

Report No.715

INVESTIGATION INTO THE EXTENSION OF THE SAFEGUARD MEASURE AGAINST IMPORTS OF THREADED FASTENERS MADE OF STEEL: BOLT ENDS & SCREW STUDS, SCREW STUDDING AND OTHER HEXAGON NUTS (EXCLUDING THOSE OF STAINLESS STEEL AND THOSE IDENTIFIABLE FOR AIRCRAFT): FINAL DETERMINATION

The International Trade Administration Commission of South Africa herewith presents its
**Report No 715 INVESTIGATION INTO THE EXTENSION OF A SAFEGUARD MEASURE
AGAINST THE INCREASED IMPORTS OF THREADED FASTENERS OF IRON OR
STEEL: BOLT ENDS & SCREW STUDS, SCREW STUDDING AND OTHER HEXAGON
NUTS (EXCLUDING THOSE OF STAINLESS STEEL AND THOSE IDENTIFIABLE FOR
AIRCRAFT): FINAL DETERMINATION**



Ayabonga Cawe
Chief Commissioner

PRETORIA
20/06/2023

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

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INVESTIGATION INTO THE EXTENSION OF A SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF THREADED FASTENERS OF IRON OR STEEL: BOLT ENDS & SCREW STUDS, SCREW STUDDING AND OTHER HEXAGON NUTS (EXCLUDING THOSE OF STAINLESS STEEL AND THOSE IDENTIFIABLE FOR AIRCRAFT): FINAL DETERMINATION

SYNOPSIS

On 24 March 2023, the International Trade Administration Commission of South Africa (“the Commission”) initiated an investigation into the extension of safeguard duty against increased imports of threaded fasteners of iron and steel: bolt ends & screw studs, screw studding and other hexagon nuts (excluding those of stainless steel and those identifiable for aircraft) (“the subject products”) through Notice Number 1695, which was published in Government Gazette Number 48294.

The application was lodged by the South African Fasteners Manufacturers’ Association (“SAFMA”) on behalf of its members. SAFMA members constitute more than 90% of the total SACU industry by production volumes.

On initiation of the investigation, the World Trade Organisation (“WTO”) and countries, exporters and importers with a significant interest in the exports/imports of the subject products were notified of the initiation of the investigation.

Interested parties responded by submitting comments on initiation of the investigation, which were taken into consideration in making a final determination.

On 29 March 2023, the Commission sent out essential facts letter to interested parties, informing them of the “essential facts” which were being considered by the Commission, and invited comments from interested parties on those “essential facts” for the Commission’s consideration prior to making a final determination.

After considering all interested parties' comments received:

The Commission made a final determination that:

- the expiry of the safeguard measure (“the duty”) is likely to lead to the recurrence of serious injury; and
- there is evidence that the SACU industry is adjusting.

The Commission made a final determination to recommend to the Minister of Trade, Industry, Competition (“the Minister”) that the safeguard duty against imports of the subject product be extended for a period of three years as per table 7 on page 44 of this report, excluding imports originating from developing WTO member countries that meet the requirements for the exclusion.

The Commission made a final determination to recommend to the Minister that the safeguard duties be phased down by 2% every 12 months over the next three years as per table 7 in page 44 of this report.

The Commission made a final determination to recommend to the Minister that the proposed safeguard duties be listed in the “rebate item” column in Schedule No. 2 to the Customs and Excise Act, and therefore may not be imported under rebate of customs duty without the payment of anti-dumping, countervailing and safeguard duties without a recommendation from the Commission, with effect from the date of the publication.

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

The investigation was conducted in accordance with the International Trade Administration Act, 2002, the Commission's Amended Safeguard Regulations ("SGR") and giving due regard to the WTO Safeguard Agreement, as well as the Guidelines and Conditions relating to the extension of safeguard measures ("the Guidelines"). The Guidelines were published in Government Gazette No. 43636 on 21 August 2020.

1.2 APPLICANT

The application was lodged by SAFMA on behalf of its members. SAFMA's members constitute more than 90% by production volume of the SACU industry. CBC Fasteners (Pty) Ltd, SA Bolt Manufacturers (Pty) Ltd, and T&I Chalmers provided serious injury information, together representing more than 50% of the domestic industry's production volume.

1.3 ALLEGATIONS BY THE APPLICANT

The Applicant alleged that the expiry of the duty will likely lead to a recurrence of serious injury in the form of:

- Increase of imports;
- Decline in sales volume;
- Decline in gross and net profit;
- Decline in output;
- Decline in market share; and
- Decline in capacity utilisation.

The Applicant further alleged that the SACU industry is adjusting.

1.4 INVESTIGATION PERIOD

The data evaluation for the purposes of determining the likelihood of recurrence or continuation of serious injury covered the period from 01 August 2020 to 31 July 2023, plus estimates from 01 August 2023 to 31 July 2024 should the safeguard measure expire.

1.5 INVESTIGATION PROCESS

1.5.1 The serious injury information was verified from 20 – 28 February 2023.

1.5.2 The application was accepted as being properly documented on 09 March 2023.

1.5.3 The investigation was initiated on 01 March 2023.

1.5.4 The exporters and foreign producers of the subject product known to the Applicant are:

- Shanghai Fastener Manufacturing Co Ltd;
- Changshu standard Co Ltd;
- Beilum Hardware Factory;
- Ningbo Ningli High-Strength Fasteners;
- Jiangsu Standard Fasteners;
- Shanghai Fasteners Import & Export Co Ltd;
- XYLX Xinghi Fasteners;
- Chite Enterprises;
- Newill Co Ltd Kaohsiung;
- Rei-lin Solid Brass Co Ltd;
- Kaohsiung;
- Fuji Fastener Manufacturing;
- PT Metro Rekayasa;
- San Shing Fastech;
- Shih Hsang Ywa Industries; and
- Kao Fen Bolt Co Ltd.

1.5.5 The SACU importers known to the Applicant of the subject product are:

- National Socket Screws;
- Boltworld (Pty) Ltd;
- Pro-Tech;
- Joes Fasteners;
- Screw Distributors;
- Supa Fix;

- All Trade/Rutherford;
- BMG;
- Boltfast; and
- Shenka.

1.5.6 The following countries were identified as having a substantial interest as exporters of the subject product to SACU:

- China;
- Germany;
- India;
- Indonesia;
- Singapore;
- Thailand;
- Taiwan;
- Vietnam;
- Turkey;
- Belarus;
- Egypt;
- Malaysia; and
- United States of America.

1.5.7 The following interested parties responded and provided comments to the initiation notice which were considered for the final determination before essential facts letter:

- SAFMA;
- The Automotive Business Council;
- The Fastener Distributors Association;
- The Republic of Belarus;
- The Republic of Turkey; and
- The Ministry of Trade in Indonesia.

1.5.7.1 Comments from Belarus and Indonesia

- (i) Belarus and Indonesia each requested to be excluded again from the scope of the safeguard measure. The two developing WTO member countries stated that their share of imports (as individuals) to SACU have since decreased to levels below 3% when compared to total imports in the period of investigation (“POI”) of the original investigation.
- (ii) Belarus requested the Commission to verify the compliance of the SACU industry’s application with the deadline requirements. According to Belarus, the SACU industry submitted the application on 9 March 2023, while the due date was 24 July 2022.

Commission’s consideration

- (i) Subsequent to the imposition of the duty, Belarus’ and Indonesia’s share of imports increased to levels that exceeded 3 percent of the total import volume in the POI of the original investigation. Therefore, in line with Regulation 21.20, the Commission decided to include Belarus and Indonesia in the scope of the duty.

