

Report No. 105

Sunset review of the anti-dumping duties on hexagon nuts, of iron or steel originating in or imported from Chinese Taipei and the People's Republic of China (PRC), and bolts, of iron or steel with hexagon heads, whether or not with their nuts and washers, originating in or imported from the PRC: Final determination

The International Trade Administration Commission of South Africa herewith presents its
**Report No. 105 SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON HEXAGON
NUTS, OF IRON OR STEEL ORIGINATING IN OR IMPORTED FROM CHINESE TAIPEI
AND THE PEOPLE'S REPUBLIC OF CHINA (PRC), AND BOLTS, OF IRON OR STEEL
WITH HEXAGON HEADS, WHETHER OR NOT WITH THEIR NUTS AND WASHERS
ORIGINATING IN OR IMPORTED FROM THE PRC: FINAL DETERMINATION**

A handwritten signature in black ink, appearing to read 'N.P. Maimela', is written over a horizontal line.

Ms N.P. MAIMELA
CHIEF COMMISSIONER

PRETORIA

19 April 2005

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

SUNSET REVIEW OF THE ANTI-DUMPING DUTIES ON HEXAGON NUTS, OF IRON OR STEEL ORIGINATING IN OR IMPORTED FROM CHINESE TAIPEI AND THE PEOPLE'S REPUBLIC OF CHINA (PRC), AND BOLTS, OF IRON OR STEEL WITH HEXAGON HEADS, WHETHER OR NOT WITH THEIR NUTS AND WASHERS ORIGINATING IN OR IMPORTED FROM THE PRC: FINAL DETERMINATION

SYNOPSIS

In accordance with the provisions of Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would likely lead to continuation or recurrence of dumping and injury.

On 23 July 2004, the Commission formally initiated a review of the anti-dumping duties on hexagon nuts, of iron or steel originating from Chinese Taipei and the People's Republic of China (PRC) and bolts, of iron or steel with hexagon heads, whether or not with their nuts and washers originating in or imported from the PRC. Notice of the initiation of the investigation was published in Notice No.1473 in *Government Gazette* No. 26576 dated 23 July 2004.

The investigation was initiated after the Commission considered that there was *prima facie* proof that expiry of the duties would likely lead to the continuation or recurrence of dumping of the subject product originating in or imported from Chinese Taipei and the PRC and that there was *prima facie* proof of the likely continuation and/or recurrence of material injury.

Exporters review questionnaires and importers review questionnaires were sent to the various known interested parties. None of the exporters/foreign manufacturers responded to the Commission's exporters questionnaire and only one importer, National Socket Screws (Pty) Ltd responded fully to the Commission's importers questionnaire.

For purposes of its preliminary decision, the Commission decided that the expiry of the duties is likely to lead to the continuation or recurrence of dumping of the subject product originating in or imported from Chinese Taipei and the PRC and that the expiry of the duties is likely to lead to the continuation or recurrence of material injury to the SACU industry.

After considering all parties' comments and representations in respect of the "essential facts" letters, the Commission made a final determination that the expiry of the duties is likely to lead to the continuation or recurrence of dumping of the subject product originating in or imported from Chinese Taipei and the PRC and that the expiry of the duties is likely to lead to the continuation or recurrence of material injury.

The Commission therefore decided to recommend to the Minister of Trade and Industry that the anti-dumping duties on hexagon nuts, of iron or steel originating in or imported from Chinese Taipei and the PRC, and bolts, of iron or steel, with hexagon heads, whether or not with their nuts and washers originating in or imported from the PRC, be maintained.

1. PETITION AND PROCEDURE

1.1 LEGAL FRAMEWORK

This investigation was conducted in accordance with the International Trade Administration Act, 2002 (ITA Act), the Anti-Dumping Regulations (ADR) and the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994 (the Anti-Dumping Agreement).

In accordance with the provisions of Article 11.3 of the World Trade Organisation Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition, unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, that the expiry of the duty would likely lead to continuation or recurrence of dumping and injury.

1.2 APPLICANT

The Applicant was South African Fasteners Manufacturers Association (SAFMA), a common law society with elected bearers without any stockholding or cross-holding interests. The application was lodged by CLS Consulting Services (Pty) Ltd, on behalf of SAFMA.

1.3 INVESTIGATION PROCESS

A response to the review questionnaire was received from SAFMA on 19 March 2004, and allocated to the Directorate on 25 March 2004. A deficiency letter was sent to the Applicant who then submitted an updated version of the Application on 7 June 2004.

The investigation was initiated through Notice No.1473 in *Government Gazette* No. 26576 on 23 July 2004. Exporters and importers review questionnaires were sent to various known interested parties, including the government representatives of the petitioned countries.

In the original investigation, definitive anti-dumping duties were also imposed on nuts of iron or steel originating in or imported from Australia. The SACU industry did not provide *prima facie* information to indicate that expiry of the anti-dumping duties on the subject products originating in or imported from Australia would be likely to lead to continuation or recurrence of dumping and injury. The Commission, therefore, recommended to the Minister of Trade and Industry that the anti-dumping duties on nuts of iron or steel originating in or imported from Australia, be withdrawn. The Commission's recommendation was approved by the Minister of Trade and Industry and implemented by SARS pursuant to Notice No. R. 1209 published in Government gazette No. 26902 on 15 October 2004.

1.4 INVESTIGATION PERIOD

The investigation period for dumping was from 1 July 2003 to 30 June 2004. The injury investigation involved evaluation of data for the period 1 July 2000 to 30 June 2004. An estimate of what the situation would be should the duties expire was also considered.

1.5 PARTIES CONCERNED

1.5.1 SACU industry

The respective SAFMA members involved in this application are CBC Fasteners and Transvaal Pressed Nuts and Bolts. The other manufacturers constituting the SACU industry concerned, were listed by the Applicant as follows:

1. Nedschroef Jhb (Pty) Ltd;
2. SA Bolt Manufacturers Company (Pty) Ltd;
3. Impala Bolts and Nuts SA (Pty) Ltd;
4. Bolt Corporation;
5. Automatic Mass Production (Pty) Ltd; and
6. Hi Tec.

The Applicant stated that Messrs National Bolts (Pty) Ltd, which was party to the original application for the institution of the anti-dumping duties, has since terminated production primarily due to the effect that the imported subject goods had on its financial position.

Comments by Price Waterhouse Coopers (PWC)

In its comments to the non-confidential application, Price Waterhouse Coopers (PWC), acting on behalf of Bearing Man stated that the allegation that National Bolts has terminated production, primarily due to the effect imports have had on its financial position, is unsubstantiated.

Comments by CLS Consulting

In responding to the comments by PWC, CLS, on behalf of the Applicant stated that it submits that it has adduced *prima facie* evidence of the injurious effect that imports have had on the domestic industry. The onus vests on the respondent to

refute the necessary evidence adduced and failure to submit an effective refutation requires a ruling in favour of the complaining party presenting the *prima facie* case (WTO Panel report *EC-ed linen* paragraph 6.4.4).

1.5.2 Exporters/Foreign Manufacturers

The following exporters/manufacturers were identified as interested parties:

- (a) Shanghai Fasteners Co; PRC
- (b) Changsu Standard Co Ltd, PRC
- (c) Beilun Hardware Factory, PRC
- (d) Ningbo Ningli High-Strength Fasteners Co Ltd, PRC
- (e) Jiangsu Standard Fasteners Co, PRC
- (f) Shanghai Fasteners Import and Export Co Ltd, PRC
- (g) Chite Enterprises Co Ltd, Chinese Taipei
- (h) Newill Co Ltd, Kaosiung, Chinese Taipei
- (i) Rei-lin Solid Brass Co Ltd, Kaohsiung, Chinese Taipei
- (j) San Shing Fastech Corp, Chinese Taipei
- (k) Shih Hsang Ywa Industrial Inc., Chinese Taipei
- (l) Kao Fen Bolt Co Ltd, Chinese Taipei

None of the abovementioned manufacturers responded to the Commission's exporters questionnaire.

1.5.3 Importers

The following SACU importers were identified as interested parties:

- (a) Action Bolt (Pty) Ltd
- (b) Boltfix (Pty) Ltd
- (c) Boltfast CC
- (d) Disa Hardware Dist. (Pty) Ltd

- (e) National Socket Screws (Pty) Ltd
- (f) Hi-Tec Nuts (Pty) Ltd
- (g) G & W Fasteners (Pty) Ltd
- (h) Gracal Trading (Pty) Ltd
- (i) Bolt World (Pty) Ltd
- (j) Supafix
- (k) Springset (Pty) Ltd
- (l) UPL Socket Screws (Pty) Ltd
- (m) Ace Fasteners
- (n) President Bolt & Tool Co.
- (o) Multi Thread
- (p) Bolt Nut & Engineering Supplies CC
- (q) Cape Fasteners Supplies CC
- (r) Kramp S.A.
- (s) Fastener Agencies
- (t) Fasteners Technologies.

A complete response was received from National Socket Screws (Pty) Ltd. Information submitted by National Socket Screws (Pty) Ltd was verified on 09 November 2004.

Comments by Bearing Man

Although Bearing Man is not listed as an interested party in the application as it or any of its related corporate entities has not imported the subject product, it stated that it ranks in the top ten clients of both entities detailed in the sunset review application as industry representatives, in terms of value of sales. As such it has a direct financial interest in the outcome of this sunset review application.

Bearing Man stated that it is a major purchaser and distributor of the subject goods, currently purchasing it from the SACU industry. It stated that as purchaser and distributor of the subject goods it has a broad understanding of the SACU market, its size, expectations, and growth as well as the anticipated needs of the end-user. It stated that the information it submitted would provide the Commission with a broad view of the industry.

Comments by CLS Consulting

In responding to PWC's comments, CLS stated that it was unable to obtain the necessary information, despite efforts made. CLS further stated that the matter has no real bearing on the investigation and does not warrant any adverse inference.

The Commission found that the sunset review was initiated after it was satisfied that the collective output of the two companies providing material injury information constituted a major proportion of the total domestic production of the subject products in accordance with Article 4.1 of the Anti-Dumping Agreement. Consequently, and as indicated by CLS, the Commission found that this matter has no real bearing on the investigation.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

SUBJECT PRODUCT

Description

The subject products are described as hexagon nuts, of iron or steel originating from Chinese Taipei and the PRC, and bolts, of iron or steel with hexagon heads, whether or not with their nuts and washers originating in or imported from the PRC.

Country of origin/export

The subject products are exported from Chinese Taipei and the PRC.

Application/end use

The imported subject products are used as a joining material in almost all industries, i.e. mining, construction, agriculture, utilities, process industries, automotive industry, general engineering and the do-it-yourself market.

