

BRAZILIAN GUIDE ON ANTI-DUMPING INVESTIGATIONS

English Translation

MAIN CONCEPTS AND METHODOLOGIES

FORMAL ASPECTS AND PROCEDURAL TERMS

STEP BY STEP INVESTIGATION

INTRODUCTION

The Under secretariat for Trade Remedy and Public Interest (SDCOM) of the Secretariat of Foreign Trade (SECEX) of the Special Secretariat for Foreign Trade and International Affairs (SECINT) of the Ministry of Economy is the competent public authority to conduct trade defense investigations in Brazil, pursuant to art. 96 of Decree no. 9,745 of April 8, 2019, as amended by Decree no. 10,072 of October 18, 2019. The competence to apply trade defense measures lies with the Executive Management Committee of the Foreign Trade Chamber (Gecex/CAMEX)¹, pursuant to art. 7 of Decree no. 10,044, of October 4, 2019. Among the trade defense measures are antidumping measures, countervailing measures and safeguards.

This Guide to Antidumping Investigations was prepared based on Brazilian legislation, on the multilateral agreements of the World Trade Organization (WTO) and on WTO jurisprudence on the subject, as well as on theoretical and practical information derived from SDCOM's consolidated experience in conducting these investigations. Its objective is to spread knowledge about antidumping to the external public, but without the pretension of exhausting the subject completely.

¹ Pursuant to 2 of art. 9 of Decree No. 10,044, 2019, in the event of a tie in the deliberations of the Executive Management Committee, the Commercial Strategy Council will have the deciding vote.

The parameters set forth in this Guide are merely indicative, which do not bind SDCOM in the conduction or analysis of the administrative processes under its competence, taking into account possible specificities in concrete cases. The methodology presented herein is not mandatory or binding, nor does it seek to exhaust all concepts, methodologies, analyses, and investigation phases. Specificities of each case may lead to concrete analyses not necessarily linked to the general guidelines presented.

In October 2019, the draft version of the Guide to Antidumping Investigations was published and submitted to public consultation until January 20, 2020. SDCOM received comments from the following entities: the Brazilian Institute for Competition, Consumption and International Trade (Ibrac), the Federation of Industries of the State of So Paulo (FIESP), the National Confederation of Industry (CNI), Guedes, Bernardo and Imamura Associados (GBI), Tecumseh do Brasil, China Chamber of International Commerce (CCOIC). All civil society contributions are publicly available at <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/consultas-publicas-1/consultas-publicas-encerradas>.

In view of the foregoing, this Consolidated Guide to Antidumping Investigations is divided into 3 (three) parts, prepared in the format of questions and answers. In Part I, the main concepts and methodologies inherent to antidumping investigations will be presented. In Part II, the main formal aspects and procedural terms will be listed. Finally, in Part III, the step-by-step of an antidumping investigation will be presented. In total, almost 200 (two hundred) questions and answers are presented, in a didactic way, to the external public.

In this consolidated version of the Guide, additional clarifications were made on questions 6, 16, 20, 23, 27, 30, 35, 36, 38, 43, 44, 45, 48, 57, 61, 66, 71, 73, 74, 75, 76, 77, 80, 81, 82, 90, 91, 92, 93, 95, 101, 102, 103, 106, 107, 108, 112, 113, 115, 116, 118, 119, 120, 122, 123, 129, 142, 145, 146, 148, 150, 151, 153, 154, 156, 159, 160, 161, 162, 164, 166, 177, 178, 180, 181, 182, 187, 189 and 191, besides having added questions 63, 109, 110 and 111. In this sense, both conceptual and methodological aspects were clarified, as well as operational issues already present in the preliminary version of the Guide, and information was inserted about the new procedures adopted as a result of the COVID-19 pandemic, based on SECEX Ordinance No. 21, of March 30, 2020, and Normative Instruction No. 1, of August 17, 2020 (procedures for the verification of information reported by stakeholders and for the transmission of documents to stakeholders by SDCOM). Thus, explanations were made about the analysis of

causality and non-attribution, the calculation of the dumping margin and the observance of the corresponding jurisprudence of the World Trade Organization - WTO, the selection of foreign producers or exporters, the calculation of the dumping margin in end-of-period reviews and the difference between the analyses made by SDCOM in the hypotheses of continuation and resumption of dumping, the possible results of end-of-period reviews and their impacts on the antidumping duty in force, the application of the lesser duty rule and the calculation of the lesser duty and the duty to be recommended, the scope of the concept of interested parties and the identification of these parties by SDCOM, the calculation of the installed capacity (effective and nominal) and the analysis of offers of price undertakings by SDCOM. Likewise, more information was presented on the use of the DECOM Digital System - SDD and what to do in cases of doubts, errors or unavailability of this system, the definition of which parties may manifest themselves on the choice of the substitute country, the deadline for manifestation on the selection of foreign producers or exporters, the deadlines for science, the deadlines and conditions for elaboration of preliminary determinations in end-of-period reviews, the form of participation of non-qualified representatives, the requirements for the qualification of legal representatives and the information requested through the questionnaires from foreign producers or exporters. In addition, new questions and answers have been added about SDCOM's analysis of likely price in end-of-period reviews, as well as about the use of the Electronic Information System of the Ministry of Economy - SEI/ME.

PART I. MAIN CONCEPTS AND METHODOLOGIES IN ANTIDUMPING INVESTIGATIONS

PART I.1. GENERAL CONCEPTUAL ASPECTS

1. What is the applicable law for anti-dumping investigations in Brazil?

The final minutes that incorporated the results of the Uruguay Round of Negotiations Multilateral Trade Agreements of the WTO General Agreement on Tariffs and Trade - GATT, was approved in Brazil by Legislative Decree No. 30 of December 15, 1994, and promulgated by Decree No.1.355 of 30 December 1994. This is the decree incorporates the Agreement on the Implementation of Article VI of GATT 1994 (Anti-Dumping) to the national legal system.

Law No. 9.019 of March 30, 1995, provides for the application and collection of provisional and definitive anti-dumping duties and the powers to determine dumping margin, fixing and collection of duties and suspension of their enforceability, price undertaking and the possibility of extending anti-dumping measures in accordance with case of finding evasive practices. Decrees No. 9.745, of April 9, 2019, as amended by Decree No. 10.072, of 18 October 2019, and No. 10,044 of October 4, 2019, in turn, attribute in more detail the competences related to anti-dumping investigations and the resulting decision-making process. (see question 2).

Decree No. 8.058, of July 26, 2013, is the main document that regulates the Brazilian administrative procedures related to the investigation and enforcement of anti-dumping measures, detailing deadlines, methodologies and analysis criteria to be followed during such procedures. It is noteworthy that this Decree not only incorporates the multilateral rules agreed at WTO headquarters, but also defines additional requirements (known as WTO Plus rules) for Brazilian antidumping investigations.

The art. 39 of Decree 8.058 of 2013, provides that SECEX will publish an act through which will make public the information to be included in the petition, as well as the format for its presentation. For this reason, SECEX Ordinances No. 41 of October 11, 2013 and No. 44 of October 29, 2013 were published, which provide, respectively, for the information necessary for the preparation of petitions for original antidumping investigations and sunset review petitions.

Also applicable to anti-dumping investigations are the following rules, listed in this Guide by way of example:

- Law No. 12.546 of December 14, 2011, which provides for the relationship between trade defense investigations and non-preferential rules of origin. In art. 29, the law provides that trade defense investigations under SDCOM's jurisdiction will be based on the stated origin of the product;
- Law No. 12.995 of June 18, 2014, which, in its Articles 17, 18 and 19, provides for the use of electronic means, the incorporation of documents prepared in foreign language in the case file and the counting of deadlines in trade remedy investigations.;
- Decree No. 9.107 of July 26, 2017, which provides for the time limits and requirements applicable to fragmented industries in the context of trade remedy investigations;
- SECEX Ordinance No. 41 of July 27, 2018, which provides for the information necessary to enable domestic production of a particular

product as a fragmented industry for trade remedy purposes, as provided for in Decree No. 9,107, of July 26, 2017. ;

- SECEX Ordinance No. 36 of September 18, 2013, which provides for the submission of price undertaking proposals by foreign producers or exporters in anti-dumping investigations; and
- SECEX Ordinance No. 30 of June 7, 2018, which regulates the Electronic Administrative Proceedings relating to commercial defense proceedings supported by Decrees 1.488 of May 11, 1995, 1,751 of December 19, 1995 and 8.058 of July 26, 2013 (DECOM Digital System)
- SECEX Ordinance No. 21 of March 30, 2020, which provides for notifications and communications to interested parties in the scope of trade defense proceedings provided for in Decrees No. 8,058 of July 26, 2013, No. 1,751 of December 19, 1995, and No. 1,488 of May 11, 1995, and in trade agreements in force in Brazil.
- Normative Instruction No. 1, of August 17, 2020, which provides for the necessary adaptations to the procedures of trade defense investigations and public interest assessments conducted by the Undersecretariat of Trade Defense and Public Interest, as a result of the new coronavirus pandemic (COVID-19).

The updated legislation can be consulted on the SDCOM website: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/legislacao-roteiros-e-questionarios>

2. What are the main authorities involved in an anti-dumping investigation?

Pursuant to Decrees No. 9.745, as amended by Decree No. 10.072 of 2019 and No. 10.044, both of 2019, the procedure for applying an anti-dumping measure involves four main authorities:

Figure 1: Top Trade Remedy Authorities in Brazil

Executive Management Committee (Gecex)

- *Sets provisional and definitive anti-dumping duties.*
- *Decides on the suspension of the enforceability of provisional duties.*
- *Approves price undertaking.*

Foreign Trade Secretariat (SECEX)

- *Decides on the opening of investigations and reviews concerning the application of*
- *antidumping.*
- *Decides whether to extend the investigation deadline and to close it without*
- *application of measures. Commercial Defense and Public Interest*

Undersecretary of Commercial Defense and Public Interest (SDCOM)

- *Examines the merits and demerits of petitions for the opening of investigations and anti-dumping reviews.*
- *Proposes openness and conducts original investigations and sunset reviews.*
- *Proposes the application of provisional and definitive anti-dumping measures.*
- *Examines the desirability and merit of price undertaking proposals.*
- *Proposes the suspension or amendment of anti-dumping measures on grounds of public interest.*

Special Secretariat of the Brazilian Federal Revenue (RFB)

- *Collects provisional or definitive anti-dumping duty.*

Source: Ministry of Economy / SDCOM

It should be noted that, between January 30 and October 6, 2019, the trade defense powers currently assigned to Gecex were performed by the Special Secretariat for Foreign Trade and International Affairs (SECINT), pursuant to paragraphs V to VII. of art. 82 of Decree No. 9.745 of 2019.

It is also worth mentioning the creation of the Trade Defense Committee of the Foreign Trade Chamber, by means of art. 2 of Decree no. 10,044, of 2019.

It is recalled that, under art. 4 of Decree No. 8.058, 2013, it will be up to CAMEX to grant market economy status for trade defense purposes.

3. What are the key elements for applying an anti-dumping measure?

There are three fundamental elements to the application of anti-dumping measures, namely: dumping, injury and causal link.

Figure 2: Key elements for applying anti-dumping measures

- *Dumping price imports*

- *Injury to the domestic industry*
- *Causal link between dumping and injury to the domestic industry*

Source: Ministry of Economy / SDCOM

Thus, the existence of dumping is not sufficient for anti-dumping measures to be imposed on imports of a given product. It is also necessary to demonstrate that imports at dumped prices contributed significantly to the injury suffered by the domestic industry. That is, it must be shown that there is injury and that there is a causal link between the dumped imports and the injury to the domestic industry.

4. What is dumping?

Under the terms of art. 7 of Decree No. 8.058 of 2013, it is considered dumping the introduction of a product in the Brazilian domestic market, including under drawback modalities, at an export price below its normal value.

For ease of understanding, here is an example of a possible dumping: If Company A, located in the Alpha country, exports a product to Brazil for US \$ 80.00 (i.e. export price) and sells similar product in its domestic market at the same level of trade for US \$ 100.00. (i.e. normal value), dumping is considered to have a margin of US \$ 20.00 ($US \$ 100.00 - US \$ 80.00 = US \$ 20.00$; ie dumping margin).

Thus, dumping occurs when a company exports to Brazil a product at a price (export price) lower than which it practices for the like product on sales to its domestic market (normal value).

Figure 3: Normal value, export price and dumping margin

Normal Value \$ 100

- *Selling price of product in the country of origin of exports*
- *Articles 8 to 17 of Decree No. 8.058 of 2013*

Export Price US \$ 80.00

- *Export price of product for Brazil*
- *Articles 18 to 21 of the Decree No. 8.058 of 2013*

Dumping margin \$ 20

- *Difference between normal value and export price*
- *Articles 25 to 28 of the Decree No. 8.058 of 2013*

Source: Ministry of Economy / SDCOM/SDCOM

More information on dumping can be found in Part I.2.

5. What is the injury to the domestic industry?

Under the terms of art. 29 of Decree 8.058 of 2013, the concept of injury is understood as material injury or threat of material injury to the already established domestic industry, or even material delay in the establishment of the domestic industry.

Figure 4: Injury to the domestic industry

Injury is considered:

- *Material Injury to domestic industry*
- *Threat of material Injury to the domestic industry*
- *Material delay in domestic industry deployment*

Source: Ministry of Economy / SDCOM

More information about injury to the domestic industry can be found at Part I.4.

6. What is the causal link between dumping and injury to the domestic industry?

The causal link is the demonstration that, through the effects of dumping, the dumped imports contributed significantly to the injury suffered by the domestic industry, even if the investigated imports are not the only factor causing injury. Therefore, during the causal analysis, it is necessary to separate and distinguish the effects of the dumped imports and the effects of possible other causes of injury to the domestic industry.

Figure 5: Causal link demonstration

Positive causality analysis

- *It has to be shown that there is a causal link between the dumped imports and the injury found in the domestic industry.*

Non-Assignment Exam

- *Evidence presented and other factors that may be simultaneously causing injury to the domestic industry are examined, including the analysis of the factors listed in art. 32, Paragraph 4 of Decree No. 8.058 of 2013*

Source: Ministry of Economy / SDCOM

More information about causation can be found in Part I.5.

7. What is the product subject to antidumping investigation?

The product under investigation is that originating² from the countries in which the investigated producers or exporters are located and exported to Brazil, comprising identical products or exhibiting (A) physical characteristics or chemical composition and (B) similar market characteristics, as provided of art. 10 of Decree No. 8.058 of 2013.

Figure 6: Product under investigation

Product under investigation

- *The term investigated product will encompass products that are identical or have similar physical characteristics or chemical composition and market characteristics.*

1. Physical characteristics or chemical composition to be considered

- *raw material used*
- *standards and specifications techniques*
- *production process*

2. Market characteristics to be examined

- *uses and applications*
- *degree of substitutability*
- *distribution channels*

Source: Ministry of Economy / SDCOM

If the product under investigation has several models, Product Identification Codes (CODIPs) must be created. CODIP is represented by an alphanumeric combination that reflects the product characteristics in descending order of importance, starting with the most relevant and including the main elements that influence the cost of production and the selling price. SECEX Ordinances

² Declared country of origin of imports, under the terms of Law No. 12,546, 2011.

No. 41 and 44, both of 2013, bring further guidance for the construction of CODIP.

CODIP should be proposed by the petitioner at the time of filing the petition and will be adopted by all interested parties in the investigation if SDCOM understands that it adequately reflects the reality of the product. Thus, after the investigation has started, foreign producers, Brazilian importers and other Brazilian domestic producers will be requested data classified by CODIP. In addition, once the investigation has begun, interested parties may comment on the product models, as provided for in item III, paragraph 3 of art. 2nd of Ordinance SECEX 30, 2018.

For illustrative purposes, the table below shows a case of the composition of CODIP³. For tableware objects⁴, for example, characteristic A identifies the raw material used (ceramic or porcelain), characteristic B indicates the color of the product and characteristic C, the presentation form (single part/piece or device).

Figure 7: CODIP Example

<i>Characteristic</i>	<i>Explanation</i>
<i>A</i>	<i>A1 - Ceramics (NCM heading 6912)</i>
	<i>A2 - Porcelain (CNM heading 6911)</i>
<i>B</i>	<i>B1 - White</i>
	<i>B2 - Decorated low enamel</i>
	<i>B3 - Decorated on enamel</i>
<i>C</i>	<i>C1 - Single piece</i>
	<i>C2 - Appliance</i>

Source: Ministry of Economy / SDCOM

That way, a set of white porcelain dishes would be classified in CODIP A2B1C2. In turn, a loose ceramic cup decorated under the enamel would be classified in CODIP A1B2C1.

³ Public information regarding the composition of the CODIPs used in anti-dumping investigations can be found in the questionnaires that are made available on the investigations' web pages at CODIP <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes>

⁴ 4 Subject of MDIC/SECEX Case No. 52272.002151/2018-33. Information about this sunset review can be found at MDIC <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/medidas-em-vigor/medidas-em-vigor/objetos-de-louca-to-mesa>

8. How is the product similar to the product under antidumping investigation defined?

Under the terms of art. 9 of Decree No. 8,058 of 2013, the identical product is considered to be similar, equal in all respects to the product under investigation, or in its absence, another product which, although not exactly equal in all respects, has very close characteristics of the product being analyzed.

Similarity will be assessed based on objective criteria such as raw materials; chemical composition; physical characteristics; technical standards and specifications; production process; uses and applications; degree of substitutability; distribution channels; or other criteria defined in the investigation.

Thus, the following may be considered similar to the product under investigation: Brazilian products considered for injury analysis and domestic production, products imported from other sources not investigated and products considered for the purpose of calculating normal value.

Figure 8: Criteria for similarity analysis

<i>Similarity will be assessed on the basis of objective criteria such as</i>	<i>raw material</i>
	<i>chemical composition</i>
	<i>physical characteristics</i>
	<i>standards and technical specifications</i>
	<i>production process</i>
	<i>uses and applications</i>
	<i>degree of substitutability</i>
	<i>distribution channels</i>
	<i>* These criteria are not exhaustive lists and none of them, alone or together, will necessarily be able to provide</i>

	<i>decisive indication of similarity</i>
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Source: Ministry of Economy / SDCOM

9. Can there be differences between the product subject to an original anti-dumping investigation and the product subject to the corresponding sunset review?

Product subject to sunset review will usually be the same as product subject of an original anti-dumping investigation.

However, it is possible that in certain cases the scope of the product object of the revision is reduced, which can occur for several reasons. One possibility would be that the domestic industry itself considers that there is no need to maintain the same scope as the original investigation. Another would be for the investigating authority to conclude, including ex officio, on the basis of the evidence in the file that the scope reduction is justified.

Under no circumstances will the scope of the product under review be increased as this would be tantamount to extending the application of an anti-dumping measure to that have not been reviewed before. In these cases, a new application to initiate anti-dumping investigation containing these products should be carried out.

10. What are the dumping and injury investigation periods?

According to art. 48, Paragraph 1 of Decree No. 8.058 of 2013, the dumping investigation period shall comprise twelve (12) months, ending March, June, September or December. In exceptional and duly justified circumstances, the investigation period of dumping may be less than twelve (12) months, but not less than six (6) months, as provided for in paragraph 3 of the above article.

In turn, the art. 48, Paragraph 4 of Decree No. 8.058 of 2013, establishes that the period of Injury investigation shall comprise 60 (sixty) months, divided into five intervals of 12 (twelve) months, the most recent interval shall coincide with the dumping investigation period and the other four intervals shall comprise the 48 (forty-eight) months prior to the first 12 (twelve) months of the dumping investigation period. In exceptional, duly justified circumstances, the period of investigation of injury may be less than sixty (60) months, but not less than thirty six (36) months, as provided for in paragraph 5 of the above article.

The figure below illustrates the dumping investigation period and sets it against the injury investigation period in the event of intervals ending in September.

Figure 9: Injury Analysis Periods and Dumping Analysis Period⁹

<i>Period of analysis of Injury</i>	<i>P1 - October 2012 to September 2013</i>	<i>Period of analysis of dumping</i>
	<i>P2 - October 2013 to September 2014</i>	
	<i>P3 - October 2014 to September 2015</i>	
	<i>P4 - October 2015 to September 2016</i>	
	<i>P5 - October 2016 to September 2017</i>	

Source: Ministry of Economy / SDCOM

11. What is the main difference between the analysis conducted in original antidumping investigations and that conducted in sunset reviews?

In an original anti-dumping investigation, the existence of dumping, injury and causal link between both are analyzed under the terms of art. 48 of Decree No. 8.058 of 2013.

In a sunset review, as provided in art. 106 of Decree No 8.058 of 2013, it is examined whether the termination of the anti-dumping duty would most likely lead to the continuation or resumption of dumping and related injury. For more information on the continuation or resumption of dumping, see question 37.