The SARS import statistics confirms that the share of imports from Belarus and Indonesia, individually, have since decreased to levels below 3% when compared to total imports in the POI of the original investigation. In line with Regulation 21.18, the Commission made a final determination that Belarus and Indonesia (as developing countries with less than 3 percent imports to SACU) be excluded from paying the extended safeguard duty.

- (ii) The application was originally submitted by SAFMA on 24 July 2022. Due to deficiencies, the application was only accepted by the Commission as properly documented on 9 March 2023.

1.5.7.2 Comments from the Automotive Business Council (NAAMSA)

- (i) NAAMSA indicated that manufacturing of the subject product is centralised in several suppliers globally for specific OEMs and as such

economies of scale reduces the purchase price. Therefore, localisation is not always feasible and importing becomes necessary.

- (ii) NAAMSA members (light vehicle manufacturers) are of the opinion that the continued safeguard measure is exorbitant, uncompetitive and would continue to adversely impact the cost of other hardware products used by the automotive industry in aftermarket service support to customers.
- (iii) NAAMSA requested the Commission to note the following concerns:
 - a) Due to the safety critical nature of the subject product used in the automotive industry, if parts are to be localised, additional resources would have to be spent on site engineers and testing, amongst others, for safety critical monitoring of the locally produced subject product. Such additional work, coupled with the general customs duty and the safeguard duty will result to additional overheads costs which would ultimately reduce the competitiveness of locally produced vehicles, both domestically and for the export market.
 - b) The current supply base in South Africa does not have the manufacturing tooling required, nor has the pre-requisite safety testing. Even if the local suppliers invested in the tooling, they would not achieve optimal economy of scales to make the subject product financially feasible.
- (iv) NAAMSA therefore does not support the extension of the duty.

Commission's consideration

- The Commission noted that NAAMSA's comments are, in verbatim, the same comments that the Commission considered in the original safeguard investigation in 2020.
- With regard to cost, the Applicant indicated that the majority of fasteners in the automotive industry are imported with the vehicle parts as part of an import package, under a completely different code to the three codes

affected by this extension investigation. Only the non-critical and aftermarket parts will be affected by the safeguard duty.

- With regard to quality, the Applicant indicated that its products quality is generally regarded as good, even for demanding applications. The products are tested and delivered to international specifications on material properties and tolerances. Several quality checks are systematically performed to minimize defective material.
- With regard to tooling, the Applicant further indicated NAAMSA's comment is not true, as there has never been any inspection or audit to verify this statement, and in fact, CBC is currently providing fasteners to Toyota and Ford, both exporting brands, which shows this to be untrue.

1.5.7.3 Comments from Turkey

Turkey indicated its substantial interest in the investigation and therefore qualifies as an interested party. Turkey requested to be informed of any public interest hearing in the course of the investigation.

Commission's consideration

Turkey was already identified by the Commission to have a substantial interest in this investigation and was sent all the necessary documents to enable it to make comments. The extension investigation consists of a single investigation phase and only allow for oral hearings, not public interest hearings.

1.5.7.4 Comments from FDA

FDA made the following comments:

- **Causality**

According to FDA, a decision to extend safeguard duties cannot be made in a vacuum, the Commission should assess if it is imports that will cause the recurrence of injury or other factors in the macro environment. FDA requests the Commission to thoroughly analyse and determine the overall impact of other factors on the industry's poor performance, such as:

- Shortages of electricity, due to load shedding combined with rising electricity costs,

as the major production cost of the subject product;

- Shortages of steel, since the COVID-19 outbreak, as the key raw material in the production of the subject product; and
- Depressed South African mining and construction activity, due to load shedding, as the main buyer of the subject product.

Commission's consideration

Firstly, the analysis of causal link is not a requirement in an extension investigation, similarly to a sunset review investigation. Secondly, the decision whether or not to extend the duty is not made in a vacuum. According to the Guidelines, the decision of the Commission is informed by whether or not the Applicant provided evidence to show that the SACU industry is adjusting and the Commission found that the expiry of the duty will likely lead to the recurrence/continuation of serious injury to the SACU industry.

The information raised by FDA on other factors is noted and does not only find expression in the fasteners industry. Issues of load shedding and Covid-19 outbreak are a general problem facing South Africa's manufacturing sector as a whole. It cannot be expected that local manufacturers should just throw in the towel in the face of these challenges and start to import the subject product. It is investigator's opinion that at this stage there is no need for additional information as the Commission has all the relevant information, including comments, to rely on in making its final decision in this investigation.

- **Public interest**

According to FDA, it has become common practice for the Minister to consider public interest arguments, in line with Regulation 20.2, in evaluating both tariffs and trade remedies measures.

Considering the high unemployment in South Africa, FDA requested the Commission to apply its mind on the potential multiplier effect of its decisions and allow public interest hearing for issues of public interest to be vented out.

FDA stated that the fact that certain conditions have been left out from the guidelines but are in the regulations (such as public interest) does not mean that those conditions disappear. There is nothing in the guidelines that contradicts the regulations and even if it did, the regulations would trump the guidelines as guidelines are subordinate to regulations.

Commission's consideration

A public interest hearing is not applicable to an extension investigation, but is to an original investigation where the Commission is expected to establish that the imposition of the duty would be in the public interest [SGR 20.1(f)]. The SGR are silent about public interest hearings on extension investigations, hence the Guidelines do not make provisions for public interest.

The Commission noted that in this kind of investigation the Commission is not deciding on whether to impose the duty but whether to extend the duty that was already imposed 2 years ago. To inform the Commission's decision in this investigation, the Commission needed to establish that the expiry of the imposed duty will likely lead to the recurrence/continuation of serious injury to the SACU industry, and that the SACU industry is adjusting. There is no requirement to hold public interest hearings to inform the Commission's decision.

Applicant's response

The Applicant argued that the public interest was already proven during the original investigation and is not required for the extension of the safeguard duties, as once proven, it does not become untrue at a later stage.

- **Conclusion**

FDA is of the view that the application by the SACU industry fails on every legal requirement, in the sense that the SACU industry is not adjusting and there is no evidence that serious injury will re-emerge if the duty expires. FDA requested the Commission to immediately terminate the investigation.

Commission's consideration

The Commission believes that it has not failed to adhere to any of its laws and/or WTO rules in initiating this investigation. It is the Commission's view that FDA's comments do not warrant the termination of the investigation. The issues raised by FDA, particularly on the adjustment by the industry and the likelihood of recurrence of serious injury, are adequately dealt with by the Commission in sections 8 and 9 of the Report.

Applicant's response

The Applicant contended that the legality of the process is not in question, contrary to what FDA believes. The only requirements that need to be fulfilled is that the Applicant needs to show that a recurrence of serious injury is likely to occur if the duty expires, and that it has either adjusted, or is in the process of adjusting.

According to the Applicant, FDA has not made out a case for the Commission to dismiss the application or to terminate the investigation. As shown in the Applicant's response, none of their allegations or arguments have merit and the Commission should reject them outright and with prejudice.

1.5.8 Final before essential facts determination

Based on the comments received on initiation of the investigation, the Commission on 23 May 2023, made a final determination before "essential facts" that the expiry of the safeguard measure is likely to lead to the recurrence of serious injury and that there is evidence that the SACU industry is adjusting.

On 29 May 2023 "essential facts" letters were sent out to interested parties informing them of the "essential facts" which were being considered by the Commission and invited comments from interested parties on those "essential facts" being considered.

1.5.9 The following interested parties responded and provided comments to the essential facts letter:

- SAFMA;
- The Fastener Distributors Association;
- The Republic of Belarus;

- Rechickij metiznyj zavod OAO; and
- The European Commission.

