Report No. 750

INVESTIGATION FOR REMEDIAL ACTION IN THE FORM OF A SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, CLAD, PLATED OR COATED, WITH ALUMINIUM-ZINC ALLOYS, OF A THICKNESS OF LESS THAN 0.45MM, CLASSIFIABLE UNDER TARIFF SUBHEADINGS 7210.61.20 AND 7210.61.30 AND FLAT-ROLLED PRODUCTS OF OTHER ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, OTHERWISE PLATED OR COATED WITH ZINC, OF A THICKNESS OF LESS THAN 0.45MM, CLASSIFIABLE UNDER TARIFF SUBHEADINGS 7225.92.25 AND 7225.92.35 ("CORROSION RESISTANT STEEL COIL"): PRELIMINARY REPORT

The International Trade Administration Commission of South Africa herewith presents its **Report No. 750: INVESTIGATION FOR REMEDIAL ACTION IN THE FORM OF A SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, CLAD, PLATED OR COATED, WITH ALUMINIUM-ZINC ALLOYS, OF A THICKNESS OF LESS THAN 0.45MM, CLASSIFIABLE UNDER TARIFF SUBHEADINGS 7210.61.20 AND 7210.61.30 AND FLAT-ROLLED PRODUCTS OF OTHER ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, OTHERWISE PLATED OR COATED WITH ZINC, OF A THICKNESS OF LESS THAN 0.45MM, CLASSIFIABLE UNDER TARIFF SUBHEADINGS 7225.92.25 AND 7225.92.35 ("CORROSION RESISTANT STEEL COIL"): PRELIMINARY REPORT**

AYABONGA CAWE
CHIEF COMMISSIONER

PRETORIA
06/06/**2025**

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

INVESTIGATION FOR REMEDIAL ACTION IN THE FORM OF A SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, CLAD, PLATED OR COATED, WITH ALUMINIUM-ZINC ALLOYS, OF A THICKNESS OF LESS THAN 0.45MM, CLASSIFIABLE UNDER TARIFF SUBHEADINGS 7210.61.20 AND 7210.61.30 AND FLAT-ROLLED PRODUCTS OF OTHER ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, OTHERWISE PLATED OR COATED WITH ZINC, OF A THICKNESS OF LESS THAN 0.45MM, CLASSIFIABLE UNDER TARIFF SUBHEADINGS 7225.92.25 AND 7225.92.35 ("CORROSION RESISTANT STEEL COIL" OR "THE SUBJECT PRODUCT"): PRELIMINARY REPORT

SYNOPSIS

On 27 December 2024, the International Trade Administration Commission of South Africa ("the Commission") initiated an investigation for remedial action against increased imports of corrosion resistant steel coil. On 17 January 2025, the Commission terminated this investigation and re-initiated an investigation for remedial action in the form of a safeguard against the increased imports of corrosion resistant steel coil through Notice No. 2931 in *Government Gazette* No. 51903.

The application was lodged by ArcelorMittal South Africa Limited ("the Applicant" or "AMSA"), being the major producer of the subject product in the Southern African Customs Union ("SACU"), supported by SAFAL Steel (Pty) Ltd ("SAFAL"), the other manufacturer of the subject product.

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

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

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

The Commission made a preliminary determination that there were unforeseen developments which resulted in the increased imports. The Commission further made a preliminary determination that there was a surge in imports of the subject product, causing serious injury to the SACU industry. The Commission considered that there are critical circumstances where a delay in imposition of provisional measures would cause damage that would be difficult to repair and that these critical circumstances justify the imposition of provisional measures.

The Commission, therefore, made a preliminary determination to request the Commissioner for the South African Revenue Service ("SARS") to impose a provisional measure of 52.34 percent *ad valorem* on imports of corrosion resistant steel coil for a period of 200 days pending the finalisation of the investigation.

1. APPLICATION AND PROCEDURE

1.1 LEGAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, 2002 ("ITA Act"), the International Trade Administration Commission's Safeguard Regulations ("SGR") and giving due regard to the World Trade Organisation's Agreement on Safeguards ("the Safeguard Agreement").

1.2 APPLICANT

ArcelorMittal South Africa Limited ("the Applicant" or "AMSA"), the major producer of the subject product in the Southern African Customs Union ("SACU") lodged the application on behalf of the SACU Industry, supported by SAFAL, a manufacturer of the subject product.

1.3 ALLEGATIONS BY THE APPLICANT

The Applicant submitted that a confluence of events (listed below) forms the basis of the unforeseen developments that support its application.

The Applicant stated that during the Uruguay Round of negotiations, South Africa did not foresee the following events:

- the decision to split the subject product into two main HS categories, namely non-alloy steel (HS7208) and alloy steel (HS7225) resulting in a tug and pull effect, whereby the increase in duties payable on one tariff sub-heading leads to a direct increase in the import volumes for the other due to their interchangeability in function; and
- the considerable over supply of the subject product in the world today causing a surge in imports into the SACU, which can be broken down into four main issues, namely:

(i) Studies show that China did not become a fully-fledged market economy as it assured WTO Members it would during negotiations;

(ii) Chinese economic activity has consistently declined since 1994 and large steel producers follow aggressive export strategies, fuelled by an oversupply of steel products;

(iii) China's extraordinary economic growth is slowing down dramatically and the Chinese domestic market for steel is retracting, as a result of all of the above factors, Chinese producers have to increase their exports further, at reduced prices, to rid themselves of excess stocks; and

(iv) Worldwide, countries are taking urgent action to raise tariffs and impose trade remedies to protect their domestic steel industries; and it is expected that the surge in imports that the SACU has been experiencing will be augmented by the recent economic slowdown in China and by the fact that China's export markets are contracting rapidly.

The Applicant submitted that the above confluence of circumstances was unforeseen at the time South Africa concluded its tariff negotiations and it resulted in increased imports causing serious injury to the SACU industry.

1.4 INVESTIGATION PERIOD

The data evaluation for the purposes of determining increased imports and serious injury contains information for the period 01 May 2021 to 30 April 2024.

1.5 INVESTIGATION PROCESS

1.5.1 The information submitted by the Applicant was verified on 26 and 27 September 2024.

1.5.2 The application was accepted as being properly documented on 02 December 2024.

1.5.3 The investigation was initiated on 27 of December 2024. The investigation was terminated on the 17th of January 2025 and then re-initiated on the same date.

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

- Macsteel Roofing;
- Roofco Steel;
- Steelworld Roofing Systems (Pty) Ltd;
- SS Profiling (Pty) Ltd;
- Newcastle Steel (Pty) Ltd; and
- Heunis Steel (Pty) Ltd.

1.5.5 The exporters and foreign producers of the products exported to SACU known to the Applicant are:

- Angang Steel Co. Ltd;
- Shandong Longhai Steel Co., Ltd;
- Shandong Xinyinrui Iron and Steel Co., Ltd;
- Baoshan Iron and Steel Co. Ltd;
- Shandong Junbaocheng Metal Manufacturing Co., Ltd;
- ShougangJingtang United Iron and Steel Co; and
- Jiangyin Zong Cheng Steel Co Limited.

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

- The European Commission;
- The Government of Mexico ("Mexico");
- The Trade Representation of the Russian Federation in the Republic of South Africa ("Russia");
- Steel Import International (Pty) Ltd ("SII")
- Hendok Group - incorporating Hendok Distribution, Henroof, Clear Creek t/a Wireforce ("Hendok")
- BSI Steel ("BSI"); and
- SS Profiling PTY (LTD), Steelworld Roofing Systems PTY (LTD), Intersteel, Roofco Steel and Haya Steel Merchants PTY (LTD)T/A Alpha

Steel Merchants ("The Consortium").

1.5.7 In this report the following periods will apply:

01 May 2021 – 30 April 2022 will be referred to as **2021**;

01 May 2022 – 30 April 2023 will be referred to as **2022**; and

01 May 2023 – 30 April 2024 will be referred to as **2023** (period of the surge).

1.6 COMMENTS FROM INTERESTED PARTIES

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

<u>Initiation of the investigation</u>

Comments by the European Commission on initiation of the investigation and the choice of instrument used

The European Commission stated that the safeguard instrument is the most restrictive of the trade defence instruments, it should only be used in truly exceptional circumstances and when no other instrument is available. Equally, it is even more important that the strict WTO criteria are complied with, when eventually considering the imposition of safeguard measures.

The European Commission also stated that regarding the development of imports of the product concerned into South Africa, the Applicant mentions that "according to the official import statistics there were only five countries that exported the subject products to South Africa during the final year of the POI, however China accounted for 99.7% of all imports during this period. Therefore, all other imports represent only a very small portion of South Africa's total import *volumes. Moreover, throughout the whole complaint, in several sections, the complainant only makes reference to imports from China. Just to mention a few examples: all the producers mentioned are Chinese; all the exporters mentioned are Chinese; the like or directly competing product is defined with reference to Chinese products; reference to China is also made in relation to the unforeseen development; and the underselling calculation is based on adjusted Chinese export prices. In this context of imports almost exclusively from one origin, China, it appears that a more targeted instrument such as the anti-dumping instrument would undoubtedly be more appropriate to combat the injurious imports from one single origin.*

The European Commission further stated that under the circumstances, and in case safeguard measures are imposed nevertheless, the choice of remedy is critical to ensure that downstream users and consumers are not unduly penalised, and to avoid unnecessarily restricting legitimate market access for imports that are not causing any injury, such as imports from the EU, considering their very low volume.

The European Commission stated that the effect of a possible safeguard measure on the South African market, already largely dominated by China, which would also target any possible alternative import sources, would be disproportionate, and would perpetuate the exposure to a single country, and a continuous dependency. In a situation where market access for imports of the product under investigation, from all origins is the same, South African users and consumers will find it impossible to choose among products from alternative origins on the basis of a comparison of price and quality, as is usual under normal market conditions.

The European Commission stated that the complainants, which are the only two producers of the product concerned, thus find themselves in a de facto monopoly (duopoly) situation, and eventually, the lack of competition, coupled with only one main source of imports, could possibly result in an uncontrolled increase in domestic prices to the detriment of users and consumers. In accordance with Article 3.1 of the WTO Safeguard Agreement, any safeguard *measure must also consider national interests, including consumers, and importers. It should be noted that the initiation report does not contain any analysis to determine whether any safeguard measure would be in the national interest. The South African authorities are therefore invited to carry out such analysis in due form, particularly in view of the considerable market share of imports and the fact that the production of the national branch does not seem, in any case, to be able to meet domestic demand.*

Commission's consideration

Article 2 of the Safeguard Agreement states the conditions for the application of the safeguard measures:

> *1. A Member may apply a safeguard measure to a product only if that Member has determined, pursuant to the provisions set out below, that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.*
>
> *2. Safeguard measures shall be applied to a product being imported irrespective of its source.*

The Commission's interpretation of Article 2 is that under the WTO Agreement on Safeguards, a member can apply a safeguard measure to a product, even if the imports causing serious injury originate from a single country, provided the other requirements for a safeguard measure are met. It noted the European Commission's comments on the issue of national interest and the duopoly situation that will be created as a result of imposing safeguard measures. The Commission is of the view that as the investigation progresses public interest hearings will be held to determine as to whether it would be in the public interest to impose safeguard duties on the subject product. It is the view of the Commission that the safeguard instrument is temporary in nature to allow the domestic industry to adjust and become competitive. The imposition of safeguard measures, resulting in a temporary duopoly, is permissible provided that all other requirements of the SGR and the Safeguard Agreement are satisfied.

Comments by the Government of Mexico ("Mexico") and the Trade Representation of the Russian Federation in the Republic of South Africa ("Russia")

Mexico and Russia both indicated that they did not export the subject product to the SACU during the period of injury. The two governments requested that the Commission consider not imposing a safeguard against them and thus exclude them from imposition of any potential measure as they did not cause injury to the SACU Industry.

Commission's consideration

Article 9 of the SGA states that:

> *Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 per cent, provided that developing country Members with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the product concerned.*

The Commission's interpretation of Article 9 of the Safeguard Agreement is that there are some exceptions for developing country members, where safeguard measures are not applied against a product originating in a developing country member as long as its share of imports of the subject product in the importing member does not exceed 3%, provided that developing country members with less than 3% import share collectively account for not more than 9% of total imports of the subject product. Therefore, Russia and Mexico will only be exempted if they are developing countries and their imports are less than 3% and collectively not more than 9%.

The fact that they did not export the subject product to the SACU during the POI does not exempt them from the safeguard measures should the Commission make a determination to impose measures. However, as Mexico and Russia are deemed to be developing countries for the purpose of safeguard investigations, imports originating in developing countries will be exempted from the provisional payments if the percentages noted above are not *exceeded.*

Comments by Steel Import International (Pty) Ltd ("SII")

SII stated that it wishes to advice the Commission that it is not only objecting to the investigation but has other concerns as well. SII indicated that it is an importer and steel merchant and has been trading in the SA market for the past eight years.

