JOINT ADMINISTRATIVE ORDER NO. 03
SERIES OF 2000

IMPLEMENTING RULES AND REGULATIONS PURSUANT TO REPUBLIC ACT 8800: "AN ACT PROTECTING LOCAL INDUSTRIES BY PROVIDING SAFEGUARD MEASURES TO BE UNDERTAKEN IN RESPONSE TO INCREASED IMPORTS AND PROVIDING PENALTIES FOR VIOLATION THEREOF", OTHERWISE KNOWN AS "THE SAFEGUARD MEASURES ACT"

WHEREAS, Section 39 of Republic Act 8800 (RA 8800) sets its effectivity "*...fifteen days following its complete publication in two (2) newspapers of general circulation or in the Official Gazette, whichever comes earlier.*" RA 8800 was published in two (2) newspapers of general circulation on July 24, 2000 and thus is effective on August 9, 2000.

NOW, THEREFORE, these Implementing Rules and Regulations (IRRs) are issued as Joint Administrative Order No. ___ (2000) to guide all concerned departments, offices, agencies, and stakeholders, in the implementation of RA 8800.

CHAPTER I
GENERAL PROVISIONS

Section 1. ***Short Title.*** – This Joint Administrative order shall be known as the Implementing Rules and Regulations (IRRs) Pursuant to Republic Act (RA) 8800.

Section 2. ***Declaration of Policy.*** – These IRRs are issued pursuant to the policy declared under RA 8800, to wit: *"The State shall promote the competitiveness of domestic industries and producers based on sound industrial and agricultural development polices, and the efficient use of human, natural and technical resources. In pursuit of this goal and in the public interest, the State shall provide safeguard measures to protect domestic industries and producers from increased imports which cause or threaten to cause serious injury to those domestic industries and producers."*

Rule 2.1. These IRRs shall remain effective unless explicitly and specifically amended by the Secretaries of the Department of Agriculture and the Department of Trade and Industry in consultation with the Department of Finance, the Tariff Commission, and the Bureau of Customs.

Section 3. ***Scope of Application.*** *– This Act shall apply to products being imported into the country irrespective of source.*

Rule 3. ***Scope of Application*** - The provisions of these IRRs shall apply to products which are being imported from all sources into the Philippines.

Rule 3.1. A general safeguard measure under Chapter II of these IRRs shall apply where there is an increase in the quantity of a product being imported, whether absolute or relative to the domestic production, which is determined to be a substantial cause of serious injury or threat thereof to the domestic industry.

Rule 3.2 A special safeguard measure on an agricultural product under Chapter III of these IRRs shall apply where:

Rule 3.2.a Its cumulative import volume, in a given year, exceeds its trigger volume; or but not concurrently;

Rule 3.3.b. Its actual c.i.f. import price has gone below its trigger price.

Section 4. ***Definitions.****- For the purposes of this Act* and these IRRs, *the following terms are defined as follows:*

a) *"Agricultural product"* shall refer *to a specific commodity under Chapters 1 to 24 of the Harmonized System (HS) of Commodity Classification as used in the Tariff and Customs Code of the Philippines;*

b) *"Commission" shall refer to the Tariff Commission;*

c) *"Consumers" shall refer to natural persons or organized consumer groups who are purchasers, lessees, recipients or prospective purchasers, lessees, recipients of consumer products, services or credit;*

d) *"Critical circumstances" shall mean circumstances where there is prima facie evidence that increased imports, whether absolute or relative to domestic production, are a substantial cause of serious injury or threat thereof to the domestic industry and that delay in taking action under this Act/* these IRRs *would cause damage to the industry that would be difficult to repair;*

e) *"Directly competitive products" shall mean domestically-produced substitutable products;*

f) *"Domestic industry" shall refer to the domestic producers, as a whole, of like or directly competitive products manufactured or produced in the Philippines or those whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of those products;*

g) *"Interested parties" shall include domestic producers, consumers, importers, and exporters of the products under consideration;*

h) *"Like product" shall mean a domestic product which is identical, i.e. alike in all respects to the imported product under consideration, or in the absence of such a product, another domestic product which, although not alike in all respects, has characteristics closely resembling those of the imported product under consideration;*

i) *"Market access opportunity" shall mean the percentage of the total annual volume of imports of an agricultural product to the corresponding total volume of domestic consumption of the said product in the country in the three (3) immediately preceding years for which data are available;*

j) *"Minimum Access Volume (MAV)"* or tariff-rate quota shall refer *to the amount of imports of an agricultural product allowed to be imported into the country at a customs duty lower than the out-quota customs duty;*

k) *"Positive adjustment to import competition" shall refer to the ability of the domestic industry to compete successfully with imports after the termination of any safeguard measure, or to the orderly transfer of resources to other productive pursuits; and to the orderly transition of dislocated workers in the industry to other productive pursuits;*

l) *"Price difference" is the amount obtained after subtracting the c.i.f. import price from the trigger price;*

m) *"Product"* shall refer *to article, commodity or good;*

n) *"Secretary" shall refer to either the Secretary of the Department of Trade and Industry in the case of non-agricultural products or the Secretary of the Department of Agriculture in the case of agricultural products;*

o) *"Serious injury" shall mean a significant impairment in the position of a domestic industry after evaluation by competent authorities of all relevant factors of an objective and quantifiable nature having a bearing on the situation of the industry concerned, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in levels of sales, production, productivity, capacity utilization, profit and losses, and employment;*

p) "Substantial cause" means a cause which is important but not less than any other cause;

q) "Threat of serious injury" shall be understood to mean serious injury that is imminent;

r) "Trigger price" is the price benchmark for applying the special safeguard measure; and

s) "Trigger volume " is the volume benchmark for applying the special safeguard measure.

Rule 4.1. Other terms used in these IRRs include and are defined as :

a). "Adjustment Plan" shall refer to an action plan which a domestic industry is required to submit, that describes a set of quantified goals, specific plans, and timetables that a concerned industry commits to undertake in order to facilitate positive adjustment of the industry to import competition.

b) *"Domestic industry" shall refer to the domestic producers, as a whole, of like or directly competitive products manufactured or produced in the Philippines or those whose collective output of like or directly competitive products constitutes a major proportion of the total domestic production of those products;* Provided, however, that

1) in the case of a domestic producer which also imports the product under consideration, only its domestic production of the like or directly competitive product shall be treated as part of the domestic production, or

2) in the case of a domestic producer which produces more than one product, only that portion of its production of the like or directly competitive product may be treated as part of such domestic industry.

c) "Perishable and seasonal agricultural product" shall refer to any agricultural product which has a short shelf life, growing season or marketing period, among other factors;

CHAPTER II
GENERAL SAFEGUARD MEASURES

Section 5. ***Conditions for the Application of General Safeguard Measures.*** *– The Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as to be a substantial cause of serious injury or threat thereof to the domestic industry; however, in the case of non-agricultural products, the Secretary shall first establish that the application of such safeguard measures will be in the public interest.*

Rule 5. Conditions for the Application of General Safeguard Measures

Rule 5.1. The Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product, irrespective of source, is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as to be a substantial cause of serious injury or threat thereof to the domestic industry. However, in the case of non-agricultural products, the Secretary shall first establish that the application of such safeguard measure will be in the public interest.

Rule 5.2 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: i) whether the imposition of the provisional measure will result in a political or economic crisis; and ii) the extent to which such imposition will cause a shortage of the product under consideration in the domestic market.

Section 6. ***Initiation of Action Involving General Safeguard Measure.*** *– Any person, whether natural or juridical, belonging to or representing a domestic industry may file with the Secretary a verified petition requesting that action be taken to remedy the serious injury or prevent the threat thereof to the domestic industry caused by increased imports of the product under consideration.*

The petition shall include documentary evidence supporting the facts that are essential to establish:

a. *an increase in imports of like or directly competitive products;*
b. *the existence of serious injury or threat thereof to the domestic industry; and*
c. *the causal link between the increased imports of the product under consideration and the serious injury or threat thereof.*

The Secretary shall review the accuracy and adequacy of the evidence adduced in the petition to determine the existence of a prima facie case that will justify the initiation of a preliminary investigation within five (5) days from receipt of the petition.

The Secretary may also initiate action upon the request of the President; or a resolution of the House or Senate Committee on Agriculture, or House or Senate Committee on Trade and Commerce.

In the absence of such a petition, the Secretary may, motu proprio, initiate a preliminary safeguard investigation, if there is evidence that increased imports of the product under consideration are a substantial cause of, or are threatening to substantially cause, serious injury to the domestic industry.

The Secretary may extend legal, technical and other assistance to the concerned domestic producers and their organizations at all stages of the safeguard action.

Rule 6. Initiation of Action

Rule 6.1. Information and Other Forms of Assistance to the Domestic Industry:

The Secretary and the Commission shall, upon request, make available to the public general information concerning the safeguard measure and other forms of trade remedies. Such information may include the procedures to be followed and the appropriate dates or milestones in the investigations related to the imposition of such measures.

The Secretary and the Commission shall also provide, to the extent possible at all stages of the action, assistance and advice to interested parties which seek to obtain the remedies and benefits of the safeguard measures, such assistance and advice to include the following:

Rule 6.1.a Information on import volumes and values, at the specific product level;

Rule 6.1.b Informal legal and technical advice on the appropriateness of invoking the safeguard measure as a remedy for the trade problem, and on the availability of information in support of the proposal.

Rule 6.1.c. Information to all concerned parties that receipt of these forms of assistance shall not be construed as a guarantee that the recipient will prevail in the investigation for the application of safeguard measures.

Rule 6.2. Petitioners

Rule 6.2.a. Any person whether natural or juridical, belonging to or representing a domestic industry, may file a written application using a proforma protestant's questionnaire which shall include evidence of i) an increase in the volume of imports of the like or directly competitive products, ii) the existence of serious injury or threat thereof to the domestic industry; and iii) causal link between the increased imports of the product under consideration and the serious injury or threat thereof. The applicant shall submit four (4) copies of the application, including annexes, two (2) copies of which shall contain the non-confidential summaries of the information submitted.