Figure 10: Analysis difference conducted in original investigations and sunset reviews

Original investigation

- *Analysis of dumping, injury and causation*
- *Art.48 of Decree No. 8,058 of 2013*

Sunset Review

- *Analysis of the continuation of dumping and related injury for cases in which exports of the product were made during the measure*
- *Resumption of dumping and related injury for cases in which no exports were made or not in significant quantities.*
- *Art. 106 of Decree No. 8,058 of 2013*

Source: Ministry of Economy / SDCOM

PART I.2.CONCEPTUAL AND METHODOLOGICAL ASPECTS ON DUMPING

12.What is normal value in an *anti-dumping* investigation?

Under the terms of arts. 8, 12 and 22 of Decree 8.058 of 2013, the term normal value refers to the price of the like product, in normal commercial operations and in sufficient quantity, intended for consumption on the domestic market of the exporting country, normally on sale by ex-factory. However, as provided in art. 14 of the aforementioned decree, if (i) there are no sales of the like product in normal domestic trade of the exporting country or (ii) when, (ii.a) due to special market conditions or (ii.b) low domestic sales volume of the like product in the exporting country, it is not possible to properly compare with the export price, normal value will be calculated on the basis of:

I - export price of the like product to an appropriate third country, provided that this price is representative; or

II - constructed value, which shall consist of the cost of production in the declared country of origin plus a reasonable amount of:

- a) overheads;
- b) administrative expenses;
- c) selling expenses;
- d) financial expenses; and
- e) profit.

Therefore, there is a hierarchy between the methodologies foreseen for the determination of normal value, which should, whenever possible, be determined on the basis of domestic sales of the like product in the exporting country. Note that there is no hierarchy between the methodologies when determining the normal value for the purpose of initiating the investigation.

Figure 11: How should the normal value be calculated?

- *Based on domestic sales of the investigational product of the exporting country*

- *Based on the export price of the like product to an appropriate third country provided that this price is representative*
- *Based on the constructed normal value, which will consist of the declared cost of production in the country of origin, plus a reasonable amount for general, administrative, financial marketing and profit expenses.*

Source: Ministry of Economy / SDCOM

The methodology for establishing normal value to be used in each anti-dumping investigation will depend on the information filed by the interested parties in the scope of each proceeding, always respecting the aforementioned hierarchy. In addition, it should be noted that the way in which normal value can be determined may vary throughout the same investigation as new information is added to the case file.

It should also be noted that normal value will not be determined on the basis of information concerning the declared country of origin of the product under investigation when, pursuant to art. 24 of Decree No. 8.058 of 2013: occur mere transaction of the product in this country; the product is not produced in that country; or there is no comparable price for the product in that country.

13. When and how to calculate normal value based on product sales domestic market in the exporting country?

As mentioned earlier, art. 14 of Decree No. 8.058 of 2013, establishes a hierarchy between the three methodologies provided for the determination of normal value. Therefore, once the investigation is initiated, where appropriate information is available for the calculation of normal value based on the domestic sales of the like product in the exporting country, this methodology should be prioritized.

However, even if all information is correctly provided by the investigated foreign producer or exporter in order for sales of the like product on the exporting country's domestic market to be used, it must (i) consist of normal business operations and (ii) occur in sufficient quantity, otherwise the investigating authority should use one of the two other methodologies presented in questions 17 and 18.

It should be noted that such a methodology is applicable when special market conditions are not met, when such conditions do not allow adequate comparison between normal value and export price (see question 16).

For this reason, it is first necessary to determine which sales consisted of (i) normal business operations. As a rule, all sales of the like product on the domestic market of the exporting country or to a third country (see question 17) by the foreign producer or exporter under investigation should be considered as "normal business operations for the purpose of establishing normal value. However, pursuant to Paragraphs 1, 2, 5, 6 and 7 of Article 14 of Decree 8.058 of 2013, the following shall not be considered as normal commercial transactions and, therefore, shall be disregarded in determining normal value:

(ia) sales made at prices below the unit cost of production of the like product, taking into account fixed and variable manufacturing costs and general, administrative, selling and financial expenses, provided such sales are made
iai) over a reasonable period of time (preferably 12 (twelve) months, but not less than 6 (six) months),
iaii) in substantial quantities, and
iaiii) at a price which does not recover all costs within a reasonable period of time (preferably 12 (twelve) months);

(i.b) transactions between associated or related parties that have an offsetting arrangement with each other, except if the prices and costs related to such transactions are comparable to those of transactions between non-associated or related parties. That is, such transactions will be considered normal if their price is not more than or less than 3% of the average selling price for all unrelated parties; and

(i.c) sales of samples or sales to employees and donations, sales supported by contracts involving industrialization to other companies (tolling) or swapping of products, captive consumption, or other operations established by SECEX.

To check whether domestic sales fit the description of item ia above, it is necessary to perform the below cost sales test, detailed in question 14. In turn, the determination of which sales fit item ib above should be performed through the related-party sales test explained in question 15.

Once sales consisting of normal business operations are defined, it is necessary to assess whether such sales were made in (ii) sufficient quantity to determine normal value, i.e. whether such sales represent at least 5% of volume of the product under investigation exported to Brazil, pursuant to art. 12 of Decree No. 8.058 of 2013. If so, these normal business operations may be used to calculate normal value based on the domestic sales methodology of the like product in the exporting country.

Figure 12: Normal Value, Significant Sales Volume, and Normal Business Operations

Normal value

- *Is the price of the like product, in normal commercial operations and in sufficient quantity, intended for consumption in the domestic market of the exporting country. The calculation of normal value requires:*
 - (i) Sales in normal business operations*
 - (ii) Sufficient sales*

(i) Sales in normal business operations

- *All sales of the like product made by the producer or exporter under investigation in the domestic market of the exporting country or to a third country, subject to the provisions of art. 14 of Decree No. 8.058 of 2013.*

As a rule, they will not be considered normal business operations (art. 14)

- (a) Sample or employee sales and donations; sales supported by tolling or swap contracts; captive consumption or other operations established by SECEX;*
- (b) Transactions between associated or related parties that are mutually agreed upon compensation (related party sales test);*
- (c) Sales made at prices below production cost (below-cost sales test).*

(ii) Sufficient amount of sales

- *At least 5% of the volume exported to Brazil, a lower percentage being allowed when it is shown that there were still enough domestic sales in the exporting country to allow an adequate comparison with the export price.*

Source: Ministry of Economy / SDCOM

Once it has been determined which transactions consist of normal business operations carried out in sufficient quantity, the selling price, as a rule, on an ex-factory basis, shall be determined for each such transaction. To this end, the relevance of making adjustments to the gross sales prices informed by the foreign producer or exporter will be assessed considering, among other possible factors, discounts and rebates, financial cost, sales taxes, direct selling expenses, maintenance expenses, inventory adjustments, any adjustments related to trade level, interest income and drawback taxes. All such data

should be provided by the foreign producer or exporter in their reply to the SDCOM questionnaire.

If the dumping margin is calculated on the basis of the T-T methodology (see question 27), the price to be used as normal value for each transaction will be that reached at the end of the activities described in the previous paragraph. However, if the dumping margin is calculated on the basis of the W-W methodology (see question 27), which is SDCOM's most commonly used methodology), the weighted average of these prices should be calculated taking into account elements such as CODIP.

14. How is the below cost sales test performed?

According to art. 14, 1, of Decree 8.058 of 2013, sales of the like product domestic market of the exporting country or sales to a third country shall not be considered as normal business operations and shall be disregarded in the normal value when carried out at prices below the unit cost of production of the like product, including fixed manufacturing costs, and variables, and general, administrative, selling and financial expenses. In Brazil, this calculation is performed considering the cost of production in the month of sale.

According to art. 14, 2, for sales to be disregarded it is necessary that (i) they have been made over a reasonable period of time, (ii) in substantial quantities and (iii) at a price that does not allow recovering all costs within a reasonable period of time.

(i) The reasonable period of time shall preferably be twelve (12) months, but not less than six (6) months. For a reasonable period of time to be considered, it is sufficient for all sales made during the investigation period of dumping to be used.

(ii) Substantial quantity means situations in which:

I - the weighted average selling price of the like product in the investigation period of dumping is lower than the weighted average cost of production of the like product in that period; or

II - the sales volume of the like product at a price below unit cost corresponds to twenty per cent or more of the total sales volume of the like product. Although there are two options, it is the prerogative of the investigating authority to choose which methodology will be used. In Brazil only the second option is used, which is the most applied worldwide.

(iii) Prices shall be deemed to permit the recovery of all costs within a reasonable period of time whenever prices below the unit cost of production at the time of sale exceed the weighted average cost of production of the like product in the investigation period of dumping.

Figure 13: Below Cost Sales Test

Step One: Identify Below Cost Sales

Domestic sales made at prices below the cost of unit production at the time of sale, taking into account all sales of the like product in the intern market

Step Two: Substantial Quantity Check

The sales volume identified in the first step should be equal to or greater than 20% of total domestic sales volume of the like product in the exporting country.

Step Three: Recoverability Test (Only Sales Identified in Step One)

Domestic sales made at prices above the cost of weighted average unit production for the investigation period of dumping

Sales test below cost (provided substantial quantity is proven) = Total domestic sales of the like product at P5 - Sales Identified in Step One + Sales redeemed in step 2

*Source: Ministry of Economy / SDCOM
/SDCOM*

15. How is the related party sales test performed?

As provided in art. 14, 5, of Decree 8.058 of 2013, transactions between associated or related parties or that have entered into an offsetting agreement shall be disregarded in the determination of normal value, unless it is proved that the prices and costs related to transactions between associated parties. or related are comparable to those transactions between non-associated or related parties.

Thus, pursuant to art. 14, 6, of Decree No 8.058 of 2013, if the price weighted average selling price of the interested party to its associated or related party is not more than or less than three per cent of the weighted average selling price of the interested party to all parties that have no such links, related party

transactions or associated companies may be considered in the normal value calculation. Note that both related party sales that would lower normal value and those that would increase it may be disregarded.

Figure 14: Related Party Sales Test

Related party transactions will be disregarded in the normal value calculation when the selling price for the associated or related party is greater than or less than 3% of the selling price for all unrelated parties.

Source: Ministry of Economy / SDCOM

16. What are special market conditions?

According to art. 14, paragraph 16, of Decree No. 8.058, 2013, special market conditions include situations in which domestic price formation, especially those related to basic inputs, does not occur under market conditions, i.e., determined or significantly influenced by the action from the government.

17. How is normal value calculated based on the export price to a third country?

As provided in art. 14, I, of Decree No 8.058 of 2013, if there are no sales of the like product in normal domestic trade of the exporting country or when, due to special market conditions or low sales volume of the like product in the domestic market of the exporting country, it is not possible to compare with the export price, the normal value may be established on the basis of the export price of the like product to an appropriate third country. It should be remembered that, for the purpose of initiating the investigation, there is no hierarchy for choosing the normal value determination methodology (see question 12).

For the determination of normal value based on this methodology to be possible for the purpose of initiating the investigation, the petitioner must i) clarify why the third selected country was deemed appropriate and ii) provide, based on art. 44 of Ordinance SECEX 41, 2013, or in art. 36 of SECEX Ordinance No. 44 of 2013, as appropriate, information on sales to a third country, specifying: (i) export volume to the third selected country; (ii) currency; (iii) condition of sale; (iv) necessary adjustments to fair comparison with the export price; and (v) ex-factory unit price.

Once the investigation has commenced, questionnaires will be sent to all identified foreign producers or exporters through which sales data for the like product will be requested on the domestic market of these foreign producers

or exporters. It should be noted, therefore, that data for the determination of normal value based on the first methodology is requested regardless of the methodology presented by the petitioner in the petition and used by SDCOM for the purpose of initiating the investigation.

However, should these producers or exporters believe that the determination of normal value on the basis of domestic sales of the like product on the exporting country's domestic market would not allow an appropriate comparison with the export price of the product under investigation, they could present disaggregated export data of the like product to an appropriate third country, in addition to the disaggregated domestic sales data of the like product in the exporting country. It should be emphasized, therefore, that the burden on foreign producers or exporters will be higher if they choose this methodology.

In addition to providing the above data, the foreign producer or exporter will still have to (i) explain why it deems the domestic sales data inadequate for the purpose of calculating normal value; ii) inform its three largest export markets; and (iii) if it chooses to provide data to a country which does not consist of one of its three largest export markets for the like product, indicate the third country selected and give detailed reasons as to why it considers it appropriate.

If it is found impossible to use the first normal value methodology (domestic sales of the like product in the exporting country) and normal value is justified on the basis of export data provided by the foreign producer or exporter, SDCOM shall still assess whether such exports were made (i) in normal business operations and (ii) in sufficient quantity, otherwise the investigating authority shall use another methodology for calculating normal value. Such an assessment should follow the same steps as explained in questions 13, 14 and 15), but in this case considering all exports of the like product to the selected third country during the investigation period of dumping rather than sales of the like product on the domestic market of the exporting country.

Once it has been determined which transactions consist of sufficient normal business operations, the selling price should, as a rule, be ex-factory for each such export operation as explained in question 13.

It should be noted that when establishing normal value on the basis of the export price of the like product to an appropriate third country, there is always the possibility that the investigated producer or exporter may also be dumping its exports to the third selected country. would render the price for such

exports inadequate for comparison with the export price of the product under investigation and would allow SDCOM to choose to use another methodology.

18. How is the constructed normal value calculated?

As provided in art. 14, II, of Decree No. 8,058 of 2013, if there are no sales of the like product in normal domestic trade of the exporting country or where, due to special market conditions or low sales volume of the like product in the exporting country's domestic market, an appropriate comparison with the export price is not possible, normal value may be determined on the basis of constructed value, which shall consist of the cost of production in the declared country of origin plus a reasonable amount of:

- a) overheads;
- b) administrative expenses;
- c) selling expenses;
- d) financial expenses; and
- e) profit.

As provided in 8 of art. 14 of Decree 8.058 of 2013, the cost of production should preferably be calculated based on the records kept by the investigated producer or exporter, provided they are in accordance with the accounting principles and standards of the exporting country and reflect the costs related to production. and the sale of the like product.

Similarly, 14 of art. 14 of Decree 8.058 of 2013 provides that the calculation of general, administrative, marketing and financial expenses and profit margin shall be based on actual production and sales data of the like product of the producer or exporter under investigation in the course of normal business operations . When it is not possible to calculate based on these data, one of the three alternative methodologies provided for in 15 of the same article may be used, namely:

- (a) the amount actually spent and paid by the producer or exporter under investigation concerning the production and sale of products of the same general category on the domestic market of the exporting country;
- (b) weighted average of the amounts actually spent and earned by other investigating producers or exporters on the production and marketing of the like product on the domestic market of the exporting country; or
- (c) any other reasonable method, provided that the amount stipulated for profit does not exceed the profit normally earned by other producers or

exporters from sales of products of the same general category on the domestic market of the exporting country.

It is noteworthy that, for the purpose of initiating the investigation, it is common for the constructed normal value not to be based on information provided by the investigated foreign producer or exporter itself, since such construction is carried out by the domestic petition industry. In such cases, public information such as those available on sites such as Trade Map or Comtrade may be used. Specialized publications and reports may also be used to establish the price of each heading that makes up normal value. It should be noted that all information used for the construction of normal value must be accompanied by their respective sources, must be verifiable and also with their respective justification for use.

19. How will normal value be calculated if the exporting country is not considered to be a market economy?

As provided in art. 15 of Decree 8.058 of 2013, if the product under investigation comes from a non-market economy country, normal value will be determined on the basis of:

- (a) the domestic selling price of the like product in a substitute country;
- (b) the constructed value of the like product in a substitute country; or
- (c) the export price of the like product from one substitute country to another countries except Brazil.

Once the investigation has commenced, SDCOM will send third country questionnaires to identified producers or exporters in the substitute country with a view to collecting price and cost data for the like product in that country for the purpose of establishing normal value. If the substitute country is also subject to the same investigation, SDCOM does not need to submit third country questionnaires, but may use the data provided by the substitute country producers or exporters in their replies to the foreign producer or exporter's questionnaire either in calculating the dumping margin of these companies as in the determination of the normal value of the non-market economy country.

It should be noted that, whether or not the substitute country is subject to the same investigation, SDCOM will also send questionnaires to foreign producers or exporters from the non-market economy country, for the purpose of collecting the data necessary to determine the export price, among other information.

It is important to emphasize that, unlike what happens when the investigated country is a market economy, in the case of countries that are not considered market economies, there is no hierarchy between the above mentioned normal value calculation methodologies, and the investigating authority may choose to determine based on export price or constructed value, even if normal value can be calculated on the basis of domestic sales of the like product in the substitute country.

Please note that when it is not possible to use any of the above assumptions and as long as duly justified, normal value may be determined based on any other reasonable price, including the price paid or payable in the duly adjusted Brazilian market, if necessary to include a reasonable profit margin.

Figure 15: Calculation of normal value for non-market economy countries

For countries that are not considered market economies the normal value will be calculated on the basis of:

- (i) Domestic sales price of a substitute country*
- (ii) In the value built in a substitute country*
- (iii) Export price from one substitute country to other countries except Brazil*
- (iv) At any other reasonable price, when the other hypotheses are not viable*

Source: Ministry of Economy/SDCOM

20. How is the substitute country defined for the purpose of establishing normal value in the case of a non-market economy country?

Under the terms of 1 and 2 of art. 15 of Decree No. 8,058 of 2013, the substitute country will consist of a third market economy country that is deemed appropriate and, where possible, will correspond to another country subject to the same investigation, ensuring SDCOM more appropriate data (item d). below) for the determination of the normal value of the non-market economy country. The analysis of the suitability of the third market economy country will take into account reliable information submitted in a timely manner by the petitioner or the producer/exporter, including:

- a) the volume of exports of the like product from the substitute country to Brazil and to the main world consumer markets;
- b) the volume of domestic sales of the like product in the substitute country;
- c) the similarity between the product under investigation and the product sold domestically or exported by the substitute country;
- d) the availability and degree of disaggregation of statistics required for research; or
- e) the degree of adequacy of the information presented in relation to the

characteristics of the ongoing research.

At the beginning of the investigation, pursuant to art. 15, 3 of Decree 8.058 of 2013, interested parties will be informed of the substitute country to be used. In the event of disagreement as to the choice of the third country, the producer, exporter or petitioner may suggest an alternative third country, provided that the suggestion is duly justified and submitted, together with the relevant evidence, within the non-extendable period of 70 (seventy)) days from the start of the investigation. There is no legal provision that importers can comment on the subject. The final decision regarding the third market economy country to be used in the investigation will be set out in the preliminary determination.

21. Is it possible to establish normal value on the basis of data from producers or exporters from countries not considered to be market economies?

According to art. 16 of Decree No. 8,058 of 2013, within 70 (seventy) days from the date of commencement of the investigation, the foreign producer or exporter from a country not considered to be a market economy by Brazil may provide evidence with a view to allow normal value to be determined on the basis of market economy methodologies.

The elements to be presented include both information concerning the producer or exporter itself as well as information related to the economic sector of which the producer or exporter is a part. Non-exhaustive lists of the information to be presented are in 1 and 2 of art. 17 of Decree No. 8,058 of 2013, and are reproduced below:

Art. 17 [...]

Paragraph 1. Information relating to the producer or exporter shall provide evidence that:

I - The decisions of the producer or exporter regarding prices, costs and inputs, including raw materials, technology, labor, production, sales and investments, are based on supply and demand conditions, without significant governmental interference. in this respect, and the costs of major inputs substantially reflect market values;

II - the producer or exporter has a single internal accounting system, transparent and independently audited, based on international accounting principles;

III - the production costs and the financial situation of the producer or exporter

are not subject to significant distortions arising from current or past ties established with the government outside market conditions; and

IV - the producer or exporter is subject to bankruptcy and property laws, ensuring legal certainty and stability for its operation.

Paragraph 2. Information concerning the economic sector of which the producer or exporter is a part shall provide evidence that:

I - Government involvement in determining production conditions or pricing, including exchange rate and foreign exchange transactions, is non-existent or very limited;

II - the sector operates primarily based on market conditions, including the free determination of wages between employers and employees; and

III - The prices that producers or exporters pay for the main inputs and for much of the secondary inputs used in production are determined by the interaction between supply and demand.

As provided for in 3 of art. 17 of Decree 8.058 of 2013, the positive determination regarding the above conditions is a condition for the determination of normal value based on the methodologies foreseen for market economy countries.

22. What is the export price in an anti-dumping investigation?

As a rule, the export price in anti-dumping investigations corresponds to the selling price of the exported product from the investigated country to the importing country, under conditions comparable to the normal value found. However, as with the determination of normal value, it may happen that the export price does not exist or is unreliable, either by reason of association or relationship or by compensatory agreement between the parties.

In order to ensure that the export price to be used for the determination of the dumping margin will be reliable, one should always seek to identify the price paid or payable by an independent buyer, which will subsequently be adjusted to make it comparable to the normal value found.

In order to reach an export price comparable to normal value, adjustments may be made for differences that affect price comparison, such as

differences: I - the conditions and terms of sales (such as discounts offered in case of large purchases or lower prices charged in case of sale between associated companies); II - in taxation; III - at the trade levels; IV - in the quantities; V - in the physical characteristics; and VI - any others that have been shown to affect price comparison (art. 22, paragraph 2 of Decree No. 8,058, 2013).

