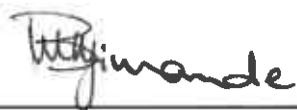


Report No. 661

**INVESTIGATION INTO REMEDIAL ACTION IN THE FORM OF A
SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF
BOLTS WITH HEXAGON HEADS OF IRON OR STEEL: FINAL
DETERMINATION**

The International Trade Administration Commission of South Africa herewith presents its Report No. 661: **INVESTIGATION INTO REMEDIAL ACTION IN THE FORM OF A SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF BOLTS WITH HEXAGON HEADS OF IRON OR STEEL: FINAL DETERMINATION.**



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PRETORIA

18/5/ 2021

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

INVESTIGATION INTO REMEDIAL ACTION IN THE FORM OF A SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF BOLTS WITH HEXAGON HEADS OF IRON OR STEEL: FINAL DETERMINATION

SYNOPSIS

On 15 May 2020, the Commission initiated an investigation for remedial action in the form of a safeguard measure against the increased imports of bolts with hexagon heads of iron or steel, through Notice 272 of 2020 which was published in the Government Gazette No. 43316.

The South African Iron and Steel Institute (SAISI) on behalf of the South African Fasteners Manufacturers' Association (SAFMA) lodged the application. SAFMA members constitute 100% of the total SACU industry by production volume.

The investigation was initiated after the Commission considered that there was *prima facie* evidence to show that events cited can be regarded as unforeseen developments, which resulted in a surge in imports of the subject product, causing serious injury to the SACU industry.

On initiation of the investigation, the World Trade Organisation (WTO), and countries with a significant interest in the exports of the subject product and interested parties were notified of the initiation of the investigation.

Interested parties responded by submitting comments, which were taken into consideration in making a preliminary determination.

The Commission made a preliminary determination that:

- Events cited are regarded as unforeseen developments that led to increased volumes of imports;
- The SACU industry is suffering serious injury;
- There is a causal link between the surge in imports and the serious injury suffered by the SACU industry; and

- There are critical circumstances where a delay would cause damage to the SACU industry that would be difficult to repair.

The Commission further made a preliminary determination to impose a provisional payment of 31.8% *ad valorem* on imports of bolts with hexagon heads of iron or steel for a maximum of 200 days, pending the finalisation of the investigation.

A preliminary report was issued to the interested parties and interested parties were invited to provide comments.

The Commission further invited interested parties to make submissions on whether it would be in the public interest matters for safeguard measures to be imposed. Interested parties made written and oral submissions and those that wished to participate during the online public hearings held on 16 February 2021 indicated such, and made presentations during the hearings.

Based on information contained in the Commission's Preliminary Report, comments received and public interest submissions, the Commission made a final determination before "essential facts" that:

- that events cited can be regarded as unforeseen developments that led to increased volumes of imports;
- that South Africa's Commitment to bind the ordinary customs duty on the subject product at a maximum level of 30% *ad valorem* duty constitute the obligation contemplated in Article XIX of GATT 1994, the effects of which was the surge in imports;
- that the SACU industry is suffering serious injury;
- that there is a causal link between the surge in imports and the serious injury suffered by the SACU industry, and there are no factors sufficiently detracting from the causal link;
- that it is in the public interest to impose a safeguard measure; and
- to recommend to the Minister of Trade, Industry and Competition that it will be in the public interest to impose a safeguard duty of 31.8 percent *ad valorem* on imports of bolts with hexagon heads of iron or steel for all exporters, excluding imports originating from a developing country member that meet the requirement for exclusion. It is proposed that

the duty be imposed for a period of three years, and liberalised at regular intervals as follows: Year 1: 31.8%; Year 2: 30.8%; and Year 3: 29.8%.

Essential facts letters were sent out to all interested parties, informing them of the "essential facts" which were being considered by the Commission, and invited comments from interested parties on those "essential facts" for the Commission's consideration prior to making a final determination.

After considering all parties' comments received, the Commission made a final determination that:

- That events cited can be regarded as unforeseen developments that led to increased volumes of imports;
- That South Africa's Commitment to bind the ordinary customs duty of the subject product at a maximum of 30% *ad valorem* constitute the obligation contemplated in Article XIX of GATT 1994, the effects of which was the surge in imports;
- That the SACU industry is suffering serious injury;
- That there is a causal link between the surge in imports and the serious injury suffered by the SACU industry; and there are no factors sufficiently detracting causal link
- That it is in the public interest to impose a safeguard measure.
- to recommend to the Minister of Trade, Industry & Competition that it will be in the public interest to impose a safeguard duty of 31.8 percent *ad valorem* on imports of bolts with hexagon heads of iron or steel for all exporters, excluding imports originating from a developing country WTO member that meets the requirement for exclusion (developing countries excluded are those with imports that do not exceed 3 percent of total imports into SACU, and that collectively with other developing countries with less than 3 percent import share, do not collectively account for more than 9 percent of total imports into SACU). It is recommended that the duty be imposed for a period of three years, and liberalised at regular intervals as follows: Year 1: 31.8%; Year 2: 30.8%; and Year 3: 29.8%. The subject product may not be imported under rebate of customs duty without payment of the safeguard duty without permission from ITAC, with effect from date of publication.

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, 2002, the International Trade Administration Commission of South Africa Amended Safeguard Regulations (SGR) and giving due regard to the World Trade Organisation (WTO) Agreement on Safeguards and Article XIX of the WTO General Agreement on Tariffs and Trade 1994 (GATT 1994).

1.2 APPLICANT

The South African Iron and Steel Institute (SAISI) on behalf of the South African Fasteners Manufacturers' Association (SAFMA or applicant) lodged the application.

1.3 ALLEGATIONS BY THE APPLICANT

The applicant stated that in submitting information on unforeseen developments when reference is made to fasteners it invariably refers to the products concerned, i.e. bolts.

The applicant indicated the People's Republic of China (China) is the world's major producer of fasteners. Therefore information on unforeseen developments focuses on the developments in China. According to the applicant, the Chinese significant influence and developments with regard to fasteners has a material impact on world developments.

The applicant submitted that a confluence of events (listed below) forms the basis of the unforeseen developments which led to the surge in imports and which that support its application for safeguard measures. The applicant further stated that during the Uruguay Round negotiations, South Africa did not foresee the following events:

- The unprecedented steep rate of increase in fasteners production capacity (including the subject product) over the ensuing two decades (increased 8 folds since 1994) to support growing construction and manufacturing activity, as well as to help build infrastructure, particularly in emerging economies;

- The slowdown of the world economy and in particular the Chinese economy resulted in the contraction of demand for fasteners (including the subject product), that contribute to the imbalance between capacity and demand;
- Record export volumes by countries with excess capacity, especially China whose producers had excess capacity and output; and
- This excess output, capacity and export volumes led by China, displaced production in other regions, thus harming producers in other markets. This has already led to several trade actions by major fasteners markets, including the SACU market. The fact that various markets are protected, limits the global market for fasteners even further, exacerbating the problem of increased imports into the SACU.

The applicant submitted that the above confluence of circumstances were unforeseen at the time South Africa incurred its WTO obligations, including making certain binding tariff concessions during the Uruguay Round of WTO negotiations, and it led to increased imports causing serious injury to the SACU industry.

1.4 INVESTIGATION PERIOD

The data evaluation for purposes of determining increased import volumes and serious injury covers the period 01 July 2016 to 30 June 2019.