Rule 6.2.b. A properly documented application shall contain relevant evidence and information reasonably available to the applicant on the following:

i. identity of the applicant and a description of the volume and the value of his domestic production of the product under consideration; information on his percentage share to total domestic production;

ii. a list of known domestic producers of the product under consideration and , if possible, a description of the volume and value of domestic production of the product

under consideration accounted for by such producers, if the application is made on behalf of the domestic industry;

iii. complete description of the imported product under consideration, specifying the Harmonized System (HS) Code under which such product is classified, the present tariff rates (MFN and preferential rates), and the complete description of the like or directly competitive domestic product concerned;

iv. names of the countries of export or origin of the product under consideration;

v. identity of all known foreign exporters or producers of the product under consideration, or their duly authorized representative organizations;

vi. list of known persons importing the product with their last known addresses;

vii. information on the volume and value of imports[1] and other relevant industry data, for the last five (5) years preceding the date of application, to support allegations of the consequent impact of the increased importation of the product under consideration on the domestic industry demonstrated by relevant factors and indices having a bearing on the state of the domestic industry as enumerated in Rule 12 of these IRRs;

viii. statement on the form and duration of the safeguard measures sought;

ix. statement of the efforts being taken and/or to be taken, by the domestic industry (including other concerned parties) to make a positive adjustment to import competition.

[1] Information on the volume and value of imports shall include those products imported duty-free and those importations made by the government

Rule 6.2.c. If provisional safeguard measures are sought, petitioner must show that critical circumstances exist which warrant the imposition of such provisional relief. In addition to the information mentioned above, the petitioner must also submit the following;

i. statement requesting for the imposition of a provisional measure;

ii. impact on the domestic industry if imports continue within the next sixty (60) days of the filing of the petition; and

iii. statement on the form and amount of provisional measure sought by the industry. In the case of agricultural products, the type of measure and the rate or level sought, where applicable. In the case of non-agricultural products, the type and rate of tariff sought.

Rule 6.2.d. The application shall include a certification signed by the applicant that the information presented therein is accurate and complete to the best of his knowledge.

Rule 6.3. Procedures for Filing

Rule 6.3.a. The petition shall be filed with the Secretary of Trade and Industry in the case of a non-agricultural product, or with the Secretary of Agriculture in the case of an agricultural product.

Rule 6.3.b. The Secretary shall preliminarily screen the application if the following conditions are met:

i. The application is signed;
ii. All relevant questions are answered or the reasons for the absence of information are given; and
iii. The attachments to the application are complete.

Rule 6.3.c. Failure to supply all the information sought in the application will lead to the non-acceptance thereof. The Secretary shall check the consistency of the

information provided in the application against other information available to him. The Secretary shall clarify any unclear or ambiguous statement with the applicant.

Rule 6.3.d. As soon as the requirements are completed, the Secretary shall acknowledge in writing that he has already accepted a properly documented application. The date of the Secretary's letter shall be considered as day zero (0) of the five (5) calendar days within which he is required to determine whether there is sufficient evidence to justify the initiation of an investigation. The Secretary shall issue the letter as soon as practicable from his receipt of a properly documented application. If the applicant decides to give the Secretary further information in support of an application, the five (5) day period herein mentioned shall recommence from the date of the submission of the new information. After this period, the Secretary shall no longer entertain any information that may be provided by the applicant.

Rule 6.4. Requirements for Initiation of Preliminary Determination

Rule 6.4.a. The Secretary shall, within five (5) calendar days from the date of his letter of acceptance of the properly documented application referred to in Rule 6.3.d, examine the accuracy and adequacy of the evidence submitted to determine the existence of a *prima facie* case that will justify the initiation of a preliminary investigation. In assessing the sufficiency of evidence provided in the application, the Secretary shall satisfy himself that based on the documents available to him, he can determine that the increased imports of the product under consideration are the substantial cause of the serious injury or threat thereof to the domestic producers of the product under consideration.

Rule 6.4.b. The Secretary may also initiate action upon the request of the President or a resolution of the House or Senate Committee on Agriculture, or House or Senate Committee on Trade and Commerce.

Rule 6.4.c. The Secretary may also *motu proprio*, initiate a preliminary safeguard investigation without having received a verified petition by or on behalf of a domestic industry if there is evidence that increased imports are a substantial cause of, or threatens to substantially cause, serious injury to the domestic industry.

Rule 6.4.d. All persons who have a right to relief or who will be adversely affected by such relief with respect to the alleged import surges claimed to exist may, upon the discretion of the Secretary or the Commission, join as petitioners or be joined as respondents in one (1) petition, where any question of law or fact common to all such respondents may arise in such action.

Rule 6.5. Notice to Concerned Parties and Submission of Responses

Rule 6.5.a. Within two (2) calendar days after he makes the decision to initiate a preliminary investigation, the Secretary shall cause the publication of the notice of initiation of preliminary investigation in two (2) newspapers of general circulation. The date of publication shall be considered as day one (1) of the initiation of the investigation.

The public notice of the initiation of an investigation shall contain, unless otherwise made available through a separate report, adequate information on the following matters:

1. The nature of the product under consideration;
2. A summary of the particulars of the injury or threat thereof;
3. The time frame for the submission of evidence or views to the Secretary;
4. The date of the initiation of the investigation; and
5. The address to which representations by interested parties shall be directed.

Rule 6.5.b. Within two (2) calendar days after he makes the decision to initiate the preliminary investigation, the Secretary shall:

1. Identify all known interested parties i.e. importer, foreign exporter and/or producer,

including the government of the exporting countries concerned, and notify them of the initiation of the investigation;
2. Furnish them with a copy of the initiation report and the petitioner's application with its annexes, subject to the requirement to protect confidential information; and
3. Provide them with a proforma respondent's questionnaire.

The respondents are required to submit within five (5) working days from the receipt of such notice their response or comment and other evidence and information to dispute all allegations contained in the petition. The notice shall be deemed to have been received five (5) working days from the date on which it was transmitted to the respondent or the appropriate diplomatic or official representative of the country of export or origin of the product under consideration. In cases where the number of known interested parties is so large that it is impractical to provide a non-confidential copy of the documents to each of them, a copy will be given to the government of the country of export or origin and/or to the representative organizations. These documents shall also be made available to other interested parties upon request.

Philippine trade or agriculture attaches and other consular officials in the concerned country of export or origin may also be provided a copy of the notice of initiation.

Rule 6.5.c. Whenever any interested party fails to respond adequately or is unable to produce information requested, refuses access to, or otherwise does not provide any other information within the period allowed for the investigation, or otherwise significantly impedes the investigation, the preliminary determination of the conditions required in a safeguard investigation shall proceed on the basis of facts derived from the evidence at hand. Even though the information provided by any interested party may not be complete in all respects, this shall not be disregarded provided the interested party is deemed to have acted to the best of his ability.

Rule 6.5.d. If any evidence or information is not accepted by the Secretary, the supplying party shall be informed forthwith of the reason/s therefor, and shall be given an opportunity to provide further explanation. Provided, that this will not impede the investigation considering the period required for the Secretary to make a preliminary determination. If the explanations are not satisfactory, the reasons for the rejection of such evidence or information shall be given in the report containing the preliminary determination.

Rule 6.5.e. Information which is confidential, either by nature or provided on a confidential basis, shall not be disclosed without the expressed permission of the supplying party. The interested parties providing confidential information shall be required to provide two (2) copies of non-confidential summaries thereof to be placed in a public file and made available to all interested parties upon the initiation of the investigation. These summaries shall contain sufficient details to permit a reasonable understanding of the confidential information to enable other parties to respond to claims based on such information. In exceptional circumstances, wherein summarization of confidential information is not possible, the supplying party must state the reason why it cannot be provided. Where any request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, such information may be disregarded by the Secretary, unless it can be demonstrated to the Secretary's satisfaction from appropriate sources that the information is correct.

The following information may be considered confidential if so designated by the supplying party:

1. business or trade secrets concerning the nature of the product or the production process;
2. production costs but not the identities of the production components, unless these are trade secrets;

3. distribution costs but not the channels of distribution;
4. terms of sale but not those offered to the public;
5. prices of individual sales, likely sales, or other offers but not components of prices, such as transportation, if based on published schedules, dates of sale, order numbers, or product descriptions (other than business or trade secrets described in (1);
6. names of particular customers, distributors, or suppliers but not destinations of sale or designation of type of customer, distributor or supplier, unless the destination or designation would reveal the name;
7. names of particular persons from whom confidential information was obtained; and
8. any other specific business information which, if released to the public, would cause substantial harm to the competitive position of the supplying party.

Rule 6.5.f. A public file shall be maintained by the Secretary and the Commission for all investigations initiated. It shall contain a copy of all submissions from interested parties and all relevant correspondences concerning the investigation, subject to confidentiality considerations. The public file will be made available to any interested party upon request.

The following will normally be considered as public information:

1. Factual information of a type that has been published or otherwise made available to the public by the supplying party;
2. Factual information that is not designated as confidential by the supplying party;
3. Factual information that although designated as confidential by the supplying party:
   (i) is in a form that cannot be associated with a particular party; or
   (ii) has been determined by the authorities as not deserving confidential treatment; and
4. Written arguments relating to the investigation that are not designated as confidential.

Rule 6.5.g. In order to verify information contained in the application or to obtain further details, the Secretary or the Secretary's designated representative may conduct visits, or ocular inspections of the facilities of the domestic producers and importers. The Secretary or the Secretary's designated representative may also visit other domestic producers and importers that have not provided submissions during the investigation.

Section 7. ***Preliminary Determination.*** *– Not later than thirty (30) days from receipt of the petition or a motu proprio initiation of the preliminary safeguard investigation, the Secretary shall, on the basis of the evidence and submission of the interested parties, make a preliminary determination that increased imports of the product under consideration are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry. In the process of conducting a preliminary determination, the Secretary shall notify the interested parties and shall require them to submit their answers within five (5) working days from receipt of such notice. The notice shall be deemed received five (5) working days from the date of transmittal to the respondent or appropriate diplomatic representative of the country of exportation or origin of the imported product under consideration.*

When information is not applied within the above time limit set by the Secretary or if the investigation is significantly impeded, decision will be based on the facts derived from the evidence at hand.

Upon a positive preliminary determination that increased importation of the product under consideration is a substantial cause of, or threatens to substantially cause, serious injury to the domestic industry, the Secretary shall, without delay, transmit its record to the Commission for immediate formal investigation.

Rule 7. Preliminary Determination

Rule 7.1. Not later than thirty (30) calendar days from receipt of the properly documented application or a *motu proprio* initiation of the preliminary safeguard investigation, the Secretary shall, on the basis of the petition, the answers of the respondents, and the respective supporting documents or information, make a preliminary determination that increased imports of the product under consideration are a substantial cause of, or threaten to substantially cause, serious injury to the domestic industry.

Rule 7.2. The Secretary shall essentially determine the following in the preliminary determination:

Rule 7.2.a. The volume of imports[2], in particular, whether there has been an increase, either in absolute terms or relative to production in the Philippines. The Secretary shall evaluate import data for the last five (5) years preceding the application to substantiate claims of significant increase in import volume. Provided, however, that in some cases, the period maybe adjusted to cover a shorter period, if necessary, in order to take into account other considerations that will ensure the appropriateness of the chosen period, e.g., seasonality of product, availability of data or facility in verification of data;

Rule 7.2.b. Presence and extent of serious injury or threat thereof to the domestic industry producing the like or directly competitive product; and

Rule 7.2.c. Causal relationship between the increased imports of the product under consideration and the serious injury or threat thereof to the affected domestic industry.