SII is a reputable company and has invested a substantial amount over this period in South Africa and anticipates additional investment, which are now put on ice until the issues in the SA steel market are addressed. This is a result of the constant tariff increase in favour of ArcelorMittal SA which creates uncertainty in the market, negatively affecting investment and job creation in the downstream industry. SII head office is situated in Illovo, Johannesburg employing some direct employees. The service that SII renders to its customers is the Delivered Duty Paid import of quality steel products from quality producers overseas at a competitive price offered in South African Rands with payment terms, especially when not available in the SA market.

SII stated that it specializes in hot rolled steel plate; hot rolled flat bars; cold rolled coils; and galvanized steel coils (the subject of this investigation).

SII stated that it has a history of importing steel amongst other for specialized end user manufacturing industry, merchants and engineering operations in SACU. The importation of galvanized steel products comprises at least twenty percent of the Company's turnover mix to clients, which then sell it on to down-stream manufactures or use the steel for the production of final products that are sold to SACU as well as export customers. SII provided the Commission with its import volumes and the rebated items of its import volumes.

SII stated that it has through its ability to offer products at competitive pricing, which combined with reliability and dependability of supply, as well the ability *to provide an end-to-end delivery from the overseas sources to its SA client's premises, been able to achieve a competitive edge in the SA market.*

SII also stated that due to the SA primary steel industry's inability to supply certain steel products, either due to dimension, other specification, production limitations or in a commercially viable manner (including short supply and delays), the required products had to be sourced abroad to allow the downstream industry to be able to compete with competitively priced imports of their final products in the SA market. In addition, due to substandard quality of steel products manufactured by the SA primary steel industry, certain downstream products that are traded as products of high durability and that carries warranties cannot be manufactured from the domestic steel, due to the products failing to achieve the required product integrity for the duration of the warranty periods. These products can only be manufactured from hot rolled steel products that need to be sourced abroad. Should the Commission decide to again impose a safeguard duty on top of the existing ordinary customs duties of 10 percent on the subject products, the landed price of these steel products will get to a level that will make those business that use the subject product as an input material completely uncompetitive against the imports that compete directly with their final products in the downstream.

SII concluded by stating that it must be noted that the higher the protection (tariffs) on the primary industry's products the more uncompetitive the downstream industry is becoming. Therefore, by subsidizing AMSA and Safal the Government is in fact killing the very customers that these companies are relying on to grow. Therefore, the downstream steel industry that adds value and creates the most jobs is dwindling at the hand of Government. In addition to the limited domestic availability of domestic produced steel that is required, local steel products' prices will rise and that will result in an increase in inflation, which will have a detrimental effect on the sustainability of down-stream Government. Clearly, such actions cannot amount to being in the public interest or the so-called Steel Master Plan. The fact that there are several products that are not manufactured in SACU, which need to be imported and should not form *part of the Commission's investigation. Some of these products are Zinc-Aluminium-Magnesium Coils (ZAM) and Aluminium-Magnesium-Zinc Coils (AMZ). It needs to be emphasized that the products that are not manufactured in SA, and which are normally rebated, cannot cause any serious injury to the SACU industry and should therefore not be subjected to any safeguard duty.*

Commission's consideration

The Commission noted SII's comments on the importation of goods that are not produced in the local industry and agrees that in such instances an importer of any product not produced in the local industry can apply for rebates on such items.

The Commission noted that SII's statements highlight significant concerns regarding the potential impact this safeguard and other tariff policies that have been used in the past have on investment, market stability, and the competitiveness of the downstream steel industry in South Africa. The Commission intends to take these concerns into account when conducting the public interest analysis.

Comments by the Hendok Group ("Hendok")

Hendok stated that it has experienced firsthand the Applicants failure to provide adequate supply of thinner-gauge steel products. According to Hendok the Applicant has historically been unable to produce these gauges, which are critical for downstream manufacturers like Hendok. This limitation forces it to rely on imports to meet customer demand. ***AMSA's operational inefficiencies****—frequent breakdowns, outdated technology, and inflexible pricing—have exacerbated supply shortages. Hendok stated that it has repeatedly faced delays in receiving pricing or lead-time confirmations from the Applicant, making it difficult to plan production schedules effectively. Furthermore, Hendok stated that the Applicant's inability to manage seasonal demand spikes further highlights their operational constraints, leaving downstream manufacturers vulnerable during peak periods.*

Hendok also stated that in August 2024, Safal was unable to fulfil an order for it and explicitly stated they could only supply less than half of the size specifications required. These constraints raise serious concerns about whether local producers can meet demand if imports are restricted by safeguard duties.

Hendok stated that over the past three years, sales have been lost due to duty circumvention and under-declaration practices by fraudulent importers. If safeguard duties are imposed, this issue will likely worsen as higher tariffs incentivize dishonest practices such as mislabelling or under-declaring imports. Hendok stated that the safeguard duty would reward fraudulent importers with access to cheaper materials while legitimate businesses like it face rising costs and reduced competitiveness. This would undermine the intended purpose of the safeguard measure and harm both local producers and honest importers.

Hendok stated that the Applicant's internal inefficiencies have led to significant cost increases for downstream manufacturers. Between 2021 and 2024, AMSA's production costs for coated material increased by R4,000 per ton (a 30% rise). These cost hikes are unrelated to global market conditions or raw material costs but stem from AMSA's outdated technology and operational challenges. Despite declining global steel prices due to weak demand, the Applicant continues to seek excessive price increases that reflect their inefficiencies rather than market realities.

Hendok also stated that if raw material prices rise due to safeguard duties, downstream manufacturers like it may be forced to import finished roof sheeting instead of producing locally. This shift would harm local value chains and reduce demand for the Applicant's products altogether. The cyclical nature of roof sheeting sales further complicates this issue—slow sales in early months followed by surges later in the year require flexibility in supply chains that the Applicant has failed to provide.

Hendok concluded by stating that the proposed safeguard duty would exacerbate existing challenges in South Africa's steel industry rather than *resolving them. It would disproportionately harm downstream manufacturers like it while rewarding fraudulent importers and inefficient local producers.*

Response by the Applicant to Hendok and the Consortium

The Applicant stated that Hendok and the Consortium raised the issue of circumvention of the eventual safeguard duties in their submission. In principle this is a point that the Applicant supports. Circumvention of duties is a major concern as it impacts the efficacy of the eventual protection harming the Applicant and other parties like Hendok and the Consortium in the process. The Applicant stated that although it does not agree that domestic producers will arbitrarily increase prices, it does agree that the imposition of the duty will see importers/exporters attempting to move to different tariff headings to avoid the duties, including the headings of the end products which Hendok and the Consortium supply.

The Applicant also stated that it does not agree that the solution to the problem is the non-imposition of the requested relief. In other words, industry cannot be denied protection because of the unlawful and criminal behaviour of a select few importers. The Applicant requested that the Commission take notice of the above the possible circumvention of duties throughout the investigation and the Applicant and/or the interested parties, may submit a separate circumvention application which the Commission should consider with due haste.

The Applicant further stated that Interested parties argue that ageing technology and a lack of plant innovation and maintenance has led to delays and 'seasonal' supply shortages. The Applicant and SAFAL submit that this is false. The Applicant stated that it has invested considerably into the upscaling of its facilities and remain committed to continue investment into maintaining its current operations as well as to further enhance and improve production. In terms of efficiency, it's lead times are typically 6-12 weeks from date of order confirmation and 70% of the orders were dispatched within 8 weeks for the subject product over the POI. By way of comparison, lead times for imports are normally 6-12 weeks to produce in an international mill, shipping another 4-6 weeks, this is excluding port delays and other factors which could contribute to *longer lead times. Applicant's understanding that imports from China are confirmed in March/April for supply in August which is a 5-month delay time. To the extent that comments have been made about SAFAL's efficiency - the Applicant submits that SAFAL's production facility features state of the art technology. SAFAL is a trusted long-time supplier to the SACU market. Therefore, the domestic producers are fully capable of meeting the domestic demand for the product efficiently and effectively.*

1.7 PRELIMINARY DETERMINATION

The Commission made a preliminary determination that:

- The events cited are regarded as unforeseen developments that led to the increased volume of imports;
- The surge in volume of imports is recent enough, sudden enough, sharp enough and significant enough;
- The SACU industry is experiencing serious injury; and
- Although there was a contraction in the size of the market, an increase in input costs, an increase in energy costs (increases of electricity of about 18.65% over the POI) and transport costs, these factors did not sufficiently detract from the causal link between the serious injury experienced by the Applicant and the surge in volumes of imports resulting from the unforeseen developments.

Having found that increased imports have caused serious injury and that a delay would cause damage that would be difficult to repair, the Commission considered that there are critical circumstances which justify the imposition of provisional measures. The Commission therefore made a preliminary determination to request the Commissioner for SARS to impose a provisional measure of 52.34 percent *ad valorem* on imports of the subject products for a period of 200 days pending the finalisation of the investigation.

The provisional measures should be imposed against all countries, except the developing countries listed at the end of the report, as the imports from each of these countries do not exceed 3 percent of the total volume of imports or collectively account for more than 9 percent of total imports.

A developing country exempted from the application of a safeguard measure may become subject to such safeguard measures without a new investigation being conducted if, subsequent to the imposition of the safeguard measure, its share of imports increases to a level that exceeds 3 percent of the total import volumes in the original investigation period.

2. PRODUCTS, TARIFF CLASSIFICATION AND DUTIES

2.1 IMPORTED PRODUCTS

2.1.1 Description

The Applicant described the imported product as flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated, with aluminium-zinc alloys, of a thickness of less than 0.45mm, classifiable under tariff subheadings 7210.61.20 and 7210.61.30 and flat-rolled products of other alloy steel, of a width of 600 mm or more, otherwise plated or coated with zinc, of a thickness of less than 0.45mm, classifiable under tariff subheadings 7225.92.25 and 7225.92.35 ("corrosion resistant steel coil" or the "subject product").

Corrosion resistant steel coil

Typical end-use:

The imported product is predominantly used as an intermediary input in the production of corrugated metal roof cladding, classifiable under HS Code 7210.49.10. Although the thinner gauges from 0,45mm down to 0.3mm are used in building projects such as low-cost housing, the less than 0,3mm coating thickness will also be sold to the informal (self-help) segment, mainly for the erection of informal settlements. The overall trend in the coated steel market is for lighter gauge material especially in the self-help and informal roofing and cladding markets.

2.1.2 Tariff classification and WTO obligations

The subject product is imported under the following tariff headings:

Table 2.1.2

HS Tariff subheading	Description	Statistical unit	Rate of duty					
			General	EU/UK1	EFTA2	SADC3	MERCOSUR4	AfCFTA5
7210	**Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, not clad, plated or coated:**							
7210.61	**Plated or coated with aluminium-zinc alloys:**							
7210.61.20	Of a thickness not exceeding 0,20 mm	Kg	10%	Free	Free	free	10%	10%
7210.61.30	Of a thickness exceeding 0,20 mm but not exceeding 0,45 mm	Kg	10%	Free	Free	free	10%	10%
72.25	**Flat-rolled products of other alloy steel, of a width of 600 mm or more**							
7225.92	**Otherwise plated or coated with zinc**							
7225.92.25	Of a thickness not exceeding 0,20 mm	Kg	10%	Free	Free	free	10%	free
7225.92.35	Of a thickness exceeding 0,20 mm but not exceeding 0,45 mm	Kg	10%	Free	Free	free	10%	free

1 European Union/United Kingdom
2 European Free Trade Association
3 Southern Africa Development Community
4 African Continental Free Trade Area
5 African Continental Free Trade Area

The Applicant stated that the obligations incurred under the GATT 1994, refers to the binding of duty rates to 10% on the subject product. Prior to the new obligations incurred under the GATT 1994, the following formula duty applied: 5% ad valorem duty, or 95% of the difference between the accepted benchmark price and lower import price, whichever was higher. With South Africa's ascension to the GATT 1994, the formula duty fell away, leaving only a 5% ad valorem duty. This duty was then reduced to 0% in 2005, and ultimately increased to 10% in 2016.

2.1.4 Possible tariff loopholes

The Applicant stated that it is not aware of any tariff loopholes at the moment.

2.1.5 Production process

Corrosion resistant steel coil is manufactured according to relatively standardized processes and machinery. Consequently, the Applicant submits that there is no difference in the basic production methods used globally and specifically in the country subject to this investigation.

The Applicant indicated that the production process is as follows:

- The manufacturing process for corrosion resistant steel coil consists of the following steps:
- Hot Rolled Coil ("HRC") goes through a pickling process, which refers to a treatment that is used to remove impurities, rust, and scale from the surface of a material, after which the coil goes to the rolling mill for thickness deformation where HRC becomes Full Hard Cold Rolled Coil (CRC).
- The CRC then goes through hot dip galvanizing or an aluminium-zinc alloy bath. This is the process of coating steel with a layer of zinc or aluminium-zinc alloys by immersing the metal in a bath of molten zinc or aluminium-zinc.
- Skin passing is then done to reduce strain marks and ensure a uniform surface. The coil then goes through tension leveller which reduces any shape defects and ensures flatness through elongation of steel.
- A thin coat of chromate – a rust inhibitor, is then applied to the coated product. The coil is then packed for despatch to customers.

