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RESEARCH REPORT

Business unusual in the steel industry: Capturing South Africa's industrial policy in transition through the lens of Reciprocal Control Mechanisms (RCMs)

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Declaration

I, the undersigned, hereby declare that this dissertation entitled “Business unusual in the steel industry: Capturing South Africa’s industrial policy in transition through the lens of Reciprocal Control Mechanisms (RCMs)” is my own work, and that all the sources I have used or quoted have been indicated or acknowledged by means of completed references. This work has not, either in whole or in part, been submitted before for any degree or examination at this, or any other institution.

Tiego Basaya

Date

List of acronyms

AGOA	African Growth and Opportunity Act
AMSA	Arcelor Mittal South Africa
AsgiSA	Accelerated and Shared Growth Initiative for South Africa
ANC	African National Congress
BTT	Board of Tariffs and Trade
COSATU	Congress of South African Trade Unions
DSP	Developmental State Paradigm
DTI	Department of Trade and Industry
Escom	Electricity Supply Commission
EDD	Economic Development Department
ERW	Electric Resistance Welded pipes
EU	European Union
H-O	Heckscher-Ohlin
GDP	Gross Domestic Product
GEAR	Growth Employment and Redistribution
HPAEs	High Performance Asian Economies
IDBI	Industrial Development Bank of India
IMF	International Monetary Fund
IPAP	Industrial Policy Action Plan
IPP	Import Parity Pricing
Iscor	South African Iron and Steel Corporation
ITAC	International Trade Administration Commission
ITA	International Trade Administration
NDP	National Development Plan
NGP	New Growth Path
NICs	Newly Industrialised Countries
NIPF	National Industrial Policy Framework
NRCS	National Regulator for Compulsory Specifications
NTBs	NON-Tariff barriers
NUMSA	National Union of Metal Workers of South Africa
OECD	Organisation for Economic Co-operation and Development
PPPFA	Preferential Procurement Policy Framework Act
PWC	Post Washington Consensus
POSCO	Pohang Steel Company

RCMs	Reciprocal Control Mechanisms
SA	South Africa
SACCA	South African Coil Coaters Association
SACU	Southern African Customs Union
SABC	South African Broadcasting Corporation
SABS	South African Bureau of Standards
SARS	South African Revenue Service
SATPSF	South Africa's Trade Policy Strategy Framework
SEIFSA	Steel and Engineering Industries Federation of South Africa
SOEs	State Owned Enterprises
TDCA	Trade, Development and Cooperation Agreement
UNCTAD	United Nations Conference on Trade and Development
USA	United States of America
WTO	World Trade Organisation

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1 Introduction

In a dramatic farewell presentation in February of 2016, outgoing Chief Executive Officer (CEO) of Arcelor Mittal South Africa (AMSA) Paul O’Flaherty said that the company’s behaviour amounted to “complete and utter arrogance to our customers and the government” and “if we had been a good citizen, we would have had protection” (van Rensburg, 2016). Nothing can be further from the truth now that the situation is desperate for AMSA and the rest of the primary steel manufacturers having lost their financial resilience. The South African steel manufacturers have maintained artificially high prices and after privatisation, these firms have been making very sizeable profits on the back of “making monopolistic or oligopolistic rents from downstream firms, primarily in the form of the practice of import parity pricing (IPP)” (IPP is when domestic prices are not set by domestic competition but are instead marked up to what it would cost to import) (Roberts and Zalk, 2004).

Since the cyclical downturn resulting from the global economic crisis of 2008/2009, the global glut in steel production has resulted in plummeting steel prices. IPP is thus no longer relevant because steel imports have become more competitive given the overcapacity in other regions, and domestic prices have experienced downward pressure in order to compete. Imports are flooding in and displacing local production. In 2009, 7 per cent of South Africa’s steel was imported, but by 2015 this figure had risen to 30 per cent, and “a lot of those imports [are from] China” (Jim 2015). According to the latest (December 2015) aggregated steel product statistics from the South African Revenue Service (SARS), Chinese imports account for 37 per cent of the volume of imports into the Southern African Customs Union (SACU) which South Africa is a part of. The imports are rapidly displacing local production. Evraz Highveld Steel and Vanadium Corporation (Pty) Ltd (‘Evraz’), a South African manufacturer of steel established by Anglo American in the 1960’s¹, has for the past year been on business rescue. Recently the manufacturer succumbed to pressure and officially closed down in early 2016. The closure of Evraz left 1700

¹ In 1960 Highveld Development Co. was formed to build a pilot smelting facility using new electronic smelting techniques, and in 1964 the construction of Witbank integrated iron and steel facility began. The company changed its name to Highveld Steel & Vanadium Corporation in 1965. The portfolio continued to diversify, including the creation of Columbus Joint venture and Middleburg Steel and Alloys in a move to enter the stainless steel market in the 1990s (Cross, 1994)

people jobless (Mkhalipi and Masilela, 2016). The South African steel manufacturers are on their knees and government has been called upon to rescue them. The steel industry has been designated as 'in distress' by the Minister of Trade and Industry in 2015; typically meaning that any government intervention in such a sector will be expedited.

The primary steel sector has been footloose in the past and government has hitherto not been able to discipline the firms in this sector. This sector is so strategically important for industrial upgrading in South Africa due the fact that the sector quadruples the economic value of SA's iron ore, is a key enabler of every part of the economy - including the automotive, mining, construction, energy, and infrastructure sectors which together contribute some R600bn to SA's GDP (15 percent of the total) and employ more than 8 million people (O' Flaherty 2015). The backward and forward linkages in this sector are strong and well established but could be leveraged further.

Given that the primary steel sector is in a crisis, will government be able to use this opportunity to leverage this sector for industrial development?

1.1. Context

The steel industry has a long history of state support in SA but has not been a cooperative partner as it has not contributed to the development of a competitive downstream industry, charging unnecessarily high domestic prices for steel that undermine downstream activity in steel-using industries even where there is no competition from imports as in the construction industry (Fine 1997). The other side of the coin is that government has merely been extending support and creating rents to industry previously with a thin view of industrialisation centered around the mining sector as the center of capital accumulation in South Africa. Historically this was because the government of the day was not interested in broad-based industrialisation but their interest was around curtailing the power of British capital by creating large state controlled enterprises (See Fine 1997).

SA is currently experiencing unprecedented levels of deindustrialization (industrialization, deindustrialization and reindustrialization refer to changes in the share of the manufacturing sector in GDP and/or employment). A competitive steel price plays an important role in stimulating a vibrant downstream manufacturing sector as a key input. The entire steel value chain thus has

the potential to contribute greatly to setting the economy on a sustained path of reindustrialisation. Tregenna (2011) emphasises the point that '(r)eindustrialisation may be particularly necessary as well as viable in countries where 'premature' deindustrialized (sic) has been triggered or exacerbated by policy-related factors such as trade or financial liberalization' and suggests that 'policy interventions might be able to reverse some of such premature deindustrialization but that it needs to be recognized that it is generally difficult to build up lost production capacity, because of micro-level factors such as loss in market share, fixed capital, networks both in input sourcing and output markets, skills, tacit knowledge, and the other institutional qualities that are built up over time' (Tregenna 2011, p. 19).

In relation to the steel sector, because of the increasing returns to scale that characterise manufacturing, losing such capabilities will be particularly damaging to the entire economy. The envisioned development of a vibrant manufacturing sector that is supposed to drive re-industrialisation of the SA economy will be faced with price volatility of inputs should the primary steel industry disappear.

It has been well documented in the developmental state literature how the Newly Industrialised Countries (NICs) have successfully used industrial policy to transform their economies and led them towards a higher growth trajectory. One of the defining features of the conduct of industrial policy by the NICs is the government's effective use of what Amsden (2001) calls reciprocal control mechanisms (RCMs). Alice Amsden is touted by scholars such as Stephanie Seguino as the single most influential development scholar in the past 30 years (Seguino 2014). Amsden introduced us to RCMs, which are the way in which government restrains and disciplines corporate behaviour with the view of directing the process of structural transformation of the economy.

1.2. Aims and objectives

The objective of this study is to unpack the processes that the South African government has embarked upon with a view to averting a deepening crisis in the ailing steel sector. This study specifically investigates the parts of the package that have been launched to date, namely the tariff support requested by the steel industry and designation of the steel industry for government procurement.

This is not an impact assessment of government's efforts to save the steel sector as the full extent of the interventions are not yet in the public domain and not sufficient time has elapsed. Given the purpose of the study, which is to find out whether the South African government is learning how to do industrial policy, it is deemed not necessary to dissect each and every intervention that the government is embarking on to try and save the steel sector. What is important is the governance and monitoring aspect of the industrial policy tools as adopted by government. This study will probe whether government's interventions in this regard are organised in a way that contain RCMs. The study will investigate the kinds of relationships that exist between the stakeholders to make sure that these RCMs are implemented.

This analysis, although specific to the steel industry, can be applicable to future government intervention and how such intervention can be aligned to developmental aspirations.

1.3. Problem statement and justification

The current situation represents an opportunity for the state to implement and monitor a credible set of RCMs on the embattled steel sector with a view to leveraging it for industrial development in a way that it has not succeeded to achieve in the past. This may very well be government's last chance because the strategically significant steel sector might be disappearing due to market conditions and other factors which will be elaborated on in chapter 3 of this paper. This study probes the measures extended by government to the primary steel sector that are designed to enable the sector to recover. The question that this research seeks to address therefore is "Are the conditionalities attached to the interventions in steel sector leading to a rescue package likely to be effective as government's instrument of industrial policy?"

Related to this are the following empirical sub questions:

- 1) What mechanisms will be used to monitor this rescue package? Central to the mechanisms is the issue of control. It will be probed how exactly government envisages to implement and monitor the provisions of the measures that are intended to prevent the steel sector from failing.

- 2) Can the conditionalities attached to the support structure be implemented in a way that is going to make them credible? Here, the details of the of the support extended to the steel sector will be evaluated as to how far they extend.
- 3) What kind of human resources are dedicated to this operation? This is will take an in-depth analysis of the human capacity available at the International Trade Administration Commission (ITAC) and related agencies. And lastly,
- 4) The developmental posture of the conditionalities will be evaluated.

Industrial policy is essentially about learning; workers learning on the shop floor, firm-level learning but most importantly for this study, state learning and capacity building around the implementation and monitoring of industrial policy. Chang (2006) emphasised that the creation of capacity is central to industrial policy, that is to say, in the case of government, the state becomes better at making policy through the actual practice of policy-making. Government improves its institutional capabilities through policy implementation and evaluation, and develops its social credibility by interacting with the relevant stakeholders (business, labour and other interested parties) to improve economic performance; there is thus a symbiotic and reinforcing relationship between policy-making and capabilities. (Chang 2006)

The steel sector is an important case study to assess in practice whether South Africa is learning to do industrial policy or not. There is good reason to ask these questions as the whole language of the Industrial Policy Action Plan (IPAP) is an industrial policy language that is cognisant of the need for RCMs. It is therefore clear that government itself understands the theory or text of RCM but the contention is whether the RCMs related to the steel industry intervention are likely to work as an industrial policy instrument. Amsden reminds us that in the case of the NICs, 'the state transformed the process of economic development and, in turn, was transformed by it' (Amsden 1991, p.287). It is anticipated that government's efforts in this regard will indeed transform the way industrial policy is approached, implemented and monitored in South Africa. Invariably this research is not focused on the policy outcomes, which are in any case unknowable ex ante - but this research probes whether the government is getting the policy process right (Rodrik 2004, p.3).

1.4. The structure of the report

This report is structured as follows: The next chapter reviews the literature on industrialisation and the importance of industrial policy. A historical account and the development of the discipline will be presented and followed by the major schools of thought in the general subject area of industrial policy. The developmental state paradigm informs this reports' theoretical framework of RCMs, and this will be fleshed out along with South Africa's experience with RCMs and industrial policy in general. Chapter 4 deals with the methodology and it follows a short chapter on the global and local dynamics that precipitated the current steel crisis. Chapter 5 will deal with the results of the study in general, followed by a discussion in Chapter 6 before conclusions are made.

2 The importance of industrialisation and industrial policy for development

To do or not to do industrial policy, that is one of the most hotly contested questions in the economics of development today. The subject suffers greatly from selective memory from both the opposition and proponents alike. The cynics do a good job overlooking the true history of industrial policy and particularly its manifestations such as the use of tariff barriers by early industrialisers. It is for this reason that this literature review resembles a chronological appraisal of the subject. The supporters of industrial policy, on the other hand, contribute only accounts of the successes of industrial policy. Fine (2012) argues that the examples of developmental states in the Developmental State Paradigm (DSP) discourse were self-selected for their success but this was unavoidable given self-limited scope of the DSP because of its acceptance of the state versus market agenda, with the presumption that the state needs to be able to lead, coordinate and/or coerce a class of capitalists (Fine 2012).

Just like the many themes that underpin economic development, industrial policy encompasses a large variety of thematic issues. The topics under industrial policy include technological capabilities or technological change, education, equality, vertical relations in industry, innovation and productivity growth to name just a few. The particular aspect of industrial policy as it relates to the narrative of the measures extended to the embattled steel sector centers on issues of manufacturing capabilities and international trade. This study will therefore focus on these topics.

2.1 What is industrial policy?

Before getting into the evolution and debates around industrial policy, it is important we establish what it is we are talking about. There are different understandings and definitions of what constitutes industrial policy. Robinson put it plainly to say “I take to mean that the government deliberately attempts to promote industry.” (Robinson 2010, pg. 62). This statement can be interpreted in so many ways as to render it not particularly useful for formulating a deep understanding of the subject. If we look at Chang’s (1996) work on industrial policy, we find a practical explanation which is adopted in this study as an operational definition:

“We propose to define industrial policy as a policy aimed at particular industries (and firms as their components), to achieve the outcomes that are perceived by the state to be efficient for the

economy as a whole. This definition is close to what is usually called “selective industrial policy” (pp. 60).

In this definition, it is clear that industrial policy is not meant to be any policy that could potentially have an impact on industry. Intrinsic in this definition is an intentionality and clear purpose of the state to promote certain economic activities over others. Chang (1996) bases his definition of industrial policy on the detailed analysis of the South Korean experience.

This conception of industrial policy assumes an autonomous state that is not captured by interest groups in society; and that is willing and able to discipline the private sector. The industrial policy space in SA as it relates to the steel sector has been appropriated by the primary steel sector and government has not been able to discipline the private sector. This is arguably an important limitation in this conception of industrial policy because it may not represent the realities of policy formation processes that are determined by specific economic, social and political conditions.

Fine and Rustomjee (1996) point out that Chang’s definition (of industrial policy)

“...continues to suffer from seeking a general categorisation of industrial policy whereas we judge this goal to be inappropriate. For if the way that industrial development takes place (and can be steered) is to be analytically targeted, then this must be the starting-point. From our general framework of linkages and agencies, and their dynamic interaction, it is essential to identify underlying economic and political relations upon which the form of industrialisation will depend.” (Fine and Rustomjee 1996, p.236)

Fine and Rustomjee (1996, p. 236) therefore conclude:

“...industrial policy should not be generally defined, no matter whether on broad or narrow canvas of issues and/or policy instruments. Rather, it should be drawn from the conditions specifically governing the economic formation under consideration”.

Equally valuable is Fine and Rustomjee’s conception of industrial policy but Chang’s contribution is key and indeed suited for this study as it focuses on the instrumental or functional component of industrial policy: what the state can do to bring about higher levels of adeptness than the market would be able to achieve on its own.

2.2 Why is industrial policy important?

Real GDP (Gross Domestic Product) per capita in developed countries has been increasing at a faster rate than in the developing world. There has been an observed increasing divergence in incomes around the world, with the rich getting richer and the poor getting poorer. (See Piketty 2013) This has been happening against a backdrop of widespread adherence to neoliberal doctrines (defined below) and related policy recommendations such as liberalisation, deregulation and privatisation measures around the world. The NICs are countries whose fortunes have had a dramatic change and they followed the exact opposite of neoliberal doctrine dictates. Manufacturing capabilities played a crucial role in the industrial upgrading of these countries (Amsden 2001).

2.3 Manufacturing as an engine for growth

Manufacturing capabilities and output has been at the center of the NICs successes. In a broad sense, industrialisation entails restructuring of the economy by shifting away from agrarian forms of production to manufacturing activities. Murphy et al note that “countries that have successfully industrialised - turned production of manufactures taking advantage of scale economies - are the ones that grew rich” (Murphy, Shleifer and Vishny 1989, p. 1003) Manufacturing has thus been dubbed “the engine for growth” owing to the special features it embodies as uncovered by Kaldor’s 1966 empirical evidence that allowed him to draw formalised generalisations about manufacturing, using data for twelve OECD countries over the period 1953/54 to 1963/64 (Thirlwall 1983). The properties of manufacturing include dynamic economies of scale; resilient backward and forward linkages between manufacturing and other sectors of the domestic economy; strong properties of learning-by-doing; innovation and technological progress; and the importance of manufacturing for the balance of payments (Tregenna 2011). The empirical studies of these claims associated with manufacturing have been proven to be robust with studies covering a range of countries, see Millin and Nichola (2005) for South Africa and Wells and Thirlwall (2003) for tests on Kaldor’s growth laws across African countries.

