

DEPARTMENT OF TRADE AND INDUSTRY

APPLICATION OF CEMENT INDUSTRY

PUBLIC VERSION

ANTI-DUMPING CASE NO.: AD01-2021

DATE : 29 November 2021

REPORT ON THE PRELIMINARY INVESTIGATION ON THE APPLICATION FOR AN ANTI-DUMPING DUTY ON CEMENT FROM VIET NAM

REPORT ON THE PRELIMINARY INVESTIGATION ON THE APPLICATION FOR AN ANTI-DUMPING DUTY ON IMPORTED CEMENT FROM THE VIET NAM

I. INTRODUCTION

This is a report on the preliminary investigation conducted by the Department of Trade and Industry (DTI) of the petition for anti-dumping filed by cement manufacturers on the importation of Type 1 and Type 1P cement from Viet Nam.

On 15 April 2021, DTI accepted a properly documented application from the cement manufacturers: Republic Cement & Building Materials, Inc.; CEMEX – Solid Cement Corporation and Apo Cement Corporation; and Holcim Philippines Inc. The petition alleged that imports of Type 1 and Type 1P cement originating from Viet Nam are being dumped in the country and by reason, thereof are causing material injury to the domestic cement industry. On 16 April 2021, DTI notified the Embassy of Viet Nam in Manila that it has accepted the anti-dumping petition as properly documented. On 20 April 2021, DTI found merit to initiate a preliminary anti-dumping investigation. On 23 April 2021, a notice of initiation of the anti-dumping investigation was published in Business Mirror and Manila Standard. The domestic cement manufacturers and the Embassy of Viet Nam were officially notified of the decision to initiate an investigation on 26 April 2021. Individual notices were sent to all interested parties on record.

This report addresses the issue of whether the pieces of evidence submitted by the applicants and respondents show that imported Type 1 and Type 1P cement are being dumped into the Philippine market. It also determines whether the dumping of the said products has caused material injury to the domestic cement industry. Furthermore, it makes a determination on whether the imposition of provisional measure to prevent further injury to the domestic cement industry is necessary while the case is under formal investigation by the Tariff Commission.

The conduct of the preliminary investigation is based on Sub Section 3(f) of RA 8752, The Philippine Anti-Dumping Act of 1999 and its implementing rules and regulations. The investigation considered the pieces of evidence made available to DTI and submissions by identified exporters and importers.

II. The Cement Manufacturers' Petition

II.A Parties in the Petition

II.A.1. Domestic Industry

Section 3 (s) 4 of RA 8752 defines "**domestic industry**" as referring to the "**domestic producers as a whole of the like product or to those of them whose collective output constitutes a major proportion of the total domestic production of that product, except when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term 'domestic industry' may be interpreted as referring to the rest of the producers.**"

Section 3 (b) paragraph 4 of RA 8752 further provides, "**That application shall be considered to have been made "by or on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than fifty percent (50%) of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than twenty-five percent (25%) of total production of the like product produced by the domestic industry"**.

The petition was filed by the following cement manufacturers:

- **Republic Cement & Building Materials, Inc.**

Republic Cement is 99.4% owned by AEV CRH Holdings Inc. (includes shares held by nominee directors). Founded in 1955 by the Republic Cement Group, composed of Republic Cement & Building Materials, Inc., Republic Cement Iligan, Inc., Republic Cement Mindanao, Inc. and Republic Cement Services, Inc. Plant location is in Barrio Minuyan, Norzagaray, Bulacan.

They produce other bagged cement such as Republic Portland Plus (Type 1P), Republic Portland Plus (Type 1P MH), Fortune (Type 1P), Wallmaster (Masonry Type N), Rapidset (Type 1) and Kapit-Balay Blended Cement (Type P). They also produce bulk cement such as Type 1 and Type II/Type II MH.

- **CEMEX – Solid Cement Corporation / Apo Cement Corporation**

CEMEX initially entered the Philippine market in 1997. Their cement manufacturing subsidiaries, Solid Cement in Antipolo City, Rizal and APO Cement in the City of Naga, Cebu, have been operating in the Philippines for over 20 years. They offer a broad product mix and work closely with other CEMEX companies to develop and introduce innovative products to the Philippine market. They also produce Gray Ordinary Portland Type 1): Brands – Island Portland Cement, APO Portland, blended (Type 1P): Brands – Rizal Portland Super, APO Portland Premium and Masonry or Mortar: Brands – Rizal Masonry Cement (discontinued in 2018), APO Masonry Cement.

- **Holcim Philippines Inc.**

Shareholding structure: Union Cement Holdings Corp. 60.55%, B.V Holderfin 18.11%, Sumitomo Osaka Cement Co. Ltd 9.22%, Cemco Holding Inc 7.08%, Public 5.04%.

Holcim Philippines is also committed to sustainable operations and manufacturing excellence with its manufacturing facilities in La Union, Bulacan, Misamis Oriental and Davao, as well as aggregates and dry mix business and technical support facilities for building solutions. Holcim Philippines is a reliable partner of builders in the country. The products they manufacture are OPC Type 1 Cement, Blended Cement and Type 1P Masonry Cement. They also produce aggregates such as Skim Coat and Tile Adhesive.

The petitioners meet the legal requirement to be considered a domestic industry since Cemex Philippines, Holcim Philippines, Inc., and Republic Cement Builders and Building Materials, Inc., the output of like product constitutes 70%¹ of the total domestic production of cement.

Other Manufacturers

On 08 June 2021, DTI notified other cement manufacturers, i.e. Northern Cement, Eagle Cement, Goodfound Cement, about the petition made by other cement manufacturers, however, no response was received.

II.A.2. Importers and Exporters

Annexes A and B are the lists of importers and exporters of cement products during the period of the investigation.

II.B. Allegations

Petitioners alleged that cement is being imported from Viet Nam at dumped prices. There was a substantial margin of dumping of cement from Viet Nam for the period July 2019 to June 2020 based on the domestic wholesale and export prices as gathered by the cement industry. They claimed that dumped imports of cement began causing injury in 2019.

Petitioners further alleged that the key impact of dumping has been in the cement industry's declining revenues resulting in lower profitability. With declining prices and

¹ TC Final Report on Formal Investigation on SG Measure on Cement: Total domestic production of cement industry (APO, Holcim, Republic Solid, Eagle, Goodfound, Northern Cement and Taiheiyo) vs the Petitioner's total production
69.9% = ████████ MT vs ████████ MT

declining profit margins, the cement industry reduced its sales to price-sensitive customers as it was unable to match the unsustainably low prices offered by importers.

II.C Documents Received

Questionnaires were sent to importers and exporters that are considered interested parties to the case. A summary of the questionnaire responses is attached as Annex 1.

II.C.1 Importer

Out of fifty (50) importers that DTI notified about the initiation of the investigation, nine (9) responded to the notice.

1) Eureka Import Trader

On 5 May 2021, Eureka Import Trader informed DTI through email that their very first and latest importation of cement was on June 17, 2020. Therefore, they are not covered since the period of investigations was July 2019 to June 2020 and the POI of injury was from 2017 to June 2020.

2) Golden Orient Ship Management and Agencies Inc.

On 18 May 2021, the initial response of Golden Orient Ship Management and Agencies Inc. was received through email and delivered the complete documents to the Office. Golden Orient Ship Management submitted their importation of Type 1 and Type 1P cement from November 2019 to January 2021.

3) Bravo Cement Inc.

On 28 May 2021, DTI received the position paper of Bravo Cement Inc. stating that the company has not started its commercial operations and has not imported any materials to pursue business activities in the Philippines. While an importer's license was applied, the same was made for regulatory compliance only and has not been used yet, as the proposed project was put on hold.

4) Marlusa Construction Supply

On 14 June 2021, DTI received Marlusa Construction Supply answer to the questionnaire. Marlusa Construction Supply (Marlusa) connects to big hardware stores as its distribution channels towards the small enterprises/final end-users. Marlusa stated that the increase in the volume of imported cement is due to the increase in demand caused by higher government spending on infrastructure projects. Records show that the domestic cement manufacturers cannot meet the said increase in demand. Thus, it is for the Philippine cement manufacturers to be efficient and not ask for protection from the

government. Trade protection would only benefit a particular sector and is a loss to the general public.

The government should not coddle the domestic cement manufacturers as if they are an infant industry that needs protection. The Petitioners/Applicants have been in a monopolistic situation, acting as a cartel for almost 20 years in the Philippine cement market, but still failed to invest in order to compete price-wise against imported cement.

5) Philcement Corporation

On 15 June 2021, Philcement Corporation submitted their response to the importer's questionnaire through their legal counsel Villaraza & Angangco. Philcement imported ordinary Portland Cement Type I - Union V Ultra Cement (PNS 07: 2018); and Blended Hydraulic Cement Type IP - Union V Super cement (PNS 63: 2019) classified under AHTN Code 2523.2990. Union V Ultra and Union V Super both pass 28-day strength in 7 days, which is unusual for domestically manufactured cement (which passes 28-day strength in 28 days). Imported cement products are being tested under Philippine National Standards and American Standards for Testing and Materials.

6) Cohaco Merchandising and Development Corporation

On 16 June 2021, DTI received the position paper of Cohaco Merchandising and Development Corporation emailed by their legal counsel Villaraza & Angangco. The cement that Cohaco imports from Vietnam conforms to Philippine Standards for Portland Cement and for Blended Portland Cement. Domestic cement manufacturers cannot be lax and complacent with their current spot or dominance in the market. They should protect their market share by adapting to the changing global market conditions and innovating the technology used for manufacturing the subject products which ultimately benefits their end consumers. Failure to do so would only result in their continuing high input costs which will then affect their profits. In such a case, consumers cannot be blamed should they choose to purchase imported cement for it is better alternative to domestic cement even if the latter is the preferred choice of the consumers.

7) NGC Land Corp.

On 16 June 2021, DTI received the position paper of NGC Land Corp. through their legal counsel Villaraza & Angangco. NGC Land Corp imports cement from Vietnam conforms to Philippine Standards for Portland Cement and for Blended Portland Cement. Domestic cement manufacturers cannot be lax and complacent with their current spot or dominance in the market. They should protect their market share by adapting to the changing global market conditions and innovating the technology used for manufacturing the subject products which ultimately benefits their end consumers. Failure to do so would only result in their continuing high input costs which will then affect their profits. In such a case, consumers cannot be blamed should they choose to purchase imported cement for it is better alternative to domestic cement even if the latter is the preferred choice of the consumers.

8) Fortem Cement Corp.

On 16 June 2021, DTI received the reply to the importer's questionnaire of Fortem Cement Corp through their legal counsel, Villaraza & Angangco. Fortem imported Portland Cement Type 1 and Blended Cement Type 1P classified under AHTN Codes 2523.29.00 and 2523.90.00, respectively. For Compressive Strength, imported cement is able to meet the BPS 28-days strength requirement by 7-days, sometimes even 3-days. For consistency of supply, when the Philippines was in Enhanced Community Quarantine and domestic cement factory was not able to operate due to restrictions, imported cement was able to meet the demand of domestic construction.

9) Champion Cement Inc. (CCI)

On 16 June 2021, Champion Cement Inc. emailed their accomplished importer's questionnaire through their legal counsel. According to CCI, the products imported from Viet Nam are; Portland Cement Type I, packed in jumbo 1-ton bags; and Blended Hydraulic Cement Type IP, packed in 40kg bags or sling 2-ton bags. CCI is not aware of significant differences between the imported articles and those manufactured by domestic producers. CCI stated that their only importation (March 2020) is not material to cause any injury (much less significant harm) to the domestic market. The company's primary business involves the sale of imported cement. It has not imported any cement for the current year.

II.C.2 Exporter

On 26 April 2021, DTI delivered the Notice and documents relevant to the anti-dumping investigation to the Embassy of Vietnam in the Philippines and requested assistance in disseminating the documents to Vietnamese cement exporters. The request was made in view of the limited postal service brought by containment measures to prevent the spread of COVID-19. On 27 April 2021, the Bureau endorsed the letters to Vietnamese exporters to the Embassy of Vietnam's Commercial Counselor. A total of twenty-two (22) exporters and one (1) Vietnamese association responded to the Notice.

1) Bim Son Cement JSC (BCC)

On 15 June 2021, DTI received the position paper of Bim Son Cement JSC through their legal counsel from WTL Consult Ltd. BCC, indirectly exported two types of Cement to the Philippines through unrelated domestic trading companies. The products BCC sold are Cement Type I ASTM C150: packaged in 40 kg bags and wrapped in Sling bag or packed in Jumbo bag and Cement Type IP ASTM C150: packaged in 40 kg bags and wrapped in Sling bag or packaged in Jumbo bag. According to BCC, all export prices to the Philippine market are negotiated between BCC and customers, in accordance with the fluctuations in market prices in both Vietnam and the Philippine markets.