1.5 INVESTIGATION PROCESS

1.5.1 Verification of the information was conducted on 12 May 2020.

1.5.2 The application was accepted as being properly documented on 14 May 2020.

1.5.3 The investigation was initiated on 15 May 2020.

1.5.4 The interested parties known to the applicant are:

- All Trade/Rutherford;
- BMG;
- Bolt fast;
- Bolt world (Pty) Ltd;
- Joes Fasteners;
- National Socket Screws;

- Pro-Tech;
- Screw Distributors;
- Shenka;
- Supa Fix;
- Shanghai Fasteners Manufacturing Co. Ltd;
- Changshu Standard Co Ltd;
- Beilum Hardware Factory;
- Ningbo Ningli High-Strength Fasteners Co Ltd;
- Jiangsu Standard Fasteners Co;
- Shangai Fasteners Import & Export Co Ltd;
- XYLX Xinghi Fasteners;
- Chite Enterprises Co Ltd,
- Newill Co Ltd, Kaosiung;
- Rei-lin Solid Brass Co Ltd;
- Kaohsiung;
- Jinn Herr;
- Jinfast;
- San Shing Fastech Corp;
- Shih Hsang Ywa Industries Inc.; and
- Kao Fen Bolt Co Ltd.

1.5.5 The following interested parties responded and provided comments on the investigation:

- Government of the Republic of Turkey;
- Government of the Republic of Indonesia;
- Government of Spain;
- Government of Mexico;
- Government of Chinese Taipei Liaison; and
- Fastener Distributors Association.

1.6 COMMENTS FROM INTERESTED PARTIES

The Commission considered all relevant submissions made by the interested parties prior to it making its preliminary determination. All the submissions made by interested parties are contained in the Commission's public file for this investigation and are available for perusal on request.

1.7 PRELIMINARY DETERMINATION

The Commission at its meeting of 08 September 2020, made a preliminary determination that:

- Events cited are regarded as unforeseen developments that led to increased volumes of imports;
- The SACU industry is suffering serious injury;
- There is a causal link between the surge in imports and the serious injury suffered by the SACU industry; and
- There are critical circumstances where a delay would cause damage to the SACU Industry that would be difficult to repair.

The Commission further made a preliminary determination to impose provisional payments of 31.8% *ad valorem* on imports of bolts with hexagon heads of iron or steel for a maximum of 200 days, pending the finalisation of the investigation.

On 13 November 2020, the provisional safeguard measures were imposed for a period of 200 days, up to and including 31 May 2021.

The following interested parties submitted comments to the preliminary determination:

- Fastener Distributors Association (FDA);
- The Applicant; and
- BMG World, DD Power and Fastenright submitted comments to the preliminary determination after the due date for submission, and their comments were also considered by the Commission prior to making a final determination.

1.8 PUBLIC INTEREST

The Commission, through Notice 24 of 2021 of Government Gazette No. 44103, invited interested parties to make submissions on whether it will be in the public interest for safeguard measures to be imposed. Interested parties made written submissions and those that wished to participate during the online public hearings held on 16 February 2021 indicated such, made presentations during the hearings.

Public interest submissions were received from the Applicant and the Government of Brazil.

1.9 FINAL DETERMINATION BEFORE ESSENTIAL FACTS

Based on information contained in the Commission's Preliminary Report, comments received and public interest submissions, the Commission made a final determination before "essential facts":

- that events cited can be regarded as unforeseen developments that led to increased volumes of imports;
- that South Africa's Commitment to bind the ordinary customs duty on the subject product at a maximum level of 30% *ad valorem* duty constitute the obligation contemplated in Article XIX of GATT 1994, the effects of which was the surge in imports;
- that the SACU industry is suffering serious injury;
- that there is a causal link between the surge in imports and the serious injury suffered by the SACU industry, and there are no factors sufficiently detracting from the causal link;
- that it is in the public interest to impose a safeguard measure; and
- to recommend to the Minister of Trade, Industry and Competition that it will be in the public interest to impose a safeguard duty of 31.8 percent *ad valorem* on imports of bolts with hexagon heads of iron or steel for all exporters, excluding imports originating from a developing country WTO member that meets the requirement for exclusion. It is recommended that the duty be imposed for a period of three years, and liberalised at regular intervals as follows: Year 1: 31.8%; Year 2: 30.8%; and Year 3: 29.8%.

On 25 March 2021, essential facts letters were sent out to all interested parties, informing them of the “essential facts” which were being considered by the Commission, and invited comments from interested parties on those “essential facts” for the Commission’s consideration prior to making a final determination.

The following interested parties made submissions to the Commission’s essential facts letter prior to the deadline date for comments of 08 April 2021:

- Government of Brazil;
- The European Union; and
- FDA.

BMG World made submissions after the due date.

The Commission considered comments received from interested parties in making its final determination. All submissions made by interested parties are contained in the Commission’s public file for this investigation and are available for perusal. It should be noted that this report does not purport to present all comments received and considered by the Commission. However, some of the salient comments received from interested parties and the Commission’s consideration of these comments are included in this report.

1.10 FINAL DETERMINATION

The Commission made a final determination:

- That events cited can be regarded as unforeseen developments that led to increased volumes of imports;
- That South Africa’s Commitment to bind the ordinary customs duty of the subject product at a maximum of 30% *ad valorem* constitute the obligation contemplated in Article XIX of GATT 1994, the effects of which was the surge in imports;
- That the SACU industry is suffering serious injury;
- That there is a causal link between the surge in imports and the serious injury suffered by the SACU industry; and there are no factors sufficiently detracting from the causal link;
- That it is in the public interest to impose a safeguard measure; and

- to recommend to the Minister of Trade, Industry and Competition that it will be in the public interest to impose a safeguard duty of 31.8 percent *ad valorem* on imports of bolts with hexagon heads of iron or steel for all exporters, excluding imports originating from a developing country WTO member that meets the requirement for exclusion (developing countries excluded are those with imports that do not exceed 3 percent of total imports into SACU, and that collectively with other developing countries with less than 3 percent import share do not collectively account for more than 9 percent of total imports into SACU). It is recommended that the duty be imposed for a period of three years, and liberalised at regular intervals as follows: Year 1: 31.8%; Year 2: 30.8%; and Year 3: 29.8%. The subject product may not be imported under rebate of customs duty without payment of the safeguard duty without permission from ITAC, with effect from date of publication.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCT

2.1.1 Description

The applicant described the imported products as bolts with hexagon heads of iron or steel, imported under tariff sub-heading 7318.15.43.

2.1.2 Possible tariff loopholes

The applicant is not aware of any loopholes in the tariff classification.

2.1.3 Tariff Classification

The imported subject products are classified under the following tariff headings:

Table 2.1.3: Applicable duties

Tariff heading	Tariff subheading	Description	Stats unit	Rate of duty				
				General	EU	EFTA	SADC	Mercosur
7318		Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel:						
7318.1		Threaded articles:						
7318.15		Other screws and bolts, whether or not with their nuts or washers:						
	7318.15.43	Other bolts (excluding bolt ends, screw studs and screw studding) with hexagon	Kg	30%	Free	Free	Free	30%

Source: SARS

2.1.4 Other applicable duties and rebates

There are currently no other applicable duties and rebates on other bolts with hexagon heads apart from those contained in table 2.1.3.

2.1.5 Production process

The applicant stated the production process to be as follows:

Raw steel coils are received from supplier. These coils go through the steel preparation process which includes an acid clean and the addition of a phosphate coating to allow for easier forging. Once cleaned, the forging of the steel into a bolt takes place on a forging machine. The cut off coil pieces move through a few stages of continuous forging, or shaping, into the bolt on the same machine. The heads are then cut into a hexagonal shape and threads are rolled on the bolt in line on the same forging machines. If required by the product specification, the bolt will then move through a heat treatment furnace, and thereafter, if required, the product is plated for corrosion protection by electro galvanising or by dipping in molten zinc.

2.1.6 Raw material used

The applicant stated that the main raw material used in the production of bolts with hexagon heads is steel wire rod.

2.1.7 Application or end use

The applicant stated that the subject product is used by suppliers, distributors and end users and is used for joining materials in the mining, construction, utilities, process industries, automotive industry, general engineering, agricultural industries and do-it-yourself market.

2.1.8 Technical characteristics

Bolts made of steel. Specific technical specifications pertaining to imported product is not known to the applicant, other than to state that on appearance, there do not seem to be any differences between the imported product and the domestically produced product. The imported product is therefore a like product to the domestically produced product.

2.1.9 Substitutability

The applicant indicated that the imported subject product and the SACU produced subject product are fully substitutable.