Tariff classification

The subject product is classifiable as follows:

Table 2.1.4

Tariff subheading	Description	Duty		
		General	EU	SADC
73.18 7318.1 7318.15 7318.15.90	Screws, Bolts, Nuts, Coach Screws, Screw Hooks, Rivets, Cotters, Cotter-pins, Washers (including Spring Washers) and Similar Articles, of Iron or Steel: - Threaded articles: - Other screws and bolts, whether or not with their nuts or washers: - -Other	10%	10%	free
73.18 7318.1 7318.16 7318.16.90	Screws, Bolts, Nuts, Coach Screws, Screw Hooks, Rivets, Cotters, Cotter-pins, Washers (including Spring Washers) and Similar Articles, of Iron or Steel: - Threaded articles: -Nuts: - Other	10%	10%	free

Other applicable duties and rebates

The subject product is subject to the following anti-dumping duties:

Table 2.1.5

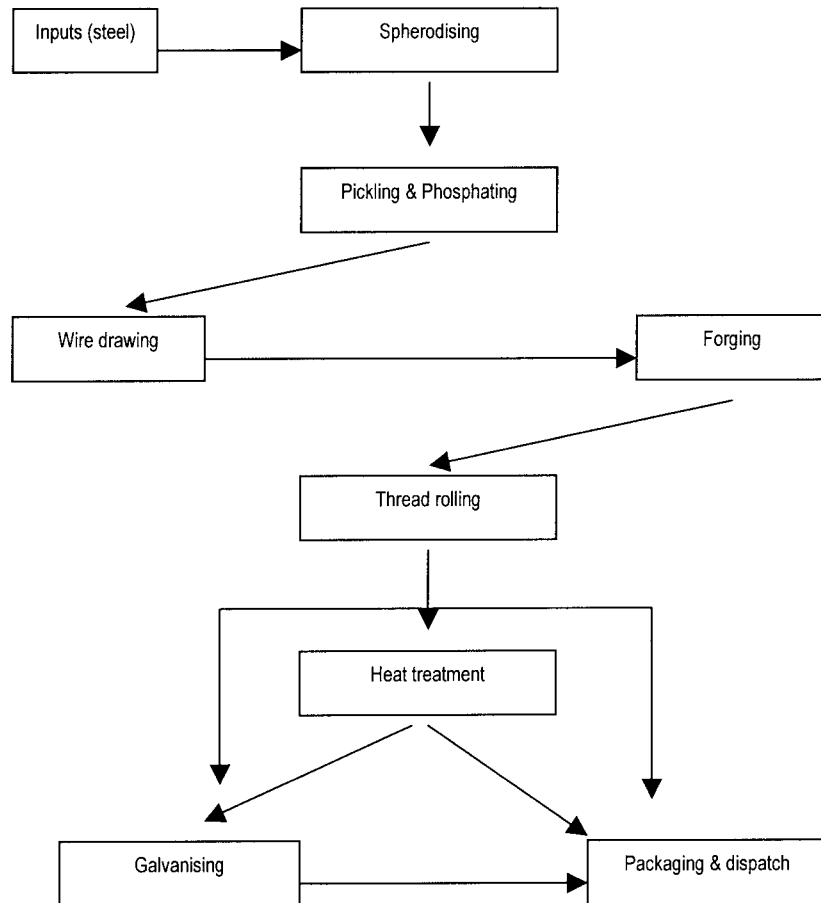
Tariff subheading	Description	Imported from or originating in	Rate of Anti-Dumping Duty
7318.15	Bolts, of iron or steel, with hexagon heads (excluding bolts of stainless steel and bolts identifiable for use solely or principally on aircraft), of a width of 6mm or more but not exceeding 36mm and a length of 10 mm or more but not exceeding 400 mm, whether or not with their nuts and washers	PRC	29%
7318.16	Hexagon nuts, of iron or steel (excluding dome nuts, nuts with nonmetallic inserts, nuts of stainless steel, nuts identifiable for use solely or principally on aircraft and collared nuts), of a thread diameter of 6 mm or more but not exceeding 36 mm, (excluding self locking nuts of a thread diameter exceeding 10 mm)	PRC	36%
7318.16	Hexagon nuts, of iron or steel (excluding dome nuts, nuts with nonmetallic inserts, nuts of stainless steel, nuts identifiable for use solely or principally on aircraft and collared nuts), of a thread diameter of 6 mm or more but not exceeding 36 mm, (excluding self locking nuts of a thread diameter exceeding 10 mm)	Chinese Taipei	23%

2.1.6 Possible tariff loopholes

The Applicant stated that they are aware of and are experiencing substantial increases of imports of unthreaded nuts and bolts into SACU, which product does not carry any duties. It stated that they have good reason to believe that these products are imported and sold on the SACU market in order to circumvent the payment of import duties. The Applicant stated that imported unthreaded nuts and bolts are then threaded by importers and sold in direct competition with domestically produced product.

Production process

The Applicant provided the following diagram to illustrate the production process:



2.2 SACU PRODUCT

2.2.1 Description

The SACU products are described as hexagon nuts, of iron or steel and bolts, of iron or steel with hexagon heads, whether or not with their nuts and washers.

2.2.2 Application/end use

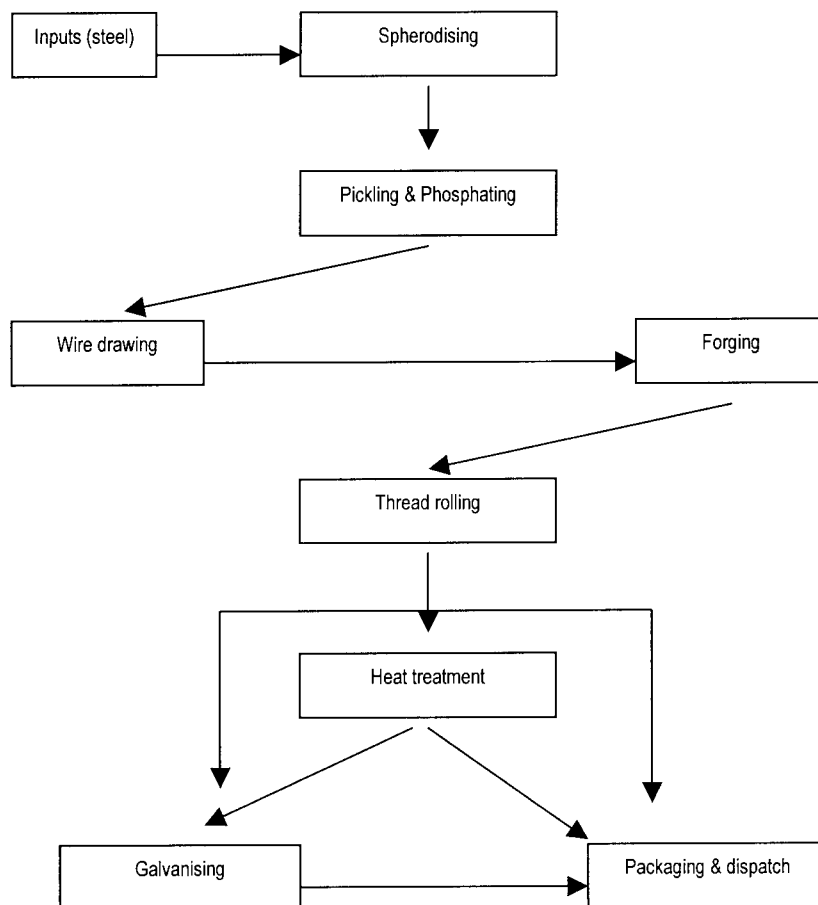
The SACU products are also used in almost all industries in joining materials, i.e. mining, construction, agriculture, utilities, process industries, automotive industry, general engineering and the do-it-yourself market.

2.2.3 Tariff classification

The SACU products are currently classifiable under tariff subheadings 7318.15.90 and 7318.16.90.

2.2.4 Production process

The following production process is used:



2.3 LIKE PRODUCTS

2.3.1 General

In order to establish the existence and extent of injury to the SACU industry, it is necessary to determine whether the products produced by the SACU industry are like products to those originating in or imported from Chinese Taipei and the PRC.

Article 2.6 of the Anti-Dumping Agreement provides as follows:

“Throughout this Agreement the term like product (produit similaire) shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration..

2.3.2 Analysis

In determining the likeness of products, the Commission uses the following criteria:

- (a) raw material used;
- (b) physical appearance and characteristics;
- (c) method of manufacturing;
- (d) customer demand and end use; and
- (e) tariff classification.

- (a) Raw material

Steel is the raw materials for both the imported and the SACU product.

(b) Physical appearance and characteristics

The imported and the domestic products have similar physical appearance and characteristics, but there may be a difference in the steel qualities used in the manufacturing of the subject product.

The Applicant stated that the SACU product has characteristics closely resembling the imported nuts and bolts and are therefore like goods to the subject products.

(c) Method of manufacturing

The imported and the domestic products are manufactured using the same method.

(d) Customer demand and end-use

The demand and the end use of the products sold domestically and those imported are the same for purposes of comparison.

(e) Tariff classification

The products sold domestically and those imported are classifiable under the same six-digit tariff subheading.

Comments by National Socket screws

National Socket Screws (NSS), an importer of the subject products stated that all hexagon products imported by it are manufactured to international specifications: e.g.- Mild Steel Bolts to DIN 601, Mild Steel Set Screws to DIN 558, High Tensile Bolts to DIN 931, High Tensile Set Screws to DIN 933, Mild Steel Nuts to DIN 555 and High Tensile Nuts to DIN 934.

It stated that Transvaal Pressed Nuts, Bolts & Rivets (TPN) does not manufacture to DIN specification. Thus in most cases do not compete directly with this applicant. It stated that TPN only manufactures mild steel grade 4.8 lock nuts, thus the high tensile lock nuts grade 8.8, imported by them should be duty free.

It stated that CBC Fasteners, does not manufacture any lock nuts DIN 439, imperial bolts or nuts, and yet they request that a dumping duty be imposed on these products. It stated that CBC manufactures nuts to DIN 934 and ISO 4032 specifications. NSS imports mild steel nuts to DIN 555 specifications, and thus do not compete with the same products.

NSS stated that it imports and sell mild steel bolts DIN 601 as a bolt only, CBC only sells this as a combination of bolt and nut, again they do not compete with the same products.

The Commission found that the application was brought by SAFMA on behalf of the SACU manufacturers of the subject products. Thus although it might be true that TPN, one of companies providing material injury information does not manufacture the products to DIN specification other SACU manufacturers do.

Furthermore, in the original investigation the Commission decided that the SACU product and the imported products are "like products", for purposes of comparison, in terms of Article 2.6 of the Anti-Dumping Agreement.

3. SACU INDUSTRY

3.1 INDUSTRY STANDING

Article 11.3 of the Anti-Dumping Agreement provides as follows:

“Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly **substantiated request made by or on behalf of the domestic industry** within a reasonable period of time prior to that date, that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury. The duty may remain in force pending the outcome of such a review.”

Article 5.4 of the Anti-Dumping Agreement, further provides as follows:

“The application shall be considered to have been made by or on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry.”

SAFMA represents 95 per cent of the domestic production of the subject products in SACU and has been mandated by its members to apply for the maintained anti-dumping duties on the products under investigation.

The Applicant stated that it is not aware of any opposition to this application and represents at least 95 per cent of the SACU production. It is aware of the existence of a small producer in Botswana, but the Applicant could obtain no further detail as to the address and position of this producer.

It stated that in view of the unlikeliness that this, or any other producer involved in the production of the products under investigation, will oppose this application, accepted that the application enjoys 100 per cent support from domestic producers of the subject goods.

The Applicant stated that for the sake of comprehensiveness it wants the Commission to note that not all members of the Applicant are involved in the production of the subject goods. Other products produced by SAFMA members include screws, roofing screws, coal and road picks, bolts and nuts outside the range of like products with a diameter 730 mm and length more than 180 mm, lock bolt pins, rivets, hot rolled metal products and other metal forgings.

The two members, selected by the Applicant, account for 66.6 per cent of the estimated local production of the subject products.

The Applicant provided the following information with regard to the support and/or opposition to the petition:

Table 3.1

Industry Standing			
Average kilogram per annum production			
Manufacturer	Production volume- Support petition (A)	Production volume - Oppose petition (B)	Production volume - Neutral (C)
Applicant: SAFMA	95%	0	0
Other Manufacturers		0	5%

Based on the information supplied by SAFMA, the petition was supported by 95 per cent of the SACU industry. It was evident that the petition was supported by domestic producers whose collective output constitutes more than 25 per cent of the total production of the like product produced by the

domestic industry and more than 50 per cent of the total production of the like product produced by those expressing an opinion on the application.

The Commission decided that the application can be regarded as being made “by or on behalf of the domestic industry” under the above provisions of the Anti-Dumping Agreement.

4. DUMPING

Article 11.3 of the Anti-Dumping Agreement provides as follows:

“Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, **that the expiry of the duty would be likely to lead to continuation or recurrence of dumping** and injury. The duty may remain in force pending the outcome of such a review.”

4.1 DUMPING

Section 1 of the ITA Act, provides a definition of the term “dumping”. The Act provides as follows:

“‘dumping’ means the introduction of goods into the commerce of the Republic or the Common Customs Area at an export price contemplated in section 32(2)(a) that is less than the normal value, as defined in section 32(2), of those goods;”

4.2 NORMAL VALUE

Normal values are determined in accordance with section 32(2) of the ITA Act. This section provides as follows:

“normal value”, in respect of any goods, means-

- (i) the comparable price paid or payable in the ordinary course of trade for like goods intended for consumption in the exporting country or country of origin; or
- (ii) in the absence of information on a price contemplated in subparagraph (i), either-
 - (aa) the constructed cost of production of the goods in the country of origin when destined for domestic consumption, plus a reasonable addition for selling, general and administrative costs and for profit; or
 - (bb) the highest comparable price of the like product when exported to an

appropriate third or surrogate country as long as that price is representative;”

Section 32(4) of the ITA Act further provides as follows:

“If the Commission, when evaluating an application concerning dumping, concludes that the normal value of the goods in question is, as a result of government intervention in the exporting country or country of origin, not determined according to free market principles, the Commission may apply to those goods a normal value of the goods, established in respect of a third or surrogate country.”