2) Campha Cement JSC

On 15 June 2021, Campha Cement Joint Stock Company sent through email their response to the exporter's questionnaire with relevant attachments. Based on their submission, they export to the Philippines through distributor/trader of the following products: ASTM C150 40kg bag put into Sling bag (XMBAO40) or Ordinary Portland Cement Type 1 which is equivalent to Portland Cement PC50 in Vietnam Domestic market, and ASTM C150 put into a jumbo bag (XMBJB).

3) Chinfon Cement Corporation

On 15 June 2021, Chinfon Cement Corporation sent through email the links to access their response to the exporter's questionnaire with relevant attachments. Based on their submission, they export to the Philippines through distributor/trader of the following products: OPC and PPC which are linked to their domestic sales of PCB40 bulk and PCB40 bag, respectively.

4) Ha Long Cement Joint Stock Company (Vicem Ha Long)

On 15 June 2021, Ha Long Cement Joint Stock Company, through its official representative from WTL Limited Company, sent through email the links to access their response to the exporter's questionnaire with relevant attachments. Based on their submission, they export to the Philippines Cement C150 type I which is equivalent to their domestic sales of C150 type I, CEM I 42.5N, CEM I 52.5N, and PC40. In addition, they export Cement C150 Type IP which is equivalent to their domestic sales of C595 type IP, CEM II 42.5N, and PCB40.

5) Long Son Cement Company

On 15 June 2021, Long Son Company Limited Thanh Hoa Branch sent through email the link to access their response to the exporter's questionnaire with relevant attachments. Based on their submission, they export to the Philippines the following products: OPC Type 1 and Blended Cement Type 1P which closely resemble their domestic sales of PCB40 in bulk and PCB40 in bag, respectively.

6) Nam Anh Trade and Export Joint Stock Company

On 15 June 2021, Nam Anh Trade and Export Joint Stock Company sent through email their response to the exporter's questionnaire with relevant attachments. Based on their submission, the company's sole business activity is to export cement products into the Philippine market: Royal Portland Cement Type I, Grey colour, as per ASTM C150/C150M:15 Type I and PNS 07:2005, and - Royal Blended Cement Type I (PM), Grey color, as per PNS 63:2006.

7) Nam Phuong Imex Import and Export

On 15 June 2021, Nam Phuong Imex Import & Export sent through email the link to access their response to the exporter's questionnaire with relevant attachments. The company normally purchases cargo from manufacturers for export to the Philippines and China. They do not have any business on the domestic market in Viet Nam. Based on their submission, the following cement is exported to the Philippines: Type 1 -ASTM C150 and Type 1P - ASTM C595.

8) NCL Trading JSC

On 15 June 2021, DTI received the accomplished exporter's questionnaire of NCL Trading JSC. According to NCL, the company is a cement exporter and does not sell cement in Vietnam's domestic market. NCL buys cement directly at cement factories then arrange logistic to transport cement from factories to loading port for export. NCL believes that the trend of increasing cement imports from Vietnam and other countries into the Philippine market during the investigation period is reasonable and inevitable. The impact of Covid-19 and social distancing caused a deficit in cement production in the Philippines and Vietnam's cement prices during the investigation period have not changed that much.

9) Omanco Material Viet Nam Co. Ltd.

On 15 June 2021, Omanco Material Vietnam Company Limited, through its legal representative from Butuyan and Rayel Law Offices, sent through email the link to access their response to the exporter's questionnaire with relevant attachments. On 2 July 2021, they submitted their response to the request for clarification on the previously submitted questionnaire response.

The company is one of the biggest cement distributors of Vicem Group. They do not directly sell to domestic customers in Vietnam. Based on their submission, they export the following cement to the Philippines: Portland cement type 1 conforming to PNS 07:2005, Blended cement type 1P conforming to PNS 63:2006, Portland cement type 1 conforming to PNS 07:2018, Commodity specifications blended cement type 1P conforming to PNS 63:2019. These types of cement are packed into 1.5 MT jumbo bag, cement packed in 25kg/40kg/42.5kg/50kg put into 2.0 MT sling bag, cement packed into a container, cement in bulk load directly in the vessel.

10) Song Lam Cement Joint Stock Company

On 15 June 2021, DTI received the accomplished exporter's questionnaire of Song Lam Cement JSC submitted by their legal counsel. The main activities of the company are manufacturing cement, clinker and concrete. Song Lam Cement does not have an annual report as it is not required by Vietnamese laws. Song Lam Cement has two affiliates named Vissai Ha Nam Joint Stock Company and Vissai Ninh Binh Joint Stock Company which produced and exported the subject merchandise to the Philippines

during the period of investigation. The Vissai Ninh Binh and Vissai Ha Nam are shareholders of the Song Lam Cement. Song Lam Cement emphasized that the applicants' allegation that Song Lam Cement dumped cement products in the Philippines was wrong and misleading. Song Lam claimed that the company has not dumped the subject articles.

11) Thang Long Cement JSC (TLCC)

On 15 June 2021, DTI received the position paper of Thang Long Cement JSC. Thang Long Cement Joint Stock Company is a foreign-owned company. TLCC does not export directly to the Philippine importers but through a trading unit as a wholesaler of the Philippines. According to TLCC, the Philippine government has already applied safeguard duty on products from Vietnam, thus the Philippine domestic cement producers have already been supported to overcome the injuries caused by imports, should there be such injuries. The fact is, the applicants are requesting the Philippine government to compensate for the injuries that are already compensated. If the Philippine government agrees to this request, it would impose a double remedy specifically prohibited by Article VI.5 of the GATT.

12) Vicem Hai Phong Cement Company Limited

On 15 June 2021, Vicem Hai Phong Cement Company Limited, through its representative from Truong An Consultancy and Investment Services JSC, sent through email the link to access their response to the exporter's questionnaire with relevant attachments. The company manufactures the following cement: PCB, OPC and other specialized cement according to Vietnamese and international standards. Based on their submission, they export through trader OPC Type 1-ASTM C150/PNS07 which is equivalent to their domestic cement sale of PC 40 according to TCVN 2682:2009 standard.

13) Vicem Tam Diep One Member Co. Ltd. (VCTD)

On 15 June 2021, an accomplished exporter's questionnaire of VCTD was sent by their legal counsel from WTL Consult Ltd. VCTD specializes in the production and sale of cement products of various grades and qualities, conforming to several different national and international standards. In the domestic market, VCTD directly sells to other distributors. Product exported to the Philippines, Cement Type I ASTM C150 (PNS 07:2018), like articles in the domestic market include Cement PC40 TCVN 2682:2009, sold in bulk or in 50 kg bag and Cement Type I ASTM C150. Regarding Cement Type IP PNS 63:2006 exported to the Philippines, like articles in the domestic market include Cement PCB40 6260:2009, sold in bulk or 50 kg bag and Cement Type IP PNS 63:2006.

14) Vicem But Son Cement JSC

On 15 June 2021, DTI received Vicem But Son Cement JSC comments on the said investigation. Vicem But Son Cement produces two (2) product lines exported to the

Philippines. These are Portland cement type 1 - PS Mark License No. 2689 which was exported to the Philippines by Vicem But Son Company in the form of entrusted export through Viet HP Cement Joint Stock Company. Viet HP, on behalf of Vicem But Son, exported bulk cement that packed in 40kg bags then packed again in two ton sling bag or one-ton jumbo bag, upon the request of customers; and Blended cement type IP —was sold by Vicem But Son Company to a domestic commercial company named Viet HP Cement Joint Stock Company (selling bulk cement, in customer's packages).

15) Vicem Cement Trading JSC

On 16 June 2021, DTI received a letter from Vicem Cement Trading JSC stating that they do not export any cement shipment during the last two (2) years and the current year to date. Therefore, they have not completed the questionnaire.

16) Vicem Hoang Mai Cement Joint Stock Company (VCHM)

On 15 June 2021, Vicem Hoang Mai Cement JSC submitted its response to the exporter's questionnaire to DTI. VCHM stated that the products exported to the Philippines are Portland Cement Type I (PNS 07:2018) and Blended cement Type IP (PNS 63:2006). VCHM believed that the importing of cement products from Vietnam and other countries is reasonable. VCHM summary of some of the most impactful reasons for such observation the shortage of cement in the Philippines' domestic market is mainly due to the impact of the Coronavirus pandemic, forcing production plants to be closed during the POI.

17) Vicem Hoang Thach Cement Co. Ltd.

On 15 June 2021, Vicem Hoang Thach Cement Co. Ltd. submitted their accomplished exporter's questionnaire to DTI through their legal counsel from Truong An Consultancy and Investment Services JSC. The company sells to the main distributor selected according to their criteria. Hoang Thach does not involve directly in exporting activities. It manufactures products for other trading intermediaries. Hoang Thach does not have any export distribution channels. The company did not export the subject goods to the Philippines directly and to other countries. Vicem Hoang Thach sold the subject articles to some domestic companies (except one shipment with Jin Sung International Pte. Ltd. – a trading company based in Singapore).

18) Viet HP Import Export and Investment JSC

On 15 June 2021, DTI received the position paper of Viet HP Import Export and Investment JSC. The company is a trading enterprise. They have no factory and thus no cost of production. The company sells Vinlong Portland Cement, grey color as per Vietnamese standard – TCVN 2682-2009 which is equivalent to ASTM C 150 Type 1 and PNS 07:2018 as well as Vinlong Blended Cement, grey color as per Vietnamese standard – TCVN 2682-1009 which is equivalent to ASTM C 595 Type 1P and PNS 63:2019.

19) Vietnam Trading Services and Import Export Co. Ltd. (VietTrade)

On 15 June 2021, VietTrade. submitted the accomplished questionnaire to DTI. According to VietTrade, the increase in the volume of imported cement is attributable to higher government spending on infrastructure projects in the Philippines. The Philippines' cement factories cannot meet the huge demand. There is a big gap between demand and supply in the Philippines. Thus, the importation of cement is necessary. Dumping on cement from Viet Nam is baseless. Cement from factories in the North and Central have lower prices than in the South because of abundant raw materials (i.e. limestone, burnt clay, silica etc.).

20) Vissai Ha Nam Joint Stock Company

On 15 June 2021, DTI received through their legal counsel, IDVN Lawyers, Vissai Ha Nam JSC's accomplished exporter's questionnaire. Vissai Ha Nam Joint Stock Company (hereinafter referred to as "Vissai Ha Nam" or "The Company") is a private joint stock company that was lawfully established under Vietnamese laws. The main activities of the Vissai Haman are the production of cement and clinker. Vissai Ha Nam has two affiliates named Vissai Ninh Binh Joint Stock Company and Song Lam Cement Joint Stock Company which produced and exported the subject merchandise to the Philippines during the POI.

21) Vissai Ninh Binh Joint Stock Company

On 15 June 2021, Vissai Nin Binh Joint Stock Company, through its representative from IDVN Lawyers, sent through email the link to access their response to the exporter's questionnaire with relevant attachments. Based on their submission, they exported the following cement to the Philippines: Portland cement Type I and Type IP, in bulk, sling bags, and jumbo bags. They further stated that the company sold a very limited amount of cement Type I and Type IP in the domestic market, which are identical to the cement Type I and Type IP exported to the Philippine market. In addition, among the Portland cement sold in the domestic market, PCB 40 has characteristics that are closely resembling cement Type I and Type IP sold to the Philippines.

22) Xuan Thanh Cement JSC

On 15 June 2021, DTI received Xuan Thanh Cement JSC comments. Xuan Thanh Cement explained that the company does not directly export to the Philippines. The products of Xuan Thanh Cement Joint Stock Company exported to the Philippines through domestic commercial agents: NCL Trading Joint Stock Company, Viets Co., Ltd; Nam Phuong IMEX Import and Export Joint Stock Company.

23) Vietnam National Cement Association

On 15 June 2021, DTI received Vietnam National Cement Association (VNCA) on behalf of certain Vietnamese cement producers and exporters, submitted its comments. VNCA commented that the applicant does not have the legal standing to submit the application for an anti-dumping investigation against cement from Vietnam. The Philippine Government should address the “double remedy” issue in case of imposition of anti-dumping duties on Vietnamese cement exports. The cement imports from Vietnam is not responsible for the alleged injury to the domestic cement industry. The Philippine Government should consider the socio-economic benefits of the Philippines before imposing anti-dumping duties on Vietnamese cement exports.

II.D. Country of Origin

Viet Nam is the country of origin/export of the products subject of the petition.