2.2 SACU PRODUCT

2.2.1 Description

The Applicant described the SACU product as flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated, with aluminium-zinc alloys, of a thickness of less than 0.45mm, classifiable in tariff subheadings 7210.61.20 and 7210.61.30 and flat-rolled products of other alloy steel, of a width of 600 mm or more, otherwise plated or coated with zinc, classifiable in tariff subheadings 7225.92.25 and 7225.92.35.

2.2.2 Production process

The production process is as follows;

- Hot Rolled Coil ("HRC") goes through a pickling process, which refers to a treatment that is used to remove impurities, rust, and scale from the surface of a material, after which the coil goes to the rolling mill for thickness deformation where HRC becomes Full Hard Cold Rolled Coil (CRC).

- The CRC then goes through hot dip galvanizing or an aluminium-zinc alloy bath. This is the process of coating steel with a layer of zinc by immersing the metal in a bath of molten zinc or aluminium-zinc.

- Skin passing is then done to reduce strain marks and ensure a uniform surface. The coil then goes through tension leveller which reduces any shape defects and ensures flatness through elongation of steel.

- A thin coat of chromate – a rust inhibitor, is then applied to the coated product. The coil is then packed for despatch to customers.

2.2.3 Application or end use

The Applicant stated that the SACU like product is predominantly used as an intermediary input in the production of corrugated metal roof cladding, classifiable under HS Code 7210.41.10. Although the thinner gauges from 0.45 mm down to 0.3mm are used in building projects such as RDP housing, the less than 0,3mm coating thickness will go to the informal (self-help) segment, mainly for the erection of informal settlements.

2.2.4 Categories of users

The Applicant stated that the SACU like product is mainly sold to rerollers and fabricators in the manufacture of corrugated roof cladding.

2.3 LIKE OR DIRECTLY COMPETITVE PRODUCTS ANALYSIS

In terms of SGR 2, a like product is “a product which is identical, i.e. is 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", while a directly competitive product is a product, other than a like product, that competes directly with the product under investigation.

In determining the likeness or directly competitiveness of the product, the Commission uses the following criteria:

	Imported product	**SACU product**
Tariff Headings	7210.61.20, 7210.61.30, 7225.92.25 and 7225.92.35.	7210.61.20, 7210.61.30, 7225.92.25 and 7225.92.35.
Raw materials	The main raw material used is carbon/alloy steel, hot-rolled coil.	The main raw material used is carbon/alloy steel, hot-rolled coil.
Production process	The production process of the imported product is outlined in detail above.	The SACU product production process is outlined in detail above.
Physical appearance		
Categories of users	The imported product is mainly used by re-rollers and fabricators in the manufacture of corrugated roof cladding.	The SACU product is mainly used by re-rollers and fabricators in the manufacture of corrugated roof cladding.

Application or end-use	The imported subject product is predominantly used as an intermediary input in the production of corrugated metal roof cladding, classifiable under HS Code 7210.49.10. Although the thinner gauges from 0,45mm down to 0.3mm are used in building projects such as low-cost housing, the less than 0,3mm coating thickness will also be sold to the informal (self-help) segment, mainly for the erection of informal settlements. The overall trend in the coated steel market is for lighter gauge material especially in the self-help and informal roofing and cladding markets.	The SACU product is predominantly used as an intermediary input in the production of corrugated metal roof cladding, classifiable under HS Code 7210.41.10. Although the thinner gauges from 0,45 mm down to 0.3mm are used in building projects such as RDP housing, the less than 0,3mm coating thickness will go to the informal (self-help) segment, mainly for the erection of informal settlements.
Substitutability	The imported products are fully substitutable with the SACU products.	The SACU products are fully substitutable with the imported products.

The Commission made a decision to use the same criteria as above to make a comparison between the Zinc coated product as well as the Alu-zinc coated product:

		Zinc coated product: AMSA	ALU-zinc coated product: SAFAL
Tariff Headings		7225.92.25 and 7225.92.35.	7210.61.20 and 7210.61.30
Raw materials		The main raw material used is carbon/alloy steel, hot-rolled coil.	The main raw material used is carbon/alloy steel, hot-rolled coil.
Production process		The production process of the zinc coated product is outlined in detail above.	The product production process of the alu-zinc product is outlined in detail above.
Physical appearance			

Categories of users		The zinc coated product is mainly used by re-rollers and fabricators in the manufacture of corrugated roof cladding.	The alu-zinc coated product is mainly used by re-rollers and fabricators in the manufacture of corrugated roof cladding.
Application or end-use		The zinc coated product is predominantly used as an intermediary input in the production of corrugated metal roof cladding, classifiable under HS Code 7210.41.10. Although the thinner gauges from 0,45 mm down to 0.3mm are used in building projects such as RDP housing, the less than 0,3mm coating thickness will go to the informal (self-help) segment, mainly for the erection of informal settlements.	The alu-zinc coated is predominantly used as an intermediary input in the production of corrugated metal roof cladding, classifiable under HS Code 7210.41.10. Although the thinner gauges from 0,45 mm down to 0.3mm are used in building projects such as RDP housing, the less than 0,3mm coating thickness will go to the informal (self-help) segment, mainly for the erection of informal settlements.
Substitutability		The zinc coated product is fully substitutable with the alu-zinc coated products.	The alu-zinc coated product is fully substitutable with the zinc coated products.

Comments by SS Profiling PTY (LTD), Steelworld Roofing Systems PTY (LTD), Intersteel, Roofco Steel and Haya Steel Merchants PTY (LTD)T/A Alpha Steel Merchants ("The Consortium")

The Consortium stated that the Applicant does not produce alloy steel containing boron and consequently cannot produce hot-dipped galvanised coil using this product. According to the Consortium the Applicant only produces hot-dipped galvanised steel and does not produce Aluzinc coated product. This is only produced by Safal, who supports the application but did not provide any data. The Consortium also stated that the general approach to likeness is on a case-by-case basis assessing the market, product end-uses, consumer tastes and habits, the product properties, nature and quality and tariff classification as found by the Report of the Working Party on Border Tax Adjustments (1970). Alloy versus non alloy steel, the applicant notes that the like or directly competitive zinc-coated product from China is claimed to be an alloy steel. Note there is no functional difference between the alloy and non-alloy product. (own emphasis). Boron is added to the imported product to create the alloyed steel and there are definitely differences between the alloyed and unalloyed steel.

The Consortium stated that the following extract from a technical paper on total *material is instructive. The basic effect of boron in the steel is the enhancement of hardenability, which is evident already at a very small concentration, of the degree of 0.0010% of boron. It is added to unalloyed and low alloyed steels for the hardness level enhancement through the hardenability.*

The Consortium further stated that even in the small quantity of the degree of size up to 100 ppm, boron gives the same effect of the hardenability enhancement as other more expensive elements which must be added in much bigger quantity. For example, the addition of 30 ppm B in SAE replaces approximately 1%Ni, 0,5%C, 0,2%Mn, 0,12%V, 0,3%Mo or 0,4%Cr.1 (own emphasis). According to the Consortium the Applicant downplays the metallurgical significance of boron's impact on steel properties, likely to support its argument that alloy and non-alloy steels are interchangeable for purposes of this investigation. In contrast, metallurgical literature underscores boron's transformative role in enhancing hardenability and mechanical performance, which contradicts the Applicant's claim that borons addition is inconsequential.

Commission's consideration

The Commission considered that Boron is added to steel to significantly increase its hardenability (the ability to be hardened through heat treatment), leading to improved strength and wear resistance, especially in low-carbon steels. The Commission considered the following:

- ***Hardenability Enhancement:***
  Boron, even in small amounts (3-30 ppm), dramatically increases the hardenability of steel, meaning it can be made harder more easily.
- ***Mechanism:***
  Boron inhibits the transformation of austenite (a high-temperature phase) to ferrite (a low-temperature phase) during cooling, which is crucial for achieving a harder microstructure.
- ***Cost-Effectiveness:***
  Using boron is a cost-effective way to achieve high strength and hardenability compared to using more expensive alloying elements.
- ***Applications:***
  Boron steel is used in various applications, including:

- ***Automotive Industry:***
  Safety bars, inner pillars, and dash panels in cars.
- ***Machinery:***
  Earth scraper segments, track links, rollers, drive sprockets, axle components, and crankshafts.
- ***Agricultural Tools:*** *Durable plowshares and harrows.*
- ***Other Applications:***
  High-strength reinforcing bars (rebar) and saw blades.
- ***Boron Steel vs. Other Alloys:***
  Boron-containing carbon steels are used when the base steel meets most properties (like wear resistance), but the hardenability is too low. Boron is a less expensive option than using a different alloy.

The Commission's view is that boron does indeed add value to the steel. The Applicant argues that the addition of boron has no value and the steel with boron and without practically can be used interchangeably. The Commission differs with the Applicant's assertion and is of the view that if the importers are able to prove that the absence of boron in the subject product makes it impossible to be used in certain processes then those importers may apply for rebates on the safeguard measures.

Comments from BSI Steel ("BSI")

BSI stated that the product in question (Aluzinc) is not produced by or available from the Applicant as stated. While AMSA manufactures a comparable product (Galvanized steel), Aluzinc offers significantly superior corrosion resistance. As a result, most fabricators have transitioned to using products with an Aluminum-Zinc coating. BSI stated that it does not agree with the Applicant's comment on the non-confidential application that the like or directly competitive Aluminium-zinc-coated product from China is identical to the domestically manufactured product and there are no differences in the manufacturing process or characteristics of the two products.

BSI further stated that Safal Steel, does produce Aluzinc, marketed as "Zincal". However, it is important to note that they cannot meet the demands of the entire

South African market and have significant long lead times. Safal Steel's production capabilities do not align with many of our customers' specific requirements, particularly in terms of width and the range of coatings they offer. This product range plays a crucial role in supporting the roofing construction industry, a significant sector in South Africa, particularly within the low-cost housing and development market. Providing affordable, durable, and high-quality steel for roofing sheets is vital for countless households across the country. The South African steel industry cannot depend on a single supplier to meet the demand and adequately support the market. Imposing a Safeguard duty on this product will lead to a shortage of affordable, high-quality steel for the roofing industry.

BSI concluded by stating that this scarcity will likely drive an increase in imports of semi-finished products, forcing many roofing manufacturers to shut down due to insufficient raw material supply. Ultimately, this will result in higher prices for the end-users, many of whom may no longer be able to afford to replace or install new roofs, significantly impacting households across South Africa.

Commission's consideration

The Commission considered that the definition of like product in the SGR is as follows:

(a) a product which is identical, i.e. alike in all respects to the product under consideration; or

(b) in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of that product under consideration.

The Commission considered the following:

<u>Differences between zinc coated and Aluzinc coated steel</u>

Aluzinc-coated steel, with its aluminium and zinc alloy coating, offers superior corrosion resistance and durability compared to galvanized steel, making it suitable for demanding environments like roofing and cladding, while galvanized steel, coated with zinc, is often used in construction for structural *elements and where cost-effectiveness is a priority.*

The Commission also considered the following detailed comparison:

Galvanized Steel:

- *Coating: Primarily coated with zinc.*
- *Corrosion Resistance: Offers good protection against rust and corrosion, but may be less durable in harsh environments.*
- *Applications: Construction: Structural steel frames, support beams, staircases, railings, and walkways. Durable furniture: Park and bus-stop benches, playground equipment. Automotive industry: Body parts and undercarriages for enhanced resistance against rust.*
- *Advantages: Cost-effective, readily available, and provides good protection in many environments.*
- *Disadvantages: May be less durable than Aluzinc in very harsh conditions.*

Aluzinc-Coated Steel (also known as Galvalume or Zincalume):

- *Coating: Coated with an alloy of aluminium (55%), zinc (43.5%), and silicon (1.5%).*
- *Corrosion Resistance: Offers significantly better corrosion resistance than galvanized steel, especially in harsh environments.*
- *Applications: Roofing and wall cladding: Durable and long-lasting in demanding weather conditions. Automotive parts, appliances, and other products requiring strength and durability. Insulation and ventilation industries.*
- *Advantages: Longer lifespan, excellent heat and corrosion resistance, and a good surface for paint application.*
- *Disadvantages: May be more expensive than galvanized steel.*

Based on the above differences the Commission considered that the zinc-coated and the Aluzinc-coated steel can be used interchangeably. The issue is on the strength and durability. Seemingly it's a matter of preference and the intended end-use of the product.