4.3 EXPORT PRICE

Export prices are determined in accordance with section 32(1) of the ITA Act which provides as follows:

“‘export price’, subject to subsections (3) and (5), means the price actually paid or payable for goods sold for export, net of all taxes, discounts and rebates actually granted and directly related to that sale;”

Section 32(5) and 32(6) of the ITA Act further provides as follows:

“(5) The Commission must, despite the definition of “export price” set out in subsection (2), when evaluating an application concerning dumping that meets the criteria set out in subsection (6), determine the export price for the goods in question on the basis of the price at which the imported goods are first resold to an independent buyer, if applicable, or on any reasonable basis.

(6) Subsection (5) applies to any investigation of dumping if, in respect to the goods concerned -

- (a) there is no export price as contemplated in the definition of dumping;
- (b) there appears to be an association or compensatory arrangement in respect of the export price between the exporter or foreign manufacturer concerned and the importer or the third party concerned; or
- (c) the export price actually paid or payable is unreliable for any other reason.”

The Applicant stated that the official import statistics represent a distorted value of the subject goods, imported into the SACU region and that this distortion originates from the fact that the relevant tariff subheadings 7318.16.90 and 7318.15.90 of hexagon nuts and hexagon nuts and bolts respectively into the SACU region include stainless steel nuts and stainless steel bolts, which do not fall within the scope of the subject goods.

The description relevant to the respective tariff subheadings only exclude amongst others nuts and bolts of stainless steel of a certain thread diameter, destined for use in the aircraft industry. Other stainless steel nuts and bolts are still being imported into the SACU region under said tariff headings.

Stainless steel products in general are much higher valued products, which results in inflated prices in so far as imported products under the relevant subheadings are concerned and which does not reflect the real prices for subject goods imported into SACU.

In order to provide the Commission with an indication of the prevailing prices for imported steel nuts and bolts in the domestic market, the Applicant approached clients over some time to obtain price quotes and although no definitive prices were obtained, it is apparent with reference to the official Customs and Excise Import Statistics, that subject goods are being imported at prices substantially lower than those of the selling prices of Applicant in the domestic SACU market. Market experience of the Applicant also reflects this.

In order to address these inaccurate prices, the Applicant recommended that the import prices, as it then appear on the official Customs and Excise Import Statistics, be adjusted to allow for a proper comparison of prices on a per kilogram steel nuts and bolts price basis, which comparison excludes the higher valued stainless steel products. In consideration of the above-noted, account needs to be taken of the following:

- a) There are two principal groups determined by the materials used in the

imports of nuts and bolts, namely Steel and Stainless Steel.

- b) The Applicant competes in the steel group only.
- c) The Applicant is the majority supplier of locally produced steel nuts and bolts to the SACU market.
- d) The Applicant supplies the SACU market and competes with imports of subject goods in this sector as it represents the primary producers in SACU, except for a few other producers accounting for an insignificant volume.

In order to establish a prima facie basis that imports of subject goods are being sold at dumped prices and are causing material injury to the SACU industry, the following methodology has been applied by the Applicant in so far as the determination of the export price in the country of origin is concerned in order to reflect the true value of the subject goods being imported into SACU.

- a) Nuts and bolts sold on the exporter's domestic markets:
 - (i) Retail purchase transactions on steel nuts and bolts by supported quotes, were obtained on various sizes of nuts and bolts, which fall within the scope of subject goods for purposes of this review investigation.
 - (ii) A per kilogram average weight for the steel nuts and bolts on which price quotes were obtained, were determined.
 - (iii) A per kilogram average price for the specific steel nuts and bolts on which prices were obtained, were determined.
 - (iv) Based on the above information, the determined average per kilogram steel nuts and bolts prices serve as basis for the domestic price in the country of origin for purposes of comparison.

b) Nuts and Nuts and Bolts imported into SACU

The Applicant made the following premises and assumptions in determining a per kilogram import price for the subject goods (steel nuts and bolts), in order to establish a sound basis for comparison with the domestic market selling price.

(i) In the absence of any other reliable source of imports into SACU, the Applicant had to rely on the official Customs and Excise import statistics, imported under tariff headings 7318.16.90 and 7618.15.90. The Customs and Excise Official Import Statistics are reported in tons imported and not in number of units imported, whilst the unit of measurement is in kg.

(ii) The official Customs and Excise Import Statistics include under the noted tariff headings, stainless steel nuts and bolts as part of the subject goods, it is necessary to eliminate the stainless content from the imported products. In order to do this, the Applicant made the following assumptions:

- the market for steel and stainless products are based in accordance to market information and experience of Applicant on a 80:20 split between steel and stainless steel in terms of volume of nuts and nuts and bolts marketed every year in the SACU region;
- whereas kilogram is the unit of measurement for imported products, it was necessary to determine a per kilogram price for steel nuts and bolts exported to SACU in accordance with the methodology followed to determine the domestic selling price of the subject goods;
- pursuant to the above-noted and in order to establish a proper basis for comparison, the Applicant also had to convert its production of steel nuts and bolts to a per kilogram one and

subsequently determine the per kilogram selling cost;

- the fact that stainless steel nuts and bolts represent a higher valued product than steel nuts and bolts, the value of imported product into SACU had to be apportioned on a weighted average basis to cater for these differences.

Based on these premises, a functional calculation model was developed by the Applicant, which allows for the conversion of the imported goods as reflected in the official statistics for the investigation periods, into volumes on a per kilogram basis and values by country for specifically nuts and bolts. This model enables the Applicant to determine the kilograms imported as well as the import values. This methodology allows for the differentiation based on type nuts and bolts (steel versus stainless steel) as well as the individual import values of said.

The following assumptions were made by the Applicant in respect of the above variables for the purposes of this application:

Number of steel nuts and bolts versus stainless steel nuts and bolts –

Market research studies show that steel nuts and bolts represent approximately 80 per cent of the total number of nuts and bolts produced world wide and that the market in South Africa is very similar to this trend. Failing any other facts as to the number of steel nuts and bolts being imported versus the number of stainless steel nuts and bolts it has been assumed that this ratio by number of nuts and bolts applies to the imports statistics.

Weight of steel nuts and bolts versus stainless steel nuts and bolts-

Research has indicated that there are no significant differences between the weights of steel nuts and bolts and stainless steel nuts and bolts with steel nuts and bolts only slightly heavier than similar stainless steel products. This slight

difference has been accounted for in the calculations.

Price ratio steel nuts and bolts versus stainless steel nuts and bolts

Having established the number of steel nuts and bolts and the mass in tons for these products, it is necessary to break down the value of the imports into the two categories. For this purpose it is necessary to establish a ratio between the price of steel nuts and bolts versus stainless steel nuts and bolts and for this assumption a ratio was established through enquiries on the local market for prices of stainless steel nuts and bolts versus steel nuts and bolts and it was determined that a ratio of 5:1 in favour of stainless steel against steel products exists.

Given this variable it was now possible for the Applicant to establish an average import value for steel nuts and bolts and stainless steel nuts and bolts from the import statistics on a per kilogram basis.

From the resultant data, the imported average price per kg for each country was calculated and these figures used for purposes of comparing the Applicant's prices with imported prices of subject goods and for the calculation of the dumping margins, as well as volumes for the determination of market share, as reflected in the Petition.

The Applicant wishes to draw attention to the fact that changes in the variables used, as well as the application of different assumptions pertaining to the exporters identified in this investigation, may result in different results. It is however apparent that the various scenario analysis all support the prima facie conclusion that subject goods are being imported into SACU at dumped prices, which lend integrity to the data submitted.

The selection of variables and assumptions made pertaining to the exporting countries, were based on the Applicant's market experience and market research done by the Applicant and it is therefore submitted by it that it represents the most accurate presentation of import data of steel nuts bolts.

As no comments were received on the model used by the Applicant the Commission decided to accept it.

4.4 ADJUSTMENTS

Article 2.4 of the Anti-Dumping Agreement provides as follows:

“A fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability. In the cases referred to in paragraph 3, allowances for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made. If in these cases price comparability has been affected, the authorities shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or shall make due allowance as warranted under this paragraph. The authorities shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties.”

Both the Anti-Dumping Agreement and the ITA Act provide that due allowance shall be made in each case for differences in conditions and terms of sale, in taxation and for differences affecting price comparability. The Commission considers that for an adjustment to be allowed, quantifiable and verified evidence has to be submitted, and it must further be demonstrated that these differences actually affected price comparability at the time of setting the prices.

4.5 COMPARISON OF EXPORT PRICE WITH NORMAL VALUE

The margin of dumping is calculated by subtracting the export price from the normal value of the product (after all adjustments have been made). The margin is then expressed as a percentage of the export price. If the margin

is less than two percent, it is regarded as *de minimis* in terms of the Anti-Dumping Agreement and no anti-dumping duty will be imposed.

4.5.1 INFORMATION SUPPLIED BY THE APPLICANT

The Applicant stated that although US and European producers have indicated to it that they plan to proceed with trade action in the form of anti-dumping measures against imports of nuts and bolts products from amongst others Chinese Taipei and China, the Applicant could not find any official confirmation that such applications have been initiated as yet.

The Applicant also submitted that, in a report of the National Technical Information Service of the US Department of Commerce, the industrial fastener industry, which includes the subject goods, was analyzed and the following conclusions were reached:

1. Global Industry Trends

The “standards” (commodity type) segment of the industrial fastener industry is global in nature. Countries with relatively low labour costs have an advantage in producing large numbers of standard products at relatively low prices. The Report found that for a number of years Chinese Taipei and Japan were the principal suppliers of standards to the world market, but because of increased labour costs, they are facing increased pressure from lower cost producers such as the PRC.

Developing countries seeking to build their domestic fastener industries initially are very dependent on exports as their domestic markets are limited.

Many of the larger fastener companies are pursuing strategies of acquisitions and mergers to expand product lines and enter into new markets.

2. Projections of trade and industry growth

The report expected a 3 per cent growth for the industry in 2000. Global demand for industrial fasteners will continue to grow as most industrialised and developing countries are expanding their manufacturing base.

The report expects the world fastener industry to become even more competitive as developing countries expand their fastener industries and acquire the skilled workers and technology needed to produce higher quality fasteners. There will also according to the Report, be a global trend towards consolidation.

The Applicant submitted that note should further be taken of an Investor's Analysis Report of Bossard Industrial G8 S1 Switzerland. Bossard is a leading producer of industrial nuts and bolts in Europe. The Report refers to the fact that the world market for fasteners is worth USD 36.4 billion. The market was growing at a rate of 5.8 per cent per annum over the past 10 years and is dependent on industrial production increases.

There are more than 10 000 manufacturers of the subject goods worldwide with the top producers in Asia, San Shing (Chinese Taipei) and Tang Hivei (Chinese Taipei, Malaysia and China) known as the world's biggest producers.

Overall, the Bossard report finds that more and more fasteners are now being produced in Asia, a trend born out by US import statistics for fasteners.

The Bossard report's findings by and large corroborate the findings of the National Technical Services Report that Chinese Taipei producers have substantial surplus capacities available as well as substantial capacities to maintain exports to amongst others SACU. This is further borne out by a report "The Impact of Technology Transfer on the Development of SME's in Chinese

Taipei: A Case Study of Fastener Industry” by Rony – I Wu and S Hsiu-Yang Lin, dated January 1998. The Applicant stated that it is evident from this report that the Chinese Taipei fastener industry is export orientated, and that it is further clear that in order to diversify the risk of market concentration, Chinese Taipei producers have endeavored to continuously tap new markets.

The Applicant stated that the fact that the SACU market has also been targeted, is evidenced by the fact that despite the imposition of anti-dumping duties, Chinese Taipei and Chinese producers have maintained exports to SACU in substantial quantities with an absolute surge in exports of subject goods of 239 per cent from years 2002 to 2003. Imports from the PRC increased from October 2003 to November with a substantial 144 per cent whilst those from Chinese Taipei increased with 326 per cent. The Applicant stated that the problem is even more acute when account is taken of the strengthening of the South African Rand against especially the US Dollar, which enhances the likelihood of further increased imports into the SACU region.

The Applicant stated that pursuant to what was stated above, an article from Fastener World Jul / Aug 2003 p 96 “Chinese Taipei – The Best Location of Developing Fasteners Industry in the World” by Mr. John Wu, Chairman of the Chinese Taipei Industrial Fasteners Association confirms the conclusions reached in above noted reports and states that Chinese Taipei’s producers accounted for 1.33 million tons of fasteners produced in 2002, which represent 10.6 per cent of total world production.