2.2 SACU PRODUCT

2.2.1 Description

The applicant described the SACU product as bolts with hexagon heads of iron or steel.

2.2.2 Production process

The applicant stated the production process to be as follows:

Raw steel coils are received from supplier. These coils go through the steel preparation process which includes an acid clean and the addition of a phosphate coating to allow for easier forging. Once cleaned, the forging of the steel into a bolt takes place on a forging machine. The cut off coil pieces move through a few stages of continuous forging, or shaping, into the bolt on the same machine. The heads are then cut into a hexagonal shape and threads are rolled on the bolt in line on the same forging machines. If required by the product specification, the bolt will then move through a heat treatment furnace, and thereafter, if required, the product is plated for corrosion protection by electro galvanizing or by dipping in molten zinc.

2.2.3 Raw Material used

The applicant stated that the main raw material used in the production of bolts with hexagon heads is steel wire rod.

2.2.4 Application or end use

The applicant stated that the subject product is used by suppliers, distributors and end users and is used for joining materials in the mining, construction, utilities, process industries, automotive industry, general engineering, agricultural industries and do-it-yourself market.

2.2.5 Technical characteristics

Bolts are made of steel. The technical specifications of the imported product and the domestically produced product are almost identical, except for the manufacturers identification mark.

2.2.6 Substitutability

The applicant indicated that the imported subject product and the SACU produced subject product are fully substitutable.

Interested parties commented as follows:

- (i) Safeguard measures should not be imposed as some of the product ranges, which fall in the subject product, cannot be manufactured in SACU due to non-availability of raw materials.
- (ii) Some product sizes are not manufactured in SACU and some bolts that are not the subject product are cleared under the said tariff by SARS, notwithstanding numerous consultations with them.
- (iii) Provisional safeguard measures have also been imposed on stainless steel, which is a different tariff-subheading and is not the subject product.

The Commission considered the Interested parties' comments as set out below:

- (i) The non-availability of materials to manufacture the subject product is a temporary issue with the main supplier or raw materials, and should the issue persists, interested parties may apply for rebates and such applications will be considered by the Commission based on their merits.
- (ii) Products, which fall in the subject product but not manufactured in SACU may be rebated on application by the affected parties. The issue of other products falling in the tariff subheading which is subject to this investigation, while not being bolts may either be rebated or further discussions with SARS should be held by the affected parties to resolve the impasse.
- (iii) The imposition of provisional safeguard measures on stainless steel was a SARS error, which has since been rectified.

After considering all the above, the Commission made a final determination that the SACU product and the imported products are "like products" or directly competitive products, for purposes of comparison, in terms of the definition of "like product" in the SGR.

3. INDUSTRY STANDING

3.1 DOMESTIC INDUSTRY

The South African Iron and Steel Institute (SAISI) on behalf of the South African Fasteners Manufacturers' Association (SAFMA), representing 100% of the total SACU industry by production volume, lodged the application.

Considering the above, the Commission made a final determination that the application can be regarded as being made "by or on behalf of the domestic industry".

4. UNFORESEEN DEVELOPMENTS

4.1 Requirements of Article XIX of GATT

Article XIX of the GATT 1994 provides as follows:

"If, as a result of unforeseen developments and of the effect of obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession."

In analysing the effects of obligations of GATT 1994, it was considered that South Africa committed to binding the ordinary customs duty on subject products at 30% *ad valorem*. The tariff lines represented under 7318.15 are 19 tariff lines, with the HS Bind simple average *ad valorem* duty of 27% and the maximum being 30% (<https://timeseries.wto.org/?i=HS B 0050,HS B 0060,HS B 0010,HS B 0020,HS B 0030,HS B 0070,HS B 0090,HS B 0080&r=710&pc=all&pvt=r,pc,ps-i&lang=1>).

The Commission considered the information submitted by the applicant in relation to unforeseen developments. The applicant submitted that a confluence of events (listed below) forms the basis of the unforeseen development that supports its application.

4.2 Information submitted by the applicant

To contextualise the information provided to substantiate unforeseen developments, the applicant stated that the subject products form an integral part of the fasteners industry and therefore information on fasteners must be taken as invariably referring to the subject products i.e. bolts. To further support its contention that the unforeseen developments cited are applicable to the subject products the applicant quoted a United Nations Conference on Trade and Development (UNCTAD) report published in 2015 on the fastener industry in China from 2002 to 2011.

The applicant identified China as the world's major producer of fasteners. Therefore information on unforeseen developments focused on the developments in China. The applicant cited an anti-dumping report by Canada (2014) which states that China is the world's biggest producer of screws, threaded rods, nuts, bolts and washers (fasteners). According to the applicant, the Chinese significant influence and developments with regard to fasteners will have an impact on the world developments.

The applicant submitted that a confluence of events (listed below) led to the surge in imports and which support its application for safeguard measures. That is, ultimately the considerable oversupply of fasteners, specifically the subject product in the world caused a surge in the volume of imports into the SACU market. The applicant further stated that during the Uruguay Round of negotiations, South Africa did not foresee the events set out below.

4.2.1 The unprecedented steep rate of increase in fastener production capacity

The applicant stated that the unprecedented steep rate of increase in global fastener production capacity was mainly fueled by the growth of the Chinese and other Asian fastener markets. To support that, the applicant provided the following information sourced from various publications, articles and reports such as UNCTAD and the Canadian investigation report:

Growth of the Chinese fastener market

Production of fasteners

The information submitted by the applicant indicated that:

- Chinese total production volumes of fasteners were 690 thousand metric tons in 1991, and the level of production volumes reached 2.2 million metric tons ten years later.
- Fasteners production in China was 2.5 million tons in 2002.
- Chinese fasteners production was about 6.4 million tons in 2011.
- Fasteners production volumes in China reached 6.8 million tons in 2013.
- China produced about 7.9 million tons of fasteners in 2014.

To collaborate the increase in production volumes, the information submitted by the applicant indicates that there were 1 716 enterprises in the fastener sector in 1991 in China. The number of enterprises in the same sector reached 6 800 ten years later, i.e. 2001. There were about 10 000 manufacturers of fasteners in 2014.

As can be seen from this, prior to 1994 China had 1 716 enterprises producing 690 thousand tons of fasteners, and post 1994 it had 6 800 enterprises, producing 2.2 million tons of fasteners. This represented a steep increase of 296.27% in the number of enterprises and a steep increase of 218.84% in production volumes.

The information provided for the periods after 1994 indicates that production volumes and the number of enterprises producing fasteners in China continued to increase on yearly basis. For example, production volumes grew by 15% from 2001 to 2002, however, there was a steep increase of 259.09% between to 2001 to 2014 overall period. The growth in the number of enterprises also showed a steep increase of about 50% between the 2001 to 2014 overall period.

4.2.2 Export volumes

The information submitted by the applicant indicated that the exportation of fasteners dates back to the beginning of the 1960s and after 1985, the export volumes of fasteners has been on an upward trend each year.

The export volumes from 1991 to 2002 are as follows:

Table 4.1: China's export volumes

Year	Volumes (Thousand metric Tons)
1991	196.0
1992	193.3
1994	222.8
1995	300.8
1996	240.6
1997	295.0
1998	344.8

1999	383.0
2000	506.6
2001	520.8
2002	658.0

Source: Analysis on current status of China's fasteners products import & export and forecasts on markets (2003)

The information submitted by the applicant also indicated that:

- Fasteners exports reached 2.5 million tons in 2011.
- China exported 2.6 million tons of fasteners in 2013.
- Although there is no data available for 2014 period, China export volumes grew to be ranked first globally.

The information provided in Table 4.1 above for the periods prior to 1994 indicates that export volumes increased over the period 1991 to 2002. There was an increase of 13.67% from 1991 to 1994. It is clear from Table 4.1 that an increase in export volumes gained momentum from the late 1990s to the early 2000s. The information provided for the period after 1994 indicates that export volumes continued to increase on yearly basis (except in 1996) and generally over the period covered by the information. For example, export volumes grew by 32% from 1999 to 2000, demonstrated a steep increase of 119% between 1995 and 2002 and further increased by a steep rate of 295.14% between 2002 and 2013.