Furthermore, the Commission also considered that the Genesis report on steel highlights the following:

Galvanised/zinc-coated flat steel refers to a flat rolled product of steel, plated or coated with zinc to prevent erosion. Aluminium-zinc coated steel refers to a flat-rolled product of steel, coated with aluminium-zinc alloys. The aluminium component of the coating provides a physical barrier between extreme atmospheric conditions and the inner core of the steel. The zinc provides sacrificial protection and prevents corrosion.

Although there is a difference in terms of Zinc coated and Aluminium-zinc coated steel, the difference is generally on the durability of the products. As Alu-zinc sacrifices itself to provide protection and prevent corrosion, zinc only prevents erosion. The two products are substitutable.

In response to BSI's comments regarding SAFAL's production capabilities not aligning with many of BSI's customers' specific requirements, particularly in terms of width and the range of coatings they offer, there are rebate provisions to remedy situations where the domestic industry is unable to produce particular sizes or ranges of coatings.

Based on above consideration and the information at its disposal, the Commission decided that the zinc-coated and the Alu-zinc coated steel are like and directly competitive products in terms of the definition of "like and competitive products" in the SGR.

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

3. INDUSTRY STANDING

3.1 DOMESTIC INDUSTRY

The Application was lodged by ArcelorMittal South Africa Limited ("the Applicant" or "AMSA"), being the major producer of the subject product in the Southern African Customs Union ("SACU"). SAFAL indicated its support for the application.

Comments by Duferco Steel Processing (Pty) Ltd ("Duferco")

Durfeco stated that Regulation 4.1 of the Commission's Safeguard Regulations provides as follows: except as provided for in subsection 2, a general safeguard investigation shall only be initiated upon acceptance of a written application by or on behalf of the SACU industry, that contains sufficient evidence to establish a prima facie case that the product under investigation is being imported into the Republic or the Common Customs Area of SACU in such increased quantities, absolute or relative to SACU production, and under such conditions as to cause or threaten to cause serious injury to the SACU industry that produces like or directly competitive products" (Own emphasis).

Durfeco stated that the Commission should therefore, as a first step, have determined whom the producers of the subject product are that constitutes the SACU industry and what their respective production volumes are. Only after this, could the Commission have determined whether the application was brought on behalf of the SACU industry. It is submitted that a qualitative analysis of the defined industry was therefore not conducted by the Commission. The fact that the Commission knowingly disregarded one producer of the subject product, means that the Commission's determination of the SACU industry was erroneously done and the Commission therefore erroneously accepted the application and initiated the investigation.

Durfeco further stated that the Commission's statement that it "primarily relies on the information provided by the Applicant in the application" is not acceptable, as it is the Commission's responsibility to determine, prior to *initiation, what the SACU industry is that produces the subject product and whether the application is brought by or on behalf of the SACU industry. We recall that in previous applications brought by AMSA, it provided an estimate of Duferco's production, in order to comply with the requirement to define the SACU industry for purposes of proving industry standing. This is glaringly absent in the application brought in this instance.*

Durfeco provided its production volumes for the last 12 months of the period of investigation. Durfeco stated that it is a South African manufacture of corrosion resistant steel coils and wishes to advise the Commission that it does not support the application that was submitted by AMSA with the support of Safal.

*Durfeco concluded by stating that it reiterates that it is not supporting this investigation as it is concerned that the perception will be formed by Government that Duferco, and Safal will benefit from the proposed safeguard measure and therefore eliminating the need for further intervention by the Department of Trade Industry and Competition ("**the dtic**") and the Commission to support the re-roller industry.*

Response by the Applicant to Durfeco's comments

The Applicant stated that it noted Duferco's statement that it is a producer of the subject product. However, it understood that Duferco had exited the SACU market and no longer supplied the product locally for local consumption. This is based on information submitted, by Duferco themselves, during the recent Hot-Rolled Coil Safeguard investigation. During that investigation, and at the public interest hearing, they submitted to the Commissioners directly, that they were "forced to exit the SACU market". Hence, it, the Applicant acted bona fide in not mentioning Duferco in the application and on the understanding that they would no longer be servicing the SACU market.

The Applicant stated that Duferco's claim that the Commission is biased is unfounded. The application was brought with the support of SAFAL another downstream producer and re-roller, and the application meets all the legal requirements to be initiated and for provisional duties to be implemented by the

Commission. Even if the Applicant had mentioned Duferco, the substance of the application before the Commission would remain unchanged. The Applicant also stated that provision 2 of the Safeguard Regulations defines the SACU industry as:- "Domestic producers in the SACU as a whole…or those whose collective output of the products constitutes a major proportion of the total domestic production of those products..."

The Applicant further stated that industry standing is not impacted because its and SAFAL's collective output constitutes a major proportion of the total domestic production. The volumes which Duferco produces is not more than roughly 6% of SACU production with an estimated maximum monthly capacity in thin gauge of about 10 000 tons. In addition, when industry standing is determined, this should be done on the basis of production destined for domestic consumption, and not overall production, Thus, Duferco's production destined for local consumption, and thus as a percentage of industry standing, would be even lower. Duferco has not supplied any volume data to support their assertions. Therefore, the investigating team should consider asking for volumes from Duferco on the above basis, in order to verify their standing. It should also be noted that if Duferco is not selling the product in the SACU, their production volumes could also not be included in the injury section as any injury would not be causally linked to imports which compete with SACU producers.

The Applicant stated that over and above the aforementioned, it questions why Duferco has opposed the application at all. Duties on the subject product will undoubtedly benefit Duferco's supply to the domestic market. The argument that the HRC protection will naturalise the present protection is unsubstantiated. Duferco during their public interest submission specifically pointed out that the Government's protection plan should consider mechanisms to assist the independent downstream re-rollers. It was further stated that Duferco's competitiveness was impacted in that imported coated coil has replaced domestic supply. Thereby, supporting the position that domestic producers (AMSA and SAFAL included) are unable to compete in the present conditions and need the breathing room to adjust to the surge in imports. Duferco by objecting to the investigation is advocating for the perpetuity of the very *circumstances it stated drove it out of the market in the first place. Duferco vaguely cites that their interactions with the DTIC and the Commission on the quota system may be impacted by this Application. However, the Applicant fails to see how this is possible as a Safeguard will have no impact on Duferco's interactions with DTIC.*

The Applicant concluded that it fails to understand the substance of Duferco's objections, as the protection requested, if granted, will assist them too. It submitted that based on Duferco's own comments, it was not aware that Duferco was still producing the product, especially as its product has very limited visibility in the market, that Duferco has suffered no prejudice and that the Applicant has industry standing regardless of their Duferco's inclusion or otherwise.

Commission's Consideration

On 27 February 2025, the Investigators requested that Durfeco confirm that the information it submitted to the Commission indeed relates to the subject product so it could verify that information. Durfeco submitted this information on 20 February 2025. However this information included production information for the product greater than 0.45mm which is not subject to this investigation. Durfeco was requested to provide information only for the subject product on 27 February 2025. Durfeco only provided this information on 31 March 2025. At this point, internal processes in preparation for the preliminary determination had reached an advanced stage. Verification of Durfeco's information could not be undertaken.

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

4. UNFORESEEN DEVELOPMENTS

4.1 Requirements of Article XIX of GATT – Effect of WTO Obligations

Article XIX of the GATT provides as follows:

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

In terms of the WTO, the provision is interpreted to mean that the developments in the market should have been unforeseen at the time of negotiation of the relevant tariff concessions.

The Commission analysed the effects of the obligations incurred with regard to the subject product under the GATT 1994.

4.2 Information submitted by the Applicant

The Applicant submitted the following information to support its allegation on unforeseen development:

The Applicant stated that the obligations incurred under the GATT 1994, refers to the binding of duty rates to 10% on the subject product. Prior to the new obligations incurred under the GATT 1994, the following formula duty applied: 5% ad valorem duty, or 95% of the difference between the accepted benchmark price and lower import price, whichever was higher. With South Africa's ascension to the GATT 1994, the formula duty fell away, leaving only a 5% ad valorem duty. This duty was then reduced to 0% in 2005, and ultimately increased to 10% in 2016.

The Applicant stated that the Commission in its Report No. 551 analysed the effects of the obligations of GATT 1994. It was considered that the South African government committed to binding the ordinary customs duty on the imported products of flat hot rolled steel at 10% ad valorem. The effects of these obligations were that the industry went through a restructuring that saw the state-owned entity unbundled and privatised. The government also facilitated the end or review of old pricing models to improve the competitiveness of the industry. As such various measures have been taken to encourage competitiveness and sustainability of the industry. The same rings true for the subject product, which is a downstream product from hot rolled steel, and which faces the same challenges today.

The Applicant further stated that what would constitute as an 'unforeseen development', the Appellate Body in Argentina — Footwear (EC) noted that the remedy provided by Article XIX is of an emergency character and is to be "invoked only in situations when, as a result of obligations incurred under the GATT 1994, a Member finds itself confronted with developments it had not 'foreseen' or 'expected' when it incurred that obligation".

The Appellate Body further found that "... "unforeseen developments" should be interpreted to mean developments occurring after the negotiation of the relevant tariff concession which it would not be reasonable to expect that the negotiators of the country making the concession could and should have foreseen at the time when the concession was negotiated."

The Applicant stated that it is safe to say then that unforeseen developments rely solely on whether or not a specific circumstance, event, situation or the like was foreseen during the 1994 Uruguay round of negotiations, meaning anything outside this exact test is irrelevant.

The Applicant stated that it submits that a confluence of events forms the basis of the unforeseen development in this application, namely:

(1) the decision to split the subject product into two main HS categories, namely non-alloy steel (HS7208) and alloy steel (HS7225) resulting in a tug and pull effect, whereby the increase in duties payable on one tariff sub-heading leads to a direct increase in the import volumes for the other due to their interchangeability in function; and

(2) the considerable over supply of the subject product in the world today causing a surge in imports into the SACU, which can be broken down into four main issues, namely:

(v) *Studies show that China did not become a fully-fledged market economy as it assured WTO Members it would during negotiations;*

(vi) *Chinese economic activity has consistently declined since 1994 and large steel producers follow aggressive export strategies, fuelled by an oversupply of steel products;*

(vii) *China's extraordinary economic growth is slowing down dramatically and the Chinese domestic market for steel is retracting, as a result of all of the above factors, Chinese producers have to increase their exports further, at reduced prices, to rid themselves of excess stocks; and*

(viii) *Worldwide, countries are taking urgent action to raise tariffs and impose trade remedies to protect their domestic steel industries; and it is expected that the surge in imports that the SACU has been experiencing will be augmented by the recent economic slowdown in China and by the fact that China's export markets are contracting rapidly.*

The Applicant submitted that the above confluence of circumstances was unforeseen at the time South Africa concluded its tariff negotiations and it resulted in increased imports causing serious injury to the SACU industry. Each circumstance is discussed in more detail below.

(1) The decision to split non-alloy and alloy steel products

The International Convention on the Harmonized Commodity Description and Coding System (HS Convention) entered into force on 1 January 1988. The objectives of the HS Convention are (i) to facilitate international trade and the collection, comparison and analysis of statistics by harmonizing the description, classification and coding of goods in international trade; (ii) to reduce the expenses related to international trade and (iii) to facilitate the standardization of trade documentation and the transmission of data.

The Applicant stated that in so doing, primary steel products, classifiable under Chapter 72 of the system were split into multiple categories. Pertinent to this application was the decision to differentiate between alloy and non-alloy steel, because of their different intended uses. Alloy steel and carbon steel both have very useful properties. Carbon steel is an alloy of iron and carbon, typically containing up to 2% carbon by weight. It is often utilized in the production of machines, tools, steel buildings, bridges, and other infrastructure. Alloy steel, on the other hand, is a type that contains one or more alloying elements (usually other metals such as: manganese, chromium, and nickel) in addition to carbon. Alloy steel is often used in high-strength parts such as gears, shafts, and axles.

The problem however, which was unforeseen at the time of the GATT negotiations, was the interchangeability of alloy steel for use in non-alloy projects. It was incorrectly thought that due to the increased price for alloy steel, the import of these products would be used specifically in the specialized products. What was not expected was that the low requirement of artificial elements required to classify as an alloy steel product, would lead to a direct relationship between non-alloy steel and alloy steel, whereby the increase in duties payable for non-alloy steel products, whilst leaving the alloy heading open, would lead to a direct increase in imports of alloy steel products.

The Applicant further stated that this was first experienced in September 2015 when the tariff level on the non-alloy product was increased from 0 percent to 10 percent, whilst the duty level on the alloy product remained at 0 percent.

There was an immediate increase in imports under tariff sub-heading 7225.92 from China from 17 tonnes in 2014 to a significant 42,604 tonnes in 2016, whilst imports under tariff sub-heading 7210.49 decreased from 44,690 tonnes to 26,036 tonnes during the same period.