The Applicant stated that Chinese Taipei’s income from fasteners amounted to only 4.9 per cent of the total world wide income from fasteners, with a unit price of 1.32US\$ per kilogram. The global supply unit price in comparison amounted to 2.88US\$ per kilogram and the Japanese supply 2.28US\$.

The Applicant provided the following extract from the article to prove the fact that the Chinese Taipei industry needs to export subject goods and for that matter at depressed prices, to maintain market share:

“Chinese Taipei fastener industry is a typical type of export-orientated industry because 90 per cent of the output is bound for exportation. The export volume in 1993 was 580 thousand metric tons (accounting for 11 per cent of global supply), however, the average unit price dropped to US\$1.30 kg. In other words, with the hard work of over a decade, though the export volume grows by more than one fold over, the export unit price lowers by more than 10 per cent.”

In so far as the PRC is concerned, the Applicant referred to an article from Chinese Fasteners and Wire of Oct 2003 on p 90-107 “Analysis on current status of China’s fastener products imports and export and forecasts on markets.”:

“Amongst other factors noted, the number of enterprises in the sector of fastener business already reached up to 6800 in 2002. The total production volumes amounted to 2.5million metric tons. Exports generating 574 million US\$ from exportation, an increase of 16.25 per cent from 2001.”

The Applicant stated that the PRC exported 658 metric tons of steel fasteners in 2002, which represents an increase of 26.42 per cent from 2001. The Applicant notes the following in so far as exports are concerned:

“On the whole, exports were in pretty good shape, showing a steady and upward developing trend. The products showing large increase in export volume include self-tapping screws (+87.51 per cent), rivets (+54.58 per cent) other wood screws (+39.64 per cent) pins and cotter pins (+36.19 per cent), washers (+33.91 per cent), other threaded steel products (+30.99 per cent), bolts and screws (+26.44 per cent), but what is quite note-worthy was that the eight categories showed decline in terms of unit price while only two categories, round headed screws and open ended pins, showed an increase.”

The Applicant stated that bolts rank first among fasteners in export volumes with 302 thousand metric tons exported in 2002, accounting for 45.91 per cent of total export volume an increase by 26.44 per cent from 2001.

The writer from “Chinese Fasteners and Wire” further anticipates, according to the Applicant, a substantial growth in China’s fastener industry with exports keeping an annual two-digit growth, realizing a “three year ahead” timeframe to achieve the 550 million US dollars goal.

The Applicant stated that it is clear from the above that it is well within the capacities of the Chinese and Chinese Taipei industries to substantially increase their exports to SACU.

Chinese Taipei

The Applicant stated that Chinese Taipei in general has in accordance with the OECD Report a dynamic capitalist economy with gradually decreased guidance of investment and foreign trade by government authorities.

(See <http://www.nationmaster.com/country/tw/economy>).

The Applicant stated that Chinese Taipei has a real growth in GDP, which averaged at about 8 per cent during the past 3 decades and that exports have further according to the OECD report provided the primary income for industrial growth. It stated that the trade surplus is substantial and foreign reserves are the world’s largest and that Chinese Taipei has become a major investor in amongst other countries, the PRC. According to the Applicant it suffered little compared with neighbours from the Asian financial crisis of 1998-99.

The PRC

The Applicant stated that the PRC has in accordance to the OECD report since 1978 moved from a Soviet style economy to a more market orientated economy and that the authorities have changed to a system of household and village responsibilities, permitting a wide variety of small scale enterprises. It stated that the result has been quadrupling of GDP since 1978, and that in 2002 with its 1.28 billion people, the PRC stood as the second largest economy in the world after the

US.

According to Fastener World Jul / Aug 2003 p125, the PRC tried to maintain the annual GDP growth rate of 7 per cent.

The Applicant stated that objective data obtained and pertaining to the volume of imports from the countries under investigation for the period before the initiation of this review clearly indicates the intention of these countries to maintain exports of subject goods at dumped prices to the SACU industry. It stated that it is also apparent on analysis of all import statistics that the SACU market is inundated with imports from other countries and further action is contemplated by the Applicant to curb such imports in order to secure the financial survival of its members.

The Applicant stated that the volumes concerned as well as the margins of dumping are indicative of the fact that the exporter needs to dump to sell its products in the SACU region at pre-order volumes and at hugely dumped prices.

The "Sunset Policy Bulletin" of the US Department of Commerce accepts that "... continued margins at any level above de minimus, will lead to a finding of likelihood of continued dumping". The Applicant stated that the existence of dumping margins after the order or the cessation of imports after the order, are regarded as highly probative of the likelihood of continuation or recurrence of dumping.

The provisions of the Sunset Policy Bulletin in turn find its origin in Section 75.2(c) of the US Tariff Act of 1930, which determines that in making a finding on the re-implementation of an anti-dumping duty, the Department shall consider the weighted average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after issuance of the anti-dumping duty orders.

The provision in the Sunset Policy and in fact the Policy itself was the subject of an appeal against the finding of the WTO Panel Report “United States – Sunset Review of Anti-Dumping Duties on Corrosion Resistant Carbon Steel Flat Products from Japan WT/DS244R of 14 August 2003.

The Appellate Body decision (Ref United States – Sunset Review of Anti-Dumping Duties on Corrosion Resistant Carbon Steel Flat Products from Japan AB2003-4 WT/DS 244/N3/R 15 December 2003) is of specific interest in this matter in so far as consideration of factors, indicative of the likelihood of recurring dumping, are concerned.

The Applicant stated that the heart of the issue, which the Appellate Body adjudicated on, was whether the DOC was indeed entitled to re-imposed anti-dumping duties in the presence of the following factors as defined in the Sunset Policy Document Section II A3, namely:

- a) determining import volumes accompanied by the continued existence of dumping margins after the issuance of the order, may provide a strong indication that, absent of an order, dumping would be likely to continue because evidence would indicate that the exporter needs to dump to sell at pre-order volumes;
- b) existence of dumping margins after the order, or the cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that to re-enter the US market, they would have to resume dumping.

The Appellate Body eventually determined that the wording and directives of the Sunset Policy Document allows the US DOC sufficient leeway to exercise their

discretion in consideration of the question whether a likelihood or recurring dumping exists.

The Applicant submitted that the relevant statutory provisions applicable to Sunset Reviews provides the Commission with a wide discretion to consider all factors necessary to determine the likelihood of recurring dumping and no policy document restricts the discretion in any notable way in accordance to the provisions of the Anti- Dumping Agreement.

It is however submitted by the Applicant that the factors above-noted on which the US DOC to a large degree, relies on for indications of recurring dumping after termination of an anti-dumping duty, are also very relevant and appropriate in this instance, as it falls well within the “limited universe of practical scenarios” (p63 of the Appellate Body decision) relevant to be considered at sunset reviews and may well be in most instances the determinative factor.

The Appellate Body specifically agrees with this contention (p66.)

The Appellate Body (p63) subsequently states that they see no problem in principle with the investigating authorities taking account of dumping margins and import volumes in every sunset review.

“These factors will often be pertinent to the likelihood determination and Japan itself does not dispute the relevance of at least one of them namely dumping margins.”

The Panel (p165 par 177) continues:

We would have difficulty accepting that dumping margins and import volumes are always ‘highly probative’ in a sunset review by US DOC if this means that other or both of these factors are presumed by themselves to constitute sufficient evidence that the expiry of the duty would be likely to lead to continuation or recurrence of dumping. Such presumption might

have some validity when dumping has continued since the duty was imposed (as in the first scenario identified in Section 11 A3 of the Sunset Policy Bulletin) particularly when such dumping has continued with significant margins”.

Factors Indicative of the Likelihood of Recurring Dumping according to the Applicant:

- a) In view of the fact that due cognisance is taken of the importance of the continued selling of imported at dumped prices, it is significant that Chinese Taipei and the PRC have persisted with the practice of selling subject goods on the domestic SACU markets at significantly dumped margins.

The Applicant stated that the margin applicable to the 2003 Year being the last full year of imports, is in accordance with general accepted practices in sunset review investigations, accepted as the margin most likely to prevail. In this instance, the following margins were calculated:

Chinese Taipei	Nuts	19.08 %	
The PRC	Nuts	61.11%	Nuts & Bolts 173.88%

- b) The factor that dumping has continued at significant margins and import volumes lead to the presumption of continued imposition of anti-dumping duties according to the Appellate Body decision (ibid p165 par 177). In this instance, import volumes from China and Chinese Taipei have significantly decreased right after the imposition of the anti-dumping duties in 1999, but have since increased significantly with a substantial surge of 144 per cent from China and 326 per cent from Chinese Taipei during the last months of 2003. An absolute increase of imports of 239 per cent from 2002 and 2003 of subject goods into SACU took place.

The Applicant stated that pursuant to the other factors highlighted in the application, such as the production capabilities of Chinese Taipei and the PRC in so far as the subject goods are concerned and the fact that these industries are net exporters of subject goods, it is only reasonable to conclude that a likelihood for the continued selling of subject goods at dumped prices exist and/or that dumping of subject goods would recur, should the anti-dumping measures be terminated.

Comments by Bearing Man

General Comments

Bearing Man stated that possibly the single most important consideration for the Commission in this investigation, is the consideration of the PRC accession to the World Trade Organisation (WTO) and the deliberations surrounding its ongoing determination and negotiation of its free market economy status.

It stated that with the accession of the PRC to the WTO, South Africa and the SACU is bound, in terms of the WTO rules, to observe and abide by the terms of the accession agreement negotiated and agreed to as between the PRC and the WTO.

It stated that in the light of the mandate granted the PRC producers in terms of the provisions of 15(a) (i), ITAC is obliged to consider all information that may indicate the functioning of a market economy in the industry of the manufacture of the like product, within the PRC. The focus of the investigation is in this instant the fastener industry.

It stated that in order to assist in such determinations, the United States Commerce Department has devised the following six determinants, which it believes would assist in a similar determination in this instance:

- The extent to which the currency is convertible into currencies of other countries;

Bearing Man stated that although the PR maintains two currencies (in much the same fashion as the Rand/finrand was maintained by the previous South African regime) the Yuan is a fully convertible currency, and accepted in the PRC for trade, remitted and internationally convertible.

- The extent to which wage rates are determined by free bargaining between labour and management;

Bearing Man stated that the PRC fastener industry operates in a willing-buyer-willing-seller labour environment. Indeed, the extent to which the Chinese labour market has been deregulated is causing severe strain on the social fabric of the PRC as workers rush to better paid jobs in the economically developed zones.

- The extent to which joint ventures or other investments by firms from other countries is permitted;

Bearing Man stated that in terms of the PRC company law joint venture and foreign participation is permitted. Many of the fasteners companies enjoy foreign ownership by entities ranging from those based in the United States to those of Saudi Arabian origin.

- The extent to which government enjoys control over the means of production;

Bearing man stated that the means of production are privately owned. The owners enjoy absolute discretion to dispose of the equipment as they choose. The government control over the industry-listed companies is limited to taxation and other acceptable regulatory control

- The extent to which government control over the allocation of resources, prices and output decisions;

Bearing Man stated that no price control exist on the subject products. Inputs are purchased on the open market, with an increasing dependence on South African sourced raw material, which is certainly sold on the open international market.

- Other features which ITAC may deem appropriate

Bearing Man stated that the fastener industry in the PRC was among the first batch of business sectors that were liberalised and the first that entered the block of market-driven economy, as well as fulfilled the reform of ownership systems. It stated that over 5% of the enterprises have completed the process of privatization.

(Analysis on Current Status of China's Fastener Products Imports and Exports and Forecast on Markets, Chinese Fastener and Wire, October 2003. p90).

The South African Response

Bearing Man stated that in an article "SA sings a Chinese Tune" in the Sunday Times Newspaper of 27 June 2004 it is reported that, specifically following references to this by His Excellency, Deputy State President, Jacob Zuma, the South African Government is set to declare China a free market economy.

International Comments

Bearing Man stated that in a monograph entitled "Treatment of China as a non-market economy: Implications for antidumping and countervailing measures and impact on Chinese company operations in the WTO framework" Andrew L Stoler of the Institute for International Business, Economics and Law writes:

"The intent of the language in the People's Republic of China's accession to the World Trade Organization protocol seems clear: Chinese exporters should be given the chance to convince the investigating authorities that their price and cost

information is legitimate and not distorted by the operation of a non-market economy...”.