The definition and choice of the methodology to be used in the determination of the export price in anti-dumping investigations will take into consideration (i) whether the producer is the exporter of the product under investigation; (ii) whether the producer and exporter of the product concerned, although distinct, are related or not; and iii) if there is export price and if it is reliable, in situations of association, relationship or compensatory agreement between the foreign producer or exporter and iii.a) the importer or iii.b) a third party. The export price in anti-dumping investigations is governed by arts. 18 to 21 of Decree No. 8,058 of 2013.

Under the terms of art. 18 of Decree No. 8,058 of 2013, if the producer is also the exporter of the product under investigation, the export price shall be that received, or the export price to be received, for the product exported to Brazil, net of taxes, discounts or reductions actually granted and directly related to sales of the product under investigation.

In turn, according to art. 19 of Decree 8.058 of 2013, if the producer is not the exporter and both are not associated or related parties, the export price will preferably be the received or the export price to be received by the producer per exported product. Brazil, net of taxes, discounts or reductions actually granted and directly related to sales of the product under investigation.

Still, under the terms of art. 20 of Decree 8.058 of 2013, in the event that the producer and the exporter are associated or related parties, the export price will be reconstructed from the price actually received, or from the price receivable by the exporter, for a product exported to Brazil. .

Finally, according to art. 21 of Decree No. 8,058 of 2013, in cases where there is no export price or where it does not seem reliable due to association, relationship or compensatory agreement between the producer or the exporter and the importer or a third party, The export price may be constructed from (i) the price at which the imported products were first resold to an independent buyer or (ii) on a reasonable basis if the products are not resold to an independent buyer or on condition in which they were imported.

Figure 16: Export Price

When the producer is the exporter of the product

The price received or receivable for the product exported to Brazil, net of taxes, discounts or reductions

When the producer is not the exporter and both are not related parties

Preferably, the price received, or the price to be received, by the producer, for a product exported to Brazil, net of taxes, discounts or reductions.

When the producer is not the exporter and both are related parties

The export price will be rebuilt from the price actually received or the price receivable by the exporter per product exported to Brazil.

When there is no export price or it does not seem reliable

The price built from:

- (1) the price by which imported products were first resold to an independent buyer or*
- (2) on a reasonable basis if the products are not resold to an independent buyer or under the same condition as when they were imported*

23. How is the export price calculated if the exporting country is not considered a market economy?

Export price calculation methodologies for companies from countries not considered to be market economies are similar to those used in the determination of this price in the case of market economies (see question 22). Export prices are on the same basis and for the necessary adjustments to be made to ensure a fair comparison between normal value and export price.

However, it should be noted that the information to be used to make some of the adjustments in the context of the export price calculation will not refer to the investigated companies themselves from non-market economy countries.

24. For dumping purposes, what is a related party?

Paragraph 10 of art. 14 of Decree No. 8,058 of 2013, defines that, for purposes of determining

Parties shall be considered related or associated if:

- I - one of them holds a position of responsibility or direction in the other's company;
- II - are legally recognized as business associates;
- III - are employer and employee;
- IV - any person, directly or indirectly, owns, controls or holds five for one or more of the voting shares or securities of both;
- V - one of them, directly or indirectly, to control the other, including through shareholders agreement;
- VI - are both directly or indirectly controlled by a third person;
- VII - together directly or indirectly control a third person;
- VIII - are members of the same family; or
- IX - if there is a relationship of economic, financial or technological dependence with customers, suppliers or financiers.

25. Can SDCOM ask exporters for information on associated or related parties for the purpose of determining dumping?

The foreign producer / exporter questionnaire sent by SDCOM at the beginning of the investigation contains several sections, providing for the provision of separate information depending on the individual case.

The information requested includes the organizational framework of the company's legal structure, which should include all parties related to or associated with the foreign producer / exporter responding to the questionnaire. In addition, when supplying disaggregated sales data for the like product on the domestic market of the exporting country, exports of the like product to third countries and exports of the product under investigation to Brazil, the foreign producer / exporter should indicate whether each sale was performed for a related or unrelated party, pursuant to 10 of art. 14 of Decree No. 8,058 of 2013.

This information is requested by SDCOM since, both in establishing normal value and determining export price, sales to related parties may affect the result, depending on the price charged in these operations. For this reason, these sales must be properly identified, so that SDCOM can perform the necessary tests and, thus, define which sales can be used to calculate normal value, as well as the most appropriate methodology for calculating normal value and Export price.

In this sense, it is worth remembering that according to art. 14, 5, of Decree No.

8,058, 2013, in calculating normal value, transactions between associated or related parties or which have entered into a compensatory agreement, provided that the prices and costs related to such transactions are not comparable to transactions between unaffiliated or related parties.

In addition, pursuant to art. 20 of Decree 8.058 of 2013, in the event that the producer and exporter are associated or related parties, the export price will be reconstructed from the price actually received, or the price receivable by the exporter per product exported to Brazil. . Thus, related party information may be required for the export price to be rebuilt.

Please note that, in case of relationship or association between producer / exporter and importer (art. 21 of Decree 8.058 of 2013), information regarding sales transactions carried out by the related or associated importer should not be provided in the questionnaire. exporting producer according to the guidance contained in the questionnaire itself. Joint replies from foreign producers / exporters and Brazilian importers will not be accepted, so information regarding the importer's operations should be submitted within the importer's questionnaire, also sent by SDCOM at the beginning of the investigations.

26. What information may be requested from associated or related parties in an anti-dumping investigation?

If there are associated or related parties involved in the production or sale of the like product on the domestic market of the exporting country or on exports of the like product to a third country or the product under investigation to Brazil, SDCOM may request additional information regarding the activities of the associated or related parties in these activities.

The information to be requested will depend on the specific case and the type of association or relationship (whether between foreign producer and exporter, if between Brazilian producer / exporter and importer etc.) and is intended to allow the dumping margin to be calculated by means of appropriate methodology for the case in question and based on the data of the foreign producer or exporter himself. The basic information needed in each case is provided in the various types of questionnaire sent by SDCOM at the beginning of the investigations. Following review of stakeholder responses to the questionnaires, SDCOM may request additional information.

For example, if exports to Brazil are through a related or associated party not located in Brazil, the foreign producer will have to provide two (or more)

disaggregated information databases (sale for sale) relating to exports of the product under investigation to Brazil: the first with the producer's information; and the second (and other necessary bases) with the information of the related or associated party (s) active in the export. This price, expense and cost information of the related or associated parties is essential for the reconstruction of the export price provided for in art. 20 of Decree No. 8,058 of 2013.

It is worth noting that all companies providing disaggregated databases may be subject to on-the-spot verifications to verify the submitted information.

27. What is the dumping margin and how it is calculated?

Under art. 25 of Decree No. 8,058, 2013, the dumping margin constitutes the difference between the normal value and the export price.

Figure 17: Dumping margin

$\text{Value Normal} - \text{Export Price} = \text{Dumping Margin}$

Source: Ministry of Economy/SDCOM

In addition, as provided in art. 26 of Decree 8.058 of 2013, for the calculation of the dumping margin, two main methods can in principle be used: (i) the difference between the normal value and the export price for each transaction (T-T); or (ii) the difference between the weighted average normal value and the weighted average export price of all comparable transactions (W-W).

Figure 18: Dumping margin calculation methods

(i) Comparison between weighted average normal value and weighted average price of all comparable export transactions (W-W)

(ii) Comparison of normal values and export prices, transaction by transaction (T-T)
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Source: Ministry of Economy/SDCOM

For the comparison between normal value and export price to be fair, it is necessary that both be at the same level of trade and relate to sales made as simultaneously as possible. In addition, differences in taxation, levels of trade, quantities, physical characteristics, conditions and terms of sale and any others that affect price comparison should be considered and, as far as possible, eliminated by adjustments, as provided in paragraph 2 of art. 22 of Decree No. 8,058 of 2013.

It should be noted that, when determining the dumping margin through the methods provided in items I and II of Article 26 of Decree No. 8,058, 2013, all export transactions of the product under investigation to Brazil must be considered, adding up positive and negative results found for different transactions or models, and zeroing⁵ is not allowed, in accordance with the jurisprudence of the WTO Dispute Settlement Body (DS402). It should be noted, therefore, that no export of the product under investigation to Brazil may be disregarded in the calculation of the dumping margin, unlike what happens with sales of the like product in the domestic market of the exporting country or with sales of the like product to third countries, which may be disregarded in the calculation of the normal value if they do not consist of "normal commercial transactions".

Note also that, according to 2o of art. 26 of Decree 8.058 of 2013, the dumping margin can be calculated by comparing a normal value established by weighted average and individual export prices (WT), if a export prices that differ significantly between different buyers, regions or time periods and if an explanation is given as to why such differences cannot be adequately taken into account by adopting the methodologies dealt with in paragraphs I and II of art. 26 of the aforementioned Decree. According to DS534, this "W-T" calculation form does not prohibit zeroing, unlike the "W-W" and "T-T" calculation forms presented earlier.

Decree No. 8,058, 2013, presents detailed provisions on the calculation of the dumping margin, in line with the provisions of the Antidumping Agreement on the subject. Nevertheless, given the complexity of the calculations and the large number of variables involved, SDCOM seeks to keep up to date with the decisions made by the WTO Dispute Settlement Body, which frequently issues guidelines and understandings on the provisions of the Agreement when there are disputes between member countries. The SDCOM's General Coordination of Antidumping and Dispute Settlement (CGSC/SDCOM) is in charge of monitoring the decisions and providing technical subsidies to other government agencies, in order to enable Brazil's performance in the scope of WTO disputes.

In order to maintain the transparency and uniformity of its practices, SDCOM always seeks to present, in its determinations, detailed descriptions of the calculation methodologies adopted. Furthermore, the joint action of the Under Secretariat with other government agencies before the WTO's Dispute

⁵ Zeroing is, in general terms, a calculation methodology whereby the negative results found for different transactions or models are disregarded in order to determine the amount of the dumping margin.]

Settlement Body demonstrates its commitment to the constant updating of the methodologies adopted, in order to maintain the coherence and legality of its decisions.

Examples and more information on the dumping determination can be found in DECOM's Booklet 3, available at: <https://www.gov.br/produtividade-e-comercio-exterior/en-br/assuntos/comercio-exterior/defesa-comercio-e-interesse-publico/arquivos/guias/caderno-decom-3.pdf>

28. What if calculating the dumping margin requires currency conversion?

Normal value will not always be in the same currency as sales to Brazil, when determining export price. In many cases, it is first necessary to convert the normal value to US dollars or euros before price comparison and the dumping margin calculation.

Under the terms of art. 23 of Decree 8.058 of 2013, in the hypothesis that the comparison

price requires currency conversion, the official exchange rate published by the Central Bank of Brazil in force on the date of sale⁶ will be used. When selling foreign currency in futures markets, directly linked to the export under investigation, the exchange rate adopted in the future sale will be used.

If the official exchange rate in force on the date of sale is outside a range of about two percent from the average of the previous 60 (sixty) days daily official exchange rates - reference exchange rate -, the average daily official exchange rate of the previous 60 (sixty) days will be used.

If the weekly average daily official exchange rate is higher or lower than the weekly average reference exchange rate by five per cent or more for eight consecutive weeks, then the exchange rate will be sustained. Characterized this movement, will be used, for a period of 60 (sixty) days, the reference exchange rate of the last day before characterizing the sustained movement.

Figure 19: Currency Fluctuation Tests

General rule

⁶ As provided for in 6 of art. 23 of Decree 8.058 of 2013, the date of sale shall preferably be the date of the contract, purchase order or acceptance of the order or invoice issue, using, among these documents, the one that establishes the conditions of the operation.

- *The official exchange rate published by the Central Bank of Brazil, effective on the date of sale, will be used.*

First test - daily fluctuation

- *If the official exchange rate fluctuates by 2% from the previous 60-day average (reference rate), the previous 60-day average rate will be used.*

Second test - sustained movement

- *If the weekly average exchange rate is higher or lower than the weekly average reference exchange rate by 5% or more for eight consecutive weeks, the exchange rate will be sustained and the exchange rate will be used. reference of the last day before characterizing the sustained movement*
- *Source: Ministry of Economy/SDCOM*

29. Is the dumping margin individual or general?

Under the terms of art. 27 of Decree No 8.058 of 2013, the dumping margin will be preferably calculated for each known foreign producer or exporter of the product under investigation. It should be noted that, for purposes of determining the individual dumping margin, pursuant to 9 of art. 28, "Different legal entities may be treated as a single producer or exporter when it is demonstrated that the structural and commercial relationship of the entities to each other, or to a third entity, is close enough."

However, as provided in art. 28 of the aforementioned Decree, if the number of foreign producers or exporters is excessive to the extent that it is impracticable to determine the individual dumping margin for all, SDCOM may limit such determination i) the statistically valid sample including a reasonable number of stakeholders or product models based on the information available at the time of selection; or (ii) the selection of the producers or exporters responsible for the highest reasonably investigable percentage of the exporting country's export volume.

30. How is the selection of foreign producers or exporters made in the hypothesis of item II of art. 28 of Decree No. 8,058 of 2013?

In the event of selection provided for in item II of art. 28 of Decree no. 8,058 of 2013, all foreign producers or exporters that have been identified by SDCOM as exporters of the product under investigation to Brazil in the period of the dumping investigation, based on the import data of the Special Secretariat of

the Federal Revenue of Brazil (RFB), are listed in descending order of export volume, and those responsible for the largest volumes exported to Brazil in the same period are included in the selection, pursuant to 1 of art. 28 of the Decree. It should be noted that, based on 3 of art. 28 of Decree No. 8.058, 2013, other producers or exporters may be included in the selection, at SDCOM's discretion. The decision on the number of selected companies will take into account the elements found in the specific case, as well as the operational capacity of the investigating authority to analyze the questionnaire responses of the selected companies.

Pursuant to paragraphs 4 and 5 of article 28 of the mentioned Decree, the interested parties may comment on the selection, including with the purpose of clarifying whether the selected companies are exporters, trading companies or producers of the product under investigation, within ten (10) days, as of the date of acknowledgment of the notification of initiation of the antidumping investigation. Regarding the period of 10 days for manifestations, WTO Plus provision provided in Decree No. 8.058, 2013, it should be taken into consideration that the Brazilian investigating authority must obtain information quickly to be able to assess the need to change the selection, since such decision impacts the receipt of responses to questionnaires forwarded and the issuance of preliminary determinations, which are expected to be issued within 60 to 120 days, as a rule, under art. 65 of the Brazilian Regulation.

31. Can non-selected foreign producers or exporters ask SDCOM to determine the individual dumping margin?

In accordance with paragraphs 6 and 7 of art. 28 of Decree No. 8,058 of 2013 will also be individual dumping margin to the unselected producer or exporter who submits the necessary information in a timely manner, except in cases where the number of exporters or producers is high to the extent that the analysis of such cases precludes the completion of the investigation within the established deadlines.

In any event, Paragraph 8 of Decree 8.058 of 2013 expressly prohibits any form of disincentive to the submission of information by unselected producers or exporters for the purpose of establishing an individual dumping margin.

32. Can foreign producers or exporters who are selected be allowed to opt out or may not respond to the questionnaire sent by SDCOM?

Under the terms of art. 28, 2, of Decree No. 8.058 of 2013, the producers or foreign exporters selected according to item II of art. 28 may have the

dumping margin found on the basis of the best information available (see questions 73 and 173) if they do not answer the questionnaire or request to be excluded from the selection after they have confirmed their participation in the investigation.

It should be noted that similar treatment applies if the selected producer or exporter files a questionnaire response after the deadline set by SDCOM.

33. What information is used to calculate the dumping margin for the purpose of initiating the investigation?

At the beginning of the investigation, dumping margin will be calculated for each origin.

investigated on the basis of information provided by the petitioner (product and normal value information) and import data provided by RFB (export price).

The normal value presented by the petitioner shall be determined on the basis of a reasonable method and shall be accompanied by the justification and calculation memory permitting its verification by SDCOM. In this sense, the sources used to obtain the data that served as the basis for the calculations should be informed, which should be consultable by the investigating authority.

SDCOM

Although, as a rule, normal value is established on an ex-factory condition for the purpose of the initiation of the investigation and there is no information to allow this trade term to be calculated, the dumping margin calculation may be based on the product delivered to the exporting country, ie delivered or FOB - Free on Board conditions, including selling expenses.

34. What information is used for the calculation of the dumping margin in the preliminary and final determinations?

SDCOM's preliminary and final determinations will be made on the basis of information provided not only by the petitioner but also by other interested parties (see question 90) through their responses to the questionnaires sent by SDCOM at the beginning of the investigation, which are subject to SDCOM validation through on-the-spot verifications.

It should be noted that through their replies to the questionnaires, foreign producers or exporters and their related parties should provide disaggregated

information on their domestic sales and their exports to Brazil. The calculation of the preliminary individual dumping margin for these foreign producers or exporters will, as a rule, take into account the information submitted by them, and not that provided by the petitioner or extracted from the official RFB import data, which is used in the determination. dumping margin for the purpose of initiating the investigation.

On-the-spot verifications at foreign producers or exporters who respond to questionnaires will usually occur after the preliminary determination, due to the legal deadlines for submitting additional information to the questionnaires and for publishing preliminary determinations. If, due to the results of the on-the-spot verification procedure, part or all of the information provided in the questionnaire reply of a particular foreign producer or exporter has to be changed or disregarded, the dumping margin found for the Technical Note of essential facts or for purposes of final determination may be different from that calculated for preliminary determination purposes, and may even be determined based on the best information available, pursuant to 3 of art. 50 of Decree No. 8,058 of 2013.

For this reason, during the administrative proceeding, changes may occur in relation to the dumping margin found for the purpose of initiating the investigation.

35. What is a de minimis dumping margin?

Under the terms of 1 of art. 31 of Decree 8.058 of 2013, the dumping margin will be considered de minimis when it is less than 2% (two per cent) of the export price.

Where the dumping margin found for a given foreign producer or exporter is de minimis, the investigation shall be terminated without the imposition of duties on that producer or exporter pursuant to Article II, II. 74 of Decree 8.058 of 2013. The investigation will, however, continue for other producers or exporters for which the calculated dumping margin has exceeded the lower limit established in that Decree, unless the country of these producers' dumping margin or exporters is also de minimis.

In addition, as per item I of art. 31 of Decree No. 8,058 of 2013, when the dumping country is de minimis, the effects of its imports cannot be assessed cumulatively with the effects of imports of the same product from other countries which are also investigated by SDCOM, as investigation for such

origin should be terminated. (see questions 50 and 51).

It should also be noted that, pursuant to 3 of art. 80 of Decree 8.058 of 2013, de minimis dumping margins cannot be used in the calculation of the individual anti-dumping duty to be applied to foreign producers or exporters who, although known, have not been included in the selection dealt with in art. 28 of Decree No. 8,058 of 2013. An example of the de minimis margin calculation can be found on page 163 of the Decom Notebook n.3.

36. How are dumping margins determined in sunset reviews?

In a sunset review, it is only necessary, pursuant to Art. 107 of Decree No. 8,058 of 2013, to assess the likelihood of continuation or resumption of dumping if the measure is terminated.

It is not compulsory under Decree 8.058 of 2013 to calculate dumping margin in sunset revisions, nor is there a requirement to analyze whether or not this margin is de minimis. In these cases, it is only necessary to assess the likelihood of continuation or resumption of dumping should the measure be terminated.

In this context, if there have been exports from the country to which the antidumping measure applies to Brazil during the period under review in representative quantities, i.e., in cases of continued dumping, the Brazilian practice is to determine the dumping margin, even though such determination is not an obligation under the Antidumping Agreement. In this determination, the calculation will be made, as appropriate, in a manner similar to that used in an original investigation, as explained in question 27.

In cases where there were no exports from the country to which the antidumping measure applies or where there were only exports in unrepresentative quantities during the review period, that is, in cases of resumption of dumping, no dumping margin will be calculated. In such cases, under the terms of 3 of this article, SDCOM will evaluate the probability of resumption of dumping, comparing the average normal value internalized in the Brazilian market with one of the two alternatives brought in clauses I and II of 3 of this article: i) the average sale price of the similar domestic product in the Brazilian market, or ii) the average export price of other foreign suppliers to the Brazilian market in transactions made in representative quantities.

At the end of the sunset review, SDCOM will issue a recommendation on the duty to be applied. It should be recalled that the recommended duties do not necessarily correspond to the dumping margin or to the results of the comparisons mentioned above, in accordance with 3 of this art. 107. For more

information on what may happen with antidumping duties in a sunset review and how the assessment of the likelihood of continuation or resumption of dumping takes place, see question 77.

37. What is the difference between continuation and resumption of dumping?

Continued dumping: In which case there were exports of the investigated origin during the duration of the measure. It is checked whether exports occurred at dumped prices. It is then assessed whether there was dumping during the review period.

Resumption of dumping: In which case there were no exports during the period of the measure or they did not occur in a representative quantity. In this case, it is assessed whether, if the measure were terminated, exports would be likely to return and to be made at dumped prices.

