

Mr. Ebrahim Patel

Minister of Trade, Industry, Competition
Private Bag X84
Pretoria
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Dear Minister Patel

MINUTE NO. M11/2023: AMENDMENT REPORT NO. 715: EXTENSION OF EXISTING SAFEGUARD DUTIES ON THREADED FASTENERS OF IRON OR STEEL: BOLT ENDS & SCREW STUDS, SCREW STUDDING AND OTHER HEXAGON NUTS (EXCLUDING THOSE OF STAINLESS STEEL AND THOSE IDENTIFIABLE FOR AIRCRAFT) TO INCLUDE IMPORTS ORIGINATING IN OR IMPORTED FROM THE REPUBLIC OF THE PHILIPPINES

1. Background

On 01 March 2019, the International Trade Administration Commission ("the Commission") initiated an investigation for remedial action in the form of a safeguard against increased imports of threaded fasteners of iron and steel ("the subject product") through Notice No. 109 in *Government Gazette No. 42258*. In the original investigation, the Commission made a final determination and recommended to the Minister of Trade, Industry and Competition ("the Minister") that it would be in the public interest to impose definitive safeguard measures on imports of the subject products. The Minister approved the Commission's recommendations contained in Report No. 620. Following the investigation, on 24 July 2020, final safeguard measures were imposed on imports of the subject products originating from all countries, excluding developing countries whose imports were found to be below 3% of the total import volumes, for a period of 3 years, ending 23 July 2023.

Before the duties were set to lapse on 23 July 2023, the South African Fasteners Manufacturers' Association ("SAFMA") on behalf of its members, lodged an application to extend the duties, indicating that the lapse of the duties would likely to lead to the recurrence of serious injury and there was evidence that the Southern African Customs Union ("SACU") industry was adjusting.

On 24 March 2023, the Commission initiated an investigation into the extension of the safeguard measure against imports of the subject product, through Notice No. 1695 in *Government Gazette No. 48294*. Following the investigation, the Commission made a final determination and recommendation to the Minister that safeguard measures on imports of the subject product be extended for a period of three years. The Minister approved the Commission's recommendations contained in Report No. 715.

Following the investigation, on 21 July 2023, safeguard measures on the subject product imported from or originating in all countries, excluding developing countries whose imports were found does not to exceed 3% of the total import volumes, were extended, effective from 24 July 2023 to 23 July 2026, through *Government Gazette Notice No. 49013*.

In both the original investigation and the extension investigation, the Republic of the Philippines, Thailand, and Vietnam were among the developing countries with import volumes that were found not to exceed 3% of total imports into SACU and therefore were excluded from the payment of a safeguard measures.

The Amended Safeguard Regulations ("SGR") provide for the exempt of safeguard measures of imports from developing countries, whose volumes do not exceed 3 percent of total imports to SACU in the original investigation period. As a result of this, the Republic of the Philippines, Thailand, and Vietnam were included in the list of developing countries exempted from the safeguard measures.

2. Discussion

SGR 21.18, read together with Article 9.1 of the WTO Agreement on Safeguards, states that *“safeguard measures shall not be applied against a product originating in a developing country as long as its share of imports of the product concerned in SACU does not exceed three per cent, provided that developing countries with less than three per cent import share collectively account for not more than nine per cent of total imports of the product concerned”*.

SGR 21.20 further states that *“a developing country exempted from the application of a safeguard measure in terms of subsection 18 may become subject to such safeguard measure without a new investigation being conducted if, subsequent to the imposition of the safeguard measure its share of the imports increases to a level that exceeds three percent of the total import volume in the original investigation period”*.

On 19 September 2023, SAFMA alerted the Commission that according to their assessment, the import volumes from Thailand, the Republic of the Philippines and Vietnam had increased and passed the 3% threshold individually and all developing countries as a collective had passed the 9% threshold. The industry requested that all the exempted countries be subject to the safeguard duties in order to ensure the measures remained effective.

Commission’s consideration

SGR 21.18 and Article 9.1 of the WTO Agreement on Safeguards set out two conditions for the inclusion of a developing country, i.e. (i) a developing country’s share must exceed 3% of total imports and (ii) all developing countries account for more than 9% of total imports. Therefore, the relevant question and point to consider for the Commission was only whether the share of import volumes from the Republic of the Philippines, Thailand, and Vietnam, individually, has exceeded the 3% threshold.

The period of investigation in the original investigation was from 01 July 2014 to 30 June 2018. To determine whether the imports of the subject products increased to any level higher than 3% of total imports in the original investigation, imports for the

current period (01 July 2022 to 30 June 2023) were compared with imports for the original investigation period.

The following table shows all import volumes of the subject products as sourced from the South African Revenue Service (SARS).