Rule 7.2.d. The Secretary shall take into account the effects of the seasonality of products, whenever applicable, in the preliminary determination of whether or not the elements for the imposition of a provisional safeguard measure exist.

Rule 7.3. In a preliminary determination under critical circumstances, the Secretary shall establish that there has been a substantial increase in imports taking into account their volume and whether or not there has been a rapid accumulation of inventories of the domestic product and a reduction in sales and profit margins of the domestic industry.

Rule 7.4. The preliminary findings of the Secretary, if affirmative, together with the records of the case, shall without delay be transmitted to the Commission for its immediate formal investigation within three (3) calendar days from adopting the decision. However,if the preliminary findings of the Secretary are negative, the Secretary shall terminate the investigation.

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[2] Information on volume of imports shall include those products imported duty-free and importations made by the government.

Rule 7.5. Within two (2) calendar days after the Secretary makes his decision, he shall issue a public notice on his preliminary findings. He shall also furnish all interested parties on record a copy of his decision, subject to the requirement to protect confidential information, whether affirmative or negative.

Section 8. ***Provisional Measures.*** *– 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 substantial cause of, 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.*

Such measure shall take the form of a tariff increase, either ad valorem or specific, or both, to be paid out through a cash bond set at a level sufficient to redress or prevent injury to the domestic industry: Provided, however, That in the case of agricultural products where the tariff increase may not be sufficient to redress or to prevent serious injury to the domestic producer or producers, a quantitative restriction may be set. The cash bond shall be deposited with a government depository bank and shall be held in trust for the importer who posted the bond. The 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: Provided, That the duration of any provisional measure shall be counted as part of the initial period and any extension of the imposition of the definitive final safeguard measure.

When the provisional safeguard measure is in the form of a tariff increase, such increase shall not be subject or limited to the maximum levels of tariff as set forth in Section 401 (a) of the Tariff and Customs Code of the Philippines.

Rule 8. Imposition of Provisional Safeguard Measures

Rule 8.1. If the preliminary findings of the Secretary are affirmative and where a delay would cause damage which would be difficult to repair, the Secretary shall, within three (3) calendar days from making a decision, issue through the Secretary of Finance, written instructions to the Commissioner of Customs authorizing the imposition of a provisional general safeguard measure. Such measure shall take the form of a tariff increase either *ad valorem* or specific, or both, to be paid through a cash bond set at a level sufficient to redress or prevent serious injury to the domestic industry.

Rule 8.2. However, in the case of non-agricultural products, the Secretary shall first establish that the imposition of the provisional safeguard measure would be in the public interest.

Rule 8.3. In the case of agricultural products, where the tariff increase may not be sufficient to redress or to prevent serious injury to the domestic producer or producers, a quantitative restriction may be set. In implementing such quantitative restriction, the requirements under Rule 13.1.c shall likewise apply.

Rule 8.4. When the provisional safeguard measure is in the form of a tariff increase, such increase shall not be subject or limited to the maximum levels of tariff as set forth in Section 401 (a) of the Tariff and Customs Code of the Philippines.

Rule 8.5. Within three (3) calendar days from receipt of the preliminary findings of the Secretary, the Secretary of Finance shall instruct the Commissioner of Customs to impose the cash bond. It shall be mandatory for the Commissioner of Customs to instruct the Collector of Customs within three (3) days from receipt of instructions from the Secretary of Finance, to require importers of the product under consideration to post the appropriate cash bond. All importations which enter the Philippines after the date of the decision of the Secretary shall be covered by the bond. It shall also be mandatory for the Collector of Customs to immediately implement the instructions of the Customs Commissioner upon receipt thereof.

Rule 8.6. The cash bond shall be deposited with a government depository bank and shall be held in trust for the importers who posted the bond.

Rule 8.7. The duration of the provisional measure shall not exceed two hundred (200) calendar days from the date of imposition during which period the requirements of subsequent sections of these IRRs on the initiation of a formal investigation, notification and consultation shall have been met. Provided, that the duration of any provisional measure shall be counted as part of the initial period, and any extension, of the imposition of the definitive final safeguard measure.

Rule 8.8. The provisional 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.

Section 9. ***Formal Investigation.*** *– Within five (5) working days from receipt of the request from the Secretary, the Commission shall publish the notice of the commencement of the investigation, and public hearings which shall afford interested parties and consumers an opportunity to be present, or to present evidence, to respond to the presentation of other parties and consumers, and otherwise be heard. Evidence and positions with respect to the importation of the subject article shall be submitted to the Commission within fifteen (15) days after the initiation of the investigation by the Commission.*

The Commission shall complete its investigation and submit its report to the Secretary within one hundred twenty (120) calendar days from receipt of the referral by the Secretary, except when the Secretary certifies that the same is urgent, in which case the Commission shall complete the investigation and submit the report to the Secretary within sixty (60) days.

Rule 9. Formal Investigation of the Tariff Commission

Rule 9.1. Within five (5) working days from receipt of the request and the records of the case from the Secretary, the Commission shall publish in two (2) newspapers of general circulation the notice of the commencement of the formal investigation, and the date, time and place of the preliminary conference preparatory to the conduct of public hearings.

The purpose of the public hearings is to determine whether or not the subject product is being imported in increased quantities, whether absolute or relative to the domestic production and by reason thereof, the domestic industry producing the like or directly competitive product is being seriously injured.

Rule 9.2. The Commission shall require all interested parties to appear for a preliminary conference on the schedules of the public hearing and the procedures of the investigation, the nature of the administrative and fact-finding proceedings; the non-applicability of the technical rules of procedures provided by the Rules of Court, the non-availability of confidential information, and other related matters relative to the speedy disposition of the case and shall require them to submit their respective evidence and positions within fifteen (15) working days from notice.

Rule 9.3. The Commission shall, after due notification, conduct marathon public hearings to give all parties directly affected and such other interested parties as consumers that in the judgment of the Commission are entitled to attend, an opportunity to be heard and to present evidence including the opportunity to respond to the presentations of other parties and to submit their views, *inter alia*, as to whether or not the application of a safeguard measure would be in the public interest.

Rule 9.4. The Commission shall conduct the formal investigation to determine the following:

Rule 9.4.a. If the domestic product is a like or directly competitive product to the imported product under consideration;

Rule 9.4.b. If the product is being imported into the Philippines in increased quantities whether absolute or relative to the domestic production;

Rule 9.4.c. The presence and extent of serious injury or the threat thereof to the domestic industry that produces like or directly competitive product; and

Rule 9.4.d. The existence of a causal relationship between the increased imports of the product under consideration and the serious injury or threat thereof to the affected domestic industry.

Rule 9.5. The formal investigation shall be conducted in a summary manner. No dilatory tactics or unnecessary or unjustified delays shall be allowed and the technical rules of evidence used in regular court proceedings shall not be applied.

Rule 9.6. The Commission shall conclude its formal investigation and submit a report of its findings and reasoned conclusions, whether favorable or not, to the Secretary within one hundred twenty (120) calendar days from receipt of the request from the Secretary, except when the Secretary certifies that the same is urgent, in which case the Commission shall complete the investigation and submit the report to the Secretary within sixty (60) calendar days.

Section 10. ***Inspection of Evidence.*** *– The Commission shall make available for inspection by interested parties, copies of all evidence submitted on or before the relevant due date: Provided, however, That any information which is by nature confidential or which is provided on a confidential basis, shall, upon cause being shown, not be disclosed without permission of the party submitting it. Parties providing confidential information may be requested to furnish non-confidential summaries thereof or if such parties indicate that such information cannot be summarized, the reasons why a summary cannot be provided: Provided, further, That if the Commission finds that a request for confidentiality is not warranted and if that party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the Commission may disregard such information unless it can be demonstrated to its satisfaction from appropriate sources that the information is correct.*

Rule 10 . Inspection of Evidence

Rule 10.1. Any interested party shall, when required, allow the Commission access to necessary information, or otherwise provide the necessary information to enable the Commission to expedite the investigation. Visits or inspections may be conducted by the Commission even without the presence of interested parties.

Rule 10.2. The Commission shall make available for inspection by interested parties, copies of all evidence submitted on or before the relevant due date: Provided, however, That any information which is by nature confidential or which is provided on a confidential basis, shall upon cause being shown, not be disclosed without permission of the party submitting it. Parties providing confidential information may be requested to furnish non-confidential summaries thereof or if such parties indicate that such information cannot be summarized, the reasons why a summary cannot be provided. However, if the Commission finds that a request for confidentiality is not warranted and the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the Commission may disregard such information unless it can be demonstrated to the Commission's satisfaction from appropriate sources that the information is correct.

Section 11. ***Adjustment Plan.*** *– In the course of its investigation, the Commission shall issue appropriate notice to representatives of the concerned domestic industry or other parties, to submit an adjustment plan to import competition, within forty-five (45) days upon receipt of the notice, except when the Secretary certifies that*

the same is urgent, in which case the adjustment plan must be submitted within thirty (30) days.

If the Commission makes an affirmative determination of injury or threat thereof, individual commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition shall be submitted to the Commission by any (a) firm in the domestic industry, (b) certified or recognized union or group of workers in the domestic industry, (c) local community, (d) trade association representing the domestic industry, or (e) other person or group of persons.

Rule 11. Adjustment Plan

Rule 11.1. In the course of its investigation, the Commission shall issue appropriate notice to representatives of the concerned domestic industry or other concerned parties, to submit an adjustment plan to import competition, within forty-five (45) calendar days upon receipt of the notice.

Rule 11.2. When the Secretary certifies that the investigation is urgent, the adjustment plan must be submitted within thirty (30) calendar days upon receipt of the notice.

Rule 11.3. If the Commission makes an affirmative determination of serious injury or threat thereof, individual commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition shall be submitted to the Commission by any:

Rule 11.3.a. firm in the domestic industry,

Rule 11.3.b. certified or recognized union or group of workers in the domestic industry,

Rule 11. 3.c. local community,

Rule 11.3.d. trade association representing the domestic industry, and

Rule 11.3.e. other person or group of persons who stand to benefit from the imposition of safeguard measures.