1.5.9.1 Comments from Belarus on essential facts letter

Belarus submitted its original comments as it is of the opinion that their comments on the initiation notice were not considered by the Commission in its final determination before essential facts letter. The Republic of Belarus requests the Commission to consider their comments before making a final decision. Belarus reiterates its request to be excluded from the scope of the safeguard duty and reiterates its allegation that the SACU industry missed the date Commission's deadline for submitting the application for extension of the safeguard duty. All these points are summarised and addressed in section 1.5.7.1 of this Report.

1.5.9.2 Comments from FDA on essential facts letter

FDA submitted its original comments as it is of the opinion that the Commission did not take its comments into consideration, meaning that their comments have been ignored. FDA request the Commission to consider their comments before making a final decision. FDA reiterated comments on impact of other factors affecting domestic industry (causality), declining import volumes, ineffective adjustment plan, and the need for public interest hearings. All these points are summarised and addressed in section 1.5.7.4 of this Report.

1.5.9.3 Comments from Rechickij metiznyj zavod OAO on essential facts letter

- Rechickij Metiznyj zavod OAO (Rechickij) is the exporter/producer of the subject product in Belarus. Rechickij stated that they exported 20.8 tons of the subject product to SACU before the introduction of the duty, and have not exported to SACU since the duty was introduced. According to Rechickij, their imports quantities could not have a negative impact and do harm to South African producers, as they are insignificant compared to the SACU total production volumes and total import volumes of the subject product from all countries.
- Rechickij also indicated that their high quality imported products do not cause any harm but rather contribute to the development of the South African industry.

Commission's consideration

The Commission considered comments from Rechickij. The Commission noted that the impact of imports in a safeguard investigation is not assessed on a company level but on country level. That means all imports from the Republic of Belarus. The Republic of Belarus has responded in this investigation (see section 1.5.7.1) and proved that the country's imports to SACU are now below 3% of the total imports.

1.5.9.4 Comments from the Applicant on essential facts letter

SAFMA provided the following comments:

- The exporting countries and local importers are diligent in utilizing surrogate developing countries to circumvent the duties. This is exacerbated by those exporters/importers who fraudulently adjust the origin of manufacture easily, leading to significant circumventions where most times such fraudulent imports are rarely discovered, especially because pre-surveillance is non-existent.
- The delay to include such countries even after they reach the 3% threshold is inordinately long. On reaching the 3% threshold, such countries must efficiently, urgently and immediately be included, i.e. those countries must immediately lose their exempt status and duties must be immediately levied on them.
- SAFMA requested the Commission to take a cue from the decision it made in Report 668, where it reported on the extension of the safeguard duties on hexagon screws that the safeguard measures should be imposed against imports from all countries.

1.5.9.5 Comments from European Union

The essential facts letter do not give meaningful analysis of development of imports trends and meaningful injury analysis. As a result, the essential facts letter is not in line with WTO standards. The EFL does not provide any analysis of the comments made during the investigation. The European Commission is of the opinion that the current development plan made by the Applicant lacks strategies on how to improve the competitiveness of the domestic industry. It appears that the domestic industry has not provided any evidence that there is indeed an adjustment.

Commission's consideration

The essential facts letter provided as much details as possible, without reproducing the whole non-confidential application and comments that interested parties submitted. The essential facts letter indicated that it is based on the information before the Commission, being the application from SAFMA and comments from all interested parties.

The essential facts letter analysed the injury information that is in the application for the period when the duty was in place and the period should the duty expire, and considered all comments made by interested parties on injury. The essential facts letter spoke to all injury indicators that showed the likelihood of serious injury should the duty expire.

The essential facts letter analysed the information on development plan progress that is provided in the application, and considered all comments made by interested parties on the development plan. The essential facts letter spoke to all the projects and/or efforts that the domestic injury undertook in the past years since the introduction of the original safeguard duty.

This Commission's final report expands further on this analysis by addressing comments after comments, and reporting on injury figures and percentages over the period of investigation

The Commission considered comments received from interested parties in making a final determination. All submissions made by interested parties are contained in the Commission's non-confidential file for this investigation and are available for perusal. It should be noted that this Report does not purport to present and respond to all comments received and considered by the Commission. However some salient and pivotal comments received from interested parties and the Commission's consideration of these comments is specifically included in this Report.

1.6 FINAL DETERMINATION

After considering all interested parties' comments received:

The Commission made a final determination that:

- the expiry of the safeguard measure ("the duty") is likely to lead to the recurrence of

serious injury; and

- there is evidence that the SACU industry is adjusting.

The Commission made a final determination to recommend to the Minister of Trade, Industry, Competition (“the Minister”) that the safeguard duty against imports of the subject product be extended for a period of three years as per table 7 in page 44 of this Report, excluding imports originating from developing WTO member countries that meet the requirements for the exclusion.

The Commission made a final determination to recommend to the Minister that the safeguard duties be phased down at regular intervals by 2% in every 12 months over the next three years as per table 7 in page 44 of this report.

The Commission made a final determination to recommend to the Minister that the proposed safeguard duties be listed in the “rebate item” column in Schedule No. 2 of the Customs and Excise Act, and therefore may not be imported under rebate of customs duty without payment of anti-dumping, countervailing and safeguard duties without a recommendation from the Commission, with effect from the date of the publication.

2. SUBJECT PRODUCTS

2.1 IMPORTED PRODUCTS

2.1.1 Description

The subject products are described as hexagon nuts made of steel and steel threaded rod. Steel threaded rod is a certain threaded rod, bar or studs of carbon quality steel having a solid circular cross section of any diameter in any straight length that have been turned, cold-drawn, cold-rolled, machine straightened or otherwise cold-finished and into which threaded grooves have been applied. In addition the steel threaded rod, bar, or studs subject to this investigation are non-headed. A variety of finishes or coatings such as plain oil finish as a temporary rust protectant, zinc coating (i.e., galvanized, whether by electroplating or hot-dipping) may be applied to the products.

2.1.2 Tariff Classification

The following table indicates customs duty applicable to the subject product:

Table 2.1.2: Applicable duties

Tariff heading	Tariff subheading	Description	Stats unit	Rate of duty					
				General	EU	EFTA	SADC	Merco sur	AfCFTA
7318		Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel:							
7318.1		Threaded articles:							
7318.15		Other screws and bolts, whether or not with their nuts or washers:							
	7318.15.41	Bolt ends and screw studs (excluding those of stainless steel and those identifiable for aircraft)	Kg	30%	Free	10%	Free	30%	24%
	7318.15.42	Screw studding (excluding those of stainless steel and those identifiable for aircraft)	Kg	30%	Free	10%	Free	30%	24%
7318.16		Nuts:							
	7318.16.30	Other, Hexagon nuts	Kg	30%	Free	10%	Free	30%	24%

Source: SARS

2.1.3 Production process

The Applicant stated the production process to be as follows:

The manufacturers purchase wire rod/bar from steel merchants. The steel is cut to size. Steel rod is fed into a thread rolling machine by hand or by automated bar feeder. Threaded rod is then counted and bundled for black stock or sent to electro-galvanizers for plating. Threaded rod is then bundled, counted and put into stock.

Raw steel coils are received from the supplier. The steel coil goes through the steel preparation process which includes an acid clean and the addition of a phosphate coating to allow for easier forging. Once cleaned, the forging of the steel into a hexagon nut takes place on a forging machine. The cut-off coil pieces move through various stages from forging to shaping. The heads are then cut into a hexagonal shape. Threading is done on a separate thread tapper machine.