The idea therefore is for the government to adopt an industrial policy which entails positive discrimination with a bias towards certain economic activities and strategic industries over others. The steel industry is one such strategic industry as steel is widely used as an input into the

manufacturing sector including construction, the transport sector, electrical equipment, machinery and home appliances to name just a few, thus the steel sector is at the core of fostering dynamic transformation of the manufacturing sector and the economy at large.

In the context of South Africa's protracted deindustrialisation and the existence of evidence supporting the role of manufacturing as an engine of growth, deindustrialization would be of concern from a growth perspective and reindustrialization could be seen as desirable (Tregenna 2011). The SA steelmaking capacity took a long time to develop starting in Vereeniging (1910s) then Pretoria (1930s), Vanderbijlpark (1940s and 1950s), Newcastle (1960s and 1970s); and Saldanha in the 1990s. All these major steelworks took at least 5 years to build and their capacity was gradually increased. Vanderbijlpark remains unique in the industry for the variety of products it can produce (Numsa interview 2016). Rebuilding this industry would be costly and time-consuming. The forward and backward linkages of the primary steel sector are crucial for SA's reindustrialisation. A competitive steel price is a prerequisite for a vibrant downstream labour-absorbing industry. In the absence of a primary steel sector, jobs will literally have to be exported to other parts of the world where the steel can be manufactured and brought back at higher prices to be used as an input in the downstream sector.

2.4 Development of industrial policy

The point of this section is not to belabour history but when it comes to industrial policy, it is both critical and necessary to shed light on the record of early industrialisers. Developing countries today need to understand that the industrialised countries' success is because of, and indeed (given the controversy around this subject) in spite of industrial policy. The current dominant ideology of neoliberalism that bedevils industrial policy is not based on historical evidence.

As an example of one of the early instances of industrial policies, the Calico Acts² raised prohibitive tariffs on cotton goods imported into Britain from India and even banned the wearing of garments made out of Indian fabrics (calicos) (Robinson 2010, p 62). This action by the British government of the day clearly resembles industry protection to create a buffer for local manufacturers. In fact, it was not until 1774 that the wearing of all cotton cloth was legal, by which time, of course,

² The Calico Acts were passed by the British Parliament in 1701 and 1721 with subsequent amendments.

a rather vibrant British cotton industry had emerged (Robinson 2010). Then almost two centuries later, “(w)hen Britain repealed the Corn Laws in 1846, it moved considerably to free trade and this undertaking was commonly regarded as the ultimate victory of the classical liberal economic doctrine over wrong-headed mercantilism” (Chang 2003, p. 24). By this time Britain had acquired all the technological advancement to maintain its lead in industry, and did not need as much protection as when industry was in its infancy.

There is none other than the acclaimed German philosopher, Friedrich List who is most times unsuitably associated with the infant industry argument, who impeccably encapsulated Britain’s strategy as it pertains to industrial policy:

“It is a very common clever device that when anyone has attained the summit of greatness, he kicks away the ladder by which he has climbed up, in order to deprive others of the means of climbing up after him. In this lies the secret of the cosmopolitical doctrine of Adam Smith, and of the cosmopolitical tendencies of his great contemporary William Pitt, and of all his successors in the British Government administrations. Any nation which by means of protective duties and restrictions on navigation has raised her manufacturing power and her navigation to such a degree of development that no other nation can sustain free competition with her, can do nothing wiser than to throw away these ladders of her greatness, to preach to other nations the benefits of free trade, and to declare in penitent tones that she has hitherto wandered in the paths of error, and has now for the first time succeeded in discovering the truth” In Chang 2003, p. 29 (List, 1885, pp. 295-296)

List was first exposed to the notion of infant industry protection during his exile in the United States of America where the Americans were protecting their industries against the advice of John Baptiste Say and Adam Smith³.

It was only after World War II, with its industrial supremacy unchallenged, that the USA liberalised its trade (although not as unequivocally as Britain did in the mid-19th Century) and started championing the cause of free trade—once again proving Friedrich List right in his “ladder-kicking” metaphor (Chang 2003, p. 25). The experiences of Britain and the USA are largely representative of the strategies of other countries that were forging a way of economic transformation in those

³ Smith, 1937 [1776], pp. 347-348

days. Therefore, most of today's developed nations are where they are precisely because of the state playing a transformative role in the economy. After the classical economist's triumph over mercantilism (characterised by restraining imports and encouraging exports) and early industrial policy, there was a period of relative adherence to free trade until the early 1900's.

The relentless rise in imports during the 1920s, and the beggar-thy-neighbour policies followed by continental Europe and the United States, created the political economy backdrop to the call for the return of protectionism and so the free trade mantra was rejected globally by around the end of the Second World War, as it failed spectacularly during the interwar period. During the Golden Age of Capitalism, a variety of interventionist economic theories, such as welfare economics, Keynesianism and the early development economics, set the agenda for the debate on the role of the state (See Deane, 1989).

Keynesianism resuscitated trust in the active role of the state. Keynes (1936) dedicated part of Chapter 23 of the *General Theory* in defense of mercantilism as containing germs of truth and in response to drafts of the General Theory, Keynes replied:

“What I want is to do justice to schools of thought which classicals have treated as imbeciles for the last hundred years and, above all, to show that I am not really being so great an innovator, except as against the classical school, but have important predecessors, and am returning to an ageing tradition of common sense (Moggridge, 1973 in Thirlwall 2011, pg. 7).

2.5 Major schools of thought in industrial policy

2.5.1 *Structuralist school of thought*

The occurrence of the Great Crash of 1929 and the Great Depression of the 1930-decade, which caused the collapse of economic liberalism and the neoclassical theory legitimised structural development economics which was led by economists such as Raul Prebisch and Nicholas Kaldor (Bresse-Pereira, Oreiro and Marcni 2012).

Raul Prebisch was particularly vocal about the claimed mutual profitability of free trade between developing and developed countries. Prebisch based his argument on monetary, or balance of payments aspects of trade (which the classical tradition completely ignores). His conclusion was that developing countries are losers in the game of international trade as they tend to specialise in diminishing returns activities with low income elasticity of demand in world markets (land based and primary products) and the winners are the developed countries specialising in increasing returns activities with a higher income elasticity of demand (processed manufactured goods) (Prebisch 1959).

Structuralist development macroeconomics can be defined as an “economic theory that explains economic development as a historical process of capital accumulation with incorporation of technological progress and structural change in which the accumulation depends on the existence of profitable investment opportunities offered by the sustained growth of demand, which, on its turn, depend on the even increase of the domestic market and of exports” (Bresser-Pereira, Oreiro and Marcni, 2012, p. 2)

The economic and political changes that unfolded internationally in the period starting from the end of the Second World War to the early 1970's commonly known as the Golden Age of Capitalism when active state intervention informed by Keynesianism and structural economics was en vogue, precipitated distinct changes in the terms of debate on the role of the state. The new terms of debate were set by neoclassical economists and by the end of the 1970's neoliberal agenda had taken hold of economic policy articulation and developing countries sacrificed state autonomy on the altar of neoliberalism for the sake of aid.

2.5.2 *Neoliberal tradition*

The neoliberal discourse that currently informs the dominant view on the role of the state refers to:

“a heterogeneous set of institutions consisting of various ideas, social and economic policies, and ways of organizing political and economic activity... Ideally, it includes formal institutions, such as minimalist welfare-state, taxation, and business regulation programs; flexible labor markets and decentralized capital-labor relations unencumbered by strong unions and collective bargaining; and the absence of barriers to international capital mobility. It includes institutionalized normative principles favoring free-market solutions to economic problems, rather than bargaining or indicative planning, and a dedication to controlling inflation even at the expense of full employment. It includes institutionalized cognitive principles, notably a deep, taken-for-granted belief in neoclassical economics.” (Campbell and Pederson, 2001, p. 5)

As the prefix suggests, neoliberalism is a 20th century revival of the classical liberal ideals that were dominant in the 19th century. Neoliberalism stresses welfare enhancing consequences of markets and emanating from this view are the policy regimes of privatization, liberalisation and deregulation. Markets are revered as being the omniscient as if “in the beginning, there were the markets” (Williamson 1975, p.20). However, the fact is that markets emerge almost always deliberately engineered by the state (See Polanyi 1957). Neoliberal economists argue that the imperfect nature of the state results in government failures; regulatory capture, rent seeking and corruption. They argue that the costs of these government failures are typically greater than the costs of market failures, and therefore that it is usually better for the state not to try to correct market failures, because it may make the outcome even worse. (Chang 2001, p. 6). The crux of the neoliberal discourse is the argument that government intervention *inhibits* development.

Scholars such as Anne Krueger (1993) and Deepak Lal (1983) argued that industrial policy had not worked and indeed could not work because government failures were always worse than market failure (Robinson 2010, p.63). Moreover, for neoliberals, it does not matter what the country produces, as neatly summarised by Bush’s economic advisor Michael Boskin in the 1992 US presidential election when he infamously stated “computer chips, potato chips, what’s the difference” to reflect his disapproval of candidate Bill Clinton’s proposals to support the high-tech industry (Atkinson 2012). There is therefore no particular importance placed on the relevance and

special role played by manufacturing in industrialisation and “industrial policy has no place in economic development” (Shafaeddin 2006, p.11).

Neoclassical development thinkers emphasize that international trade can provide a substitute for low domestic aggregate demand. The neoclassical view on development emphasizes the importance of specialising according to a countries’ comparative advantage. Comparative advantage is one country’s ability to produce a good at a lower (opportunity) cost than another country (Ricardo 1817). For example, trade theory states that there have to be some products that a country can produce with a relative cost advantage to other products. The sources of these cost advantages can be from the differences in access to technology as in the Ricardian Model, or different resource endowments as in the Hecksher-Ohlin model (the H-O model) or increasing returns to scale as in the New Trade Theory models (Weiss 2011, p. 64). Neoclassical development thinkers therefore argue that governments only need to place the economy on auto-pilot by removing barriers to international trade and then comparative advantage, along with the H-O model will do the rest. It is no surprise that Amsden described mainstream development theory as being developed in an armchair (Seguino 2014). There is no resemblance of what goes on in the real world and in the theory.

We cannot talk about neoliberalism without taking a detour to the ‘headquarters’ of neoliberalism. The headquarters are the ‘unholy trinity’ as Chang (2008) has ordained them. They consist of the International Monetary Fund (IMF), the World Bank and the World Trade Organisation (WTO); these institutions are to developing countries like a wicked class teacher who gives the same advice meant to reform failing students who instead become worse performers year after year. This standard reform package aimed at the developing countries is commonly known as the Washington Consensus (WC). The World Bank with its ancillary identity as a knowledge bank, produces knowledge or blue prints of how these developing countries can get out of their misfortune. This is over and above the conditionalities that follow development finance and other related apparent benefits conferred by the institution on developing countries. Anne Krueger, chief economist of the World Bank in the 1980s has been particularly vocal, refuting any kind of effectiveness of industrial policy. In this narrative, the government is vilified and its actions (or inactions) are perceived to be fraught with failures of “both omission or commission” (Krueger 1990, p.2). The market, taken as an autonomous entity, is believed to have a better coordination and allocative efficiency to stimulate economic growth.

With increasing evidence of the devastation WC policies caused in developing countries, voices that are associated with bank recognised: “(i)f there is a consensus today about what strategies are most likely to promote the development of the poorest countries in the world, it is this: there is no consensus except that the Washington consensus did not provide the answer” (Stiglitz 2015, p.1).

In the first decade of the 2000s there was a change of direction from within the bank to replace the policies and recommendations of the WC with the Post Washington Consensus (PWC). This change of direction came with it a subtle loss of influence. “The post Washington consensus recognizes that there is a role for a market; the question is to what extent do the neoliberals recognize that there is a role for the state, beyond the minimal role of enforcing contracts and property rights. (Stiglitz 2015, p.3). On the face of it, it appears as if there was a shift to a recognition that the state has much bigger role to play than hitherto assigned. But having observed that WC was involved in heavy intervention, essentially to promote the interests of private capital in general and finance in particular, even if within a rhetoric of favouring market forces, Fine (2013) argues that the PWC can be understood as reflecting the same goals in a second phase of neoliberalism, following its first shock phase (Fine 2013).

2.5.3 Developmental state paradigm (DSP)

The most damning evidence against the opponents of industrial policy came from a series of important interpretations of the NICs by Johnson (1982), Amsden (1989), Wade (1990) and World Bank (1993). These works all put successful industrial policy at the heart of the post-war economic successes of Japan, South Korea and Taiwan respectively (Robinson 2010). Drawing upon the example of the east Asian NICs, the DSP demonstrated that: “industrial policy and state intervention more generally had been extensive; this had been decisive in generating success; and that considerations such as (dynamic) economies of scale and scope rendered redundant the nostrums of the efficacy of reliance upon the supposedly free market” (Fine 2012).

The 1993 “*East Asian miracle*” World Bank report however credits the success of the High Performance Asian economies (HPAEs) to maintaining macroeconomic stability by “getting the fundamentals right”, improving resource allocation and increasing productivity growth. The report further states that “the promotion of specific individual industries made relatively little difference to the HPAEs success. Export orientation rather than industrial policy was mainly responsible for

improving productivity growth in the economies”. So even with this evidence, those who reject industrial policy still extol the virtues of free trade for the successes of the NICs.

The methodology followed by Amsden and her colleagues was predominantly field work, and extensive descriptive data (Seguino 2014). This paper draws on the methods used by the authors in the DSP school. However, this paper does not join the DSP in adopting analytical terms of the Washington Consensus in posing a debate over market versus the state (See Fine 2011 about the market versus state debate).

2.6 The evolution of economic policy in South Africa

South Africa defined its desired growth path in the National Development Plan (NDP) and the erstwhile commitment to neoliberal underpinnings seems to be dwindling off, at least in the rhetoric. To characterise the ideological stance and policy choices in South Africa post 1994, Goldman Sachs' (1993) description of "shock therapy" when referring to policies they recommended for transition economies of the former USSR has close semblance to SA's veneer of perpetual crisis that could seemingly only be remedied with neoliberal policies.

The demise of apartheid from the early 1980s to the 1990s occasioned sharp declines in GDP growth (a decline to an average of 1.4 percent in the period as compared to an average of 4.5 percent in the 1960s and 1970s), domestic investment was weaker at 15 percent of GDP from a high of 27 percent of GDP between 1983 and 1993, government debt and inflation rates were also a cause for anxiety (Michie and Padayachee 1998). Apartheid left in its path uneven industrial development focusing on the mineral and energy sectors and spatially skewed residential patterns. Fine (2008) argues that the post-apartheid period's economic structure and policy choices, particularly between 1994 and 2006, reflect continuity in the dominance of the Minerals and Energy Complex (Fine, 2008).

As a way of responding to the challenges the country faced during the first transition phase, the Reconstruction and Development Programme (RDP) which was conceived through a consultative process by the ANC was formally adopted immediately after the ANC assumed power in 1994 (Mhone 2003). The RDP envisioned a central role for the state in collaboration with industry and labour in shaping the possibilities of structural transformation and investment.

The RDP policy was dropped and the Growth Employment and Redistribution (GEAR) took the baton from 1996. GEAR "dealt almost exclusively with fiscal and monetary policies, and very little with industrial growth and jobs" (Clark 2014, pg. 102). By then a cloud of crisis mode and "(t)he rhetoric of impending doom, reaching a crescendo with the currency crisis in early 1996, was employed, at the time and consistently since, to justify the GEAR agenda" (Isaacs 2014, p. 25). GEAR was a stark departure from the previous ANC policy, steering away the state's central role in structural transformation and hence needed much propaganda to make it acceptable. "Ideologically and scholastically GEAR sits squarely within a supply side/new classical paradigm

with a minimal role for the state and the assumption that markets cannot be led or that this is not necessary or desirable” (Terreblanche 2009, p. 5). This was a clear break from the principal role of the state that the RDP envisioned. The successor to GEAR, the Accelerated and Shared Growth Initiative for South Africa (AsgiSA), was touted to be a discontinuity from conservative GEAR, but it was in many respects a perpetuation of “shock therapy”, with the marginal tinkering of the neoclassical stance for instance by a ruling out of further privatisations. The main elements of the policies that the ANC decided are best suited for South Africa’s challenges therefore include pro-market policies, trade and financial liberalisation, labour market reforms, fiscal austerity, tight fiscal policy, inflation targeting and the adoption of a wide range of supply-side economic policies (Fine, 2009).

The New Growth Path (NGP) of 2010 and the NDP which was adopted in 2012 are relevant in assessing the current rhetoric and conduct of policy. The NGP is supposed to be breaking from the the old path but this leaves Fine (2012) confounded as to ‘how the old is conceived and how the new breaks with it both in trajectory and driving force’ (Fine 2012, p. 1).

The NDP was criticised by COSATU as it relied on neo-liberal trickle down and remained strongly influenced by technocrats who fashioned post-apartheid economic policy (Segatti and Pons-Vignon 2013, p.550). Nonetheless, the blue print for industrial policy emanates from the NDP in the form of the Industrial Policy Action Plan (IPAP) which was its seventh iteration at the time of preparing this report. IPAP recognises the importance of manufacturing and is very clear about a developmental trade policy as well as how designation for government procurement will be piloted and used as a tool to target certain industries and segments of the population as a vehicle for economic transformation. Both the NDP and IPAP recognize and show a deep understanding of the role of reciprocal control mechanisms (RCMs) in the successful implementation of industrial policy that will see the stimulation and transformation of the economy.