Figure 20: Difference between continuation and resumption of dumping ***Continuation of dumping***

- *There were exports during the period of the measure.*
- *Is it assessed whether dumping lasted during the review period?*

Resumption of dumping

- *There were no exports during the duration of the measure or exports are not representative*
- *Whether the termination of the measure would lead to the return of exports at dumped prices*

Source: Ministry of Economy/SDCOM

38. What criteria should be considered in the analysis of likelihood of continuation or resumption of dumping?

As provided in art. 107 of Decree 8.058 of 2013, the determination that the termination of the duty would most likely lead to the continuation or resumption of dumping should be based on an objective examination of all relevant factors, including those listed in Art. 103 of the same Decree:

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- Existence of dumping for the duration of the measure;
- Producer or exporter performance with respect to production, utilization of installed capacity, costs, sales volume, prices, exports and profits;

- Changes in market conditions in both the exporting and other countries, including changes in product supply and demand, prices and;
- producer or exporter's share of the exporting country's market; and;
- Application of trade defense measures on the like product by other countries and the consequent possibility of trade diversion to Brazil.
-

Figure 21: Criteria considered in the likelihood or dumping analysis

- *Objective examination of all relevant factors*
- *Existence of dumping during the duration of the measure*
- *Producer or exporter performance*
- *Changes in market conditions*
- *Application of trade defense measures by other countries*

Source: Ministry of Economy/SDCOM

In the event that there were no exports from the country to which the anti-dumping measure applies or if there were only exports in unrepresentative quantities during the review period, pursuant to 3 of art. 107 of Decree No. 8,058 of 2013, the likelihood of a resumption of dumping will be determined based on the comparison between the average normalized value internalized in the Brazilian market and (i) the average selling price of the domestic like product in the Brazilian market, calculated to the review period; or (ii) the average export price of other foreign suppliers to the Brazilian market in transactions made in representative quantities, calculated for the review period. If the normalized normal value is higher than any of the alternatives described, it is considered that there is the possibility of resumption of dumping, since the producer/exporter would have to charge a lower export price to Brazil than the normal value to compete in the Brazilian market.

39. Where can I find more information and examples on dumping margin calculation?

Examples and more information on the determination of dumping can be found in the DECOM 3 Notebook, available at: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/arquivos/guias/caderno-decom-3.pdf>.
DECOM 3 Notebook

PART I.3. CONCEPTUAL AND METHODOLOGICAL ASPECTS ON DOMESTIC INDUSTRY

40. What is domestic industry in an anti-dumping investigation?

Under the terms of art. 34 of Decree 8.058 of 2013, is considered as domestic industry all domestic producers of domestic similar product or, when it is not possible to gather all these producers and if duly justified, the group of producers whose joint production constitutes part domestic production of the like domestic product.

In this sense, as provided in art. 35 of the aforementioned Decree, may be excluded from the concept of domestic industry:

I - domestic producers associated or related to foreign producers, exporters or importers, only in cases where there is a suspicion that this bond leads the producer to act differently from the way that producers who do not have such link would act; and

II - producers whose share of imports of the product allegedly imported at dumped prices is significant compared to the total own production of the like product.

It should be noted that the exclusion of the abovementioned national producers is not compulsory.

Figura 22: Concept of domestic industry

Will be considered domestic industry

- All producers of the domestic like product; or
- The group of producers whose joint production constitutes a significant proportion of the total national production of the domestic like product.

Can be excluded from the domestic industry concept

- Domestic producers associated or related to foreign producers, exporters or importers, only in the case of 3 of art. 35 of Decree No. 8,058 of 2013; and
- Producers whose share of imports of the product allegedly imported at dumping is significant compared to the total own production of the like product.
- *Source: Ministry of Economy/SDCOM*

It should be noted that for an anti-dumping investigation petition to be accepted by SDCOM, it must be submitted by or on behalf of the domestic industry pursuant to art. 37 of Decree No. 8,058 of 2013 (see question 141). For this reason, it is essential that domestic producers acting differently because of their economic linkage can be excluded from the concept of domestic

industry, without this exclusion affecting their degree of representativeness. Thus, the exclusions provided for in art. 35 of Decree No. 8,058 of 2013 affect only the denominator of the representativeness analysis.

41. What is a related party for the purpose of excluding the concept of domestic industry?

As provided for in 1 of art. 35 of Decree 8.058 of 2013, the definition of related or associated parties for the purpose of excluding the concept of domestic industry is different from that applicable for the purpose of determining dumping. Thus, producers will be considered associated or related to foreign producers, exporters and importers only if:

- I - one of them directly or indirectly controlling the other;
- II - both are controlled directly or indirectly by a third party; or
- III - together directly or indirectly control a third party.

A concrete example of domestic industry considered as subnational in antidumping investigation was Portland cement⁷. In this case, the petitioner was able to prove, in the course of the investigation, that it effectively represented the Portland cement industry of the competing market consisting of the states of Acre (AC), Amazonas (AM), Roraima (RR) and the region comprised of the west of the state of Par (PA), limited by the meridian 53rd.

During the injury investigation period, the company sold on that same market almost all of its production. Moreover, in view of the share of sales of producers established in other parts of the national territory in the same market, it was concluded that demand was not met by them in a substantial proportion. Finally, it was found that imports of dumped imports from Mexico and Venezuela were concentrated in the competing market.

42. What is a fragmented industry?

Under the terms of 1 of art. 1 of Decree No. 9,107, 2017, for the purpose of trade defense investigations, a fragmented industry is considered to be one involving a particularly large number of domestic producers.

It will be up to SDCOM to enable the national production of a given product as a fragmented industry for the purposes of trade defense investigations, as provided for in 2 of art. 1 of Decree No. 9,107, 2017, and in art. 1 of SECEX

⁷ Interministerial Ordinance MICT / MF No. 46 of 12 July 2000 (termination of the original anti-dumping investigation) and CAMEX Resolution 18 of 25 July 2006 (closure of the sunset review).

Ordinance No. 41 of July 27, 2018. This qualification will remain valid until otherwise decided by SDCOM.

The information required to enable national production of a particular product as a fragmented industry can be found in SECEX Ordinance No. 41 of 2018. Among other provisions, this ordinance establishes who may apply for qualification, the content that must be presented in the qualification request, as a fragmented industry and the timeframes for the enabling procedure.

It should be noted that in the case of fragmented industries, due to the level of disaggregation of the domestic industry and the greater difficulty of coordination between its agents, the deadlines for filing petitions and supplementary petition information and the information required in these petitions may be relaxed. (see questions 114, 115, 135 and 141).

PART I.4. CONCEPTUAL AND METHODOLOGICAL ASPECTS OF DAMAGE

43. How is the determination of material injury to the domestic industry made in an original anti-dumping investigation?

As explained in questions 5, 59 and 60, for the purpose of antidumping investigations, injury will be considered as:

- I - material injury to the domestic industry;
- II - threat of material injury to the domestic industry; or
- III - material delay to the implementation of the domestic industry.

According to art. 30 of Decree 8.058 of 2013, the determination of material injury to the domestic industry will be based on evidence and will include objective examination of the following aspects:

- I - Volume of dumped imports (see question 46);
- II - Effect of dumped imports on prices of the like product in the Brazilian market (see question 52); and
- III - Consequent impact of such imports on the domestic industry (see question 56).

Figure 23: Factors to be examined in determining material injury

<i>Factors to be examined in injury determination</i>
<i>I - Volume of dumped imports</i>
<i>II - Effect of dumped imports on prices of the like product in the Brazilian</i>

market

III - Consequent impact of dumped imports on the domestic industry

Source: Ministry of Economy/SDCOM

For the purpose of initiating an original anti-dumping investigation, SDCOM's analysis of the existence of material injury will be made on the basis of the information provided by the domestic industry in the petition and the import data of the investigated product provided by RFB. Once the investigation has commenced, SDCOM will conduct on-the-spot verifications at the petitioner companies and will send questionnaires to other national producers of the similar product and the import data submitted in the initial petition, the replies of which may also be subject to on-the-spot verification. SDCOM's preliminary and final determinations of material injury will then be made on the basis of the data contained in the petition, the results of on-the-spot checks in the domestic industry, the replies to questionnaires submitted by other domestic producers and other information provided by interested parties. In this sense, during the administrative procedure changes may occur regarding the determination of material injury presented at the beginning of the investigation.

44. How is the volume of imports of the product under investigation analyzed for injury determination?

Under the terms of 1 of art. 30 of Decree 8.058 of 2013, the examination of the volume of imports of the product under investigation will consider whether there was a significant increase in these imports both in absolute terms and in relation to production or consumption in Brazil during the injury investigation period. It should be noted that imports of the product under investigation correspond to imports of the product from the countries under investigation (see questions 7 and 8).

Figure 24: Analysis of import volumes

Analysis in absolute terms

- *Volume of imports*
- *Total value of imports*
- *Unit price of imports*

Analysis in relative terms

- *Share of imports in the Brazilian market*
- *Share of imports in apparent national consumption*
- *Relationship between imports and national production*
- *Source: Ministry of Economy/SDCOM*

The analysis in absolute terms shows both the volume and value behavior of imports of the product originating in the countries investigated and the volume and value of imports of the product originating in the other countries and of imports product totals. These behaviors are analyzed (i) individually as well as (ii) against each other in order to assess whether there was a significant absolute increase in imports of the product under investigation, whether there was an increase in the share of these imports in total product imports and whether There was an increase in these imports in relation to imports of the product from other sources.

In turn, in the analysis in relative terms, it is assessed whether there was a significant increase in imports of the product under investigation in relation to production and consumption in Brazil. It is important to highlight that, if there is captive consumption, the analysis regarding consumption in Brazil may be divided into two, namely: analysis in relation to the Brazilian market and analysis in relation to apparent national consumption. Thus, both the evolution i) of the Brazilian market, ii) the apparent national consumption (if there is captive consumption) and iii) the national production of the like product, separately, during the injury investigation period, are evaluated, as well as the evolution iv) the share of imports of the product under investigation into the Brazilian market, (v) the share of imports of the product under investigation in apparent national consumption and vi) the relationship of these imports with domestic production in the abovementioned period.

45. What is the difference between Brazilian market and apparent national consumption?

For purposes of trade defense investigations, the apparent domestic consumption of the investigated product in Brazil consists of (i) the Brazilian market for such product plus (ii) the total volume of the like product manufactured in Brazil and intended for captive consumption. Apparent national consumption, therefore, may be higher than the Brazilian market, since it also considers part of the national demand that can only be supplied by products manufactured by the applicant itself (captive consumption). That is, the apparent national consumption also considers the similar product of own manufacture that although consumed in Brazil, is not intended for sale in

the Brazilian domestic market. For this reason, apparent domestic consumption may include, for example, the volume produced of the like product used as a raw material or input in the manufacture of other products by the domestic producer itself, without issuing a sales invoice, of the like product of its own manufacture between plants of the same company.

Figure 25: Apparent national consumption

$\text{Apparent national consumption} = \text{Brazilian market} + \text{Captive Consumption}$

Source: Ministry of Economy/SDCOM

In turn, for purposes of determining the Brazilian market, the following are considered: (i) the total domestic sales volume of the domestic like-made product, net of returns, as well as (ii) the volume of total imports of the product, regardless of its origin. It is noted that resale of products imported by domestic producers are not considered in the total domestic sales volume of these producers as they are already included in the total import volume of the product, thus avoiding double counting. .

It should be noted that the domestic sales volume includes both the sales of the similarly manufactured product of the petitioners and the sales of the similarly manufactured product of other domestic producers. The same logic applies to captive consumption in determining apparent domestic consumption, so that both the petitioners' captive consumption and that of other domestic companies producing the like product are considered if such other companies have provided the necessary data.

46. How are the data on the Brazilian market, apparent national consumption and domestic production of the like product obtained in Brazil?

Since Decree No. 8,058 of 2013 provides for the analysis of the volume of imports of the product under investigation in relation to production and consumption in Brazil, data for composition of the Brazilian market, apparent national consumption and national production should consider not only information from the petitioner companies, but also from other domestic producers of the like product, thus reflecting the entire domestic industry (see question 40).

Thus, the data used to determine national production, domestic sales volume of the domestic product of its own manufacture and captive consumption come from both the petition and the answers to the questionnaires of other domestic producers and the expressions of support. or rejection of the petition

submitted by other domestic producers and may therefore vary between the initiation of the investigation and the preliminary and final determinations as new information is attached to the file.

47. How are the data on imports of the investigated product and the foreign like product obtained?

Upon receipt of the petition, SDCOM requests the import data from RFB. investigated product from all sources based on its classification in the Nomenclature Mercosur Common Market (NCM), which is informed in the petition. Therefore, import data are requested from the product under investigation (imports from the investigated origins) and from the foreign like product (imports from other sources).

In most anti-dumping investigations conducted by SDCOM, the tariff classification of the product under investigation also covers other products. It is therefore necessary to purify the import data received from RFB so that only the operations of the investigated product and the foreign like product are identified. This clearance is based on the detailed product descriptions contained in the RFB import data and considers not only the product description presented in the petition, but also other product information provided by interested parties during the investigation, such as responses to SDCOM questionnaires.

Thus, the analysis of the evolution of imports at the beginning of the investigation will be based on the information provided by the petitioner and the data provided by the RFB. Preliminary and final determinations will be made based on this information and the information provided by the other parties after the investigation has commenced. For example, an importer can provide documentary proof that the product exported / purchased by him has a different origin and that the declared origin is incorrect, which will affect the volume and value of imports of the investigated product and the foreign like product, among others. indicators. For this reason, import data contained in SDCOM advice and technical notes may vary throughout the investigation.

Figure 26: Analysis of import data for the product under investigation

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<i>Receipt of Petition</i>



SDCOM requests RFB to import product data as per NCM indicated in petition



RFB import data is debugged by SDCOM staff to ensure that only imports of the investigated product and the foreign like product are considered



Product data obtained in this way is used for the preparation of the opening opinion.



Information provided by other parties after the investigation has commenced will be considered for preliminary and final determination purposes.

Source: Ministry of Economy / SDCOM

48. What are the conditions for a cumulative analysis of the effects of dumped imports?

As provided in art. 31 of Decree No. 8,058 of 2013, when imports of a product from more than one country are simultaneously investigated covering the same dumping investigation period, their effects may be assessed cumulatively if it is found that:

I - the dumping margin found for imports from each country is not *de minimis* (see question 35);

II - the volume of imports from each country is not insignificant (see question 51); and

III - the cumulative assessment of the effects of those imports is appropriate in view of the conditions of competition between the imported products and the conditions of competition between the imported products and the domestic like product.

It should be noted that import volumes of the investigated product for (i) any producers, exporters or countries for which *de minimis* dumping margin was established and (ii) countries with insignificant import volumes will be considered as another factor of injury (see question 6).

49. What happens if the volume imported from one source is not significant?

According to item III of art. 74 of Decree 8.058 of 2013, the investigation will be terminated without the imposition of duties when the volume of dumped imports is insignificant, pursuant to paragraphs 2 and 3 of art. 31 of the aforementioned Decree. The volume of imports of the investigated or dumped product from a given country will be considered insignificant when it is less than 3% (3%) of the total Brazilian imports of the investigated product and the similar imported product (see questions 7 and 8).

If the group of countries that individually account for less than 3% (three percent) of the total Brazilian imports of the investigated product and the foreign like product represent more than 7% (seven percent) of the total Brazilian imports of these products, the volume of the investigated imports or the volume of the dumped imports of each country will not be considered insignificant. It should be noted that in the negligible volume analysis only the dumped import volumes should be considered. Therefore, imports from investigated companies or countries whose dumping margins are *de minimis* throughout the investigation should not be considered as investigated imports (see question 35). Given that the dumping margin and the volume of dumped imports calculated for the initiation of the investigation may change throughout the proceeding, as interested parties submit new information to the file, it is possible that the investigation will be terminated without application of anti-dumping duty for certain producers or exporters and investigated countries. Should this occur, the import volume for these producers or exporters and countries should be considered as import volume of the foreign like product, and no longer as imports of the investigated product or dumped imports.

50. How is the effect of the dumped imports on domestic prices of the like product on the Brazilian market analyzed?

The effect of dumped imports on domestic industry prices must be evaluated under three aspects, as provided for in 2 of art. 30 of Decree No. 8,058 of 2013:

- I - The existence of significant price undercutting of the dumped imports in relation to the price of the like product in Brazil (question 53);
- II - Existence of significant price depression of the like product in Brazil (question 54); and
- III - Existence of significant suppression of the price increase of the like product in Brazil that would have occurred in the absence of the dumped imports (question 55).

Figure 27: Analysis of the effect of dumped imports on prices of the like product in the Brazilian market

(1) Price undercutting of imports

(2) Similar product price depression in Brazil

(3) Suppression of similar price increase in Brazil

Source: Ministry of Economy / SDCOM

51. What is undercutting for the purpose of injury analysis?

For the purpose of injury analysis, the price of the dumped imports is undercut by the price of the like product in Brazil, when the domestic price in Brazil of the product under investigation is lower than the price of the like product in Brazil. .

52. What is and is the existence of price depression for injury analysis purposes?

For the purpose of injury analysis, there is a price depression when the price of imports of the product under investigation has the effect of significantly lowering the price of the Brazilian like product.

53. What is and how is price suppression found for injury analysis purposes?

For the purpose of injury determination, price suppression is found to exist when the price of imports of the product under investigation has the effect of significantly impeding price increases due to cost increases that would have occurred. in the absence of such imports.

54. How is the impact of dumped imports on domestic industry indicators analyzed in the determination of injury?

Under the terms of 3 of art. 30 of Decree 8.058 of 2013, the examination of the impact of dumped imports on the domestic industry will include an assessment of all relevant economic factors and indices related to the situation of the domestic industry, including actual or potential decline in sales, profits, production, market share, productivity, return investments and the degree of utilization of installed capacity.

In addition, actual or potential negative effects on cash flow, inventories, employment, wages, domestic industry growth and the ability to raise funds or investments will be considered. Factors affecting domestic prices will also be

assessed, including the extent or magnitude of the dumping margin (see question 58).

Figure 28: Impact of dumped imports on the domestic industry

The examination of the impact of dumped imports on the domestic industry assesses all factors related to the situation of the domestic industry, including:

Actual or potential fall in

- *sales;*
- *profits;*
- *production;*
- *participation in*
- *market;*
- *productivity;*
- *return on investments; and*
- *degree of utilization of installed capacity.*

Factors Affecting Domestic Prices

- *magnitude of the dumping margin;*
- *costs;*
- *cost-to-price ratio.*

Actual or potential negative effects on

- *cash flow;*
- *stocks;*
- *employment;*
- *salary;*
- *growth of the domestic industry; and*
- *ability to raise funds.*

Source: Ministry of Economy / SDCOM

It should be clarified that SDCOM analyzes the evolution of each of the above indicators over the five injury investigation sub periods and that none of the economic factors or indices, alone or together, will necessarily be able to lead to the decisive conclusion.

All of the above indicators are analyzed based on data provided by the petitioner and verified on the spot by SDCOM, so that they may undergo changes to the throughout the investigation. It should be noted that the analysis of the magnitude of the dumping margin also considers information

submitted by other interested parties after the initiation of the investigation through their replies to the questionnaires sent by SDCOM (question 58). SDCOM analyzes all indicators provided for in 3 of art. 30 of Decree No. 8,058 of 2013, both in terms of volume (whether there was a real or potential decrease in sales volume, changes in the domestic industry's share of the market, decrease in production volume, increase in inventories, etc.), in financial terms (actual or potential fall in net revenue, profits, return on investment, etc.).

Figure 29: Injury Analysis in SDCOM Opinions

Analysis related to domestic industry sales volume

- *Sales amount*
- *Share of sales volume in the market*
- *Brazilian*
- *Production and installed capacity utilization*
- *Stocks*
- *Employment, productivity and wage bill*

Analysis related to the domestic industry financial indicators

- *Income Statement*
- *Net Revenue*
- *Weighted average prices*
- *Results and margins*
- *Costs*
- *Cost / Price ratio*
- *Magnitude of dumping margin*
- *Cash flow*
- *Return on investments*
- *Ability to raise funds or investments*

Source: Ministry of Economy / SDCOM

55. How is the installed capacity (effective and nominal) calculated?

According to the general rule, the calculation of installed capacity should consider the following assumptions:

I - nominal capacity is the maximum quantity that a production system can produce uninterruptedly disregarding losses and considering all of the company's equipment, including those not currently in use. Therefore, it is the productive capacity obtained in a 24 (twenty four) hours workday, on 365 (three hundred and sixty five) days of the year, ignoring the efficiency losses

resulting from maintenance shutdowns, setups and error losses. production scheduling and lack of inputs; and

II - effective capacity refers to the company's maximum production capacity in a normal operating working day and under realistic working conditions, considering the planned losses of this capacity.

Thus, to calculate the effective installed capacity, it is recommended that the following be considered:

- a) number of shifts and normal hours of operation of the plant;
- b) only machinery and equipment in operation;
- c) scheduled shutdowns for setup (product exchange), periodic maintenance measures, repair, cleaning, shifts, breaks for rest and meals, quality sampling, etc.;
- d) full availability of labor, raw materials, utilities and other inputs; and
- e) only the conditions usually used by the company for the use of contracting services or the use of production facilities out of the plant.