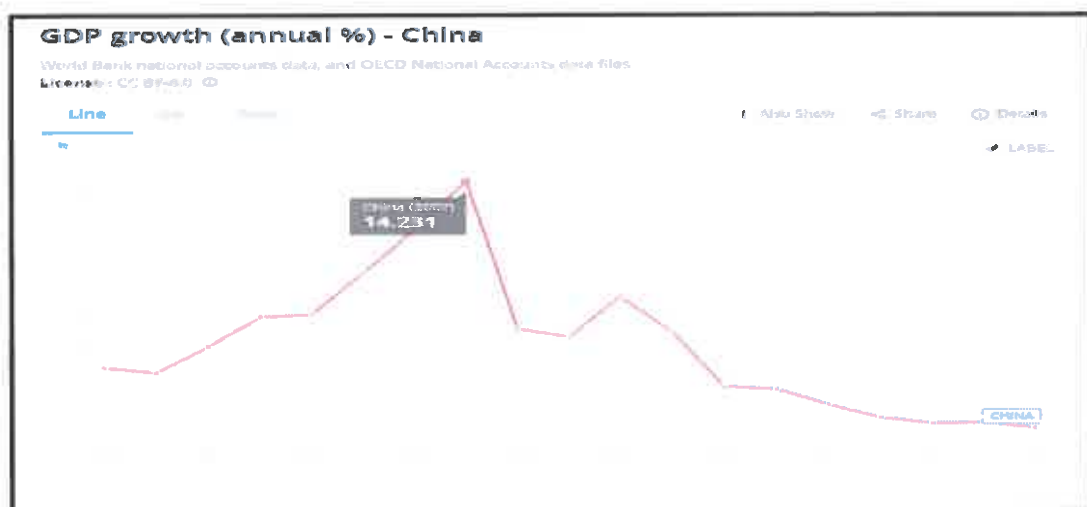
In the 2000s the number of fastener exporting enterprises increased. The number of countries and regions to which fasteners were exported likewise increased. Furthermore, it is worth noting that in one year alone from 2001 to 2002, export volumes increased by 26.42%, which is nearly double the rate of growth of 13.67% experienced in a period prior to 1994.

4.2.3 Slowdown of the Chinese economy and a global contraction in demand

The information submitted by the applicant indicated that the Chinese economy has grown rapidly at an average of approximately 10% every year over three decades.

However, Chinese economic growth was at 7.7% in 2013; 7.5% in 2014; and 7.3% in 2015. The applicant submits that with the slowdown in economic growth in China, the Chinese producers depended more on foreign markets to absorb their excess production.

The graph below shows a severe fall in annual GDP growth directly correlating to the financial crisis of 2008. This led to a slowdown in the growth of the Chinese internal capacity for development, creating the need for increased exports to manage the oversupply of steel and fastener production in China. A slowdown in development inherently leads to a decrease in local demand for fasteners such as bolts, as fewer projects are started that would require such products, thus necessitating an outlet in the form of exports to other countries.



Source: World Bank Website – data.worldbank.org

Furthermore, the financial crisis of 2008 to 2010 affected the fasteners industry with a drop in fasteners demand in Asia and other world markets. The applicant indicated that the lower demand remains a factor today as the global economic recovery continues.

In addition to the above, it should be noted that the GDP growth rates of China have continued to decrease even up to the end of 2019, according to information obtained from the World Bank website (accessed on 02 March 2020). China's economic growth was at 6.7% in 2016, 6.8% in 2017, 6.6% in 2018 and 6.1% in 2019. An analysis of

China's growth rates over ten years from 2009 to 2019 shows that China grew on average by 7.8% which is lower than the 10% average before the global recession.

Although the economic growth of China declined, production volumes over the period 1991 to 2014 increased, and therefore creating an imbalance between supply and demand. The Chinese fastener production was geared for the 10% economic growth, however when the growth of the Chinese domestic economy decreased, the demand for fasteners declined which led to the oversupply of fasteners in the Chinese market, leading to increased export volumes.

Considering the high number of fastener producers, China can easily penetrate export markets. This, coupled with many exporting enterprises, suggests that channeling excess production to export markets would not be difficult as there are already existing markets for such exporting enterprises.

4.2.4 Unused capacity in China

The applicant also argued that the significant unused production capacity of carbon steel fasteners in China demonstrates the growth of the Chinese fastener industry. To support that, the applicant provided the following findings from the Canadian anti-dumping investigation report:

- Kwantex Research Inc., an exporter from Chinese Taipei, reported that in 2013 it had 33% of unused production capacity of certain carbon steel fasteners at its manufacturing facility in China.
- Chun Yu, a producer from Chinese Taipei, reported that in 2011 it established a new plant in China, which was capable of producing carbon steel fasteners.
- Ningbo Fastener Factory and Xiamen Haixingcheng Metal Products reported that there was a production overcapacity in the fastener industry in China.

4.2.5 Trade remedies actions on fastener products

The applicant stated that the global oversupply has prompted various countries to institute trade remedies actions on fasteners.

- Canada imposed anti-dumping and countervailing duties on certain carbon steel fasteners and certain stainless-steel fasteners from China and Chinese Taipei. The duties were first introduced in December 2004.
- Anti-dumping duties imposed by European Union on carbon steel fasteners from China and Malaysia in January 2009 and July 2011.

It was also submitted that fasteners are inherently interlinked and the protection of one item, without its accompanying counterpart, such as nuts vs. bolts, will lead to insufficient protection and provide the basis for Asian imports to put domestic manufacturers out of business.

Interested parties commented as follows:

- (i) The unforeseen developments do not relate to the specific product under investigation. The applicant explained the unforeseen developments as they relate to the fastener industry in China. A broad categorization of fasteners masks the performance of individual items resulting in false conclusions. No indication has been given as to what percentage of the fastener industry is represented by the subject product.
- (ii) The applicant's conclusions are based on erroneous, outdated or irrelevant information and no unforeseen developments that led to an increase in imports during the investigation period have been established.

The applicant responded as follows:

- (i) The WTO Appellate Body has set the standard for what constitutes "unforeseen" and in the relevance of context. The Appellate Body has also reaffirmed that the development or event should have been unforeseen at the time of the Uruguay Round of GATT 1994 negotiations.
- (ii) The Commission has also been very consistent in its application of the requirement in previous safeguard investigations, notably the investigation on hot rolled coil, screws and nuts & threaded rod.

The Commission considered the interested parties' comments as set out below:

- (i) Bolts, threaded rods and screws account for more than 68% of the fasteners industry, thus making it the backbone of the industry. Information on individual fasteners is scarce and hard to find, with most information available being related to fasteners as a whole. The Commission concluded that since information on other fasteners also depicted the same trend, bolts also should follow that trend as it is a fastener.
- (ii) The information provided by the applicant was considered by the Commission to meet the standard of initiation, therefore it is not erroneous or outdated as alleged by interested parties.

Based on the above information, the Commission made a final determination that the growth of Chinese fastener market; growth of Chinese exports; slowdown of the Chinese economy and contraction in demand together with available unused capacity and the trade remedies imposed by various countries are events that can be regarded as unforeseen developments, which led to the surge of imports of the subject product.

5. SURGE OF IMPORTS

The information considered for the increased imports covers the period from 01 July 2016 to 30 June 2019.

5.1 Increase In imports in absolute terms

The following table shows import volumes of the subject product as sourced from the South African Revenue Service (SARS) for the period from 01 July 2016 to 30 June 2019:

Table 5.1: Import volumes in absolute terms

Tons	2016/17	2017/18	2018/19
Total import volumes	4 443	5 000	4 817

Table 5.1 above shows that there was an increase in imports of the subject product, of 12.5% in absolute terms between 2016/17 and 2017/18, however, there was a decrease in imports of the subject product of 3.7% between 2017/18 and 2018/19. There was an overall increase of 8.4% during the POI. The highest increase in import volumes is in 2017/18 year.