2.7 Centrality of Reciprocal Control Mechanisms

Amsden (2002) argues that the success of the NICs hinged on the effective use of RCM. “The reciprocal control mechanism of ‘the rest’ thus transformed the inefficiency and venality associated with government intervention into collective good” (Amsden 2002, p. 8).

RCMs are instruments with which government controls and restrains corporate behaviour with a view to transforming the economy. RCMs are important as government intervention would else be an exercise of rent distribution with the possibility of being growth inhibiting. RCMs are a feature of post-World War II industrialisers, and were not so much used in the 19th century

A critical feature of RCM is the monitoring aspect of apportioning government support; ‘what is at stake is not states or markets per se but something more general, control’ (Kapadia 2012, p. 7). Kapadia here encapsulates the essence of RCM and it emphatically rests with controlling the process of apportioning support to the private sector as illustrated by the governments of the NICs.

Bureaucratic capabilities may thus become an inhibiting factor in the process of monitoring if they do not control the process effectively. The national departments involved in the interventions for steel industry will be probed for their human resources dedicated to this operation as well as the political support to empower these bureaucrats to monitor effectively and discipline the primary steel firms if needed.

2.8 The South African experience with Reciprocal Control Mechanisms

State Owned Enterprises (SOEs) and the state-owned development bank, the Industrial Development Corporation (IDC), played a central role in post-World War II industrialisation (Clark, 1994). They were supplemented by other instruments such as import tariffs, which were however used incoherently (Zalk 2014, p. 5). The establishment of the SOEs was centered around the needs of private sector, for instance with the establishment of Escom (Electricity Supply Commission), the state took over the operations of a private company and expanded electricity to the mines at a cost to the state thereby ensuring greater mineral production, profits and tax revenue for South Africa. 71% of all Escom sales were accounted for by mining and industry, primarily made up of two customers; Anglo American which was the biggest mining company in South Africa at the time and another SOE, South African Iron and Steel Corporation (Iskor). Therefore, electricity generated with coal from the mining industry would be returned primarily to that industry, serving the mines rather than the broad population. Similarly, the steel industry in South Africa was established with the needs of private industries in mind and the new steel company, Iskor, was purposely ready not only to provide steel to the mines but to encourage, promote, and even fund

subsidiary companies to manufacture steel products from its raw steel – for Iscor, costs were partially contained by substantial vertical ownership of iron ore and coal mines to supply production, and marketing and sales partnerships with private subsidiaries (Clarke 2014).

Economic policy during apartheid South Africa therefore did not entail a demonstrated commitment to broad industrial diversification of the economy but was pinioned around the mining sector and energy production as the primary sources of capital accumulation. This is evidenced by the dire performance of the local manufactures of some consumer goods, especially textiles, wool, and paper products which the state tried to promote through the IDC (Clarke 2014). It was not for a lack of trying but the further away economic activities were from the center of capital accumulation – the mining industry – the bleaker the chances of success. The success of Sasol which fit perfectly into the country's most successful industrial sector, played a crucial role in the early development and success of South Africa's energy sector and embodied the link between minerals and energy through its conversion of coal into oil, further emphasizing that economic success of manufacturing activities depended on their proximity to the mining sector (Clark 2014). The steel industry, especially Iscor, received high levels of support including 37E tax incentives (for accelerated depreciation), development finance, Strategic Investment Programme (SIP) incentives, infrastructure and very cheap (effectively subsidised) electricity (Roberts 2010, p. 17). The focus on mining and energy production created wealth for selected a few industries with beneficiaries of European descent at the expense of the many potential sectors and the majority of South Africans.

In the NICs, the objectives driving government support for steel have been explicitly linked to the importance of steel for developing downstream manufacturing. The primary steel industry is crucial for manufacturing given that steel is the main input that could be leveraged for a competitive manufacturing base. In South Korea's industrialisation strategy, POSCO's (Pohang Steel Company) cost competitiveness was passed on to steel-using industries in the form of lower prices (d'Costa, 1994: 69 in Roberts 2010, p4).

After Iscor was privatised in 1989, the suggestion from both Fine (1997) and Roberts (2010) was that there should have been accompanying regulation seeing that Iscor was effectively a utility in the sense that the industry has very substantial scale economies and minimum efficient scale is

much greater than the local market demand. This in turn means that it engaged in unprofitable exports, balanced by higher priced local sales in order to sustain the business. “This is a textbook natural monopoly, suggesting regulation should be considered” (Roberts 2010).

There was a clear shift in the new South African democratic dispensation which sought an expanded and more inclusive economy. Thus the engagements with the steel industry in post-apartheid industrial policy anchored on restructuring of industry, and the need to grow labour-intensive diversified manufacturing activities using steel as an input. These initiatives which included investment incentives and development finance, were run by and through the Department of Trade and Industry (DTI), and were an important goal for organised labour and smaller businesses as well (Roberts 2010). With steel production now being in private hands, the companies did not co-operate with government initiatives as local customers were “charged margins of 40 to 60 per cent more than export customers, on an ex-factory basis and local prices for steel are not in any way associated with the extremely low steel production costs” (Roberts 2010).

To borrow from competition law parlance, the major steel producer in South Africa, Arcelor Mittal (AMSA) operated in an ‘uncontested and incontestable market’. AMSA was found to have misled the Competition Tribunal, and likely the DTI with regard to agreeing on a developmental steel price, but nothing was done about this (Competition Tribunal 2007). Today several internal and external factors, which will be elaborated on below, have caused the steel industry to go back to government’s door and ask for support. The current government has agreed to designation of steel products for government procurement and protecting the local steel industry using tariff instruments and trade remedies. ITAC has concluded tariff increase investigations and imposed 10 per cent duties on certain steel products. The process of designating steel products for government procurement has also begun in earnest.

The conditions that were placed by government on the primary steel sector in the instance of duty increases will be analysed with a view to understanding the status of government’s learning when it comes to using RCMs as instruments of industrial policy. ITAC is currently concluding more tariff increase applications and other trade remedy investigations submitted by the steel industry. This organisation will provide support in monitoring the RCMs. The importance of ITAC in this process thus necessitates a closer look at this institution in this study.

3 Global and local dynamics in the steel sector

The global steel industry is still emerging from a severe cyclical downturn that was triggered by the global economic and financial crisis of 2008/2009 and excess capacity has increased significantly since then. The excess capacity is in part because, notwithstanding slowing demand growth in global markets, new investment projects continued in many parts of the world. Most of the growth in steelmaking capacity has occurred in the NICs to support growing construction and manufacturing activity, as well as to help build the infrastructure that is essential for the economic development in those emerging economies (See OECD, 2015).

Excessive levels of steelmaking capacity are bringing about over-supply, low prices, weak profitability, bankruptcies and also result in job losses since excess capacity in one region results in displaced production in other regions. To give an idea of surplus the OECD (2015) reckons that there will be 2.5 billion tons' production capacity at the end of 2015. At this moment the world is consuming 1,5 billion tons, there is therefore a 1-billion-ton oversupply already. The situation is only getting worse as for instance, Egypt is putting up 3 new steel mills in 2016 (Interview SEIFSA, 2016).

The prices out of China have been steadily decreasing in the last couple of years, forcing other steel producing countries to reduce prices as well. The slow economic growth in China resulted in a policy shift towards the consumption-driven economic growth policy than the historical infrastructure focus, thereby leading to a decline in steel demand (AMSA Report 2015). Since steel demand has decreased in China but not production, China has to find other destinations for its steel products. In 2014 global exports from China increased by 59% compared with 2013, which is apparently the most steel exported in this century and an 80 million tons' addition to the international market. In 2015 exports from China rose another 63% compared with January 2014 to 9,2 million tons (Mukherji, Miller and Yap, 2015). This alarming rise in exports has prompted steel producing countries to protect their markets.

3.1 Protective actions in other jurisdictions

There is already a flurry of protective measures from some steel producing countries which had seen the signs of increasing imports early on and protected their markets. From 2012 to 2015 the total number of antidumping cases initiated around the world is 148, there were 4 safeguard actions and 16 countervailing actions⁴. The WTO bi-annual reports do not report on tariff amendments, only antidumping, safeguards and countervailing measures. Therefore, the list of protective measures is much longer than what the WTO reports. The majority of the protective actions are against China.

3.2 Local factors placing the primary steel sector under pressure

Starting from a historical perspective of economic activities in South Africa, we have considered that erstwhile Iscor and other SOE's were used to promote capital accumulation in the private sector, more specifically industries associated with mineral extraction and energy production. Iscor's post WWII role became increasingly clear as a wholesale supplier of raw products to private enterprises with resultant declining financial returns for Iscor itself but growing profits for private firms (Clarke 1994, pg. 112). The fortunes can be contrasted with those steel manufacturers that were not affiliated with Iscor and did not have major defense contracts - Dunwards, George Scott and Scaw - these manufacturers suffered failing rates of profit as they were cut off from access to Iscor's cheap steel. Therefore, it was clearly to the financial advantage of the steel producers to do business with Iscor and the government, even as the strategic benefits to the country had to be offset by the weakening condition of the state corporation (*Ibid*, pg.113).

Protected domestic markets and constraints on foreign investment encouraged the concentration of ownership within the private sector and the establishment of Highveld Steel to compete with Iscor was part of Anglo-American's expansion beyond gold and diamond mining in the 1960's (Nattrass and Seekings, 2010). Owing to the cyclical nature of this industry, the world steel industry entered a crisis period at end of the 1970's and early 1980's with widespread recession

⁴ Annexure 1 is an overview of the protective actions undertaken by WTO members in the steel sector

that South Africa did not escape, and the local demand for steel fell as a result. The world steel market was in over supply and export prices were rapidly declining (OECD 2015).

The cyclical downturn replayed starting from 2008 in the steel sector, with again weak demand for the metal. The largest end user industries of steel in SA are building and construction (40 per cent), automotive (11 per cent), machinery (9 per cent) and mining (7 per cent) (SEIFSA Report 2016/2017). The primary steel sector is strategic for the economy, the mines and construction and auto sector are intimately dependent on each other and combined they account for 20 per cent of GDP directly and 80 per cent of the country's foreign exchange. (SEIFSA interview 2016) Demand in all of these sectors has been decreasing.

The steel sector, just like any other sector in the economy is faced with significant domestic input cost increases, most notably electricity which had been competitive edge for the steel sector in the past. When Iscor was privatised in 1989 and the later unbundled in 2001, it also lost the vertical integration with the one of the key inputs being iron ore. The two main raw materials in the steel making process are pig-iron and scrap metal. The largest producer of pig iron in South Africa is Kumba Iron Ore and was originally part of Iscor but the unbundling split Iscor Limited into Iscor (Steelmaking) and Kumba (mining) (Marais, Lenka, Cloete and Grobler, 2016, p.g 84)

AMSA historically derived benefits of the cost-plus-3 per cent relationship they had with Kumba Iron Ore ('Kumba') which is now no longer the case and they are suddenly faced with a market-related price for iron ore. This comes about as a failure by Kumba and AMSA to apply for the conversion of the rights to iron ore and this triggered the collapse of Kumba's supply and pricing agreement with AMSA (Roberts, 2010 p.23).

The reality therefore is that input costs are escalating, domestic demand is depressed and the global steel glut is not only exerting downward pressure on steel prices but it also means that overstocked firms in China are actively looking for markets to dispose of this excess supply. Other steel producing countries have foreclosed their markets with import tariffs and other duties, the countries that had not protected their markets like SA are experiencing an unprecedented and persistent rise in imports.

Another consequence of the global oversupply is that the export market is being squeezed and SA firms are losing market share in those markets as well. The primary steel manufacturers cannot do much about the primary steel export market. But if conditions improve in the local automotive sector for instance and more cars are exported to the USA under the unilateral duty-free benefit SA has under AGOA (Africa Growth and Opportunity Act), then there will be more steel demanded locally. However, South Africa's benefits under AGOA are subject to change and were very nearly taken away as evidenced by the recent scuffle around waiving USA's antidumping duties on frozen poultry imports. The domestic market is really where AMSA and the other steel producers with the help of government can turn things around.

Echoing the public discourse about steel crisis has to be understood within the broader context of the problems in the steel sector. This crisis is not only about cheaper imported product, weak local demand or other factors discussed above. The lack of intervention in this sector for the past 20 years has compounded the crisis because AMSA was effectively allowed to be so dominant as to be inefficient and arrogant. From the public file record at ITAC one gets the clear sense that it is not only about pricing but that AMSA's service levels are very low, supply is not reliable and local producers would rather have alternatives.⁵

⁵ Downstream sector comments from the ITAC public record on the steel investigation are attached as Annexure 2

4 Research method and approach

The research is on industrial policy. It is inductive in nature, using Amsden's conception of Reciprocal Control Mechanisms as a theoretical framework. At the heart of Amsden's analysis lies the notion that industrial policy has been developed as it was being implemented, and that understanding it requires an inductive approach that adapts to concrete conditions. The primary data was collected through interviews with the relevant stakeholders that are involved in the steel industry.

Secondary data was collected from published statistics, local and international industry association pages, and different government department's website pages and company websites, newspaper and online news sources. The public records that ITAC maintain at their offices for each and every investigation and also the investigation reports available on ITAC's website were particularly useful in providing detailed material regarding the steel investigations.

The author's own experience as an international trade consultant proved beneficial especially in articulating the practical aspect of trade policy execution. Many of the research questions were answered using interviews, there is indeed no precedent in SA post-apartheid government's active support or involvement in the steel industry.

The interviews were analysed by identifying the key themes that emerged. These themes were used to answer the empirical sub-questions and thus the research question.

Representatives from government (ITAC and the DTI), industry association SEIFSA, and an AMSA and NUMSA representative were interviewed. This allowed to capture the perspective of the different parties engaged in this industrial policy relationship. The interviewees requested for anonymity but were willing for their organisations to be named.

The individuals that were interviewed have provided a better understanding of the mechanisms that underlie the interventions in the steel industry in its entirety; from the perspective of government, business and labour. All of these participants have vested political and commercial interest to seeing the positive unfolding of the interventions but their assertions will be spoken for objectively by the number of jobs saved or firms put on a path of recovery. However, this study is not an impact assessment of the intervention (which would produce premature results

given the fact that the intervention is still in its infancy). This study is still justified in light of the insistence by Amsden that if there is no effective monitoring and implementation of RCMs industrial policy is unlikely to succeed in the late industrialisers. This is compounded by the fact that there has clearly been insufficient monitoring of industrial policy in the past in SA.

The interviews were exploratory and semi-structured as the participants are experts in their fields and have provided insight that could have easily been missed in structured interviews.

The interviews with ITAC, SEIFSA, NUMSA and DTI Ferrous Metals representatives took place in person, while the interview with the second DTI representative and an AMSA representative was done over the telephone. A synthesis of the responses was done and is presented in this report.

Interviews were conducted with:

- 2 key personnel in the DTI's Industrial Development Division: Ferrous Metals
- 1 ITAC investigator on the steel duty increase case
- 1 representative from NUMSA's Research department
- 1 AMSA management level representative
- 2 key personnel at SEIFSA

The main focus areas of the interviews were around the details of the rescue package in terms the kind of interventions government is embarking on, including the role of the different stakeholders involved. The interviews also probed the reciprocity demanded of industry and the state's capacity to follow through with this kind of commitment.

5 A paradigm shift in the steel sector?

This chapter presents the results of the study. The findings relate to the research question that guided the report. The results specifically deal with the practice and processes of the SA government interventions introduced in a bid to avert crisis in the steel sector.

The government has for a long time been lulled into lethargy by the primary steel sector's untoward behaviour in the economy with no leverage to discipline very dominant firms. Now the balance of power has shifted and government is maneuvering tactically, hoping to take the opportunity to both redress the issues of the past and take control of industrial policy direction in the steel sector (Numsa interview 2016).

The themes that emerged from the analysis of the data centered on whether South Africa finally has a solid industrial policy around the steel sector. This industrial policy was explored as to whether it would indeed be able to save the steel sector and if it would be able to make trading conditions better for the manufacturing sector by guaranteeing competitive prices for steel. These two issues are interlinked with the empirical sub-questions which provided a framework within which to assess the likelihood of success of these industrial policy instruments.

The themes that will be explored in this chapter include:

- a) Policy space available for government to save the steel sector
- b) The human resources dedicated to this intervention
- c) Reciprocities expected of industry
- d) The impact on the manufacturing sector

The interventions including trade policy instruments, designation and other embarked upon by government are discussed first. The participation of government in this process came about with a set of conditions and reciprocity that were demanded from industry. These conditionalities will be analysed next. These sub-questions were influenced by the theoretical framework based on Amsden's assertion that reciprocal control mechanisms, if tactically implemented by the state are the key to successful industrialisation (Amsden, 2002).

5.1 Is there policy space to save the steel sector?

Government has embarked on several processes that are designed to avert crisis in the steel sector. The practical implementation of these policies will be unpacked in this section. They include the use of trade policy, localisation and to a lesser extent non-tariff barriers.