It should be emphasized that, when calculating the effective installed capacity, the authority should not consider unplanned shutdowns and losses, such as unscheduled maintenance, default equipment shutdowns, and product losses due to quality issues.

Interested parties may request adjustments to better reflect their production processes and the particularities of the case, which will be evaluated by the investigating authority, if they are accompanied by justifications and robust evidence to support them.

56. What is the purpose and how is the magnitude of the dumping margin determined?

The magnitude of the dumping margin, also known as the magnitude of the dumping margin, is intended to assess how the dumping margin of the producers, exporters and investigated countries affected the domestic industry by examining what would be the impact on domestic prices of the like product if exports of the product object of investigation for Brazil had not been carried out at dumped prices.

To this end, SDCOM seeks to quantify the amount of exports of the product under investigation would come to Brazil, considering the costs of hospitalization, if the amount referring to normal value were practiced by

these producers, exporters or countries in their exports. Normal value is used as the basis of this analysis since the corresponding amount represents the lowest price at which a company can export a particular product without incurring dumping,

In order to determine the normal value interned in Brazil, SDCOM first needs to put normal value in the CIF condition since, as a rule, normal value for the purpose of calculating the dumping margin is established in the ex factory condition. Thus, the normal ex-factory value is increased by international freight and insurance, selling expenses incurred on exports, inventory maintenance costs and other expenses related to the export of the product under investigation. Then, the normal CIF value interned in Brazil is determined by adding amounts related to import taxes (import tax, AFRMM - when applicable), between others) and hospitalization expenses (port storage expenses, foreman, cargo release, among others).

The normal value interned in Brazil, as a rule under the CIF condition, will be compared with the selling price of the Brazilian like product practiced by the domestic industry for the purpose of analyzing the magnitude of the dumping margin.

It is noted that the analysis of the magnitude of the dumping margin is performed only for the investigation period of dumping.

57. What is the threat of injury?

Under the terms of art. 33 of Decree 8.058 of 2013, the determination of threat of material injury to the domestic industry will be based on the possibility of clearly foreseeable and imminent events that could change the conditions in order to create a situation in which material injury would occur to the domestic industry as a result of additional dumped imports.

In the threat analysis, one must therefore assess:

- I - the possibility of future events that may change current conditions;
- II - the possibility of additional imports of the dumped product and its conditions; and
- III - the possibility of these additional imports causing material injury to the domestic industry.

In this sense, the expectation as to the occurrence of future events that could

change the current conditions should be based on the evidence contained in the file and not on mere allegations, conjecture or remote possibility.

In turn, consideration of the possibility of additional imports of the dumped product and the conditions under which such imports will take place will involve consideration, inter alia, of the following factors (Art. 33 4 and 5):

I - significant growth rate of the dumped imports, indicating the possibility of a substantial increase in these imports;

II - sufficient idle capacity or imminent substantial increase in production capacity in the exporting country, indicating the possibility of a significant increase in dumped exports to Brazil;

III - existence of third markets capable of absorbing the possible increase of exports and of trade defense measures in force or of ongoing investigations in third countries that may justify trade diversions of the product to Brazil;

IV - imports made at prices that will have the effect of significantly reducing or preventing domestic price increases and which will probably increase the demand for additional imports; and

V - existence of inventories of the product under investigation.

Finally, the analysis of the possibility of these additional imports causing material injury to the domestic industry should be made based on the criteria provided for in 3 of art. 30 of Decree 8.058 of 2013 concerning the impact analysis of the dumped imports carried out for the purpose of determining material injury (see question 56). Finally, the analysis as to whether these additional imports could cause material injury to the industry should be made based on the criteria provided for in 3 of art. 30 of Decree 8.058 of 2013 concerning the impact analysis of the dumped imports carried out for the purpose of determining material injury (question 46).

The conclusion that additional dumped imports are imminent and that, if no anti-dumping measure is adopted, would cause material injury to the domestic industry, should be based on the joint analysis of the factors provided for in art. 33 of the aforementioned Decree, none of these factors being in isolation capable of necessarily leading to the definitive conclusion.

58. What is the material delay in setting up the domestic industry for injury characterization?

As established in item III of art. 29 of Decree No. 8,058 of 2019, also material delay is considered injury in the implementation of the domestic industry. SDCOM, like most WTO Members, has no jurisprudence in analyzing material

delay.

It should be noted that, despite the various discussions on this hypothesis of harm held within the WTO Rules Negotiating Group, the Members of that Organization have not yet reached consensus on the criteria to be considered for the purpose of determining material delay to the WTO. domestic industry, nor about the criteria for determining whether an industry is in the deployment phase.

In any event, according to the ruling of the *DS513 Morocco panel - Anti-Dumping Measures on Certain Hot-Rolled Steel from Turkey*⁸ established under the WTO Dispute Settlement Body, material delay in setting up the domestic industry is one of the ways injury covered by the Antidumping Agreement and, by definition, can only occur in situations in which the domestic industry is not yet fully established.

59. How is the issue of injury addressed in sunset reviews of anti-dumping measures?

In sunset reviews, as provided in art. 106 of Decree 8.058 of 2013, SDCOM must assess whether the termination of the anti-dumping duty would most likely lead to the continuation or resumption of dumping and related injury. Thus, in sunset reviews, it is not necessary to establish material injury to the domestic industry, but to determine positively the likelihood of continuation or recovery of the injury, should the anti-dumping duty be terminated.

The determination that the extinction of the right will most likely lead to the continuation or recovery of the injury should be based on an objective examination of all relevant factors, including those listed in art. 104 of Decree No. 8,058 of 2013, namely:

- I - the situation of the domestic industry during the definitive validity of the law;
- II - the volume of imports of the product subject to the measure during its period and the likely trend of these imports, in absolute terms and relative to the production or consumption of the like product in the Brazilian domestic market;
- III - the probable price of the dumped imports and their likely effect on the prices of the like product in the Brazilian domestic market;
- IV - the probable impact of the dumped imports on the domestic industry,

⁸ https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds513_e.htm

assessed based on all relevant economic factors and indices defined in 2 and 3 of art. 30 of the aforementioned Decree;

V - changes in market conditions in the exporting country, in Brazil or in third markets, including changes in the supply and demand of the like product, due, for example, to the imposition of trade defense measures by other countries;

VI - the likely effect of factors other than dumped imports on the domestic industry, such as:

- (a) volume and price of imports not subject to the anti-dumping duty;
- (b) the impact of any import liberalization processes on domestic prices;
- (c) contraction in demand or changes in consumption patterns;
- (d) practices restricting trade in and competition between domestic and foreign producers;
- (e) technological progress;
- (f) export performance;
- (g) domestic industry productivity;
- (h) captive consumption; and
- (i) imports or resale of the product imported by the domestic industry.

Therefore, there are criteria related to the analysis of how the domestic industry and the imports subject to the anti-dumping measure behaved during the period of the anti-dumping measure, as well as elements concerning the likely behavior of this industry and these imports after the review. The international market behavior of the investigated product during the period of the measure and after the review should also be assessed during the sunset review.

It should be noted that for the purpose of initiating a sunset review, the analysis of the likelihood of continuation or recovery of injury to the domestic industry will be made by SDCOM based on information provided by the domestic industry in the petition. By practice of this Sub-Secretariat, this information will, as a rule, be subject to on-the-spot verification to be carried out prior to the commencement of the review, if there is enough time available to do so during the petition stage.

Such practice is based on the principles of efficiency, provided for in art. 2 of Law No. 9,784 of 1999, and in art. 37 of the Federal Constitution of 1988, and the procedural speed, contained in item LXXVIII of art. 5th of the Magna Carta.

It should be noted, however, that the on-the-spot verification of the petitioner need not necessarily be carried out prior to the commencement of the review.

In any case, if so, the data validated by SDCOM are considered in the initial opinion.

Once the sunset review has commenced, SDCOM will send questionnaires to other domestic producers of the like product whose data have not been submitted in the application, whose replies may also be subject to on-the-spot verification procedure. SDCOM's preliminary (if any) and final determinations of the likelihood of continuation or recovery of injury to the domestic industry will then be made on the basis of the data contained in the petition, the replies to questionnaires submitted by other domestic producers, the results of the verifications, on-the-spot and other information provided by stakeholders throughout the review.

Accordingly, during the administrative proceeding, there may be changes regarding the determination of the likelihood of continuation or recovery of injury to the domestic industry presented at the beginning of the investigation.

60. What is the difference between continuation and resumption of damage?

The injury continuation scenario occurs when the analysis of the situation of the domestic industry during the duration of the measure finds that there is still injury caused by imports subject to the anti-dumping duty. SDCOM then assesses the likelihood that such injury will continue should the right be terminated.

In turn, the injury recovery scenario occurs when the analysis indicates that the injury has been neutralized or that any injury incurred during the review period was not caused by the imports subject to duty during the duration of the measure. In this case, SDCOM assesses the likelihood that the domestic industry will again be injured by dumped imports if the duty is terminated. Thus, it is possible that the right may be extended even if the injury to the domestic industry has ceased.

Figure 30: Continuation and Resumption of Damage

Continuation of Injury

- *The domestic industry continues to suffer injury from imports subject to the anti-dumping duty.*
- *SDCOM analyzes the likelihood that this injury will continue if the right is terminated.*

Resumption of Injury

- *The injury was neutralized or any injury incurred during the review period*

was not caused by the imports subject to duty during the duration of the measure.

- *SDCOM assesses the likelihood of recovery of the injury caused by imports at dumped prices should the duty be terminated.*

Source: Ministry of Economy / SDCOM

As provided in art. 108 of Decree 8.058 of 2013, the determination that the termination of the right will most likely lead to the continuation or recovery of the injury should be based on an objective examination of all relevant factors, including those mentioned in art. 104 of the same Decree:

I - the situation of the domestic industry during the definitive validity of the law;
II - the volume of imports of the product subject to the measure during its period and the likely trend of these imports, in absolute terms and relative to the production or consumption of the like product in the Brazilian domestic market;

III - the probable price of the dumped imports and their likely effect on the prices of the like product in the Brazilian domestic market;

IV - the probable impact of the dumped imports on the domestic industry, assessed based on all relevant economic factors and indices defined in 2 and 3 of art. 30;

V - changes in market conditions in the exporting country, in Brazil or in third markets, including changes in the supply and demand of the like product, due, for example, to the imposition of trade defense measures by other countries; and

VI - the likely effect of factors other than dumped imports on the domestic industry, such as:

- (a) volume and price of imports not subject to the anti-dumping duty;
- (b) the impact of any import liberalization processes on domestic prices;
- (c) contraction in demand or changes in consumption patterns;
- (d) practices restricting trade in and competition between domestic and foreign producers;
- (e) technological progress;
- (f) export performance;
- (g) domestic industry productivity;
- (h) captive consumption; and
- (i) imports or resale of the product imported by the domestic industry.

61. What are the possible criteria for establishing probable price in the context of the continuation and resumption of injury analysis, in particular in a resumption of dumping scenario?

As provided in art. 108 of Decree No. 8,058 of 2013, the determination that the extinction of the duty will most likely lead to the continuation or resumption of injury should be based on the objective examination of all relevant factors, including those cited in art. 104 of the same Decree, among which are "III - the likely price of the dumped imports and their likely effect on the prices of the like product in the Brazilian domestic market."

Specifically in the resumption of dumping scenario, the decision about the likely price may be based on, for example, (i) the alternatives submitted in the petition; (ii) the export data of the like product to third markets submitted by the foreign producers or exporters; and (iii) the export data of the like product from the investigated origins to third countries available in public international trade databases. In the case of alternative iii) abovementioned, SDCOM may consider, among others, the scenarios of exports from each investigated origin to all destinations in the world jointly; to its largest destination, in terms of volume; to its five largest destinations, in terms of volume, jointly and/or separately; to its ten largest destinations, in terms of volume, jointly and/or separately; and for destinations in South America, jointly and/or separately. It should be noted that other alternatives and likely price parameters may be analyzed by SDCOM during the course of the sunset review, provided that supporting evidence is brought to the record or at SDCOM's discretion.

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PART I.5. CONCEPTUAL AND METHODOLOGICAL ASPECTS ABOUT CAUSALITY

62. How is the causal analysis made between the dumped imports and the injury incurred by the domestic industry?

In order for an anti-dumping measure to be applied, it is necessary to establish not only the existence of dumping and injury to the domestic industry, but also the causal link between these two factors. Thus, as provided in art. 32 of Decree 8.058 of 2013, it has to be shown that, through the effects of dumping, the dumped imports contributed significantly to the injury suffered by the domestic industry, even if they are not the sole cause of this injury.

The demonstration of causation should be based on (i) examination of the relevant evidence submitted (in support of causation) and (ii) examination of known factors other than dumped imports which may be at the same time causing injury to the domestic industry. Please note that possible other causes are those specifically brought to SDCOM's attention by interested parties, provided they are accompanied by appropriate justification and relevant evidence, and any other known causes known to SDCOM. Examples of other

factors that may be relevant to causality analysis are presented in the figure below.

If there is injury caused for reasons beyond the dumped imports, it cannot be attributed to these imports and, depending on their magnitude, anti-dumping measures may not be recommended. The effects of the dumped imports and the effects of possible other causes of injury to the domestic industry should therefore be separated and distinguished.

Figure 31: Causality Analysis

Causality analysis

- *Demonstration that, through the effects of dumping, dumped imports significantly contributed to the injury experienced by the domestic industry.*
- *Demonstration of causation should be based on examination:*
 - I - the relevant evidence presented*
 - II - of known factors other than dumped imports that may simultaneously be causing injury to the domestic industry, and such injury caused by reasons other than dumped imports cannot be attributed to them.*

I - Relevant evidence submitted

- *Evidence of causal link between dumped imports and injury to the domestic industry.*

II - Other factors that may be causing injury to the domestic industry

- *the volume and price of non-dumped imports;*
- *the impact of any import liberalization processes on domestic prices;*
- *contraction in demand or changes in consumption patterns;*
- *practices restricting trade by domestic and foreign producers;*
- *competition between domestic and foreign producers;*
- *technological progress;*
- *export performance;*
- *productivity of the domestic industry;*
- *captive consumption; and*
- *imports or resales of the product imported by the domestic industry.*

Source: Ministry of Economy / SDCOM

PART I.6. CONCEPTUAL AND METHODOLOGICAL ASPECTS ON ANTIDUMPING

MEASURES

63. What are the types of anti-dumping measures?

There are two types of anti-dumping measures: (i) anti-dumping duties and (ii) price undertakings.

(I) Anti-dumping duties consist of a surcharge on imports of the product for which such measures were applied, at or below the dumping margin found. The amount of cash to be collected under anti-dumping duty may be defined by the establishment of ad valorem (i.1) or specific (i.2) rates.

The anti-dumping duty applied in the form of ad valorem tax (i.1) consists of a percentage applied to the customs value of the goods, based on Cost, Insurance and Freight - CIF, pursuant to 5 of art. 78 of Decree No. 8,058 of 2013.

In turn, the anti-dumping duty applied in the form of a specific tax rate (i.2) is fixed in foreign currency and converted into national currency, pursuant to 6 of art. 78 of Decree No. 8,058 of 2013. In this case, the amount to be collected is usually defined by unit of measure and can be determined, for example, by ton or per kilo.

Finally, pursuant to 4 of art. 78 of Decree 8.058 of 2013, the anti-dumping duty can be defined as a combination of ad valorem and specific rates.

On the other hand, (II) price undertakings are voluntary agreements entered into by the foreign producer or exporter in which he undertakes to revise his export prices in order to avoid anti-dumping duties. They are entered into with SDCOM and subject to GECEX approval. (see questions 71 and 178 to 181)

Figure 32: Anti-dumping duty rate types

Ad valorem

Percentage Incident on Customs Value of Goods

Example: If the customs value of the goods is US \$ 1,000.00 and the ad valorem tax is applied in the amount of 15%, the amount of duty to be collected will be US \$ 150.00.

Specific

Applicable unit value on the quantity of the merchandise in the established unit

Example: If 15 tonnes of a product subject to a hypothetical anti-dumping duty of US \$ 200 per tonne is imported, the amount of the duty to be collected will

Source: Ministry of Economy / SDCOM

64. What are the main differences between provisional and definitive measures?

The provisional anti-dumping measures are applied only in original anti-dumping investigations (see question 68), in cases where GECEX deems such measures necessary to prevent injury during the investigation, under the terms of item III of art. 66 of Decree No. 8,058 of 2013.

Under the terms of 2 of art. 66 of Decree No 8.058 of 2013, the provisional measures shall apply in the form of provisional duty or guarantee, the value of which shall be equivalent to that of provisional duty. Provisional duties will be collected and guarantees will be provided by cash deposit or bank guarantee, and RFB will be responsible for establishing the collection procedures.

To find out what happens to guarantee deposits in the case of positive or negative final determination, see the answer to question 193.

In turn, definitive anti-dumping measures are applied upon termination of the anti-dumping investigation or sunset review and may take the form of definitive duties or price undertakings. Definitive anti-dumping duties may be applied in the form of ad valorem or specific, fixed or variable rates, or by a combination of both, as provided for in 4 of art. 78 of Decree No. 8,058 of 2013. (see question 65).

Alternatively, under art. 67 of Decree No. 8,058 of 2013, the antidumping investigation may be suspended without application of provisional measures or definitive duties for producers or exporters who have voluntarily undertaken to revise their export prices or to cease exports at dumping prices destined for Brazil, provided that SDCOM considers the undertaking satisfactory to eliminate the injury to the domestic industry caused by imports at dumping prices (see questions 71 and 178 to 181).

In the case of definitive measures, the duty should be applied or the price undertaking approved at a level lower than the dumping margin found, provided that such level is sufficient to eliminate injury to the domestic industry,

as provided for in arts. 67, caput, and 78, Paragraph 1 of Decree No. 8,058 of 2013.

Regardless of how it is applied, the antidumping measure, whether provisional or definitive, may never exceed the dumping margin established, as per 1 of art. 66, 4 of art. 67 and 2 of art. 78 of Decree no. 8,058, of 2013.

Figure 33: Ways of Applying Anti-Dumping Measure

Provisional Measures

- *Provisional duty to be collected by RFB*
- *Guarantees given by cash deposit or bank guarantee*

Definitive measures

- *Law applied in the form of ad valorem or specific, fixed or variable rates, or the combination of both*
- *Price undertaking voluntarily assumed by foreign producers or exporters*

Source: Ministry of Economy / SDCOM

65. When can provisional anti-dumping duties be applied?

Under the terms of art. 66 of Decree No 8.058 of 2013, the provisional measures are intended to protect the domestic industry from dumping during the original investigation. The positive preliminary determination of dumping, injury to the domestic industry and the causal link between them, published by means of SECEX Circular, is a prerequisite for the provisional measures (see question 129).

Following a positive preliminary determination, SECEX may refer to the Management Executive (Gecex) recommendation on the application of provisional duties.

However, the referral of the recommendation, as well as the application of provisional measure, are not mandatory in cases of positive preliminary determination.

If Gecex deems that the provisional measures recommended by SECEX are necessary, once the legal requirements have been met, it may publish a Resolution on its decision in the DOU, including the names of the producers or exporters.

The provisional anti-dumping measure may be applied in the form of

provisional duty or guarantee as provided in art. 66 of Decree 8.058 of 2013 and its value cannot exceed the dumping margin (see question 65 and 66).

66. Is provisional anti-dumping measures applicable in sunset reviews?

It is not appropriate to impose provisional anti-dumping measures on sunset reviews since the definitive anti-dumping measures applied at the closure of the original investigation remain in force for the duration of the review procedure pursuant to Paragraph 2 of art. 112 of Decree No. 8,058 of 2013.

67. How long can provisional anti-dumping measures be applied?

Under the terms of art. 66, 6, of Decree 8.058 of 2013, the provisional anti-dumping measures may apply for a period of up to four (4) months. In exceptional cases, this period may be up to six (6) months, when the competent authorities decide to extend the period, at the request of exporters representing that may present new facts that change the final decision.

Exporters wishing to extend the period of application of the provisional anti-dumping measure must so request in writing within 30 (thirty) days prior to the expiry of period of the measure, according to art. 66 of Decree 8.058 of 2013. It should be noted that, should a provisional anti-dumping measure be applied below the dumping margin, the periods provided for in Paragraph 6 shall be 6 (six) and 9 (nine) months, respectively.

68. How long can definitive anti-dumping duties be applied?

According to art. 92 of Decree 8.058 of 2013, anti-dumping duties and price undertakings will remain in force as long as the need to eliminate the injury to the domestic industry caused by the dumped imports continues. In spite of that, as provided in art. 93 of the same legal provision, any definitive anti-dumping duty shall be terminated within five (5) years, counting from the date of its application or the latest revision covering dumping, injury to the domestic industry and the causal link between both.

The term of definitive antidumping duties is regulated by art. 132 of the Civil Code, according to which "periods of months and years expire on the day of the same number of commencement, or on the immediate day, if the exact correspondence is lacking".