The Applicant provided the tables below:

Import volumes and values per annum (Tonne & Rand) 7210.49

Non-Alloy	2014	2015	2016
Volume Tonnes	44 690	68 254	26 036
Value Rand	R393 945 044	R533 552 001	R214 098 063
Average unit price R/Tonne	R8 815	R7 817	R8 223

Import volumes and values per annum (Tonne & Rand) 7225.92

Alloy	2014	2015	2016
Volume Tonnes	17	5 497	42 604
Value Rand	R319 734	R40 946 563	R331 929 454
Average unit price R/Tonne	R19 083	R7 449	R7 791

The Applicant stated that the same is happening now, where imports of non-alloy steel decreased from 28,460 tonnes in the second year of the POI to 1,275 tonnes in the final year of the POI, in line with the increase in the alloy steel (subject product) from 73,480 tonnes to 87,631 tonnes during the same period.

The reason for this shift in imports was the implementation of anti-dumping duties on the non-alloy steel in 2023/2024 of 53,84%, making imports of the subject product much more attractive. This is reflected in the prices as well, where the average price per tonne of the subject product decreased from R14,150 per tonne to R12,541 per tonne over the last 2 years of the POI.

Import volumes and values per annum (Tonne & Rand) 7210.49.10
("Non-Alloy Coated < 0.45mm")

Non-Alloy	2021	2022	2023
Volume Tonnes	55 274	28 460	1 275

Value Rand	R557 757 422	R267 835 344	R23 235 789
Average unit price R/Tonne	R10 091	R9 411	R18 228

Import volumes and values per annum (Tonne & Rand) 7225,92,10,25&35 ("Alloy Coated < 0.45mm")

Alloy	2021	2022	2023
Volume Tonnes	77 025	74 380	87 631
Value Rand	R1 155 598 043	R1 052 490 713	R1 098 995 135
Average unit price R/Tonne	R15 003	R14 150	R12 541

The Applicant stated that it should also be noted that despite the significant volumes of imports reported by SARS for the subject product, only less than 3,000 tonnes were declared for export by China. This is according to export statistics provided by TradeMap **(attached as Annexure A)**. This is indicative of the underlying issue, which is that the alloy heading serves only to act as a means of subverting any payable duties on the non-alloy heading.

The Applicant also stated that it is clear that these products are directly competitive and fully interchangeable and as the price for one increase, demand will shift to the other. This has happened on 2 separate occasions and there is no indication that this practice will subside in the foreseeable future. This occurrence was clearly not foreseen during the 1994 round of negotiations and as such meets the requirements of unforeseen developments as envisioned by both the Safeguard Regulations of South Africa and the Safeguard Agreement.

(2) THE CONSIDERABLE OVER SUPPLY OF THE SUBJECT PRODUCT IN THE WORLD TODAY CAUSING A SURGE IN IMPORTS INTO THE SACU

<u>(i) China's accession as a WTO Member</u>

The Applicant stated that in 1995, during the Uruguay Round of Multilateral Trade Negotiations China was not yet a Member of the WTO. On 4 March 1987 a Working Party was established to examine the request of the

Government of the China for resumption of its status as a GATT contracting party. After applying for accession to the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") in December 1995, the existing Working Party on China's status as a GATT 1947 Contracting Party was transformed into a WTO Accession Working Party. After 15 years of negotiation and many meetings, China became a WTO Member on 11 December 2001.

China's statements to the GATT 1947 Working Party and subsequently to the Working Party on the Accession of China were recorded in the Report of the Working Party on the Accession of China. It is stated in the Report that the representative of China stated that since 1979, China had been progressively reforming its economic system, with the objective of establishing and improving its socialist market economy.

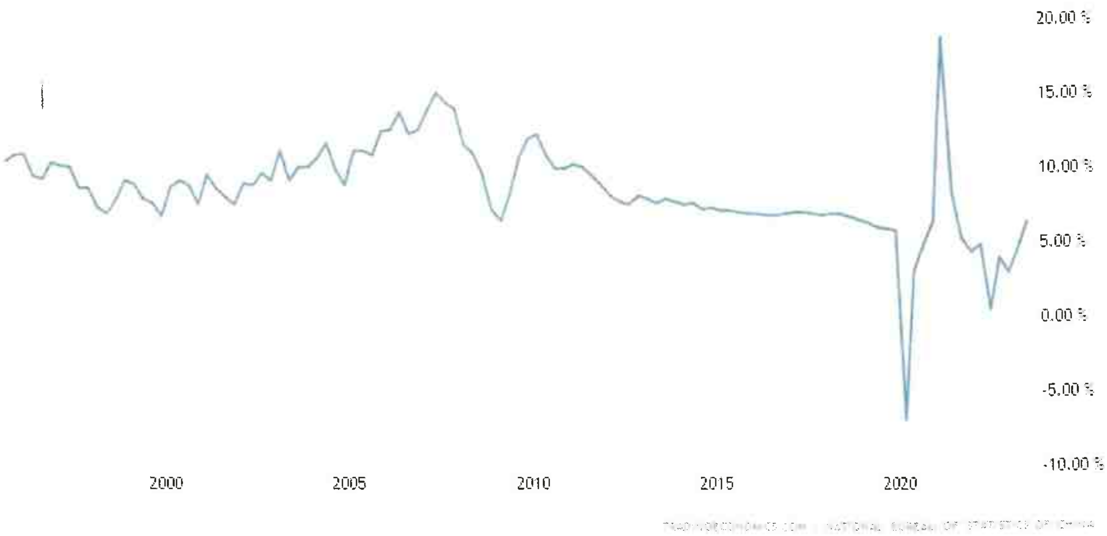
The Applicant further stated that the reform package introduced in 1994, covering the banking, finance, taxation, investment, foreign exchange ("forex") and foreign trade sectors, had brought about major breakthroughs in China's socialist market economy. State-owned enterprises had been reformed by a clear definition of property rights and responsibilities, a separation of government from enterprise, and scientific management. A modern enterprise system had been created for the state-owned sector, and the latter was gradually getting on the track of growth through independent operation, responsible for its own profits and losses. China's representative further assured negotiators that a nation-wide unified and open market system had been developed. An improved macro-economic regulatory system used indirect means and market forces to play a central role in economic management and the allocation of resources. A new tax and financial systems were functioning effectively. Financial policy had been separated from commercial operations of the central bank, which now focussed on financial regulation and supervision. Further liberalization of pricing policy had resulted in the majority of consumer and producer products being subject to market prices.

The Applicant also stated that the market played a much more significant role in boosting supply and meeting demand at the time. In view of the assurances and commitments made by China, WTO Members, including South Africa welcomed China's accession to the WTO Agreement, as it would bring mutual benefits to China and to the other Members of the WTO.

(ii) Chinese economic activity has consistently declined since 1994

As indicated above China had heavily invested in its economic growth since 1979, leading to an industrial awakening, however this growth was not sustainable in the long term, as the country went from developing economy into a fully-fledged developed economy, albeit it with a great deal of government oversight and intervention.

The Applicant stated that from the graph below, we can see that the Chinese annual growth rate has been on a steady decline since 2006/2007 (with the notable exception of 2021, which was as a result of the economy being opening up after extreme Covid-19 restrictions). As economic growth slows down, the domestic demand for certain commodities, especially those used in infrastructure development, will slow down in response.



*Source: Tradeeconomics.com / National Bureau of Statistics China

The Applicant stated that as the domestic demand in China slowed down, manufacturers kept increasing their overall production to keep reducing the cost for these steel commodities, leading to an inherent need to find alternative markets for this oversupply of steel. South Africa, which has one of the lowest barriers to entry (as a result of being considered a developed country at the time of the Urugay negotiations) became a lucrative avenue for imports from China that could no longer be sold domestically, as the demand just wasn't there.

(iii) Trade Remedies on Coated Steel Products

With so much excess steel tonnage, many countries have imposed or are in the process of imposing barriers to these steel imports by increasing normal tariff duties or imposing anti-dumping, countervailing and/or safeguard duties. This will result in the excess steel having to be exported elsewhere, especially to those countries where there is no protection in place.

There are multiple anti-dumping and countervailing measures in place from all over the world against China, from countries such as Vietnam, Russia, Mexico, Australia, India, Thailand, Brazil, the USA, the European Union, the UK and more on the subject product and like product.

The Applicant stated that this is not considering other trade remedies action and barriers, such as the United States's Section 232 restrictions on imports of steel and aluminium leading to the closure of one of the biggest markets for crude steel in the world. The UK has also decided to extend existing safeguard measures on certain steel products, which includes the subject product.

The EU also have their own safeguard duties in place, which were extended until June 2026 on the subject products, closing off multiple markets for Chinese products. It is apparent that these actions are resulting in a shifting in export patterns, as China needs to move their excess production to other less restrictive countries, such as South Africa, where the only protection is a 10% ad valorem duty, which is not enough to protect the domestic industry from this surge in imports. Especially as China does not show any indication of decreasing their output of subject product, with production other metallic coated sheet and strip reaching over 65 million tonnes in 2021. In context that is more than 350 times the annual SACU demand for the subject product.

Production of other metallic coated sheet and strip

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Austria	2 371	2 211	2 436	2 517	2 516	2 407	2 434	2 258	2 401	2 252
Belgium	3 209	3 454	3 410	3 326	3 604	3 708	3 802	2 979	2 471	2 093
France	3 796	4 297	4 310	4 189	4 168	3 914	3 852	3 169	3 937	3 420
Hungary	103	104	100	100	102	105	86	116	103	66
Italy	4 129	4 452	4 545	4 904	5 024	4 765	4 356	3 698	4 272	3 771
Luxembourg	632	668	632	642	1 214	673	...	...	...	...
Netherlands	1 287	1 332	1 358	1 370	1 337	1 275	...	...	...	...
Poland	470	527	517	560	764	906	840	752	835	633
Spain	1 554	1 635	1 681	1 806	1 799	1 794	1 911	1 534	2 052	1 708
European Union (27) (1)	**26 878**	**28 435**	**28 800**	**28 965**	**29 740**	**29 031**	**28 696**	**24 280**	**26 596**	**20 916**
United Kingdom	1 052	1 082	1 076	799	825	855	...	...	...	...
Other Europe	**1 052**	**1 082**	**1 076**	**799**	**825**	**855**	**...**	**...**	**...**	**...**
Canada (2) (3)	2 504	2 549	2 467	2 560	2 190	...	...	...	...	...
Mexico (2)	1 952	2 339	2 436	2 733	2 750	2 746	2 753	2 550	2 986	3 106
United States (2) (3)	16 164	16 510	16 033	16 616	16 473	16 890	16 724	15 211	17 996	16 343
United States (3) (4)	1 437	1 255	1 348	1 386	1 652	1 893	2 097	2 235	3 117	2 649
North America	**22 058**	**22 653**	**22 285**	**23 295**	**23 066**	**21 529**	**21 574**	**19 996**	**24 100**	**22 098**
China	46 212	50 750	52 101	53 226	49 598	49 509	57 389	61 384	65 887	...
India (2)	6 704	6 983	6 898	9 884	9 376	5 234	7 448	6 758	7 842	8 159
Indonesia	408	462	498	601	767	1 192	1 189	1 144	1 291	1 432
Japan (3)	1 246	1 315	1 240	1 304	1 303	1 250	1 142	965	1 142	1 143
South Korea (2)	9 503	10 412	10 513	11 039	11 461	11 158	11 024	9 945	10 507	...
Malaysia	646	678	703	781	768	644	605	540	422	406
Philippines	260	650	670	370	370	346	359	176	190	188
Taiwan, China	2 539	2 856	2 640	2 227	2 239	2 657	2 357	2 459	2 784	2 624
Thailand	552	1 088	1 355	1 457	1 722	1 738	1 647	1 458	1 809	1 589
Viet Nam	1 736	2 098	2 505	2 506	3 501	3 758	3 403	3 402	5 098	3 526
Asia	**69 805**	**77 292**	**79 122**	**83 396**	**81 103**	**77 487**	**86 562**	**88 230**	**96 973**	**19 066**
Australia	1 195	1 343	1 367	1 473	1 536	1 613	1 515	1 589	1 749	...
Oceania	**1 195**	**1 343**	**1 367**	**1 473**	**1 536**	**1 613**	**1 515**	**1 589**	**1 749**	**...**
World	**120 988**	**130 805**	**132 650**	**137 929**	**136 270**	**130 515**	**138 347**	**134 095**	**149 418**	**62 080**

(1) - includes data not shown above.
(2) - galvanised products only.
(3) - deliveries.
(4) - excluding galvanised products.

Source: Steel statistical yearbook 2023

In conclusion, the Applicant stated that the unforeseen developments are as follows:

- The unexpected shift in imports away from the non-alloy product in favour of the alloy product in response to an increase in duties payable on the alloy product.
- The significant downturn of the steel market as a result of the slowdown of economic growth in China that contributed to the imbalance between

capacity and demand, that is, the global oversupply of steel. This led to a significant increase in export volumes by countries with excess capacity; and

The Applicant stated that this in turn led to an increase in trade remedy actions being taken on coated steel products, by several countries, notably the European Union, the United Kingdom, the United States and Vietnam, which are significant export markets for these products. Given the fact that coated steel is a commodity product, excess capacity in one region can, with relative ease, displace production in other regions, thus harming producers in those regions.