Table 1: Import volumes in tons

	01 July 2014 to 30 June 2015	01 July 2015 to 30 June 2016	01 July 2016 to 30 June 2017	01 July 2017 to 30 June 2018
Total imports for the POI	6 069	5 546	8 697	6 418
	01 July 2022 to 31 June 2023	01 July 2022 to 31 June 2023	01 July 2022 to 31 June 2023	01 July 2022 to 31 June 2023
Imports from Philippines	338	338	338	338
Imports from Philippines as % of total imports for the original POI	5.11%	6.10%	3.89%	5.27%
Imports from Thailand	75	75	75	75
Imports from Thailand as % of total imports for the original POI	1.13%	1.35%	0.89%	1.17%
Imports from Vietnam	47	47	47	47
Imports from Vietnam as % of total imports for the original POI	0.71%	0.85%	0.54%	0.73%

Table 1 above indicates that import volumes from the Republic of the Philippines now account for more than 3% of total imports into SACU as percentage of total imports in the original investigation period. The table also shows that import volumes from Thailand and Vietnam individually remain less than 3% of total imports into SACU in the original investigation period.

3. Recommendation

The Commission made a decision that the import volumes of the subject products from the Republic of the Philippines for the period 01 July 2022 to 30 June 2023 increased to a level higher than 3% of total imports to SACU in the original investigation period.

The Commission also made a decision that import volumes of the subject products from Thailand and Vietnam for the period 01 July 2022 to 30 June 2023 did not increase to more than 3 percent of total imports to SACU in the original period of investigation.

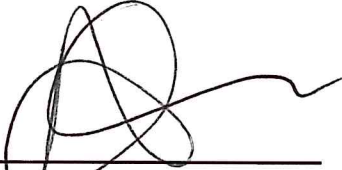
The Commission therefore decided to recommend to the Minister to amend the list of developing countries exempted from safeguard measures as contained in Annexure 1 by removing the Republic of the Philippines from the list.

The amended list of developing countries exempted from the payment of safeguard duties is as follows:

Table 2: Developing WTO member countries

Name	Name	Name	Name
Afghanistan	Madagascar	Dominica	Saint Vincent and the Grenadines
Albania	Malawi	Dominican Republic	Sao Tome & Principe
Algeria	Latvia	Ecuador	Samoa
American Samoa	Lebanon	Egypt, Arab Rep.	Senegal
Angola	Maldives	El Salvador	Seychelles
Antigua and Barbuda	Mali	Eritrea	Sierra Leone
Argentina	Marshall Islands	Eswatini	Singapore
Armenia	Mauritania	Equatorial Guinea	Solomon Islands
Azerbaijan	Mauritius	Ethiopia	Serbia
Bangladesh	Mexico	Fiji	Somalia
Bahrain	Micronesia	Gabon	South Sudan
Belarus	Moldova, Republic of	The Gambia	Sri Lanka
Belize	Mongolia	Georgia	Sudan
Benin	Montenegro	Ghana	Suriname
Bhutan	Morocco	Grenada	Syrian Arab Republic
Brunei Darussalam	Mozambique	Guatemala	Tajikistan
Bolivia	Myanmar	Guinea	Tanzania
Bosnia & Herzegovina	Namibia	Guinea-Bissau	Timor-Leste
Botswana	Nepal	Guyana	Togo
Brazil	Nicaragua	Haiti	Thailand
Bulgaria	Niger	Honduras	Tonga
Burkina Faso	Nigeria	St. Lucia	Trinidad and Tobago
Burundi	North Macedonia	Iran, Islamic Rep. of	Tunisia
Cabo Verde	Oman	Iraq	Indonesia
Cambodia	Pakistan	Jamaica	Turkmenistan

Cameroon	Palestine	Jordan	Tuvalu
Central African Republic	Palau	Kazakhstan	Uganda
Chad	Panama	Kenya	Ukraine
Chile	Papua New Guinea	Kiribati	United Arab Emirates
Colombia	Paraguay	Korea	Uruguay
Comoros	Peru	Kyrgyz Republic	Uzbekistan
Costa Rica		Kosovo	Viet Nam
Côte d'Ivoire	Qatar	Kuwait, the State of	Vanuatu
Cuba	Romania	Lao People's Dem. Republic	Venezuela
Democratic Republic of the Congo	Russian Federation	Lebanon	West Bank and Gaza*)
Congo	Rwanda	Lesotho	Yemen
Djibouti	Saudi Arabia	Liberia	Zambia
Lithuania	St. Kitts and Nevis	Libya	Zimbabwe



Mr. Ayabonga Cawe
Chief Commissioner

Date: 06/04/2023