Bearing Man stated that China’s economy has clearly undergone tremendous transformation and change over the past two decades. With the country’s accession to the WTO in 2001 and the consequent need to implement reforms mandated by WTO membership, the pace of transformation of the Chinese economy has obviously accelerated. It seems doubtful that the Chinese economy today would be accurately characterized by the description in the note to AD Article VI:I. Most probably, Chinese officials, academics and businessmen would also argue today that the Chinese economy does not fit the standard UNCTAD definition of a non-market economy.

Bearing Man concluded by stating that in the light of the above, it submits that the Chinese fastener industry operates in a free and vibrant market space place within the Broader Chinese economy. It stated that given the failure by SAFMA to adduce evidence to the contrary, the subject industry should be accorded free market status by the Commission.

The Commission found that on initiation of the investigation a market economy treatment (MET) questionnaire was transmitted to the government of the PRC to forward it to the manufacturers and exporters of the subject products for their response, as it is clear from the statement by Andrew L Stoler of the Institute for International Business, Economics and Law, as quoted by PWC, that only Chinese exporters can provide information to convince the investigating authorities that their price and cost information is legitimate and not distorted by the operation of a non-market economy.

It goes without saying that in the absence of such information the investigating authorities would not be able to make a finding on whether or not a particular sector operates under market economy.

As no responses were received to the MET questionnaire, the Commission confirmed its preliminary determination of not considering the question of the market economy status of the PRC or the PRC's fastener industry.

Comments by Bearing Man

Bearing Man stated that as a result of the sunset review investigation, it visited the manufacturers and exporters in the PRC and Chinese Taipei. It stated that during the course of the visit it was apparent that not one of the companies visited had any knowledge of the initiation of the of the Commission's investigation.

Bearing Man stated that given the urgencies of time and pressure to see as many PRC and Chinese Taipei exporters as possible in the short time that was available to it, an abridged ITAC exporters questionnaire was devised and presented to each of the companies it visited for completion.

However, the Commission found that on initiation of the investigation all known identified in the application were informed of the investigation and sent questionnaires to complete. The governments of the petitioned countries were also informed as required by Article 6.1.3 of the Agreement.

Bearing Man supplied the Commission with information that in its view reflects normal values and export prices of the subject product in the PRC and Chinese Taipei.

The Commission evaluated the information but found that the information was summarized and not in the format required by it. Information with regards to cost of production was not provided. The Commission also considered that the questionnaires detailing all the information required by the Commission in respect of normal values, export prices and costing information were transmitted by the Commission to the appropriate diplomatic representatives of the exporting Members on initiation of the investigation.

Paragraph 1 to Annex II of the Anti-dumping Agreement provides as follows:

“As soon as possible after the initiation of the investigation, the investigating authorities should specify the information required from any interested party, and the manner in which that information should be structured by the interested party in its response. The authorities should also ensure that the party is aware that if information is not supplied within a reasonable time, the authorities will be free to make determinations on the basis of the facts available, including those contained in the application for the initiation of the investigation by the domestic industry.”

On initiation of the investigation a questionnaire specifying information required from interested parties, and the manner in which the information should be structured by the interested parties was forwarded to known manufacturers and the governments of the exporting Members.

None of the manufacturers of the subject products from Chinese Taipei and the PRC cooperated. The Commission, therefore, decided that information submitted by Bearing Man was not in the format that would enable verification and therefore could not be used in determining the normal values and export prices for the exporting Members.

Furthermore, the Commission found that by using the information, it would be giving a benefit to a party or parties, which did not cooperate.

4.6 METHODOLOGY IN THIS INVESTIGATION FOR CHINESE TAIPEI

4.6.1 Normal Value

Type of economy

Chinese Taipei is considered to be a country with a free market economy and therefore the definition of section 32 (2)(b) of the ITA Act normally applies.

As none of the manufacturers of the subject products in the Chinese Taipei submitted information in the required format to enable the Commission to make a finding on dumping as required by ADR 57.3, the normal value was, therefore, based on facts available, being information submitted by the Applicant.

The Applicant stated that all inquiries made to obtain prices from the Chinese Taipei producers have failed. These include direct enquiries to a known producer, Internet searches, as well as approaches to the known Chinese Taipei producer through an intermediary party, in order to obtain domestic price lists.

The Applicant through an intermediary party, Messrs. ***, arranged for prices to be obtained from ***, a manufacturer of the subject products in Chinese Taipei.

The prices obtained were converted to an average Chinese Taipei Dollar (TWD) per kilogram price.

The Applicant stated that the prices of goods were obtained through a reputable international auditing firm, from a producer which mass produces the subject products in Chinese Taipei.

Based on the information obtained an average per kilogram price of 37.31 TWD was calculated.

Adjustments to normal values

The prices were obtained at an ex-works basis and thus, no adjustments to the selling prices were made.

Ex-factory Domestic Prices

Based on the information an ex-factory price of 37.31 per kilogram TWD was calculated.

4.6.2 Export prices

Export prices are normally determined in accordance with section 32(2)(a) of the ITA Act, however, as none of the manufacturers/exporters of the subject product in the Chinese Taipei responded fully to the Commission's questionnaire and none of the SACU importers of the subject product from the Chinese Taipei responded, a reliable export price could not be determined.

The export prices were calculated using the statistics obtained from South African Revenue Services (SARS).

The export price for Chinese Taipei was determined to be R6.65 per kilogram. Using an exchange rate of 1 ZAR = 5.01 TWD, an export price of TWD 33.32 per kilogram was calculated.

Adjustments to export prices

An adjustment of TWD 1.67 per kilogram was made to adjust the transport and harbour fees of 5 per cent.

Ex-factory Export Price

An ex-factory export price of TWD 31.65 per kilogram was calculated after taking the above adjustment into consideration.

4.6.3 Margin of dumping

The following dumping margin was calculated for nuts:

Table 4.6.3

	TWD
Normal value less Adjustments	37.31
Export price	31.65
Margin of dumping	5.66
Margin of dumping as % of export price	17.9%

4.7 METHODOLOGY IN THIS INVESTIGATION FOR THE PRC

4.7.1 Normal Value

Type of economy

As none of the manufacturers of the subject products in the PRC submitted information in the required format to enable the Commission to make a finding on market economy treatment and dumping, the normal value was, therefore, based on facts available, being information submitted by the Applicant.

Chinese Taipei was nominated by the Applicant to be used as a third country for the PRC. The Applicant alleges that Chinese Taipei has a manufacturing industry of the subject goods at a similar level of development to that of the

PRC.

The Chinese Taipei price was accordingly determined to be TWD 37.31 per kilogram for nuts (tariff subheading 7318.16.90) and TWD 46.82 per kilogram for bolts and nuts (tariff subheading 7318.15.90). The price for the different nuts and bolts and nuts was determined on 25 February 2004. Using the exchange rate on 25 February 2004 (1 TWD = CNY 0.25), a normal value of CNY 9.32 per kilogram was calculated for nuts. A normal value of CNY 11.70 per kilogram was calculated for bolts and nuts.

Adjustments to normal values

As the Chinese Taipei prices were obtained ex-works; no adjustments to the normal values were made.

Ex-factory Domestic Prices

An ex-factory price of CNY 9.32 per kilogram was calculated for nuts and a normal value of CNY 11.70 was calculated for bolts.

4.8.2 Export prices

Export prices are normally determined in accordance with section 32(2)(a) of the ITA Act, however, as none of the manufacturers/exporters of the subject product in the PRC responded fully to the Commission's questionnaire and none of the SACU importers of the subject product from the PRC responded, a reliable export price could not be determined.

The export prices were, therefore, also calculated using facts available, which are the statistics, obtained from South African Revenue Services (SARS).

The export price of R4.55 was calculated for nuts. Using the exchange rate on 25 February 2004 (1 Rand = 1.25 CNY), an export price of CNY 5.65 per kilogram was calculated.

The same method was used to determine an export price for tariff subheading 7318.15.90 (nuts and bolts). An export price of R3.48 was calculated using the statistics obtained from SARS, then converted to Chinese Yuan, to calculate an export price before adjustments of CNY4.35.

Adjustments to the export price

An adjustment of CNY 0.28 per kilogram for the nuts was made to adjust the transport and harbour fees of 5 per cent.

An adjustment of CNY 0.22 per kilogram for bolts was made to adjust the transport and harbour fees of 5 per cent.

Ex-factory export price

An ex-factory export price of CNY 5.37 per kilogram was calculated for nuts and an ex-factory export price of CNY 4.13 was calculated for bolts after taking the above adjustment into consideration.

4.8.3 Margin of dumping

The following dumping margin for nuts was calculated:

Table 4.8.3

The PRC	Chinese Yuan Renminbi
Normal value selling price (surrogate)	9.32
Export price ex factory	5.37
Dumping margin	3.95
Dumping margin as % of export price	73.6%

The following dumping margin (tariff subheading 7318.15.90) was calculated for bolts:

Table 4.8.3.2

The PRC	Chinese Yuan Renminbi
Normal value selling price (surrogate)	11.70
Export price ex factory	4.13
Dumping margin	7.57
Dumping margin as % of export price	183.3%

Comments to the letter of essential facts

Comments by CLS Consulting

CLS stated that it supports the proposed further imposition of the anti-dumping duties considering the level of imports at dumped levels as evidenced in the application for the reasons stated in the Commission's essential facts letter.

CLS submitted that, the recommendation that the status quo pertaining to the anti-dumping duties be retained, be reconsidered for the following reasons:

- (i) The present level of duties does not correspond with the continuing high level of imports from the subject countries,
- (ii) The respondents have publicly announced their intention to increase exports to all destinations including SACU,
- (iii) The failure to participate and application of facts available warrant an increase in the dumping duties. This is especially the case if account is taken of the level of dumping of 73.7 per cent and 183.3 per cent.

Comments by PWC

In its comments to the Commission's letter of essential facts PWC stated that it wishes to address two key elements articulated by the Commission in the letter:

- (1) The first is the intent on the part of the Commission to disregard certain price information submitted by Bearing Man. The information relates to the calculation of normal value in both the PRC and Chinese Taipei.
- (2) The second element is the treatment of the PRC as "a country where prices are influenced by Government intervention".

Arguments as to price information

PWC stated that the intent by the Commission to disregard the "normal value" information submitted by Bearing Man is incorrect in terms of WTO jurisprudence, as well as South African constitutional and administrative law. It stated that with respect to constitutional and administrative law it reserves its rights in full, and placed the Commission on notice of potential violation of same.

WTO Jurisprudence

PWC stated that the Commission has indicated both in its initiating notice and in subsequent letters that the investigation is conducted in terms of *inter alia* the WTO Anti-Dumping Agreement. It stated that this indicates that the Commission considers itself bound by the WTO jurisprudence on anti-dumping.

PWC stated that the Commission has misconstrued the treatment of the normal value information submitted by its client (Bearing Man), specifically WTO rules relating to information received from a known producer or exporter, with information submitted by an interested party.

It stated that the normal value information submitted by Bearing Man was submitted under the cover of letter declaring Bearing Man as an interested party and such normal value information was provided to substantiate Bearing Man's allegation as to the poor standard of information used when first determining the margin of dumping, and to provide the Commission with superior valuation data, capable of verification, when investigating SAFMA's claim.

PWC stated that the WTO Agreement i.e. Annex II, states that "All information which is verifiable, which is appropriately submitted so that it can be used in the investigation without undue difficulties, which is supplied in a timely fashion...should be taken into account when determinations are made."

Further, in Annex II, paragraph 5 of the WTO Agreement i.e. "Even though the information provided may not be ideal in all respects, this should not justify the authorities from disregarding it, provided the interested party has acted to the best of its ability."

Finally, in Annex II, paragraph 7 of the WTO Agreement i.e. "If the authorities have to base their findings, including those with respect to normal value from a secondary source, including the information supplied in the application for the initiation of an investigation, they should do so with special circumspection."

PWC stated that the panel in Argentina – Definitive Anti-Dumping Duties on Poultry from Brazil WT/DS241/R noted:

"We [the Panel] consider that Argentina's arguments concerning the reasons for why the DCD [Argentinean investigating body] rejected the export price data... to constitute ex post facto rationalization which we should not take into account for purposes of determining whether the Argentine authorities had complied with their obligations under Article 6.8".