5.2 Increase in Imports relative to SACU production

Table 5.2 below shows import volumes and production volumes of the applicant for the period from 01 July 2016 to 30 June 2019:

Table 5.2: Imports volumes relative to production

	2016/17	2017/18	2018/19
Total imports volumes (Tons)	4 443	5 000	4 817
Total SACU production volumes (Tons)	100	77	79
Imports as a % of SACU production	100	146	137

Table 5.2 above shows that the highest increase in imports relative to production was in 2017/18 and there was a decline in 2018/19. The imports of bolts with hexagon heads relative to production volume increased by 46 index points from 2016/17 to 2017/18 and decreased by 9 index points from 2017/18 to 2018/19. Over the POI,

imports of bolts with hexagon heads relative to production increased by 37 index points. Imports as a percentage of production volume are highest in 2017/18 year.

Interested parties commented as follows:

- (i) The trend depicted in the import statistics is merely a bump and not a surge. The change in imports during the period of investigation does not constitute an increase in imports that is significant enough, sudden enough and sharp enough to meet the criteria of the SGR and the WTO Safeguard Agreement. There was no absolute or relative increase in imports of bolts during the POI. There is no increase in imports in absolute terms that justified the initiation of this investigation.
- (ii) Total imports decreased between 2015 and 2019. A decline in imports is observed.
- (iii) The period of investigation on the surge is not recent as it was 11 months old prior to the initiation of the investigation or “is far removed from the time the investigation started”, and therefore is not in accordance with Article 2.1 of the WTO Safeguard Agreement, especially the phrase “being imported”.

The applicant responded as follows:

- (i) It should be noted that the surge, in this application, occurred in the period of 1 July 2016 to 30 June 2017 where the increase was from 3940 tons to 4443 tons. Although this represents an increase of 12.8% in absolute terms, it is vitally important to note that it is accompanied by a 9% loss in market share for the domestically manufactured product. Considering the market share for the applicant amounted to below 50% in the period July 2016 to June 2017, this 9% loss in market share accounts for a relative loss to the industry’s market of 20%, providing sufficient evidence for the existence of a surge in relative imports as envisioned by the SGR and the WTO Agreement on Safeguards. Relative to SA production, imports have increased drastically as a direct result of the surge in imports. All the respondents address only an absolute increase in imports, ignoring context as well as the fact that surge can also manifest relative to local production.

- (ii) Although there was a slight decrease in the volume of imports after the initial surge, it is submitted that there is no requirement that imports should be increasing until the end of the period of investigation. As long as the products are still being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury, the conditions of Article 2.1 of the WTO Agreement on Safeguards have been met.

The Commission considered the interested parties' comments as set out below:

- (i) A determination on surge is made in absolute and/or relative terms. In absolute terms the surge in 2017/18 was depicted by a 12.5% percent increase in imports, while relative to production, there was an increase of 46 index points. Taking this into account the increase cannot just be said to be "a bump". The determination of the Commission on surge is different from that of the applicant, as the applicant determined its surge to be in 2016/17, whereas the Commission determined it to be in 2017/2018.
- (ii) The period 2017/18 - 2018/2019 shows a decline in import volumes in absolute terms, however this decline does not remove the surge in imports as per the requirements of the SGR and the WTO Safeguards Agreement.
- (iii) The phrase "being imported" does not necessarily mean that the import data for surge should be similar to the time of initiation. The approach in this investigation meets the requirements of recentness as per WTO jurisprudence.

Based on the above, the Commission made a final determination that there was a surge in the volume of imports of the subject product in 2017/2018.

6. SERIOUS INJURY

6.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The injury analysis for bolts with hexagon heads relates to information submitted by CBC Fasteners (Pty) Ltd, SA Bolt Manufacturers (Pty) Ltd and Transvaal Pressed Nuts, Bolts & Rivets (Pty) Ltd representing more than 90% of the SACU industry by production volumes.

The Commission made a final determination that this constitutes “a major proportion” of the total domestic production.

6.2 CONSEQUENT IMPACT OF THE INCREASED IMPORTS ON THE INDUSTRY

SGR 8.1 states that serious injury shall be understood to mean “significant overall impairment” in the position of the domestic industry.

6.2.1 Actual and potential decline in sales

The following table shows the applicant's SACU sales volume of the subject product for the period of investigation:

Table 6.2.1: Sales volumes

Tons	2016/17	2017/18	2018/19
Total Sales Volumes	100	78	83

These figures were indexed due to confidentiality using 2016/17 as a base year

The table above indicates that bolts with hexagon heads sales volumes decreased by 22 index points from 2016/17 to 2017/18 and increased by 5 index points from 2017/18 to 2018/19. The table also shows that total sales volumes decreased by 17 index points during the period of investigation.

6.2.2 Market share

The following table shows the market share for the subject products based on sales and import volumes:

Table 6.2.2: Market share

%	2016/17	2017/18	2018/19
Applicant's market share	100	78	83
Other SACU producers' market share	100	76	81
Imports' market share	100	116	113

These figures were indexed due to confidentiality using 2016/17 as a base year

The applicant's market share decreased during the POI. Although the applicant's market share increased in 2018/19 when compared to 2017/18, the level was lower than in 2016/17. Other SACU producer's market share decreased with similar trends to that of the applicant. The table above shows that the applicant and other SACU producers lost a significant share of the market in 2017/18, losing 24 index points compared to 2016/17; and while it gained 5 index points from 2017/18 to 2018/19, there was an overall decline in the market share of the SACU industry. The applicant stated the market share held by SACU manufacturers has decreased significantly as a direct result of the surge in imports

The market share of imports has been increasing, albeit a slight decline in 2018/19 when compared to 2017/18. The applicant is unable to further increase market share as imports account for a bigger share of the market. Total imports market share increased by 16 index points from 2016/17 to 2017/18 and declined by 3 index points from 2017/18 to 2018/19. There was however, an overall increase in the market share of imports indicating that the increase in the general customs duty from 20% to 30% in March 2017 had no impact as it did not curb imports. The applicant further stated that import volumes have maintained their adverse impact and the local manufacturers of the product concerned continue to lose market share.

6.2.3 Profit

The following table show the applicant's profit situation:

Table 6.2.3: Profits

	2016/17	2017/18	2018/19
Gross Profits (R)	100	68	104
*Net Profits/losses (R)	100	115	31
Gross Profits Margin (R/ton)	100	99	145
*Net Profit/Loss Margin (R/ton)	100	134	38

These figures were indexed due to confidentiality using 2016/17 as a base year.

***Losses**

The gross profits decreased by 32 index points from 2016/17 to 2017/18 and increased by 36 index points from 2017/18 to 2018/19. In 2018/19 the gross profit was 4 index points higher than in 2016/17.

The net profit shows a loss situation although the losses are declining. The net losses increased by 15 index points from 2016/17 to 2017/18 and significantly declined/improved by 84 index points between 2017/18 and 2018/19. A decrease of 69 index points was incurred over the period of investigation. The applicant has not made any net profits during the injury period. While there was a slight improvement in the loss situation, this is indicative of the poor state of the industry as it is still suffering losses.

The applicant stated that owing to the continued high import volumes into SACU, gross and net profit margins remain severely depressed, threatening the viability of the entire industry. Net losses are still being experienced and taking the depressed state of the industry as well as the economy into consideration, immediate intervention is required to restore volumes lost and improve profitability.

Commission's consideration

The applicant is suffering net losses, although there is improvement, it is however still making losses.

6.2.4 Output

The following table shows the applicant's output of the subject product for the period of investigation:

Table 6.2.4: Output

Tons	2016/17	2017/18	2018/19
Output volumes	100	77	79

These figures were indexed due to confidentiality using 2016/17 as a base year

The table above indicates that the output volumes decreased by 23 index points from 2016/17 to 2017/2018 and increased by 2 index points from 2017/18 to 2018/19. The decline in output took place in the period of the surge. The table also shows that total output volumes decreased by about 21 index points during the POI. The applicant stated that as imports maintained and even increased its share of the market, local production volumes decreased further.