5.1.1 Trade policy space to save the steel sector

The DTI sets trade policy within the broader economic policy framework and ITAC provides expertise to design, fine tune and administer trade policy in South Africa. ITAC was established 2003 as an independent organisation⁶.

The core functions of ITAC are: Customs tariff investigations; trade remedies; and import and export control (ITAC Report 2014/2015). Tariff investigations deal with tariff amendments (increase or decrease of tariffs) and provisions for the creation of rebates (where full or part of the import duty is reduced or waived) and drawbacks (refund of import duties). Trade remedies refer to “corrective” duties which deal with unfair trade. Trade remedies include antidumping (to counter the effect of price discrimination between markets), countervailing (to counter effects of subsidies given by governments in exporting countries) and also safeguards measures to respond to a surge of imports that threatens the local industry.

The ITA Act and Regulations related to tariff, antidumping, countervailing and safeguard investigations set the legal framework within which the investigations must take place. The ITA Act and the Regulations also have to be WTO consistent, that is, they cannot have measures that are contrary to South Africa’s commitments in the WTO. This is one area where government experiences constraints in terms of the instruments that can be effective to save the steel sector. For example, in terms of tariff increases for steel products, the maximum tariffs (bound rate) that can be imposed is 10 per cent as this represents the bound rate on tariffs for these particular products. The tariffs on steel products were at 0 per cent before the tariff investigations.

⁶ ITAC was established through an Act of Parliament, the International Trade Administration Act, 2002 (Act No. 71 of 2002), which came into force on 1 June 2003 (ITAC Report 2014/2015).

Government can therefore move the tariffs from 0 to 10 per cent to protect the local industry and has already done so on some steel products starting in September 2015.

There are more aggressive ways to protect local industry such as through antidumping and safeguard duties. In theory countervailing actions are also available to protect the local industry but no in practice. These duties can be as large as they need to be to offset the unfair or overwhelming trade that the local firm is experiencing from imports. These corrective duties do not have an upper limit or a bound rate such as the case with tariffs. Apart from being WTO consistent, tariff amendments have to observe trade agreements that South Africa has entered into such as the TDCA where there is very little scope to increase tariffs but antidumping, safeguard and countervailing actions can be taken.

5.1.2 Tariff investigations process at ITAC

ITAC has already imposed the 10 per cent tariff on some steel products and it is important to sketch briefly how they came to this decision. By way of outlining how a tariff investigation would be conducted; industry will typically approach ITAC and supply the required information on a prescribed application form⁷. ITAC can be proactive in this regard and self-initiate an investigation but they generally do not. Firms approach ITAC and request for protection. Any given investigation is conducted on a tariff code level because ultimately when SARS implements the decision, it is the tariff book (which consists of tariff codes) that will reflect the new tariffs. An investigation can cover as many tariff codes as required. The recent investigation on steel was on 59 tariff codes.

The information requested by ITAC consists of the market and trade data, production processes, costs and price information, reciprocity commitments along with a developmental plan and investment and employment records for products that are subject to the investigation. While this information is solicited from the applicants, ITAC may conduct a site visit to the firm requesting protection to verify the information. The duration of the tariff setting process from when a matter is published in the government gazette to when the duties are implemented varies from case to case but typically takes a few months.

⁷ The Application form is attached as Annexure 3

During this process, interested parties will be invited to comment on the application and they are given 30 days to respond with a possibility of a two-week extension. In the steel case, the response period was reduced to two weeks, indicating the urgency of the intervention.

The investigating officers will table their recommendation on the particular investigation in the monthly commission meeting where a decision will eventually be made. After the commission has made its recommendations, SARS then implements the decision as instructed by National Treasury following the DTI's endorsement.

This process seems disarmingly simple but in practice this is not always the case. The process can be nightmarish for the fainthearted and there are normally no guarantees that the tariffs will be increased or reduced.

5.1.3 Tariff investigations for the steel sector

With regards to the primary steel sector, throughout the 1990's when South Africa pursued rapid and across-the-board trade liberalisation. Tariffs were reduced from a high of 30 per cent on steel products in 1994 to 5 per cent in 1996, with a further reduction in 2006 to 0 per cent. The wholesale trade liberalisation proved to be a false start evidenced by the obliteration of many an industry, notably textiles and apparel. Government documented the importance of strategic insertion into the global economy from 2007 onwards when the South African Trade Policy and Strategy Framework (SATPSF) was conceived. "From the late 2000s, trade reforms shifted to more targeted efforts, with considered use of safeguard measures, local procurement and other interventions geared to fostering industrialisation and job creation." (Presidency of the Republic of South Africa, 2014, p96.)

Because a tariff investigation is essentially a legal process, ITAC still had to entertain the views of the other market players in the steel investigation lest they open themselves up to litigation. Without going into much detail, here are some selected product groups that had different outcomes precisely because the views of the downstream industry had to be carefully considered:

- Structural steel products - ITAC determined not to increase duties on these products due to the fact that Evraz had already seized production and the duties would only serve to raise costs for the downstream users.

- Hot rolled coil products - The staunch opposition by the downstream industry necessitated that supply agreements be negotiated with the primary steel producers as part of the duty increase process. The duties are expected to be implemented once industry finds common ground on supply agreements.
- Other bars and rods - There was no major opposition and the duties have already been implemented.

The duty protection came with conditions, and these will be elaborated on below. The tariff increase phase is almost over, and the second phase will be trade remedies. It is understood that the primary steel sector has applied for antidumping duties and safeguard duties as well. As part of the trade remedy investigations, ITAC will have to calculate the dumping duties and also determine what the safeguard duties will be in two separate processes. To illustrate how the implementation will work in practice; let us say hypothetically ITAC calculated the antidumping duty to be 30 per cent and the safeguard duty is 40 per cent. Should these duties be implemented then on the same product an importer will pay a 10 per cent import tariff, 30 per cent antidumping duty and 40 per cent safeguard duty. Government is unquestionably making good on its promise to protect the sector.

5.1.4 Designation intervention

In any society there exists a multiplicity of objectives in designating local products for government procurement. In this way, public expenditure can be leveraged to respond to a myriad of economic challenges. South Africa has recognised the latency of public procurement of locally manufactured products and identified it as one of the levers in government's industrial policy toolkit to support industrial development. "The NIPF and each iteration of IPAP have identified South Africa's infrastructure build programme as a major opportunity to resuscitate and grow important sectors of manufacturing through leveraging public procurement ... it took until the middle of 2012 to give practical effect to this policy lever in the form of amendment and operationalisation of regulations to the Preferential Procurement Policy Framework Act (PPPFA)" (Zalk 2014, p 343). Although the policy took some time to be practicable, but it is now available for government to use to support industrial upgrading.

The PPPFA amendments in 2012 empower the DTI to designate industries, sectors and sub-sectors for local production at a specified level of local content. The designated sectors are: rail rolling stock; steel power pylons; bus bodies; canned/processed vegetables; textiles, clothing, leather and footwear; pharmaceutical products; set top boxes for television digital migration, office and school furniture products; components of the solar water heaters; power and telecommunication cables. Other sectors and products are undergoing research for further designation (DTI Media statement 2013).

There were products that were specifically excluded from designation and they include flat steel products which government said because they 'generally enjoy significant protection in the form of a high level of domestic market dominance coupled with high logistics costs for imported alternatives.' (South African Government online Media statement 2013). This can be interpreted as a direct assault on the primary steel sector and AMSA in particular. It is also testament of how bad the relationship between government and the primary steel sector was.

Since the DTI minister decided to designate primary steel products, it has changed the way that instruction notes on designation will be prepared henceforth. Previously when DTI prepared instruction notes for designation, all steel was deemed to be local. Deeming steel to be local means that even if the steel component of a particular product is imported, when it is being procured by government the steel component will be considered as local (DTI Interview 2016). Government came to a decision in the past to say all primary steel will be deemed local because of the pricing issues in the market with the primary steel sector. Government has now undeemed steel so that those grades of steel that can be sourced locally ought to be sourced locally (DTI Interview 2016).

Designation is a long process, and execution may take years. Another challenge is that firms that would like to have a product designated have work together and share information. The primary steel sector is finally being deterred by the competition laws as they are weary of doing cluster work. The firms are anxious that the competition commission may start investigating them for anticompetitive behaviour so they have to pay consultants huge sums of money to liaise with the DTI and consolidate industry's information for designation.

Again, government is keeping its side of the deal to assist the sector, but will the firms reciprocate?

5.1.5 *Other intervention*

Non-Tariff barriers (NTBs) as the name suggests NTBs refer to interventions other than import tariffs (Beghin 2006). NTBs can be anything from specification of certain standards for imports, import licenses, outright import bans or even corrupt or lengthy customs procedures. In the steel sector, standards are used as NTBs. Steel Institutes and Associations have started a process of specifying standards for steel products that are acceptable in the market (AMSA Interview 2016). This process is done through the South African Bureau of Standards (SABS) or National Regulator for Compulsory Specifications (NRCS). The industry associations will take charge to introduce strict quality measures/barriers (AMSA Interview 2016).

5.2 An unlikely alliance: government, business and labour find common ground in the steel industry

The primary steel industry started applying for tariff increases in late 2014. When organised labour started seeing an unabated rise in notices of Section 189 applications by employers for retrenchments, NUMSA convened internal discussions to tackle the approaching bloodbath of job losses. A decision was made to engage the primary steel sector employers through the Steel and Engineering Industries Federation of Sothern Africa (SEIFSA) where preliminary discussions between labour and industry took place in search for a solution in early 2015 (NUMSA Interview, 2016). Section 189 of the Labour Relations Act provides the framework within which an employer contemplating the dismissal of one or more employees for reasons based on the employer's operational requirements (Labour Act 66 of 1995).

Both sides had a lot to lose; for NUMSA the possibilities of closure of big steel companies would have an inconceivable impact on their constituency through massive job losses and industry required to save their operations and therefore profits. While labour and business acknowledged their vast differences, they pushed those aside and sought a set of common demands that they would present to government.

Both parties had made compromises on their initial views and agreed on a common position but at this point about 500 employees that were represented by NUMSA had lost their jobs and pending Section 189 applications from different companies were increasing at a staggering rate

(NUMSA Interview 2016). The engagements between business and labour crystallised in a consultation with government represented by the Economic Development Department, the DTI, Department of Public Works where labour and business' common demands were tabled.

The unlikelihood of an alliance between labour, business and government results from the primary steel sector's unruly behaviour that materialised in the following ways:

- 1) For government - The primary steel sector repeatedly contravened competition laws that were instituted with a view of diminishing market power of some of these dominant firms and creating more competitive landscape in the SA economy. But the sheer number of cases that the primary steel sector or even AMSA alone has been involved in; is testament of this arrogant behaviour towards government and the downstream manufacturing sector. The cases against the primary steel sector include:
 - 2006 excessive pricing case on flat steel products against AMSA
 - SAISI facilitation of collusion on rebar products
 - 2008 cartel investigation on long steel products

The consequence of this kind of behaviour forms part of an overarching theme that speaks to undermining the development of a competitive downstream manufacturing sector that the economy needs to realise outcomes of reindustrialization, at least in this sector.

- 2) For labour - NUMSA does not only represent workers in the upstream sector but also has interests to save workers' jobs in the downstream industry. Over the years there had already been hundreds of jobs lost in the downstream sector directly as a result of Import Parity Pricing on the part of the primary steel industry (NUMSA interview 2016). Firms in the downstream sector have also shut down or moved their factories to other countries where there are competitively priced inputs. A notable example is the SA firm CADAC (Commercial And Domestic Appliance Company), which makes potjiepots (big three-legged black pots used to cook outdoors in the open fire), the iconic blue gas cylinders and braai stands to name a few items, has responded to the hostile manufacturing conditions particularly high steel prices by moving their factories to China (Creamer 2005).

The problem at hand is however not only labour's or industry's problem, but government also has a vested interest in a thriving downstream manufacturing sector using steel an input. This unlikely alliance of labour and business in the steel sector got assurance from the Minister of Trade and

Industry, Rob Davies, that intervention in the form of tariffs would be introduced. This also opened discussions about other means government could use intervene in order to avert the crisis in the steel sector.

At a local level, the steel industry is a core employer in some of South Africa's key industrial ecosystems such as Vanderbijlpark in Gauteng, Saldanha in the Northern Cape and Newcastle in KwaZulu Natal. Two thirds of the households in Vanderbijlpark and Newcastle and one quarter of those in Saldanha are dependent on the local steel industry for their livelihood (NUMSA Interview 2016). Even being outside of COSATU, the lobby efforts by NUMSA in this regard were strengthened by the fact that 2016 is a local government elections year and closure of any of these operations would spell disaster for the ANC in these localities (NUMSA interview 2016).

This rare occurrence of state, business and labour collaborating in search for a solution for economic problems can be leveraged for fortification of the design and implementation of industrial policy. The distance between these stakeholders is closing, at least in the steel sector and this collaborative of approach should be adopted in other sectors of the economy to strengthen and build the state capacity to be more responsive to industry and organised labour's needs.

5.3 Reciprocity demanded from industry

When government offered industry and labour assurance of support, they also demanded some reciprocity from industry. The demands for reciprocity from governments are codified in ITAC's reports for all the steel tariff investigations. Some of the reciprocal commitments are industry wide but others are AMSA/firm specific. The reciprocal commitments are contained in three different reports⁸.

The overarching theme under which the conditions fall embody the fact that the entire operation is a value chain approach. The conditions also state the investment that the primary steel firms have to make in their operations to be on par with their international counterparts. It is hardly burdensome to ask a capitalist to put in more capital in his business in order to make more profit. It needs to be borne in mind that ITAC has never placed such specific conditions on duty increases

⁸ For ease of reference, the conditionalities are consolidated in Annexure 4

before, however ITAC's prescribed application form asks industry for reciprocal commitments. The next section deals with what the value chain approach means for developmental outcomes in the manufacturing sector.

5.3.1 Towards a new dawn for manufacturing in SA?

South Africa's steel market has been dominated by ArcelorMittal SA in the past decade. Their dominance meant a very hostile trading environment for the downstream manufacturing sector specifically stemming from the fact that the downstream sector has been charged very high prices for steel locally. The duty support to the primary steel sector will raise the cost of importing steel products and government does not want a situation where the downstream sector is further marginalised because of this.

The predominant theme of the conditions placed on the recipients of the support is the focus on the entire value chain. Government insists on the support of the entire steel value chain where the downstream sector will not be left distressed because of the support extended to the primary steel manufacturers. To that end, the downstream sector's anxieties are simultaneously being addressed (see for instance Annexure 2) signifying that state support to the steel industry is within the context of a broader strategy for developmental outcomes.

AMSA pursued the issue of government also supporting the downstream industry with tariff protection and ITAC has done a study to understand the policy space or scope for tariff increases for the downstream industry (SEIFSA Interview 2016). This entails understanding where the current tariffs are for manufactured products and how high government can move them.

The focus on the entire value chain is particularly important since it addresses the downstream manufacturing sector as well.

The conditions and reciprocity demanded of industry are similar for all three tariff investigation cases. The most important condition is the developmental price of steel which is discussed next.

5.3.2 Developmental price of steel

One of the core demands by government to industry was the implementation of a developmental steel price. This government has been struggling to get AMSA to structure their pricing in line with the ambition to stimulate a vibrant downstream sector. The state now has an opportunity to coerce the primary steel sector into formulating this envisioned developmental steel price.

There is in principle an agreement on a developmental steel price (NUMSA, SEIFSA, DTI, ITAC Interviews 2016). The price that is being considered now is different from AMSA's original idea but the principle is the same. The developmental price is crucial for a competitive downstream sector who use steel as an input. This developmental price amounts to an administered price for steel, the sort of regulation that Roberts (2010) and Fine (1997) have been calling for in the primary steel industry.

The developmental price for steel will consider the price for iron ore and indexes will be created for three regions (Europe, America, South America (NAFTA)), added to this will be a hassle factor to transport the steel to SA and that is the price - converted to rand (AMSA and SEIFSA Interview 2016). Therefore the pricing formula is calculated using a basket of steel prices from around the world rather than import parity pricing that was used by the primary steel sector in the past.

SEIFSA highlights that there seems to be a misunderstanding of what AMSA meant when they said they will not increase prices. Given the fact that production costs for AMSA are 42 per cent dollar based, there is no way the price will be static while input costs are fluctuating frequently (SEIFSA interview 2016). What is clear however is that AMSA will not use this duty protection as leverage to increase prices.

5.4 Monitoring the state's intervention

Government has embarked upon a mammoth task of disciplining firms in the steel sector. These firms are dominant and wield considerable power. It is therefore incredibly important to understand the kind of manpower that is dedicated to this task. The human resources behind this initiative is the subject of this section.

5.4.1 *Human Resources at ITAC*

Staff capacity at ITAC sits at the core of the initial legwork on the tariff investigations and will inform key aspects of monitoring this intervention. It is for reason we explore ITAC's human resources in more depth even if the broader monitoring will be done by the Task Team. The headcount at ITAC as at 31 March 2015 was 125 employees. It comprised 70 employees who perform core services and 55 employees who perform business support tasks. There were six vacant positions, excluding contract positions which makes the vacancy rate for the period under review to be 4.6% (ITAC 2014 - 2015 Annual Report, pg. 24).