III. Role of the DTI under RA 8752 (Anti-Dumping Law)

III.A. Examination of Evidence to Justify Initiation of Preliminary Investigation

In establishing the sufficiency of evidence to justify the initiation of the investigation, the Secretary referred to the provisions of Section 3 (b) paragraph 7 of RA 8752 and its Implementing Rules and Regulations which provides, **“within five (5) working days from receipt of a properly documented application, the Secretary shall examine the accuracy and adequacy of the petition to determine whether there is sufficient evidence to justify the initiation of investigation. If there is no sufficient evidence to justify initiation, the Secretary shall dismiss the petition and properly notify the Secretary of Finance, the Commissioner of Customs, and other parties concerned regarding such dismissal. The Secretary shall extend legal, technical, and other assistance to the concerned domestic producers and their organizations at all stages of the anti-dumping action.”**

III.B. Preliminary Determination in the Context of the Anti-Dumping Law

In making a preliminary determination, Section 3(f) of RA 8752 and Section 7 (a) and (b) of its IRR provides, **“not later than thirty (30) working days from receipt of the answer of the respondent importer, exporter, foreign producer, exporting member-country and other interested parties, the Secretary shall, on the basis of the application of the aggrieved party and the answer of the respondent/s and their respective supporting documents or information, make a preliminary determination of the application for the imposition of an anti-dumping duty.”**

In the preliminary determination, the Secretary shall determine the following:

- (1) Price difference between the export price and the normal value of the article in question in the country of export or origin;
- (2) The presence and extent of material injury or threat of injury to the domestic industry producing like product or the material retardation of the establishment of a domestic industry; and
- (3) The causal relationship between the allegedly dumped product, commodity or article and the material injury or threat of material injury to the affected domestic industry or material retardation of the domestic industry.”

Section 7 (c) of the Implementing Rules and Regulations of RA 8752 provides, “the preliminary findings of the Secretary, if affirmative, together with the records of the case, shall be transmitted to the Tariff Commission for its immediate formal investigation within three (3) days from adopting the decision. However, if the preliminary findings of the Secretary are negative, the case shall be dismissed.”

IV. THE PROCESS OF INITIATION OF INVESTIGATION

IV. A. Acceptance of the Petition and Decision for Preliminary Investigation

In accepting the petition of the Philippine cement manufacturers, the Secretary was guided by Section 3(d) of the IRR of RA 8752 which provides, “the Secretary shall, within five (5) working days from the date of his letter accepting the properly documented application referred to in Section 3.c.4, examine the accuracy and adequacy of the petition to determine whether there is sufficient evidence to justify the initiation of an investigation. The evidence of both dumping and injury shall be considered simultaneously (a) in the decision whether or not to initiate an investigation, and (b) thereafter, during the course of the investigation, starting at the earliest date when provisional measures may be applied.

In assessing the sufficiency of evidence provided in the application, the Secretary will only satisfy himself that there is evidence that indicates dumping or the likelihood of dumping, and material injury based on the evidences submitted by the applicant.

If there is no sufficient evidence to justify the initiation of an investigation, the Secretary shall dismiss the petition and notify the Secretary of Finance, the Commissioner of Customs and other parties concerned regarding such dismissal”.

IV.B. Preliminary Investigation Proper

IV.B. Notice to parties and due process

Notices on the initiation of the preliminary investigation were published in the Manila Standard and Business Mirror on 23 April 2021 pursuant to Section 6 (a) of the IRR which states that **“within four (4) 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:

- i. The nature of the allegedly dumped product;**
- ii. The country concerned;**
- iii. A summary of the particulars of the injury and basis of the allegedly dumping in the application;**
- iv. The time period for the submission of evidences or views to the Secretary;**
- v. The date of the initiation of the investigation; and**
- vi. The address to which representations by interested parties shall be directed.”**

IV.C. Submission of Evidence and Position Papers

Section 3 (e) of RA 8752 states that **“Within two (2) days from initiation of the investigation and after having notified the exporting country, the Secretary shall identify all interested parties, i.e. protestee-importer, exporter and/or foreign producer, notify and require them to submit within thirty (30) days from receipt of such notice, evidences and information or reply to the questionnaire to dispute the allegations contained in the application. At this point, the respondent is given the opportunity to present evidences to prove that he is not involved in dumping. He shall furnish them with a copy of the application and its annexes subject to the requirement to protect confidential information. The notice shall be deemed to have been received five (5) days from the date on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the exporting member, or an official representative of the exporting territory. If the respondent fails to submit his answer, he shall be declared in default, in which case, the Secretary shall make such preliminary determination of the case on the basis of the information available, among others, the facts alleged in the petition and the supporting information and documents supplied by the petitioner.”**

Section 6 (b) of the IRR of RA 8752 further provides, "**within two (2) days from the initiation of the investigation and after having notified the country of export or origin, the Secretary shall:**

- i. **Identify all known interested parties i.e. importer, foreign exporter and/or producer, and notify them of the initiation of the investigation;**
- ii. **Furnish them with a copy of the initiation report, petitioner's application, and its annexes, subject to the requirement to protect confidential information; and**
- iii. **Provide them with a pro-forma respondent's questionnaire."**

The respondent is required to submit within thirty (30) days from receipt of such notice the completed pro-forma respondent's questionnaire and other evidence and information to dispute the allegations contained in the application.

Section 6 (d) of the IRR also states that "**The Secretary and the Commission shall provide opportunities for industrial users of the allegedly dumped product, and for representative consumer organizations in cases where such product is commonly sold at the retail level, to provide information which is relevant to the investigation**".

IV.D. Appreciation of Available Evidence

Section 6 (e) of the IRR of RA 8752 provides, "**The pro-forma respondent's questionnaire shall be used by both the Secretary and the Commission in their respective inquiries. Whenever any interested party fails to respond adequately to such questionnaire, 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 or final determination of the conditions required in an anti-dumping investigation shall proceed on the basis of facts available. 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**".

Section 6 (f) of the IRR of RA 8752 provides, "**if any evidence or information is not accepted by the Secretary, the supplying party shall be informed forthwith of the reason/s therefore, and shall be given an opportunity to provide further explanations: 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.**"

IV.E. Termination of Investigation

Section 3 (g) of RA 8752 and Section 9 of its IRR provides, “**the Secretary or the Commission, as the case may be, shall motu proprio terminate the investigation at any stage of the proceedings if the provisionally estimated margin of dumping is less than two percent (2%) of the export price or the volume of the dumped imports or injury is negligible. The volume of dumped imports from a particular country shall normally be regarded as negligible if it accounts for less than three percent (3%) of the imports of the like article in the Philippines unless countries which individually account for less than three percent (3%) of the imports of the like article in the Philippines collectively account for more than seven percent (7%) of the total imports of that article**”.

V. ANTI-DUMPING DUTY: PARAMETERS FOR EVALUATION

V.A. The Concept and Purpose of Anti-Dumping

Section 2 of RA 8752 provides, “**it is hereby declared the policy of the State to protect domestic enterprises against unfair foreign competition and trade practices. Towards this end, substantive and procedural remedies available to domestic enterprises shall be strengthened and made responsive to recent developments in world trade.**”

V.B. The Elements Required by Law

Section 3 (a) of RA 8752 provides, “**whenever any product, commodity or article of commerce imported into the Philippines at an export price less than its normal value in the ordinary course of trade for the like product, commodity or article destined for consumption in the exporting country is causing or is threatening to cause material injury to a domestic industry, or materially retarding the establishment of a domestic industry producing the like product, the Secretary of Trade and Industry, in the case of non-agricultural product, commodity or article, or the Secretary of Agriculture, in the case of agricultural product, commodity or article (both of whom are hereinafter referred to as the Secretary, as the case may be), after formal investigation and affirmative finding of the Tariff Commission (hereinafter referred to as the Commission), shall cause the imposition of an anti-dumping duty equal to the margin of dumping on such product, commodity or article and on like product, commodity or article thereafter imported to the Philippines under similar circumstances, in addition to ordinary duties, taxes and charges imposed by law on the imported product, commodity or article. However, the anti-dumping duty may be less than the margin if such lesser duty will be adequate to remove injury to the domestic industry. Even when all the requirements for the imposition have been fulfilled, the decision on whether or not to impose a definitive anti-dumping duty remains the prerogative of the Commission. It may consider, among others, the effect of imposing an anti-dumping duty on the welfare of consumers and/or the general public, and other related local industries.**”

VI. THE EVIDENCE PRESENTED BY THE INDUSTRY

VI.A. The Product Subject to the Petition

As defined under Section 3 (s) 6 of R 8752, like product refers to “**a product which is identical or alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration**”.

VI.A.1. Domestic Product

a. Type 1 Ordinary Portland Cement and Type 1P Blended Cement

Type 1 cement is an Ordinary Portland Cement (OPC) which has 90%-95% clinker content and Type 1P cement is a blended cement using Portland cement and other natural mineral materials and has 70%-75% clinker content.

A Portland Type-1 cement especially made for high performance applications and highly engineered construction. It exceeds the strict standards of both Philippine National Standards (PNS) and American Society for Testing and Materials (ASTM) making it the brand of choice for mega structures. A Type 1P cement specially formulated and manufactured with natural minerals to provide additional properties not found in ordinary Portland cement. The natural mineral component ensures increased strength and durability over time.

a.1 Chemical Specifications Requirements as Specified in the Local and International Standards

Type 1 – Portland Cement

CHEMICAL COMPONENTS	PNS 07: 2018	ASTM C 150 - 07
Magnesium Oxide, MgO % max.	6.0	6.0
Sulfur Trioxide (SO ₃). % max:		
When tricalcium aluminate (C ₃ A) is 8% or less	3.0	3.0
When C ₃ A is more than 8%	3.5	3.5
Loss in ignition, max ,%		3.0
When limestone is not an ingredient	3	
When limestone is an ingredient	3.5	
Insoluble residue max, %	0.75	0.75

Source: PNS 07:2018, PNS 63:2019

Type 1P – Blended Cement

CHEMICAL COMPONENTS	PNS 63: 2019	ASTM C 595-03
Magnesium Oxide, MgO , max, %	6.0	6.0
Sulfur Reported as sulfate (SO ₃), max, %	4.0	4.0
Loss in ignition, max, %	8.0	5.0

Source: PNS 07:2018, PNS 63:2019

a.2 Physical Requirements as Specified in the Local and International Standards**Type 1 – Portland Cement**

STANDARD PHYSICAL REQUIREMENTS	PNS 07: 2018	ASTM C 150 - 07
Fineness specific surface m ² / kg Air permeability test	260	260
Air content of mortar, volume % max	12.0	12.0
Autoclave expansion, %, max	0.80	0.80
Time of setting (Vicat test):		
Time of setting, minutes not less than	45	45
Time of setting, minutes not more than	375	375
Compressive strength (MPa), min.	0.75	
3 days	12.0	12.0
7 days	19.0	19.0
28 days	28.0	-

Source: PNS 07:2018, PNS 63:2019

Type 1P – Blended Cement

STANDARD PHYSICAL REQUIREMENTS	PNS 63: 2019	ASTM C 595-03
Fineness	280	-
Specific surface m ² / kg	A	A
Retained content on 45- μm (No.325) sieve, %		
Air content of mortar, volume, %, max	12.0	12.0
Autoclave contraction, %, max	0.20	0.20
Autoclave expansion, %, max	0.50	0.80
Time of setting (Vicat test):		
Set minutes, not less than	45	45
Compressive strength (MPa), min.		
3 days	13.0	13.0
7 days	20.0	20.0
28 days	25.0	25.0

^A Both amounts retained when wet sieved on 45-μm (No. 325) sieve and on specific surface by air permeability apparatus, m²/kg, shall be reported on all mill test reports requested under 14.4. (ASTM C 595-03)

b. Uses and Applications**b.1. Type 1**

- High strength concrete designs with a minimal cement factor requirement (ready-mixed concrete)
- Projects with tight completion schedules
- Pre-cast and pre-stressed concrete
- Infrastructure: roads, dams, bridges, railway structures
- Mega-structures, high-rise buildings, and condominiums

b.2. Type 1P

- All-purpose cement for general construction applications, especially where structures are exposed to moderate sulfate environments or to chloride attack
- Roads, pavements, bridges, foundations, columns and slabs
- Pre-cast and pre-fabricated concrete products such as pipes, hollow blocks, pavers, floor and roof tiles
- Tanks, reservoirs, culverts, water pipes, and masonry units

c. Cement Manufacturing Process

RAW MATERIAL PREPARATION

- 1. QUARRYING**
Limestone mined from quarries with MPSAs adjacent to plants.
- 2. CRUSHING**
Size reduction of the rock boulders is performed in the crusher.
- 3. RAW MILLING**
Proportioning drying, and grinding of the raw materials are accomplished in a mill.
- 4. HOMOGENIZING**
The finely ground mis is stored and homogenized in the raw meal storage/blending silo.