Rule 11.4. The adjustment plan shall provide a clear quantification of its proposed goals and detail the efforts that the domestic industry and other concerned parties will make to place the domestic industry in a more competitive position. The goals shall be presented using objectively verifiable

indicators that will cover the period for which safeguard measures are sought. Measures covering more than one year shall include specific efforts to be undertaken by the domestic industry for each year of progressive liberalization of the measure. It shall likewise include a time frame to enable the Commission to monitor their attainment over the specified period.

Section 12. ***Determination of Serious Injury or Threat Thereof.*** *– In reaching a positive determination that the increase in the importation of the product under consideration is causing serious injury or threat thereof to a domestic industry producing like products or directly competitive products, all relevant factors having bearing on the situation of the domestic industry shall be evaluated. These shall include, in particular, the rate and amount of the increase in imports of the products concerned in absolute and relative terms, the share of the domestic market taken by the increased imports, and changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.*

Such positive determination shall not be made unless the investigation demonstrates on the basis of objective evidence, the absence of the causal link between the increased imports of the product under consideration and serious injury or threat thereof to the domestic industry. When factors other than increased imports are causing injury, such injury shall not be attributed to increased imports.

Rule 12. Determination of Serious Injury or Threat Thereof

Rule 12.1. The Secretary and the Commission, at their respective stages of investigation, shall determine the presence and extent of serious injury or threat thereof to the domestic industry as a result of the increased importation of the products under consideration on the basis of positive evidence and shall require an objective examination of, but shall not be limited to, the following:

Rule 12.1.a. The rate and amount of the increase in imports of the products under consideration in absolute or relative terms;

Rule 12.1.b. The share of the domestic market taken by the increased imports; and

Rule 12.1.c. Changes in the level of sales, prices, production, productivity, capacity utilization, inventories, profits and losses, wages and employment of the domestic industry.

The Secretary and the Commission, at their respective stages of investigation, shall evaluate information on injury and increased imports covering the previous five (5) year period prior to the submission of the application. If the submission was made in the second semester of the current year, the information shall cover the previous five (5) years and the period of the current year for which statistical information is available. Provided, however, that in some cases, the period may be adjusted to cover a shorter period in order to take into account other considerations that will ensure the appropriateness of the chosen period, e.g., seasonality of product, availability of data, or facility in the verification of data.

Rule 12.2. In making their determination with respect to serious injury, the Secretary and the Commission, at their respective stages of investigation, shall take into account all economic factors which they consider relevant, including but not limited to:

Rule 12.2.a. significant idling of productive facilities in the domestic industry including the closure of plants or underutilization of production capacity;

Rule 12.2.b. inability of a significant number of firms to carry out domestic production at a profit; and

Rule 12.2.c. significant unemployment or underemployment within the domestic industry.

Rule 12.3. A determination of threat of serious injury shall be based on facts and not merely on allegations, conjectures or remote possibilities. In making a determination regarding the existence of a threat of serious injury, the Secretary and the Commission, at their respective stages of investigation, shall consider the following among others:

Rule 12.3.a. significant rate of increase in imports into the Philippines indicating the likelihood of substantially increased importation, evidenced *inter alia* by the existence of letters of credit, supply or sales contract, the award of a tender, an irrevocable offer or other similar contracts;

Rule 12.3.b. sufficient freely disposable, or an imminent, substantial increase in, production capacity of the foreign exporters including access conditions they face in third country markets, indicating the

likelihood of substantially increased exports to the Philippines;

Rule 12.3.c. decline in sales or market share, and a downward trend in production, profits, wages, productivity or employment (or increasing underemployment) in the domestic industry and its inability to generate capital for modernization or maintain existing levels ofexpenditures for research and development; and

Rule 12.3.d. growing inventories of the product being investigated whether maintained by the Philippine producers, importers, wholesalers or retailers.

Not one of these factors can, by itself, necessarily give decisive guidance, but the totality of the factors considered must lead to the conclusion that further increased imports are imminent and that, unless protective action is taken, serious injury would occur.

Rule 12.4. In making determination with respect to substantial cause, the Secretary and the Commission, at their respective stages of investigation, shall take into account the effects of the increased imports on the economic factors and indices relating to the injury as supplied by the domestic industry.

Rule 12.5. The extent of injury caused by the importation of the products on the domestic industry shall be determined by the Secretary and the Commission, at their respective stages of investigation, upon examination of all relevant evidence. Such determination shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between the increased imports of the product under consideration and serious injury or threat thereof to the domestic industry. Any known factors, other than the increased importation of the products under consideration, which at the same time injure the domestic industry, shall also be examined and the injuries caused by these factors must not be attributed to the increased importation of the product under consideration.

Rule 12.6. The effects of the increased imports of the product under consideration shall be assessed in relation to the domestic production of the like or directly competitive product by

separate identification of that production based on such criteria as production processes, sales, and profits. If such is not possible, the effects of the increased imports of the product under consideration shall be assessed by the examination of the production of the narrowest group or range of products which includes the like or directly competitive product for which the necessary information is available.

Section 13. ***Adoption of Definitive Measures.*** *– Upon its positive determination, the Commission shall recommend to the Secretary an appropriate definitive measure, in the form of:*

(a) An increase in, or imposition of, any duty on the imported product;

(b) A decrease in or the imposition of a tariff-rate quota (MAV) on the product;

(c) A modification or imposition of any quantitative restriction on the importation of the product into the Philippines;

(d) One or more appropriate adjustment measures, including the provision of trade adjustment assistance;

(e) Any combination of actions described in subparagraphs (a) to (d).

The Commission may also recommend other actions, including the initiation of international negotiations to address the underlying cause of the increase of imports of the product, to alleviate the injury or threat thereof to the domestic industry, and to facilitate positive adjustment to import competition.

The general safeguard measure shall be limited to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to the increased imports: Provided, however, That when quantitative import restrictions are used, such measures shall not reduce the quantity of imports below the average imports for the three (3) preceding representative years, unless clear justification is given that a different level is necessary to prevent or remedy a serious injury.

A general safeguard measure shall not be applied to a product originating from a developing country if its share of total imports of the 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 imports.

The decision imposing a general safeguard measure, the duration of which is more than one (1) year, shall be reviewed at regular intervals for purposes of liberalizing or reducing its intensity. The industry benefiting from the application of a general safeguard measure shall be required to show positive adjustment within the allowable period. A general safeguard measure shall be terminated where the benefiting industry fails to show any improvement, as may be determined by the Secretary.

The Secretary shall issue a written instruction to the heads of the concerned government agencies to implement the appropriate general safeguard measure as determined by the Secretary within fifteen (15) days from receipt of the report.

In the event of a negative final determination, or if the cash bond is in excess of the definitive safeguard duty assessed, the Secretary shall immediately issue, through the Secretary of Finance, a written instruction to the Commissioner of Customs, authorizing the return of the cash bond or the remainder thereof, as the case may be, previously collected as provisional general safeguard measure within ten (10) days from the date a final decision has been made: Provided, That the government shall not be liable for any interest on the amount to be returned. The Secretary shall not accept for consideration another petition from the same industry, with respect to the same imports of the product under consideration within one (1) year after the date of rendering such a decision.

When the definitive safeguard measure is in the form of a tariff increase, such increase shall not be subject or limited to the maximum levels of tariff as set forth in Section 401(a) of the Tariff and Customs Code of the Philippines.

Rule 13. Adoption of Definitive Measures

Rule 13.1. Recommendation of the Commission:

Rule 13.1.a. Upon its positive determination, the Commission shall recommend to the Secretary an appropriate definitive measure, in the form of:

i) An increase in, or imposition of, any duty on the imported product;
ii) A decrease in or the imposition of a tariff-rate quota (MAV) on the product;
iii) A modification or imposition of any quantitative restriction on the importation of the product into the Philippines;

iv) One or more appropriate adjustment measures, including the provision of trade adjustment assistance; or
v) Any combination of actions described in subparagraphs (i) to (iv).

Rule 13.1.b. The Commission may also recommend other actions including the initiation of international negotiations to address the underlying cause in the increase of imports of the product, relief to the domestic industry to alleviate the injury or threat thereof, and to facilitate positive adjustment to import competition.

Rule 13.1.c. The general safeguard measure shall be limited to the extent of redressing or preventing the injury and to facilitate adjustment by the domestic industry from the adverse effects directly attributed to the increased imports. Provided, however, That when quantitative import restrictions are used, such measures shall not reduce the quantity of imports below the average imports for the three (3) preceding representative years, unless clear justification is given that a different level is necessary to prevent or remedy serious injury.

The Secretary shall set up a transparent mechanism for the implementation of the quota allocation system under these IRRs.

Rule 13.1.d. 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.

Rule 13.1.e. When the definitive safeguard measure is in the form of a tariff increase, such increase shall not be subject or limited to the maximum levels of tariff as set forth in Section 401 (a) of the Tariff and Customs Code of the Philippines.

Rule 13. 2. Final Determination by the Secretary

Rule 13.2.a. Within fifteen (15) calendar days from receipt of the Report of the Commission, the Secretary shall make a decision, taking into consideration the measures recommended by the Commission.

Rule 13.2.b. If the determination is affirmative, the Secretary shall issue, within two (2) calendar days after making his decision, a written instruction to the heads of the concerned government agencies to immediately implement the appropriate general safeguard measure as determined by him. Provided, however, that in the case of non-agricultural products, the Secretary shall first establish that the imposition of the safeguard measure will be in the public interest.

Rule 13.2.c. Within two (2) calendar days after making his decision, the Secretary shall also order its publication in two (2) newspapers of general circulation. He shall also furnish a copy of his Order to the petitioner and other interested parties, whether affirmative or negative.

Rule 13.3. Notice to the Secretary of Finance

Rule 13.3.a. The Secretary shall, within two (2) calendar days from making the decision, furnish the Secretary of Finance with the copy of the Order requesting the latter to direct the Commissioner of Customs to collect the definitive safeguard duty or, in the case the definitive safeguard measure is in the form of a tariff rate-quota or quantitative restriction, to require the importer to present the relevant import clearance or authority for the product under consideration. The Secretary of Finance shall, within three (3) calendar days from receipt of the copy of the Order of the Secretary, direct the Commissioner of Customs to impose the definitive safeguard duty or require the importer to present the relevant import clearance or authority for the product concerned.

Rule 13.3.b. It shall be mandatory for the Commissioner of Customs to issue within three (3) calendar days from receipt of the Order of the Secretary of Finance, an instruction to the Collector of Customs to proceed with the final appraisement of the product under consideration. It shall also be mandatory for the Collector of Customs to immediately implement the instructions of the Customs Commissioner upon receipt thereof. On the first week of each month, the Commissioner of Customs shall submit to the Secretary, through the Secretary of Finance, a certified report on the disposition of the cash bond and the amount of the safeguard duty collected for the previous month.

Rule 13.3.c. In 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.