Commission's consideration

The Commission considered that the WTO panels have established that investigating authorities must demonstrate the existence of unforeseen developments and their logical connection to increased imports causing injury to domestic producers. The panels have developed a 3-part enquiry to determine if this requirement is fulfilled (for example, European Union ("EU") – Safeguard Measures on Steel (Turkey).

The following 3-part enquiry demonstrate the existence of unforeseen developments and their logical connection to increased imports causing injury to the SACU:

The first part of the enquiry requires authorities to identify the events or (confluence of) events claimed to be unforeseen. In fulfilling the first requirement in terms of the 3-part enquiry the Applicant submitted that a confluence of events forms the basis of the unforeseen development. The Applicant claimed that the decision to split the subject product into two main HS categories, namely non-alloy steel HS code 7208 and alloy steel HS code 7225 resulted in a tug and pull effect, whereby the increase in duties payable on one tariff sub-heading led to a direct increase in the import volumes for the other due to their interchangeability in function. The Applicant further claimed that South African negotiators did not *anticipate global steel overcapacity in general and, in particular, the increase in China's corrosion resistant steel capacity, shrinking demand in China and increased trade defense and other measures on imports of corrosion resistant steel products, when making concessions during the Uruguay Rounds. Consequently, the Applicant has clearly outlined the unforeseen developments that are alleged to have led to the surge in imports, fulfilling the first part of the 3-step requirement.*

For the second part of the enquiry, authorities must provide evidence-based explanations for unforeseen circumstances when relevant concessions or obligations were made. Mere allegations are not sufficient, an explanation must be provided as to why the circumstances were unforeseen.

At the time of the trade concessions, although negotiators were aware of global overcapacity, they did not anticipate the sudden and continued increase in Chinese production capacity fueled by massive state subsidies. The concessions were negotiated assuming consistent market competition and no significant government interventions. There was no historical precedent for the scale of government subsidies later introduced by China in the steel sector.

Similarly, the imposition of trade defense measures was not, as such, unforeseeable as there had been a history of such measures being imposed. However, it was the unprecedented number and impact of measures targeting the subject products, and the resulting trade diversion and increased imports into South Africa, that made the measure unforeseen.

Finally, changes in demand for corrosion resistant steel in China was also not, as such, unforeseeable as its economy has been subject to business cycles. However, the extent and timing of the change (decrease) in demand and the impact on domestic and international markets was unforeseen.

Regarding the 3rd part of the enquiry, the EU–Safeguard Measures on Steel (Turkey) Panel stated that authorities must provide a reasoned and adequate *explanation for the existence of a "logical connection" between the unforeseen development and the increase in imports being "the result of" unforeseen developments, rather than just referring to them separately.*

The Commission considered the split of the primary steel products under Chapter 72, unforeseen government subsidies and overcapacity in the steel industry have resulted in an excess supply of steel products. This surplus steel, produced at significantly lower costs, has been dumped into global markets. As a result, some countries have imposed trade remedies measures to protect their markets, leading to trade diversion. Steel products initially destined for these markets have been redirected to countries like South Africa. The situation has been further exacerbated by the declining demand for hot-rolled steel products worldwide, resulting in an excess supply. This has led to a significant increase in export volumes by countries with excess capacity. In this investigation, the imports in absolute terms increased by 7.63% during the period of surge and over the POI by 17%.

Based on the analysis above, the Commission is of the opinion that the 3-part inquiry requirement has been satisfied to demonstrate the link between the unforeseen developments and the increase in imports causing injury to domestic producers.

The Commission further considered that global excess capacity is one of the main challenges facing the global steel sector. The global steel capacity has more than doubled since the early 2000s and investment projects continue to increase in several economies, while steel consumption has declined. From the information submitted by the Applicant, it is also evident that this growth shows no indication of slowing down, despite a clear decrease in demand for the product in China, leading to an over-production of the product, which needs to be exported to get rid of the high stock levels.

Based on the above information, the Commission made a preliminary determination that unforeseen developments and the effects of the obligations incurred with regard to the subject product under the GATT 1994 led to the surge of imports of the subject product, as per the provisions of Article XIX of GATT 1994.

5. SURGE OF IMPORTS

5.1 Import volumes

The following table shows import volumes as sourced from SARS for the period 01 May 2021 to 30 April 2024.

Table 5.1: Import volumes (tons)

Tons	2021	2022	2023
*All countries import volumes	93 764	86 138	100 918
Change from May 2021 to April 2024		-8.85%	17.16%

*All country's imports volumes represent the rest of the world excluding SACU imports.

The information above indicates that there was an overall increase in imports of the subject product throughout the period of investigation from 93 764 tonnes in 2021 to 100 918 tonnes in 2023, an increase of 7.63 percent. The information in the table above further indicates that there was a surge in imports in absolute terms of the imports of the subject products from 86 138 tonnes for the 2022 period to 100 918 tonnes for the 2023 period, an increase of 17 percent in absolute terms.

The Applicant stated that it is evident that there was a surge in imports in absolute terms in the imports of the subject product from 86,138 tonnes for the year 2022 to 100,918 tonnes for the year 2023. This represents an increase of 17% in absolute terms.

Commission's consideration

The Commission considered that the information provided by the Applicant indicates that the surge of imports took place between the period ending April 2023 and the period ending April 2024. During that time, imports of the subject product increased significantly by 17 percent. The analysis also shows that over the period of investigation, imports increased by 7.63 percent.

China is the only country with a substantial interest as an exporter of the subject product to the SACU. China's interest is depicted in the table below:

Table 5.1.2

Tons	2021	%	2022	%	2023	%
China	92 776	98,94	85 880	99,70	100 049	99,14
Other countries	988	1,06	258	0,30	869	0,86
Total imports	93 764	100%	86 138	100%	100 918	100%

The following table shows the import volumes relative to the Applicant's production:

Table 5.1.3: Imports as a percentage of Applicant's production

Tons	2021	2022	2023
All countries' imports	93 764	86 138	100 918
Applicant total production	100	88	86
Imports as a % of the Applicant's output	100	105	125

The Applicant stated that the surge in imports is of such a magnitude, that if emergency protection isn't implemented, the domestic industry will lead to the overall impairment of the domestic manufacturing industry, which is supported by the evidence of serious injury experienced by the domestic industry, specifically as a result of this increase in imports.

The Applicant stated that this is exacerbated by the increase in available export capacity, especially from China. This overcapacity will always flow to the least protected markets, like SACU, especially since the imposition of trade remedies on the subject product by a variety of countries, including the EU, the UK, the USA, historically the largest importers of the subject product worldwide.

Commission's consideration

The information in the table above indicates that total imports as a percentage of the Applicant's output increased slightly by 5 percentage points between the 2021 and 2022 periods, and then significantly by 20 percentage points between the 2022 and 2023 periods.

The Commission, in analysing the above information, decided that there was a surge in imports, which according to the Appellate Body ruling on *Argentina-*

Footwear, must meet the conditions of recent enough, sudden enough, sharp enough, and significant enough.

The Commission considered the analysis of the four conditions with regard to the subject product is as follows:

- Sudden enough: The Commission decided that the May 2023 – April 2024 period which is cited as the year when imports started increasing is sudden enough, meaning can the rate and amount of imports during the period between May 2023 and April 2024 be deemed as unexpected or abrupt enough to meet the conditions of the Safeguard Agreement. The rate and amount of increase from the period ending April 2022 and the period ending April 2024, can be seen as abrupt, and this abrupt disturbance of the SACU market by imports was maintained throughout the period of investigation both in relative terms and absolute terms;

- Sharp enough: The Commission decided that the rate at which imports increased in May 2023 – April 2024 is sharp enough or severe enough to meet the conditions of the Safeguard Agreement. The imports increased by 17% from 86 138 tonnes to 100 918 tonnes between May 2023 – April 2024;

- Significant enough: The Commission decided that the rate at which imports increased in May 2023 – April 2024 is significant enough or noteworthy enough to meet the conditions of the Safeguard Agreement. The amount of increase from July 2022 – June 2023 was the highest and is a significant enough increase when looking at the full-year period; and

- Recent enough – The Commission decided that the May 2023 – April 2024 period which is cited as the period where increases in imports were experienced is indeed recent enough to meet the conditions of the Safeguard Agreement.

Based on the above, the Commission made a preliminary determination that there was a surge in the volume of imports of the subject product that is recent enough, sharp enough, sudden enough and significant enough.

6. SERIOUS INJURY

6.1 DOMESTIC INDUSTRY – MAJOR PROPORTION OF PRODUCTION

The injury analysis relates to information submitted by AMSA, representing a major portion of the domestic industry by production volume.

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

6.2 CONSEQUENT IMPACT OF THE INCREASED IMPORTS ON THE INDUSTRY

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

6.2.1 Actual and potential decline in sales

The following tables show the Applicant's SACU sales volume of the subject product for the period of investigation:

Table 6.2.1: Sales volumes

Volumes (Tons)	2021	2022	2023
Applicant sales volume	100	88	86
Other producers in the SACU	100	88	89
Total SACU sales volume	100	88	86

These figures were indexed due to confidentiality using May 2021- April 2022 as the base year.

The information in the above table indicates that the Applicant's sales volume decreased by 2 index points from 88 to 86 during the period of surge. The information contained in the table above shows that the Applicant experienced a decrease of 14 index points from 100 to 86 percent during the period of investigation.

6.2.2 Profit

The following table shows the Applicant's profit situation:

Table 6.2.2: Profit

		2021	2022	2023
Gross profit margin	%	100	-1	-8
Gross profit	R/Ton	100	-1	-8
Units sold	Ton	100	88	86
Total gross profit	Rand (Million)	100	-1	-7
Net profit margin	%	100	-13	-23
Net profit	R/Ton	100	-13	-23
Net profit	Rand	100	-12	-20

These figures were indexed due to confidentiality using May 2021- April 2022 as the base year.

The Applicant stated that its profits saw a significant decrease during the period of investigation, where profits decreased from 100 basis points in the first year of the POI to a loss of -8 basis points in the final year. Over the period of the surge the losses worsened to their worst levels when net profits decreased from a loss of 100 basis points to -23 basis points. This represents a decrease in net profit margins from 100 basis points to -20 basis points over the POI. Over the period of the surge, this represents a decrease in net profits margins.

The Applicant also stated that this means that despite an increase in overall demand of the subject product of 6 basis points in the period of the surge, its gross profits decreased by 192 basis points, while net profits decreased by 120 basis points. This is indicative that it is currently suffering serious injury as a result of the surge in imports.

The Applicant stated that a direct decrease in profits is one of the best indicators of serious injury suffered by it. If the safeguard duties are not implemented, the industry will find itself in a position of unprofitability to the extent that it will no longer be viable to produce the subject product. This will provide importers with the necessary foothold to overrun the market and push the domestic industry out.

The Applicant stated that imports will keep increasing significantly on the subject product if the safeguard duty is not imposed and done so as a matter of urgency. The effects are already clear in the information provided. Both gross- and net profits decreased significantly, both over the POI and over the surge period.

Commission's consideration

The Commission considered that the Applicant's gross profit decreased by 101 index points to a gross loss from 2021 to 2022. The Applicant's gross loss increased by 7 index points between 2022 and 2023, during the surge period. The Applicant's gross profit decreased by 108 index points to a loss over the period of injury. The Applicant's net profit decreased by 113 index points to a net loss from 2021 to 2022. The Applicant's net loss increased by 10 index points between 2022 and 2023, during the surge period. The Applicant's gross profit decreased by 123 index points over the period of injury.

The Commission is of the view that without safeguard duties, the industry might become unviable, allowing importers to dominate the market and displace the domestic industry.

6.2.3 Output

The following table outlines the Applicant's domestic production volume of the subject product during the period of investigation:

Table 6.2.3: Output

Tons	2021	2022	2023
Applicant's total production	100	88	86
Other SACU producers' production	100	88	89
Total SACU production	100	88	86

These figures were indexed due to confidentiality using May 2021- April 2022 as the base year.

The Applicant stated that the table above shows a significant decline in the total production since the surge in imports between May 2021 – April 2022 and May 2022 – April 2023. As imports increased their share of the market, local production volumes have decreased further. The Applicant further stated that this decline has had a significant impact on employment, adversely affected the profitability of operations, and is no longer sustainable.

Commission's consideration

The Commission considered that the Applicant's production, like its sales volumes, decreased by 2 index points from 88 to 86 during the period of surge. The information contained in the table above shows that the Applicant experienced a decrease of 14 index points from 100 to 86 percent between during the period of investigation.