The Panel in “Argentina-Definitive Anti-Dumping Duties on Poultry from Brazil WT/DS241/R” quoted the findings of the Panel in “United States – Anti-Dumping Measures on certain Hot-Rolled Steel Products from Japan” with approval. In Japan – Hot-Rolled Steel the Panel noted:

“... the USDOC [United States investigating body] rejected information that was actually submitted to it...despite the fact that the information was available in sufficient time for verification and use...we [the Panel] conclude the USDOC acted inconsistently with article 6.8”.

PWC stated that it, therefore, submit that:

- (1) The information was submitted by Bearing Man, which is an interested party;
- (2) The information was submitted on or before the deadline set for submission by Bearing Man;
- (3) The information submitted by Bearing Man has a direct impact on the investigation;
- (4) As the information was submitted in a timely manner, the Commission should take the information into consideration in all its determinations on the matter;
- (5) The information will not delay the finalisation of the investigation;
- (6) No prejudice will be caused to the domestic industry if the information is accepted, as the anti-dumping duties currently in place will remain in place until the investigation has been finalised;
- (7) Bearing Man has abided by all preconditions and injunctions in the above detailed extracts from the WTO Dumping Agreement, and the Commission must accordingly accept the information submitted.
- (8) Furthermore, Bearing Man is of the view that the normal value pricing it has provided should be accepted and indeed preferred by the Commission over that information provided by the SAFMA, not only in the light of the above, but also as the Commission is under a duty to regard the information provided by SAMA with “special

circumspection”.

- (9) Accordingly, should the Commission disregard the information provided by Bearing Man in its final determination, such an act will render the Commission exposed to claims both under the South African law and as before the WTO. We accordingly urge the Commission to reverse all decisions regarding normal value information provided by Bearing Man and to utilise same when making final determination.

The Commission acknowledged that information was submitted by Bearing Man and that the information was submitted on or before the deadline set for submission by Bearing Man. Accordingly the Commission considered the information received from Bearing Man in its preliminary determination. The Commission found that it could, however, not use the information submitted by Bearing Man as it found the information contained in the application to be best information.

The Commission found that the Panel in the Argentina -Definitive Anti-Dumping Duties on Poultry from Brazil WT/DS241/R, was requested to evaluate *inter alia*, claims by Brazil that Argentina acted inconsistently with Article 6.8 and Annex II (Claim 17) by disregarding the export price data provided by the Brazilian exporters (Own underlining), and resorting to the export price information provided by the Argentinean Livestock Directorate of the Secretariat for Agriculture, Livestock, Fisheries and Food; and also that Argentina acted inconsistently with Article 6.8 and Annex II (Claim 19) by disregarding all normal value information submitted by two Brazilian exporters, and resorting to the information provided by Applicant.

The Panel when evaluating Claim 17 stated that:

“In examining the record before us, we find that Avipal, Frangosul and Sadia did submit information on export prices. Argentina asserts that it was justified in disregarding information which was not submitted in a timely manner, or in

the appropriate fashion. Argentina also argued during these proceedings that "[t]he implementing authority obviously cannot examine claims put forward by the parties without supporting documentation that can be verified." We asked Argentina to prove that the investigating authority based its rejection of the relevant export price data on these reasons. Argentina replied that the explanation could be found in the Report of 4 January 2000 and in the Final Affirmative Dumping Determination, without pointing to any particular statement therein. We therefore examined these documents, in particular Sections V.3 (Submissions made by Foreign Companies), VII.3 (Analysis of the Submissions made by Brazilian Exporting Companies after the Initiation of the Investigation) and VIII.2 (Elements for the Determination of the f.o.b. Export Price) thereof. We could not find in any of those sections references to any of the reasons provided by Argentina which could justify the DCD's decision to disregard the export price data received from Avipal, Frangosul and Sadia. In light of these circumstances, we consider that Argentina's arguments concerning the reasons why the DCD rejected the export price data submitted by Avipal, Frangosul and Sadia constitute ex post rationalization which we should not take into account for the purpose of determining whether the Argentine authorities complied with their obligations under Article 6.8.151

In light of the above, we uphold Brazil's claim that Argentina violated Article 6.8 in rejecting the export price data submitted by Avipal, Frangosul and Sadia."

The Commission found that it was clear from the evaluation of the Panel that Argentina totally disregarded information received directly from the exporters in Brazil without reasons and was indeed in violation of the Article 6.8 and Annex II of the Anti-Dumping Agreement. However, in this particular investigation, the Commission received no responses from the exporters in the PRC and Chinese Taipei. The Commission found when evaluating information before it, including information received from Bearing Man, that best available information in this case to be information contained in the application.

The Commission, therefore, found that it could not have been in violation of Article 6.8 and Annex II of the Anti-dumping Agreement.

The Commission also found the paragraph above to be further supported by a statement of the Panel in the Argentina -Definitive Anti-Dumping Duties on Poultry from Brazil WT/DS241/R, paragraph 7.193, when it stated that "...in our view, once data from the exporter (own underlining) cannot be used in accordance with Article 6.8 and Annex II to the AD Agreement, an investigating authority is entitled to use information from other sources, including the applicant."

Comments by PWC on the PRC fastener industry as market economy

PWC stated that treatment of the PRC, as non-market economy by the Commission is similarly incorrect. It stated that the Commission failed to address and thus apply its mind to Bearing Man's arguments in that it is clear that the Commission improperly has deemed the PRC as a whole a non-market economy, instead of properly, addressing whether the fastener industry can be deemed market or non-market.

PWC stated that it would note that the Commission previously deemed a sector of the PRC economy, namely the grinding media sector, to exhibit free market characteristics. In grinding media the Commission accordingly used the price information submitted by the Chinese producers and did not utilize surrogate country data. PWC stated that it would highlight the similarities between the grinding media industries and the fastener's industry. Both involve similar raw material inputs, a similar level of industrial process, and enjoy local and international clients.

The Commission does not dispute the fact that the fastener industry in the PRC could be operating under market conditions. However, the Commission found that it could only make a decision on whether a certain industry or company operates under market condition once it has considered the

requests by the exporters in that country and evaluated the necessary information submitted in support thereof. The information considered by the Commission in determining whether a particular industry or company operates under market conditions or not, is normally contained in the responses of the exporters to the Commission's Transitional Market Economy questionnaire, which was sent to all known interested parties in the PRC when the investigation was initiated.

The Commission found that as none of the exporters in the PRC cooperated it did not have the necessary information to consider this factor.

The Commission stated, in its Report No. 82: investigation into the alleged dumping of forged or stamped, but not further worked, grinding balls and similar articles for mills, commonly referred to as forged grinding balls, originating in or imported from the People's Republic of China (PRC) "...that based on the information before it, the two companies operated under market economy principles in respect of the products concerned, during the POI."

The Commission found that its decision in the forged or stamped, but not further worked, grinding balls and similar articles for mills investigation was specific to the two companies which cooperated, to the products under investigation and to the period of investigation and therefore it could not be used as precedence.

4.9 CONCLUSION - DUMPING

For purposes of its final determination, the Commission considered all the comments received from the interested parties and found that the expiry of the duties is likely to lead to the continuation or recurrence of dumping from Chinese Taipei and the PRC.

The following margins of dumping were calculated:

- the PRC (bolts and nuts) 183.3 per cent
- the PRC (nuts) 73.7 per cent
- Chinese Taipei (nuts) 17.9 per cent

5. MATERIAL INJURY

Article 11.3 of the Anti-Dumping Agreement provides as follows:

“Notwithstanding the provisions of paragraphs 1 and 2, any definitive anti-dumping duty shall be terminated on a date not later than five years from its imposition (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a review initiated before that date on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date, **that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury**. The duty may remain in force pending the outcome of such a review.”

5.1 DOMESTIC INDUSTRY FOR THE PURPOSE OF DETERMINATION OF INJURY

Article 3 of the Anti-Dumping Agreement is entitled “Determination of injury”.

Footnote 9 to the word “injury” provides as follows:

“Under this agreement the term ‘injury’ shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.”

5.2 GENERAL

Article 3.1 of the Anti-Dumping Agreement provides as follows:

“A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both.

- (a) the volume of the dumped imports and the effects of the dumped imports on the prices in the domestic market for the like products, and
- (b) the consequent impact of these imports on domestic producers of such products”.

Article 4.1 of the Anti-Dumping Agreement further provides as follows:

“For purposes of this Agreement, the term “domestic industry” shall be interpreted as referring to the domestic industry as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products,...”.

The following injury analysis relates to CBC and TPN who are affiliates of SAFMA. The two companies constitute about 66.6% of the total SACU production of the subject product. The Commission decided that this constitutes “a major proportion” of the total domestic production, in accordance with Article 4.1 of the Anti-Dumping Agreement.

Information with regard to the injury indicators reflects the Applicant’s position for the years ensuing the imposition of the current anti-dumping duties, as well as a substantiated estimate of what the effect of the expiry of the duties will have on the Applicant.

5.3 IMPORT VOLUMES AND EFFECT ON PRICES

5.3.1 Import volumes

With reference to Article 3.1(a), Article 3.2 of the Anti-Dumping Agreement provides as follows:

“With regard to the volume of the dumped imports, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member.”

In any dumping investigation, the Commission normally uses audited import statistics from the south African Revenue Service (SARS) to determine the volume of the subject product entering the SACU from the countries under investigation and other countries. It considers these statistics to be the most reliable.

The Commission confirmed that the import statistics used by it for purposes of the initiation of the investigation, its preliminary decision and for purposes of its final determination are the audited import statistics as supplied by SARS to the Commission.

The following table shows the volume of the alleged dumped imports of nuts subsequent to the imposition of the current anti-dumping duties:

Table 5.3.1.1

HSTAR	IMPORTS (KG)	2000/2001	2001/2002	2002/2003	2003/2004
7318.16.90	Chinese Taipei	532 502	576 041	692 809	858 917
7318.16.90	China	229 414	264 868	320 821	434 819
7318.16.90	Other imports	1 565 100	1 354 154	1 423 409	1 312 285
7318.16.90	Total imports	2 327 016	2 198 067	2 437 039	2 606 021

Information in the table indicates that despite the imposition of the anti-dumping duties in 1999 imports of nuts from Chinese Taipei and the PRC into the SACU continued and are on the increase.

The following table shows the volume of the alleged dumped imports of bolts and nuts subsequent to the imposition of the current anti-dumping duties:

Table 5.3.1.2

HSTAR	IMPORTS (KG)	2000/2001	2001/2002	2002/2003	2003/004
7318.15.90	China	721 216	548 610	1 052 485	1 591 341
7318.15.90	Other imports	4 049 224	3 673 269	4 726 508	5 774 668
7318.15.90	Total imports	4 770 440	4 221 879	5 778 993	7 366 009

Information in the table indicates that despite the imposition of the anti-dumping duties in 1999 imports of bolts and nuts from the PRC continued.

The Applicant stated that the trends of imports as reflected in the import statistics supports the application for re-imposition of anti-dumping duties due to dumping or likelihood of future dumping, fully. Not only has respondent countries maintained exports to SACU since the imposition of the anti-dumping duties, but have increased exports significantly.

The Applicant stated that import volumes from China and Chinese Taipei have decreased right after imposition of the anti-dumping duties in 1999, but have since increased significantly with a substantial surge of 44% from China and 226% from Chinese Taipei during the last months of 2003.

It stated that an absolute increase of imports of 21.6% transpired from 2002 to 2003 into SACU. The adverse effects of these imports are enhanced if account is taken of the fact that the SA industry is not operating at full capacity and continues to lose market share and income.

It stated that a real likelihood of substantial increases in importation of subject goods at dumped prices into SACU from respondent countries exists, despite the existent deterrent of anti-dumping duties. Both Chinese Taipei and China present the biggest producers in the world of the subject goods and are net exporters of subject goods. These and other exporters are continuously competing for overseas markets and the absolute influx of dumped subject goods into SACU bears evidence of this.

5.3.2 Effect on Domestic Prices

With reference to Article 3.1(a), Article 3.2 of the Anti-Dumping Agreement further provides as follows:

“With regard to the effect of the dumped imports on the prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.”

Price undercutting

Price undercutting is the extent to which the landed cost of the imported product is lower than the ex-factory selling price per unit price of the SACU product.

The weighted average landed costs of the imported subject products from the PRC for the period 2003/2004 were calculated by adding customs duties, clearing charges and anti-dumping duties to the verified fob price obtained from National Socket Screws.

The landed costs of the imported subject products from Chinese Taipei were calculated by adding customs duties, clearing charges and anti-dumping duties to the fob price.