6.2.5 Employment

The following table provides the applicant's total employment figures:

Table 6.2.5: Employment

	2016/17	2017/18	2018/19
No. of employees (manufacturing)	100	96	105
Total No. of employees	100	88	101

These figures were indexed due to confidentiality using 2016/17 as a base year

The table above indicates that the number of employees involved in manufacturing of bolts with hexagon heads decreased by 4 index points from 2016/17 to 2017/18 and increased by 9 index points from 2017/18 to 2018/19. The number of employees involved in manufacturing increased by 5 index points during the POI. Employees involved in the production of the subject product are also involved in the production of other products produced by these companies.

6.2.6 Productivity

Using the applicant's production and employment figures, its productivity in respect of the subject products is as follows:

Table 6.2.6: Productivity

	2016/17	2017/18	2018/19
Productivity	100	81	75
Output volumes (tons)	100	77	79
No. of employees (manufacturing)	100	96	105

These figures were indexed due to confidentiality using 2016/17 as a base year

The table above indicates that productivity levels decreased throughout the POI. Productivity of bolts with hexagon heads decreased by 19 index points from 2016/17 to 2017/18 and decreased further by 6 index points in 2018/19 from the previous year. The information also shows that productivity levels decreased by 25 index points during the POI.

6.2.7 Utilisation of production capacity

The following table provides the applicant's capacity utilisation, using plant capacity and output for the subject products:

Table 6.2.7: Utilisation of production capacity

	2016/17	2017/18	2018/19
Total capacity (tons)	100	100	100
Output volumes (tons)	100	77	79
Capacity utilisation %	100	73	80

These figures were indexed due to confidentiality using 2016/17 as a base year

The table above indicates that capacity utilisation for the subject product decreased by 27 index points from 2016/17 to 2017/18 and increased by 7 index points from 2017/18 to 2018/19. Capacity utilisation decreased by 20 index points during the POI.

The applicant stated that all the three companies currently work one shift, however this could be increased with the addition of shifts. An increase in shifts, will lead to a higher overall production output, which will further lead to a higher capacity utilisation.

The Commission considered that the applicant submitted that the capacity utilisation can be increased by increasing the number of shifts and utilising all the available machines.

Interested parties commented as follows:

- (i) It is believed that the situation should be better tackled by using other trade remedy measures that specifically target injurious imports, such as the antidumping or anti-subsidy investigations.
- (ii) Some of the serious injury indicators show an improvement during the period of investigation and this does not indicate serious injury claimed by the industry.
- (iii) There is an 11-month gap between the POI and the initiation of the investigation. Information should be updated to March 2020 to ensure an objective injury assessment.
- (iv) There are numerous problems with the information that is provided, ranging from discrepancies with the information, irreconcilable information and claims of serious injury which are not evident.

The applicant responded as follows:

- (i) The safeguard requirements have been met. There is no reason for the Commission not recommend the imposition of emergency action in the form of a safeguard measure in order to redress the serious injury to the local fastener industry caused by the surge in imports.
- (ii) The information submitted in the application clearly represented a *prima facie* case indicating that the South African manufacturers of the subject product concerned are experiencing serious injury in the form of a decline in sales volume, output, market share, productivity, utilisation of production capacity and employment.
- (iii) It is clear that all the necessary aspects have been met. In fact, with the information provided, it is clear that emergency steps are needed to ensure the safeguarding of local industry.
- (iv) There is little doubt that the serious injury currently being suffered by the local industry

has led to the overall impairment of the fastener's industry's manufacturing capability in South Africa and that unless urgent intervention in the form of safeguard action is implemented, the loss of local manufacture of the product concerned is imminent.

The Commission considered the Interested parties' comments as set out below:

- (i) The application met the requirements for a safeguard investigation and therefore it is the appropriate trade remedy instrument.
- (ii) The determination of serious injury is made having regard to not only a few indicators but all the injury information provided. Furthermore, all injury information shows no improvement, contrary to the claim by the interested parties.
- (iii) There is no requirement in law for the injury information to be similar to the period of initiation.
- (iv) The information provided has been verified and no discrepancies were found. The serious injury is evident in the analysis of serious injury.

6.3 Summary - Serious injury

Based on the above information, the evaluation of the injury information of the applicant for the period 01 July 2016 to 30 June 2019 is summarised as follows:

Table 6.3: Serious Injury Indicators

Serious injury indicators	2016 to 2019 change
Imports (tons)	Increased
Sales volumes (tons)	Decreased
Gross Profit (R)	Increased
Net Losses (R)	Improved
Output(tons)	Decreased
Applicant's market share	Decreased
Import's market share	Increased
Number of employees	Increased
Productivity	Decreased
Capacity utilisation	Decreased

The information above indicates that there were adverse changes in the domestic performance of the SACU industry. The decline in sales volumes during the POI had

an impact on production volumes and market share, as both of these injury factors declined to their lowest levels at the end of the POI. The decline in production volumes during the POI negatively affected the levels of capacity utilisation and productivity. Lowest decreases were experienced in 2017/18.

The Commission considered that the SACU industry experienced declines in terms of sales volumes, production volumes, productivity, capacity utilisation and market share. It also noted that on the year of the surge the SACU industry's performance was the worst in all the injury indicators above.

Having assessed each injury factor and noting that there is a decline in the industry's performance as explained above, the Commission made a final determination that the domestic industry is suffering serious injury.

7. CAUSAL LINK

In considering, whether there is a causal link between increased imports of the subject products concerned and serious injury experienced by SACU industry, the Commission considered all relevant factors, including factors other than imports of the subject products that may have contributed to the SACU industry's serious injury.

7.1 VOLUME OF IMPORTS AND MARKET SHARE

7.1.1 Imports volumes

The following table shows import volumes of the subject product:

Table 7.1.1: Imports volumes

	2016/17	2017/18	2018/19
Total import volumes (tons)	4 443	5 000	4 817

The table above shows that there was an increase in absolute terms in the imports of the subject product with the highest increase observed in 2017/18.

7.1.2 Market share

To assess whether the applicant caused its own serious injury, the table below gives a breakdown of market share for the subject product.

Table 7.1.2: Market share

Tons	2016/17	2017/18	2018/19
Total SACU consumption	100	97	97
Applicant's market share	100	78	83
Other SACU producers' market share	100	76	81
Imports' market share	100	116	113

These figures were indexed due to confidentiality using 2016/17 as a base year

The applicant's market share decreased by 22 index points from 2016/17 to 2017/18, while the market share of imports increased by 16 index points in the same period.

The applicant's market share slightly increased by 5 index points from 2017/18 to 2018/19, while the market share of imports increased by only 3 index points in the same period. Over the period, the applicants share of the market decreased by 17 index points, while the share of the market held by imports increased by 13 index points.

The applicant's market share declined during the period of investigation, while the imports gained market share in a declining SACU market. The other SACU producer's market share declined during the POI.

7.2 CONSEQUENT IMPACT OF ALLEGED INCREASE IN IMPORTS

Table 7.2: Serious injury indicators 01 July 2016 to 30 June 2019

Serious Injury Indicators	2016 to 2019 change
Imports (tons)	Increased
Imports relative to production (tons)	Increased
Sales volumes (tons)	Decreased
Gross Profit/loss	Increased
Net losses	Improved
Output (tons)	Decreased
Applicant's market share	Decreased
Market share of imports	Increased
Number of employees in manufacturing	Increased
Productivity	Decreased
Capacity utilisation	Decreased

7.3 VIEW OF THE APPLICANT'S CLIENTS REGARDING QUALITY, DELIVERY TIMES, SERVICE AND AFTER SALES SERVICE

Quality

The applicant stated that the quality of the subject product is generally regarded as good, even for demanding applications; the products are tested and delivered to international specifications on material properties and tolerances and several quality checks are systematically performed to minimize defective material.