CLINKER PRODUCTION

- 5. PREHEATING**
The kin feed is dried and preheated gradually through a series of 5 cycles
- 6. BURNING**
Raw meal is fed directly from the last stage of the preheater to the rotary kiln.
- 7. COOLING**
The clinker formed during the sintering process then falls into the grate cooler.



CEMENT PRODUCTION

- 8. FINISH MILLING**
Clinker and other Materials are extracted from their respective bins and fed to the mill to produce cement.
- 9. PACKING**
From the storage silo, cement in conveyed the rotary packing machines Bulk cement directly discharged from the cement silo into bulk carriers/trucks.

d. Distribution Channels

XXX

VI.A.2. Imported Product

The allegedly dumped imported cement from Viet Nam are classified under the following AHTN codes:

Tariff Heading Map AHTN Code / Description			Applicable Tariff Rate (%)	
			MFN	ATIGA
25.23 Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cement, whether or not coloured or in the form of clinkers	2523.29 - - Other	2523.29.90 - - - Other	0	0
		2523.9000 - Other hydraulic cement	0	0

AHTN ASEAN Harmonized Tariff Nomenclature
MFN Most Favoured Nation
ATIGA ASEAN Trade in Goods Agreement

Product	AHTN 2017 Sub-Heading	Description
Ordinary Portland/Type1	2523.29.90	All types of Portland Cement except White Cement (e.g Type 1)
Blended/Type 1P	2523.90.00	Other Hydraulic Cement (e.g Type 1P)

Source: Tariff Commission Final Report (Non-Confidential Version) on the Formal Investigation on the Imposition of Safeguard Measure on Importation of Cement (AHTN 2017 Sub-Heading No: 252329.90 and 2523.90.0) Page 45

a) Viet Nam Cement Product Specifications

Viet Nam applies TCVN 2682-2009 (Type 1) and TCVN 2682-1009 (Type 1P) as its national standard equivalent or conforming to the PNS 07:2018 and ASTM C-150; and PNS 63:2019 and ASTM C 595, respectively.

Cement Type	Philippine National Standard	Viet Nam
Grey Portland Cement ASTM C150 Type I	Type 1 PNS 07:2018	Type 1 - TCVN 2682-2009
ASTM C 595 – Type 1P (Blended Cement)	Type 1P and PNS 63:2019	Type 1P - TCVN 2682-1009

VI.A.3. Comparison between Imported and Domestic Product

As defined under Section 3 (s) of RA 8752, like product refers to **"a product which is identical or alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration"**.

It is necessary to compare the imported Type 1 and Type 1P cement and the domestic product to determine if they are like products. This is important in establishing whether the petitioners can rightly claim relief or protection against the allegedly dumped imported product.

The WTO Anti-Dumping Agreement does not provide any guidance apart from the definition in Article 2.6 (Section 3(s) of RA 8752) with respect to which specific characteristics should be considered when assessing likeness between the subject product and the domestic product.

It is a common practice for investigating authorities to establish criteria which are applied on a case-to-case basis as guidance in considering whether one product has characteristics closely resembling those of another product. These may include physical characteristics (size, materials, chemical composition, etc.), degree of commercial interchangeability, method of manufacture, functions of the product, industry specification and end-use, pricing, distribution and marketing and tariff classification, among others.

From the foregoing, Type 1 and Type 1P cement from Viet Nam and the domestically produced goods are considered to be like products based on information provided by the petitioners and the declarations found in import entry documents reflecting the AHTN Codes and descriptions of the subject products. These documents show that the subject products and those that are domestically produced are identical, alike in all respects and are therefore like products within the purview of Section 3(s) of RA 8752 and its IRR.

Further, the responses submitted by exporters show that subject imported cement have the same tariff classification, physical characteristics, use and application, pricing among others as domestically produced cement.

Therefore, the subject products and domestically produced Type 1 and Type 1P cement are like products as defined under section 3 (s) of RA 8752 and its IRR.

VI.B. Period of Investigation

The period of investigation for dumping is from July 2019 to December 2020 while the period of investigation for injury is from 2017 to June 2020.

VI.C. Determination of Dumping Margins

Section 11 (a) of the IRR of RA8752 provides, **“the Secretary and the Commission shall determine the existence of dumping by making a fair comparison between the export price and the normal value of the allegedly dumped product, covering all transactions for the allegedly dumped product during the period of investigation (POI).”**

Section 11 b further provides, **“the comparison shall be made at the same level of trade, normally at ex-factory level, and in respect of sales made at the same time or as near as possible to the date of exportation. Due allowance shall be made in each case for differences which affect price comparability including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics and any other differences which are also demonstrated to affect price comparability.”**

VI.C.1. Normal Value

Section 3 (s) 3 of RA 8752 provides, **“Normal value refers to a comparable price at the date of sale of the like product, commodity or article in the ordinary course of trade when destined for consumption in the country of export.”**

Section 3 (n) of RA 8752 further provides, **“if the normal value of an article cannot be determined, the provisions for choosing alternative normal value under Article VI of GATT 1994 shall apply”**.

During the initiation of investigation, DTI used the normal value or the domestic prices of cement in Viet Nam less adjustments provided by the Philippine Trade and Investment Center-Thailand (PTIC) which covers Viet Nam.

During the preliminary determination stage, DTI provided the respondents, exporters and importers, the opportunity to comment on the aforementioned normal values. Thus, the manufacturers/exporters provided a breakdown of the prices of Type 1 and Type 1P cement with corresponding AHTN Code: 2523.29.90 (Type 1) and 2523.90.00 (Type 1P). A total of twenty-two (22) exporters provided information on the prices of Type 1 and Type 1P cement. However, only six cement manufacturers from Viet Nam have domestic sales as the basis in the calculation of normal value. Included in the data submitted are packing cost, inland transport cost, discount and rebate, assessment fees and other expenses.

The DTI determined whether there are sales to related parties or sales made at prices below cost. Sales below cost were excluded in the calculation of the normal value. The DTI recognized as the basis of normal value the domestic selling prices for the Type 1 and Type 1P cement of the nine (9) manufacturers of cement from Viet Nam. Prices provided by the cement manufacturers from Viet Nam were adjusted to ex-works level by deducting some adjustments.

The table below showed the weighted average normal value of Type 1 and Type 1P cement based on the submitted data.

EXPORTER	Cement Type	Weighted Average Normal Value
CONFIDENTIAL	1	CONFIDENTIAL
	1	
	1P	
	1	
	1P	
	1	
	1P	
	1	
	1	
	1P	
	1	
	1	
	1P	
	1	

Source: Submitted information by the participating exporters

For those exporters/traders that are not engaged in selling Type 1 and Type 1P cement in their domestic market, the corresponding adjusted normal value for each exporter/trader, was adopted based on their declared supplier.

A fair comparison between the normal value and the export price must be made at the same level of trade, and in respect of sales made at as nearly as possible the same time.

DTI considered the submitted normal value provided by the participating exporters/manufacturers.

The Tariff Commission may gather complete normal value documents from all identified Vietnamese exporters to further verify their domestic selling price of Type 1 and Type 1P cement in Viet Nam during the formal investigation.

VI.C.2. Export Price

Section 3 (s) 2 of RA 8752 states that “**Export price refers to (1) the ex-factory price at the point of sale for export; or (2) the F.O.B. price at the point of shipment. In cases where (1) or (2) cannot be used, then the export price may be constructed based on such reasonable basis as the Secretary or the Commission may determine.**”

DTI used the electronic Single Administrative Document-Import Entry and Internal Revenue Document (SAD-IEIRD) generated through the database of the Philippine Bureau of Customs as the basis in the computation of export price during the initiation stage.

During the preliminary determination, the participating exporters/manufacturers provided data on their export prices for Type 1 and Type 1P cement sold in the Philippines for the POI. Also, exporters submitted answers to the questionnaire indicating that they did not directly export the products to the Philippines but course through traders. DTI evaluated the submission of the exporters.

DTI determined the export prices reflected in the BOC-SAD. Based on the shipments from BOC, the buyers and sellers agreed on payment terms or incoterms such as FOB, CIF and CFR.

The table below is the weighted average export prices without adjustment from BOC-SAD by each exporter:

Exporter	Type	Weighted Average Export Price
CONFIDENTIAL	1	CONFIDENTIAL
	1P	
	1	
	1	
	1P	
	1	
	1	
	1	
	1P	
	1P	
	1	
	1	
	1	
	1	
	1P	
	1	
	1P	
1P		
1		

	1P	
	1	
	1P	
	1	
	1	
	1P	
	1	
	1P	
	1	
	1	
	1P	
	1	
	1P	
	1	
	1P	
	1	
	1	
	1P	
	1	
	1P	
	1	
	1P	

The DTI determined whether there are sales to related parties and found that all export sales were made to unaffiliated Philippine importers. Export prices indicated in the submission include FOB and CIF.

In the determination of weighted average export price, DTI adopted the actual export prices in the BOC-SAD minus the cost incurred from Factory to FOB (export packing, storage, freight, etc.) converted in USD/MT as provided by the exporters participated in the investigation. For those exporters that did not reply to the questionnaire, the DTI assumed the adjustments of the exporters with the same location such as South, North or Central Viet Nam.

The table below showed the weighted average adjusted export prices for Type 1 and Type1P cement.

EXPORTER	Cement Type	Weighted Average Export Price
CONFIDENTIAL	1	CONFIDENTIAL
	1P	
	1	
	1	
	1	
	1P	
	1	
	1	
	1P	
	1	
	1	
	1	
	1P	
	1	
	1P	
	1	
	1P	
	1	
	1P	
	1	
	1P	
	1P	
	1	
	1P	
	1	
1P		
1		
1P		
1		
1P		
1		
1		

1
1
1
1
1P
1
1P
1

DTI considered the export prices of Bureau of Customs – Import Entry Declarations covering all of the shipments of Type 1 and Type 1P cement from Viet Nam during the POI as it reflects the actual import data.

The Tariff Commission may gather complete export sales documents from all identified Vietnamese exporters to further verify the export prices of Type 1 and Type 1P cement imported from Viet Nam during the formal investigation.

VI.C.3. Comparison between Export Price and Normal Value

Section 3 (n) paragraph 2 of RA 8752 states that **“If possible, an individual margin of dumping shall be determined for each known exporter or producer of the article under investigation. In cases where the number of exporters, producers, importers or types of products involved is so large as to make such determination impracticable, the Secretary and the Commission may limit their examination either to a reasonable number of interested parties or products by using samples which are statistically valid on the basis of information available to them at the time of the selection, or to the largest percentage of volume of exports from the country in question which can reasonably be investigated.”**

Section 11 (a) of the IRRs of RA 8752 provides, **“Secretary and the Commission shall determine the existence of dumping by making a fair comparison between the export price and the normal value of the allegedly dumped product x x x”** and Section 11 (b) of its IRRs of RA 8752 provides, **“the comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at the same time or as near as possible to the date of exportation. Due allowance shall be made in each case for differences which affect price comparability including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics and any other differences which are also demonstrated to affect price comparability.”**

For comparability, the normal value in Viet Nam Dong (VND) was converted into US\$/MT (this being the unit reflected in the BOC-SAD). The exchange rate was sourced from the submitted information by the exporters.

Using the normal value provided by the cooperating exporters and the export prices appearing in the available BOC-SAD covering the POI. The computed dumping margins for Type 1 cement ranging from US\$1.02/MT to US\$10.53/MT or 2.69% to 31.87% of the export price were recorded. Margins of dumping are above the *de minimis* requirement of 2% of export price.

For Type 1P cement, dumping margins during the POI ranging from US\$1.16/MT to US\$12.79/MT or 3.80% to 29.20% of the export price were recorded. Margins of dumping are above the *de minimis* requirement of 2% of export price.

VI.D. Determination of the Volume of Dumped Imports

Section 3 (g) of RA 8752 states, "the Secretary or the Commission, as the case may be, shall motu proprio terminate the investigation at any stage of the proceedings, if the volume of dumped imports is negligible".

Section 3 (g) of RA 8752 and Section 9(b) of its IRR further provides, "the volume of the allegedly dumped products from a particular country shall normally be regarded as negligible if it accounts for less than three percent (3%) of the total imports of said product in the Philippines unless countries which individually account for less than three percent (3%) of the total imports of the said product in the Philippines collectively account for more than seven percent (7%) of the total imports of that product."

