

**NOTIFICATION UNDER ARTICLE 12.4 OF THE AGREEMENT ON
SAFEGUARDS BEFORE TAKING A PROVISIONAL SAFEGUARDS
MEASURE REFERRED TO IN ARTICLE 6**

**NOTIFICATION UNDER ARTICLE 12.1(b) OF THE
AGREEMENT ON SAFEGUARDS ON FINDING
A SERIOUS INJURY OR THREAT THEREOF
CAUSED BY INCREASED IMPORTS**

PHILIPPINES

The following communication, dated 21 November 2001, has been received from the Permanent Mission of the Philippines.

Pursuant to Article 12 of the Agreement on Safeguards, the Government of the Philippines has the honour to notify the Committee on Safeguards of an Order of the Philippines' Department of Trade and Industry on Safeguard Case No. 02-2001, dated 7 November 2001, making after preliminary determination, an affirmative finding that increased imports of grey Portland cement have caused serious injury to the domestic industry, and imposing a provisional safeguard measure in the form of a cash bond for a period not exceeding two hundred (200) days. A copy of the said order is attached herewith.

**IN THE MATTER OF THE PRELIMINARY DETERMINATION
OF THE SAFEGUARD MEASURES CASE AGAINST THE
IMPORTATION OF GREY PORTLAND CEMENT FROM
VARIOUS COUNTRIES
(SAFEGUARD CASE NO. 02-2001)**

ORDER

The Philippines cement industry, represented by Philippine Cement Corporation (Philcemcor) filed a safeguard measures protest against the importation of grey Portland cement. The product is classified under HS Code 2523.29.00 and 2523.90.00. The protest alleged that grey Portland cement is being imported in increased quantities and that as a result thereof causes serious injury to the domestic industry.

The period of investigation covered imports from 1996 to 2000. For injury determination, the Department considered relevant information for the same period.

WHEREFORE, IN VIEW THEREOF, the Department of Trade and Industry, acting under Section 7 of RA 8800, the "Safeguard Measures Act", found after preliminary determination, an affirmative finding that increased imports of the product under consideration have caused serious injury to the domestic industry, particularly in terms of declining market share and domestic sales, increasing finished goods inventory and underutilization of production capacity.

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 a substantial cause of, serious injury to the domestic industry"** the imposition of a provisional measure in the form of a cash bond amounting to P20.60 per 40 kg. bag shall be imposed for a period not exceeding 200 days from the date of the issuance by the Bureau of Customs of the relevant Customs Memorandum Order (CMO) on all importations of grey Portland cement.

Considering that grey Portland cement is one of the products covered by the ASEAN-CEPT Agreement, as provided under Articles 6 and 8 of the said Agreement, the Philippines is required to notify the Ministerial Level Council and to accord adequate opportunity for consultation with the governments of the ASEAN countries concerned which may be affected by the application of provisional measures on imports sourced from ASEAN countries. The provisional measure shall be imposed upon compliance with Articles 6.3 and 8 of the ASEAN-CEPT Agreement.

The case records will be transmitted to the Tariff Commission for formal investigation to determine whether or not there is a need to impose a definitive safeguard measure.

Let this Order be published immediately in two (2) newspapers of general circulation.

This Order shall take effect immediately.

SO ORDERED

7 November 2001