Delivery times

The applicant indicated that the delivery times are regarded as good as most of the general items are sold from stock.

Service

The applicant stated that the service is generally regarded as good and it also regularly interacts with its customers regarding service levels.

After sales service, including guarantees and warranties and technical training to customers

The applicant indicated that a small but experienced technical team support customers with regard to the product, products are fully guaranteed to the applicable international specification ordered and a dedicated team resolves promptly any quality claims.

7.4 ATTITUDE OF THE WORKFORCE TOWARDS THE COMPANY

The applicant indicated that the attitude of the workforce is generally regarded as good and wage negotiations are conducted through a bargaining council.

7.5 FACTORS OTHER THAN THE INCREASED IMPORTS CAUSING SERIOUS INJURY

Table: 7.5: Factors other than increased imports causing serious injury

Strikes, go-slows or lock outs during the past twelve months	The applicant did not have a strike, go-slow or lock outs during the POI.
Contraction in demand or changes in patterns of consumption	Table 7.1.2 shows that SACU consumption and that of the applicant declined over the POI.
Developments in technology	The applicant stated that there is no significant development in technology which has taken place during the POI.
Productivity of the domestic industry vis-a-vis that of the exporters	The applicant stated that productivity is on par with exporters.

7.6 OTHER INFORMATION ON CAUSALITY

The applicant further provided the following information with regard to serious injury:

- The applicant stated that the data clearly shows that the increase in the subject product's imports have caused and continue to cause serious injury to the local industry and unless appropriate measures are taken the local industry will continue to suffer significantly. In fact, the significant surge in imports has eroded the South African manufacturers' market share to such an extent that more and more manufacturers are shutting down capacity and supplement local manufacture with the imported product in an effort to remain viable. This had a devastating impact on capacity utilization and employment levels.
- This surge in imports also directly correlates to the loss in sales volume experienced by SAB, TPN and CBC with a consequent loss in market share. This in turn directly impacted on the negative position in terms of profit margins and profitability of the local industry.
- Despite the significant increase in the volume of exports from the exporting countries over the last years, there is no evidence to indicate that this rate is set to slow down. In fact, the contrary is true.
- Despite the recent increase in the customs duties to the WTO bound rate, exporters continue to target the SACU market because it is one of the most open markets in the world and therefore the entry barriers are very low.

Interested parties commented as follows:

- (i) There is no causal link between the imports and any alleged injury.
- (ii) The Commission should investigate objectively the impact of cost increases on the industry.
- (iii) The essential facts letter does not give sufficient information on what information was considered and it does not meet the requirements of an essential facts letter.

The applicant responded as follows:

- (i) The claim by the respondents that there exists a disconnect in the information provided regarding serious injury as well as causal link is made by analysing each indicator microscopically in order to discredit the validity of the argument on serious injury.

The Commission considered the interested parties' comments as set out below:

- (i) The serious injury suffered by the applicant can be causally linked to the increased volumes of imports and no other factors detract the causal link. This is also evident from the fact that when imports surged in 2017/18, the injury suffered by the applicant was evident in that year and it continued to 2018/19.
- (ii) The Commission has noted that costs increases to the industry may be as a result of various production costs, which includes raw material costs and electricity, however this does not detract from the causal link.
- (iii) The purpose of the essential facts is not to provide all information being considered. The preliminary report has provided such information. This final report is also providing such information.

Taking the above into consideration, the Commission made a final determination that the information provided indicates that there is a causal link between the surge in imports of the subject product and the serious injury suffered by the SACU industry and there are no other known factors that sufficiently detract from the causal link.

10 PUBLIC INTEREST

A public interest hearing was held on 16 February 2021. The Applicant and the Government of Brazil made submissions on public interest issues that needed to be considered prior to the Commission making its final determination.

Article 3.1 of the Agreement on Safeguards provides that "A Member may apply a safeguard measure only following an investigation by the competent authorities of that Member pursuant to procedures previously established and made public in consonance with Article X of GATT 1994. This investigation shall include reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to the presentations of other parties and to submit their views, inter alia, as to whether or not the application of a safeguard measure would be in the public interest....."

The SGR provide as follows with regard to the final determination and public interest:

"20.1 In its final determination the Commission shall consider whether

- (a) the SACU industry is experiencing serious injury or threat of serious injury, as contemplated in sections 8 and 9;
- (b) there were increased imports;
- (c) any increase in imports can be attributed to unforeseen developments;
- (d) the increased imports resulted in serious injury or threat thereof to the SACU industry;
- (e) other factors contributed significantly to the serious injury; and
- (f) the imposition of a safeguard measure would be in the public interest".

"20.2 In determining whether a safeguard measure would be in the public interest the need to take note of the trade distorting effect of the surge in imports and the need to restore effective competition shall be given special consideration."

The trade distorting effects of the surge in imports and the need to restore effective competition are not defined or given any parameters against which they should be considered.

8.1 Public interest submission received from the Government of Brazil

The Commission should exclude Brazil from final measures as it is a developing country, and in line with the SGR.

The Commission considered the Brazil's submission as set out below:

Brazil's volume of imports is below the 3% threshold, and Brazil should accordingly be excluded from the final measures. It should be noted that should Brazil's volume of imports exceed the 3% threshold in the future, Brazil will be removed from the list of excluded developing countries.

8.2 Public Interest submission received from the applicant

The applicant made the following submissions:

- (i) Since the SACU industry has sufficient production capacity, the safeguard measures are important to be able to increase economies of scale and lower production costs and eventually restore effective competition, and this has been seen in other safeguard investigations on other fastener products (i.e. screws, rods, etc).
- (ii) The applicant is coping with the unreliability of supply of its raw materials input from AMSA which is as a result of COVID-19 related disruptions.
- (iii) Should imports from developing countries increase beyond the 3% threshold, they should be subject to measures with speed in order to ensure the effectiveness of safeguard measures.

The Commission considered the interested parties' and applicant's comments as set out below:

- (i) The Commission notes that previous safeguard measures on other fastener products have restored effective competition.
- (ii) The Commission notes the acknowledgement of the applicant that it is coping with raw material shortages, however, it is concerned that the downstream industry is affected by such raw material shortages and has measures (rebates) to address such shortages should the problem persist.

(iii) Developing countries that exceed the 3% threshold will be removed from the list of excluded developing countries following proper processes.

The Commission made a final determination that it is in the public interest to imposed a final safeguard measure.

9. FINAL SAFEGUARD MEASURES

In terms of the SGR 21.1, "A safeguard measure may be applied only-

- To the extent necessary to prevent or remedy serious injury or threat thereof; and
- To facilitate adjustment of the SACU industry".

The final duty is based on price disadvantage. To arrive at unsuppressed ex-factory price per unit, 2019 average cost of production was used. The production costs were then adjusted with the 2019 average manufacturing inflation rate of 3.9%. The selling and administrative expenses and finance expenses for the previous year were then adjusted with the average normal CPI of 3.7% in June 2019. PPI and CPI were obtained from Statistics South Africa's website. A profit margin of 15% was then added to the calculated selling, general and administrative and finance expenses and the calculated cost of production to calculate the unsuppressed selling price.

The landed cost, based on the Free-on-Board (FOB) value per kilogram of subject product, was found to be R20.94 per kg from 01 July 2018 to 30 June 2019 for China which represents 63% of total import volumes to the SACU market. A reasonable profit margin of 15% to determine the rate of return for the fastener industry was added

The price disadvantage was determined to be 31.8% expressed as a percentage of the FOB export price.

Interested parties commented as follows:

- (i) There is no reason for the duty to be determined on the basis of prices from Malaysia. No reliance can be placed on the import price from Malaysia because imports from Malaysia are decreasing and they represented less than 3% in the last two periods of the investigation. Chinese fob prices will give a better reflection of import prices for the calculation of price disadvantage as China represent 63% of total imports and therefore it is proposed that they be used.