Table 4: Volume of Allegedly Dumped Imports of Cement from Viet Nam Relative to Philippine Imports (July 2019 to December 2020)

Sources	Volume in MT
Allegedly Dumped Imports from Viet Nam	4,262,349
Non-Dumped Imports from Viet Nam	2,538,514
Imports from Viet Nam	6,800,863
Imports from Other Sources	917,723
Total Philippine Imports	7,718,586
Allegedly Dumped Imports from Viet Nam as % of Total Philippine Imports	55%

Source: BOC-SAD

The volume of dumped cement was computed based on the electronic BOC-SAD. The total volume of alleged dumped imports was computed at 4,262,349MT or 55% of the total Philippine imports for July 2019 to December 2020.

The volume of alleged dumped cement products satisfies the *de minimis* volume requirement of three percent (3%).

VI.E. Evidence of Injury

Section 3 (i) paragraphs 1 and 2 of RA 8752 provides, "the presence and extent of material injury to the domestic industry, as a result of the dumped imports shall be determined on the basis of positive evidence and shall require an objective examination of, but shall not be limited to the following:

1. The rate of increase and amount of imports, either in absolute terms or relative to production or consumption in the domestic market;
2. The effect of dumped imports on the price in the domestic market for like product, commodity or article, that is, whether there has been a significant price undercutting by the dumped imports as compared with the price of the like product, commodity or article in the domestic market, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree; and
3. The effect of the dumped imports on the domestic producers or the resulting retardation of the establishment of a domestic industry manufacturing like product, commodity or article, including an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry concerned, such as but not limited to, actual or potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, and ability to raise capital or investments.

The extent of injury of the dumped imports to the domestic industry shall be determined by the Secretary and the Commission upon examination of all relevant evidence. Any known factors other than the dumped imports which at the same time are injuring the domestic industry shall also be examined and the injuries caused by these factors must not be attributed to the dumped imports. The relevant evidence may include, but shall not be limited to, the following:

1. The volume and value of imports not sold at dumping prices;
2. Contraction in demand or changes in consumption pattern;
3. Trade restrictive practices and competition between foreign and domestic producers;

4. Developments in technology; and
5. Export performance and productivity of the domestic industry".

VI.E.1. PRICE EFFECTS

Section 12 a (2) of the IRR of RA 8752 provides for an examination of **"the effect of the importation of the dumped products on the prices in the domestic market for the like product, that is, whether there has been a significant price undercutting by the dumped products as compared with the price of the like product in the domestic market, or whether the effect of such dumped products is otherwise to depress prices to a significant degree or to prevent price increases which otherwise would have occurred to a significant degree. Price depression shall refer to the extent by which the domestic producer reduced its selling price in order to compete with the dumped product, while price suppression shall refer to the extent by which the dumped product prevented the domestic producer from increasing its selling price to a level that will allow recovery of its cost of production."**

VI.E.1.a. Price Undercutting

Price undercutting as defined in Section 2 (v) of the IRR of RA 8752 refers to the "extent at which the allegedly dumped product is consistently sold at a price below the domestic selling price of the like product". To establish the existence and extent of any price undercutting, the importer's (ex-warehouse) selling price of the imported product is compared with the price of the domestic product, usually at the ex-factory level.

Table 6: Comparison between Landed Cost of Imports and Average Ex-plant Price of Domestic Product in 2019 and 2020 (Jan-June)

YEAR	** Ex-works Price of Domestic Industry (P / MT) (a)***	*Wtd. Average Landed Cost of Imports from Vietnam (PhP/MT) (b)***	% DIFFERENCE [(a-b)/b] x 100
2019	xxx	xxx	23.17
2020 (Jan-June)	xxx	xxx	24.05

Sources: *BOC – SAD

** Domestic Industry (CEMEX, Holcim and Republic)

***Figures indexed due to confidentiality

The weighted average landed cost per MT of imports from Viet Nam in 2019 is 23% lower than the average ex-works price of domestic product. While in 2020 (Jan-June), the weighted average landed cost per MT of imported cement from Viet Nam is 24% lower than the ex-works price of domestic cement. Imported cement from Viet Nam undercuts cement produced domestically.

VI.E.1.b. Price Depression

Price depression usually occurs when prices are lower than those in a market unaffected by dumping, usually in a previous period. As provided in Section 2(t) of the IRR of RA 8752, "price depression reflects the extent at which the domestic producer decreases its selling price in order to compete with the allegedly dumped product".

Table 7: Average Ex-plant Price of Domestic Product

Year	Ex-works Price of Domestic Industry (P / MT)*	% INCREASE/ (DECREASE)
2017	100	-
2018	98	(2.18)
2019	100	2.64
2020 (Jan-Jun)	98	(2.86)

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

The table above reflects the domestic ex-works price of cement from 2017 to 2020 (Jan-June). During the POI, petitioners decreased their ex-works price in 2018 and 2020, indicating the presence of price depression.

VI.E.1.c. Price Suppression

Price suppression as defined in Section 2(u) of RA 8752 refers to "the extent by which the allegedly dumped product prevents the domestic producer from increasing its selling price to a level that will allow full recovery of its cost of production". It usually occurs when the company despite increases in cost (which normally should be translated into price increases) could not increase its prices to a level that will allow full recovery of its cost of production.

Table 8: Comparison between Average Ex-plant Price and Cost of Production of Domestic Product

Year	Average Ex-works Price*	Cost of Production*	Difference*	% Difference [(a-b)/b] x 100
	(P/MT)	(P/MT)	(P/MT)	
2017	100	100	100	50
2018	98	104	85	41
2019	100	106	88	41
2020 (Jan-Jun)	98	103	88	42

Source: Domestic Industry (CEMEX, Holcim and Republic)

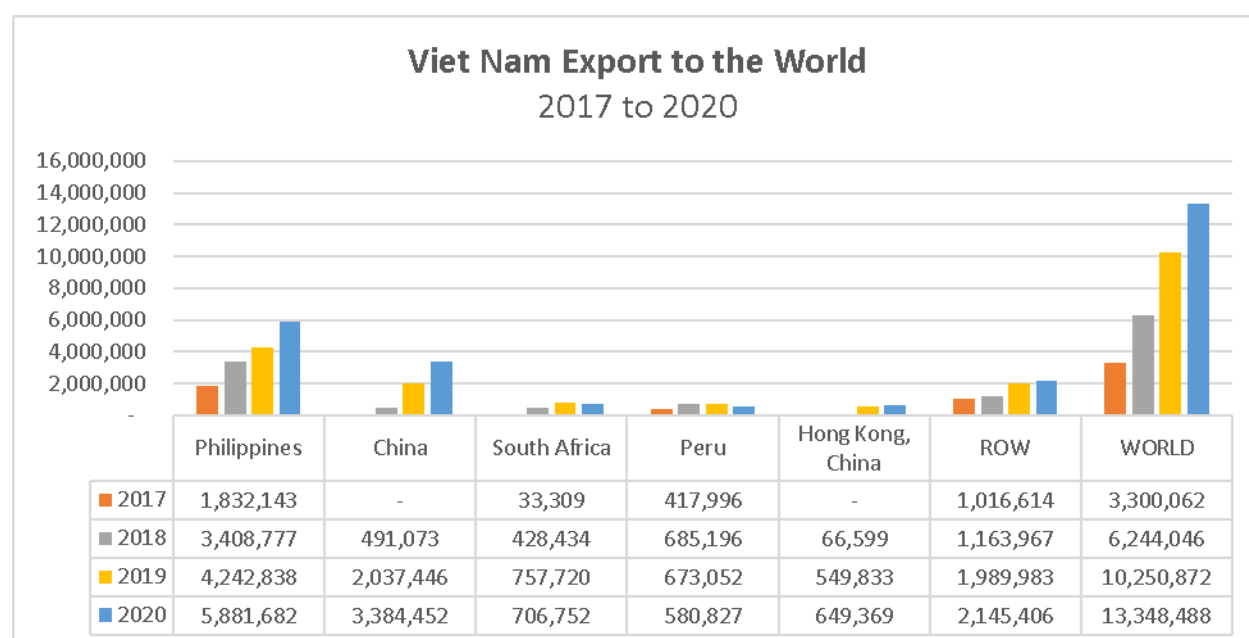
*Figures indexed due to confidentiality

The table above presents the average ex-works price and the cost of production of domestically produced cement from 2017 to 2020 (Jan-June). The domestic ex-works price recorded an erratic trend during the POI. While the cost of production continues to increase from 2017 to 2019 but slightly declined in 2020 (Jan-June). Based on the data above, there is no evidence of price suppression for cement.

VI.E.2. Volume Effect

Article 3.2 of the Anti-Dumping Agreement and paragraph (i) subparagraph 1 of RA 8752, provides, "**investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or consumption in the importing member.**"

Viet Nam Exports of Cement



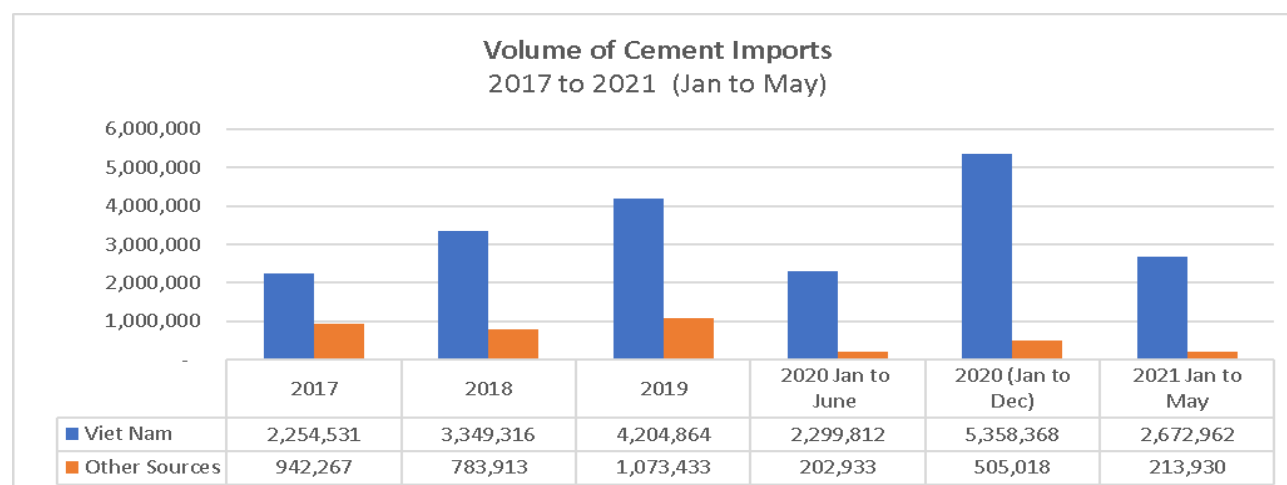
Note: Total Exports of Viet Nam to the Philippines (POI: 2017 to 2019) – 9,483,758 MT

Source: TH 252329 and 252390 - www.trademap.org

The Philippines is the top destination for Vietnamese exporters of cement. Compared to other countries, the growth rate of cement exports of Viet Nam's to the Philippines showed an upsurge of 221% (from 1,832,143MT 2017 to 5,881,682MT in 2020).

Vietnamese exports to the Philippines accounted 46% of Viet Nam's world export for the period 2017 to 2020.

VI.E.2.a Absolute Terms – Cement



Source: Volume of Imports - Bureau of Customs, Single Administrative Document-Import Entry and Internal Revenue Document (SAD-IEIRD)

Table 9: Philippine Imports of Cement from 2017 to 2021 (Jan to May)

SOURCES	2017	2018	2019	2020 (Jan to June)	2020 (Jan to Dec)	2021 (Jan to May)
Imports from Viet Nam	2,254,531	3,349,316	4,204,864	2,299,812	5,358,368	2,672,962
Imports from Other Sources	942,267	783,913	1,073,433	202,933	505,018	213,930
PROC	765,696	626,633	992,791	134,028	271,793	78,401
Indonesia	69,913	51,661	0.25	56,400	220,600	135,521
Thailand	106,602	81,537	29,601	12,500	12,500	-
United Arab Emirates	-	-	-	-	120	-
Republic of Korea	-	-	49,500	4.56	5	-
United States	-	-	0.04	0.14	0.14	-
Japan	-	-	-	-	0.001	-
Pakistan	56	24,082	1,400	-	-	-
Chinese Taipei	0.003	-	-	-	-	0.01
Canada	-	-	-	-	-	8.10
Singapore	-	-	140	-	-	-
Iran	-	-	0.21	-	-	0.38
Total Philippine Imports	3,196,797	4,133,230	5,278,297	2,502,745	5,863,386	2,886,892
% Change in:						
Imports from Viet Nam	-	49%	26%	-	27%	50%
Imports from Other Sources	-	-17%	37%	-	(75%)	-
Total Philippine Imports	-	29%	28%	-	11%	-
Imports from Viet Nam as % of:						
Other sources	239%	427%	392%	1,133%	-	-
Total Philippine Imports	71%	81%	80%	92%	-	-

Source: Volume of Imports - (BOC SAD-IEIRD)

The volume of cement imports from Viet Nam exhibited an increasing trend during the POI. Between 2017-2018, imported cement from Viet Nam increased by 49% and further by 26% in 2019. In 2020, Vietnamese exports increased by 27%. According to petitioners, Viet Nam has been a major threat to the Philippine market as a source of cheap cement imports. Imports from other sources recorded a 17% decline in 2018 compared to the previous year. The highest level of increase was recorded in 2019 at 37%.

