



30 September 2009

CUSTOMS MEMORANDUM ORDER

No. 42-2009

SUBJECT : Definitive General Safeguard Duty on Importation from Various Countries of Steel Angle Bars, of a Height of Less Than 80mm.

I. OBJECTIVE

To ensure that no substantial and serious injury to the domestic industry of steel angle bars by reason of increased imports of steel angle bars from various countries, a Definitive Safeguard Duty from various countries shall be herein prescribed.

II. SCOPE

This order shall cover all importations of steel bars, of a height of less than 80mm for three (3) years.

III. GENERAL PROVISIONS

1. For the first year of its implementation, the definitive general safeguard measure in the amount of P7,700.00/MT shall be imposed on equal and unequal leg steel angle bars, of a height of less than 80mm imported from various countries which are classified under 2004 HS Heading Nos. 7216.21.00 (2007 AHTN Subheading No. 7216.21.00); 7216.50.11 (2007 AHTN Subheading No. 7216.5010); and 7216.50.91 (2007 AHTN Subheading No. 7216.50.10);
2. Unequal leg angle bars are included since they have the same application and are directly competitive to domestically produced products. However, marine grade steel angle bars are excluded from the imposition of the definitive general safeguard measure;
3. Section 15(3) of RA 8800 provides further that **"an action described in Section 13(a), (b) or (c) that has an effective period of more than one (1) year shall be phased down at regular intervals within the period in which the action is in effect"**. Thus, the measure shall continue to be liberalized annually for the second and third year of the three-year implementation period to the extent of redressing or preventing the injury and to facilitate adjustment by domestic industry from the adverse effects directly attributed to increased imports;
4. 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 products 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 countries and separate customs territories listed in Annex A are therefore excluded from the imposition of the definitive general safeguard measure on steel angle bars. The composition of the developing countries on the *de minimis* list may change depending on the most recent data available during the period of annual review which will be conducted by the DTI during the implementation period.

5. Rule 13.3.c of the IRR of RA 8800 also provides that: "In the case a cash bond has been filed, the same shall be applied to the safeguard duty assessed. In case of a negative finding or if the cash bond is in excess of the definitive safeguard duty assessed, the remainder shall be immediately returned to the importer within ten (10) calendar days from the date a final decision has been made: provided, that no interest shall be payable by the government on the amount to be returned". All cash bonds that may have been imposed on the shipments originating from countries listed in Annex A and which entered in or are withdrawn from warehouse in the Philippines for consumption starting 10 March 2009, i.e. the date the provisional safeguard measure took effect, shall be immediately returned to the concerned importer.

IV. ADMINISTRATIVE PROVISION

The Principal Examiner, Principal Appraiser and the Chief, Formal Entry Division shall be responsible for the proper implementation of this CMO.

V. OTHER PROVISION

All importers of steel angle bars originating from a country that is exempt from the safeguard duty shall submit a Certificate of Country of Origin (CO) issued by the authorized agency/office in the source country of manufacture duly authenticated by the Philippine embassy/Consulate thereat.

VI. REPEALING CLAUSE

All Customs Memorandum Orders and Circulars or parts thereof which are inconsistent with this order are deemed rescinded and/or modified accordingly.

VII. EFFECTIVITY

This order shall take effect immediately.

Date Signed: _____

OCT 05 2009

NAPOLEON L. MORALES
Commissioner



09-06707
Bureau of Customs

ANNEX A**List of Developing Countries and Separate Customs Territories Excluded from the Imposition of Definitive Safeguard Measure on Steel Angle Bars**

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			

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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 Montenegro 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. US Virgin Is. Venezuela	American Samoa Brunei Darussalam Cambodia Christmas Is. Cocos (Keeling) Is. Cook Is. Fiji French Polynesia Guam Hong Kong, China Indonesia 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 Pitcairn Is. Papua New Guinea Samoa Singapore Solomon Islands Thailand Tokelau Tonga Tuvalu Vanuatu Vietnam Wake Is. Wallis & Futuna Is.



Republic of the Philippines
DEPARTMENT OF FINANCE

Roxas Boulevard Corner Pablo Ocampo, Street
Manila 1004

BUREAU OF CUSTOMS
Deputy Commissioner MG
09-12414

BUREAU OF CUSTOMS
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DATE: 9/10/09
TIME: 10:25 AM
BY: LEGAL SERVICE

BUREAU OF CUSTOMS
Office of the Commissioner
09-17171

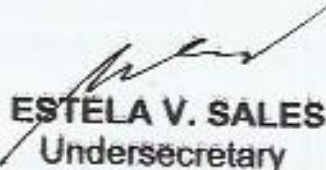
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RECEIVED
09 SEP 2009
VICKY

2nd Indorsement
27 August 2009

Respectfully referred to the Commissioner of Customs, Port Area, Manila, for implementation, the attached Order dated July 27, 2009 of Secretary Peter B. Favila, Department of Trade and Industry, imposing the definitive general safeguard duty on importation from various countries of steel angle bars, of a height of less than 80mm. The definitive general safeguard measure shall be in the amount of P7,700.00/MT for the first year of its implementation. The measure shall be subject to an annual review during the remaining years of the implementation period pursuant to Sections 13 of Republic Act No. 8800 (The Safeguard Measures Act) and its implementing Rules and Regulations.

The Commissioner of Customs is hereby enjoined to issue a Customs Memorandum Order (CMO) for the immediate implementation of the aforesaid Order.

