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Committee on Safeguards

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

NOTIFICATION UNDER ARTICLE 12.1(C) OF THE AGREEMENT ON SAFEGUARDS

PANAMA

(Printed BOPP Film and Printed PVC film, in Rolls)

Supplement

The following communication, dated 28 October 2008, is being circulated at the request of the delegation of Panama.

Panama reports that Decision No. 02 of 13 June 2008, recommending that the Cabinet Council not grant the extension, requested by the company CELLOPRINT, S.A., of the safeguard measure established by Cabinet Decree No. 24 of 8 October 2007 on printed film in rolls for the manufacture of flexible packaging of monolayer polypropylene for packaging machines, produced by the biaxially oriented blow-moulding process (BOPP), was published on 14 July 2008 in *Gazeta Oficial* (Official Journal) No. 26082.

Annexed hereto is a copy of Decision No. 02 of 14 July 2008.

REPUBLIC OF PANAMA
MINISTRY OF TRADE AND INDUSTRY
NATIONAL DIRECTORATE FOR THE ADMINISTRATION
OF INTERNATIONAL TRADE TREATIES
AND TRADE PROTECTION

DECISION No. 02
(of 13 June 2008)

The National Director for the Administration of International
Trade Treaties and Trade Protection

in the exercise of her legal powers,

WHEREAS

Pursuant to Cabinet Decree No. 24 of 8 October 2007, the Cabinet Council established safeguard measures in respect of the following two products: printed polypropylene (BOPP-type) film in rolls for packaging machines, and printed PVC film in rolls for packaging machines, consisting in a 48.4 per cent and a 63.8 per cent surcharge, respectively, on the c.i.f. value of the imported product;

On 10 April 2008, in conformity with Article 58 of Decree-Law No. 7 of 2006 and Article 7.2 of the WTO Agreement on Safeguards of the World Trade Organization (WTO), the company CELLOPRINT, S.A. filed a request with the investigating authority of the Ministry of Trade and Industry (MICI) for a further 36-month extension of the safeguard measure concerning printed polypropylene (BOPP-type) film, which was due to expire on 13 April 2008;

The information submitted by CELLOPRINT, S.A. along with its request included a technical report incorporating the arguments in support of the request for extension of the safeguard measure, an adjustment plan proposal, CELLOPRINT, S.A.'s import statistics and data, audited financial statements and certificate of public registry listing, and the power of attorney given to GALINDO, ARIAS & LOPEZ, Attorneys at Law, to represent the company;

On 11 April 2008, the investigating authority issued Decision No. 01 of the Acting National Director for the Administration of International Trade Treaties and Trade Protection, accepting the request for the purposes of evaluation and subsequent recommendation to the Cabinet Council;

On 14 April 2008, Decision No. 01 of 11 April 2008 was notified to CELLOPRINT S.A. On 15 April, the Decision was notified to the importers, namely Productos Alimenticios Pascual, S.A., Alimentos del Istmo S.A., Nestlé Panamá, S.A., and Industrias Lácteas, S.A.;

On 16 April 2008, both the Embassy of Peru in Panama and that of Colombia were informed of the acceptance of the evaluation process concerning the request for extension filed by CELLOPRINT, S.A.;

On 16 May 2008, Decision No. 01 of 11 April 2008 was published in a national newspaper in order to notify interested third parties and the general population;

Upon completion of the notification process, Productos Alimenticios Pascual, S.A., Envases Múltiples S.A. (EMUSA), and CELLOPRINT, S.A. appeared before the investigating authority and asserted legal interest in the investigation arising from the request for extension of the safeguard measure concerning printed polypropylene (BOPP-type) film in rolls;

On 20 May 2008, the investigating authority requested the legal representative of CELLOPRINT, S.A., through note DINATRADEC-N-130-08, to submit evidentiary information pertaining to the sources of injury variables, such as domestic production trends, employment trends, productivity trends, financial indicators, and any other information pursuant to Article 7.2 of the WTO Agreement on Safeguards;