On the other hand, imports from Viet Nam as percentage of total Philippine imports recorded an increasing trend. With a low of 71% in 2017 and a peak of 92% in 2020 (Jan to June).

VI.E.2.b. In Relation to Philippine Market

Table 10: Philippine Market from 2017 to May 2021

SOURCES	2017	2018	2019	2020 (Jan - June)	2020 (Jan - Dec)	2021 (Jan - May)
Imports from Viet Nam	2,254,531	3,349,316	4,204,864	2,299,812	5,358,368	2,672,962
Imports from Other Sources	942,267	783,913	1,073,433	202,933	505,018	213,930
PROC	765,696	626,633	992,791	134,028	271,793	78,401
Indonesia	69,913	51,661	0.25	56,400	220,600	135,521
Thailand	106,602	81,537	29,601	12,500	12,500	-
United Arab Emirates	-	-	-	-	120	-
Republic of Korea	-	-	49,500	4.56	5	-
United States	-	-	0.04	0.14	0.14	-
Japan	-	-	-	-	0.001	-
Pakistan	56	24,082	1,400	-	-	-
Chinese Taipei	0.003	-	-	-	-	0.01
Canada	-	-	-	-	-	8.10
Singapore	-	-	140	-	-	-
Iran	-	-	0.21	-	-	0.38
Total Philippine Imports	3,196,797	4,133,230	5,278,297	2,502,745	5,863,386	2,886,892
Domestic Sales*	100	107	102	42	-	-
Total Philippine Market*	100	110	111	47	-	-
Imports from Viet Nam as % of:						
Domestic Sales	xxx	xxx	xxx	xxx	-	-
Total Philippine Market	xxx	xxx	xxx	xxx	-	-

Source: Volume of Imports - (BOC SAD-IEIRD)

Domestic Sales – Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

Over the three (3) year period, the Philippine market grew by 11%.

Domestic sales of cement increased by 7% in 2018, but declined by 5% in 2019. Viet Nam's share of cement imports as against domestic sales showed an increasing trend during the POI.

On the other hand, the share of imports from Viet Nam to the total Philippine market steadily increased from 2017 to 2020 (Jan to June).

VI.E.2.c. In Relation to Domestic Production

Table 11: Domestic Production of Cement Relative to Imports from Viet Nam

Sources	2017	2018	2019	2020 (Jan - June)	2020 (Jan - Dec)	2021 (Jan - May)
Viet Nam	2,254,531	3,349,316	4,204,864	2,299,812	5,358,368	2,672,962
Domestic Production*	100	106	99	41	-	-
Imports from Viet Nam as % of						
Domestic Production	xxx	xxx	xxx	xxx	-	-

Source: Volume of Imports – BOC-SAD

Domestic Production – Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

The table above shows the total imports of cement from Viet Nam as compared to the actual production of the cement industry from 2017 to June 2020.

As imports from Viet Nam grew over the period, the share of imported cement relative to domestic production continuously increased during the POI. The share of imports from Viet Nam relative to domestic production increased in 2017 and further in 2018. In 2019, Viet Nam recorded a significant share vis-à-vis domestic production.

For 2020 (Jan-Jun), the share of imports from Viet Nam accounted for xxx of domestic production.

VI.E.2.d. Top Importers from Viet Nam for the Period 2017 to May 2021

RANK	IMPORTER	2017	2018	2019	2020	2021 Jan to May	Total Import Volume: 2017 to May 2021	% Share
1	PHILCEMENT CORPORATION	-	150,233	610,494	1,477,241	895,886	3,133,854	17.57%
2	FORTEM CEMENT CORPORATION	24	290,308	484,813	679,507	420,507	1,875,159	10.51%
3	NGC LAND CORPORATION	-	348,416	576,949	614,324	298,683	1,838,372	10.30%
4	SAYGIN CONSTRUCTION SUPPLY	-	-	-	759,041	402,573	1,161,614	6.51%
5	MARLUSA CONSTRUCTION SUPPLY	140,467	228,304	284,964	271,296	186,498	1,111,529	6.23%
6	DAVAO MULTIBUILD CORP.	131,368	256,683	305,493	268,638	121,427	1,083,609	6.07%
7	AGGEMLUX TRADING	-	319,121	644,389	28,000	-	991,510	5.56%
8	PABAZA IMPORT & EXPORT INC.	207,941	218,764	74,950	92,700	-	594,355	3.33%
9	A.F. UMEREZ ENTERPRISES	-	101,399	351,216	-	-	452,615	2.54%
10	AXXEL TRADING	432,239	15,000	-	-	-	447,239	2.51%
Sub-Total: Top 10 Importers		912,039	1,928,228	3,333,268	4,190,746	2,325,574	12,689,855	71.13%
Other Importers		1,342,492	1,421,088	871,596	1,167,622	347,388	5,150,186	28.87%
TOTAL:		2,254,531	3,349,316	4,204,864	5,358,368	2,672,962	17,840,041	100%

Source: Bureau of Customs, Single Administrative Document-Import Entry and Internal Revenue Document (SAD-IEIRD)

VI.E.2.e Exporters of Cement from Viet Nam for the Period 2017 to May 2021

RANK	EXPORTER	2017	2018	2019	2020	2021 Jan to May	Total 2017 to May 2021	% Share to Total Imports
1	VISSAI NINH BINH JSC	40,288	347,282	682,358	1,477,241	895,886	3,443,055	19.30%
2	VIETNAM TRADING SERVICES AND IMPORT EXPORT LIMITED COMPANY	230,311	625,142	705,126	745,920	350,481	2,656,979	14.89%
3	NCL TRADING JOINT STOCK COMPANY	-	313,760	506,775	668,307	425,707	1,914,549	10.73%
4	HUNGKING VIET NAM COMPANY LIMITED	269,726	570,094	650,515	28,000	-	1,518,335	8.51%
5	HALONG CEMENT JOINT STOCK COMPANY	463,820	296,362	393,416	129,900	-	1,283,498	7.19%
6	OMANCO MATERIAL VIETNAM COMPANY LIMITED	-	-	-	812,041	402,573	1,214,614	6.81%
7	THANG LONG CEMENT JSC	262,379	272,814	125,462	96,900	-	757,555	4.25%
8	VICEM HAI PHONG CEMENT COMPANY LTD.	-	117,570	271,664	187,996	131,500	708,730	3.97%
9	NAM ANH TRADE AND EXPORT JSC	-	-	172,127	242,865	111,000	525,992	2.95%
10	VIET HP IMPORT EXPORT AND INVESTMENT JOINT STOCK COMPANY	-	169,495	203,444	4,200	29,200	406,339	2.28%
	Sub-Total	1,266,524	2,712,519	3,710,887	4,393,369	2,346,347	14,429,645	80.88%
	Others	988,007	636,797	493,978	964,999	326,615	3,410,396	19.12%
	TOTAL	2,254,531	3,349,316	4,204,864	5,358,368	2,672,962	17,840,041	100%

Source: Bureau of Customs, Single Administrative Document-Import Entry and Internal Revenue Document (SAD-IEIRD)

VI.E.3. Economic Impact

Section 12 a (3) of the IRR of RA 8752 provides for an objective examination of "the effect of the importation of the dumped products on the domestic producers or the resulting retardation of the establishment of a domestic industry producing the like product, including an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry concerned, such as, but not limited to, actual or potential decline in output, sales, market share, profits, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of dumping; and actual and potential negative effects on cash flow, inventories, employment, wages, growth, and ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance".

Section 12 (c) of the IRR of RA 8752 further provides, "the effect of the importation of the dumped products shall be assessed in relation to the domestic production of the like product by separate identification of that production based on such criteria as production processes, sales and profits. If such is not possible, the effect of the importation of the dumped products shall be assessed by the examination of the production of the narrowest group or range of products which includes the like product for which the necessary information is available."

VI.E.3.a. Domestic Sales

Table 12: Domestic Sales Volume and Value of Cement

Year	Sales Volume (MT)*	% Increase (Decrease)	Sales Value (Php Million)*	% Increase (Decrease)
2017	100	-	100	-
2018	107	6.95	105	4.61
2019	102	(4.98)	98	(6.03)
2020 (Jan-June)	42	40.85**	39	39.67**

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

**Percentage compared to the 2019 level

The table above shows an increase in sales volume and value by 7% and 5%, respectively in 2018. Despite the imposition of safeguard duties in 2019, sales volume and value declined by 5% and 6%, respectively. According to the petitioners, imported cement from Viet Nam was sold at much lower prices further pushing prices downward.

In the first half of 2020, sales volume was 41% while sales value was 40% compared to the 2019 level. According to the petitioners, imported cement from Viet Nam increased significantly from 2015 to 2019 which continued to the first half of 2020. Dumped imports from Viet Nam continuously preyed on the domestic market in spite of the economic downturn caused by the pandemic as evidenced by imports in the first 10 months of 2020 surpassing the 2019 import level. While the cement plants were on shutdown due to lockdown imposed by the government, imported cement continued to arrive unabated.

VI.E.3.a. Market Share

Table 13: Market Share of Cement (in MT)

SOURCES	2017	2018	2019	2020 (Jan to June)
TOTAL PHILIPPINE MARKET (in MT)*	100	110	111	47
Domestic Industry Sales (in MT)*	100	107	102	42
Imports from Viet Nam (in MT)	2,254,531	3,349,316	4,204,864	2,299,812
Imports from Other Sources (in MT)	942,267	783,913	1,073,293	202,933
PROC	765,696	626,633	992,791	134,028
Indonesia	69,913	51,661	0.25	56,400
Thailand	106,602	81,537	29,601	12,500
United Arab Emirates	-	-	-	-
Republic of Korea	-	-	49,500	4.56
United States	-	-	0.04	0.14
Japan	-	-	-	-
Pakistan	56	24,082	1,400	-
Chinese Taipei	0.003	-	-	-
TOTAL PHILIPPINE IMPORTS (in MT)	3,196,797	4,133,230	5,278,157	2,502,745
% CHANGE IN				
Imports from Viet Nam	-	49%	26%	-
Imports from Other Sources	-	(17%)	37%	-
Total Philippine Imports	-	29%	28%	-
% SHARE IN THE PHILIPPINE MARKET				
Domestic Industry Sales	xxx	xxx	xxx	xxx
Imports from Viet Nam	xxx	xxx	xxx	xxx
Imports from Other Sources	xxx	xxx	xxx	xxx

Source: Volume of Imports – BOC-SAD

Domestic Sales – Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

The Philippine market for cement grew from 2017 to 2019.

In 2017, domestic industry sales of cement accounted for xxx of Philippine market. In 2018, the domestic industry sales dropped and further declined in 2019. For 2020 (Jan to June), domestic industry sales indicated a xxx share to the total Philippine market. The market share of the local producer was affected by the presence of allegedly dumped products from Viet Nam.

For the period 2017 to 2019, share of imported cement from Viet Nam to total Philippine market registered an increasing trend. It captured its highest level in 2019. While imports from other sources relative to Philippine market recorded a 3% to 4% share.

VI.E.3.d. Profit and Loss

Table 14: Operating Profit - Cement (in Million Pesos)

Particulars	2017	2018	2019	2020 (Jan-Jun)	% Increase (Decrease) (2017 vs.2018)	% Increase (Decrease) (2018 vs.2019)	% Compared to the 2019 level
Sales Revenue*	100	104	99	39	4.44	(4.91)	39.42
Cost of Goods Sold*	100	110	105	42	9.75	(4.55)	40.05
Gross Profit*	100	92	87	33	(7.90)	(5.92)	37.65
Operating Expenses*	100	99	74	32	(1.34)	(24.73)	42.50
Operating Profit*	100	72	125	36	(27.93)	72.80	28.81

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

The industry's sales revenue increased by 4% in 2018 but declined by 5% in 2019. Cost of goods sold likewise increased by 10% in 2018 but declined by 5% in 2019. In the first half of 2020, sales revenue and cost of goods sold is 39% and 40% compared to the 2019 level, respectively. The industry's gross profit declined year-on-year by 8% and 6% from 2017 to 2019. In the first half of 2020, gross profit is 38% compared to the 2019 level. According to the domestic industry, the declining gross profit is due to cost of production increasing at a much faster rate than sales revenue. In addition, sales revenue decline was driven by both lower sales volume (due to customers shifting to lower-price imports) and domestic industry's low price as they compete with these lower-price imports.