In comparing the Applicant's weighted average selling prices for nuts with the price of the imported product from the PRC since 2000/2001 and an estimate should the duties expire, the Commission found that despite the imposition of the anti-dumping duties in 1999, the price of the imported product from the PRC continued to undercut the Applicant's selling price. Currently the price of the imported products is not undercutting that of the Applicant. However, the Applicant estimates the price of the imported product from the PRC to undercut its selling price if the duties expires.

In comparing the Applicant's weighted average selling prices for nuts with the price of the imported product from Chinese Taipei since 2000/2001 and an estimate should the duties expire, the Commission found that despite the imposition of the anti-dumping duties in 1999 the price of the imported product from Chinese Taipei continued to undercut the Applicant's selling price during the periods 2002/2003 and 2003/2004. The Applicant estimates that the price of the imported product from Chinese Taipei will not undercut its selling price if

the duties expires.

The Applicant stated that it submits pursuant to what was stated before that it is significant that the Respondent countries were able to maintain and increase exports of subject goods to SACU significantly at prices lower than domestic prices, despite the existence of substantial anti-dumping margins. The levels at which imports from these countries are still penetrating the SACU market are indicative of the potential volumes which would be directed towards SACU should the anti-dumping duties be rescinded. Evidence showed that the production of only of the major Chinese Taipei or Chinese manufacturers outstrip that of the total SACU industry by far. The only reasonable conclusion considering these factors are that imports of subject goods will, in all probability, significantly increase from their present levels should the restrictive anti-dumping margins be lifted. A propensity to dump has also been indicated if account is taken of the fact that due to export orientation, exports from Chinese Taipei and China of subject goods are continuously on the increase, but at reduced prices.

The Applicant stated that pursuant to what was stated, it is apparent that the SACU industry despite the existence of significant anti-dumping duties on subject goods, continue to suffer substantial levels of price undercutting from imports from the Respondent countries. The fact that price undercutting consistently took place despite the imposition of anti- dumping duties, is indicative of the likelihood of future dumping.

Price depression

Price depression occurs when the domestic industry experiences a decrease in its selling prices over time.

The table below shows the SACU industry's domestic selling prices for bolts and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.2.5

APPLICANT (BOLTS AND NUTS)	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
CBC (R/per ton)	100	143	181	154	131
TPN (R/per ton)	100	116	133	124	105
Average Selling Price (Weighted) (R/per kg)	100	136	169	146	125

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that on average, the Applicant's selling price for bolts and nuts has increased from the period 2000/2001 to 2002/2003, however the Applicant's selling price for bolts and nuts decreased during the period 2003/2004 from 2002/2003. Therefore, the Applicant experienced price depression.

The table below shows the SACU industry's domestic selling prices for nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.2.6

APPLICANT (NUTS)	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
CBC (R/per ton)	100	106	131	130	107
TPN (R/per ton)	100	115	135	127	104
Average Selling Price (Weighted) (R/per kg)	100	108	132	129	106

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that on average, the Applicant's selling price for nuts has increased from the period 2000/2001 to 2002/2003, however the Applicant's selling price for bolts and nuts decreased during the period 2003/2004 from 2002/2003. Therefore, the Applicant experienced price depression. The Applicant estimates its price to decrease by 23 index points if the duty expires when compared to its current price.

The Applicant stated that although the prices indicate an increase after imposition of the anti- dumping measures, the increases were relative, and not in real terms for the following reasons;

- the increases occurred from a hugely depressed base after imposition of the anti-dumping measures.
- The surge of imports in the later period has however also started to depress prices in real terms with a substantial on average drop of R0,86 from 2002/3 - 2003/4 financial year.

The Applicant further stated that the trend will even become more pronounced if anti-dumping duties are rescinded and it can safely be assumed that the current drop in prices as well the effect that inflow of imports will have if the anti-dumping duties are to be terminated, will cause prices to plummet. Applicant has therefore allowed for a percentage price drop equivalent to the drop experienced from 2002/3 to 2003/4, to which 15% was added to account for the fact that anti-dumping margins duties will not deter imports. It is also expected that especially Chinese Taipei and Chinese producers will compete for SACU market share, hence the additional allowance for 15%. The premise increase is once again subject thereto that imports enter SACU on a gradual basis and that there are no surge of products, which will depress prices much drastically.

Price suppression

Price suppression is the extent to which increases in the cost of production of the product concerned, cannot be recovered in selling prices. To determine price suppression, a comparison is made of the percentage increase in cost with the percentage increase in selling price (if any), and whether or not the selling prices have increased by at least the same margin at which the cost of production increased.

The following table shows the Applicant's costs of production and its average selling prices for bolts and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.2.7

BOLTS AND NUTS	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Cost of Production					
Average (Per Ton)	100	110	129	135	155
Selling Prices					
Average (per ton)	100	136	169	146	125
Cost as % of price	100	81	78	92	124

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that since the financial year 2000/2001, the Applicant was able to recover cost of production of the product concerned in its selling price and, therefore, it did not experience price suppression. The Applicant estimates its cost of production of the product concerned to increase at a higher margin than its selling price should the duties expire.

The following table shows the Applicant's costs of production and its average selling prices for nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.2.8

NUTS ONLY	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Cost of Production					
Average per kg	100	110	128	135	155
Selling Prices					
Average per kg	100	108	131	129	106
Cost as % of SP	100	103	97	104	146

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that since the financial year 2000/2001, the Applicant was able to recover cost of production of the product concerned in its selling price and, therefore, it did not experience price suppression. The Applicant estimates its cost of production of the product concerned to increase at a higher margin than its selling price should the duties expires.

The Applicant stated that consistent with what was stated before, it can reasonably be concluded that costs will increase, whilst prices will remain suppressed, due to the effect of imports of subject goods at dumped prices. Cost of production is expected to increase in accordance to the noted trend with approximately 17% per annum whilst a further 15% was added to account for the fact that imports will cause decreased production, which in turn has a further adverse effect on production costs. Prices in turn only indicate an average increase of 7.89% over the noted period. Owing to increased imports, it is unlikely that any drastic price increases will occur. It is necessary to take note of the decline in selling prices in the last financial year, despite the increases in costs, which trend is expected to continue but

in a much more pronounced way. Similarly, the industry engaged in significant trade marketing activities in order to maintain market share and protect the price levels of its products when dumped imports last appeared in significant volumes in the SACU market. It is expected that similar marketing expenses that could not be recovered in the selling price, would again be required should the dumped products in increased quantities appear on the domestic market.

The Applicant submits that the trend fully supports the notion that the current situation, despite the presence of significant anti-dumping margins, is indicative of price suppression. Price increases have clearly not corresponded with production increases. There are unused and vast expanding capacities available in each of the subject countries and producers in those countries are targeting the SACU market at prices at less than the normal value of the goods.

The Applicant further stated that major SACU consumers currently use imported material and it is apparent that Exporters are well positioned to take over increased volumes and increase their market penetration. It is known that respondent's are continually offering their customers in SACU global volume deals with price discounts. Aggressive marketing by two of the biggest producer countries in the world of the subject goods, namely Chinese Taipei and China are common in the market. Subject import pricing have already started pushing prices down as reflected above and Applicant's producers cannot reliably make profits unless they are operating near full capacity, Applicant's members cannot afford the cost of lost sales and meet the competitive price offers. There are no indications that the decreasing price trend will be reversed. Going forward, respondent producers will continue to offer prices at less than fair value in the SACU market in order to gain global volumes in order to support their export orientated industries. Import prices will remain low and arguably dip even lower if account is taken

of the competition between China and Chinese Taipei for export market dominance. This is evidenced if account is taken of the fact that both Chinese Taipei and China reported increased exports but lower income.

5.3.3 Consequent Impact of The Dumped Imports on The Industry

With reference to Article 3.1(b), Article 3.4 of the Anti-Dumping Agreement provides the following:

"The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance."

5.3.3.1 Actual and potential decline in sales

The following table shows the Applicant's sales volume for bolts and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.1.1

BOLTS AND NUTS Tons	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Total SACU	100	97	98	110	80

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that on average, the Applicant's sales for bolts and nuts remained constant throughout the period of analysis.

The Applicant estimates its sales to decrease drastically should the duty expire.

The following table shows the Applicant's sales volume for nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.1.2

NUTS ONLY Tons	2000/2001	2001/2002	2002/2003	2003/2004	Estimate if duty expires
Total SACU	100	112	111	133	98

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that on average, the Applicant's sales for bolts and nuts remained constant throughout the period of analysis. The Applicant estimates its sales to decrease drastically should the duties expire.

The Applicant stated that on both subject products, the annual production increases have on average remained stable despite the economic growth in the SACU region. The only slight increase occurred from 2001/2 to 2002/3 whilst the 2002/3-2003/4 indicates a decrease of approximately 22 index points. This trend is expected to continue in the next year to which a further 15 % was added to account for the fact that repealed anti-dumping duties will not deter imports anymore. These estimates are once again based on the conservative view that imports will only increase gradually and only apply for the first year. It may however well be and is within the respective capabilities of both Chinese Taipei and China to flood the South African market, which will obviously result in a totally different scenario with a much more drastic drop in production.

The Applicant stated that the general trend in absolute and real terms fully supports its contention that imports of subject goods have seriously effected production in the SACU region, which in turn restricted production by Applicant's members. It is significant on analysis of import statistics that China increased imports to SACU sharply by 44% and Chinese Taipei with 226% on all products during the latter part of 2003. It can safely be concluded in view of the fact that Applicant accounts for *** per cent of production in the SACU region, that any drop in production volumes cannot be attributed to increased production by any other SACU producer, but to imports from Respondent countries. These increased import volumes represent a total surge of imports over the last year.

5.3.3.2 Profit

The following table shows the Applicant's profit subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.2.1

	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
	R	R	R	R	R
CBC	100	130	77	147	125
TPN	100	2317	3858	2009	1708

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates CBC's profit increased in the financial year 2001/2002 from the financial year 2000/2001, however, CBC's profit decreased in the financial year 2002/2003 from 2001/2002. CBC's profit increased in the financial year 2003/2004 from 2002/2003. CBC estimates its profit to decrease by 22 index points should the duties expire.

TPN's profit increased in the financial year 2001/2002 from the financial year 2000/2001, and increased further in the financial year 2002/2003 from 2001/2002. However, TPN's profit decreased by 1849 index points in 2003/2004 from 2002/2003.

The Applicant stated that the estimates are in both instances based on the decline from the 2002/3 to 2003/04 year to which 15% was added to account for the loss of the deterring effect of the anti-dumping duties. It is expected that imports at the trends currently experienced will continue to erode profits in future and would render it impossible for Applicant's members to compete on the SACU market. Despite this, Applicant has decided to follow the conservative approach, which does not take account of possible surges of dumped product on the SACU market, which will have a much more drastic result. The effect on profits is difficult to determine and is likely to be from a combination of loss of volume from market share loss, loss of sales revenue and an inability to recover increased production costs and higher marketing costs.

The Applicant further stated that the profit figures typically reflect an unstable market situation, prone and susceptible to imports at various price levels under the normal value. The clearest effect is from price depression as Applicants will not be able to immediately change its costs if the achievable revenue for the respective nuts and bolts and nuts products are to be reduced suddenly. It should be noted that profitability would probably be reduced by much more than just the pure price depression effect only.

5.3.3.3 Output

The following table shows the Applicant's output for bolts and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.3.1

Volume (tons) BOLTS AND NUTS	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Total SACU	100	80	100	92	78

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above shows that the Applicant's total output for bolts and nuts decreased from the financial year 2000/2001 to the financial year 2001/2002. Since then the Applicant's output showed an increase. The Applicant estimates its output to decrease by 14 index points from the financial year 2003/2004 should the duties expires.

The following table shows the Applicant's output for nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.3.2

Volume (tons) NUTS	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Total SACU	100	79	111	77	66

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that the Applicant's total output for nuts decreased from the financial year 2000/2001 to the financial year 2001/2002. The Applicant's total output for the financial year 2003/2004

decreased in 2003/2004 to a level lower than that of the financial year 2000/2001. The Applicant estimates its output to decrease by 13 index points from the financial year 2003/2004 should the duty expire.

The Applicant stated that the volatility in the market is reflected in the inconsistent output and the years of review. It stated that the apparent increase from 2002/3 to 2003/4 on bolts and nuts can be attributed to an ad hoc event and is not supported by the overall trend and cumulative affected imports. Provision is therefore made for a 15% downturn in the market from the 2003/4 situation. For this reason a further 15% was added to the estimated percentage decline in the market on nuts only.