6.2.4 Market share

The following table shows the market share for the subject product based on sales volumes:

Table 6.2.4: Market share

Tons	2021	2022	2023
Applicant sales volumes	100	88	86
Other SACU producers	100	88	89
Total SACU sales volumes	100	88	86
Imports	93 764	86 138	100 918
Total Market	100	89	95
Applicant market share	100	98	90
Other SACU producers	100	98	93
Total SACU market Share	100	98	90
Import market share	100	103	113

These figures were indexed due to confidentiality using May 2021- April 2022 as the base year

The Applicant indicated that its market share decreased by 14 basis points over the POI, from 100 basis points for the period May 2021 – April 2022 to 86 basis points for the period May 2023 – April 2024. The 14 basis points decline by Applicant was captured by the imports. Imports' market share increased by 13 basis points over the POI, from 100 basis points in the first year of the POI to 113 basis points in the last.

The Applicant indicated this trend is showing no sign of slowing down and the serious injury experienced because of it is significant, as will be shown in greater detail at each of the indicators below. In fact, the import statistics indicate an acceleration in imports.

6.2.5 Productivity

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

Table 6.2.5: Productivity

	2021	2022	2023
Total production volume (tons)	100	88	86
Number of employees (manufacturing)	100	107	91
Units per employee (tons)	100	82	95
Total employment	100	95	98
Total investment (Rand)	100	130	132
Output ratio	100	148	154

These figures were indexed due to confidentiality using May 2021- April 2022 as the base year

The Applicant stated that the table above shows the impact on employer productivity as production volumes decrease as a direct result of the increase in import volumes over the period of the surge. The decrease in employment is directly as a result of the increase in imports during the surge period. The Applicant stated that it is imperative that the safeguard duties be implemented in order to ensure current jobs remain protected. If not, the injury experienced by the industry will be serious and further job losses will be unavoidable.

The Applicant indicated that imports would maintain their foothold and keep increasing significantly if safeguard duties are not implemented. This will result in imports increasing its share of the market significantly and continuously, whilst at the same time local manufacturers will lose sales volume and market share to levels that cannot be sustained.

6.2.6 Utilisation of production capacity

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

Table 6.2.6: Utilisation of production capacity

Tons	2021	2022	2023
Capacity	100	100	100
Total production	100	88	86
Capacity utilisation	100	88	86

These figures were indexed due to confidentiality using May 2021- April 2022 as the base year

The Applicant stated that as production throughput decreases, capacity utilisation decreases in relation to it. It is not possible to maintain high production efficiency and capacity utilisation if production throughput does not remain high, and especially if this throughput decreases because of imports increasing significantly as a result of the surge of imports. The erosion of capacity utilisation as an indication of serious injury is also evident as production volumes decrease in parallel with imports increasing their share of the domestic market.

Commission's consideration

The Commission is of the view that due to the increase in imports, the Applicant's production declined, resulting in a decrease in capacity utilisation of 14 index points from 100 index points to 86 index points during the period of injury and a decrease of 2 index points during the surge period from 88 index points to 86 index points.

6.2.7 Employment

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

Table 6.2.7: Employment

	2021	2022	2023
Number of employees (manufacturing only)	100	107	91
Total employment	100	95	98

These figures were indexed due to confidentiality using May 2021- April 2022 as the base year.

The above table shows that the total employment decreased by 16 index points during the surge period while it decreased by 8 index points during the period of investigation.

Commission's consideration

The Commission considered that the table above indicated that the decrease in employment coincided with the surge in imports.

6.3 Summary - serious injury

Based on the above information, the evaluation of the injury information of the Applicant for the period 1 May 2021 to 30 April 2024 is shown in Table 6.3.1

Table 6.3.1: Serious Injury Indicators

	2021 – 2023
Imports in absolute terms	Increased
Imports in relative terms	Increased
Sales volumes (tonnes)	Decreased
Net Profit (R)	Decreased
Output (kg)	Decreased
Market share (Applicant)	Decreased
Productivity (units per employee)	Decreased
Utilisation of capacity (%)	Decreased
Employment (Number of employees)	Decreased

Having assessed each injury factor and noting that there is a substantial decline in the industry's performance as listed above, the Commission made a preliminary determination that the domestic industry is experiencing serious injury.

7. CAUSAL LINK

EXISTENCE OF A CAUSAL LINK

The Agreement on Safeguards does not provide any specific methodology as to how the existence of a causal link must be determined. However, the Commission must provide a reasoned, reasonable, and adequate explanation of its finding that there is a causal link between the increased imports and the serious injury suffered by the domestic industry. Previous WTO panels in assessing whether a Member has fulfilled the causation requirement considered, among other factors, (i) whether an upward trend in imports coincides with downward trends in the injury factors, and if not, whether an adequate, reasoned, and reasonable explanation was provided as to why nevertheless the data show causation; and (ii) whether the conditions of competition between the imported and domestic products as analysed demonstrate the existence of a causal link between the imports and any serious injury.

An upward movements in imports should normally occur at the same time as downward movements in injury factors in order for a coincidence to exist. A coincidence in trends by itself cannot prove causation. However, an absence of coincidence would create "serious doubts as to the existence of a causal link and would require a very compelling analysis of why causation still is present". Apart from the coincidence analysis, the competent authority may also use other analytical tools to determine the existence of a causal link, for instance, an analysis of the conditions of competition between imported and domestic products. The relevance of the conditions of competition is confirmed by the text of Article 2.1 of the Agreement on Safeguards, which refers to the increased imports occurring "under such conditions" as to cause or threaten to cause serious injury to the domestic industry.

The second sentence of Article 4.2(b) of the Agreement on Safeguards requires that a competent authority examine factors other than increased imports that are causing injury to the domestic industry simultaneously with the increased imports and ensure that the injury caused by such other factors not be attributed to the increased imports.

The Appellate Body clarified that in order to comply with this requirement a competent authority must "make an appropriate assessment" of the injury caused to the domestic industry by the other factors and provide a "satisfactory explanation of the nature and extent of the injurious effects of the other factors". Once a competent authority determines that there are other factors causing injury to the domestic industry, it "must separate and distinguish" the injurious effects of the increased imports from the injurious effects of other factors, and "establish explicitly, through a reasoned and adequate explanation, that injury caused by factors other than increased imports is not attributed to increased imports".

In order to demonstrate that increased imports are causing serious injury, a competent authority must find a "sufficiently clear contribution" by those imports and explain its determination in that regard. The Appellate Body has stated, however, that the increased imports do not need to be the sole cause of injury, and that the causal link between increased imports and serious injury may exist even though other factors are also contributing at the same time to the situation of the domestic industry. In addition, when a competent authority considers that there are no other factors causing injury to the domestic industry, this must be clearly indicated and explained in its determination.

7.1 VOLUME OF IMPORTS AND MARKET SHARE

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

The following table compares the market share of the SACU industry with that of imports for the period (2021-2023):

Table 7.1 (a): Market share

Tons	2021	2022	2023
Applicant sales volumes	100	88	86
Other SACU producers	100	88	89
Total SACU sales volumes	100	88	86
Imports	93 764	86 138	100 918
Total Market	100	89	95
Applicant market share	100	98	90
Other SACU producers	100	98	93
Total SACU market Share	100	98	90
Import market share	100	103	113

This table was indexed due to confidentiality using May 2021- 30 April 2022 as the base year.

The table above shows that the Applicant's market share decreased by 2 index points from 100 percent in the 2021 period to 98 index points in the 2022 period. The Applicants market share decreased by eight index points from 98 index points to 90 index points during the surge period. The market share held by imports increased by 3 index points from 100 in the 2021 period to 103 index points in the 2022 period. The market share for imports increased by 10 index points from 103 index points to 113 index points during the surge period.

In summary, the sudden and significant increase in imports coincided with a significant and ongoing loss of market share by the domestic producer of corrosion resistant steel coil resulting in serious injury the Applicant.

Commission's consideration

The Commission considered that from the information in the table above it is evident that while the market share of imports increased during the surge period, the Applicant's market share declined.

7.2 CONSEQUENT IMPACT OF SURGE OF IMPORTS

Table 7.2.1: Serious Injury Indicators

	2022 – 2023 (Period of Surge)
Imports in absolute terms	Increased
Imports in relative terms	Increased
Sales volumes (kg)	Decreased
Net Profit (R)	Decreased
Output (kg)	Decreased
Market share (Applicant)	Decreased
Productivity (units per employee)	Increased
Utilisation of capacity (%)	Unchanged
Employment (Number of employees)	Decreased

The Commission noted that the increased imports not only coincided with a loss of market share but also with the downward trend in injury factors. As shown in the table above, there was a decrease in the Applicant's sales volumes, output, net profit, and employment.

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

- **Quality**

The Applicant stated that the quality of its galvanized coated coil is generally regarded as good, even for demanding applications. Galvanized coated coil is tested and delivered to international specifications on material properties and tolerances. Several quality checks are systematically performed to minimize defective material. AMSA maintains an ISO9001 accredited quality management system. This is further augmented by control of radioactivity, conflict minerals and environmental impact (ISO 14001).

- **Delivery times**

The Applicant indicated that the normal lead time from order placement to delivery is six weeks for the product. A selection of products are produced in advance affording a shorter lead time; however some products require more processing necessitating longer lead times.

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

The Applicant indicated that a dedicated team accepts and processes customers' orders in automated planning systems, provide real time feedback to customers on production progress on any order and interactively with customers plan delivery times and quantities. After sales service, including guarantees and warrantees and technical training to customers.

The Applicant stated that a small but experienced team of engineers provide technical support to customers with material selection, material properties and processing parameters like welding and drawing and forming. This team also scans the market for new opportunities and drive new product development and innovative solutions to challenges customers may encounter. Galvanized coated coil is fully guaranteed to the applicable international specification ordered.

The Applicant also stated that prompt resolution of quality claims is ensured by personal attention from a dedicated team. Should any defective material have been delivered, the issue is resolved by full refund of money paid, replacement of material or other arrangement acceptable to customers.

7.4 ATTITUDE OF THE WORKFORCE TOWARDS THE COMPANY

The Applicant stated that the labour relations climate in its company continued to be calm, despite the uncertain and volatile climate in the country. Two recognised unions, namely Solidarity, National Union of Metalworkers of South Africa (NUMSA) are operational at its organisation. NUMSA and Solidarity enjoys both collective bargaining and organisational rights. NUMSA accounts for 51 percent of bargaining unit and Solidarity Union accounts for 25 percent of bargaining unit.

The Applicant stated that it continues to proactively communicate and consult with unions on a regular basis to promote sound relations and effective communication. Dialogue is taking place at National level between its Management and trade union Leadership on finding solutions to lessen the impact of negative steel demand. The Applicant regularly updates unions with business strategy and performance, business objectives, including continuous cost and productivity improvement, SHE performance targets, dynamic and flexible workforce plans as well as competitive conditions of service.

The Applicant also stated that a three-year wage agreement was concluded with trade unions which will best serve labour peace, stability and sustainability at AMSA. The multi-year agreement gives it a platform to plan for operational stability, penetration in the markets and nurturing of growth in the Africa Overland (AOL) and domestic market. Percentage wage increases was at 6.5 percent for first year and CPI for the next two years. The agreement was concluded without labour unrest.

7.6 FACTORS OTHER THAN THE INCREASED IMPORTS CAUSING INJURY

Table: 7.6

Strikes, go-slows, or lockouts during the past twelve months	The Applicant stated that there were no strikes, go slows or lockouts in the past twelve months, despite the continued economic slump in the Steel Industry, in general, it is in a very favourable position with regard to the relations that we share with organised labour.
Contraction in demand or changes in patterns of consumption	The Applicant stated that the demand decreased significantly between the first and second year of the POI, decreasing by 11 basis points from 100 basis points tonnes to 89 basis points due to weak economic conditions in the SACU. Despite this significant overall decrease to demand, the majority of this lost demand was experienced by it, whose sales decrease. This is especially apparent in low-cost housing and informal settlement sectors which are large consumers of corrugated metal roofing. What is notable, as stated earlier, is the clear shift away from the local product in favour of the imported product. In fact, between the first year of the POI and the last, total demand decreased from 100 basis points to 95 basis points (a 5-basis point drop), whereas in the same period demand for the local product decreased from 100 basis points to 86 basis points (a 14-basis point decrease), all while demand for the imported product increased from 93,764 tonnes to 100,918 tonnes (an 8% increase).
Productivity of the domestic industry vis-a-vis that of the exporters	The Applicant stated that it is on par.
Development in technology	The Applicant indicated that there has been no new development in its technology since it last updated its manufacturing process.

Comments by Hendok

Hendok stated that the Applicant's own statements highlight numerous non-import factors affecting its performance:

- *In their Siyinsimbi newsletter Issue 1 2020, AMSA noted prohibitive input costs, unreliable transport, energy infrastructure, low domestic demand, and tariff regime challenges.*
- *AMSA's 2023 Annual Financial Statements identified stagnant global steel production, weak domestic steel demand, profit margin pressures, currency volatility, and low steel spreads as key challenges.*

These broader industry challenges are not analysed in AMSA's application, which breaches the WTO Agreement on Safeguards. The company's outdated technology and internal issues also contribute to their declining competitiveness, yet these are ignored.