2.1.4 Raw material used

The Applicant stated that the main raw materials used in the production of threaded rods are hot rolled bars and rods and the main raw materials used in the production of hexagon nuts are steel coils.

2.1.5 Application or end use

The Applicant stated that the subject product is used for joining materials, clamping/fastening or interference-fit type and is used in the building, mining, construction, utilities, process industries, automotive industry, general engineering, agricultural industries and do-it-yourself market.

2.1.6 Technical characteristics

Steel threaded rod is certain threaded rod, bar, or studs of carbon quality steel having a solid circular cross section of any diameter in any straight length that have been turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied.

In addition, the steel threaded rod, bar or studs subject to this investigation are non-headed. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (i.e., galvanized, whether by electroplating or hot-dipping) may be

applied to the products. Specific technical specifications pertaining to hexagon nuts are not known to the applicant, other than to state that on appearance there do not seem to be any differences between the imported product and the domestically produced product.

2.1.7 Substitutability

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

2.2 SACU PRODUCT

2.2.1 Description

The Applicant described the imported products as hexagon nuts made of steel and steel threaded rod. Steel threaded rod is certain threaded rod, bar or studs of carbon quality steel having a solid circular cross section of any diameter in any straight length that have been turned, cold-drawn, cold-rolled, machine straightened or otherwise cold-finished and into which threaded grooves have been applied. In addition the steel threaded rod, bar, or studs subject to this investigation are non-headed. A variety of finishes or coatings such as plain oil finish as a temporary rust protectant, zinc coating (i.e., galvanized, whether by electroplating or hot-dipping) may be applied to the products.

2.2.2 Production process

The Applicant stated the production process to be as follows:

The manufacturers purchase wire rod/bar from steel merchants. The steel is cut to size. Steel rod is fed into a thread rolling machine by hand or by automated bar feeder. Threaded rod is then counted and bundled for black stock or sent to electro-galvanizers for plating. Threaded rod is then bundled and counted and put into stock.

Raw steel coils are received from the supplier. The steel coil goes through the steel preparation process which includes an acid clean and the addition of a phosphate coating to allow for easier forging. Once cleaned, the forging of the steel into a hexagon nut takes place on a forging machine. The cut-off coil pieces move through various stages from forging to shaping. The heads are then cut into a hexagonal shape. Threading is done on a separate thread tapper machine.

2.2.3 Raw Material used

The Applicant stated that the main raw materials used in the production of threaded rods are hot rolled bars and rods and the main raw materials used in the production of hexagon nuts are steel coils.

2.2.4 Application or end use

The Applicant stated that the subject product is used for joining materials, clamping/fastening or interference-fit type and is used in the building, mining, construction, utilities, process industries, automotive industry, general engineering, agricultural industries and do-it-yourself market.

2.2.5 Technical characteristics

Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are non-headed. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (i.e., galvanized, whether by electroplating or hot-dipping) may be applied to the products. Specific technical specifications pertaining to hexagon nuts are not known to the applicant, other than to state that on appearance, there do not seem to be any differences between the imported product and the domestically produced product. Various technical specifications of DIN, ISO, EN and SABS.

2.2.6 Substitutability

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

After considering all of the above, the Commission made a final determination that the SACU product and the imported products are “like products”, for purposes of comparison, in terms of the definition of “like product” in SGR 2.

3. INDUSTRY STANDING

The application was lodged by SAFMA on behalf of its members. SAFMA's members constitute more than 90% of the total SACU industry by production volumes. CBC Fasteners (Pty) Ltd, SA Bolt Manufacturers (Pty) Ltd, and T&I Chalmers provided serious injury information, together representing more than 50% of the domestic industry's production volume.

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

4. CONTINUATION AND/OR RECURRANCES OF SERIOUS INJURY

4.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The following injury analysis relates to the consolidated information of CBC Fasteners (Pty) Ltd, SA Bolt Manufacturers (Pty) Ltd, and T&I Chalmers, together representing more than 50% of the domestic industry’s production volume.

The Commission made a final determination that this constitutes “a major proportion” of the total domestic production, in accordance with the SGR.

4.2 IMPORT VOLUMES

The Commission considered the following information on imports for determining an increase in import volumes.

The table below indicates the import volumes of the subject product in the original investigation, as sourced from South African Revenue Service (“SARS”) for the period 01 July 2014 to 30 June 2018.

Table 6.2(a): import volumes

Tons	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018
Total imports	6 609	5 545	8 697	6 418

The table below shows the import volumes of the subject products during the period of investigation, as sourced from SARS for the period 01 August 2020 to 31 July 2023, and estimates should the duty lapse for the period 01 August 2023 to 31 July 2024.

Table 6.2(b): Import volumes

	During safeguard duty			Post safeguard duty if extension not granted
	2020/2021	2021/2022	2022/2023	2023/2024
Volumes (ton)	2 855	3 505	2 549	6 250

Tables 6.2(a) and 6.2(b) above shows that in the immediate aftermath of the imposition of the safeguard duties, imports decreased significantly from 6 418 tonnes in the last year of the POI in the original investigation, to 2 855 tonnes during the first year after the imposition of the safeguard duty, representing a decline of 56 percent. This was mainly due to declining imports from China between the same periods.

Table 6.1(b) shows that from the 2 855 tonnes in 2020/2021, imports started to increase in 2021/2022 and registered 3 505 tonnes, representing an increase of 23 percent. According to the Applicant, this increase was mainly due to the subject product being imported through exempted developing WTO country members.

In July 2022, Belarus, Indonesia, and Turkey lost their developing country exempt status, as the Commission, in terms of SGR21.20, removed these countries from the exemption list. The information in the table above indicates that after the three countries were removed from the exemption list in 2021/2022 period, imports decreased by 27 percent in 2022/2023 period. There is an overall decrease 11 percent while the safeguard duty was in place. It is estimated that imports will increase to 6 250 tons, which is an increase of 145 percent should the duty not be extended.

4.2.1 The basis for the estimated import figure

The estimated import figure of 6 250 tonnes is calculated based on the assumption that an accelerated influx of imports is expected to take place once the current duties lapse in July 2023. This increase should mainly be caused by China re-entering the SACU market as it aggressively seeks regain market share it lost on the subject product since the imposition of the safeguard duty.

During 2016/2017 period before the imposition of the safeguard duties, China's share of total imports was 80% which equates to 6 934 tonnes. It is expected that imports from China will again reach pre-safeguard duty levels because China remains the world's largest exporter of fasteners.

The Commission took cognisance of the unforeseen developments raised in its Report 620, when it stated that "Based on the above information, the Commission made a final determination that the growth of fasteners production in the People's Republic of China (PRC); growth of PRC exports; slowdown of PRC's economy and contraction in demand together with available unused capacity; together with trade remedies imposed by various institutions are events that can be regarded as unforeseen developments, which, together with the effect of the obligations incurred by South Africa (or SACU) under the WTO, led to the surge of imports of the subject products." It can reasonably be expected that China will again increase its market share to at least 80%, the level prior to the imposition of the safeguard protection.

The Commission further considered the fact that large markets such as the Canada and the European Union has imposed anti-dumping duties on Chinese fasteners, including nuts and threaded rod. This increases the propensity for these excess volumes to flow to an unprotected SACU market once the safeguard duties lapses.

It is expected that if the safeguard duty lapses, China will increase its imports by at least 500% in the forecast year of August 2023 to July 2024. Based on import levels for the period August 2021 to July 2022 of 1,002 tonnes imported from China, a total of ~ 5,000 will be imported from China alone during this 2023-2024 period. If we assume that this figure will represent 80% of total imports (pre-safeguard duty levels) total imports will increase to 6 250 tonnes in the first year the duty lapses.