There are four units at ITAC dealing with tariff amendments, trade remedies and import and export control⁹. During any one investigation, there are normally two but up to six investigators involved in an investigation. Interns also assist in the investigations. The investigators are supervised by the unit's senior manager and supported by other staff that perform tasks such as keeping the public record for an investigation complete and up-to-date. The number of investigators dedicated to an investigation is very low and investigators normally have multiple investigations running simultaneously. For instance, during the steel tariff investigations, some of the investigators were working on the rolled aluminium and aluminium extrusions investigations. These are big investigations as well running parallel to the steel case. There can also be other cases that have not yet been initiated that require the investigators attention.

The investigators carry out the investigations and make recommendations to the commission that will ultimately decide what the outcome of an investigation will be. It is to the commissioners that we turn next.

5.4.2 *The Commission at ITAC*

The current commission consists of nine part time commissioners, a permanent deputy and chief commissioner¹⁰. Decision making at ITAC happens at the commission meetings which take place once a month, on the second Tuesday of the month. Emergency meetings can be convened if the need arises as evidenced by the steel investigations. The part-time commissioners are employed

⁹ The units at ITAC are Tariff investigation 1 and 2, Trade Remedies 1 and 2 and Import and Export control.

¹⁰ Annexure 5 presents a list of the part-time commissioners

in different organisations such as non-profit organisations like the Chamber of Milling (Boikanyo Mokgatle), trade unions (Etienne Vlok), consulting firms (Nkululeko Khumalo), other government departments (Asanda Languza) and there is also an advisor on trade and economic development to the DTI (Ambassador Faizel Ismail). There is not a single place where the profiles of the part-time commissioners are kept and the interviewees did not have this information readily available. However, a simple search online reveals that the current part-time commissioners are professionals in their fields and have extensive experience in trade policy matters.

While the part-time commissioners are well respected in their fields and no doubt competent in what they do, the post they hold as commissioners is not what they do every day, this may compromise the level of commitment to certain tasks.

5.4.3 The steel task team

The ITAC reports that deal with the rationale for imposing tariff increases on primary steel products discuss a task team that will monitor the tariff support. As far as ITAC's internal processes are concerned, it is a rare occurrence that ITAC has created a separate body outside of the commission to monitor intervention. ITAC has historically performed impact assessments of duties for example in the uncooked pasta case and aluminium extrusions but have never had to deal with such monitoring where specific conditions were placed on industry as is the case with the current duty increases on steel (See ITAC Evaluation Report 2015 for impact assessments). Internally ITAC has capacity to perform impact assessments and they have done so in the past but this case introduces a different level of volume and complexity, not to mention the sheer weight of the industry that will have to be observed. In any case impact appraisals are more concerned with the *outcomes* of intervention, whereby monitoring is concerned with the *process* of rolling out support. Hitherto ITAC has thus been concerned about the outcomes of policy decisions rather than the process of policy making.

A new development that was introduced with the steel case is that the monitoring and governance of the steel interventions will not be an ITAC operation, nor is it DTI's or EDD's; all stakeholders from the applicants to the downstream sector, to labour and government will be represented in the task team. This steel task team is created in terms of ITA Act. The formal announcement of the task team is expected to be made by the DTI Minister in 2016 but submissions for candidacy have been made.

The ITAC investigators in the steel case will provide their expertise in the monitoring as they already did the ground work, including making a recommendation not to impose duties on the structural steel products that were produced by Evraz for instance. This is because Evraz has ceased producing in 2015 and may as well have breathed its last breath then because the firm was officially closed down in early 2016. The ITAC investigators understand the issues well and will provide input on other important matters such as nationalisation of the primary steel sector that is already part of the public discourse. It is worth taking detour to comment about potential nationalisation in the steel sector.

NUMSA is exploring all possible avenues to resuscitate production at Evraz, but a particular interest of the organisation is to nationalise strategic industries such as steel (NUMSA interview, 2016). Evraz is perfectly perched to be taken over by the state, but would it be worth it? One will have to be a fortune teller to know the answer to that but as a conscious industrial policy intervention it may be worthwhile for the state to reclaim this strategic asset to the economy. Increasing the state's stake in AMSA is a keen interest of Numsa's as announced by Irvin Jim at the steel sector media briefing held in August 2015 (SABC Steel media briefing), but this view is tempered with the fact that AMSA is in debt and government will need to be strategic about "nationalising debt" and also that government is not doing such a great job with other SOE's such as the Post Office and South African Airways (Numsa interview 2016).

The companies that operate in South Africa are mostly subsidiaries of big international corporations. These corporations do not exist for the sole reason of fostering industrialisation in South Africa, they have no obligation to want to develop the country. They will move their capital wherever it can fetch them the highest returns for the least hassles. SEIFSA maintains that government cannot setup another SOE, that "the companies will just move". The rationale being that because these companies supply the international market, the more inefficient they are the higher the prices will be. Therefore, in essence, the firms are already regulated by what happens internationally.

The steel task team will have to grapple some of these issues and come up with win-win solutions that ensures long term viability of the sector. However, given that the task team comprises of

individuals who have other professional commitments, they are likely to do minimal work and be aided by the ITAC investigators who are already overwhelmed.

5.4.4 Institutional architecture of the intervention

As mentioned in section 5.1.1 ITAC is an independent organisation which recommends trade policy decisions to the DTI. ITAC is administratively answerable to the EDD but also reports to the DTI, which in turn reports to the National Treasury. The role of ITAC is to set tariffs and once the decision has been made, implementation is completed by National Treasury through SARS.

The extent to which industrial policy in this case is likely to be effective will depend on government's ability to coordinate these different agencies.

5.4.5 Punitive measures

It is critical to understand how ultimately the primary steel sector will be disciplined should their actions deviate from the conditions that are placed upon them in exchange for the duty protection. The only indication in the ITAC reports as to what the consequences will be to industry should they default on their promises, is that a "ITAC will initiate an immediate review of the tariff dispensation in case of a default by the steel industry on above conditions". It means that Commission may decide to keep the duties or remove them depending on the findings of the review.

With regards to punitive measure or conditions attached to the designation for public procurement, there are actually none. By designating steel for local procurement, the main benefit DTI is aiming at deriving is growing local capacity which will translate to jobs, economies of scale and improvement in exports which means further creation of jobs. Therefore, for the DTI Ferrous Metals desk, extending this benefit is for government and business to work together in creating a virtuous cycle of growth. By taking this action, DTI is safeguarding the company first, keeping the jobs that are already there, and with stability there will be improved technology, better quality at even lower prices (DTI interview 2016). Designation is a new policy but it will be constantly renewed as market conditions change.

In exchange for all the support government is extending to the primary steel sector - AMSA will grant government R1.5 billion as a settlement for Competition Commission cases. This will be the

single biggest settlement the Competition Tribunal will have ever received (See 10 and 15-year review of the Competition Commission).

6 Discussion

The main discussion points will be informed by reviewing the empirical sub questions, that is, the formulation, conditions and the monitoring aspect of the intervention. There is a recent development that safeguard measures have been formalised and preliminary duties will be imposed in the next couple of weeks. Because these duties can be much larger than the initial tariff increase of 10 per cent, it becomes even more important to scrutinise the governance of these interventions.

Because there is a powerful monopoly producer that has to be constrained, the political articulation and political support of monitoring this operation becomes extremely important if it is to succeed. The institutional setting of the intervention is inadequate, and government is not taking effective control of the dominant firms. In this section the credibility of the monitoring will be discussed. This will include an assessment of the human resources dedicated to this task, along with the way conditionalities are structured. Finally, the developmental nature of the support will be probed. At this point the paper will conclude whether the entire operation embarked upon to save the steel sector is done convincingly or not.

6.1 The likeliness of success based on monitoring

Monitoring of the interventions is the subject of the first empirical sub-question. It is established that these interventions will be carried out by a task team. The task team itself will report to the ITAC Commission which has an obscure reporting structure as discussed in section 5.4.4. Whilst the task team is theoretically the designated monitoring body, ITAC investigators will play a crucial role in providing key information around the technicalities of the trade support. ITAC's staff complement is very small as pointed out and for the steel investigation in particular there are only 6 investigating officers and one senior manager dedicated to this task¹¹. This number is woefully inadequate when compared with the task at hand.

¹¹ See Annexure 6 for initiation gazettes listing the investigators

On the kind of granular work ITAC will have to do is overwhelming. These investigators have other investigations running parallel to the steel case, it will be very difficult to handle the increased work load without additional assistance from personnel experienced in trade policy work.

The establishment of a dedicated task team has the advantage of institutionalising the control mechanisms. This sort of arrangement predisposes the government to an active role where it can anticipate certain situations and act timeously. This is in stark contrast to the situation before where firms approach government when they were desperate and some damage already having been done. However, the fact that the task team has been created within the existing institutional architecture makes it unconvincing in terms of being effective.

A distinct benefit of an institutionalised monitoring mechanism with a particular focus is that there is capacity continually being built in the state to implement and monitor industrial policy actions. This capacity can be leveraged for industrial development as far the design, implementation and monitoring of policy interventions is concerned.

The institutional architecture that is characterised by ITAC being positioned under two line departments is not ideal for proper coordination of activities. Industrial policy is likely to be effective if there is the ability to coordinate these different agencies. The ideal situation is to have full political backing which is easier to achieve with direct line of reporting. The institutional environment that gives strength to those agencies and people who are in charge of the monitoring is key to understanding the probability of success of industrial policy.

In this instance, the institutional architecture and the human resources dedicated to this operation are inadequate to effectively deal with the work load and manage the communication channels. While government is clearly making an effort as evidenced by unconventional ways that they are proceeding with this entire operation, the way in which the monitoring is structured does not instill confidence to say it will be efficient. There is however learning that is happening on government's side.

6.2 Are the conditions credible?

The main set of conditions attached to the support give us clarity whether this intervention will be implemented in a way that is going to make the conditions credible. In this case we draw on Amsden (2002) and Friedrich List's (1885) work who both emphasised that protection should only be temporary and conditional, else it will not change the behaviour of those that receive the support. ITAC stipulated upfront that the duty structures will be reviewed in three years' time. In ITAC's 2014/2015 annual report, there is a greater emphasis on monitoring and specifying review periods for tariff dispensations, a new dawn appears to be breaking.

The tariff dispensation review process should industry default on their agreements in the context of wider protection in the steel sector is not credible. If government was only extending the 10 per cent tariff support, then it would be easier to manage. However, the latest development is that safeguard duties are going to be imposed and government has promised industry antidumping protection as well. This adds complexity to the review process of the tariff dispensation because antidumping duties can remain in place for 5 years and safeguards duties for 3 years, both with the possibility of extension as outlined in the relevant regulations.

If for some reason the primary steel industry defaults on the conditions for the 10 per cent tariff increase, then it remains to be seen if this will affect the antidumping and safeguard duties as well. If it does not, then the review will essentially be meaningless even if the 10 per cent tariffs are revoked by government because the industry will still have the antidumping and safeguard duties protecting their market.

The steel task team will have to deal decisively with such ambiguities and tighten industries' obligations. This is possibly the last chance for government to have a handle on industrial policy in this sector.

6.3 Developmental nature of the intervention

The fact that the solution to industry's woes is addressing the entire value chain points to an envisioned broader developmental outcome and the rare show of unity between government business and labour is critical to the success of this intervention. Evans' (1995) consideration about the false dichotomy between states and markets, is that it confuses the basic issue being that withdrawal and involvement of the state are not alternatives, that state involvement is a given. We should therefore not be asking 'how much' but 'what kind' (Evans 1995). This case that is unfolding with the steel crisis is a clear example of a need to ask the right questions about state involvement and steer away from dismissing such involvement based on ideological grounds.

Government had to address the issues in the steel sector because of the strategic importance of the sector. The crisis and the impact it would have had on the economy necessitated decisive action to avert its deepening. Equally true is that the drive towards reindustrialisation in this sector will require a competitive price of steel which is now certain. What remains to be seen though is whether the pricing structure is going to serve the best national interest for development.

The pricing methodology formulation is contentious and already the cracks are showing. Some of the largest steel consumers are raising concerns about the composition of the steel-price basket being proposed by AMSA. This is because the "basket" based on selling prices in a range of countries in Europe (50%), Asia (30%) and North America (20%), but excluding the low-priced countries such as China, Russia and Turkey. The exclusions favour AMSA, it is argued by steel consumers, as the AMSA's steel is traditionally cheaper than in the countries included (Creamer 2016b).

Further to this, AMSA informed its customers and government in March 2016 that they would be increasing prices on a range of steel products by up to 11% from April 1 (Creamer 2016a, own emphasis). It is easy to come to a conclusion that AMSA used the duty increase as leverage to increase their prices. But AMSA has instead defended the decision to be based on "a rise in raw material prices and improvements in the international price of steel" (Creamer 2016). One has to ask then what is the point of a convoluted formula driven pricing structure when AMSA can increase the prices without consulting with the key stakeholders, especially the state? This does

not reflect a relationship where the state is in control of the private sector, restraining corporate behaviour.

Government has had to intervene in a hurry precisely because of their distance to industry in the past. This is an opportunity for government to be more active even in other sectors so that they can anticipate crisis and act in a measured way in the future. Although acting decisively given the crisis mode, government has not created a credible structure within which to take effective control and discipline the dominant firms in the steel sector. The creation of a task team could have been the most accessible action given the time constraints, but the fact that this task team is created within the existing institutional framework that comes with its complications cannot be ignored. The institutional challenges need particular attention as the global economic environment is constantly changing and government needs to be agile and not hampered by bureaucracy.

7 Conclusion

This research set out to understand the way in which policy is being conducted in South Africa with a particular focus on the tariff and localisation support being extended by government to the primary steel sector. AMSA's abuse of its proximity to power allowed this firm to act untowardly and this behaviour was encouraged by the state's learned helplessness. This relationship seems like it is a thing of the past, at least in the short term and government has recaptured policy making in the steel sector.

This research has shown that it is important from the onset to establish how industrial policy tools are organised, used and controlled by government. The eventual outcomes are of course important but the issue at hand is about getting the process right. There needs to be more research about the process of industrial policy rather just the outcomes.

While the state is clearly turning a corner in terms of industrial policy in the steel sector, the way in which the monitoring and governance of the intervention in the primary steel sector is structured does not convincingly show possibility of success because:

- 1 The blurred institutional architecture can compromise the effectiveness of industrial policy;
- 2 The staff complement that will do the ground work is inadequate;
- 3 Although the balance of power between the state and industry has shifted, the state is not compellingly taking effective control of the private sector.

What was discovered in this research is of great importance for policy formulation and practice as it was not about the potential results of government intervention but rather about the process of the intervention. The evidence accumulated throughout the whole dissertation points to the fact that government has an incredibly significant role to play in the economy but cannot perform its duties in isolation of other stakeholders, particularly labour and business.

The findings of this research justify the rationale claimed at the beginning for embarking on this process to say there needs to be an understanding whether government is learning to do industrial

policy or not. While government has done what has never been done before in this sector, the way in which the governance and monitoring aspect of the support is structured is unconvincing. However, learning is certainly happening and government can leverage it for industrial development to enable the much needed investment and transformation of the economy.

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9 Annexures

- Annexure 1: Steel protective actions around the world
- Annexure 2: Downstream firm's comments to primary steel application
- Annexure 3: ITAC Application form
- Annexure 4: Conditionalities
- Annexure 5: ITAC Part-time commissioners
- Annexure 6: Initiation gazettes

Anti-dumping (2012- 2015)	
Implemented total	97
Australia	19
Brazil	13
Canada	6
Chinese Taipei	2
Colombia	2
European Union	1
India	4
Indonesia	11
Malaysia	6
Mexico	1
Morocco	2
Russian Federation	4
Thailand	12
United States of America	10
Viet Nam	4
Initiated total	148
Australia	31
Brazil	17
Canada	13
Chinese Taipei	7
Colombia	5
Dominican Republic	1
European Union	8
India	3
Indonesia	9
Korea, Republic of	1
Malaysia	12
Mexico	6
Morocco	2
Russian Federation	2
Thailand	5
United States of America	22
Viet Nam	4
Safeguards in force and initiated for HS code 72	
Safeguards (2012 - 2015)	
Implemented total	4
Indonesia	1
Jordan	1
Morocco	1
Thailand	1
Initiated total	4
Indonesia	1
Jordan	1
Morocco	1
Thailand	1
Countervailing actions in force and initiated for HS code 72	
Countervailing (2012 - 2015)	
Implemented total	7
Australia	3
European Union	1
United States of America	3
Initiated total	16
Australia	3
Canada	4
European Union	2
Russian Federation	1
United States of America	6

*Source: Author's compilation from WTO bi-annual reports 2012 -2015



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Annexure 2

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4 November 2015

REPRESENTATIONS FOR CUSTOMS DUTY INCREASES – 7210.12.00 AND 7211.90.00

Dear Sir

We are a manufacturer of welded tinplate steel cans and aerosol cans based in Tongaat, KZN. We employ in excess of 100 staff and supply into the Gauteng and KZN regions.