Thus, the deadlines of the definitive antidumping duties applied expire on the

day of the same number as the date of publication in the DOU of the Gecex Resolution that applied the duty in question, and the end of the term of a measure and its expiry day must not be distinguished. Thus, a definitive antidumping measure applied on 01/18/2021, as a rule, should be in force until 01/18/2026, this being the last day of its validity and also the day on which it expires.

69. How long can price commitments be in force?

Although the Decree 8.058 of 2013 does not provide for the duration of the price undertakings, such measures generally remain in force since their approval, which may still occur during the original anti-dumping investigation, as long as the definitive anti-dumping duty on imports continues of the investigated product.

It should be remembered that according to art. 71 of Decree 8.058 of 2013, in case of breach of the terms of the commitment, the investigation, which had been suspended without the application of provisional measures or definitive duties, will be resumed pursuant to the caput of art. 67 of Decree 8.058 of 2013, and the rights will be immediately applied.

70. Can the anti-dumping duty exceed the dumping margin?

No. Under no circumstances may the anti-dumping duty, provisional or general, or the price increase under the terms of a price undertaking, be allowed to exceed the dumping margin found in view of the provisions of art. 9.3 of the Anti-Dumping Agreement, 1 of art. 66, caput of art. 78 and 4 of art. 67 of Decree No. 8,058 of 2013.

It should be noted that anti-dumping duty and dumping margin consist of different concepts. To return to the difference between such concepts, questions 27 and 65 are recommended.

71. When should anti-dumping duties be lower than the dumping margin (lesser duty)?

Anti-dumping duties should be lower than the dumping margin whenever an amount below the dumping margin is sufficient to eliminate the injury to the domestic industry caused by dumped imports, pursuant to the caput of Art. 78 of Decree No. 8,058 of 2013.

This provision is known as the lesser duty rule or lesser duty rule, and consists of

a WTO Plus provision, that is, an additional commitment to those assumed under the WTO, since, on the one hand, art. 9.1 of the Anti-Dumping Agreement only recommends that the anti-dumping duty be lower than the margin if it is appropriate to eliminate the injury Domestic industry⁹, Decree No. 8,058 of 2013, determines the application of the lowest duty in all cases, and lists the situations in which this rule will not apply.

In this sense, by applying the trade defense remedy at a lower dose to the cooperating companies, the Brazilian Government encourages the co-operation of the investigated exporters in the dumping proceedings, applying at the end of the investigation a measure that is solely intended to restore the fair trade conditions (free from the injury effects of dumping found), keeps the Brazilian market exposed to international competition and mitigates concerns about possible price increases by the Brazilian domestic industry.

It should be noted that the anti-dumping duty to be applied will necessarily correspond to the dumping margin for the producers or exporters whose dumping margin was established on the basis of the best information available. That is, for those interested parties who did not cooperate with the investigation, or who did not adequately submit their information and documents, it is not possible to calculate the lesser duty, as established by art 78, 3, I of the Decree

72. When will the anti-dumping duties necessarily correspond to the dumping margin?

The antidumping duty must necessarily correspond to the dumping margin in the cases listed in items I to III of 3 of art. 78 of Decree No. 8.058, 2013, which are reproduced below:

I - producers or exporters whose dumping margin was ascertained based on the best information available or whose anti-dumping duty is applied pursuant to art. 80 of Decree no. 8,058, of 2013) (see questions 73 and 173);

II - positive redeterminations related to item II of the caput of art. 155 of Decree No. 8,058 of 2013 and;

III - revisions:

(a) by change of circumstances, supported by Subsection I of Section II of

⁹ Antidumping Agreement, Art. 9.1: *The decision whether or not to impose an anti-dumping duty in cases where all requirements for the imposition have been fulfilled, and the decision whether the amount of the anti-dumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing Member. It is desirable that the imposition be permissive in the territory of all Members, and that the duty be less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry.*
9.1

Chapter VIII of Decree No 8.058 of 2013, that involve only the calculation of the dumping margin;

(b) for new producers or exporters under Subsection I, Section III, Chapter VIII of Decree 8.058 of 2013;

(c) anti-countervailing duty under Subsection II, Section III, Chapter VIII of Decree No 8.058 of 2013, where the anti-dumping duty in force has been applied on the basis of the dumping margin.

Figure 34: Cases in which the anti-dumping duty to be applied will necessarily correspond to the dumping margin

34

I - Producers or exporters whose dumping margin was established on the basis of the best information available or whose anti-dumping duty was applied pursuant to 80 of Decree No. 8,058 of 2013

II - positive redeterminations related to item II of the caput of art. 155 of Decree No. 8,058 of 2013

III - In reviews

(a) by changing circumstances involving only the dumping margin calculation

(b) for new producers or exporters

(c) anti-circumvention, whenever the existing anti-dumping duty has been applied on the basis of the dumping margin

Source: Ministry of Economy / SDCOM

73. How are the anti-dumping duties recommended by SDCOM calculated?

The absolute dumping margin is defined as the difference between normal value and the export price, while the relative dumping margin is the ratio of the absolute dumping margin to the export price.

For the purpose of the final determination, an individual dumping margin is calculated for each of the producers or exporters that replied in a timely manner to the questionnaire based on their own primary data provided by the company and verified on the spot by SDCOM (see questions 29, 32 and 156).

The following is an example of calculation of absolute and relative dumping margins from normal value and export price:

Figure 35: Dumping margin

(A) Normal Value Valor Normal US\$/t	(B) Export Price Preço de Exportação US\$/t	(A-B) Margem de <i>Dumping Absoluta</i> Absolute Dumping Margin US\$/t	(A-B)/B Relative Dumping Margin Margem de <i>Dumping Relativa</i> (%)
1.500,00	1.200,00	300,00	25,0%

On the other hand, as explained in the answer to question 73, anti-dumping duties should be lower than the dumping margin where an amount below this level is sufficient to eliminate the injury to the domestic industry caused by dumped imports, pursuant to art. 78 of Decree 8.058 of 2013. This avoids the application of an excessive anti-dumping duty.

The criteria to be adopted for the determination of the anti-dumping duty vary depending on the number of individual exporting producers investigated. Usually the producers / exporters who replied to the questionnaires and were individually analyzed are grouped into one group for the purpose of the anti-dumping duty known as Group I, known but not individually analyzed producers / exporters are aggregated in what is known as Group II, while the other producers / exporters are grouped in a third group (Group III).

It should be noted that the lower right should apply only to the first group of producers or exporters (see item i below), and this obligation is not required in the cases listed in items I to II of art. 78 of Decree No. 8,058 of 2013 (see Question 74).

(i) First group: selected producers or exporters:

Once the dumping margin is established for each of the selected producers or exporters on the basis of their replies to the questionnaires, it is verified whether dumping found was lower than the undercutting margin¹⁰ observed in the company's exports to Brazil during the investigation period of dumping.

¹⁰ Undercutting margin, for the purpose of determining the antidumping duty, is calculated based on the comparison between the CIF price of export operations, internally to the Brazilian market, and the average sales price of the domestic industry in the Brazilian domestic market, adjusted to reflect the price of the domestic industry in a scenario of no injury to its profitability due to imports at dumped prices. It should be noted that the undercutting dealt with in this topic is not to be confused with that defined in subsection I of paragraph 2 of article 30 of Decree No. 8,058, of 2013, for purposes of injury analysis.

If so, the imposition of an individual anti-dumping duty on the same amount of dumping margin calculated for the selected producer or exporter is recommended. On the other hand, should the undercutting be lower than the dumping margin found, it is recommended to apply anti-dumping duty on the basis of the undercutting found in the company's exports to Brazil.

(ii) Second group: unselected producers or exporters:

In the case of producers or exporters for whom exports to Brazil of the product under investigation were identified in the dumping investigation period but not selected in accordance with the provisions of art. 28 of Decree No. 8,058 of 2013¹¹, art. 80 of Decree 8.058 of 2013¹¹, determines that the respective anti-dumping duties will be determined on the basis of the weighted average dumping margins found for the producers or exporters included in the selection made pursuant to art. 28.

It should be noted that this calculation does not take into account the individual dumping margins calculated for the first group when they are non-existent (zero margin) or *de minimis* (less than 2%), as per 3 of art. 80 of Decree No. 8,058 of 2013.

It is also emphasized that this hypothesis will only occur in investigations for which producers or exporters were selected; otherwise, there will only be the groups mentioned in items i and iii.

iii) Third group: other producers or exporters (all others):

For other producers or exporters not identified in the RFB import data during the investigation period of dumping the anti-dumping duty is based on the best

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The same applies to selected producers or exporters who, in the course of the investigation, have denied access to necessary information, have not provided it in a timely manner, or have created obstacles to the investigation, in view of the provisions of 3 of art. 51 of Decree No. 8.058, 2013.

Figure 36: Criteria to be adopted for the determination of the anti-dumping duty

First group

¹¹ Determination that the analysis of individual cases would result in an unreasonable burden on the investigating authority or in impeding the completion of the investigation within the deadlines established in Decree No. 8,058 of 2013.

- *Selected producers or exporters.*
- *Individual dumping margins based on questionnaire replies.*
- *Comparison between individual dumping margin and undercutting in the producer's or exporter's exports to Brazil.*
- *Dumping margin lower than undercutting: anti-dumping duty equal to margin.*
- *Undercutting below dumping margin: anti-dumping duty based on undercutting.*
- *Lesser duty rule.*

Second Group

- *Unselected producers or exporters.*
- *Anti-dumping duties calculated on the basis of the weighted average dumping margins found for the selected producers or exporters (first group).*
- *Zero dumping or de minimis margins disregarded in the calculation.*
- *Existing group only in investigations in which producers or exporters were selected.*

Third Group

- *Producers or exporters not identified in the import data of the dumping investigation period.*
- *Selected producers or exporters who did not cooperate with the investigation.*
- *Anti-dumping duty based on the best information available.*

Source: Ministry of Economy / SDCOM

74. How is the lesser duty calculated?

Under the terms of art. 78 of Decree No 8.058 of 2013, anti-dumping duty means an amount of cash equal to or less than the dumping margin found. In accordance with paragraphs 1 and 2 of that Article, the anti-dumping duty to be applied shall be lower than the dumping margin where an amount lower than this margin is sufficient to eliminate the injury to the domestic industry caused by dumped imports. may exceed the dumping margin found in the investigation. This avoids the imposition of an excessive anti-dumping duty.

This amount is calculated in two steps: (1) calculation of the undercutting

observed in the company's exports to Brazil during the dumping investigation period; and (2) Comparison between the undercutting and the dumping margin found for the referred company. Note that the undercutting dealt with in this topic is not to be confused with that defined in item I of 2o of art. 30 of Decree No. 8,058 of 2013, used for injury analysis purposes. For injury purposes, the Undercutting is analyzed for the totality of investigated imports. For lower duty purposes, undercutting is calculated individually for each producer / exporter in the first group.

Such undercutting margin is calculated on the basis of a comparison between the domestic industry's average selling price in the Brazilian domestic market and the CIF price of the individually investigated foreign producers or exporters' export transactions interned in the Brazilian market. The comparison will take into account, where possible, customer category and product model.

Where necessary, the domestic industry's selling price considered for the purpose of undercutting margin calculation must be adjusted to reflect a non-injurious scenario arising from the dumped imports (non-injurious price). For the purposes of calculating the CIF price of export operations, the authority will add to the CIF export price the import tax (II), AFRMM and internalization costs.

Figure 37: Dumping Margin

(A)	(B)	(A-B)
Normal Value (US\$/t)	Export Price (US\$/t)	Absolute Dumping Margin (US\$/t)
1,500	1,200	300

Source: Ministry of Economy/SDCOM

Figure 38: Lesser Duty

(C)	(D)	(E)	(D-E)
Domestic Industry Price of Injury (US\$/t)	Price of the Domestic Industry of Non-Injury (US\$/t)	CIF price internalized in Brazil (US\$/t)	Lesser Duty (US\$/t)
1,600	1,700	1,500	200

Source: Ministry of Economy/SDCOM

If the undercutting (see figure above, with the example of US\$ 200.00/t) is

lower than the individual dumping margin, (see figure above, with the example of US\$ 300.00/t), it is deemed that, for this producer/exporter, this lower amount is sufficient to neutralize the injury and consequently its definitive antidumping duty will be established on the basis of the undercutting, resulting in a Lesser Duty (see figure above, with the example of US\$ 200.00/t).

In cases where the undercutting is higher than the individual dumping margin, the amount of the anti-dumping duty will be based on the dumping margin found for this producer/exporter.

75. What may happen to definitive anti-dumping duties as a result of a sunset review?

It is known that, based on art. 107 of Decree No. 8.058, 2013, in a sunset review, the authority must assess the likelihood of continuation or resumption of dumping and injury. In this context, the fact that the sunset review deals with the analysis of the likelihood of continuation or resumption of dumping impacts what may occur with the definitive antidumping duties.

As explained in question 36, when it comes to assessing the likelihood of continuation of dumping in a sunset review, there is, under SDCOM's practice, the establishment of a new dumping margin, even though this is not an obligation under the Antidumping Agreement. Thus, the duty may be determined based on the dumping margin calculated for the review period, if it is evidenced that said margin adequately reflects the behavior of producers or exporters during the entire review period, under the terms of 1 of this art. 107. In this situation, the amount of the duty cannot exceed the dumping margin calculated for the review period (see question 72), and the new duty may be in an amount lower, higher, or equal to the duty in force. It should be noted that the fact that the authority has calculated the dumping margin during the review does not necessarily mean that the recommended rate will follow the dumping margin, since one cannot be confused with the other.

It should be noted that the extended definitive anti-dumping duties may be maintained unchanged, for example, if the dumping margin calculated for the review period does not reflect the behavior of the producers or exporters during the entire review period (paragraph 2 of art. 107 of Decree no. 8.058, 2013). The analysis of the behavior of producers or exporters referred to in 1 and 2 of art. 107 will be conducted in a case-by-case analysis, in light of the evidence available to the investigating authority, ensuring the right to adversary proceedings and the full defense of the interested parties throughout the procedural instruction.

In turn, in a sunset review that examines the likelihood of resumption of dumping, when there are no exports from the country to which the antidumping measure applies or if there were only exports in non-representative quantities during the review period, according to 3 of art. 107, the probability of dumping resuming will be determined based on the comparison between the average internalized normal value in the Brazilian market and: i) the average sale price of the similar domestic product in the Brazilian market, ascertained for the review period; or ii) the average export price of other foreign suppliers to the Brazilian market in transactions made in representative quantities, ascertained for the review period.

In this context, if the average internalized normal value is higher in the comparison made in one of the two hypotheses mentioned in the previous paragraph, SDCOM will understand that the producer/exporter would need to practice dumping to export to Brazil again, so that it would be very likely that the extinction of the duty would lead to the resumption of dumping. In case of such a positive determination, SDCOM will recommend, under the terms of 4o of art. 107, that the duty under review be extended in an amount equal or lower than the duty in force, with no possibility of increasing the duty.

It should be noted, finally, that in a sunset review, the assessment of the existence of a *de minimis* dumping margin is not mandatory, according to WTO case law. In this sense, all relevant factors on the likelihood of continuation or resumption of dumping and injury will be taken into consideration by SDCOM in its recommendation on whether or not to extend antidumping duties.

In any cases of continuation or resumption of dumping, the extended definitive antidumping duties may be suspended based on art. 109 of Decree No. 8,058, 2013, in situations where there are doubts as to the likely future evolution of imports of the product subject to antidumping duty. Thus, SDCOM may recommend the extension of the duty with the immediate suspension of its application. The collection of the duty will be immediately resumed if the increase in imports occurs in a volume that could lead to the resumption of damage. Suspension is also possible for reasons of public interest (art. 3 of Decree No. 8.058, 2013), whose detailed information can be obtained in the Consolidated Guide on Public Interest in Trade Remedy¹².

In short, in a sunset review, duties may be (i) extended or (ii) terminated. In

¹²

<https://www.gov.br/produtividade-e-comercio-externo/pt-br/assuntos/comercio-externo/defesa-comercial-e-interesse-publico/guias>

case they are extended, they may be (i.1) altered (1 and 4 of art. 107 of Decree No. 8,058 of 2013 and/or art. 3 of Decree No. 8,058 of 2013) or (i.2) maintained (2 and 4 of art. 107 of Decree No. 8,058 of 2013). It should be noted that, in the events of extension of the antidumping duty, the collection thereof may be suspended, both pursuant to article 109 of Decree no. 8,058, of 2013, and for public interest (article 3 of Decree no. 8,058, of 2013):

Figure 39: Possible recommendations on whether or not to extend the antidumping duty in sunset reviews:

i) Modification of the amount

- *at a lower or higher amount: if the dumping margin calculated adequately reflects the behavior of producers or exporters during the entire review period (1 of art. 107)*
- *in a lower amount: in case of a resumption of dumping analysis (4o of art. 107).*

ii) Maintenance of the amount

- *if the margin calculated for the review period does not reflect the behavior of producers or exporters (2 of art. 107).*
- *in the event of a resumption of dumping analysis (4)*
- *if the dumping margin calculated in the review examining the continuation of dumping results in a margin identical to the duty in force*

iii) Suspension of collection of the duty

- *when there are doubts about the probable future evolution of imports (art. 109)*
- *for reasons of public interest (art. 3)*

iv) Termination of the duty

- *failure to prove that the termination of the antidumping measure would most likely lead to continuation or resumption of dumping and injury (art. 108)*

Source: Ministry of Economy / SDCOM

76. Are existing price undertakings automatically extended at the end of a sunset review concluded with a positive determination?

No, the extension is not automatic. Even if a request is made to extend a definitive antidumping duty applied to a product for which a price undertaking is in force, the review of the undertaking and its consequent

extension are not automatic. For this reason, all procedures for offering price undertakings must be carried out again as part of a sunset review.

The procedures can be found in questions 178 to 181.

77. What happens if the foreign producer or exporter violates the price undertaking?

The producer or exporter subject to price undertaking shall, whenever requested, provide periodic information on compliance of the undertaking and allow on-the-spot verification of the relevant data, otherwise the terms of the undertaking are found to be violated. If there is evidence of violation of the terms of the price undertaking, the producer or exporter will be given the opportunity to comment.

In case of violation of the price undertaking, as established by art. 71 of Decree No 8.058 of 2013, SDCOM will notify that producer or exporter and Gecex will publish an act with information regarding the resumption of the investigation and the immediate application of provisional duties or the application of definitive duties. Interested parties will be notified of the termination of the undertaking and of the provisional or definitive anti-dumping duties imposed.

PART II. FORMAL ASPECTS AND PROCEDURAL TERMS IN INVESTIGATIONS ANTIDUMPING

PART II.1. ABOUT DOCUMENTATION IN ANTIDUMPING INVESTIGATIONS

78. What legislation governs the formal aspects and procedural terms of the anti-dumping investigation?

Decree No. 8,058 of 2013 is the main document regulating the administrative procedures concerning the investigation and enforcement of anti-dumping measures. The normative acts presented below also govern the acts and terms anti-dumping investigations. Please note that the list below is not exhaustive:

SECEX Ordinance No. 41 of 2013 (preparation of petitions concerning original anti-dumping investigations);

SECEX Ordinance No. 44 of 2013 (sunset review of anti-dumping measures)

SECEX Ordinance No. 30 of 2018 (regulates the electronic administrative procedure related to trade remedy System DECOM DIGITAL (SDD));

Law No. 12,995 of 2014 (Articles 17, 18 and 19: provide for the electronic administrative process, the incorporation of documents prepared in foreign language in the records and the counting of deadlines in trade defense investigations);

Decree No. 9,107, 2017 (provides for the timeframes and requirements for fragmented industries in trade defense investigations);

SECEX Ordinance No. 41, 2018 (provides the information necessary to enable national production of a given product as a fragmented industry).

Up-to-date national trade defense legislation can be found on SDCOM's electronic website: <http://www.mdic.gov.br/index.php/comercio-foreign> site / trade defense / 856-trade defense legislation.

SECEX Ordinance No. 21 of March 30, 2020 (provides for notifications and communications to interested parties in the scope of trade remedy proceedings provided for in Decrees No. 8,058 of July 26, 2013, No. 1,751 of December 19, 1995, and No. 1,488 of May 11, 1995, and in trade agreements in force in Brazil); and

SECEX Normative Instruction No. 1, of August 17, 2020 (provides for the necessary adjustments to the procedures of trade remedy investigations and public interest assessments conducted by the Undersecretariat of Trade Defense and Public Interest, as a result of the new coronavirus pandemic

<http://www.mdic.gov.br/index.php/comercio-foreign> site / trade defense / 856-trade defense legislation.

202033021SECEX2013726805819951219175119955111,488

2020817SECEX1

79. What are the main documents prepared by SDCOM in an anti-dumping investigation?

The original antidumping investigation in Brazil has 4 (four) main documental milestones

from SDCOMs perspective, which are: (i) Initial Opinion; (ii) Preliminary Determination Opinion; (iii) Technical Note Of Essential Facts; and (iv) Final Determination Opinion.