The Applicant submitted that the trend once again reflects the market situation, which indicated a slight increase in output after imposition of the anti-dumping duties but suffered a huge drop after the 2002/3 to 2003/4 periods on nuts. It was stated that this trend is indicative of increased sales at dumped prices in the SACU region and that the apparent increase in bolts and nuts represent an ad hoc situation and is not representative of the general downward trend experienced in the market. The Applicant stated that the SACU industry has the capacity to substantially increase its output, but in view of the continued increase in production of subject goods in Chinese Taipei and China, it is unlikely that its members will be able to utilise the capacity.

5.3.3.4 Market share

The following table shows the market share for bolt and nuts subsequent to the imposition of the anti-dumping duties:

Table 5.3.3.4.1

BOLTS & NUTS	2000/2001	2001/2002	2002/2003	2003/2004
Kg				
Market share by Volume				
SACU Industry	100	98	100	113
Dumped imports	100	76	146	271
Other imports	100	91	124	145
Total imports	100	89	121	154
Total market	100	96	106	123
% share held by				
Domestic sales	100	103	95	92
Dumped imports	100	75	125	175

This table was indexed due to confidentiality using 2000/2001 as the base year.

Information in the table above indicates that the Applicant's market share has been declining since the period 2001/2002, while the market share of the dumped imports has increased.

The following table shows the market share for nuts subsequent to the imposition of the anti-dumping duties:

Table 5.3.3.4.2

Nuts	2000/2001	2001/2002	2002/2003	2003/2004
Kg				
Market share by Volume				
SACU Industry	100	98	100	113
Dumped imports	100	98	100	169
Other imports	100	87	91	84
Total imports	100	94	105	112
Total Market	100	99	103	109
% share held by				
Domestic sales	100	107	98	98
Dumped imports	100	111	126	153

This table was indexed due to confidentiality using 2000/2001 as the base year.

Information in the table above indicates that the Applicant's market share has declined since the period 2001/2002, while the market share of the dumped imports has increased.

5.3.3.5 Productivity

The following table shows the Applicant's productivity situation for nuts and bolts and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.5

Nuts and bolts and nuts	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
CBC	100	78	96	75	63
TPN	100	92	105	100	84

This table was indexed due to confidentiality using 2000/2001 as the base year.

The Applicant stated that the SACU industry experienced a drop of 16 index points from 2002/3 to 2003/4, which is expected to repeat itself if the trend of increased dumped imports is to continue as expected. A further 15% was added to this to account for the expected further increases if anti-dumping measures are to be rescinded, due to the loss of the deterrent effect that the anti-dumping measures had.

The Applicant further stated that the trend is typical and once again represents the volatility of the market situation. Applicant's members were hardly able to recover to the levels achieved after the imposition of anti-dumping duties for the 2002/3 period.

5.3.3.6 Return on investment

Return on investment is normally regarded by the Commission as being the profit before interest and tax as a percentage of the net value of assets.

The following table shows the Applicant's return on owner's equity and return on total net assets for nuts and bolts and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.6

Financial years	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
NUTS & NUTS AND BOLTS					
Return on owners equity (TPN)	100	2144	2820	1172	
Return on owners equity (CBC)	(97)	103	191	188	80
Return on total net assets (TPN)	100	1968	2907	1028	
Return on total net assets (CBC)	100	200	425	275	79

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that TPN's return on owner's equity increased from 100 index points in the financial year 2000/2001 to 2144 index points in the financial year 2001/2002. TPN's return on owner's equity increased further by 676 index points in the financial year 2002/2003 from the previous financial year.

CBC's return on owner's equity increased from (100) index points in the financial year 2000/2001 to 103 index points in the financial year 2001/2002. CBC's return on owner's equity increased further by 88 index points in the

financial year 2002/2003 from the previous financial year.

The Applicant stated that a continuous downward trend is being experienced in so far as an actual and potential decline in return on investment is concerned. The apparent increase in the 2002 financial year can be attributed to an extra-ordinary item not originally from sales. The percentage downward trend for the period 2002/3 to 2003/4 was in each instance calculated and used as basis for the expected further decline, should anti-dumping duties be repealed. Applicant once again wishes to draw attention to the fact that the above-noted is based on a conservative approach and the effect may be much more pronounced, should the Respondent importers decide to flood the market with dumped products in order to secure market share.

The Applicant stated that the trends are supportive of the contention that the market is subject to volatility, caused by the continued and increased levels of dumped imports on the SACU market and that the domestic industry is clearly unable to achieve the required levels of return under abnormal circumstances, which is reflected in the trend.

5.3.3.7 Utilisation of production capacity

The following table provides the Applicant's capacity and production for nuts and bolt and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.7

Financial years	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Applicant's production Capacity	100	100	100	100	100
Utilisation of capacity	100	85	103	97	83

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table indicates that on average the Applicant's utilization of capacity has not increased since the financial year 2000/2001. The table also indicates that the Applicant is not planning to increase its capacity if the anti-dumping duties expire.

The Applicant stated that these figures reflect a conservative approach and concern a gradual increase of market share and not a sudden surge of imports, which will obvious reflect differently. To this end capacity utilisation from 2002/3 to 2003/04 dropped by 6 index points to 2003/04. The estimated drop in capacity utilised is based on this drop in percentages.

The Applicant stated that production capacity could be increased by implementation of extra shifts or allocation of more labour units in order to achieve full capacities. Imports of dumped products have however curtailed such action.

The Applicant stated that the domestic industry has resorted to several cost saving measures to secure financial survival and in view of increased dumped imports, no real plans for expansion of market in the foreseeable future have been tabled.

The Applicant stated that the obvious lack of expansion plans and the subsequent failure to provide for increased production, if production is to be measured through means of capacity utilisation, bears testimony of the duress under which the SACU industry finds itself. It is clearly an industry only interested in economic survival and consolidation of interests to maintain a presence in the SACU market.

5.3.3.8 Factors affecting domestic prices

There are no other known factors which could affect the domestic prices negatively.

5.3.3.9 The magnitude of the margin of dumping

In Chapter 4 of this submission, it was found that the subject product was imported at dumped prices into the SACU during the investigation period at the following margins:

- the PRC (bolts and nuts) 183.3 per cent
- the PRC (nuts) 73.7 per cent
- Chinese Taipei (nuts) 17.9 per cent

The Commission found that the expiry of the duties is likely to lead to the continuation or recurrence of dumping of the subject products from Chinese Taipei and the PRC.

5.3.3.10 Actual and potential negative effects on cash flow

The Applicant stated that due to application of very prudent and conservative financial governance principles by the domestic industry, the cash flow situation has not been impeded so far. It is however expected that a further loss of sales volumes, sales revenue and profits from the return of dumped imports, which appear to be imminent, despite the existence of substantial anti-dumping margins will seriously erode the domestic industry's cash flow situation.

5.3.3.11 Inventories

The following table indicates the Applicant's inventory level for nuts and bolts and nuts subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.11

Description	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Stockholding					
Total SACU	100	73	75	92	119

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that the Applicant's total stockholding levels decreased during the period 2001/2002 from 2000/2001. The Applicant's total stockholding levels increased slightly during the periods 2002/2003 from 2001/2002. The Applicant's total stockholding levels increased further during the periods 2003/2004 from 2002/2003. The Applicant estimates the stockholding levels to be higher than the period 2000/2001 should the duties expire.

The Applicant stated that it expects an increase of at least 15% in so far as surplus stock is concerned for the first year following the repeal of the anti-dumping duties. This will obviously increase as more imports enter the market at dumped priced.

5.3.3.12 Employment

The following table provides the Applicant's employment figures for the subject product for the 3 years prior to the imposition of the current anti-dumping duty and for the years ensuing the imposition of the current anti-dumping duty and an estimate in the event of the expiry of the duty:

The following table shows the Applicant's employment levels subsequent to the imposition of the anti-dumping duties and an estimate in the event of the expiry of the duties:

Table 5.3.3.12

Description	2000/2001	2001/2002	2002/2003	2003/2004	Estimate If Duty Expires
Employment					
Production					
Total SACU	100	105	107	108	89

This table was indexed due to confidentiality using 2000/2001 as the base year.

The information in the table above indicates that the Applicant's total employment levels increased during the period 2001/2002 and 2002/2003 from 2000/2001. The Applicant's total employment levels further increased during the periods 2003/2004 from 2002/2003. The Applicant estimates the employment levels to be lower than the period 2000/2001 should the duties expire.

The Applicant stated that it has provided for a decrease of 15% to account for the first year after the repeal of the anti-dumping duties. This represents a conservative approach and does not take account of sudden surges of dumped imports into the SACU market.

The Applicant stated that the initial optimism associated with the implementation of the anti-dumping duties clearly led to an increase in so far as production units involved in production of subject goods as well as other production units may be concerned. This optimism was soon replaced by the reality of continued imports at dumped prices of subject goods into SACU, hence the downturn in units employed and wages posed in the last year, which clearly indicates the appropriate trend, which will be compounded should the current anti-dumping duties be rescinded.

5.3.3.13 Wages

Applicant is a member of SEIFSA and party to wage agreements relevant to the steel and engineering industry. To this end, it is difficult to come to any conclusion in so far as the injurious effect of imports on wages may be concerned. It can however safely be concluded that a reduction in wages can by enlarge be attributed to a decrease in employment due to continued imports of dumped goods into SACU. This is already clearly evidenced by the decrease in wages from 2002/3 to 2003/04.

5.3.3.14 Growth

The Applicant stated that the industry has been severely inhibited in so far as growth is concerned over the past years. The industry underwent a restructuring after the forced closing of National Bolts (Pty) Ltd but this did not imply an increase in growth as production facilities were merely consolidated. The expiration of anti-dumping duties will curb any possible

growth as the Applicant industry would not be able to compete with substantial quantities of dumped imports and the subsequent losses in sales revenue.

5.3.3.15 Ability to raise capital or investments

The Applicant stated that considering the conservative approach it adopted in so far as financial governance of the respective members are concerned, it is still in a position to raise capital from financial institutions.

It was stated that reserves however will soon become depleted and it is unlikely that financial institutions would be prepared to fund investment in the industry, if account is taken of the threat to the industry, due to the influx of dumped imports.

5.8 CONCLUSION - MATERIAL INJURY

The Commission considered all comments submitted by interested parties and made a final determination that the expiry of the duties is likely to lead to the continuation or recurrence of injury.

6. SUMMARY OF FINDINGS

6.1 Dumping

The Commission found that the expiry of the duties on the subject product originating in or imported from Chinese Taipei and the PRC would likely lead to the continuation or recurrence of dumping.

6.2 Material injury

The Commission found that the expiry of the duties would likely lead to the continuation or recurrence of injury to the SACU industry.

7. RECOMMENDATION

The Commission made a final determination that:

- the expiry of the duties is likely to lead to continuation or recurrence of dumping; and
- the expiry of the duties is likely to lead to continuation or recurrence of material injury

The Commission, therefore, recommended to the Minister of Trade and Industry that the following existing anti-dumping duties on hexagon nuts, of iron or steel originating in or imported from Chinese Taipei and the PRC, and bolts, of iron or steel, with hexagon heads, whether or not with their nuts and washers originating in or imported from the PRC, be maintained:

Tariff subheading	Description	Imported from or originating in	Rate of Anti-Dumping Duty
7318.15	Bolts, of iron or steel, with hexagon heads (excluding bolts of stainless steel and bolts identifiable for use solely or principally on aircraft), of a width of 6mm or more but not exceeding 36mm and a length of 10 mm or more but not exceeding 400 mm, whether or not with their nuts and washers	PRC	29%
7318.16	Hexagon nuts, of iron or steel (excluding dome nuts, nuts with nonmetallic inserts, nuts of stainless steel, nuts identifiable for use solely or principally on aircraft and collared nuts), of a thread diameter of 6 mm or more	PRC	36%

	but not exceeding 36 mm, (excluding self locking nuts of a thread diameter exceeding 10 mm)		
7318.16	Hexagon nuts, of iron or steel (excluding dome nuts, nuts with nonmetallic inserts, nuts of stainless steel, nuts identifiable for use solely or principally on aircraft and collared nuts), of a thread diameter of 6 mm or more but not exceeding 36 mm, (excluding self locking nuts of a thread diameter exceeding 10 mm)	Chinese Taipei	23%