With reference to the abovementioned Customs Tariff Application List 11/2015, Notice 1007 of 2015 we make the following representations and objections with reference to the Applicants reasons for the application.

Point 1.

Despite the weakening of the SA Rand against the US\$ and other major currencies R10.20 to R13.75 to \$1.00 in the last 24 months, a decrease in value in excess of 25% the sole manufacturer of tinplated steel in South Africa claims it is not able to compete against imports and requires protection.

Point 2.

Our experience with imports is that:

- a. Foreign suppliers have a better ability to supply our MOQ (minimum order quantity) and do not raise their MOQ for orders outside of standard widths, coil sizes, and offer more flexibility.
- b. These offshore suppliers offer world class quality and are price competitive.
- c. Foreign suppliers offer comfort in that we are able to spread our business and be risk free from the downside of supplier failure. Mittal offer no alternate supply chain in the event (as previously experienced) of a plant shut down. There is no alternate wholesale supply chain for tinplate steel available in the South African market in the event of a Mittal failure to deliver. This in itself is an unacceptable risk.

Point 3.

The hard currency pricing of tinplate steel has not been to the advantage of local importers. In fact the depreciation of the Rand has worked in the Applicants favour. I would suggest that there are easier markets to target than South Africa, where there is local production with static pricing based on local currency and the cost of imported tinplate steel which rises with the depreciation of the Rand.

Point 4.

With regards to "intense price competition" should a duty on imported tinplate steel be imposed on local steel converters in the can and aerosol can markets, without a duty on imported steel cans (currently duty free), local producers will be disadvantaged. This will reduce local production in favour of imports, leading to reduced employment and aversion to capital investment. Downstream customers, who compete against



STEEL PACK

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fully imported competitive products, will also be disadvantaged. In the food industry there are manufacturers who export and will now be less competitive.

Point 5.

Steel pricing internationally is in the low end of a cycle. This is already established. If duty is placed on the imported tinplate coated steel there will be a move to imported welded tinplate steel cans and aerosols and this will just move the problem from one sector to another.

Can Mittal give any assurances that the company can even fill the supply chain where they are looking for protection?

Regards

Tim Dykins
CEO SA Steelpack Pty Ltd

ABSOLUTE CONTAINERS

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NON-CONFIDENTIAL

27 January 2015

The Chief Commissioner
International Trade Administration Commission
Private Bag X 753
Pretoria
0001
27th January 2015

Attention: Mr Siyabulela Tsengiwe,

Application of the South African Coil Coaters Association ("SACCA") for the Increase of the Customs Duty on Certain Steel Products Classified Under Tariff Subheadings 7210, 7212 and 7225

1. We refer to the above-mentioned Application of SACCA and investigation of the International Trade Administration ("Commission") in this regard.
2. Please note that we, Absolute Containers (Pty) Ltd are using the following product : Pre-painted Alu- Zinc which are classified under HS 7210.70 in the manufacturing of sandwich panels.
3. We source the products from imports to be used as a component for products we manufacture, some of which are exported.
4. The reasons for importing are :
 - Quality
 - Reliability of Supply
 - Non-standard Sizes

Directors: W Bastard (Managing); R Newman; P Newman



5. We have tried using the local mills as we believe in buying South Africa as we are indeed wanting our customers to buy South African. We have however suffered due to:
- Poor Quality Product
 - Unreliable Deliveries
 - Inflexible Supply
6. Our industry is already under pressure as a result of the low priced final product imports entering the domestic market. As a result of the increasing cost relating to energy, labour and transport, an increase in the customs duty from zero to 10 percent, or any increase regarding our major raw material, the very subject of the application, would in effect have a negative impact on our company to such an extent that we would be unable to compete in our export markets and our clients locally would be affected by a price increase making them un-competitive.
7. We have invested over R2m to be able to compete in the market and are currently employing directly 13 people who would lose their decent jobs.
- In addition there are probably another 50-100 other jobs down-stream of us whose jobs would be affected by an un-necessary price increase.
8. We request that the Commission to not entertain the application by SACCA to increase the customs duty. Such an increase would not only cause substantial harm to the downstream industry which are already under pressure, but it would also nullify any progress experienced by the downstream industry in creating sustainable jobs and investment by being able to source domestically or from abroad at competitive prices and short lead times.
9. If you have any queries please contact us.

Thanks and Regards



Walter Bastard
Managing Director



Annexure B7: Further elaboration for opposing the duty increase application

The information supplied by AMSA does not show their tinplate business to be in distress. AMSA's inability to supply the requirement of the local packaging industry with its tinplate requirements makes the application of Customs duties unjustifiable and inappropriate.

AMSA is the only Tinplate producer in South Africa and have proven to be unable to supply the local demand

AMSA has consistently over a long period of time been an unreliable (availability & service levels) supplier.

We have further experienced regular and serious lapses in product quality, a critical requirement and risk for food packaging.

Due to underinvestment in appropriate technology, AMSA is unable to supply the packaging industry with necessary raw materials, such as DR tinplate (thin gauge & hard material), TFS (Tin Free Steel) and SR tinplate thinner than .19mm which is available and used extensively, the world over.

As the only supplier in South Africa and with the application of import parity pricing methodology, AMSA has kept local prices levels well in excess of international prices. Tinplate prices in 2009 for example were increased by 70%.

These factors have forced and necessitated local packaging producers to import part of their raw material requirements.

Comments on AMSA's reasons for the tinplate application

Imports displacing local production

The claim that imports are displacing local production is the primary reason for requesting an increase in Customs duties in AMSA's tinplate application. The claim that *"the import stats for 2010 are abnormal and not in line with the import stats of 2011-2015 YTD this could be as a result of incorrect statistics being provided for 2010 as the 5 months figure already reflects 34% of the 12 month figure of 2011"* is not correct.

For ease of reference, the imports statistics are shown below:

Tin	2010	2011	2012	2013	2014	2015 Jan - May
7210.11	7,808	4,816	9,950	6,332	9,704	8,959
7210.12	30,659	8,159	9,205	13,309	5,565	2,742
7212.10	368	203	458	237	613	601
Total	38,836	13,178	19,613	19,878	15,882	12,302

Source: AMSA application par C14

In 2010 one of AMSA's tin-lines closed down, which caused the spike in imports. For Nampak alone, AMSA imported at least 65% of the total volume into SACU (please see **Annexure B7.1** attached). In 2011 and 2012, there was nothing out of the ordinary that happened in the local market hence the significant reduction from 2010. In 2013, when AMSA had the BOF fire, local deliveries were halted for four months. In 2014 the imports again eased off and there was a 22% decrease in the volume of imports coming into SACU market.

This information in Annexure B7.1 is confidential by nature in terms of Amended TIR 3.4 (g) and can therefore not be released to any third party, especially competitors as it could impact negatively on the competitiveness of the applicant. In this regard we submit that the nature of the information is such that it cannot be summarised. Even a summary of the information will contain information that is by its very nature confidential. The information will however be made available to AMSA if required as this is email correspondence between Nampak and AMSA.

What the import statistics tell us is that AMSA was supplementing supply shortages in the local market. The injury that is presented by AMSA for tinplate is therefore not contextualised. **The two events, being the tin-line shut down and the BOF fire incident are fundamentally connected to what is evident in AMSA's injury indicators.** In attachment F16 of the AMSA application, where market and trade data is presented for tinplate, the same pattern that speaks to the local market constraints prevails.

Domestic supply along with sales volumes and values are used here for illustrative purposes. AMSA's domestic sales volumes went from 100 in 2012, to 80 in 2013. This reduction in 2013 relates to AMSA's inability to supply for 4 months due to the BOF fire at their plant. The injury information further indicates that AMSA's market share has not been eroded from 2012 to date.

Duty protection applied in other jurisdictions

The second reason AMSA puts forward for duty protection on tinplate is that globally, the other steel producing countries are protecting their markets. And indeed they are. AMSA specifically refers to trade remedies (anti-dumping, countervailing and safeguard measures). A complete list of the duty amendment cases from the WTO is attached as **Annexure B7.2**. Taking a closer look at the products that are being protected with "corrective" duties, we find that out of 95 cases from 2013 to date, only Malaysia has imposed anti-dumping duties on tinplate from China and Republic of Korea to a maximum of 9.78%. The foreclosure of markets is not happening in the tinplate space and the cases AMSA reference are in fact not tinplate cases. These cases relate to the primary steel products used in the construction and automotive industries. This further illustrates the point that tinplate is inappropriately bundled with the other steel products that are indeed facing challenging circumstances.

ITAC cannot simply accept a theoretical assertion that foreclosure in other markets has resulted in an increase in imports in SACU. This statement is devoid of evidence and Nampak has shown what the reasons for increases in imports of tinplate have been in the SACU market.

Nampak's specific concerns about a duty increase

AMSA is the only producer of tinplate in the SACU market and this position has manifested itself in uncompetitive prices in the domestic market and import parity pricing as seen in a 70% tinplate price increase in 2009.

We argue that the lack of competition has resulted in sub-standard service, poor product quality, uncompetitive pricing and lack of investment in technology, depriving the domestic market of world class material. These issues will be expanded on below.

Sub-standard service levels

Supply shortages

A secure source of raw materials is a top priority for Nampak because this directly affects Nampak's service to the downstream industry. Nampak buys 80% - 90% of the raw material from AMSA. Nampak is averse to a single source supply because this introduces risk. An import supply chain is necessary in Nampak's line of business where delays or shortages of product can have ripple effects into the downstream manufacturing sector.

As an example, a supply constraint manifested during the 2013 BOF fire that caused a non availability of tinplate in the domestic market for 4 months. Without imports, significant harm would have been done to the South African food canning industry and consumers.

Late deliveries

On time deliveries are critical in this industry because of having to can perishable and seasonal food stuff. AMSA has consistently under performed. **Annexure 7.3** attached hereto provides the trend of AMSA's deliveries in terms of punctuality.

This information in Annexure B7.3 is confidential by nature in terms of Amended TIR 3.4 (g) and can therefore not be released to any third party, especially competitors as it could impact negatively on the competitiveness of the applicant. In this regard we submit that the nature of the information is such that it cannot be summarised. Even a summary of the information will contain information that is by its very nature confidential.

AMSA's late deliveries has a negative impact on the ability of the South African tinplate packing industry to compete. Service levels to downstream customers are affected and Nampak needs to mitigate this by carrying excessive levels of inventory.

Poor and variable Quality

AMSA's tinplate quality performance has created a number of significant issues in the past and some necessitated product recalls by Nampak's customers of product from the trade in order to avoid consumer health risk. Examples of significant cases are covered in **Annexure B7.4**.

It must be noted that seasonal perishable product such as fruit, vegetables and fish can't wait for cans. Such product must be processed and canned within a few days / hours. Nampak is held liable by its customers if product perishes due to a lack of cans for canning. It should be clear from these examples that AMSA struggled with their product quality performance over a long time. It furthermore put the market at risk and therefore left Nampak with no option but to import material for critical canned categories from suppliers in Japan & Europe that have a consistent quality track record.

It is therefore a requirement for Nampak to source certain materials for sensitive categories from sources which can consistently guarantee food safety standards.

Uncompetitive pricing

There are numerous examples of complaints about AMSA's anti-competitive pricing in the steel market. This is no different in the sensitive tinplate packaging industry aimed at the poorer end of the consumer food market.

On a number of benchmark exercises AMSA's prices for tinplate has been shown to be higher than what is available on the international market. Current examples before final negotiations are as per **Annexure B7.5**.

This information in Annexure B7.5 is confidential by nature in terms of Amended TIR 3.4 (c) and (g) and can therefore not be released to any third party, especially competitors as it could impact negatively on the competitiveness of the applicant. In this regard we submit that the nature of the information is such that it cannot be summarised. Even a summary of the information will contain information that is by its very nature confidential.

Outdated Technology:

Double reduced versus single reduced

Packaging material is moving from using Single Reduced (SR) to Double Reduced (DR) tinplate which is key to the long term sustainability of tinplate products. SR is produced by "cold rolling" hot rolled coil. DR is produced by rolling this "cold rolled" coil a second time. Double reduction simply means harder and thinner – which in turn means less using steel but achieving more surface area. By reducing the costly steelmaking requirement, DR per surface area is cheaper than SR. To remain competitive, it is essential to use DR in can and component manufacturing.

AMSA is currently not in a position produce double reduced product as demanded by the industry for some time. Nampak and its competitors are converting to DR and their customers require DR to remain competitive against imports of their own products.

In summary

These four points combine to reduce the competitive position of Nampak and its counterparts in the packaging industry. As a relevant example, South Africa's sole beverage can manufacturer Nampak Bevcan, has converted from using tinplate to aluminium. The decision to switch to aluminium was due to price instability on steel, AMSA forcing through price changes and pressure from customers. In 2010 Nampak Bevcan was purchasing 88 000 tons of tinplate from AMSA, this number has shrunk down to 16 000 in 2015 and it will be fully converted to aluminium in the near future. Once a conversion like this is done, it is close to irreversible.

Impact if duties imposed

Packaging

If AMSA uses the duty increase as leverage to increase their own prices, then the importation of components or even finished cans will become more attractive for Nampak. This will affect employment at Nampak as some tin production may have to be closed down to give way to imports. As a supplier of cans into the food canning industry, Nampak will not be able to absorb the entire cost escalation and will have to pass on some of the increases to the downstream manufacturers.

The manufacturers of canned products will have a hard time passing this increase on to the retailer as competition is fierce on the supermarket shelves and a slight increase in price can erode a large amount of the quantity demanded of that finished product. The local finished products will be in danger of being displaced by imported finished product.

Downstream

It's important to note that unlike AMSA, who are a monopoly producer of tinplate, Nampak faces fierce competition from other packaging producers, some of whom purchase their tinplate from the EU. These companies will not be impacted by the duty increase and will simply gain market share at the expense of Nampak and AMSA. Please see **Annexure B7.6** for an infographic showing the baked beans value chain. This same concept can be applied to any product placed in a tinplate can. Every company downstream from AMSA faces fierce local competition as well as import competition. Nampak is the largest user of AMSA tinplate and anything that costs Nampak volume, will also result in AMSA losing that volume. The further downstream this happens, the harder it will be to ever regain that market share. This has already manifested in the beverage can industry, which moved from using tinplate to aluminium, as well as the paint sector that moved its water-based paints to plastic containers instead of tinplate. Downstream companies such as Tiger Brands purchase a lot of AMSA tinplate from Nampak. They however face lots of competition using cans made from imported tinplate, as well as facing imports of finished products by the retailers. AMSA risks to lose more volume if downstream users of tinplate are outcompeted by imports

These issues raised here will not be remedied by the duties but will succeed in making the more efficient producer (from outside SACU) relatively less efficient because of the duties.

Conclusion – opposite to intent:

The duties that AMSA applied for on tinplate, should they go through, will serve to hasten AMSA's demise. This is because Nampak is the largest user of AMSA tinplate and anything that costs Nampak volume, will also result in AMSA losing that volume.

It serves no purpose for the duties to be imposed on products that cannot be sourced locally and the consumer should not be penalised for a business whose problems cannot be solved by increasing the Customs duties on tinplate.

Annexure 3

CUSTOMS TARIFF AMENDMENT APPLICATION FORM

Increase in the rate of customs duty

Please address all correspondence to the Senior Manager: Tariff Investigations, International Trade Administration Commission, and forward your application choosing one of the following options:

Postal address: Private Bag X753, Pretoria, 0001

Physical address: DTI Campus (Uuzaji building, first floor reception), 77 Meintjies Street, Sunnyside, Pretoria.

NOTES:

- i) It is **imperative** to study the contents of the document titled "TARIFF INVESTIGATIONS REGULATIONS", which can be found on ITAC's website (www.itac.org.za), before completing this application form.
- ii) Applicants should feel free to submit any information or comment considered to be relevant to the application, not called for specifically in the questionnaire. The application should include a duly signed affidavit on the company's letter head averring the accuracy of the information being provided and be accompanied by a cover letter signed by the CEO of the applying company authorising the submission of the application.
- iii) It is advisable that the Office of the Commissioner for the South African Revenue Service (SARS) be consulted in connection with the tariff classification and description of the product concerned. (This applies to questions 10 and 11 of the questionnaire). Should an additional 8-digit tariff subheading be required, it is also necessary to obtain the relevant description of such a provision from SARS before the application can be submitted.
- iv) If an increase of the custom duty on more than one product is required, information should be furnished separately throughout the questionnaire for each product.
- v) The statistical information may be given for either calendar years or financial years, but the basis selected should be stated.

CONFIDENTIAL INFORMATION

Please note that in terms of Section 33 of the International Trade Administration Act, 71 of 2002, and Section 3 of the Tariff Investigations Regulations, if any information is considered to be confidential then a non-confidential version of the information must be submitted, simultaneously with the confidential version. It is imperative to consult the Tariff Investigations Regulations in this regard for the detailed requirements on confidentiality, which apply to all parties and to all correspondence with and submissions to the Commission. Based on these regulations parties must indicate:

- ☐ Where confidential information has been omitted and the reasons for the confidentiality of the information omitted; and
- ☐ A detailed summary of the confidential information and indexing of numerical data must be submitted to enable interested parties to make meaningful representations on trends and methodology used to determine relevant factors; or
- ☐ In cases where information is not susceptible to summary or indexing, reasons must be submitted to this effect.