By authority of the Secretary:


ESTELA V. SALES
Undersecretary

Legal & Revenue Operations Group

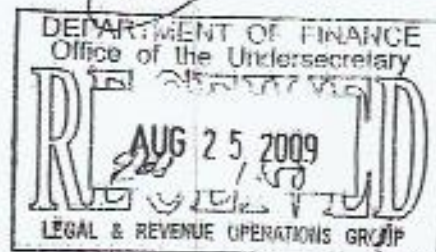
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CC:
Hon. Peter B. Favila
Secretary
Department of Trade and Industry
4/F Industry & Investments Bldg.,
385 Sen. Gil J. Puyat Ave., Makati City 1200

27 July 2009

HON. MARGARITO B. TEVES

Secretary
Department of Finance
Roxas Boulevard, Manila



Dear **Secretary Teves**:

The Department of Trade and Industry received a copy of the Tariff Commission's Formal Investigation Report on the application for general safeguard measures against the importation of steel angle bars with HS Heading No. 7216.2100 (2007 AHTN Subheading No. 7216.2100); 7216.5011 (2007 AHTN Subheading No. 7216.5010); and 7216.5091 (2007 AHTN Subheading No. 7216.5010). The Commission established the existence of a causal link between the increased imports of said product and the serious injury to the domestic industry and recommended the imposition of a definitive general safeguard measure.

As mandated under Section 13 of RA 8800, The Safeguard Measures Act and its Implementing Rules and Regulations (IRR), the DTI Secretary issued an Order Imposing the definitive general safeguard measures on equal and unequal leg steel angle bars, of a height of less than 80mm imported from various countries. The measure shall be effective for three (3) years starting 10 March 2009, the date the provisional measure took effect. The definitive general safeguard measure for the first year of its implementation shall be in the amount of ₱7,700.00/MT. The measure shall be subject to an annual review during the remaining years of the implementation period as provided under Sections 13 and 15.3 of RA 8800 and Rules 15.5 and 15.6 of its IRR for purposes of liberalizing or reducing its intensity. /

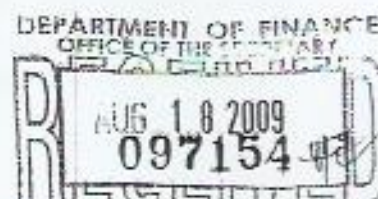
The Order shall be effective from the date of the issuance by the Bureau of Customs of the relevant Customs Memorandum Order (CMO) or 15 days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier.

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 steel angle bars covered by the said DTI Order. //

Sincerely,

PETER B. FAVILA
Secretary

cc: Commissioner Napoleon L. Morales
Bureau of Customs



**IN THE MATTER OF THE FINAL APPLICATION
FOR THE DEFINITIVE GENERAL SAFEGUARD
MEASURE AGAINST THE IMPORTATION OF
STEEL ANGLE BARS FROM VARIOUS
COUNTRIES**

**(HS Heading No. 7216.2100 (2007 AHTN
Subheading No. 7216.2100); 7216.5011 (2007
AHTN Subheading No. 7216.5010); and 7216.5091
(2007 AHTN Subheading No. 7216.5010))
(Safeguard Formal Investigation No. 01-2009)**

**Philippine Steel Angle Bar Industry
Petitioner**

X-----X

ORDER

On 29 June 2009, the Department of Trade and Industry (DTI) received the Tariff Commission's Formal Investigation Report on the application for general safeguard measure against the importation of steel angle bars from various countries classified under HS Heading Nos. 7216.21.00 (2007 AHTN Subheading No. 7216.21.00); 7216.50.11 (2007 AHTN Subheading No. 7216.5010); and 7216.50.91 (2007 AHTN Subheading No. 7216.50.10).

The Commission, in accordance with RA 8800 and the WTO Agreement on Safeguards, concluded that:

1. Applicant companies, Cathay Metal Corporation, Dragon Asia Rolling Mills and Lunar Steel Corporation accounted for 75% of the total domestic production of steel angle bars during the period of investigation (POI).
2. Locally produced steel angle bar is a like product to imported steel angle bar.
3. The product under consideration was imported in significantly increased quantities, both in absolute terms and relative to domestic production, in 2006 and 2007.
4. The domestic steel angle bar industry suffered and is suffering significant impairment in its position particularly in terms of shrinking market share; declining production and sales; diminishing employment and productivity; underutilization of rated capacity and deterioration of operating income.
5. While there were other factors that contributed to the impairment of the position of the domestic industry, increased importation of the product under consideration was the substantial cause of serious injury to the domestic industry.

OFFICE OF THE SECRETARY

developing countries on the *de minimis* list may change depending on the most recent data available during the period of annual review which will be conducted by the DTI during the implementation period.

5. Rule 13.3.c of the IRR of RA 8800 also provides that: "In the case a cash bond has been filed, the same shall be applied to the safeguard duty assessed. In case of a negative finding or if the cash bond is in excess of the definitive safeguard duty assessed, the remainder shall be immediately returned to the importer within ten (10) calendar days from the date a final decision has been made: Provided, that no interest shall be payable by the government on the amount to be returned". All cash bonds that may have been imposed on shipments originating from countries listed in Annex A and which entered in or are withdrawn from warehouses in the Philippines for consumption starting 10 March 2009, i.e. the date the provisional safeguard measure took effect, shall be immediately returned to the concerned importer.

Importers of steel angle bars originating from a country that is exempt from the safeguard duty, shall submit a Certificate of Country of Origin (CO) issued by the authorized agency/office in the source country of manufacture authenticated by the Philippine Embassy/Consulate thereat.

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 6 and 8 of the Agreement on the CEPT Scheme.

The application of the definitive general safeguard measure shall be monitored and reviewed in accordance with Sections 15 and 16 of RA 8800. Applicant steel angle bar industry is also directed to comply with its adjustment plan.

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.

27 July 2009


PETER B. FAVILA
Secretary