On 23 May 2008, Cabinet Decree No. 9 of 19 May 2008 was published in Official Journal No. 26046, granting the investigating authority 15 working days to issue its final recommendation on the request for extension filed with the MICI;

On 26 May 2008, Decision No. 01 of 11 April 2008 was notified to the WTO Committee on Safeguards;

On 3 June 2008, after an extended time-limit had been granted to all the parties, the period of submission of information and evidence was declared closed, the investigating authority having before it all the views and arguments of the parties involved in the procedure;

Having ascertained that all the parties involved in the procedure had submitted all information and arguments they considered appropriate, the only matter outstanding was to determine whether the request was consistent with Article 7.2 of the WTO Agreement on Safeguards;

Once all elements, data and evidence submitted by the interested parties had been evaluated and the technical report of the National Directorate for the Administration of International Trade Treaties and Trade Protection had been issued on 12 June 2008, containing the following findings in respect of the case:

"As regards the analysis as to whether '*...the safeguard measure continues to be necessary to prevent or remedy serious injury*' to the domestic industry and given that:

- (a) Imports of printed polypropylene (BOPP-type) film have dropped significantly since the application of the safeguard measure but still account for a major share in relation to domestic production;
- (b) the downward trend in imports of the product under investigation into the domestic market has been reversed;
- (c) the safeguard measure has not induced a sharp and immediate recovery of sales levels in kilogram terms;
- (d) output of the BOPP-type product in kilograms has barely shown partial signs of recovery during the period of implementation of the safeguard measure;
- (e) the level of inventories of finished products in kilogram terms has tended to rise in the most recent period;
- (f) employment has continued to decline during the period of implementation of the safeguard measure;

- (g) favourable productivity behaviour reflects the rational approach taken by the company in its use of labour resources rather than improvement in the state of the domestic industry;
- (h) the measure has had but little impact on financial margins, which are still recording losses in almost all periods with respect to the product under investigation;
- (i) the lack of consistency, clarity and adequacy of information pertaining to utilization of installed capacity has prevented the investigating authority from reaching any conclusions regarding the behaviour of this variable;
- (j) the absence of information necessary for the causality analysis has prevented the investigating authority from determining whether the domestic industry has recovered as a result of the reduction in imports ensuing from the definitive safeguard measure; and
- (k) the information relating to the situation of injury to the domestic industry has not been duly substantiated and cannot therefore be taken as such in this case,

1. It is concluded that there is no evidence that the safeguard measure concerning printed polypropylene (BOPP-type) film remains necessary to prevent or remedy serious injury to the domestic industry.

2. Regarding the analysis as to whether '*there is evidence that the industry is adjusting...*', the case has not been made, according to the material on record, that the domestic industry manufacturing the product that is the subject of this request has been re-adjusting in the course of the period of investigation."

The principal findings in this investigation and the elements in support of those findings have been set forth in the relevant technical report, the Directorate for the Administration of International Trade Treaties and Trade Protection,

DECIDES

FIRST: TO RECOMMEND, pursuant to the mandate established in Article 1 of Cabinet Decree No. 9 of 19 May 2008, to the Cabinet Council that it not grant the extension of the safeguard measure requested by CELLOPRINT, S.A. in respect of printed film in rolls for the manufacture of flexible packaging of monolayer polypropylene for packaging machines, produced by the biaxially oriented blow-moulding process (BOPP), established by Cabinet Decree No. 24 of 8 October 2007.

SECOND: TO NOTIFY the parties that this Decision is open to appeal by transfer to a higher authority within a period of five (5) working days following notification of the Decision, in accordance with Articles 171 ff. of Law No. 38 of 2000.

THIRD: TO PUBLISH this Decision in the Official Journal, or an extract thereof in a newspaper with recognized national circulation.

STATUTORY BASIS: Decree-Law No. 7 of 2006, Law No. 23 of 1997, Law No. 38 of 2000.

Done at Panama City, this thirteenth day of June of the year two thousand and eight (2008).

MELISSA DAVIS
National Director for the Administration of International
Trade Treaties and Trade Protection