All correspondence with and submissions to the Commission unless clearly indicated to be confidential will be made available to other interested parties. (Confidential information should be clearly marked by writing "CONFIDENTIAL") on the cover page of the document and every page that contains confidential information.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the Commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due). Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the confidentiality requirements.

VERIFICATION

Please note that in terms of section 8 of the Tariff Investigations Regulations, the Commission retains the right to verify the accuracy of the information supplied to it by any party by conducting verifications.

GLOSSARY

APPLICANT	The party submitting an application.
COMMISSION	The International Trade Administration Commission of South Africa established in terms of section 7 of the International Trade Administration Act, 2002 (Act No. 71 of 2002).
CUSTOMS DUTY	Ordinary customs duties as contained in Part 1 of Schedule No. 1 of the Customs and Excise Act, 1964 (Act. No. 91 of 1964).
INTERESTED - PARTIES	Parties that have a direct interest in an investigation and may include the applicant, producers in SACU, exporters, importers, or trade or business associations whose members are SACU producers, exporters or importers and labour unions whose members are employees of SACU producers. This does not preclude the Commission from accepting other parties as interested parties at the behest of the Commission.
SACU	Southern African Customs Union, established by Article 3 of the SACU Agreement and consisting of Botswana, Lesotho, Namibia, Swaziland and South Africa
SARS	South African Revenue Service
PRODUCT	The product that is the subject of the application

INFORMATION REQUIRED IN SUPPORT OF AN APPLICATION FOR AN INCREASE IN THE RATE OF THE CUSTOM DUTY

A) COMPANY DETAILS

1. State the full name of the applicant.
2. State the postal and physical address.
3. State the web address if available.
4. State the Company's registration no. in terms of the Companies Act.
5. Provide the contact details of the applicant/representative:

Contact person.....
Cell no.....
Fax no.....

Tel. no.....
Email Address.....
6. Provide the physical location of the factory(ies) and warehouse(s)
7. State the nature of the business conducted by the applicant.

B) PRODUCT DESCRIPTION AND TARIFF CLASSIFICATION

8. Provide the existing tariff structure as per the table below:

Table 1: Current tariff position

Tariff heading	Tariff subheading	Description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
(4 digit)		(Tariff heading description)					
	(6 or 8 digit)	(Tariff subheading description)					

9. If the application is for an increase of duty by way of creating a new 8-digit tariff sub heading, please provide the proposed tariff description as supplied by SARS.

10. Provide the requested tariff structure as per the table below:

Table 2: Requested tariff position

Tariff heading	Tariff subheading	Description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
(4 digit)		(Tariff heading description)					
	(6 or 8 digit)	(Tariff subheading description)					

11. Describe the product in the fullest detail with regard to composition, method/process of manufacturing, function and method of use. Such a description should be supported, where possible, with clearly illustrated literature.
12. Please furnish information with regard to all intermediate inputs (intermediate inputs are all industrial inputs except the primary inputs of capital & labour) used in the manufacture of the product as indicated in the table below.

Table 3: Input products

List all input product/s & state whether imported or domestically sourced	Tariff subheading	Percentage of ex-factory sales value

13. Describe or provide a diagram of the position of the product in the value chain (i.e. raw material, intermediate product or end product).

C) REASONS FOR THE APPLICATION

14. Give a brief statement of the reason(s) for the application. Please note that the particulars given will form the basis of the application and that it is possible that they will be made available to interested parties.

D) INDUSTRY AND MARKET

15. Furnish the names and addresses or websites of other SACU manufacturers of the product and/or end product including details of the known SACU industry representative organisations.

E) MARKET AND TRADE INFORMATION

16. Furnish the company's recent three-year information on market and trade and indicate the proportion of the total allocated to the product being the subject of the application where applicable. Please use table 4 below for ease of presentation of the information.

Table 4: Market and trade data

No.	items	Year 1		Year 2		Current year	
		Total	Proportion of the subject product (%)	Total	Proportion of the subject product (%)	Total	Proportion of the subject product (%)
1	Domestic demand- kg/li/units)						
2	Domestic supply- kg/li/units)						
3	Total production (volume - kg/li/units)						
4	Total sales (volume -(applicant, kg/li/units)						
5	Total sales (value (applicant, R)						
6	SACU sales (volume - Kg/li/units)						
7	SACU sales (value (R)						
8	Production capacity						
9	Market share (applicant, %)						
10	SACU market share,)%)						
11	Total investment (R)						
	Plant & machinery						
	Buildings						
12	Total export						
	Volume (Kg/li/units)						
	Value (R)						
	Destination						
13	Total import						
	Volume (Kg/li/units)						
	Value (R)						
	Origin						
14	Total Employment						
	Senior management						
	Middle management						
	Administrative staff						
	Male						
	Female						
	Black						
	White						
	Indian						
	Coloured						
	Skilled						
	Semiskilled						
	Unskilled						
15	Total wage (R)						
	Senior management						
	Middle management						
	Administrative staff						
	Male						
	Female						
	Black						
	White						
	Indian						
	Coloured						
	Skilled						
	Semiskilled						
	Unskilled						
16	Supply side measures (R)						
	Research and development						
	Skills development and training						
	Upgrading machinery & equipmt.						
	Other (list and populate)						

17. Is the applicant receiving any financial, capital or other form of support from any Government Department or Government Institution in the Southern African Customs Union (SACU)? If so provide the details about the type, duration and the extent of the already acquired support. Please provide supporting documentation.

F) COMPETITIVENESS

18. Provide the present cost and price structure of the subject product:

Table 5: Cost and price structure

No.	items	Year 1			Year 2			Current year		
		Price per kg/li/units	% of total cost of production	% of ex-factory selling price	Price per kg/li/units	% of total cost of production	% of ex-factory selling price	Price per kg/li/units	% of total cost of production	% of ex-factory selling price
1	Direct Variable Cost									
	(a) Materials and components									
	Imported									
	Fob									
	Custom duty									
	Freight, insurance & landing & other charges									
	Other imported inputs									
	Domestic sourced									
	(b) Direct labour & related costs									
	(c) Tooling*									
	(d) Royalties, etc.									
	(e) Other*									
2	Indirect Variable Cost									
	Labour									
	Utilities									
	R & D									
	Other variable overheads*									
3	Fixed Overhead Cost									
	Labour									
	Repair & maintenance									
	Rates & insurance									
	Plant depreciation									
	Net interest paid									
	Rent									
	Other*									
4	Total Production Cost									
5	Selling General & Administrative Expenses									
	Administrative expenses									
	Selling expenses									
	General expenses									
6	Total Cost									
7	Selling (List) Price									
8	Discounts, etc									
	Discounts									
	Rebates									
9	Net Profit									
10	Net Ex-Factory Price									
11	Net Cash Flow									

Note: Supply a detailed breakdown of the items in asterisks (*). Cost items such as tooling can be a direct or indirect cost depending on the specific industry. Separate cost analyses must be provided for each of the subject products in this format. This format serves as an indication of the details required by the Commission. This information should be reconcilable to your income statements. Provide a detailed breakdown of the basis of allocation in each case that an allocation has been made.

19. Give an assessment (consumer benefit or downstream benefit to a specific industry) of how your cost and price structure would be affected should the application succeed. To what extent will your firm's selling price for the product be influenced should the application for amendment in the duty be successful?
20. Furnish in the table below prices of equivalent imported products competing with the SACU manufactured product.

Country of Origin	Free on board import prices	Landed cost at SACU port including insurance, freight and other costs (cif)

NOTE: Wherever possible, the particulars in the table in point 20 should be substantiated with price lists, invoices, or other documentary evidence. If these are not available the sources of the information relating to this data should be furnished.

G) RECIPROCITY COMMITMENTS

21. The Commission takes a developmental or strategic approach to customs tariffs. It has now begun to make all tariff support conditional to reciprocal commitments by applicants to gauge the performance of beneficiaries against the policy objectives of increased economic growth and competitiveness, as well as employment creation and retention.
22. As an increase in customs duties is considered for the purpose of granting relief for domestic producers that may be experiencing threatening import pressures to adjust and restructure so that in the medium to long term they could become internationally competitive without any support in the form of customs duty protection, support will be **tiered to conditions related to economic performance over time and will be reviewed after a specified period.**
23. State the increased economic benefits that must be realised should the tariff support be provided by completing the table below, where applicable.

Table 6: Reciprocity commitments

No.	items	Should the support be given		
		year 1	year 2	year 3
1	Expected total production volume (Kg/li/units)			
2	Expected ex-factory selling price/per (Kg/li/unit)			
3	Expected total investment (R)			
	Plant & Machinery			
	Buildings			
4	Supply side measures (R)			
	Research and development			
	Skills development and training			
	Upgrading machinery & equipmt.			
	Other (list)			
5	Expected total export			
	Volume (Kg/li/units)			
	Value (R)			
6	Expected total Employment			
	Skilled			
	Semiskilled			
	Unskilled			
7	Expected total wage (R)			
	Skilled			
	Semiskilled			
	Unskilled			

H) DEVELOPMENTAL PLAN

24. Commitment to economic performance provided in table 5 requires, but is not limited to, the following:
 1. a development plan;
 2. a restructuring plan; or
 3. other relevant strategies in place to accelerate the achievement of the reciprocity commitments (from say 4 years to 3 or 2 years) has to be provided

I) SUPPORTING DOCUMENTATION

25. Submit copies of the firm's latest audited financial statements (or management accounts) and business plan.
26. Please submit a statement of compliance with labour laws and agreements gazetted by the Minister of Labour.
27. The applicant must submit a valid Tax Clearance Certificate. Should challenges exist in providing this information give detailed reason/s for the absence thereof.
28. Should the provision of tariff support not be enough to place the firm in a competitive position, are there any further potential plans in place to cover the difference.
29. Tables 4, 5 and 6 are also to be provided in excel spreadsheets.

J) AFFIDAVIT

30. Submit the following declaration by the Chief Executive Officer of the company concerned reflected on the company's letterhead.

I,.....(Full name) with identity number,.....in my capacity asof..... hereby declare that the information furnished in this application is to the best of my knowledge true and correct. I also submit to furnish ITAC with information in the form of table 4 and 5 on an annual basis over the period of the support, should the support be given.

NAME: DESIGNATION:

SIGNATURE: DATE:

I CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, AND THAT HE/SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH, AND THAT HE/SHE CONSIDERS THIS OATH TO BE BINDING ON HIS/HER CONSCIENCE.

SIGNED and SWORN to before me at on this Day of Year.....

.....
COMMISSIONER OF OATHS

Annexure 4: Conditionalities

Conditionalities from ITAC Report 505:

- 1) The commission will conduct a review of the duty structure to determine its impact on the industry value chain, three years from the date of implementation
- 2) The reciprocity commitments made by applicants, particularly on pricing and investment, be monitored and adhered to. The dti and the EDD are engaging with the steel sector, including AMSA and the downstream industry, with a view of coming up with a sustainable win-win pricing model that ensures both the short and long term viability of the primary producers and the downstream industry. The applicants are expected to corporate with government on the development of the new pricing model
- 3) AMSA will invest an additional R250 million in its colour line and SAFAL will invest an additional R300 million in its metal coating line in 2017;
- 4) Both companies commit to not retrenching over the next three years; and
- 5) ITAC will establish a committee comprising the applicants, downstream users, the dti, EDD and other relevant experts to monitor the impact of the change in tariffs and steel prices on downstream users as well as the performance of the applicants against the commitments that they have made

Conditionalities from ITAC Report 509:

- 1) The commission will conduct a review of the duty structure to determine its impact on the industry value chain, three years from the date of implementation
- 2) The reciprocity commitments made by applicants, particularly on pricing and investment, be monitored and adhered to. The dti and the EDD are engaging with the steel sector, including AMSA and the downstream industry, with a view of coming up with a sustainable win-win pricing model that ensures both the short and long term viability of the primary producers and the downstream industry. The applicants are expected to corporate with government on the development of the new pricing model
- 3) AMSA will invest an additional R367 million and R485 million in new plant, machinery, research and development, skills development and training and upgrading of machinery for the manufacturing of steel wire rod and steel reinforcing bar, respectively.
- 4) Evraz will invest an additional R150 million in 2016 and a further 250 million in 2017 in new plant and machinery, research and development, skills development and training and upgrading of machinery for the manufacturing of structural steel
- 5) ITAC will establish a committee comprising the applicants, downstream users, the dti, EDD and other relevant experts to monitor the impact of the change in tariffs and steel prices on downstream users as well as the performance of the applicants against the commitments that they have made

Conditionalities from ITAC Report 517:

- 1) The commission will conduct a review of the duty structure to determine its impact on the industry value chain, three years from the date of implementation
- 2) The reciprocity commitments made by applicants, particularly on pricing and investment, be monitored and adhered to. The dti and the EDD are engaging with the steel sector, including AMSA and the downstream industry, with a view of coming up with a sustainable win-win pricing model that ensures both the short and long term viability of the primary producers and the downstream industry. The applicants are expected to corporate with government on the development of the new pricing model
- 3) AMSA will invest an additional R3.6 billion in the next three years from 2016 to 2018 in new plant, machinery, research and development, skills development and training and upgrading of machinery for the manufacturing of Semi-finished steel, Steel Plates, Cold-rolled Steel and Steel sections
- 4) Evraz will invest and additional R150 million in 2016 and a further 250 million 2017 in new plant and machinery, research and development, skills development and training and upgrading of machinery for the manufacturing od structural steel



President Zuma appoints new ITAC Commissioners

01 October 2015

President Jacob Zuma has in terms of section 8 (4) (b) of the International Trade Administration Act, 2002 appointed six new Commissioners to the International Trade Administration Commission of South Africa on a part time basis for a period of three years from 01 October 2015 to 30 September 2018.

President Jacob Zuma has in terms of section 8 (4) (b) of the International Trade Administration Act, 2002 appointed six new Commissioners to the International Trade Administration Commission of South Africa on a part time basis for a period of three years from 01 October 2015 to 30 September 2018.

The new ITAC Commissioners are:

1. Ambassador Faizel Ismail
2. Ms Asanda Languza
3. Mr Nkululeko Khumalo
4. Ms Hlokammoni Grathel Motau
5. Mr Hendrik Langenhoven
6. Ms Boipusio Modise

President Zuma has also in terms of the said Act reappointed Mr Boikanyo Mokgatke, Ms Etienne Vlok and Ms Tanya van Meelis as part-time Commissioners of the ITAC on a same period.

President Zuma wishes all the new Commissioners and the reappointed Commissioners all the best in their responsibilities.

Enquiries: Bongani Majola on 082 339 1993 or bonganim@presidency.gov.za

Issued by: The Presidency

Pretoria

NOTICE 1155 OF 2014**INTERNATIONAL TRADE ADMINISTRATION COMMISSION****CUSTOMS TARIFF APPLICATIONS****LIST 09/2014**

The International Trade Administration Commission (herein after referred to as ITAC or the Commission) has received the following applications concerning the Customs Tariff. Any objection to or comment on these representations should be submitted to the Chief Commissioner, ITAC, Private Bag X753, Pretoria, 0001. Attention is drawn to the fact that the rate of duty mentioned in these applications is that requested by the applicant and that the Commission may, depending on its findings, recommend a lower or higher rate of duty.

CONFIDENTIAL INFORMATION

The submission of confidential information to the Commission in connection with customs tariff applications is governed by section 3 of the Tariff Investigations Regulations, which regulations can be found on ITAC's website at <http://www.itac.org.za/documents/R.397.pdf>.

These regulations require that if any information is considered to be confidential, then a non-confidential version of the information must be submitted, simultaneously with the confidential version. In submitting a non-confidential version the regulations are strictly applicable and require parties to indicate:

- ☐ *Each instance where confidential information has been omitted and the reasons for confidentiality;*
- ☐ *A summary of the confidential information which permits other interested parties a reasonable understanding of the substance of the confidential information; and*
- ☐ *In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.*

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless clearly indicated to be confidential, will be made available to other interested parties.

The Commission will disregard any information indicated to be confidential that is not accompanied by a proper non-confidential summary or the aforementioned reasons.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due).

Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

1. INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON:

Zinc coated/galvanised steel, aluminium-zinc coated steel and paint coated steel, classifiable under tariff subheadings 7210.41, 7210.49, 7212.30, 7210.61, 7210.90, 7225.99, 7210.70 and 7212.40, from free of duty to 10 % *ad valorem*.

APPLICANT:

**Southern Africa Coil Coaters Association (SACCA),
Comprising of:**

ArcelorMittal South Africa Limited
Delfos Boulevard
Vanderbijlpark
1911

Safal Steel (Pty) Ltd
Old Main Road (R103)
Cato Ridge
3680

Enquiries: ITAC Ref: 05/2014, Enquiries: Ms. N Ramphabana and/or Mr. N Mahlalela, Tel: 012 394 3627/3684, Email: nramphabana@itac.org.za and/or nmahlalela@itac.org.za

REASONS AS STATED BY THE APPLICANT:

The applicant submitted, *inter alia*, the following reason for the application:

- Imports have exponentially increased over the last five years from Asian countries making domestic production static.
- South African producers of the subject product are suffering from intense import competition on the price of the subject product. Even though per-unit prices have risen over the last three years, it has been at a pace substantially lower than the increase in per unit cost of production. This has resulted in prices being significantly suppressed especially for galvanized and painted steel.
- The tariff increase requested will be a relief to the serious economic conditions of the industry. It will prevent imports from entering the country at impermissible low prices.