The opinions serve as motivation for the publication of the SECEX Circulars and Gecex Resolutions, which will contain, in their annexes, the public versions of these documents, detailing the conclusions on the matters of fact and law analyzed up to a certain moment of the investigation. It should be noted that the opinions will only be made available in the restricted and confidential records of said investigation after the publication of the SECEX Circular or the

corresponding Gecex Resolution, pursuant to art. 191 of Decree No. 8,058 of 2013.

Regarding the preliminary determination opinions, it should be noted that their preparation, although mandatory in original anti-dumping investigations, is optional in sunset reviews. It is further noted that a preliminary determination opinion may result not only in the publication of a preliminary determination SECEX Circular, but also in the publication of a Gecex Resolution, if it is decided to apply provisional anti-dumping duty. It should be noted that, even in the case of a provisional duty recommendation, the preliminary determination opinion will be attached to the file immediately after the publication of the corresponding SECEX Circular, as there is no deadline for the authorities to decide whether or not to apply any provisional duty.

It should be noted that the technical note of essential facts does not directly lead to the publication of a specific normative act and has no public version, so it is only made available to interested parties in the restricted records of the administrative process.

The acts published in the Federal Official Gazette (DOU) resulting from the decisions of SECEX and Gecex will be available on the SDCOM website corresponding to the antidumping investigation or the sunset review, as the case may be. These acts and other information related to antidumping investigations in progress at SDCOM can be accessed through the following electronic address: <https://www.gov.br/produtividade-e-trade-external-trade/subjects/trade-external-trade/trade-defense-and-public-interest/investigations/trade-defense-investigations>. Furthermore, the list of acts on trade defense and public interest published in the DOU can be accessed at: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-foreign-trade/defense-trade-and-public-interest/publications-of-sdcom-in-the-diario-oficial-da-uniao>.

Figure 40: Key documents prepared by SDCOM in an anti-dumping investigation:

Document	Description	Legal Basis
Initial Opinion	Document prepared by SDCOM containing the analysis of the existence of evidence of dumping, injury to the domestic	Article 45

	<p>industry and causal link between both at a level sufficient to initiate administrative procedure of antidumping investigation regarding exports to Brazil of a certain product originating in specific countries.</p> <p>In the case of a sunset review*, the initial opinion assesses whether there are sufficient indications that the termination of a definitive antidumping measure would most likely lead to the continuation or continuation or recurrence of dumping and resulting injury.</p> <p>The initial opinion will serve as the basis for the dismissal of a petition or for the publication of a SECEX Circular initiating an investigation in the DOU.</p> <p>The confidential version of the initial opinion will be attached to the confidential file of the proceeding and will only be available to SDCOM and the deciding authorities of trade remedy proceedings (SECEX and Gecex).</p> <p>The restricted version of the initial opinion will be made available to interested parties in the case's restricted files.</p> <p>The public version will be disclosed in the DOU, attached to the SECEX Circular of initiation of the investigation or review.</p>	
Preliminary Determination Opinion	<p>Document prepared by SDCOM within 120 (one hundred and twenty) days from the date of initiation of the investigation, which will contain all the elements of fact and law available as to the existence of dumping, injury and causal link between them.</p> <p>Exceptionally, the deadline for preparation may be extended to up to 200 (two hundred) days from the start of the investigation, such as in cases where the domestic industry corresponds to less than 50% (fifty percent) of the production of the similar product produced by all domestic producers during the dumping investigation period.</p> <p>The preparation of the opinion will take into account the evidence that has been submitted, as a rule, in the first 60 (sixty) days counted from the beginning of the investigation (paragraph 7 of art. 65 of Decree no. 8.058, of 2013).</p>	Article 65

	<p>The evidence submitted after the first 60 (sixty) days may be used in the preparation of the document if its analysis does not prejudice compliance with the deadline for the preparation of the preliminary determination (§ 8o do art. 65 do Decreto no 8.058, de 2013).</p> <p>There is no provision for the preparation of an opinion of preliminary determination in sunset reviews, and the document is mandatory only in original antidumping investigations.</p> <p>The preliminary determination opinion will serve as a basis for the publication of the SECEX Circular of preliminary determination in the DOU, which must occur within 3 (three) days from the date of the opinion (paragraph 5 of art. 65 of Decree No. 8.058, 2013).</p> <p>If the preliminary determination opinion recommends the application of a provisional antidumping duty, said opinion may also serve as a basis for the publication of a Gecex Resolution for the application of a provisional duty (article 66 of Decree no. 8,058, of 2013).</p> <p>If such opinion has a negative preliminary determination in relation to the injury to the domestic industry, the original antidumping investigation may be terminated, a situation in which the SECEX Circular of preliminary determination will serve as an act of termination of the investigation without the application of definitive antidumping measures.</p> <p>The confidential version of the preliminary determination opinion will be attached to the confidential case file and will only be available to SDCOM and the deciding authorities of the trade defense cases (SECEX and Gecex).</p> <p>The restricted version of the preliminary determination opinion will be made available to the interested parties in the restricted case files.</p> <p>The public version will be disclosed in the DOU, as an attachment to the SECEX Circular of preliminary determination.</p> <p>Specifically in the case of sunset review, Decree No. 8,058 of</p>	
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	<p>2013 does not provide that SDCOM is required to prepare preliminary determination.</p> <p>Notwithstanding this, SDCOM may prepare such a document in case, for example, the parties manifest, in a timely manner, and provided it is justified, their intention to offer price undertakings under the terms of art. 67 of Decree no. 8.058, of 2013. It is important to emphasize that SDCOM is not necessarily bound to price undertaking proposals submitted by interested parties, nor is it obliged to issue preliminary determinations with the sole purpose of allowing the submission of such proposals. In this sense, as provided in the legislation, SDCOM may deny proposals deemed ineffective or impractical, pursuant to § 10 of art. 67 of Decree no. 8,058, of 2013, or for other general policy reasons, in accordance with Article 8.3 of the Antidumping Agreement, which was internalized in the Brazilian legislation, through approval via Legislative Decree no. 30, of December 15, 1994, and promulgation by Decree no. 1,355, of December 30, 1994, having, therefore, the status of law in Brazil. It should be noted that proposals may be considered impractical, among other reasons, if the financial burden is judged excessive (due to the waiver of the collection of the duty, for example) or if the operational burden of preparing preliminary determinations, negotiating price undertaking proposals and subsequently monitoring compliance with any price undertaking by signatory exporters is judged excessive, which involves, in addition to the obligation to practice the minimum price, any other accessory obligations that the authority considers necessary to neutralize the injury to the domestic industry.</p> <p>Since definitive antidumping measures remain in force during the course of the sunset review, any preliminary determination opinion to be prepared in this proceeding will not contain a recommendation on the application of provisional duties.</p>	
Technical Note of Essential Facts	Document prepared by SDCOM after the conclusion of the evidentiary phase and the deadline for interested parties to comment on the evidence contained in the file, so that no new evidence can be brought after the preparation of this note. The technical note contains the essential facts that are under analysis and that will be considered in the final determination of dumping, injury to the domestic industry and the causal link	Article 61

	<p>between them or the likelihood of continuation or resumption of dumping and resulting injury, also making clear which evidence will be disregarded for purposes of final determination.</p> <p>It is, therefore, a preliminary and preparatory document for the opinion of final determination, which is why, unlike SDCOM's opinions, the technical note of essential facts is not published in the DOU, and there is no public version of this document.</p> <p>The confidential version of the technical note will be attached to the confidential case file and will only be available to SDCOM and the deciding authorities in trade defense proceedings (SECEX and Gecex).</p> <p>The restricted version of its content is made available in the restricted case file, only to the interested parties.</p>	
Final Opinion	<p>Document prepared by SDCOM that contains the final determination of the Subsecretary regarding the existence of dumping, injury to the domestic industry and the causal link between both or the likelihood of continuation or resumption of dumping and resulting injury.</p> <p>If the investigating authority recommends the application of a definitive antidumping measure or the extension of the definitive antidumping measure in effect, this opinion will serve as a basis for the publication of a Gecex Resolution, which will represent the act of closing the investigation.</p> <p>On the other hand, if the recommendation is for the non-application or non-extension of a definitive antidumping measure, the opinion will serve as a basis for the publication of a SECEX Circular, which will represent the act of termination of the investigation.</p> <p>The confidential version of the final determination opinion will be attached to the confidential case file and will only be available to SDCOM and the deciding authorities of the trade defense proceedings (SECEX and Gecex).</p> <p>The restricted version of the final determination opinion will be made available to interested parties in the restricted case file.</p>	Article 63

	The public version will be disclosed in the DOU, attached to the SECEX Circular or Gecex Resolution of final determination.	
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**According to art. 94 of Decree No. 8,058, 2013, sunset reviews will follow, as applicable, the provisions of Chapters I, II, III, X to XIV and the principles, deadlines and procedures established in Chapter V of Decree No. 8,058, 2013. Source: Ministry of Economy/SDCOM*

Figure 41: Main documents produced by SDCOM:

Initial Opinion

- *Published by Circular SECEX*
- *If the opinion is negative, it will not be published and will lead to the rejection of the petition*

Preliminary Determination Opinion

(mandatory only for original anti-dumping investigations)

- *Published by Circular SECEX*
- *In the case of a recommendation for the application of provisional duties (original antidumping investigations), these may be established by means of GECEX Resolutions.*

Technical Note of Essential Facts

- *Preparatory document for the final determination. It is not published, but only made available to interested parties through the restricted case file.*

Final Determination Opinion

- *In case of a positive determination, it is published by means of a Gecex Resolution that applies or extends a definitive antidumping measure.*
- *In case of a negative final determination, a SECEX Circular terminates the process without the application or extension of definitive antidumping measures.*
- *Source: Ministry of Economy/SDCOM*

In addition to these opinions and notes, it is important to note that SDCOM also prepares documents related to public interest evaluations on trade remedy measures (art. 3 of Decree No, 8,058/2013), whose detailed

information can be obtained in the Consolidated Guide on the Public Interest in Trade Remedy¹³, as well as other more procedural documents, such as SECEX Circulars of deadlines, which are published for sunset reviews that have no preliminary determination.

80. What levels of confidentiality apply to the documents and information of an anti-dumping investigation?

In the anti-dumping investigation procedures conducted by SDCOM, there are 3 (three) levels of confidentiality of documents and information:

- (1) Public: information and documents that are published in the DOU or made available on the SDCOM website, therefore accessible to the general public;
- (2) Restricted: restricted access information to interested parties and their legal representatives duly qualified in the DECOM Digital System (SDD);
- (3) Confidential: Information thus identified by the interested parties who provided it, provided that the request for confidentiality is duly justified. This information is used by SDCOM only and may not be disclosed without the express permission of the party providing it. Note that the confidential opinions and technical notes prepared by SDCOM may also be made available to the decision-making authorities acting in trade defense proceedings (SECEX and Gecex), as per art. 191 of Decree No. 8,058 of 2013.

Figure 42: Confidentiality Levels

Public

- *Public domain information, disclosed in the Federal Official Gazette and on the SDCOM website.*
- *Anyone can consult this public information.*

Restricted

- *Restricted access information to the interested parties duly registered in the process.*
- *Only interested parties and their duly empowered legal representatives may access the restricted case file.*

Confidential

- *Sensitive information provided by the parties, either by its very nature or the justification provided by the submitting party.*

¹³<https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/guias>

- *Only SDCOM has access to confidential case files.*
- *Confidential opinions and technical notes prepared by SDCOM are also made available to decision makers (SECEX and Gecex).*

Source: Ministry of Economy / SDCOM

Petitioners and interested parties tend to submit their documents and petitions only in the restricted and confidential versions, while SDCOM, based on all the information received, prepares the documents of a public nature, which are then published in the DOU and/or made available on SDCOM's website.

81. How should confidential and restricted documents be presented and whose responsibility is their correct classification?

Under the terms of 5 of art. 41 and 7 of art. 51 of Decree No. 8,058 of 2013, the documents must be submitted by interested parties simultaneously in two versions: restricted (non-public document accessible only to interested parties); and confidential (document directly accessible only to SDCOM). It should be clarified that, if there is no confidential information, the document may only be provided on a restricted basis.

The classification of the documents as "Restricted" or "Confidential" shall occur at the moment of its protocol in the SDD, pursuant to item IV of art. 7th of Ordinance SECEX 30, 2018. It is, therefore, the responsibility of the interested party the correct classification of these documents in the system, which will prevail in case of inconsistency between this classification and the content of the document sent, as provided for in paragraph 1 of art. 7th of the aforementioned SECEX Ordinance.

Regarding the formatting of documents, it is worth noting that under the terms of 10 and 11 of art. 51 of Decree 8.058 of 2013, the indication of confidentiality should appear on all pages of the protocol document, centered at the top and bottom of each page, in red, and the pages should be numbered sequentially and contain indication of the number. total pages that make up the document.

It should be noted that 6 of art. 41 of the aforementioned decree determines that documents filed without indication confidential or restricted will be treated as public.

82. What are the requirements for presenting information on a confidential basis?

Under the terms of 1 and 2 of art. 51 of Decree No. 8,058 of 2013, so that a information is considered confidential by its very nature or for any other reason put forward by the party providing it, it is necessary that the interested party submitting it:

I - has identified it as such (see question 83);

II - has provided adequate justification for considering the information confidential (see question 82); and

III - has presented restricted summary with details that allow the understanding of the information provided (see questions 86 and 87).

Whenever a party classifies a document or portions of a document as "confidential", it shall file in the restricted records justifying confidentiality and summary information, otherwise the document will be disregarded or treated as public, pursuant to 6 of art. 41 of the aforementioned Decree.

When it is not possible to present the restricted summary, as provided in 3 of art. 51 of Decree 8.058 of 2013, the interested party must provide justification for this circumstance, otherwise the confidential information will be disregarded.

It should be noted that both the justification for confidentiality and the justification for the impossibility of presenting a restricted summary cannot be presented on confidential basis, as provided for in 4 of art. 51 of the aforementioned Decree.

If these requirements are not met or if the request for confidentiality is considered unjustified and the interested party that provided the information refuses to adapt it for annexation in the restricted case file, the information may be disregarded, except if demonstrated to the satisfaction and by appropriate source, that such a classification is correct.

In addition, pursuant to 8 of art. 51 of Decree No. 8,058 of 2013, at the discretion of SDCOM, will not be considered documents, data and information presented on a confidential basis when confidential treatment may result in the restriction of the rights of the defense and the contradiction of other interested parties.

It is worth emphasizing that all of these requirements aim to ensure greater transparency in anti-dumping investigations, as well as to ensure the rights of all interested parties to the adversarial and the broad defense, without prejudice to those who submitted confidential information.

83. What information, data and documents cannot be treated as confidential in an anti-dumping investigation?

Confidential information shall be treated as information identified as confidential by the interested parties, provided that their request is duly justified. However, as provided for in 5 of art. 51 of Decree No. 8,058 of 2013, confidentiality justifications for documents, data and information, among others, will not be considered adequate, when they are of a public nature in Brazil, or in the public domain, in Brazil or abroad, or otherwise. Relative documents:

- I - the shareholding composition and identification of the respective controller;
- II - the corporate organization of the group to which it belongs;
- III - the volume of production, domestic sales, exports, imports and stocks;
- IV - any contracts entered into by public deed or filed before the public notary or commercial board, in Brazil or abroad; and
- V - the equity, financial and business statements of a publicly-held company; a company equated to a publicly-held company; or of companies controlled by publicly-held companies, including foreign companies, and their wholly-owned subsidiaries, which must be published or disclosed by virtue of the corporate legislation or the securities market.

84. What should you include in the restricted summary submitted by interested parties?

Under the terms of paragraph 2 of art. 51 of Decree No. 8,058 of 2013, interested parties providing confidential information should submit restricted summaries with details that allow the understanding of the information provided, otherwise disregarding confidential information.

The restricted summary of confidential numerical information should be presented in numerical format, in the form of index numbers, among others. It is worth explaining that index numbers consist of a simplified measure of the variation between a value and a reference point, assuming that it always equals 100 (see question 87).

When such a summary is not possible, the interested party shall provide justification, otherwise the confidential information will be disregarded.

85. How to turn data into index numbers?

The transformation of data into index numbers can be understood with the help of a practical example. So, how to demonstrate the evolution of the indicator below in index numbers?

Figure 43: Imports by Period

Período period	imports Importações (t)
P1	17.018
P2	16.686
P3	16.015
P4	16.282
P5	16.641

1 - Choose a period as reference, in this case, P1.

Figure 44: Reference value identification

Período period	Importações (t) imports	Valor de referência reference value	Números-índice index numbers
P1	17.018	17.018	100

99

P2	16.686		
P3	16.015		
P4	16.282		
P5	16.641		

Figure 45: Calculation of index numbers

Período	Importações (t)	Valor de referência	Números índice	Variação
peírod	imports	reference numbers	index numbers	variation
P1	17.018	17.018	100	menor do que em=lower
P2	16.686	$(16.686 \times 100)/17.018$	98	2 % menor do que em P1
P3	16.015	$(16.015 \times 100)/17.018$	94	6 % menor do que em P1
P4	16.282	$(16.272 \times 100)/17.018$	96	4 % menor do que em P1
P5	16.641	$(16.641 \times 100)/17.018$	98	2 % menor do que em P1

3 - In the interpretation of tables in index numbers, when the index number is greater than 100, the observed value for this item in the series is higher than the reference value. In turn, when the index number is less than 100, the observed value is lower than the reference value.

86. In what language is the anti-dumping investigation conducted?

Anti-dumping investigations are conducted by SDCOM in Portuguese. However, it is accepted the submission of documents originally prepared in the official languages of the WTO, namely English, French or Spanish, pursuant to art. 18 of Law No. 12,995, of June 18, 2014.

87. Are document translations required?

Translations into Portuguese of documents whose originals are not prepared in the official languages of the WTO (English, Spanish or French) must be made by a public translator in Brazil, in accordance with art. 18 of Decree No. 13,609 of October 21, 1943.

According to art. 18 of Law No. 12,995 of 2014, in the case of documents prepared in foreign languages for which there is no public translator in Brazil, translations into Portuguese will be accepted by the official representative of the exporting origin in Brazil, provided that they are accompanied by official communication attesting to the authorship of the translation.

PART II.2. PARTIES INVOLVED IN ANTIDUMPING INVESTIGATIONS

88. Who are the interested parties in anti-dumping investigations?

In accordance with art. 45 of Decree No. 8,058 of 2013 are considered interested parties in an anti-dumping investigation:

I - the domestic producers of the like product and the class entity that

represent them;

II - Brazilian importers who imported the product under investigation during the investigation period of dumping and the class entity representing them;

III - foreign producers or exporters who exported to Brazil the product under investigation during the dumping investigation period and the class entity that represents them;

IV - the government of the exporting country of said good;

V - other domestic or foreign parties affected by the investigated practice, at the discretion of SDCOM.

Note that, as provided in 3 of art. 45 of Decree No. 8,058 of 2013, a period of 20 (twenty) days from the date of publication of the SECEX Circular of initiation of the investigation or review will be granted for other interested parties to submit their qualification requests and their respective legal representatives. Such requests must be submitted via SDD as part of the corresponding anti-dumping investigation procedure.

The identification of interested parties in sunset reviews will follow, as applicable, the provisions of 2 of art. 45 of Decree No. 8.058, 2013, being possible the inclusion of other domestic or foreign parties affected by the investigated practice, at SDCOM's discretion, such as producers/exporters for which individual rights have been established at the time of the original investigation, even if they have not exported the product subject to the measure in the review period.

89. How do I know if SDCOM has identified a particular company as an interested party in an anti-dumping investigation?

When a company is identified as a stakeholder in an anti-dumping investigation, SDCOM sends a notification to the said company indicating that it was considered an interested party pursuant to 2 of art. 45 of Decree No. 8.058 of 2013 and that the company may participate in the investigation if so wishes.

Immediately after the initiation of the investigation, all exporting companies identified by SDCOM will be listed in the notification of initiation of the investigation to be sent to the official representation of the government of the exporting country in Brazil. The foreign government will have the period established in this notification of initiation (normally 15 (fifteen) days), to list other producers of the product under investigation not identified by SDCOM and, eventually, to inform the unknown address of the producers listed in the letter.

It should be noted that although participation in anti-dumping investigations is not mandatory, such participation can ensure a better outcome for the stakeholder that would occur in the event of non-participation in view of the possibility of applying the best information available (see questions 73 and 173). For this reason, and in order to ensure that anti-dumping investigations are always supplied with as much evidence as possible, SDCOM encourages the participation of all interested parties in the proceedings.

90. Are there any peculiarities for the representation of national stakeholders?

The participation of national interested parties in the anti-dumping investigations shall be made through a duly registered representative, pursuant to 2 of art. 2 of the Ordinance SECEX No. 30, 2018.

In the case of legal entities, representation shall as a rule take place:

- Through their presidents, officers, directors or any other employee, according to the powers established by them in a power constitutive act (articles of incorporation or bylaws and amendments thereto) and, when applicable, minutes of the meeting and term of office); or
- By means of a owner of a Power of Attorney, particular or public type. Documents conferring exclusively *ad judicium* powers are not accepted.