Section 14. ***Contents of the Report by the Commission.*** *– Based on its findings, the Commission shall submit to the Secretary: (a) the investigation report; (b) the proposed recommendations; (c) a copy of the submitted adjustment plan; and (d) the commitments made by the domestic industry to facilitate positive adjustment to import competition.*

The report shall also include a description of the short and long-term effects of the affirmative or negative recommendations, as the case may be, on the petitioner, the domestic industries, the consumers, the workers, and the communities where production facilities of such industry are located.

The Commission, after submitting the report to the Secretary, shall make it available to the public except confidential information obtained under Section 10 and publish a summary in two (2) newspapers of general circulation.

Rule 14.1. Contents of the Report by the Commission:

Rule 14.1.a. The Commission shall submit to the Secretary: (a) the investigation report; (b) the proposed recommendations and the reasons for such recommendations; (c) a copy of the submitted

adjustment plan; and (d) the commitments made by the domestic industry and other concerned parties to facilitate positive adjustment to import competition.

Rule 14.1.b. The report shall also include a description of the short and long-terms effects of the affirmative or negative recommendation, as the case may be, on the petitioner, the domestic industries, the consumers, the workers, and the communities where production facilities of such industry are located.

Rule 14.2. Publication of the Summary Report of the Commission

The Commission, after submitting the report to the Secretary, shall make it available to the public except confidential information obtained under Rule 10, and publish a summary in two (2) newspapers of general circulation.

Section 15. ***Limitations on Actions.*** *– The duration of the period of an action taken under the General Safeguard Provisions of this Act shall not exceed four (4) years. Such period shall include the period, if any, in which provisional safeguard relief under Section 8 was in effect.*

The effective period of any safeguard measure, including any extensions thereof under Section 19 may not, in the aggregate, exceed ten (10) years.

(1) Any additional duty, or any duty imposed under this Section may be specific and/or ad valorem. It shall be in the amount necessary to prevent or redress or remedy the injury to the domestic industry;

(2) If a quantitative restriction is used, such measure shall not reduce the quantity of imports below the level of a recent period which shall be the average of imports in the last three (3) representative years for which statistic are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury;

(3) An action described in Section 13 (a), (b), or (c) that has an affective period of more than one (1) year shall be phased down at regular intervals within the period in which the action is in effect;

(4) Within two (2) years after the expiration of the action, the Secretary shall not accept any further petition for the same article: Provided, however, That a safeguard measure with a duration of one hundred eighty (180) days or less may be applied again to the same product if:

(i) At least one (1) year has elapsed since the date of introduction of the safeguard measure; and

(ii) Such measure has not been applied on the same product more than twice in the five (5) year period immediately preceding the date of introduction of the measure.

Rule 15. Duration of the General Safeguard Measures

Rule 15.1. The duration of the period in which an action is taken under the General Safeguard Measures provisions of these IRRs shall not exceed four (4) years. Such period shall include the period, if any, in which provisional relief under Rule 8 was in effect.

Rule 15.2. The effective period of any safeguard measure, including any extensions thereof under Rule 19 may not, in the aggregate, exceed ten (10) years.

Rule 15.3. Any additional duty, or any duty imposed under this Rule may be specific and/or *ad valorem*. It shall be in the amount necessary to prevent, or redress, or remedy the injury to the domestic industry;

Rule 15.4. If a quantitative restriction is used, such measure shall not reduce the quantity of imports below the level of a recent period which shall be the average of imports in the last three (3) representative years for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury.

Rule 15.5. Any action described in Rule 13 that has an effective period of more than a year shall be phased down at regular intervals within the period in which the action is in effect;

Rule 15.6. The decision imposing a general safeguard measure, the duration of which is more than one (1) year, shall be reviewed at regular intervals for purposes of liberalizing or reducing its intensity. The industry benefiting from the application of a general safeguard measure shall be required to show positive adjustment within the allowable period. A general safeguard measure shall be terminated

where the benefiting industry fails to show any improvement, as may be determined by the Secretary.

Rule 15.7. The Secretary shall not accept for consideration another petition from the same industry, with respect to the same imports of the product under consideration within one (1) year after the date of rendering such decision.

Rule 15.8. Within two (2) years after the expiration of the action, the Secretary shall not accept any further petition for the same product; Provided, however, That a safeguard measure with a duration of one hundred eighty (180) days or less may be applied again to the same product if:

(i) At least one (1) year has elapsed since the introduction of the safeguard measure; and
(ii) Such measure has not been applied on the same product more than twice in the five (5) year period immediately preceding the date of introduction of the measure.

Section 16. ***Monitoring.*** *– So long as any action taken under Section 13 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.*

(1) If the initial application of action taken under Section 13 exceeds three (3) years, or if an extension of such actions exceeds three (3) years, the Commission shall submit to the Secretary a report on the results of monitoring, not later than the date which is the midpoint of the initial period, and of each such extension, during which the action is in effect.

(2) The Commission, in the preparation of each monitoring report, shall conduct a hearing at which interested parties shall be given reasonable opportunity to be present, to present evidence, and to be heard.

Rule 16. Monitoring of the Domestic Industry

Rule 16.1. So long as any action taken under Rule 13 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

Rule 16.1.a. If the initial application of action taken under Rule 13 exceeds three (3) years, or if an extension of

such action exceeds three (3) years, the Commission shall submit to the Secretary, a report on the results of the monitoring, not later than the date which is the midpoint of the initial period, and of each such extension, during which the action is in effect.

Rule 16.1.b. The Commission, in the preparation of each monitoring report, shall conduct a hearing at which interested parties, including the Department of Labor and Employment, shall be given reasonable opportunity to be present, to present evidence, and to be heard.

Section 17. ***Notice of General Safeguard Measure****. – The Secretary shall notify the concerned Committee on Safeguards of the World Trade Organization:*

(a) When initiating an action relating to serious injury or threat thereof and the reasons for it;

(b) When adopting a provisional general safeguard measure following a positive preliminary determination; and

(c) When applying or extending a definitive general safeguard measure following a positive final determination.

Rule 17. Notification to the WTO Committee on Safeguards

The Secretary shall notify the Committee on Safeguards of the World Trade Organization:

Rule 17.1. When initiating an action relating to serious injury or threat thereof and the reasons for it;

Rule 17.2. When adopting a provisional general safeguard measure following a positive preliminary determination; and

Rule 17.3. When applying or extending a definitive general safeguard measure following a positive final determination.

Section 18. ***Reduction, Modification, and Termination of Action.*** *– Action taken under Section 13 may be reduced, modified, or terminated by the Secretary only after:*

(a) Taking into account the results of the monitoring indicated in the report submitted by the Commission under Section 16, he determines that:

(i) No adequate efforts to make a positive adjustment to import competition have been undertaken by the domestic industry; and

(ii) Changed economic circumstances have impaired the effectiveness of action taken under Section 13.

(b) A majority of the representatives of the domestic industry submits to the Secretary, at least one (1) year before the expiration, a petition requesting such reduction, modification, or termination on the basis that the domestic industry has made a positive adjustment to import competition.

If reduction, modification, or termination of action is being requested for an action that has been in effect for three (3) years or less, the petitioning industry shall submit its request to the Secretary. The Secretary shall refer the request to the Commission which shall conduct an investigation following the procedures under Section 9, to be completed within sixty (60) days from receipt of the request. The Commission shall submit a report to the Secretary who shall then take action after taking into consideration conditions under Section 16 (1) and (2), not later than thirty (30) days after receipt of the Commission's report.

Rule 18. Reduction, Modification and Termination of Action

Rule 18.1 Action taken under Rule 13 may be reduced, modified, or terminated by the Secretary only after:

Rule 18.1.a. Taking into account the results of the monitoring indicated in the report submitted by the Commission under Rule 16, he determines that:

i. No adequate efforts to make a positive adjustment to import competition have been undertaken by the domestic industry unless the domestic industry clearly proves to the Secretary that no positive adjustment can be undertaken; and

ii. Changed economic circumstances have impaired the effectiveness of action taken under Rule 13.

Rule 18.1.b. A majority of the representatives of the domestic industry submits to the Secretary, at least one (1) year before the expiration, a petition requesting such reduction, modification, or termination on the basis, that the domestic industry has made a positive adjustment to import competition.

Rule 18.2. If reduction, modification, or termination of action is being requested for an action that has been in effect for three (3) years or less, the petitioning industry shall submit its request to the Secretary. The Secretary shall refer the request to the Commission which shall conduct an investigation following the procedures under Rule 9, to be completed within sixty (60) calendar days from receipt of the request. The Commission shall submit a report to the Secretary who shall then take action after taking into consideration conditions under Rule 16, not later than thirty (30) calendar days after receipt of the Commission's report.

Rule 18.3. In line with the provisions of Sections 2 and 5 of RA 8800 and Rule 5 of these IRRs, the Secretary may on his own motion instruct the Commission to conduct a public hearing at which interested parties shall be given the opportunity to present evidence and be heard, to determine the need for the reduction, modification or termination of the action taken under Rule 13 of these IRRs.

Section 19. ***Extension and Re-application of Safeguard Measure.*** –

(1) Subject to the review under Section 16, an extension of the measure may be requested by the petitioner if the action continues to be necessary to prevent or remedy the serious injury and there is evidence that the domestic industry is making positive adjustment to import competition.

(2) 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.

Rule 19. Extension and Re-application of Safeguard Measures

Rule 19.1. Subject to the review under Rule 16, an extension of the measure may be requested by the petitioner if the action continues to be necessary to prevent or remedy the serious injury and there is evidence that the domestic industry is making positive adjustment to import competition.

Rule 19.2. The petitioner may appeal to the Secretary at least ninety (90) calendar days before the expiration of the measure for an extension of the period by stating concrete reasons for the need 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 Rule 9, the Commission shall then submit a report to the Secretary not later than sixty (60) calendar days from its receipt of the request. Within seven (7) calendar 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.

Section 20. ***Evaluation of Effectiveness of Action.*** *– After termination of any action under Section 13, the Commission shall evaluate the effectiveness of the actions taken by the domestic industry in facilitating positive adjustment to import competition.*

The Commission shall hold a public hearing on the effectiveness of the action at which all interested parties shall be afforded opportunity to present evidence or testimony.

Rule 20. Evaluation of Effectiveness of Action

Rule 20.1. After termination of any action under Rule 13, the Commission shall evaluate the effectiveness of the actions taken by the domestic industry in facilitating positive adjustment to import competition.

Rule 20.2. The Commission shall hold a public hearing to evaluate the effectiveness of the action at which all interested parties shall be afforded opportunity to present evidence or testimony.