Consequently, the basis for the estimate of the increase in imports when the safeguard duty lapse can be calculated on a before-and-after analysis. This analysis studies the effect of the introduction of safeguard duties on import volumes. In this analysis, import volumes prior to the introduction of safeguard duties, and specifically the original surge (in 2016/2017), is compared to import volumes following the introduction of the duties (2020 till 2023). This is further calculated by determining the market share that China had in the period before the imposition of the duties and calculating its presence in terms of the overall expected market size. The estimated volume effect can then be interpreted as an estimate of the likely impact of removing the same duties. That is, the import-dampening effects of the introduction of safeguard duties can be seen as equivalent to the import-boosting effects of removing these duties.

4.2.2 Comments by FDA on initiation notice and essential facts letter

FDA submitted its original comments as it is of the opinion that the Commission did not take its comments into consideration, meaning that their comments have been ignored. FDA request the Commission to consider their comments before making a final decision. FDA made the following comments on initiation notice and reiterated them in response to essential facts letter:

- SAFMA only provided actual import volumes up to July 2022. The figures from August 2022 are estimates which is a problem since the latest available data from SARS is up to February 2023. More importantly, import volumes should be compared to the surge identified in the original investigation period, which shows a completely different picture.

- According to imports statistics from SARS from March 2016 to February 2023, total imports have declined by 51% for hexagons nuts and 69% for bolt ends and screws. During the same period, imports from China for the subject products have declined, while the average FOB prices for the subject product have increased. It is inconceivable that imports will increase to pre-safeguard levels at such substantial import prices.
- Total imports are now lower than in 2016, while prices have increased dramatically. The price increase alone should be sufficient to remove any injury SAFMA might claim and to negate the need for any extended safeguard measure. Not only is it clear that import volumes are significantly down, but the price is also higher than at any point in the original investigation period. It is implausible to expect aggressive re-entry into a market when FOB prices have increased substantially. Such a substantial increase in FOB prices would make it difficult for any country to compete in the market.
- Imports from China have continued to decline since the safeguard was imposed. Imports from China cannot be the cause of the injury as stated by the applicant and therefore cannot be relied on as a basis to extend the safeguard duties currently in place. The import trends show a significant decrease in any risk of increased imports.

Commission's consideration

- At the time of submitting the application, the statistics available were up to July 2022. It is correct that the figures from August 2022 till July 2023 are forecasted. The current statistics are available up to April 2023, i.e. 9 months for the period August 2022- July 2023. The 9 months figures are still within the Applicant's forecast and show that imports are decreasing compared to the previous periods.
- It is true that imports have declined, particularly from China, when compared to the surge in 2017 of the original investigation. There is nothing irregular with that outcome as it is the purpose of the duty to curb imports while the industry is trying to adjust as per its adjustment plan. Nevertheless, whether imports increased or decreased during the time the safeguard duty was in place, does not dictate the decision whether to extend the safeguard duty.
- The argument of increased average FOB prices for the subject product holds no merits in this particular investigation. The increase in imports (surge), including the likelihood of

re-entry of imports should the duty expiry, are not determined based on the levels of FOB prices. The fact that imports decreased significantly after the imposition of the duty supports the argument by the Applicant that in the absence of the same duty imports are likely to re-enter the market at increased levels to cause recurrence of serious injury to the SACU industry.

Applicant's response

- The Applicant stated that the meaningful difference between the import volumes found in the period when duty was in place and the period should the duty expiry shows that the safeguard duty was effective. The Applicant argued that the total change in trading patterns was as a result of the imposition of the safeguard duty, the ultimate aim of which was to improve the ability of the domestic industry to compete with international suppliers in the SACU market.
- The Applicant emphasised the fact that the decision whether to extend the safeguard duty depends on the likelihood of a recurrence of serious injury following the expiry of the duty, not on whether imports increased or decreased during the time the duty was in place.
- The Applicant stated that whether or not the import price from China has increased or decreased in the period since the implementation of the duty is irrelevant in a safeguard instrument, except insofar as it shows a willingness, especially from Chinese exporters, to try and mitigate the safeguard duties, as they were able to again increase their share of imports despite the existence of safeguard measures.

4.3 ACTUAL AND POTENTIAL DECLINE IN SALES

The following table shows the SACU industry's sales volumes:

Table 4.3: Sales volume

During safeguard duty			Post safeguard duty if extension is not granted	
Tonnes	2020/2021	2021/2022	2022/2023	2023/2024
Sales volumes	100	111	128	70

These figures were indexed due to confidentiality using 2020/21 as a base year

The information in the table above indicates that sales volumes increased throughout the period when the duty was in place, with an overall increase of 28 index points. The estimate for sales if the duty is not extended shows a decrease of 30 index points from the base year.

4.4 PROFITS AND LOSSES

The following table shows the SACU industry's profit:

Table 4.4: Profits and Losses

During safeguard duty			Post safeguard duty if extension is not granted	
Rm	2020/2021	2021/2022	2022/2023	2023/2024
Total gross profits	100	86	66	22
Total net profits	100	55	30	-7

These figures were indexed due to confidentiality using 2020/21 as a base year

The information in the table above indicates that profits decreased throughout the period when the duty was in place, with an overall decrease of 70 index points for net profits. The estimate for sales if the duty is not extended shows that the shrinking profits will decline further, driving net profits to losses.

The Applicant stated that if the safeguard duty is not extended, the industry will again experience a significant decrease in gross profitability, turning to net losses, to the extent that it will no longer be viable to produce the subject product. This will provide importers with the necessary foothold to flood the market and push the domestic industry out.

4.5 PRODUCTION VOLUMES

The following table shows the SACU industry's output:

Table 4.5 Production volumes

During safeguard duty				Post safeguard duty if extension is not granted
Tonnes	2020/2021	2021/2022	2022/2023	2023/2024
Production volumes	100	115	138	72

These figures were indexed due to confidentiality using 2020/21 as a base year

The information in the table above indicates that production volumes increased throughout the period when the duty was in place, with an overall increase of 38 index points. The estimate for sales if the duty is not extended shows a decrease of 28 index points from the base year.

The Applicant indicated that the industry has committed to increase domestic production as part of their adjustment plans, with CBC and Chalmers going so far as to fully close down their import departments in favour of domestic production. The Applicant further stated that the expected loss of production should the duty expire is reflected by the expected increase in imports, mainly from China, as it once again re-enters the market. This would represent a recurrence of serious injury that the domestic industry will not be able to recover from a second time.

4.6 MARKET SHARE

The following table shows the market share for the subject product:

Table 4.6: Market Share

During safeguard duty				Post safeguard duty if extension is not granted
	2020/2021	2021/2022	2022/2023	2023/2024
Applicant's share as % of the total market	100	98	98	61
Other SACU producers' share as a % of the total market	100	97	108	62
Imports' share as a % of the total imports	100	107	77	189

These figures were indexed due to confidentiality using 2020/21 as a base year

The information in the table above indicates that the Applicant's market share remained constant from the base year throughout the succeeding two years in a period when the duty was in place, with an overall slight decrease of 2 index points. The estimate for sales if the duty is not extended shows a significant decrease of 29 index points from the base year.