Operating profit declined by 28% in 2018 but increased by 73% in 2019. The increase in operating profit may be attributed to the decline of 25% in the operating expenses. However, operating profit in the first half of 2020 is 29% compared to the 2019 level. According to the domestic industry, the decline in profitability is mainly due to its inability to pass on the increase in production cost. While they have implemented significant cost reduction initiatives across operations, these were still insufficient to cover significant declines in revenues and capital investments made to improve overall operations.

Further, the domestic industry stated that the key impact of dumping has been on the declining revenues resulting to lower profitability. With declining prices and declining profit margins, the company reduced its sales to price-sensitive customers as it was unable to match the unsustainably low prices offered by importers.

VI.E.3.d. Return on Sales

Table 15: Return on Sales – Cement (in Million Pesos)

Particulars	2017	2018	2019	2020 (Jan-Jun)
Sales (Million)*	100	104	99	39
Operating Profit*	100	72	125	36
Return on Sales (%)	xxx	xxx	xxx	xxx
% Increase (Decrease)	-	(30.99)	81.72	(26.93)

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

Return on Sales (ROS) is a profitability ratio which provides insight into how much profit is being produced per peso of sales.

Return on Sales based on operating profit ranged from xxx to xxx during the POI. It declined by 31% in 2018, increased by 82% in 2019. In the first half of 2020, it declined by 27% based on the 2019 ROS.

VI.E.3.e. Cost of Production

Table 16: Cost to Produce for Cement (Peso/MT)

Particulars	2017	2018	2019	2020 (Jan-Jun)
Raw Materials	27.8	29.3	28.1	31.0
Direct Labor	4.6	4.4	4.7	5.9
Manufacturing Overhead	67.6	66.3	67.2	63.1
Cost to Produce per MT*	100	100	100	100
% Increase (Decrease)**		4.00	2.33	(3.66)

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures in percentage to the cost to produce per MT

**Computed based on the absolute figures of cost to produce per MT

The domestic industry's cost of production consisted of the following: (1) raw materials such as clinker, gypsum, etc.; (2) direct labor such as salaries and wages; (3) manufacturing overhead which includes power consumption, fuel, transportation, and communication, outside services, repairs, and maintenance, depreciation, etc. Since the cement industry is both capital and energy intensive, energy inputs such as fuel, coal and electricity represent about 70% of cement manufacturer's total cost.

During the POI, cost to produce per MT increased by 4% and 2% from 2017 to 2019. In the first half of 2020, it declined by 4%.

According to the domestic industry, production costs have been rising year-on-year, often times much higher than inflation in 2017 and 2019. This was primarily attributed to higher fuel and coal prices which affected power and freight rates which are key production costs in manufacturing cement. In addition, peso volatility has affected imported raw materials and other input costs.

VI.E.3.f. Actual Production

Table 17: Actual Production of Cement

Year	2017	2018	2019	2020 (Jan-Jun)
Production (MT)*	100	106	99	41
% Increase (Decrease)		5.95	(6.75)	41.58**

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

**Percentage compared to the 2019 level

Production volume followed the trend in sales with an increase of 6% in 2018 and a decline of 7% in 2019. In the first half of 2020, production is 42% compared to the 2019 level.

VI.E.3.g. Capacity Utilization

Table 18: Capacity Utilization for Cement

Year	Rated Capacity (MT)*	Actual Production (MT)*	Capacity Utilization Rate (%)	% Increase (Decrease)
2017	100	100	80.16	
2018	100	106	84.55	5.48
2019	104	99	76.52	(9.50)
2020 (Jan-Jun)	57**	41	57.59	(24.74)

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

**based on the first half of 2020 Mill capacity

Capacity Utilization is computed using the consolidated mill capacity and production of cement.

The table above shows an increase in capacity utilization by 5% in 2018. However, it declined in 2019 by 10% and declined further by 25% in the first half of 2020.

According to the domestic industry, cement production is scheduled based on sales demand. Since demand for locally produced cement declined, they had to do economic stoppages despite investment in new mills. Thus, capacity is not fully optimized.

VI.E.3.k. Finished Goods Inventory

Table 19: Finished Goods Inventory - Cement

Year	Volume (MT)*	% Increase (Decrease)	Value (Php Million)*	% Increase (Decrease)
2017	100		100	
2018	92	(7.75)	118	17.98
2019	106	14.41	97	(18.05)
2020 (Jan-Jun)	52	49.23**	64	66.02**

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

**Percentage compared to the 2019 level

Finished goods inventory volume decreased by 8% in 2018 and it increased by 14% in 2019. Finished goods inventory value increased by 18% in 2018 but declined by the same in 2019. In the first half of 2020, finished goods inventory volume and value is 50% and 66% compared to the 2019 level, respectively.

The cement industry does not have a policy of maintaining set inventory levels. They endeavor to maximize their ability to produce cement to utilize available storage capacity of its cement warehouse and silos. In addition, cement can only last six (6) months even with proper storage and handling conditions.

VI.E.3.h. Employment

Table 20: Employment and Labor Productivity

Year	No. of Employees*	Increase (Decrease)	Total Production (MT)*	Labor Productivity (employees/MT)	% Change
2017	100	-	100	xxx	-
2018	97	(3.22)	106	xxx	9.48
2019	95	(1.86)	99	xxx	(4.98)
2020 (Jan-Jun)	94	(1.35)	41	xxx	(57.85)

Source: Domestic Industry (CEMEX, Holcim and Republic)

*Figures indexed due to confidentiality

Employment declined during the POI year-on-year by 3%, 2% and 1% (1st half of 2020).

However, labor productivity increased in 2018 by 9% (due to increase in production) but declined in 2019 by 5%. In the first half of 2020, it declined by 58% (compared to the 2019 level) but is expected to increase as production still increase for the remaining half of the year.

VI.E.3.I. Ability to Raise Capital

According to petitioners, the proliferation of dumped imports makes it difficult to raise capital as volatile market conditions result in uncertainty over future cash flows. The decline in EBITDA is impacting the company's cash generation and the ability to generate an acceptable return on new investments. In addition, the current share price trend, low return on invested capital performance which is below corporate expectations makes additional capital allocation for the Philippines, not a priority. This is impacting the ability to expand in the Philippines despite the positive outlook on future cement demand.

The impact of Covid-19 and social distancing caused a deficit in cement production in the Philippines. According to the cement industry, based on their research, many neighboring cement exporting Asian countries have continued their cement manufacturing and distribution despite the COVID-19 pandemic. With the increasing uneven playing field created by COVID-19 in favor of cement exported to the Philippines, the domestically manufactured cement will succumb to significant capacity underutilization and will be unable to quickly resume and complete the necessary investments on plant efficiencies and capacities as committed to the Tariff Commission within the period Safeguard Measures is in effect. Most likely, the same situation is being experienced by other domestic cement manufacturers. These pose real threats to jobs in the cement industry should dumped cement be allowed to be imported which will create an oversupply in cement.

VII. CONCLUSIONS RELATING TO:

VII.A Determination of Like or Directly Competitive Product

- The products covered by the petition fall under AHTN Codes 2523.29.90 and 2523.90.00 for Type 1 and Type 1P cement, respectively. These are used for high strength concrete designs with a minimal cement factor requirement (ready-mixed concrete), projects with tight completion schedules, pre-cast and pre-stressed concrete, infrastructure: roads, dams, bridges, railway structures, mega-structures, high-rise buildings, and condominiums, among others.

VII.B1. DUMPING FOR CEMENT

a) Dumping Margins

- The computed dumping margins for Type 1 cement ranged from US\$1.02/MT to US\$10.53/MT or 2.69% to 31.87% of the export price. Margins of dumping are above the *de minimis* requirement of 2% of export price.
- For Type 1P cement, dumping margins during the POI ranged from US\$1.16/MT to US\$12.79/MT or 3.80% to 29.20% of the export price. Margins of dumping are above the *de minimis* requirement of 2% of export price.

b) Volume of Allegedly Dumped Imports

- The volume of dumped cement was computed based on the electronic BOC-SAD. The total volume of alleged dumped imports was computed at 4,262,349MT or 55% of the total Philippine imports from July 2019 to December 2020. The volume of alleged dumped cement products satisfies the *de minimis* volume requirement of three percent (3%).

VII.B3. ECONOMIC FACTORS**a. Domestic Sales**

- Sales volume increased by 7% in 2018 but declined by 5% in 2019 despite the imposition of the provisional and definitive safeguard measure in the same year.
- Sales value increased by 5% in 2018 but declined by 6% in 2019.

b. Market Share

- Total apparent market for cement grew from 2017 to 2019
- Share of the domestic industry to the total Philippine market significantly declined from 85% in 2017 to 75% in 2020 (Jan to June).
- Share of imports from Viet Nam captured 18% (2019) and 23% (2020 Jan-June) of the market while other sources recorded a minimal share (i.e., 2% to 4%).

c. Profits and Losses

- Sales revenue increased by 4% in 2018 but declined by 5% in 2019.
- Gross profits declined year-on-year by 8% and 6% from 2017 to 2019.
- Operating profits declined by 28% in 2018 but increased by 73% in 2019 which is due to the decline in operating expenses by 25%.

e. Return on Sales

- ROS based on operating profit ranged from xxx to xxx during the POI.

f. Cost of Production

- Cost to produce per MT increased by 4% and 2% from 2017 to 2019. In the first half of 2020, it declined by 4%.

g. Production

- Production volume increased by 6% in 2018 but declined by 7% in 2019.

h. Capacity Utilization

- Increased capacity utilization by 5% in 2018. However, it declined in 2019 by 10% and further by 25% in the first half of 2020.

i. Employment

- Employment declined during the POI year-on-year by 3%, 2% and 1% (1st half of 2020).

j. Productivity

- Productivity increased in 2018 by 9% (due to an increase in production) but declined in 2019 by 5%. As of the first half of 2020, it declined further by 56%.

k. Inventories

- Inventories decreased by 8% in 2018 but increased by 14% in 2019.

VII.D. Ability to Raise Capital

- Proliferation of dumped imports makes it difficult to raise capital as volatile market conditions result in uncertainty over future cash flows. The decline in EBITDA is impacting the company's cash generation and the ability to generate an acceptable return on new investments. In addition, the current share price trend, low return on invested capital performance which is below corporate expectations makes additional capital allocation for the Philippines, not a priority. This is impacting the ability to expand in the Philippines despite the positive outlook on future cement demand.

VIII. CAUSATION

There are indications that the dumped imported cement from Viet Nam is the dominant cause of material injury to the domestic industry. The volume of dumped imports and significant dumping margins affected the operations of the domestic industry: Since 2019, despite the imposition of safeguard duty, the volume of dumped imports to Philippine cement imports from Viet Nam accounted for 55% during the POI. Dumping margins for Type 1 cement ranged from US\$1.02/MT to US\$10.53/MT or 2.69% to 31.87% of the export price. For Type 1P cement, dumping margins during the POI ranged from US\$1.16/MT to US\$12.79/MT or 3.80% to 29.20% of the export price. Margins of dumping are above the *de minimis* requirement of 2% of export price.

Another factor that contributed to the material injury suffered by the domestic industry is price undercutting which was determined at 23% in 2019 and 24% in 2020 (Jan-June). Price undercutting was computed based on the difference between the weighted average landed cost per MT of the imported product versus the ex-works price per MT of domestically produced cement. Price depression was also recorded during the POI.

The domestic producer was not able to take advantage of the growth in demand for cement during the POI. The market share of domestically produced cement decreased during the POI from 85% in 2017 to 78% in 2019, as dumped imports increased its share in the domestic market. The industry suffered loss of market share, declining domestic sales, production, utilization rate, reduction in employment, increased cost of production and inventory.

IX. RECOMMENDATIONS

On the basis of information available, it is concluded that there is reasonable cause to believe that:

- a) the imported Type 1 and Type 1P cement from Viet Nam are being dumped; and
- b) by reason thereof, the dumped imports have caused material injury to the domestic cement industry and
- c) the imposition of provisional measure is necessary to prevent further material injury to the domestic industry.