CHAPTER III – SPECIAL SAFEGUARD MEASURES FOR AGRICULTURAL PRODUCTS

Section 21. ***Authority to Impose the Special Safeguard Measure.*** *– The Secretary of Agriculture shall issue a department order requesting the Commissioner of Customs, through the Secretary of Finance, to impose an additional special safeguard duty on an agricultural product, consistent with Philippine international treaty obligations, if:*

(a) Its cumulative import volume in a given year exceeds its trigger volume, subject to the conditions stated in this Act, in Section 23 below; or but not concurrently; and

(b) Its actual c.i.f. import price is less than its trigger price subject to the conditions stated in this Act, in Section 24 below.

Rule 21. Authority to Impose the Special Safeguard Measure

Rule 21.1. The Secretary of Agriculture shall issue a Department Order requesting the Commissioner of Customs through the Secretary of Finance to impose an additional special safeguard duty, on an agricultural product, (listed in Annex A) consistent with the Philippine International Treaty Obligations, if:

Rule 21.1.a. Its cumulative import volume in a given year exceeds its trigger volume, subject to the conditions stated in these IRRs, in Rule 23 below; or but not concurrently;

Rule 21.1.b. Its actual C.I.F. import price is less than its trigger price subject to the conditions stated in these IRRs, in Rule 24 below.

Section 22. ***Initiation of Action Involving Special Safeguard Measure.*** *– Any person, whether natural or juridical, may request the Secretary to verify if a particular product can be imposed a special safeguard duty subject to the conditions set in Section 21 of this Act. The request shall include data which would show that the volume of imports of a particular product has exceeded its trigger volume or that the c.i.f. import price of a particular product has gone below its trigger price. The Secretary shall come up with a finding within five (5) working days from the receipt of a request.*

The Secretary may, motu proprio, initiate the imposition of a special safeguard measure following the satisfaction of the conditions for imposing the measure set in this chapter.

Rule 22. Initiation of Action Involving Special Safeguard Measure

Rule 22.1. Any person, whether natural or juridical, may request the Secretary to verify if a particular product can be imposed a special safeguard duty subject to the conditions set in Rule 21 of these IRRs.

Rule 22.2. The request shall include data which would show that the volume of imports of a particular product has exceeded its trigger volume or that the c.i.f import price of a particular product has gone below its trigger price.

Rule 22.3. The Secretary shall come up with a finding within five (5) working days from the receipt of a request.

Rule 22.4. The Secretary, may *motu proprio*, initiate the imposition of a special safeguard measure following the satisfaction of the conditions for imposing the measure set in this Chapter.

Section 23. ***Determination of Special Duty Based on the Volume Test.*** *– The special safeguard duty allowed to be imposed on the basis of the volume test pursuant to Section 21 (a) of this Act shall be determined as follows:*

(a) The trigger volume referred to in Section 21 (a) of this Act is the amount obtained, after adding the change in the annual domestic consumption of the agricultural product under consideration, for the two (2) preceding years for which data are available, to:

(i) One hundred twenty-five percent (125%) of the average annual volume of imports of the agricultural product under consideration in the three (3) immediately preceding years for which data are available, hereinafter referred to as the average import volume, if the market access opportunity is at most ten percent (10%); or

(ii) One hundred ten percent (110%) of the average annual import volume, if the market access opportunity exceeds ten percent (10%) but is not more than thirty percent (30%); or

(iii) One hundred five percent (105%) of the average annual import volume, if the market access opportunity exceeds thirty percent (30%):

Provided, That if the change in the volume of domestic consumption mentioned above is not taken into account in computing the trigger volume, the trigger volume shall be equal to one hundred twenty-five percent (125 %) of the average import volume for the immediate three (3) preceding years for which data are available, unless a clear justification is given that a different level is necessary to prevent or remedy serious injury: Provided, further, That the trigger volume shall at least be one hundred five percent (105%) of the average imports of the agricultural product under consideration.

(b) The special safeguard duty to be imposed subject to the conditions stated under the volume test shall be appropriately set to a level not exceeding one-third of the applicable out-quota customs duty on the agricultural product under consideration in the year when it is imposed: Provided, That this duty shall only be maintained until the end of the year in which it is imposed: Provided, further, That this duty may be reduced or terminated in special cases such as when a storage of a particular agricultural product exists, as determined by the Secretary.

(c) In transitu, volumes of imports of the agricultural product under consideration at the time the special safeguard duty is imposed shall be exempted from the additional duty. However, such volumes shall be counted in the computation of the cumulative volume of imports of the said agricultural product for the following year.

Rule 23. Determination of Special Duty based on the Volume Test

Rule 23.1. The special safeguard duty allowed to be imposed on the basis of the volume test pursuant to Rule 21.1.a of these IRRs shall be determined as follows:

Rule 23.1.a. The trigger volume referred to in Rule 21.1.a of these IRRs is the amount obtained, after adding the change in the annual domestic consumption of the agricultural product under consideration, for the two (2) preceding years for which data are available, to:

i. One hundred twenty-five percent (125%) of the average annual volume of imports of the agricultural product under consideration in the three (3) immediately preceding years for which data are available, hereinafter referred to as the average import volume, if the market access opportunity is at most ten percent (10%); or

ii. One hundred ten percent (110%) of the average annual import volume, if the market access opportunity exceeds ten percent (10%) but is not more than thirty percent (30%); or

iii. One hundred five percent (105%) of the average annual import volume, if the market access opportunity exceeds thirty percent (30%)

Provided, that if the change in the volume of domestic consumption mentioned above is not taken into account in computing the trigger volume, the trigger volume shall be equal to one hundred twenty five percent (125%) of the average annual import volume for the immediate three (3) preceding years for which data are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury. Provided, further, that the trigger volume shall at least be one hundred five percent (105%) of the average imports of the agricultural product under consideration.

Rule 23.1.b. The special safeguard duty to be imposed subject to the conditions stated under the volume test shall be appropriately set to a level not exceeding one-third of the applicable out-quota customs duty on the agricultural product under consideration in the year when it is imposed: Provided, that such duty shall only be maintained until the end of the year in which it is imposed: Provided, further, that this duty may be reduced or terminated in special cases such as when a shortage of a particular agricultural product exists, as determined by the Secretary.

Rule 23.1.c. *In transitu* volumes of imports of the agricultural product under consideration at the time the special safeguard duty is imposed shall be exempted from the additional duty. However, such volumes shall be counted in the computation of the cumulative volume of imports of the said agricultural product for the following year.

Section 24. ***Determination of Special Safeguard Duty Based on the Price Test.*** *– The additional duty allowed to be imposed on the basis of the price test pursuant to Section 21 (b) of this Act shall be determined as follows:*

(a) *The trigger price referred to in Section 21 (b) of this Act is the average actual c.i.f. import price or relevant reference price of the agricultural product under consideration from 1986 to 1988, unless clear justification is given that a different reference price is necessary to prevent or remedy serious injury. The Secretary shall publish the list of trigger prices corresponding to each of the agricultural products covered by this Act, after the conduct of public hearings on the subject; and*

(b) *The special safeguard duty to be imposed subject to the conditions stated under Section 21 (b) of this Act shall be computed as follows:*

(i) *Zero, if the price difference is at most ten percent (10%) of the trigger price; or*

(ii) *Thirty percent (30%) of the amount by which the price difference exceeds ten percent (10%) of the trigger price, if the said difference exceeds ten percent (10%) but is at most forty percent (40%) of the trigger price; or*

(iii) *Fifty percent (50%) of the amount by which the price difference exceeds forty percent (40%) of the trigger price, plus the additional duty imposed under Section 24 (b) (ii), if the said difference exceeds forty percent (40%) but is at most sixty percent (60%) of the trigger price; or*

(iv) *Seventy percent (70%) of the amount by which the price difference exceeds sixty percent (60%) of the trigger price, plus the additional duties imposed under Section 24 (b) (ii) and (b) (iii), if the said difference exceeds sixty percent (60%) and is at most seventy-five percent (75%) of the trigger price; or*

(v) *Ninety percent (90%) of the amount by which the price difference exceeds seventy-five percent (75%) of the trigger price; plus the additional duties imposed under Section 24 (b) (ii), (b) (iii), and (b) (iv), if the said difference exceeds seventy-five percent (75%) of the trigger price.*

As far as practicable, a special safeguard measure determined under the provisions of this Section shall not be resorted to when the volume of the imported agricultural product under consideration is declining.

Rule 24. Determination of Special Safeguard Duty Based on the Price Test

Rule 24.1. The additional duty allowed to be imposed on the basis of the price test pursuant to Rule 21.1b of these IRRs shall be determined as follows:

Rule 24.1.a. The trigger price referred to in Rule 21.1.b of these IRRs is the average actual c.i.f import price or relevant reference price of the agricultural product under consideration from 1986 to 1988, unless clear justification is given that a different reference price is necessary to prevent or remedy serious injury. The Secretary shall publish the list of trigger prices corresponding to each of the agricultural products covered by these IRRs, after the conduct of public hearings on the subject; and

Rule 24.1.b. The special safeguard duty to be imposed subject to the conditions stated under Rule 21.1.b of these IRRS shall be computed as follows:

i. Zero, if the price difference is at most ten percent (10%) of the trigger price; or
ii. Thirty percent (30%) of the amount by which the price difference exceeds ten percent (10%) of the trigger price, if the said difference exceeds ten percent (10%) but is at most forty percent (40%) of the trigger price; or
iii. Fifty percent (50%) of the amount by which the price difference exceeds forty percent (40%) of the trigger price, plus the additional duty imposed under Rule 24.1.(b) ii, if the said difference exceeds forty percent (40%) but is at most sixty percent (60%) of the trigger price; or
iv. Seventy percent (70%) of the amount by which the price difference exceeds sixty percent (60%) of the trigger price, plus the additional duties imposed under Rule 24.1.(b) ii and (b) iii, if the said difference exceeds sixty percent (60%) and is at most seventy-five (75%) of the trigger price; or
v. Ninety percent (90%) of the amount by which the price difference exceeds seventy-five percent (75%) of the trigger price; plus the additional duties imposed under Rule 24.1.(b)

ii, (b) iii, and (b) iv if the said difference exceeds seventy-five percent (75%) of the trigger price.

As far as practicable, a special safeguard measure determined under the provisions of this Rule shall not be resorted to when the volume of the imported agricultural product under consideration is declining.