4.7 PRODUCTIVITY

The following table shows the productivity of the SACU industry for the subject product:

Table 4.7: Productivity

	During safeguard duty			Post safeguard duty if extension is not granted
	2020/2021	2021/2022	2022/2023	2023/2024
Production volumes	100	115	138	72
No. of employees (production)	100	104	112	98
Output per employee	100	109	123	73

These figures were indexed due to confidentiality using 2020/21 as a base year

The information in the table above indicates that output per employee increased throughout the period when the duty was in place, with an overall increase of 23 index points. The estimate for output if the duty is not extended shows a decrease of 27 index points from the base year.

4.8 UTILIZATION OF PRODUCTION CAPACITY

The following table provides capacity utilization of the subject product for the SACU industry:

Table 4.8: Utilization of production capacity

Tonnes	During safeguard duty			Post safeguard duty if extension is not granted
	2020/2021	2021/2022	2022/2023	2023/2024
Capacity volumes	100	100	100	100
Produced volumes	100	115	138	72
Capacity utilised	100	112	133	72

These figures were indexed due to confidentiality using 2020/21 as a base year

The information in the table above indicates that capacity utilization increased

throughout the period when the duty was in place, with an overall increase of 33 index points. The estimate if the duty is not extended shows a decrease of 28 index points from the base year.

4.9 EMPLOYMENT

The following table provides total employment figures:

Table 4.9: Employment

During safeguard duty				Post safeguard duty if extension is not granted
Tonnes	2020/2021	2021/2022	2022/2023	2023/2024
No. of employees (production)	100	104	112	98
Total No. of employees	100	104	109	96

These figures were indexed due to confidentiality using 2020/21 as a base year

The information in the table above indicates that the employment headcount increased throughout the period when the duty was in place, with an overall increase of 12 index points for employees involved in the production of the subject product. The estimate for employment if the duty is not extended shows a decrease of 2 and 4 index points from the base year for production employees and total employees respectively.

The Applicant indicated that in order to remain competitive, the decrease in employment is as a direct result of the increase in imports if the safeguard duty is not extended. It is therefore imperative that the existing safeguard duty remain in place in order to ensure current jobs remain protected. If not, the recurring injury suffered by the industry will be serious and further job losses will be unavoidable.

4.10 SUMMARY

Based on the above information, the evaluation of the injury information of the Applicant for the periods when the duty was in place and should the duty expire is shown below:

Table 4.10: Serious Injury

Injury indicators	Change	
	From 2020 to 2023	Change should the extension not be granted
Imports volumes	Decreased	Increased
Sales volumes	Increased	Decreased
Profits	Decreased	Decreased
Output	Increased	Decreased
Applicant's market share	Increased	Decreased
Capacity utilisation	Increased	Decreased
Employment	Increased	Decreased

The picture painted in table 4.10 above speaks to the likelihood of the domestic industry suffering serious injury as a result of expected increase in imports should the safeguard duty not be extended.

The Applicant stated that the import-dampening effects of the introduction of safeguard duty in 2020 can be seen as equivalent to the import-boosting effects of removing the same duty in 2023.

4.11 COMMENTS BY FDA ON INITIATION NOTICE

According FDA, the application is deficient and shows no *prima facie* proof of likelihood of recurrence of serious injury should the measures expiry. FDA pointed out to the following issues to support its claim:

- Applicant did not provide injury information from the original investigation period, which led to the safeguard duty. This historic information is needed to clearly show a comparison of the original investigation to the current investigation. Such a comparison helps to determine whether current injury information, when compared to information from the original investigation, shows that injury is still occurring or is likely to continue should the safeguard measure not be extended. Without that comparison, it cannot be determined whether the safeguard duty is still required or not.
- The current injury information is only provided for only two years (August 2020 - July 2021 and August 2021 - July 2022), instead of up to February 2023.
- The employment and shifts figures for Chalmers are not provided.

- The injury assessment for each SACU producer (CBC, SA Bolt and Chalmers) shows that each company is not suffering any injury, and that there is stiff competition among the local producers. The overall industry assessment also shows that there has been significant improvement of the performance of the industry, coupled with the drop in import volumes and surge in import prices.

Commission's consideration

The application is properly documented with *prima facie* evidence of a likelihood of recurrence of serious injury should the measures expiry. In considering FDA's comments, the Commission noted the following issues:

- The Commission does not use that kind of historical data nor requires the Applicant to provide injury information from the original investigation period. The Commission uses the information in the period when duty is in place to assess whether injury is occurring or not, and the information in the period should the duty expire to assess the likelihood of continuation or recurrence of injury should the duty not be extended. All the relevant information has been duly submitted by the Applicant.
- The period of investigation for an extension investigation is three years and/or plus one year for estimates should the duty expiry. Within the three years, the first two years refer to actual historical financial data, and the last one year is based on forecasting. The reason is that the industry is required to apply for the extension application one year prior to the expiry of the duty. Therefore, at the time of submitting the application, the industry does not have actual financial data for the last year of the period (i.e. August 2022 to July 2023). The Applicant provided injury information for three years and one year for estimates (i.e. August 2023 to July 2024).
- The employment and shifts figures for Chalmers are provided in the application. It appears that the labelling of the information in the application might have caused the confusion that the information is missing. FDA did not raise any questions of clarity with the investigation team.
- It is correct that the injury assessment shows that there has been significant

improvement of the performance of the industry. This is an indication of the industry that is adjusting as a result of the protection of the safeguard duty. There is sufficient evidence to prove that should the same protection be taken away, the industry is likely to suffer serious injury as was the case before the duty was introduced. The existence of stiff competition between SAFMA members is normal in business environment and therefore is not a concern of the Commission. FDA did not elaborate in what way does the existence of competition within the industry makes out a point for the duty not to be extended.

Applicant's response

The Applicant stated that SGR 3.11 clearly states, "The application must contain injury information for the period of time when the safeguard measure was in place and an estimate should the safeguard measure expiry. The Applicant complied with the period of investigation as guided by the Regulations.

The Applicant argued that the Regulations do not expect the industry to already be suffering serious injury whilst the safeguard duties are in place, but rather that the serious injury will again be suffered because of a resurgence of imports once the duties expiry. According to the Applicant, this is exacerbated by the fact that the importers choose not to purchase locally and rather choose to import the subject product without paying the safeguard duties from exempted countries.

5. PROGRESS IN ADJUSTMENT PLAN

5.1 Commitments made in the original investigation

In accordance with the SGR, the Applicant provided a development plan that it indicated it will implement to be competitive and efficient. The plan is meant to detail how the Applicant will adjust, while the safeguard measures are in place, and therefore be able to compete with imports when safeguards measures expire.

The development plan that was submitted by the domestic industry highlighted the following measures it will put in place to improve the competitiveness of the industry:

- Investment in new equipment and technology;
- Product development to rationalize the input material;
- Job creation;
- Support the introduction of a prior import surveillance system;
- Continuous training of SARS to improve customs control; and
- Support higher level designation/localization.

5.2 Evidence of industry's adjustment progress

The Applicant alleged that the industry has started adjusting in terms of its adjustment plan, and submitted the following information to demonstrate that.

5.2.1 Investment in new equipment and technology

Considerable investments were made by the SAFMA members to improve their technological abilities to increase efficiencies and thereby be able to compete more effectively with the imported product. Particularly:

- Over the last three years the SACU industry spent over 3 million on upgrades to existing machinery and investment of new machinery to not only increase production of nuts, but fasteners in general.
- The industry also invested in training and skills development to the value of R500 000 over the same period.
- To increase its competitive edge on a national level, Impala made an investment acquiring the business of SA Bolt Manufacturers during the POI.

5.2.2 Job creation

SAFMA members have increased their employment considerably, which in turn led to investment in skills development and higher overall production. Since the introduction of the duty, total employment numbers have increased by 26 employees. This number is only for the three members (CBC, SAB, and Chalmers) who submitted injury information. If all members were to be included, this number could be bigger. Members are committed to increasing employment levels if the duties are extended.

