 based on FOB price.

Likewise, imported light commercial vehicles that are described as completely knocked-down (CKD), semi knocked-down (SKD), and used vehicles are excluded from the investigation. Also excluded are special purpose vehicles such as ambulance, hearse, e-motor vehicles, and luxury cars that have high-end features that go above and beyond the average necessities amounting to more than US\$28,000 based on FOB price.

Imports originating from developing countries listed in Annexes "A and "B" covered by Rule 8.8 of the IRR of RA 8800 shall not be subject to the provisional safeguard measure.

Importers of passenger cars/vehicles and light motor vehicles 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, subject to affixation of "Apostille" to the document or authentication by the Philippine Embassy/Consulate General, as applicable.

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"*.

It must be noted that buyers of motor vehicles retain their option to choose between the local and imported motor vehicles since imports will still be allowed. The imposition of a safeguard measure is not expected to cause a shortage of motor vehicles in the domestic market. It will provide a level playing field to enable the domestic industry to compete with imports. This will allow the expansion of the country's manufacturing base and generate more jobs for Filipinos. For these reasons, the Department has determined that it is in the public interest to impose the provisional safeguard measure.

WHEREFORE, IN VIEW THEREOF, 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://bit.ly/prelim-motor-vehicles>

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.

29 December 2020


RAMON M. LOPEZ
Secretary

ANNEX A

List of Developing Countries and Separate Customs Territories Excluded from the Imposition of Provisional Safeguard Measure on Passenger Cars/Vehicles

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	Chinese Taipei
Bosnia & Herzegovina	Jordan	Bahamas	Christmas Is.
Bulgaria	Kuwait	Barbados	Cocos (Keeling) Is.
Croatia	Lebanon	Belize	Cook Is.
Cyprus	Oman	Bermuda	Fiji
Czech Republic	Qatar	Bolivia	French Polynesia
Estonia	Saudi Arabia	Brazil	Guam
Georgia	Syrian Arab Rep.	British Virgin Is.	Hong Kong, China
Greenland	United Arab Emirates	Cayman Is.	Johnston Is.
Hungary	West Bank & Gaza	Chile	Kiribati
Kazakhstan	Yemen, Rep.	Colombia	Korea, Dem. Rep.
Kyrgyz Republic		Costa Rica	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	Tokelau
		Nicaragua	Tonga
		Norfolk Is.	Tuvalu
		Panama	Vanuatu
		Paraguay	Viet Nam
		Peru	Wake Is.
		Puerto Rico	Wallis & Futuna Is.
		St. Helena	
		St. Kitts & Nevis	
		St. Lucia	
		St. Pierre & Miquelon	
		St. Vincent & the Grenadines	
		Suriname	
		Trinidad & Tobago	
		Turks & Caicos Is.	
		Uruguay	
		US Virgin Is.	
		Venezuela	

ANNEX B

List of Developing Countries and Separate Customs Territories Excluded from the Imposition of Provisional Safeguard Measure on Light Commercial Vehicles

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