Section 25. ***Agricultural Products Subject to Minimum Access Volume Commitments.*** *– The special safeguard duty shall not apply to the volumes of the imported agricultural product under consideration that are brought into the country under the minimum access volume mechanism: Provided, however, that these volumes shall be included in computing the cumulative volume of imports of the said agricultural product pursuant to Section 21 (a) of this Act.*

Rule 25. Agricultural Products Subject to Minimum Access Volume Commitments

Rule 25.1. The special safeguard duty shall not apply to the volumes of the imported agricultural product under consideration that are brought into the country under the minimum access volume mechanism: Provided, however, that these volumes shall be included to computing the cumulative volume of imports of the said agricultural product pursuant to Rule 21.1.a of these IRRs.

Section 26. ***Perishable and Seasonal Agricultural Products.*** *– Shorter time periods and different reference prices may be used in determining the applicable special safeguard measure taking into account the special characteristic of perishable and seasonal agricultural imports.*

Rule 26. Perishable and Seasonal Agricultural Products

Rule 26.1. Shorter time periods and different reference prices may be used in determining the applicable special safeguard measure taking into account the special characteristics of perishable and seasonal agricultural imports.

Section 27. ***Notice of Special Safeguard Measure.*** *– The Secretary shall make the administration of the safeguard measure transparent by giving notice in writing to the WTO Committee on Agriculture, in advance to the extent practicable, but in any event within ten (10) days from the implementation of such measure: Provided, however, That for perishable and seasonal agricultural products, notification shall be made from the first action in any period.*

The notice shall include relevant data or as may be deemed necessary, information and methods used in cases where changes in consumption volumes must be allocated to individual tariff lines subject to action under Chapter III of this Act.

Where a special safeguard measure action is taken under the provisions of this Act, the Secretary shall consult with interested WTO members and provide all relevant information on the conditions of the application of such action.

Rule 27. Notice of Special Safeguard Measure

Rule 27.1. The Secretary shall make the administration of the safeguard measure transparent by giving notice in writing to the WTO Committee on Agriculture, in advance to the extent practicable, but in any event within ten (10) days from the implementation of such measure: Provided, however, that for perishable and seasonal agricultural products, notification shall be made from the first action in any period.

Rule 27.2. The notice shall include relevant data or as may be deemed necessary, information and methods used in cases where changes in consumption volumes must be allocated to individual tariff lines subject to action under Chapter III of these IRRs.

Rule 27.3. Where a special safeguard measure action is taken under the provisions of these IRRs, the Secretary shall consult with interested WTO members and provide all relevant information on the conditions of the application of such action.

Section 28. ***Duration of Special Safeguard Measures.*** *– The special safeguard measures for agricultural products shall lapse with the duration of the reform process in agriculture as determined in the WTO. Thereafter, recourse to safeguard measures shall be subject to the provision on general safeguard measures as provided in Chapter II of this Act.*

Rule 28. Duration of Special Safeguard Measures

Rule 28.1. The special safeguard measures for agricultural product shall lapse with the duration of the reform process in agriculture as determined in the WTO. Thereafter, recourse to safeguard measures shall be subject to the provisions of general safeguard measures as provided in Chapter II of these IRRs.

CHAPTER IV – SPECIAL PROVISIONS

Section 29. ***Judicial Review.*** *– Any interested party who is adversely affected by the ruling of the Secretary in connection with the imposition of a safeguard measure may file with the Court of Tax Appeals, a petition for review of such ruling within thirty (30) days from receipt thereof: Provided, however, That the filing of such petition for review shall not in any way stop, suspend or otherwise toll the imposition or collection of the appropriate tariff duties or the adoption of other appropriate safeguard measures, as the case may be.*

The petition for review shall comply with the same requirements and shall follow the same rules of procedure and shall be subject to the same disposition as in appeals in connection with adverse ruling on tax matters to the Court of Appeals.

Rule 29. Judicial Review

Rule 29.1. Any interested party who is adversely affected by the ruling of the Secretary in connection with the imposition of a safeguard measure may file with the Court of Tax Appeals, a petition for review of such ruling within thirty (30) calendar days from receipt thereof: Provided, however, That the filing of such petition for review shall not in any way stop, suspend or otherwise toll the imposition or collection of the appropriate tariff duties or the adoption of other appropriate safeguard measures, as the case may be.

Rule 29.2. The petition for review shall comply with the same requirements and shall follow the same rules of procedure and shall be subject to the same disposition as in appeals in connection with adverse rulings on tax matters to the Court of Appeals.

Section 30. ***Penalty Clause.*** *– Any government official or employee who shall fail to initiate, investigate, and implement the necessary actions as provided in this Act and the rules and regulations to be issued pursuant hereto, shall be guilty of gross neglect of duty and shall suffer the penalty of dismissal from public service and absolute disqualification from holding public office.*

Rule 30. Disciplinary Action

Rule 30.1. Complaints against all erring government officials under this Rule shall be filed with the Office of the Ombudsman.

Rule 30.2. Any government official or employee who shall fail to initiate, investigate, and implement necessary actions as provided in the Safeguard Measures Act and these IRRs shall be guilty of gross neglect of duty and shall suffer the penalty of dismissal from public service and absolute disqualification from holding public office.

Section 31. ***Prohibition of Concurrent Recourse to Safeguard Measures.*** *– There shall be no recourse to the use of the general safeguard measure under Chapter II of this Act concurrently with the special safeguard measure as provided for under Chapter III of this Act and vice-versa.*

Rule 31. *Prohibition of Concurrent Recourse to Safeguard Measures*

Rule 31.1. There shall be no recourse to the use of general safeguard measure under Chapter II of these IRRs concurrently with the special safeguard measure as provided for under Chapter III of these IRRs and vice-versa.

Section 32. ***Issuance of Implementing Rules and Regulations.*** *– Within sixty (60) days after the effectivity of this Act, the Department of Agriculture and the Department of Trade and Industry in consultation with the Department of Finance, the Bureau of Customs, the National Economic and Development Authority, and the Tariff Commission, after consultations with domestic industries and with the approval of the Congressional Oversight Committee which is hereby created under this Act, shall promulgate the necessary rules and regulations to implement this Act.*

Section 33. ***Oversight.*** *– There shall be a Congressional Oversight Committee composed of the Chairmen of the Committee on Trade and Industry, the Committee on Ways and Means, and the Committee on Agriculture of both the Senate and the House of Representatives to oversee the implementation of this Act.*

Section 34. ***Administrative System Support.*** *– Upon the effectivity of this Act, any sum as may be necessary for the Department of Agriculture, the Department of Trade and Industry, and the Tariff Commission to undertake their functions efficiently and effectively shall be included in the General Appropriations Act.*

The aforementioned government agencies are hereby authorized to collect such fees, charges, and safeguard duties that are deemed necessary. Fifty percent (50%) of the revenue collected from such fees, charges, and safeguard duties shall be set aside in a Remedies Fund which shall be earmarked for the use of these agencies in the implementation of remedies, including the safeguard measures. The remaining fifty percent (50%) shall be deposited under a special

account to be created in the National Treasury and shall be earmarked for competitiveness enhancement measures for the industries affected by the increased imports. The disposition thereof shall be determined through the General Appropriations Act.

Rule 34. Administrative System Support

Rule 34.1. The Department of Trade and Industry (DTI), the Department of Agriculture (DA), and the Commission, shall create or designate a special unit within their agencies that will undertake the functions relative to the imposition of safeguard measures.

Rule 34.2. Upon the effectivity of RA 8800, any sum as may be necessary for the DTI, the DA, and the Commission to undertake their functions efficiently and effectively shall be included in the General Appropriations Act.

Rule 34.3 The aforementioned government agencies are hereby authorized to collect fees, charges and safeguard duties that are deemed necessary. Fifty percent (50%) of the revenue collected by the DTI, the DA, the Commission, and the Bureau of Customs from such fees, charges, and safeguard duties shall be set aside in a Remedies Fund which shall be earmarked for the use of these agencies in the implementation of remedies, including the safeguard measures. The remaining fifty percent (50%) shall be deposited under a special account to be created in the National Treasury and shall be earmarked for competitiveness enhancement measures for the industries affected by the increased imports. The disposition thereof shall be determined through the General Appropriations Act.

Rule 34.4. As provided under Section 34 of RA 8800 and Rule 34.3 of these IRRs, the Secretary and the Commission shall set a reasonable amount to be collected as filing fee for the conduct of a safeguard measure investigation.

Rule 34.5. The Department of Finance, the Department of Budget and Management, the DTI, the DA, the Bureau of Customs, the National Treasury, and the Commission shall jointly promulgate the procedures for the creation, management and utilization of the Remedies Fund.

Section 35. ***Assistance to Farmers and Fisherfolk.*** *– To safeguard and enhance the interest of farmers and fisherfolk, nothing in this Act shall in any manner affect the provisions of Republic Act No. 8435, otherwise known as the Agriculture and Fisheries Modernization Act.*

Rule 35. Assistance to Farmers and Fisherfolk

Rule 35.1. To safeguard and enhance the interest of farmers and fisherfolk, nothing in these IRRs shall in any manner affect the provisions of Republic Act No. 8435, otherwise known as the Agriculture and Fisheries Modernization Act.

Section 36. ***Conditions for Application of Safeguard Measures.*** *– In the application of any safeguard measure under this Act, the following conditions must be observed:*

(1) All actions must be transparent and shall not allow any anti-competitive, monopolistic or manipulative business devise; and

(2) Pursuant to the non-impairment clause of the Constitution, nothing in this Act shall impair the obligation of existing supply contracts.

Rule 36. Conditions for Application of Safeguard Measures

Rule 36.1. In applying any safeguard measure under these IRRs, the following conditions must be observed:

Rule 36.1.a. All actions must be transparent and shall not allow any anti-competitive, monopolistic or manipulative business devise; and

Rule 36.1.b. Pursuant to the non-impairment clause of the Constitution, nothing in these IRRs shall impair the obligation of existing supply contracts entered into prior to August 9, 2000 or the effectivity of RA 8800

Section 37. ***Separability Clause.*** *– If any provision of this Act is held invalid, the other provisions of this Act not affected shall remain in force and effect.*

Rule 37. Separability Clause

Rule 37.1. If any of the provisions of these IRRs is declared invalid by a competent court, the remainder of these IRRs or any provision not affected by such declaration of invalidity shall remain in force and effect.

Section 38. ***Repealing Clause.*** *– All laws, decrees, rules and regulations, executive or administrative orders and such other presidential issuances as are inconsistent with any of the provisions of this Act are hereby repealed, amended or otherwise modified accordingly.*

Rule 38. Repealing Clause

Rule 38.1. All rules and regulations, ordinances, and executive or administrative orders related to the imposition of safeguard measures which are inconsistent with any of the provisions of these IRRs are hereby repealed, amended or otherwise modified accordingly.

Section 39. ***Effectivity Clause.*** *– This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation or in the Official Gazette, whichever comes earlier.*

Rule 39.1 This Order shall take effect seven (7) days from publication in one (1) newspaper of general circulation.