5.2.3 Rationalisation of raw material qualities

The industry together with AMSA have rationalised raw material qualities thereby allowing AMSA higher production volumes on a narrower product range. AMSA highlighted the following initiatives launched and the interactions and interventions to assist Newcastle with the consolidation of its production facilities.

- **Integration of steel grades and sizes**

AMSA evaluated the combination of specifications in detail; there was limited opportunity to combine specifications for the industry. However the Applicant integrated some grades. Trials were done on certain specifications and combined when proven successful, and this exercise is completed. The combination and reduction of dimensions was also evaluated, for example to combine 20.5mm with 20mm. For its mills to roll the different sizes does not add any complexity to the plant or affect any efficiencies, therefore this exercise is also completed, and no further changes will be implemented.

- **The rolling into stock or keeping strategic stock**

The Applicant has evaluated the option of rolling some items into stock, but findings were that looking at volumes and product mix, it was not feasible for AMSA to implement this plan due to affordability and economies of scale. The number of products that the industry manufacture requires large variety of specs and sizes, and it is something not within anyone's control.

5.2.4 Support the introduction of a prior import surveillance system

At the Steel Master Plan meeting, SAFMA volunteered to pilot the Prior Surveillance Initiative, in conjunction with SAISI, similar to that of Europe and the USA to deal with the

influx of final products. Deliberations and discussions of ideas are already taking place for final approval.

- **Import prevention strategies**

The Applicant is of the view that more focus should be on strengthening its import prevention strategies to mitigate the risk posed by circumvention and to improve monitoring of the existing safeguards duty. It believes that this will assist in total to increase of local manufacturing and capacity utilisation within the fasteners sector. The Applicant is of the opinion that the next opportunity will be an increased drive for export of final products to improve all industries capacity utilization and efficiencies. More manufacturing equates to a lower cost base. This will also allow it to shorten our rolling cycle which will assist the industry to better manage their stock levels and increase cash flow. The Applicant is well on its way to achieve reasonable volumes in the immediate aftermath of the safeguard duty, but the slowdown in deliveries has hampered these efforts. Once volumes pick up, it will re-evaluate the rolling schedule.

5.2.5 Continuous training of SARS to improve customs control

SAFMA has contracted the services of IS Training, and certified customs training consultancy, to assist in this regard. In addition, SAFMA has attended all Downstream Steel Forums under the umbrella of SARS which deals with circumvention and import monitoring. Through this forum, SAFMA has provided reference pricing targets for the SARS risk engine (software monitoring imports) as well as numerous examples of imports duty circumvention.

5.2.6 Support higher levels of designation and localisation

The Applicant indicated that it is difficult to monitor localisation because the decision of buying takes place at a user buying and installation level. On the other hand, the Applicant believes there is greater buy-in taking place and provided the following examples;

- The Mining Charter Provided for a specific level of local content. That is monitored by the South African Bureau of Standards (SABS). CBC Fasteners has applied to SABS for the audit of local content of product supplied to the mining sector. The matter is in process, all submission having been provided; and now only waiting an audit is being awaited. In terms of its submission, the Applicant is able to confirm 97% local content in

its product.

- The OEM Automotive Industry is committed to localisation. Unfortunately, the range of fasteners is very wide and would be difficult to service. Tooling cost relative to volume makes manufacture uneconomical as international companies are ahead of the curve.

5.2.7 Summary

The Applicant stated that the following three main factors slowed down SACU industry's adjustment progress, and that leads to the possible recurrence of serious injury if the duty were to expire:

- i. The slowdown of the economy and constraints on growth led to an increase in costs and a decrease in sales;
- ii. The Covid-19 pandemic impact; and
- iii. The bypassing of safeguard duties through the use of developing nations exempted from paying the safeguard duty.

The impact of Covid-19 on steel demand means that a return to normal levels might only occur in 2024. This depressed demand falls well within the period of the lapsing of the safeguard duty on threaded fasteners and, given the importance of demand growth in the development plan, necessitates the extension of the safeguard duty in order to achieve the adjustment goals of the SACU industry.

The Applicant stated that the extension of the safeguard duty will allow, firstly, for the sustainability of the industry while it adjusts to the very difficult market circumstances both locally and globally; secondly, will assist the industry to continue to deliver in terms of the Development Plan submitted; and finally, will allow for an opportunity for the next level of collaboration between business and government in terms of the Steel Master Plan.

The Applicant summarised its views on its adjustment plan as follows:

Should safeguard protection not be extended or prove unsuccessful (through evasion by importing from exempted countries), all the commitments made by industry as part of the adjustment plan will be at risk. Furthermore, all the efforts and steps already taken to ensure the long-term survival of the industry will most likely fail.

SAFMA stands by its commitments to:

- Increase total production volume.

- Investment in capital equipment and other fixed assets.
- More Research & Development and upscaled production and product offerings.
- Complete factory upgrades where required to increase supply.
- Skills development and training and fast-tracking promotion at all levels of employment
- Complete support for the Government BBBEE agenda.
- Increasing total employment in all classes of skilled/semi/unskilled workers. Increase in employee numbers results in enhanced social & community development as each new job supports an average of 6-8 dependants.

5.3 Conclusion

According to the Applicant, the following demonstrates that the industry is adjusting:

- There was an increase in orders placed with local manufacturers;
- This led to an increase in orders placed for the raw material;
- This led to an increase in capacity utilisation as higher volumes are produced;
- There is a direct benefit to employment as more employees were employed to facilitate higher manufacturing levels;
- For the first time in almost a decade, machines that were “mothballed” were reintroduced into the production line;
- New investments are being considered, or have already taken place; and
- The benefits to related industries such as galvanisers, heat treatment etc., has been significant.

5.4 Comments by FDA on initiation notice and essential facts letter

FDA submitted its original comments as it is of the opinion that the Commission did not take its comments into consideration, meaning that their comments have been ignored. FDA request the Commission to consider their comments before making a final decision. FDA made the following comments on initiation notice and reiterated them in response to essential facts letter:

- According to FDA, when the development plan presented in the original investigation is compared to the development plan in the current case, there is no evidence of any action or any meaningful measures being taken by the Applicant to become competitive. The adjustment plan does not deal with what has been done by the local producers in the last 3 years.

- FDA stated that short-term strategies on customs control, industry forum, designation and localization are not steps towards making the industry competitive. These strategies, particularly on designation and localization, are beyond the company's control, and depends on government policies.
- The local industry is not adjusting to become competitive. Continuing to implement an ineffective adjustment plan will not make the local industry competitive against imports and so cannot be used as justification for extending the safeguard duty. FDA submit that the local industry has not provided evidence of that it is adjusting nor effective strategies to become competitive in the future, then the foundation of this application dissolves and ITAC should reject the extension request.

Commission's consideration

- It is clear from the application that the industry took meaningful steps in the last 3 years and is adjusting despite being slowed down by stagnant economic growth, the impact of the Covid-19 pandemic, and the bypassing of safeguard duties through the use of developing nations exempted from paying the safeguard duty. To prove that the industry is adjusting and meaningful measures were taken to improve competitiveness, the following facts were presented by the Applicant and verified by the Commission:
 - Orders placed with local manufacturers increased and this led to an increase in capacity utilisation as higher volumes are produced, and increase in orders placed for the raw material (steel);
 - The industry was able to employ more people to facilitate higher manufacturing levels;
 - For the first time in almost a decade, machines that were "mothballed" were reintroduced into the production line; and
 - New investments on plants, IT and training were made and others are being considered.