The applicant commented as follows:

- (i) Since the SACU industry has sufficient capacity, the safeguard measures are important to be able to increase economies of scale and lower production costs

and eventually restoring effective competition, and this has been seen in other safeguard investigations on other fastener products (i.e. screws, rods, etc).

- (ii) The applicant stated that it is coping with the unreliability of supply of its raw materials input from AMSA which is as a result of COVID-19 related disruptions.
- (iii) Should imports from developing countries increase beyond the 3% threshold, they should be subject to measures with speed in order to ensure the effectiveness of safeguard measures.

The Commission considered the Interested parties' and applicant's comments as set out below:

- (i) The comments from interested parties have been noted, and have been considered, hence the use of China as a basis.
- (ii) The Commission notes that previous safeguard measures on other fastener products have restored effective competition.
- (iii) The Commission notes the acknowledgement of the applicant that it is coping with raw material shortages, however, it is concerned that the downstream industry is affected by such raw material shortages and has measures (rebates) to address such shortages should the problem persist.
- (iv) Developing countries that exceed the 3% threshold will be removed from the list of excluded developing countries following proper processes.

The Commission made a final determination that it will be in the public interest to impose a safeguard duty of 31.8 percent *ad valorem* on imports of bolts with hexagon heads of iron or steel for all exporters, excluding imports originating from a developing country member that meet the requirement for exclusion exclusion (developing countries excluded are those whose import volumes as a proportion of total SACU imports do not exceed 3 percent, and which collectively with other developing countries with less than 3 percent import share, do not collectively account for more than 9 per cent of total imports into SACU). It is proposed that the duty be imposed for a period of three years, and liberalised at regular intervals as follows: Year 1: 31.8%; Year 2: 30.8%; and Year 3: 29.8%. The subject product may not be imported under rebate of customs duty without payment of the safeguard duty without a permit from ITAC, with effect from date of publication.

10. FINDINGS

10.1 Unforeseen Developments

The Commission made a preliminary determination that the events cited by the applicant can be regarded as unforeseen developments which led to the surge in imports of the subject product, as per the SGR read in conjunction with the Agreement on Safeguards and the provisions of Article XIX of GATT 1994. South Africa's Commitment to bind the ordinary customs duty of the subject product at a maximum of 30% *ad valorem* constitute the obligation contemplated in Article XIX of GATT 1994, the effects of which was the surge in imports.

10.2 Serious Injury

The conclusion on injury indicators is as follows:

Serious injury indicators	Total
Imports (tons)	Increased
Imports relative to production (tons)	Increased
Sales volumes (tons)	Decreased
Gross Profit/loss	Increased
Net losses	Improved
Output (tons)	Decreased
Applicant's market share	Decreased
Number of employees in manufacturing	Increased
Productivity	Decreased
Capacity utilisation	Decreased

The Commission made a final determination that the information analysed indicates that the applicant is suffering serious injury.

10.3 Surge of Imports

The Commission made a final determination that there is a surge in the volume of imports of the subject product.

10.4 Causal link

The Commission made a final determination that the information provided indicates that there is a causal link between the surge in imports and the serious injury suffered by the SACU industry and there are no factors sufficiently detracting from causal link.

10.5 Public Interest

The Commission made a final determination that it will be in the public interest to impose a definitive safeguard measure.

10.6 Final Safeguard Measures

The Commission made a final determination that it will be in the public interest to impose a safeguard duty of 31.8 percent *ad valorem* on imports of bolts with hexagon heads of iron or steel for all exporters, excluding imports originating from a developing country member that meet the requirement for exclusion exclusion (developing countries excluded are those whose import volumes as a proportion of total SACU imports do not exceed 3 percent, and which collectively with other developing countries with less than 3 percent import share, do not collectively account for more than 9 per cent of total imports into SACU). It is proposed that the duty be imposed for a period of three years, and liberalised at regular intervals as follows: Year 1: 31.8%; Year 2: 30.8%; and Year 3: 29.8%. The subject product may not be imported under rebate of customs duty without payment of the safeguard duty without permission from ITAC, with effect from date of publication.

11. FINAL DETERMINATION

The Commission made a final determination that:

- That events cited can be regarded as unforeseen developments that led to increased volumes of imports;
- That South Africa's Commitment to bind the ordinary customs duty of the subject product at a maximum of 30% *ad valorem* constitute the obligation contemplated in Article XIX of GATT 1994, the effects of which was the surge in imports;
- That the SACU industry is suffering serious injury;
- That there is a causal link between the surge in imports and the serious injury suffered by the SACU industry; and there are no factors sufficiently detracting causal link
- That it is in the public interest to impose a safeguard measure.
- to recommend to the Minister of Trade, Industry & Competition that it will be in the public interest to impose a safeguard duty of 31.8 percent *ad valorem* on imports of bolts with hexagon heads of iron or steel for all exporters, excluding imports originating from a developing country member that meet the requirement for exclusion exclusion (developing countries excluded are those whose import volumes as a proportion of total SACU imports do not exceed 3 percent, and which collectively with other developing countries with less than 3 percent import share, do not collectively account for more than 9 per cent of total imports into SACU). It is proposed that the duty be imposed for a period of three years, and liberalised at regular intervals as follows: Year 1: 31.8%; Year 2: 30.8%; and Year 3: 29.8%. The subject product may not be imported under rebate of customs duty without payment of the safeguard duty without permission from ITAC, with effect from date of publication.

DEVELOPING COUNTRIES EXCLUDED FROM THE SAFEGUARD DUTY

Afghanistan	Madagascar
Albania	Malawi
Algeria	Latvia
American Samoa	Lebanon
Angola	Maldives
Antigua and Barbuda	Mali
Argentina	Marshall Islands
Armenia	Mauritania
Azerbaijan	Mauritius
Bangladesh	Mexico
Bahrain, Kingdom of	Micronesia, Fed. States of
Belarus	Moldova, Republic of
Belize	Mongolia
Benin	Montenegro
Bhutan	Morocco
Brunei Darussalam	Mozambique
Bolivia, Plur State of	Myanmar
Bosnia and Herzegovina	Namibia
Botswana	Nepal
Brazil	Nicaragua
Bulgaria	Niger
Burkina Faso	Nigeria
Burundi	North Macedonia
Cabo Verde	Oman
Cambodia	Pakistan
Cameroon	Palestine
Central African Republic	Palau
Chad	Panama
Chile	Papua New Guinea
Colombia	Paraguay
Comoros	Peru
Costa Rica	Philippines
Côte d'Ivoire	Qatar
Cuba	Romania
Democratic Republic of the Congo	Rwanda
Congo Republic	Saudi Arabia, Kingdom of
Djibouti	St. Kitts and Nevis
Dominica	St. Lucia
Dominican Republic	Saint Vincent and the Grenadines
Ecuador	Sao Tome and Principe

Egypt, Arab Rep.	Samoa
El Salvador	Senegal
Eritrea	Seychelles
Eswatini	Sierra Leone
Equatorial Guinea	Singapore
Ethiopia	Solomon Islands
Fiji	Serbia
Gabon	Somalia
The Gambia	South Sudan
Georgia	Sri Lanka
Ghana	Sudan
Grenada	Suriname
Guatemala	Syrian Arab Republic
Guinea	Tajikistan
Guinea-Bissau	Tanzania
Guyana	Timor-Leste
Haiti	Togo
Honduras	Tonga
Indonesia	Trinidad and Tobago
Iran, Islamic Rep. of	Tunisia
Iraq	Turkey
Jamaica	Turkmenistan
Jordan	Tuvalu
Kazakhstan	Uganda
Kenya	Ukraine
Kiribati	United Arab Emirates
Korea, Democratic People's Republic of	Uruguay
Kyrgyz Republic	Uzbekistan
Kosovo	Vietnam
Kuwait, the State of	Vanuatu
Lao People's Dem. Republic	Venezuela, Bolivarian Republic of
Lebanon	West Bank and Gaza*)
Lesotho	Yemen
Liberia	Zambia
Libya	Zimbabwe
Lithuania	