No Surge in imports. A critical factor in the safeguard review is the actual import trend. From 2021 to 2022:

- *Zinc-coated steel imports decreased by 54,000 tonnes.*
- *Alloyed steel imports increased by only 10,000 tonnes.*
- *Overall imports of corrosion-resistant steel products increased by just 7,000 tonnes (7.5%).*

Hendok also stated that this minimal increase cannot be considered a surge. The absence of a significant import increase weakens the Applicant's claim that imports are the primary cause of injury. Without a clear surge in imports, it becomes challenging to establish the causal link required under WTO rules. In summary, the Applicant's application lacks sufficient evidence to demonstrate that imports caused serious injury. The broader industry factors, stagnant imports, and internal challenges must be properly assessed before safeguard measures can be justified.

Response by Applicant to comments made by Hendok

The Applicant stated that it denies that increases in production costs occurred due to alleged 'plant inefficiencies'. The increases are attributable to the Applicant operating at a sub-optimal level. If it does not produce enough volumes due to losing market share to imports it uses more resources to produce the product. If it regains market share lost to imports, it's cost per unit of production will decrease thereby increasing its efficiency and establishing economies of scale. Consequently, the serious injury submitted by the Applicant remains uncontested and the Commission should make a positive finding in this regard.

Comments by the European Commission on initiation of the investigation

The European Commission stated that the *WTO Agreement on Safeguards states that a determination of serious injury "shall not be made unless this investigation demonstrates, on the basis of objective evidence, the existence of the causal link between increased imports of the product concerned and serious injury or threat thereof....". Based on the Applicant's information, while the domestic industry certainly faced challenges during the period analysed, it fails to provide detailed and more thorough explanations that have led to these developments in the situation of the domestic industry, establishing a causal link between imports and any injury.*

The EU Commission further stated that the Applicant does not provide any information regarding the analysis or link to other factors, such as the impact of the increase in costs, the decrease in demand, or investments made, if any, and the non-attribution of the impact of such factors to imports.

Commission's consideration

The Commission considered that although there was a contraction in the size of the market from 219 254 tons in 2021 to 208 981 in 2023, an increase in input costs, an increase in energy costs (increases of electricity of about 18.65% over the POI) and transport costs, these factors did not sufficiently detract from the injury caused by the imports. The information contained above *proves that there is a causal link between the sudden, recent, sharp, serious influx of imports and the serious injury experienced by the Applicant.*

7.6 Summary - Causal link

Taking the above into consideration, the Commission made a preliminary determination that although there are factors other than the imports that contributed to the injury, such as reduced demand in the steel market demand and lack of infrastructure investment, labour unrest, inputs costs, and energy supply and logistics constraints, these factors did not sufficiently detract from the causal link between the surge in imports and the serious injury suffered by the Applicant.

8. CRITICAL CIRCUMSTANCES

8.1 Requirements of the Safeguard Agreement

In accordance with Article 6 of the Safeguard Agreement, a member may take a provisional safeguard measure pursuant to a preliminary determination in critical circumstances where delay would cause damage, which would be difficult to repair.

Commission's consideration on critical circumstances

The volume of imports

The surge of imports took place between the years (May 2022-April 2023) and (May 2023- April 2024). During that time, imports of the subject product increased by 17%. The analysis also shows that over the period of investigation, imports increased by 7.63%.

Impact on the Applicant

Sales volumes

The Applicant's sales volume decreased by 2 index points from 88 to 86 during the period of surge. The Applicant experienced a decrease of 14 index points from 100 to 86 percent during the period of investigation.

Output

There was a decline in total production. The Applicant's production decreased by 2 index points from 88 to 86 during the period of surge. The Applicant experienced a decrease of 14 index points from 100 to 86 percent during the period of investigation.

Market share

The Applicant's market share decreased by 2 index points 100 to 98 in the 2021/2022 period, furthermore it decreased by 8 index points from 98 to 90 for the 2022 period to the 2023 period as a direct result of the surge in imports.

Consequently, the market share for imports increased by 3 index points in the 2021/2022 period, 10 index points for the 2022/2023 periods.

Profit/Loss

The Applicant reported decreases in gross profit of 101 index points to a gross loss from 2021 to 2022. The Applicant's gross loss increased by 7 index points between 2022 and 2023, during the surge period. The Applicant's gross profit decreased by 108 index points to a loss over the period of injury. The Applicant's net profit decreased by 113 index points to a net loss from 2021 to 2022. The Applicant's net loss increased by 10 index points between 2022 and 2023, during the surge period. The Applicant's gross profit decreased by 123 index points over the period of injury.

Capacity utilization

The Applicant's production declined, resulting in a decrease in capacity utilisation of 14 index points from 100 index points to 86 index points during the period of injury and a decrease of 2 index points during the surge period from 88 index points to 86 index points.

Employment

Total employment decreased by 16 index points during the surge period while it decreased by 8 index points during the period of investigation.

The Commission considered the above-mentioned critical circumstances which justify the imposition of provisional measures.

9. SUMMARY OF FINDINGS

9.1 Unforeseen Developments

The Commission made a preliminary determination that unforeseen developments and the effects of the obligations incurred with regard to the subject product under the GATT 1994 led to the alleged surge in imports of the subject product, as per the provisions of the SGR and Article XIX of GATT 1994.

9.2 Serious injury

The conclusion on injury indicators is as follows:

Table 9.2.1: Serious injury

	2021 – 2023
Imports in absolute terms	Increased
Imports in relative terms	Increased
Sales volumes (tonnes)	Decreased
Net Profit (R)	Decreased
Output (kg)	Decreased
Market share (Applicant)	Decreased
Productivity (units per employee)	Decreased
Utilisation of capacity (%)	Decreased
Employment (Number of employees)	Decreased

The Commission made a preliminary determination that the information analysed indicates that the Applicant is suffering serious injury.

9.3 Surge of Imports

The Commission made a preliminary determination that the surge in volume of imports is recent enough, sudden enough, sharp enough and significant enough.

9.4 Causal link

The Commission made a preliminary determination that although there was a contraction in the size of the market, an increase in input costs, an increase in energy costs (increases of electricity of about 18.65% over the POI) and transport costs, these factors did not sufficiently detract from the causal link between the serious injury suffered by the Applicant and the surge in volumes of imports resulting from the unforeseen developments.

10. PROVISIONAL MEASURES

10.1 In terms of the SGR 17.1, "The Commission may request the Commissioner for SARS, in terms of section 57A of the Customs and Excise Act, 91 of 1964, to impose provisional payments as soon as the Commission has made a preliminary determination that;

(a) there are critical circumstances where a delay would cause damage that it would be difficult to repair; and

(b) there is clear evidence that increased imports have caused or are threatening injury."

Commission's consideration

The Commission considered that the SGA defines critical circumstance as circumstances where a delay would cause damage that would be difficult to repair. The SGR also provides that provisional measures may be imposed in such cases and such measures may be in the form of tariff increases only and may be kept in place for a maximum of 200 days.

The Commission thus considered that the Applicant has proven that it experienced serious injury during the period of injury as a consequence of the sudden, recent, sharp and significant increase in volumes of imports in the form of decreases in sales volumes, net profit, output, market share, productivity, capacity utilization, and employment. Should a provisional measure not be put in place, this could place the Applicant in a position where it finds itself having to close the flat steel line. This is a critical circumstance that would be difficult to repair as the Applicant is already experiencing serious injury.

10.2 Duration of provisional measures

In accordance with ADR 17.2, the duration of the provisional measures shall not exceed 200 days. The duration of such provisional measures shall be counted as part of the overall time frame of the safeguard measures.

10.3 Unsuppressed selling price

The unsuppressed selling price was calculated by taking into account the production costs, selling and general and admin costs as well as a reasonable profit.

Commission's consideration

The Commission's consideration is that the profit used by the Applicant reflects a profit which does not take into account operational costs. The Applicant realised net profits for the subject product during the 2021 period, prior to the surge of imports into the SACU. Since the Applicant is only required to provide management accounts for the year to date of submission of their application and the cost build-up for the last 12 months of the period of investigation and because management accounts reflect the plant in its entirety, not only the subject product, but the Commission also decided to use the average between the two sets of profits being 20,75 percent. The Commission considered a revised unsuppressed selling.

Landed cost calculation

The Applicant stated that according to the official import statistics from SARS there were only 5 countries that exported the subject products to SACU during the final year of the POI. However, China accounted for 99.7 percent of all imports during this period. The FOB export price for China was found to be R13,178/t over this period.

The Applicant stated that it should be noted that the continued downward movement in price and, as such, the Applicant believes it is warranted to look at the final 6 months of the POI in determining the FOB price to be considered.

The Applicant also stated that according to the 2021 World Steel Dynamics's 2023-2030 forecast, freight cost (at fair times) was expected to be $36/ton (7.5% of FOB value of $480/ton), and the harbour and handling costs to be 2% of the FOB value. At the end of 2020 period, the actual freight cost was 5% to the FOB value and the Applicant believes that the 7.5% in 2023 is a reasonable estimate of an increase of 2.5%.

The Applicant further stated that it does not have the actual freight costs as they do not import the subject product. The Applicant believes that at this stage this is the best information available to calculate a conservative cost of freight and handling costs. The Applicant therefore proposes that the 9.5% (7.5% plus 2%) to the FOB value be used to determine the landed cost.

Commission's consideration

The Commission considered that its practice is to use official SARS import statistics to determine the FOB price. The Commission used the FOB price from May 2023 to April 2024 and not the FOB price for the last six month as proposed by the Applicant as it is unreasonable to compare the FOB price for six months with the unsuppressed selling price and profit for 12 months. Furthermore, in a safeguard investigation the investigating authority makes use of FOB prices for all countries and not FOB prices for specific countries as done by the Applicant.

Since the freight and harbour handling cost submitted by the Applicant is the best available information, the Commission accepts this information as such in determining the landed cost. A revised landed cost was calculated.

The provisional measure was determined to be:

Table 10.3.2: Safeguard duty calculation

(R/ton)	
Price disadvantage as a % of FOB	52.34%

11. PRELIMINARY DETERMINATION

The Commission made a preliminary determination that:

- Events cited are regarded as unforeseen developments that led to the increased volume of imports;
- Surge in volume of imports is recent enough, sudden enough, sharp enough and significant enough;
- The SACU industry is experiencing serious injury; and
- Although there was a contraction in the size of the market, an increase in input costs, an increase in energy costs (increases of electricity of about 18.65% over the POI) and transport costs, these factors did not sufficiently detract from the causal link between the serious injury suffered by the Applicant and the surge in volumes of imports resulting from the unforeseen developments.

The Commission considered that there are critical circumstances which justify the imposition of provisional measures. The Commission therefore made a preliminary determination to request the Commissioner for SARS to impose a provisional measure of 52.34 percent ad valorem on imports of corrosion resistant steel coil for a period of 200 days pending the finalization of the investigation.

The provisional measures should be imposed against all countries, except the following developing countries identified in the table below as the imports from each of these countries do not exceed 3 percent of the total volume of imports or collectively account for more than 9 percent of total imports.

A developing country exempted from the application of a safeguard measure may become subject to such safeguard measures without a new investigation being conducted if, subsequently to the imposition of the safeguard measure, its share of imports increases to a level that exceeds 3% of the total import volumes in the original investigation period.

DEVELOPING COUNTRIES TO BE EXCLUDED FROM THE DUTY

Name	**Name**	**Name**	**Name**
Albania	Ecuador	Kyrgyz Republic	Saint Lucia
Antigua and Barbuda	Egypt	Malaysia	Saint Vincent and the Grenadines
Argentina	El Salvador	Maldives	Samoa
Armenia	Eswatini	Mauritius	Saudi Arabia, Kingdom of
Bahrain, Kingdom of	Fiji	Mexico	Seychelles
Barbados	Gabon	Moldova, Republic of	Singapore
Belize	Georgia	Mongolia	
Bolivia, Plurinational State of	Ghana	Montenegro	Sri Lanka
Botswana	Grenada	Morocco	Suriname
Brazil	Guatemala	Namibia	Tajikistan
Brunei Darussalam	Guyana	Nicaragua	Thailand
Cabo Verde	Honduras	Nigeria	Tonga
Cameroon	Russian Federation	North Macedonia	Trinidad and Tobago
Chile	India	Oman	Tunisia
Chinese Taipei	Indonesia	Pakistan	Türkiye
Colombia	Israel	Panama	Ukraine
Congo	Jamaica	Papua New Guinea	United Arab Emirates
Costa Rica	Jordan	Paraguay	Uruguay
Cote d'Ivoire	Kazakhstan	Peru	Vanuatu
Cuba	Kenya	Philippines	Venezuela, Bolivarian Republic of
Dominica	Korea, Republic of (*South Korea*)	Qatar	Viet Nam
Dominican Republic	Kuwait, the State of	Saint Kitts and Nevis	Zimbabwe