The non-confidential application that FDA viewed covered these points. It is therefore puzzling that FDA sees nothing has been done or improved in the last years when the duty was in place.
- It is correct that the Applicant made various commitments to Government, particularly the DTIC. Part of the strategies in the industry's development plan were designed to

contribute to the DTIC's policies, such the current steel masterplan. One of the various projects of the masterplan is to adopt localisation, through import replacement in order to unlock dormant capacity in the market. Through import replacement, the industry has been able to increase its capacity utilisation as more order are now placed to the local producers. The non-confidential application in the public file shows this improvement in capacity utilisation, production output, sales volumes and profitability.

As a result of the duty the locally produced subject product is becoming more competitive against imports.

Applicant's response

The Applicant argued that Regulations clearly states that the extension is warranted where the industry is currently adjusting, not only where the industry has already fully adjusted. If this was the case, there would have been no need to extend the duties in the first place. The Applicant stated that the information provided in that application sufficiently demonstrates that the industry is adjusting and continues to adjust. The Applicant further stated that despite some progress having been made over the last three years for the industry to adjust to the surge in imports, the adjustment has been limited and slow due to external factors beyond the control of the industry. The industry is likely to fully meet its agreed adjustment obligations if the safeguard duty is extended.

6. SUMMARY OF FINDINGS

The Commission made the following findings:

6.1 Continuation or recurrence of serious injury

The Commission considered the following injury indicators:

Table 6.1: Injury indicators

Injury indicators	Change from 2020 to 2023	Change should the duty expire
Imports volumes	Decreased	Increased
Sales volumes	Increased	Decreased
Profits	Decreased	Decreased
Output	Increased	Decreased
Applicant's market share	Decreased	Decreased
Capacity utilisation	Increased	Decreased
Employment	Increased	Decreased

The Commission found that SACU industry's performance improved during the period for which a safeguard duty has been in place. This is evident from the increase in sales volumes, production volumes, productivity, employment and capacity utilisation during the period when the duty was in place, although that improvement did not generate more profits and/or market share.

The assessment of the recurrence of serious injury shows sufficient evidence that there is likelihood of recurrence of serious injury to the SACU industry, should the safeguard measure expire. The Commission found that all the industry's performance indicators, i.e. sales volumes, production volumes, profits, market share, capacity utilisation, productivity, and employment numbers will all decline in the succeeding period, should the safeguard duty expire. The shrinking profits will decline further and change to losses and the current market share will decline in favour of imports that are likely to increase in the same period. These estimated declines and increase in import volumes are an indication that should the safeguard measure not be extended, the serious injury experienced by the SACU industry during 2015-2018 period (period of investigation in the original investigation) will recur.

The Commission made a final determination that the expiry of the safeguard duty will likely lead to a recurrence of serious injury.

6.2 Evidence that the SACU industry is adjusting

The Commission considered the following efforts and/or measures taken by the SACU industry in order to adjust in line with its Adjustment Plan in the original safeguard investigation of the subject product:

- The SACU industry has made considerable investments of more than R6 million over the last 3 years, to improve on their technological and human abilities to increase efficiencies and thereby be able to compete more equally with the imported product;
- The industry players have increased their employment force considerably, which in turn led to investment in skills development and higher overall production;
- The industry, together with AMSA have rationalised raw material qualities thereby allowing AMSA higher production volumes on a narrower product range;
- The industry have volunteered to pilot the Prior Surveillance Initiative to contribute to the Steel Master Plan;
- The industry is working closely with SARS to deal with duty circumvention and import monitoring; and
- The industry supports designation and localisation.

The Commission found the above efforts and/or measures taken by the SACU industry as sufficient evidence demonstrating that the SACU industry is adjusting. Accordingly, the Commission made a final determination that the SACU industry is adjusting.

7. DEFINITIVE SAFEGUARD DUTY

The Commission made a final determination to make the following recommendations:

- 7.1** The Commission recommends to the Minister that safeguard duty on the imports of threaded fasteners be extended for a period of three years as per table 7 below:
- 7.2** The Commission recommends to the Minister that the proposed safeguard measure be liberalized by 2% every 12 months over the period of three years as per table 7 below.
- 7.3** The Commission recommends to the Minister that the proposed safeguard duties be listed in the “rebate item” column in Schedule No. 2, and therefore may not be imported under rebate of customs duty without payment of anti-dumping, countervailing and safeguard duties without a recommendation from the Commission, with effect from the date of the publication.
- 7.4** The Commission recommends to the Minister that all developing WTO member countries (see table 8 below) with imports that do not exceed 3 per cent, and that collectively with other developing countries with less than 3 per cent import share do not collectively account for more than 9 per cent of total imports, be exempted from the application of the extended safeguard duty.

Table 7: Proposed duties and liberalization schedule

Period	Rate of safeguard measure
24 July 2023 – 23 July 2024	48.04% <i>ad valorem</i>
24 July 2024 – 23 July 2025	46.04% <i>ad valorem</i>
24 July 2025 – 23 July 2026	44.04% <i>ad valorem</i>

Table 8 Developing WTO member countries

Name	Name	Name	Name
Afghanistan	Madagascar	Dominica	Saint Vincent and the Grenadines
Albania	Malawi	Dominican Republic	Sao Tome & Principe
Algeria	Latvia	Ecuador	Samoa
American Samoa	Lebanon	Egypt, Arab Rep.	Senegal
Angola	Maldives	El Salvador	Seychelles
Antigua and Barbuda	Mali	Eritrea	Sierra Leone
Argentina	Marshall Islands	Eswatini	Singapore
Armenia	Mauritania	Equatorial Guinea	Solomon Islands
Azerbaijan	Mauritius	Ethiopia	Serbia
Bangladesh	Mexico	Fiji	Somalia
Bahrain	Micronesia	Gabon	South Sudan
Belarus	Moldova, Republic of	The Gambia	Sri Lanka
Belize	Mongolia	Georgia	Sudan
Benin	Montenegro	Ghana	Suriname
Bhutan	Morocco	Grenada	Syrian Arab Republic
Brunei Darussalam	Mozambique	Guatemala	Tajikistan
Bolivia	Myanmar	Guinea	Tanzania
Bosnia & Herzegovina	Namibia	Guinea-Bissau	Timor-Leste
Botswana	Nepal	Guyana	Togo
Brazil	Nicaragua	Haiti	Thailand
Bulgaria	Niger	Honduras	Tonga
Burkina Faso	Nigeria	St. Lucia	Trinidad and Tobago
Burundi	North Macedonia	Iran, Islamic Rep. of	Tunisia
Cabo Verde	Oman	Iraq	Indonesia
Cambodia	Pakistan	Jamaica	Turkmenistan
Cameroon	Palestine	Jordan	Tuvalu
Central African Republic	Palau	Kazakhstan	Uganda
Chad	Panama	Kenya	Ukraine
Chile	Papua New Guinea	Kiribati	United Arab Emirates
Colombia	Paraguay	Korea	Uruguay
Comoros	Peru	Kyrgyz Republic	Uzbekistan
Costa Rica	Philippines	Kosovo	Vietnam
Côte d'Ivoire	Qatar	Kuwait, the State of	Vanuatu
Cuba	Romania	Lao People's Dem. Republic	Venezuela

Democratic Republic of the Congo	Russian Federation	Lebanon	West Bank and Gaza*)
Congo	Rwanda	Lesotho	Yemen
Djibouti	Saudi Arabia	Liberia	Zambia
Lithuania	St. Kitts and Nevis	Libya	Zimbabwe