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Committee on Safeguards

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**NOTIFICATION UNDER ARTICLE 12.4 OF THE AGREEMENT ON
SAFEGUARDS BEFORE TAKING A PROVISIONAL SAFEGUARD
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**

**NOTIFICATION PURSUANT TO ARTICLE 9, FOOTNOTE 2
OF THE AGREEMENT ON SAFEGUARDS**

PHILIPPINES

(Cement)

The following communication, dated 30 January 2019, is being circulated at the request of the delegation of the Philippines.¹

Further to G/SG/N/6/PHL/11 dated 24 September 2018 and pursuant to Article 12 and Article 9 of the WTO Agreement on Safeguards, the Permanent Mission of the Philippines to the WTO hereby notifies the Committee on Safeguards of its preliminary determination findings on the investigation on the importation of cement from various countries, and before taking a provisional safeguard measure under Article 6 of the Safeguards Agreement.

1 PROVIDE THE PRECISE DESCRIPTION OF THE PRODUCTS INVOLVED

Cement classified under AHTN Codes 2523.2990 and 2523.9000.

2 SPECIFY THE PROPOSED PROVISIONAL SAFEGUARD MEASURE

The provisional safeguard measure will take the form of a cash bond amounting to Philippine Peso 210 per metric ton (PhP 210/MT) on all importations of cement classified under AHTN Codes 2523.2990 and 2523.9000 for a period of 200 days from the date of issuance by the Bureau of Customs (BOC) of the relevant Customs Memorandum Order (CMO) or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier. The shipments of cement that are in transit prior to the effectivity of the Order shall be exempted from the imposition of the provisional safeguard measure. The Order was signed by the Secretary of the DTI on 17 January 2019.

Imports originating from developing countries listed in Annex A shall not be subject to the provisional safeguard measure.

¹ A copy of the DTI Administrative Order has been submitted electronically. To consult this document please contact Ms. Budd (hilary.budd@wto.org) or Ms. Naville (delphine.naville@wto.org) of the Rules Division.

3 SPECIFY THE PROPOSED DATE OF INTRODUCTION OF THE PROVISIONAL SAFEGUARD MEASURE

The provisional safeguard measure is scheduled to enter into force upon issuance by the Bureau of Customs (BOC) of the relevant Customs Memorandum Order (CMO) or fifteen (15) days after the publication of the DTI Order in two (2) newspapers of general circulation, whichever comes earlier. The Order signed by the Secretary of the DTI was published in two newspapers of general circulation on 25 January 2019.

4 EXPECTED DURATION OF THE PROVISIONAL SAFEGUARD MEASURE, IF ANY DECISION ON THE DURATION OF THE SAFEGUARD MEASURE HAS BEEN MADE

The provisional safeguard measure will be in force for two hundred (200) days.

5 PROVIDE THE BASIS FOR:

(a) Making a preliminary determination, as provided for in Article 6, that increased imports have caused or are threatening to cause serious injury

A review of the evidence made available to DTI shows:

- 1) That the volume of cement imports:
 - in absolute terms, increased continuously from 2013 to 2017, the period of investigation (POI);
 - the increases compared with the previous years are: in 2014 – 70%, in 2015 – 4,401%, in 2016 – 550%, in 2017 – 72%;
 - in relative terms, the share of imports also increased during the POI, from 0.02% in 2013 to 15% in 2017.
- 2) That the increased imports caused serious injury to the domestic industry as follows:
 - despite significant increases in market size, the market share of domestic manufacturers declined;
 - from a small share in the domestic market between 2013 to 2015, the share of imported cement grew to 8% and 13% in 2016 and 2017, respectively;
 - while the domestic industry's sales revenues increased from 2013 to 2016, it went down by P11.1 billion in 2017, a decline of 12% over the previous year;
 - while earnings before interest and taxes increased from 2013 to 2016 by 6%, 15%, and 8%, respectively, the industry experienced a sharp decline in earnings of 49% in 2017;
 - the weighted average landed cost of imports is lower than the average selling price of the domestic product indicating a price undercutting of 14%;
 - cement manufacturers have been forced to reduce prices by almost 10% to compete with lower-priced imported cement.
- 3) That increased imports were the substantial cause of serious injury to the domestic industry based on the following:
 - the significant increase in the volume of imported cement preceded the serious injury to the industry in 2017;
 - the conditions of competition show that the market share of locally produced cement was essentially displaced as the share of imports in the domestic market significantly increased.

(b) Determining that there are critical circumstances where delay would cause damage which it would be difficult to repair

There are factors that contributed to the existence of critical circumstances, such as zero tariff rates for imported cement which allowed exporters to easily penetrate the market. Further, foreign mills export excess production to other countries including the Philippines.

6 OFFER OF CONSULTATIONS

The Government of the Philippines offers consultations on the provisional safeguard measures.

ANNEX

**LIST OF DEVELOPING COUNTRIES AND SEPARATE CUSTOMS TERRITORIES
EXCLUDED FROM THE IMPOSITION OF THE PROVISIONAL SAFEGUARD MEASURE
ON THE IMPORTATION OF CEMENT**

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

East & 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	Christmas Is.
Bosnia & Herzegovina	Jordan	Bahamas	Chinese Taipei
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 Islands	Hong Kong, China
Greenland	United Arab Emirates	Cayman Islands	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		Guadaloupe	Myanmar
Slovenia		Guatemala	Nauru
Tajikistan		Guyana	New Caledonia
Turkey		Haiti	Niue
Turkmenistan		Honduras	Northern Marianas Is.
Ukraine		Jamaica	Palau
Uzbekistan		Martinique	Pitcairn Is.
Yugoslavia, Fed. Rep.		Mexico	Papua New Guinea
		Montserrat	Samoa
		Netherland Antilles	Singapore
		Nicaragua	Solomon Islands
		Norfolk Islands	Tokelau
		Panama	Tonga
		Paraguay	Tuvalu
		Peru	Vanuatu
		Puerto Rico	Wake Is.
		St. Helena	Wallis & Futuna Is.
		St. Kitts & Nevis	
		St. Lucia	
		St. Pierre & Miquelon	
		St. Vincent & the Grenadines	
		Suriname	
		Trinidad & Tobago	
		Turks & Caicos Islands	
		Uruguay	
		US Virgin Islands	
		Venezuela	