



REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

**IN THE MATTER OF THE CONDUCT OF AN
INTERIM REVIEW OF THE ANTI-DUMPING
DUTY IMPOSED AGAINST IMPORTATIONS OF
ORDINARY PORTLAND CEMENT TYPE 1 AND
BLENDED CEMENT TYPE 1P FROM VIET NAM**

**(AHTN 2022 Subheading Nos. 2523.29.90 and
2523.90.00)**

**FOR: ANTI-DUMPING MEASURE
TCI (AD) No. AD-2024-IR-Cement-VN**

**Republic Cement & Building Materials, Inc.,
Holcim Philippines, Inc., and CEMEX Holdings
Philippines, Inc. (Apo Cement Corporation,
Solid Cement Corporation),**

Petitioners.

RESOLUTION

For this Commission's resolution is the Manifestation and Motion to Withdraw Petition for Interim Review (*Manifestation and Motion*) dated 07 March 2025, filed by Republic Cement & Building Materials, Inc., Holcim Philippines, Inc., and CEMEX Holding Philippines, Inc. (Apo Cement Corporation, Solid Cement Corporation), the named Petitioners in the Interim Review of the anti-dumping duty imposed¹ against importations of Ordinary Portland Cement Type 1 and Blended Cement Type 1P.

In the said *Manifestation and Motion*, Petitioners pray to withdraw its Petition based on the following grounds:

X X X

"5. It is respectfully manifested that the subject products in this present case are affected and subsumed in the scope of the safeguard measures investigation including the imposition of provisional safeguard measures.

X X X

7. Petitioners herein deem it best to withdraw their Petition for Interim Review to be able to shift its focus on the safeguard measures investigation and delegate its resources towards the said investigation.

X X X

10. In any case, Petitioners manifest that the current imposition of anti-dumping duties is still necessary to address the injury brought about by the continuous dumping of cement from Vietnam. The continued imposition of anti-dumping duties will fulfill the policy of the State

¹ pursuant to Department of Trade and Industry (DTI) Department Administrative Order (DAO) No. 23-01

to protect the domestic industry from the injurious and detrimental effects of the dumping continuously done by exporters from Vietnam.

11. Hence, this Motion is not and should not be taken as a statement of disinterest to the imposition of the anti-dumping duties and is merely a reflection of the management decision undertaken by Petitioners in light of recent developments.

Commission Order (CO) No. 2021-01, or the *Revised Rules of Procedure for the Conduct of Formal Investigations Pursuant to Republic Act No. 8752*, does not provide for a provision regarding withdrawal of petitions before the Commission. However, said CO likewise states that:

“Section 4. Application of the Rules of Court. *In the absence of any applicable provision of this Order, the relevant provisions of the Rules of Court of the Philippines, whenever practicable and convenient, may be applied suppletory or by analogy in the implementation of this Order xxx.”*

The 2019 Amendments of the 1997 Rules of Civil Procedure (A.M. 19-08-15-SC), Section 2, Rule 17 thereof provides:

**“RULE 17
DISMISSAL OF ACTIONS**

Section 1. Dismissal upon notice by plaintiff. – *A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before the service of the answer or of a motion for summary judgment. xxx*

Section 2. Dismissal upon motion of plaintiff. *Except as provided in the preceding [S]ection, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him or her of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his or her counterclaim in a separate action unless within fifteen (15) calendar days from notice of the motion he or she manifests his or her preference to have his or her counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court. (2a)”*

Applying the above provisions by analogy, the Commission shall treat the filing of the oppositor-exporters/importers of their position papers as the filing of their answer. Consequently, any action on the motion of the domestic industry is subject to the approval of the Commission and upon such terms and conditions as it deems proper.

In addition, Section 2, Rule 17 above likewise provides that if a counterclaim is pleaded prior to the service of the motion, the dismissal shall only be limited to the complaint. To recall, two Petitions for Interim Review were filed before the Commission. These individual Petitions by the domestic industry and NCL Trading Joint Stock Company (NCL) were later on consolidated into one Petition. As provided in the *Notice of Initiation of Interim Review and Conduct of Preliminary Conference*, the domestic industry was named Petitioner. Considering the adversarial nature of the claims of the domestic industry and exporters/importers in an anti-dumping investigation, exporter NCL is now a respondent/oppositor in the consolidated Petition. Since NCL is now a respondent, the prayer of NCL in its individual Petition that the Commission “declare that the continued imposition of the duty is no longer necessary”, can be considered as a claim against the domestic industry (counterclaim).

Meanwhile, the position papers filed by the other exporters allege, among others, that they are “no longer dumping” and/or the “dumping duties are no longer necessary”, thus, praying to lift the anti-dumping duty imposed on the products subject of the investigation. Note, the prayer of NCL is similar to the prayers of the other exporters who filed position papers. Thus, the prayers of the other exporters are likewise counterclaims in the consolidated Petition.

WHEREFORE, considering that the withdrawal of the petition is a prerogative of the Petitioners, and the grounds they raised therein are warranted, the Manifestation and Motion to Withdraw Petition for Interim Review dated 07 March 2025, filed by Republic Cement & Building Materials, Inc., Holcim Philippines, Inc., and CEMEX Holding Philippines, Inc. (Apo Cement Corporation, Solid Cement Corporation), is hereby **GRANTED**. Accordingly, the case of the members of the domestic industry is hereby **DISMISSED**, without prejudice to its re-filing, provided that the requisites for filing an Interim Review are met.

The claims of NCL and the other exporters² and importers³ shall continue to be investigated by the Commission notwithstanding the dismissal of the Petition of the domestic industry. However, to dispense with the stringent requirements of Section 2, Rule 17 of the 2019 Amendments of the Rules of Court, the oppositors shall pursue said claims under the same investigation number, *TCI (AD) No. AD-2024-IR-Cement-VN*, without the necessity of filing the appropriate manifestation before the Commission.

Finally, as a condition for granting said *Manifestation and Motion*, the data/information submitted by the domestic industry, which were verified by the Commission, shall be used in the evaluation of the Interim Review, if necessary, in the resolution of the claims of NCL and the other exporters and importers.

SO ORDERED.

Issued at Quezon City, Metro Manila, 21 March 2025.

Digitally signed


MARILOU P. MENDOZA
Chairperson





ATTY. ERNESTO L. ALBANO
Commissioner

digitally signed


MARISSA MARICOSA A. PADERON
Commissioner

² (a) Those with submitted position papers, namely: Long Son Cement, Nam Anh Trade and Export Joint Stock Company, Ha Long Cement Joint Stock Company and Vicem Hai Phong Company Limited, Vissai Ninh Binh (position paper filed with importers); (b) those without position papers but with submitted TC Form, namely: Vicem Tam Diep One Member Company Limited, and Song Lam Cement.

³ Cohaco Merchandising and Development Corporation, NGC Land Corporation, Fortem Cement Corporation, PhilCement Corporation, and Lemery Cement Silo Tank Corporation (position paper filed with exporter Vissai Ninh Binh).