Section 8 (a) of RA 8752 and its IRR provides, **“if the preliminary finding of the Secretary is affirmative and to prevent further injury during the investigation, the Secretary shall immediately issue through the Secretary of Finance, written instructions to the Commissioner of Customs to impose within three (3) days from receipt of instructions, a cash bond equal to the provisionally estimated margin of dumping, in addition to any other duties, taxes and charges imposed by law, on the allegedly dumped product.”**

WHEREFORE, premises considered, the DTI hereby imposes a provisional anti-dumping duty in the form of a cash bond on importations of Type 1 and Type 1P cement from Viet Nam, for a period of four (4) months commencing from the date of issuance of the Bureau of Customs of the relevant Customs Memorandum Order. The computed dumping margins for Type 1 cement ranging from US\$1.02/MT to US\$10.53/MT or 2.69% to 31.87% of the export price were recorded. For Type 1P cement, dumping margins during the POI ranging from US\$1.16/MT to US\$12.79/MT or 3.80% to 29.20% of the export price were recorded. For other exporters that did not participate during the preliminary determination, the highest dumping duties shall be imposed. (Annex C)


Let the notice of this Order be published in two (2) newspapers of general circulation and be furnished to the Department of Finance for the collection of the provisional anti-dumping duty by the Bureau of Customs in the amount stated above, against imports of Type 1 and Type 1P cement from Viet Nam.

Also, let the surety bond in the amount of P500,000.00 be immediately released to the petitioner in view of the affirmative findings.


Individual notices shall likewise be sent to all interested parties including the country member concerned and the records of the case shall be forwarded to the Tariff Commission for formal investigation.

SO ORDERED.

29 November 2021



RAMON M. LOPEZ
Secretary



ANNEX A

I. LIST OF IMPORTERS

A. Identified by the Cement Manufacturers

1	A.F. UMEREZ ENTERPRISES
2	AAM POWER POLE TRADING CORP
3	AGGEMLUX TRADING
4	BEI HAI IMPORT/EXPORT INC
5	BOHOL JSL ENTERPRISES INC
6	BRAVO CEMENT INC
7	BTA TOPLINE INC
8	CAPRIDRAKE DISTRIBUTORS INC
9	CDAVAO TRADING INC
10	CEBU GRAND DRAGON MARKETING CORPORATION
11	CEBU LITE TRADING INC
12	CHAMPION CEMENT INC.
13	COHACO MERCHANDISING AND DEVELOPMENT CORP
14	DAVAO MULTIBUILD CORP
15	DEQUINA CONSTRUCTION
16	E&A DEVELOPMENT AND CONSTRUCTION SUPPLY
17	EUREKA IMPORT TRADER
18	FORTEM CEMENT CORP
19	GLOBALINK EXIMPORT TRADING CORP
20	GOLDEN ORIENT SHIP MANAGEMENT AND AGENCIES INC.
21	HANSHIP INTERNATIONAL LOGISTICS INC
22	HARI WORKS CORP
23	HEXAMINDZ CORP
24	HEXETRADING CORP
25	ILOILO GRAND EMPEROR TRADING CORP
26	JCVINA ENTERPRISE
27	JROG MARKETING
28	KELLY BRYCE LOGISTICS INC
29	LTI ENTERPRISE
30	MARLUSA CONSTRUCTION SUPPLY
31	NGC LAND CORPORATION
32	OPENSEAS INC
33	PABAZA IMPORT & EXPORT INC.
34	PHILCEMENT CORPORATION

35	PHILFIRST GLOBAL MARKETING INC
36	RDSG TRADING
37	RIDEHA TRADERS CORP
38	S2A ENTERPRISES
39	SAYGIN CONSTRUCTION SUPPLY
40	SCG MARKETING PHILIPPINES INC
41	ST. JOHN PAUL COUNTERTRADE CORP.
42	SUMMIT KONCRETE PRODUCTS CORP.
43	TRU-STRENGTH CORPORATION
44	UNION GALVASTEEL CORP

B. Sourced from Bureau of Customs (BOC-SAD-IERD)

1	2ML EXCHANGE UNLIMITED CORPORATION
2	A.F. UMEREZ ENTERPRISES
3	ASHTONE CEMENT TRADING CORP.
4	AXXEL TRADING
5	BEI HAI IMPORT/EXPORT INC
6	BEI HAI IMPORT/EXPORT INC.
7	BOHOL JSL ENTERPRISES INC
8	BRAVO CEMENT INC
9	CAPRIDRAKE DISTRIBUTORS INC
10	CEBU LITE TRADING INC
11	CHAMPION CEMENT INC
12	COHACO MERCHANDISING & DEVT. CORP
13	COHACO MERCHANDISING AND DEVELOPMENT CORP
14	DEQUINA CONSTRUCTION
15	FENIX (CEZA) INT'L. INC.
16	FLECS ENTERPRISES
17	FORTEM CEMENT CORP
18	GLOBALINK EXIMPORT TRADING CORP.
19	GLOBAL-UPS INTERTRADE IMPEX CORP.
20	GOLDFIN INTERTRADE CO. LTD
21	HANSHIP INTERNATIONAL LOGISTICS INC
22	HARI WORKS CORP
23	HARI WORKS CORPORATION
24	HEXETRADE CORP
25	HEXETRADE CORPORATION
26	JCVINA ENTERPRISE
27	JESSE ROMANO N SUNGA
28	JYZ TRADING
29	KELLY BRYCE LOGISTICS INC
30	MARLUSA CONSTRUCTION SUPPLY
31	MCX MOTOR PHILS. INC.
32	NGC LAND CORPORATION
33	PABAZA IMPORT & EXPORT INC

34	PACIFIC-RIM HARVESTER INC
35	PARAGON HEMISPHERE INTL TRDG CORP
36	PHILCEMENT CORPORATION
37	RDSG TRADING
38	RIDEHA TRADERS CORP
39	RIDE'S ENTERPRISE
40	S2A ENTERPRISES
41	SCG MARKETING PHILIPPINES INC
42	ST. JOHN PAUL COUNTERTRADE CORP
43	SUMMIT KONCRETE PRODUCTS CORP.
44	TRIPLE-A HOMESOURCE INC.
45	UNION GALVASTEEL CORP
46	VMCT TRADING

ANNEX B

I. LIST OF EXPORTERS

A. Identified by the Cement Manufacturers

1	CAMPHA CEMENT JOINT STOCK COMPANY
2	CHINFON CEMENT CORPORATION
3	THANG LONG CEMENT JOINT STOCK COMPANY
4	VICEM HAI PHONG CEMENT COMPANY LTD
5	VICEM TAM DIEP CEMENT ONE MEMBER CO LTD
6	VISSAI NINH BINH JOINT STOCK COMPANY
7	XUAN THANH CEMENT JOINT STOCK COMPA
8	VICEM HA LONG CEMENT

B. Sourced from the Bureau of Customs (BOC-SAD-IERD)

1	AN GIANG CONSTRUCTION ONE MEMBER
2	AN VIETNAM INTL TRADING CO LTD
3	BIG WAVE RESOURCES CO., LIMITED
4	BINH LOI CO., LD
5	CAMPHA CEMENT JOINT STOCK COMPANY
6	CAT LAN COMMERCIAL SERVICER JOINT S
7	CHINFON CEMENT CORPORATION
8	CHUYEN PHAT HE THONG
9	CONG THANH JOINT STOCK COMPANY
10	CONG TY TNHH TO TAY
11	FLC THANH HOA MINERAL JSC
12	HA LONG CEMENT JOINT STOCK COMPANY
13	HOUNG DUONG CEMENT JOINT STOCK COMP
14	HUNGKING VIETNAM COMPANY LIMITED
15	HUONG DUONG CEMENT JOINT STOCK COMP
16	INDOCHINA GLOBAL COMPANY LIMITED
17	JIN SUNG INTL PTE LTD
18	LE NGUYEN CONSTRUCTION TRADING
19	LONG SON COMPANY LIMITED THANH HOA BRANCH
20	LUKS CEMENT(VIETNAM) CO., LTD.
21	MCL EXIM PTE LTD
22	NAM ANH TRADE AND EXPORT JOINT STOC
23	NAM PHUONG IMEX IMPORT & EX-
24	NAMPHONG INTERNATIONAL
25	NCL EXIM PTE LTD
26	NCL TRADING JOINT STOCK COMPANY
27	NHUAN PHAT TST CO., LTD

28	OMANCO MATERIAL VIETNAM COMPANY LIM
29	PHUC SON CEMENT CO.LTD.
30	PP TRADING AND MANUFACTURING JOINT
31	SANKO PROGRESS MABIS CORPORATION
32	SCG INTERNATIONAL CORPORATION
33	SIAM VINA COMPANY LIMITED
34	SONG GIANH CEMENT COMPANY LTD
35	SONG GIANH CEMENT JOINT STOCK
36	TAY BAC TRADING AND IMPORT
37	TH INVESTMENT AND DEVELOPMENT SERVI
38	THANG LONG CEMENT JOINT STOCK COMPANY
39	THANH THANG GROUP CEMENT JOINT
40	UNION WAVE HOLDING CO.LTD
41	VICEM BUT SON CEMENT JOINT STOCK CO
42	VICEM CEMENT TRADING JOINT
43	VICEM HAI PHONG CEMENT COMPANY LTD
44	VICEM HA LONG CEMENT
45	VICEM TAM DIEP CEMENT ONE MEMBER CO LTD
46	VIET HP CEMENT JOINT STOCK COMPANY
47	VIET LIME MINERALS CO LTD
48	VIETNAM CEMENT INDUSTRY CORPORATION
49	VIETNAM TRADING SERVICES AND IMPORT EXPORT LIMITED COMPANY
50	VISSAI NINH BINH JOINT STOCK COMPANY
51	XUAN THANH CEMENT JOINT STOCK COMPA

ANNEX C

**Computed Dumping Margins for the following exporters for Type 1 and Type 1P
cement originating from Viet Nam:**

EXPORTER	Cement Type	Dumping Margin (Amount of Bond) US\$/MT	% Export Price
AN NV INTL CO., LTD	1	-	(20.64)
AN VIET NAM INTERNATIONAL	1	6.50	17.52
	1P	12.53	28.43
CAMPHA CEMENT JOINT STOCK COMPANY	1	1.31	3.35
CONG TY TNHH HOANG YEN HD	1	2.48	6.02
CHINFON CEMENT CORPORATION	1P	11.07	24.31
GLOBAL TRANSIT TRADING PTE LTD	1	1.99	4.77
HA LONG CEMENT JOINT STOCK COMPANY (VICEM)	1	-	(5.66)
	1P	-	(20.21)
INDOCHINA GLOBAL COMPANY LIMITED	1	1.50	3.57
JIN SUNG INTL PTE LTD	1	4.74	12.20
LHP VIET NAM TECHNOLOGY INVESTMENT COMPANY LIMITED	1	2.18	5.26
HUNGKING VIETNAM COMPANY LIMITED	1P	12.79	29.20
LONG SON COMPANY LIMITED THANH HOA BRANCH	1	-	(26.36)
	1P	-	(16.28)
NAM ANH TRADE AND EXPORT JOINT STOCK COMPANY	1	-	(13.07)
	1P	-	(11.65)
NAM PHUONG IMEX IMPORT & EXPORT	1	-	(4.68)
	1P	5.98	17.30
NAMPHONG INTERNATIONAL	1P	8.25	17.07
NCL TRADING JOINT STOCK COMPANY	1	1.04	2.44
	1P	-	(18.90)

NHUAN PHAT TST CO., LTD	1	0.73	1.71
OMANCO MATERIAL VIETNAM COMPANY LIMITED	1P	1.75	5.46
SCG INTERNATIONAL CORPORATION	1	10.53	31.87
	1P	10.10	21.72
THANG LONG CEMENT JOINT STOCK	1	1.02	2.69
TH INVESTMENT AND DEVELOPMENT SERVICE	1	2.47	6.01
VICEM HAI PHONG CEMENT COMPANY LIMITED	1	1.26	2.96
VICEM TAM DIEP CEMENT ONE	1	-	(4.25)
VIET HP CEMENT JOINT STOCK	1	4.06	10.27
VIET HP IMPORT EXPORT AND INVESTMENT JOINT STOCK CO.	1	3.24	8.65
	1P	1.16	3.80
VIETNAM TRADING SERVICES AND IMPORT	1	1.05	2.67
	1P	-	(11.52)
VISSAI NINH BINH JSC	1	1.30	4.38
OTHER EXPORTERS FROM VIET NAM	1	10.53	31.87
	1P	12.79	29.20