MANUEL A. ROXAS II
Secretary, Department of Trade and Industry

EDGARDO J. ANGARA
Secretary, Department of Agriculture

JOSE TRINIDAD PARDO
Secretary, Department of Finance

EMMANUEL T. VELASCO
Chairman, Tariff Commission

RENATO A. AMPIL
Commissioner, Bureau of Customs

Annex A

List of Agriculture Products which may be Imposed a Special Safeguard Duty

HS Code	DESCRIPTION
0101.11 00	Pure-bred breeding horses
0101.19 00	Other live horses
0101.20 00	Asses, mules and hinnies
0102.10 00	Pure-bred breeding bovine animals
0102.90 00	Feeder Cattle not weighing more than 300 kg
0102.90 00	Other live bovine animals
0103.91 20	Live swine weighing less than 50 kg
0103.92 20	Live swine weighing 50 kg or more
0104.20.92	Other live goats
0105.11 10	Chicks for breeding weighing not more than 185 g
0105.11 90	Fowls of the spesies Gallus domesticus weighing not more than 185 grams other than those of subheading No. 0105.11 10
0105.12 10	Turkeys for breeding weighing not more than 185 g
0105.12 92	Other turkeys weighing not more than 185 g
0105.19 10	Ducks, geese and turkeys for breeding weighing not more than 185 g
0105.19 92	Other live poultry, not weighing more than 185 g
0105.92 10	Chicken for breeding weighing more than 185 g but not exceeding 2000 g
0105.92 20	Game cock or any male chicken for cock fighting weighing more than 185 g but not exceeding 2000 g
0105.92 92	Other fowls of the species gallus domesticus weighing more than 185 g but not exceeding 2000 g
0105.93 10	Chicken for breeding weighing more than 2000 g
0105.93 20	Game cock or any male chicken for cock fighting weighing more than 2000 g
0105.93 92	Other fowls of the species gallus domesticus weighing more than 2000 g
0105.99 12	Ducks, geese and turkeys weighing more than 185 g
0105.99 92	Other live poultry weighing more than 185 g
0106.00 99	Other live animals, n.e.s.
0201.10 00	Carcasses and half-carcasses, of bovine animals, fresh or chilled
0201.20 00	Other cuts with bone in, of bovine animals, fresh or chilled
0201.30 00	Meat of bovine animals, boneless, manufacturing grade cuts fresh or chilled
0201.30 00	Meat of bovine animals, boneless, other than manufacturing grade cuts fresh or chilled

HS Code	DESCRIPTION
0202.10 00	Carcasses and half-carcasses, of bovine animals, frozen
0202.20 00	Other cuts with bone in of bovine animals, frozen
0202.30 00	Meat of bovine animals, boneless, manufacturing grade cuts, frozen
0202.30 00	Meat of bovine animals, boneless, other than manufacturing grade cuts, frozen
0203.11 20	Carcasses and half-carcasses, of swine, fresh or chilled
0203.12 20	Hams, shoulders and cuts thereof with bone in, of swine, fresh or chilled
0203.19 12	Pork bellies, fresh or chilled
0203.19 22	Fore-ends and cuts thereof, fresh or chilled
0203.19 92	Other meat of swine other than pork bellies and fore-ends and cuts thereof, fresh or chilled
0203.21 20	Carcasses and half-carcasses of swine, frozen
0203.22 20	Hams, shoulders and cuts thereof with bone in, of swine, frozen
0203.29 12	Pork bellies, frozen
0203.29 22	Fore-ends and cuts thereof, frozen
0203.29 92	Other meat of swine other than pork bellies and fore-ends and cuts thereof, frozen
0204.10 00	Carcasses and half-carcasses, of lamb, fresh or chilled
0204.21 00	Carcasses and half-carcasses, of sheep, fresh or chilled
0204.22 00	Other cuts with bone in of sheep, fresh or chilled
0204.23 00	Meat of sheep, boneless, fresh or chilled
0204.30 00	Carcasses and half-carcasses of lamb, frozen
0204.41 00	Carcasses and half-carcasses of sheep, frozen
0204.42 00	Other cuts with bone in of sheep, frozen
0204.43 00	Meat of sheep, boneless, frozen
0204.50 20	Meat of goats, fresh, chilled or frozen
0205.00 00	Meat of horses, asses and mules of hinnies, fresh, chilled or frozen
0206.10 00	Edible offal of bovine animals, fresh or chilled
0206.21 00	Tongues of bovine animals, frozen
0206.22 00	Livers of bovine animals, frozen
0206.29 00	Other edible offal of bovine animals, frozen
0206.30 00	Edible of offal swine, fresh or chilled
0206.41 00	Livers of swine, frozen
0206.49 00	Other edible offal of swine, frozen
0206.80 00	Edible offal of sheep, goats, horses, asses, mules or hinnies, fresh or chilled
0206.90 00	Edible offal of sheep, goats, horses, asses, mules or hinnies, frozen
0207.11 20	Chickens and ducks not cut in pieces, fresh or chilled
0207.12 20	Fowls of the species Gallus domesticus, not cut in pieces, frozen
0207.13 20	Cuts and offal of fowls of the species Gallus domesticus, fresh or chilled
0207.14 12	Livers of the species Gallus domesticus, frozen
0207.14 92	Other cuts and offal of fowls of the species Gallus domesticus, frozen

HS Code	DESCRIPTION
0207.24 20	Turkeys not cut in pieces, fresh or chilled
0207.26 20	Cuts and offal (including livers) of turkey, fresh or chilled
0207.27 12	Livers of turkeys, frozen
0207.32 12	Ducks not cut in pieces, fresh or chilled
0207.32 22	Geese or guinea fowls, not cut in pieces, fresh or chilled
0207.33 20	Ducks, geese and guinea fowls not cut in pieces, frozen
0207.34 20	Fatty livers of geese or ducks, fresh or chilled
0207.35 20	Cuts and offal of ducks, geese or guinea fowls, fresh or chilled
0207.36 12	Fatty livers of geese or guinea fowls, frozen
0207.36 92	Cuts and offal, other than livers, of ducks, geese or guinea fowls, frozen
0208.10 00	Meat and edible meat offal of rabbits or hares, fresh, chilled or frozen
0208.20 00	Frog's legs fresh, chilled or frozen
0208.90 00	Other mart and edible meat offal, fresh, chilled or frozen
0210.11 20	Hams, shoulders and cuts thereof, with bone in, of swine, salted, in brine, dried, or smoked
0210.12 20	Bellies (streaky) and cuts thereof of swine, salted, in brine, dried or smoked
0210.19 20	Other meat and edible meat offal of swine, salted, in brine, dried or smoked
0210.20 00	Meat of bovine animals, salted, in brine, dried or smoked
0210.90 10	Freeze dried chicken dice
0210.90 92	Meat and edible meat offal of other animals including edible flours and meals of meat or meat offal, salted, in brine, dried or smoked
0701.10 00	Seed potatoes
0701.90 20	Potatoes, fresh or chilled other than seed potatoes
0703.10 20	Onions and shallots, fresh or chilled
0703.20 20	Garlic, fresh or chilled
0704.90 12	Gabbages
0704.90 90	Kohirabi, kale and similar edible brassicas, fresh or chilled
0714.10 00	Manioc (cassava) fresh or dried, whether or not sliced or in the form of pellets
0714.20 00	Sweet potatoes, fresh or dried, whether or not sliced or in the form of pellets
0901.11 20	Coffee, not roasted, not decaffeinated
0901.12 20	Coffee, not roasted, decaffeinated
0901.21 20	Coffee, roasted, not decaffeinated
0901.22 20	Coffee, roasted, decaffeinated
0901.90 20	Coffee husks and skins: coffee substitutes containing coffee in any preparation
1001.90 10	Wheat used as feed

HS Code	DESCRIPTION
1002.00 00	Rye
1003.00 00	Barley
1004.00 00	Oats
1005.10 00	Maize (corn) seed
1005.90 10	Popcorn
1005.90 92	Maize (corn), other than seed
1007.00 00	Grain sorghum
1008.90 00	Other cereals
1103.11 10	Durum or hard wheat semolina
1103.11 90	Groats and meal of wheat other than durum or hard semolina
1103.13 00	Groats and meal of maize (corn)
1103.21 00	Pellets of wheat
1104.22 00	Worked oats
1104.23 00	Worked maize (corn)
1109.00 00	Wheat glutten, whether or not dried
1601.10 00	Sausages of all kinds, whether or not in airtight containers
1601.10 00	Products similar to sausages, of meat, meat offal or blood; food preparations based on these products
1602.10 20	Homogenised preparations of meat and edible meat offal
1602.20 20	Liver of any animal, prepared or preserved
1602.31 12	Turkey meat or offal, prepared or preserved, in airtight containers
1602.31 92	Turkey meat or offal, prepared or preserved, other than in airtight containers
1602.32 12	Meat or offal of fowls of the species Gallus domesticus, prepared or preserved in airtight containers
1602.32 92	Meat or offal of fowls of the species Gallus domesticus, prepared or preserved other than in airtight containers
1602.39 12	Poultry meat or offal, other than turkey and of fowls of the species Gallus domesticus, prepared or preserved, in airtight containers
1602.39 92	Poultry meat or offal, other than turkey and of fowls of the species gallus domesticus, prepared or preserved, other than in airtight container
1602.41 12	Hams and cuts thereof of swine, prepared or preserved, in airtight containers
1602.41 92	Hams and cuts thereof of swine, prepared or preserved, other than in airtight containers
1602.42 20	Shoulders and cuts thereof, of swine, prepared or preserved
1602.49 20	Other prepared or preserved meat and offal of swine, including mixtures
1602.50 00	Meat and meat offal of bovine animals, prepared or pressured, in airtight containers
1602.50 00	Meat and meat offal of bovine animals, prepared or preserved, other than in airtight containers

HS Code	DESCRIPTION
1602.90 12	Other prepared or preserved meat and offal including preparations of blood of any animal, in airtight containers, n.e.s.
1602.90 92	Other prepared or preserved meat and offal including preparations of blood of any animal, other than in airtight containers, n.e.s.
1701.11 20	Cane sugar, raw, but containing added flavoring or coloring material
1701.12 20	Beet sugar, raw, not containing added flavoring or coloring material
2101.11 20	Extracts, essences and concentrates, of coffee and preparations with the basis of
2101.12 20	These extracts, essences or concentrates or with a basis of coffee
2302.10 00	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of maize (corn)
2303.10 00	Residues of starch manufacture and similar residues

Based on the Harmonized Commodity Description and Coding System, Tariff and Customs Code of the Philippines, Volume 1, June 2000