PUBLICATION PERIOD:

Representation should be submitted to the above address within **five (5) weeks** of the date of this notice.

2. REDUCTION IN THE GENERAL RATE OF CUSTOMS DUTY ON:

“Other, cylindrical (excluding those of a height not exceeding 7mm), of a diameter exceeding 19mm, classifiable under tariff subheading 8506.50.25, from 10% *ad valorem* to free of duty

APPLICANT:

N & Z Instrumentation & Control (Pty) Ltd
303 Johannesburg Road
La Rochelle
2190

ITAC Reference: [07/2014]. Enquiries and correspondence should be directed to:
Ms. M Moloto on Tel: (012) 394 3676; Fax: (012) 394 4676 or email: mmoloto@itac.org.za

REASONS FOR THE APPLICATION AS STATED BY THE APPLICANT:

- i. Reliable flow metering and level measurements are vital parts of water management. Recently developed battery powered magnetic flow meters give best performance in these applications and requires batteries with the highest power capacity. The subject batteries are the highest power available which provide savings in terms of water management;
- ii. Standard procedure throughout the world is to use lithium 3.6V batteries as they are small with high capacity. They have high voltage than standard batteries and a longer life span;
- iii. Local battery manufacturers produce lower voltage batteries which are not suitable for industrial purposes; and
- iv. There are no known SACU manufacturers of 3.6V lithium batteries.

PUBLICATION PERIOD:

Representation should be submitted within **five (5) weeks** of the date of this notice.

LIST 08/2014 WAS PUBLISHED UNDER NOTICE 674 OF 25 AUGUST 2014

DEPARTMENT OF ECONOMIC DEVELOPMENT
NOTICE 1007 OF 2015

INTERNATIONAL TRADE ADMINISTRATION COMMISSION
CUSTOMS TARIFF APPLICATIONS
LIST 11/2015

The International Trade Administration Commission (herein after referred to as ITAC or the Commission) has received the following application concerning the Customs Tariff. Any objection to or comments on this representation should be submitted to the Chief Commissioner, ITAC, Private Bag X753, Pretoria, 0001. Attention is drawn to the fact that the rate of duty mentioned in this application is that requested by the applicant and that the Commission may, depending on its findings, recommend a lower or higher rate of duty.

CONFIDENTIAL INFORMATION

The submission of confidential information to the Commission in connection with customs tariff applications is governed by section 3 of the Tariff Investigations Regulations, which regulations can be found on ITAC's website at <http://www.itac.org.za/documents/R.397.pdf>.

These regulations require that if any information is considered to be confidential, then a non-confidential version of the information must be submitted, simultaneously with the confidential version. In submitting a non-confidential version the regulations are strictly applicable and require parties to indicate:

- ❑ Each instance where confidential information has been omitted and the reasons for confidentiality;*
- ❑ A summary of the confidential information which permits other interested parties a reasonable understanding of the substance of the confidential information; and*
- ❑ In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.*

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless clearly indicated to be confidential, will be made available to other interested parties.

The Commission will disregard any information indicated to be confidential that is not accompanied by a proper non-confidential summary or the aforementioned reasons.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due).

Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

1. INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON:

"Flat-rolled products of iron or non-alloy steel, plated or coated with tin ("tinplate"), classifiable under tariff subheadings 7210.11.00, 7210.12.00, and 7212.10.00, from free of duty to 10% *ad valorem*"

"Semi finished products of iron or non-alloy steel, classifiable under tariff subheadings 7207.11.00, 7207.12.00, 7207.19.00 and 7207.20.00, from free of duty to 10% *ad valorem*";

"Flat rolled products of iron, non-alloy and alloy steel, not further worked than hot-rolled, not in coils ("Plates"), classifiable under tariff subheadings 7208.40, 7208.51, 7208.52 and 7225.40, from free of duty to 10% *ad valorem*";

"Flat-rolled products of iron or non-alloy steel, and flat-rolled products of other alloy steel other than stainless steel, cold-rolled, not clad, plated or coated, not further worked than cold-rolled ("Cold Rolled"), classifiable under tariff subheadings 7209.15.00, 7209.16.00, 7209.17.00, 7209.18.00, 7209.25.00, 7209.26.00, 7209.27.00, 7209.90.00, 7211.23.00, 7211.29.00, 7211.90.00, 7225.50.00, 7226.92.00, and 7226.99.00, from free of duty to 10% *ad valorem*";

"Angles, shapes and sections of iron, non-alloy and alloy steel ("sections"), classifiable under tariff subheadings 7216.10, 7216.21, 7216.22, 7216.40, 7216.69 and 7228.70, from free of duty to 10% *ad valorem*";

"Other bars and rods and forges, hot-rolled, in irregular wound coils and/or in lengths, of iron, nonalloy steel or alloy steel other than stainless steel, classifiable under tariff subheadings 7213.20.00, 7213.99.00, 7214.10.00, 7215.90.00, 7228.30.00, 7228.40.00, 7228.60.00, 7228.80.00, 7214.30.00, 7214.91.00 and 7214.99.00, from free of duty to 10% *ad valorem*"; and

“Flat-rolled products of iron or non-alloy steel, and flat-rolled products of alloy steel other than stainless steel, not further worked than hot-rolled (“Hot Rolled”), classifiable under tariff subheadings 7208.10.00, 7208.25.00, 7208.26.00, 7208.27.00, 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7208.53.00, 7208.54.00, 7208.90.00, 7211.13.00, 7211.14.00, 7211.19.00, 7225.30.00, 7225.99.00, and 7226.91.00 from free of duty to 10% *ad valorem*”;

APPLICANT:

ArcelorMittal South Africa Limited (“AMSA”)

PO Box 2

Vanderbijlpark

1900

South Africa

REASONS FOR THE APPLICATION:

The applicant submitted, *inter alia*, the following reasons for the application:

- i. The current tariff structure in relation to the subject products is untenable given the recent developments of volumes and value of imports into the South African markets.
- ii. Imports have exponentially increased over the last five years from Asian countries, making domestic production static.
- iii. The significant increase in imports in the domestic market is to a large extent a function of the lack of access to other markets by prominent producers. In particular, certain major countries have foreclosed their markets to imports from prominent producers by imposing various trade barriers.
- iv. The domestic industry of the subject product is experiencing intense price competition on the price of the subject products vis-à-vis imported products.
- v. The tariff increase requested will be a relief to the serious economic conditions of the industry. It will prevent imports from entering the country at impermissible low prices.

PUBLICATION PERIOD:

Written representations must be made within two (2) weeks of the date of this notice. ITAC elected to expedite this investigation based on the fact that the steel industry has been designated as an industry in distress by the Minister of Trade and Industry.

Enquiries: ITAC Ref: 16/2015; 17/2015; 18/2015; 19/2015; 20/2015; 21/2015; and 22/2015

Enquiries: Ms Lufuno Maliaga; Mr N Mahlalela and Mr P Phaswana Tel: 012 394 3835/3684/3628 or email: lmaliaga@itac.org.za/ nmahlalela@itac.org.za/ pphaswana@itac.org.za

2. INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON:

“Ceramic sanitary ware classifiable under tariff subheadings 6910.10 and 6910.90, from 20% to 30% *ad valorem*”

APPLICANT:

Vaal Sanitaryware (Pty) Ltd
P.O. Box 49
Meyerton
1960

REASONS FOR THE APPLICATION:

The applicant submitted, *inter alia*, the following reasons for the application:

- I. To level the playing field against low priced imports in order for the company to be able to invest in new plant and machinery. The company is also presently in the process of investing in energy saving equipment, new plant and green technology.
- II. Since the economic meltdown, the SACU market has been flooded with cheap imports of ceramic sanitary ware from East Asian countries such as China and India owing to overcapacity in these countries.
- III. Cheap imports squeeze the profit margin as they depress selling prices and prevent local industry from selling the volumes necessary to offset the significant fixed costs employed in keeping production facilities operating.
- IV. The suppliers of clay, sand, and most inputs to the ceramic sanitary ware industry are all domestic manufacturers and mining companies who employ a large staff component.

DEPARTMENT OF TRADE AND INDUSTRY
NOTICE 709 OF 2015

INTERNATIONAL TRADE ADMINISTRATION COMMISSION
CUSTOMS TARIFF APPLICATIONS
LIST 10/2015

The International Trade Administration Commission (herein after referred to as ITAC or the Commission) has received the following applications concerning the Customs Tariff. Any objection to or comments on these representations should be submitted to the Chief Commissioner, ITAC, Private Bag X753, Pretoria, 0001. Attention is drawn to the fact that the rate of duty mentioned in this application is that requested by the applicant and that the Commission may, depending on its findings, recommend a lower or higher rate of duty.

CONFIDENTIAL INFORMATION

The submission of confidential information to the Commission in connection with customs tariff applications is governed by section 3 of the Tariff Investigations Regulations, which regulations can be found on ITAC's website at <http://www.itac.org.za/documents/R.397.pdf>.

These regulations require that if any information is considered to be confidential, then a non-confidential version of the information must be submitted, simultaneously with the confidential version. In submitting a non-confidential version the regulations are strictly applicable and require parties to indicate:

- ☐ *Each instance where confidential information has been omitted and the reasons for confidentiality;*
- ☐ *A summary of the confidential information which permits other interested parties a reasonable understanding of the substance of the confidential information; and*
- ☐ *In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.*

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless clearly indicated to be confidential, will be made available to other interested parties.

The Commission will disregard any information indicated to be confidential that is not accompanied by a proper non-confidential summary or the aforementioned reasons.

If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due).

Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

1. APPLICATION FOR A REDUCTION IN THE RATE OF CUSTOMS DUTY ON OTHER CANNED MUSSELS IN AIRTIGHT METAL CONTAINERS

The reduction in the rate of customs duty of other canned mussels in airtight metal containers will be through the deletion of tariff subheading 1605.53.20 and the creation of two new tariff subheadings for "smoked" and "other" mussels in airtight metal containers under tariff subheading 1605.53.

APPLICANT:

M&L Distributors (Pty) Ltd on behalf of:

Shoprite Checkers (Pty) Ltd, Pick n' Pay (Pty) Ltd and

Spar South Africa (Pty) Ltd

7 Rainbow Close

Rainbow Park

Racecourse Road

Macroni Beam Industria

Cape Town

[Enquiries: Ms. Amina Varachia, Tel: (012) 394 3732, Fax: (012) 934 4732, E-mail:

avarachia@itac.org.za or Ms. Khosi Mzinjana, Tel: (012) 394 3664, Fax: (012) 934 4664, E-mail:

kmzinjana@itac.org.za]

REASONS FOR THE APPLICATION AS SUBMITTED BY THE APPLICANT:

- There is no local production of canned smoked mussels and the duty brings additional hardship on the smoked mussel consumer.
- The increase in the rate of customs duty has the effect of increasing the retail price of smoked canned mussels. The average selling price will increase by approximately 27% per unit (including VAT), thus making the subject product an expensive protein.
- The tariff amendment for an increase of duties from 5.5c/kg to 25% ad valorem was incorrect in its application.

PUBLICATION PERIOD:

Representations should be submitted to the above address within **four (4) weeks** of the date of this notice.

2. INCREASE IN THE GENERAL RATE OF CUSTOMS DUTIES ON:

"Aluminium extrusions classifiable under tariff heading 7604.21.15; 7604.29.15; and 7604.29.65, from 5% *ad valorem* to 15 % *ad valorem*"

APPLICANT:

Hulamin Extrusions (Pty) Ltd
P O Box 25
Olifansfontein
1665

Enquiries: ITAC Ref: 12/2015, Enquires: Ms Lufuno Maliaga/ Mr Pfarelo Phaswana, Tel: 012 394 3835/3628 or email lmaliaga@itac.org.za/ pphaswana@itac.org.za.

REASONS FOR THE APPLICATION:

The applicant cited, *inter alia*, the following reason:

- i) Eroded local share of extrusion market as imports of the subject products have increased dramatically.
- ii) The import of low priced extrusion products has had a significant impact on the local extrusion manufacturing and this has forced downsizing of local production;
- iii) Since ITAC implemented the 5% *ad valorem* duty in 2011, the domestic capacity has been eroded; and
- iv) Imports are largely high volume fast moving aluminium extrusion sections. The local extruder is left with low volume, slow moving and more complex extrusions to produce, diminishing their ability to achieve economies of scale and optimum manufacturing cost.

PUBLICATION PERIOD:

Representation must be made within **four (4)** weeks of the date of this notice.

3. INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON:

"Steel wire rod classifiable under tariff subheadings 7213.91 and 7227.90, from free of duty to 10% *ad valorem*."

APPLICANT:

South African Iron and Steel Institute ("SAISI")
P.O. BOX 6318
Pretoria
0001

Enquiries: ITAC Ref: 09/2014, Enquires: Ms Lufuno Maliaga/ Mr Daniel Thwala, Tel: 012 394 3835/5162 or email lmaliaga@itac.org.za/dthwala@itac.org.za.

REASONS FOR THE APPLICATION:

The applicant submitted, *inter alia*, the following reasons for the application:

- i) Chinese wire rod capacity has continued to expand and it is far outstripping local demand;
- ii) Third-country markets are increasingly unavailable to the Chinese product due to their own domestic oversupply and trade measures against Chinese imports;
- iii) Without any immediate action being taken, the increase in imports from China experienced in the market will increase exponentially. This will further exacerbate the injury already being experienced by the domestic manufacturers;
- iv) The local industry wire rod producers (all primary steel manufacturers) have been at a significant competitive disadvantage compared to the imported product thereby incurring significant injury due to low-priced imports; and
- v) The imposition of tariff protection will assist to restore the competitive position of the local manufacturers, ensuring that end-users have a reliable environmentally sustainable local source of wire rod supply. Also it will curb job losses and restore the economic and financial stability within the value chain.

PUBLICATION PERIOD:

Written representations must be made within **two (2)** weeks of the date of the notice. ITAC has elected to expedite this investigation based on the fact that the steel industry has been designated as an industry in distress by the Minister of Trade and Industry.

4. INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON:

Structural steel, classifiable under tariff subheadings 7216.31, 7216.32, 7216.33, and 7216.50, from free of duty to 10% *ad valorem*.

APPLICANT:

Evrax Highveld Steel and Vanadium Corporation (Pty) Ltd
P.O. BOX 111
Emalahleni
1035

Enquiries: ITAC Ref: 13/2015, Enquires: Mr Njabulo Mahlalela/ Mr Pfarelo Phaswana, Tel: 012 394 3684/3628 or email nmahlalela@itac.org.za/ pphaswana@itac.org.za.

REASONS FOR THE APPLICATION:

The applicant submitted the following reasons for the application:

- i) The domestic market is experiencing an increase in low priced imports, forcing the average market price to drop below profitable returns for domestic steel makers;

- ii) The south African steel market is currently facing the worst domestic demand seen in the last 10 years; and
- iii) Primary steel producers in the country are facing increased cost pressures in an already depressed domestic market.

PUBLICATION PERIOD:

Written representations must be made within **two (2)** weeks of the date of the notice. ITAC has elected to expedite this investigation based on the fact that the steel industry has been designated as an industry in distress by the Minister of Trade and Industry.

5. INCREASE IN THE GENERAL RATE OF CUSTOMS DUTY ON:

Steel reinforcing bar classifiable under tariff subheadings 7214.20, 7228.30, and 7228.60, from free of duty to 10% *ad valorem*.”

APPLICANT:

South African Iron and Steel Institute (“SAISI”)
P.O. BOX 6318
Pretoria
0001

Enquiries: ITAC Ref: 10/2015, Enquires: Ms Lufuno Maliaga/ Mr Phaswana Pfarelo, Tel: 012 394 3835/3628 or email lmaliaga@itac.org.za/pphaswana@itac.org.za.

REASONS FOR THE APPLICATION:

The applicant submitted, *inter alia*, the following reasons for the application:

- i) The main aim of the application is to improve the local manufacturers’ competitive position against low-priced imports, especially imports originating from East Asian countries;
- ii) Tariff support would curb further job losses as large retrenchments have already taken place in the industry;
- iii) Tariff support would encourage the local manufactures to continue investing in the local industry and create further employment;
- iv) It would also assist upstream and downstream service and product providers and enable further investment into the industry value chain; and
- v) The total value chain cannot exist without a primary steel producer. It is essential for South Africa to have the benefits of a fully integrated value chain. Without a primary steel producer the iron ore will be exported and the downstream industry will be exposed to international price fluctuations and supply distortions.

PUBLICATION PERIOD:

Written representations must be made within **two (2)** weeks of the date of the notice. ITAC has elected to expedite this investigation based on the fact that the steel industry has been designated as an industry in distress by the Minister of Trade and Industry.

LIST 09/2015 WAS PUBLISHED UNDER NOTICE 909 OF 11 SEPTEMBER 2015.