In the event of the granting of a mandate by private instrument, it shall be accompanied by the constituent acts of the interested party, and the minutes of the meeting and term of inauguration, when appropriate, granting the representative the power to appoint an agent. Name recognition may be required when there is doubt about the authenticity of the particular power of attorney.

The power of attorney granted in disagreement with the above guidelines or with the conditions established in a corporate act and, where applicable, in the minutes of the meeting, may be considered invalid and acts that have been performed under these instruments may be considered nonexistent.

As per art. 4, 1 and 2 of SECEX Ordinance No. 30 of June 7, 2019, all procedural acts must be digitally signed with the use of a digital certificate issued under the Brazilian Public Key Infrastructure (ICP-Brazil).

91. Are there any peculiarities in the representation of foreign stakeholders?

As a rule, representation of foreign stakeholders (except governments) will be carried out under the terms mentioned for the representation of national stakeholders (question 92), in compliance with paragraph 2 of art. 2 of Ordinance SECEX 30, 2018.

For purposes of proving that the grantor of the power of attorney is a representative of the foreign interested party, it is generally considered sufficient that the notary in the foreign country expressly attests to the power of attorney of the power of attorney with the foreign interested party represented. Alternatively, it is also possible, under specific circumstances, to consider it sufficient that the power of attorney expressly mentions the bond of the proxy signatory with the foreign interested party represented. Furthermore, it is noteworthy that verbal notes from foreign diplomatic representations are sufficient to prove the identity and the bond of the signatory of the mandate instruments with the interested party represented.

Please note that if the power of attorney is to be translated in the above cases, it must be translated directly from the original language in which the mandate instrument was signed into Portuguese. In addition, it must be emphasized that the provisions of art. 18 of Law No. 12,995 of 2014 also applies to mandate instruments (see question 89).

The documents issued abroad must comply with the Brazilian legislation in force to be valid in the Brazilian process, such as the rules regarding languages, apostille and consularization of documents. (see question 96).

92. Are there any peculiarities in the representation of foreign governments?

Pursuant to Decree No. 56,435 of June 8, 1965 and Decree No. 61,078 of July 26, 1967, the representation of foreign governments shall be by means of the head of the official representation in Brazil or by means of representative appointed by him. This designation shall be filed with the SDD (questions 102 and 104) in an official communication from the corresponding representation, which shall expressly state the defense process trade mark to which the designation refers.

93. Is the intervention of non-qualified representatives possible in the anti-dumping investigation?

Under the terms of 3 of art. 2 of Ordinance SECEX 30, 2018, the intervention in trade defense proceedings of representatives of interested parties who are not properly qualified will only be allowed in the following acts:

- I - submission of relevant documentation for qualification as legal representative of interested party;
- II - request for an extension of time to submit answers to the questionnaires;
- III - presentation of answers to the questionnaires and manifestations about product models;
- IV - request for qualification of other parties that consider themselves interested; and
- V - submission of proposal of third market economy country alternative.

It is noteworthy that, in such cases, the qualification of the representative who performed the act must be regularized within the period to be established in the SECEX Circular of corresponding investigation or review, normally ninety-one (91) days after the beginning of the investigation, with no possibility of extension, as per 4 of art. 2 of Ordinance SECEX 30, of 2108. The absence of regularization of representation within the terms and conditions provided will make that the authority considers those acts nonexistent.

Note that non-qualified representatives should protocol their documents through the " Non-Accredited Parties" tab of the SDD, similarly to the step-by-step presented in question 102. For more information on how to submit their documents by accredited representatives, see question 104.

94. What is the Apostille Convention?

The Convention on the Elimination of the Requirement of Legalization of Foreign Public Documents ("Apostille Convention") entered into force in Brazil on August 14, 2016. According to this Convention, foreign documents containing Apostille issued by the competent authorities of the States Parties to that Convention became accepted in Brazil. , without the need for consularization (legalization or consular seal). According to CNJ Ordinance No. 228 of June 22, 2016, legalization or consular seal is the formality by which the authenticity of the signature, function or position exercised by the signatory of the document and, where appropriate, the authenticity of the seal or seal affixed thereto .

Accordingly, it is no longer necessary to require the consularization of public documents from countries participating in the Apostille Convention. It should be noted that Brazilian consulates located in these countries will no longer provide this consularization service. Therefore, these documents will be valid if they contain the Hague Apostille, which will be attached to the public document by the competent authorities of the country in which it was issued.

Simplifying the procedure, however, does not eliminate other requirements, such as the need for sworn translations that must accompany the mandate instruments (see question 92).

The National Council of Justice (CNJ) maintains, on its website, the updated list of participating countries. This list can be found at <http://www.cnj.jus.br/poder-judiciario/internacoes-relacoes/convencao-da-apostila-da-haia>.

In turn, the list of authorities responsible for placing the booklet in each country can be found at <https://www.hcch.net/en/instruments/conventions/authorities1/?cid=41>.

It should be noted that the provisions of treaties, conventions or agreements to which Brazil is a party that deal with the simplification or waiver of the legalization process diplomatic or consular documents shall prevail over the provisions of the Apostille Convention, where such formal requirements are less stringent than those laid down in that Convention.

In accordance with Decree No. 8,742 of May 4, 2016 and Law 6,015 of December 31, 1973, if the country in which the document was produced is not a signatory to the Apostille Convention, the instruments of mandate in English must be (i) notarized, (ii) legalized by the corresponding Brazilian consular or diplomatic representation and (iii) filed, when not in English, Spanish or French, accompanied by their translations into Portuguese by a public translator in Brazil, made after the document has been legalized. Notification and legalization will be mandatory even if the power of attorney is granted in Portuguese.

If the country where the document was produced is a signatory to the Apostille Convention (Convention on the Elimination of the Requirement to Legalize Foreign Public Documents, promulgated by Decree No. 8,660 of January 29, 2016), there will be no need for consularization / legalization. Thus, the mandate instruments shall be (i) notarized, (ii) receive the Hague Apostille and (iii) be filed, when not in English, Spanish or French, accompanied by their translations into Portuguese, made by a public translator in Brazil, made after the document was handled. The notarization and affixing of the apostille will be mandatory even if the instrument of mandate is granted in Portuguese.

PART II.3. OF ANTIDUMPING INVESTIGATIONS

95. What is the System DECOM Digital (SDD)?

SDD is a digital file formation system whose objectives are to increase the transparency of SDCOM's commercial defense investigation processes and reduce the costs of participating in these processes.

The SDD is available at: <http://decomdigital.mdic.gov.br/>¹⁴, and information regarding its use can be obtained in the system's manual¹⁵ and in the quick guide for configuration and use of the SDD available at <https://www.gov.br/produtividade-e-comrcio-exterior/en-br/assuntos/comercio-exterior/defesa-comercio-e-interesse-publico/arquivos/guias/guia-rapido-decom-digital.pdf>.

The participation of the interested parties in the research course should take place necessarily through the SDD, and physically filed documents are not accepted or sent by electronic mail, as provided for in SECEX Ordinance No. 30 of 2018. Original anti-dumping investigations and anti-dumping period end revisions are therefore conducted exclusively through electronic administrative processes¹⁶ supported by Decree No. 8,058 of 2013 and regulated by Ordinance SECEX No. 30, of 2018.

SDD allows electronic submission of documents in defense proceedings viewing these documents at any time and from any place of the world. Please note that all procedural acts will be digitally signed with the use of a digital certificate issued under the ICP-Brasil¹⁷, in order to maintain the integrity, authenticity, interoperability and, where appropriate, confidentiality of the documents.

96. How to register for SDD?

With the digital certificate properly installed and connected to the computer. The user should access the SDD page (<http://decomdigital.mdic.gov.br/>).

After entering the digital certificate password, the user should click on the No system access? as shown in the image below.

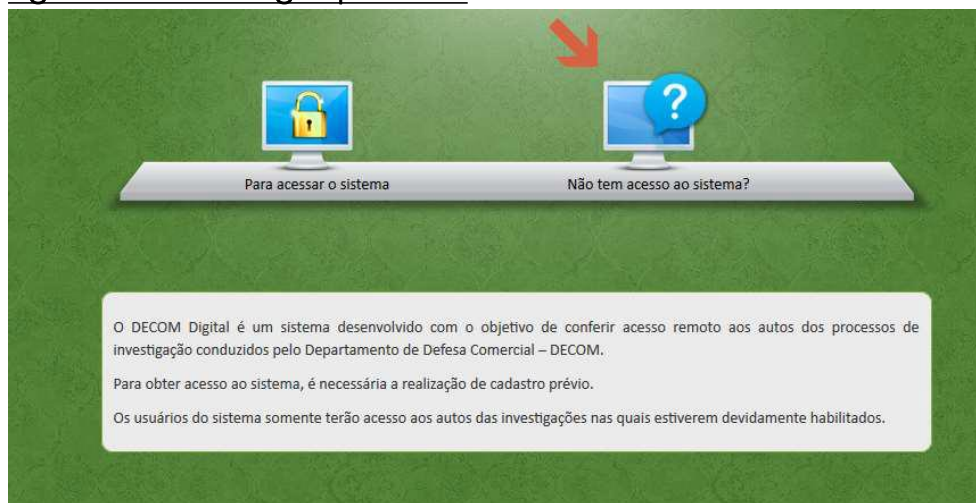
¹⁴ In the first access to the SDD, the user will perform his registration, by filling in specific form. Additional guidance on registering and using the system may be provided. System Manual, available on the SDD homepage, and question 98.

¹⁵ https://decomdigital.mdic.gov.br/assets/documentos/MDIC_DECOMDIGITAL_ManualUsuario.pdf

¹⁶ Admissibility of use of electronic means in defense investigation procedures Commercial is provided for in art. 17 of Law No. 12,995 of 2014.

¹⁷ The representative of the interested party shall follow the guidelines established by the National Information Technology at <http://www.iti.gov.br> to acquire certificate ICP-Brazil standard digital camera. National Information Technology <http://www.iti.gov.br> to acquire certificate ICP-Brazil standard digital camera.

Figure 46: How to sign up for SDD



Source: Ministry of Economy / SDCOM

After reading the information on the How to gain access to a process screen below), click on the Register button at the bottom center of the page, fill in the requested fields and click on "Register".

Figure 47: How to sign up for SDD

Como obter acesso a um processo

- 1 O cadastro dos usuários do Sistema DECOM Digital deverá ser realizado em duas etapas.
- 2 Na primeira etapa, o usuário deverá fornecer informações pessoais, por meio do preenchimento do formulário de pré-cadastro, disponibilizado abaixo.
- 3 Para preenchimento do formulário é necessário possuir certificação digital, por meio de Certificado Digital, para assinatura eletrônica das informações apresentadas ao Departamento de Defesa Comercial.
- 4 Após a realização do cadastro, o usuário terá acesso ao sistema. Para se habilitar no âmbito de um processo específico, o usuário deverá enviar documentação de habilitação de representação de parte interessada, por meio da aba "Partes não habilitadas".

A participação das partes interessadas no curso de investigações de defesa comercial deverá realizar-se por meio de representante devidamente habilitado.


A intervenção em processos de defesa comercial de representantes que não estejam habilitados somente será admitida na execução dos seguintes atos:

- I – submissão de documentação pertinente para habilitação como representante legal de parte interessada;
- II – solicitação de prorrogação de prazo para apresentação de respostas aos questionários;
- III – apresentação de respostas aos questionários;
- IV – solicitação de habilitação de outras partes que se considerem interessadas; e
- V – submissão de proposta de terceiro país de economia de mercado alternativo.

A regularização da habilitação dos representantes que realizarem estes atos deverá ser feita em até 91 dias após o início da investigação, sem possibilidade de prorrogação. A ausência de regularização da representação nos prazos e condições previstos fará com que os atos a que fazem referência este parágrafo sejam havidos por inexistentes.

A representação de governos estrangeiros dar-se-á por meio do chefe da representação oficial no Brasil ou por meio de representante por ele designado. A designação de representantes deverá ser protocolada junto ao DECOM em comunicação oficial da representação correspondente, na qual deverá constar expressamente o processo de defesa comercial a que se refere a designação.

- 5 Após a análise da documentação apresentada, o DECOM liberará o acesso do usuário ao sistema para acesso ao processo de interesse.



Source: Ministry of Economy / SDCOM

Figure 48: How to sign up for SDD

Cadastro

CPF/CNPJ*

Nome*

Informações de Contato:

Telefone: Celular:

Endereço:

Email*:



Source: Ministry of Economy / SDCOM

If everything is filled in correctly, the user will receive a message that their

registration was successful.

From then on, the user will be able to access the records of the petitions filed by him, or processes in which it is enabled by clicking on the To access the system icon, displayed on the SDD homepage.

97. Who can consult the file and speak in investigations? Antidumping on the SDD?

According to the provisions of 3 of art. 170 of Decree No. 8,058 of 2013, the right to consult the restricted file of the anti-dumping investigation proceedings and to request a certificate the progress of the investigation is limited to qualified stakeholders and their legal representatives (see question 90), subject to the provisions on the confidentiality of information and internal government documents.

Consultation of the restricted records of a specific process and the possibility of manifest within its scope are granted only after the user has SDD process (see questions 102 to 104).

98. It is possible to consult the file of the initial petitions still under analysis in SDD?

As provided in art. 47 of Decree 8,058 of 2013, until the beginning of an anti-dumping investigation is made public through the publication of a Circular SECEX, no information will be disclosed regarding the existence of petitions given their confidential nature, pursuant to art. 5.5. of the Anti-Dumping Agreement¹⁸. So only the petitioners shall have access to the file of petitions filed by them in the SDD prior to the initiation of the investigation or review. For this reason, in SDD, any process will only be available for consultation and qualification of the other parties. Interested parties following the publication of the SECEX Circular initiating the investigation or review, when the case moves from the category of petition to that of investigation.

99. How to file an anti-dumping investigation petition with SDD?

In the "Petitions" menu click "Create Petition":

¹⁸ 18 5.5 The authorities shall avoid, unless a decision has been made to initiate an investigation, any publicizing of the application for the initiation of an investigation. However, after receipt of a properly documented application and before proceeding to initiate an investigation, the authorities shall notify the government of the exporting Member concerned.

Figure 49: How to file a petition



Source: Ministry of Economy / SDCOM

In the screen that will appear, select the type of investigation that corresponds to the petition.

you want to create. The types are highlighted by the numbers 1,2 and 3 in the image below:

Figure 50: How to file a petition



Source: Ministry of Economy / SDCOM

Then choose Original Investigation to file a petition for original investigation or Sunset Review for the period. Finally, click on Start Petition:

Figure 51: How to file a petition



Source: Ministry of Economy / SDCOM

Five tabs will be opened (Petitioners, Representatives, Products, Periods of and Investigated Origins) that should have their fields filled in accordingly with the instructions below and at the end click on the button Save Petition.

Figure 52: How to file a petition

Peticionárias Representantes Produtos Períodos de análise Origens investigadas

Cadastre uma ou várias

1 CNPJ 2 Nome da empresa ou Entidade Representativa 3 Tipo 4 Adicionar

5

Nome da Empresa	CNPJ	Tipo	Entidade Representativa	Opções

Salvar Petição

Source: Ministry of Economy / SDCOM

- Completion of petitioner data:

By filling in the field CNPJ (1) and pressing TAB the system will try to identify whether it has been used before and fill in the Company Name or Representative Entity (2) automatically. If not in the system, the name of the company must be completed manually by the user. In the field Type (3) the user will choose between Company and Association. If the Company type is chosen when Click on Add (4) the company data will be stored and will appear in the region (5). Choosing the type Association opens the option (not required) to add a linked company.

Figure 53: How to file a petition

Cadastre uma ou várias

CNPJ Nome da empresa ou Entidade Representativa Tipo Adicionar

19.017/0001-19 Ass A Associação ou E

CNPJ Industria doméstica Tipo

Empresa


Source: Ministry of Economy / SDCOM

By clicking on Add (4) the data of the association and the linked company, if existing, will be stored and will be in the region (5).

You can add as many "companies" / "associations" / "companies linked to associations are necessary. It is possible to exclude "Petitioners" within "Options." With the exception that in order to exclude an association all the

companies linked to it have that have been deleted before.

Figure 54: How to file a petition

Nome da Empresa	CNPJ	Tipo	Entidade Representativa	Opções
Ass A	61.139.017/0001-19	Associação ou Entidade de Classe		

Source: Ministry of Economy / SDCOM

Completion of data of legal representatives:

Figure 55: How to file a petition



Source: Ministry of Economy / SDCOM

The CPF (1) and Name (2) fields will be automatically filled in with the digital certificate data used by the user. In the Linked Entity field (3) must be manually completed by the user and contain the linked entity of the legal representative (e.g. name of law firm where you work).

Product Detail:

Figure 56: How to file a petition

The screenshot shows a web application interface for product registration. The top navigation bar includes tabs for 'Peticionárias', 'Representantes', 'Produtos' (selected), 'Períodos de análise', and 'Origens investigadas'. The main content area contains three input fields: 'Produto' (1), 'Detalhamento do seu produto' (2), and 'NCM' (3). The 'NCM' field has an 'Adicionar' button (4) with a help icon. Below the form is a table with columns 'NCM', 'Nome do produto', and 'Opções'. A 'Salvar Petição' button (5) is located at the bottom of the form.

Source: Ministry of Economy / SDCOM

The fields "Product" (1) and "Details of your product" (2) must be filled in manually. The "NCM" field (3) will serve as a search field, and you can search either by text or by NCM code, a list should appear and the user will select the appropriate code. When you click on "Add", the NCM data will be recorded and will appear in the table at the bottom of the page (5). You can add as many NCMs items as needed.

Period of analysis:

Figure 57: Analysis Period

The screenshot shows the 'Períodos de Análise' tab. The 'Investigação de Dano' section contains five rows, each with a period number (1-5) in a blue circle, a calendar icon, a 'Data Inicial' field, a 'Data Final' field, and another calendar icon. The 'Investigação de Dumping' section contains one row with a period number (6) in a blue circle, a calendar icon, a 'Data Inicial' field, a 'Data Final' field, and another calendar icon. A 'Salvar Petição' button is located at the bottom center.

Source: Ministry of Economy / SDCOM

You must fill in (by entering the values manually or by clicking on the calendar icon) the start date in the Period (1) to (5) fields and the associated end date each one will be filled automatically by pressing the TAB key. From Period 3, the system will automatically fill in the Period 3. Dumping Investigation (6)

- Choice of sources to investigate:

Figure 58: Investigated Sources

The screenshot shows the 'Origens investigadas' tab. It features a section titled 'Escolha o(s) país(es) desejado(s)'. Below this, there is a list of countries: 'A Designar', 'Afeganistão', 'África do Sul', 'Albânia', 'Alboran-Perejil, Ilhas', 'Alemanha', 'Alemanha Oriental', and 'Andorra'. A red circle with the number 1 is next to the list. To the right of the list is an empty box with a red circle with the number 2 next to it. A 'Salvar Petição' button is at the bottom center.

Source: Ministry of Economy / SDCOM

For country selection just click on the country name in the left list (1) that it will move to the right list (2). For removal of the chosen country click on his name in the right list (2) and he will be back in the left list (1). After filling all the tabs of the cover page, click on the button Save Petition.

In the register of sunset reviews the tabs Product and Origins investigated are replaced by the tab CAMEX Resolution ¹⁹. In this tab the user should fill in only the field Enter CAMEX number or Resolution (1) in the format nn / yyyy (ex: 85/2013) and the system will automatically search and fill in the information from the fields indicated by (2) to (6). Once saved, the petition will appear in the listing of petitions.

Figure 59: Application for Sunset Reviews

00000.000000/0000-00		Tipo: Investigação Original	
24.08.2017 15:00:05	Peticionário	Produto	
	Empresa Exemplo SA	Tubos de aço inox	
	Representante		
	MARTA CARLIDO DA COSTA		

Excluir Alterar Anexar Finalizar

Source: Ministry of Economy / SDCOM

The functionality of each icon shown above is detailed below:

¹⁹In 2015, the year of implementation of the DECOM Digital System (SDD), the establishment of commercial defense was made through CAMEX Resolutions, which is why the System presents this designation for the legislative act extending an anti-dumping measure. However, in view of the changes. Trade Defense competencies since then, there will also be publications in the SECINT Ordinance or Gecex Resolution format, but without prejudice to filling in the form fields and searching the system for the information.

- Delete:  Excluir


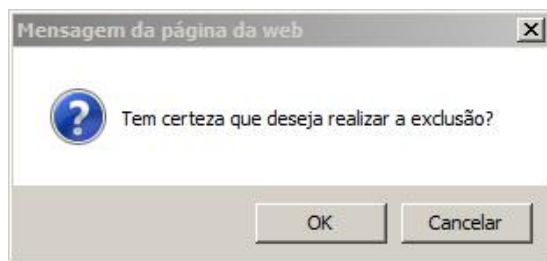
To delete an unfinished petition, click on the item  Excluir and confirm on the message box that will appear next.



Figure 60: How to file a petition



Source: Ministry of Economy / SDCOM

- Change:  Alterar


You can edit all data for a petition that has not yet been finalized. For just click on the icon  Alterar that the same tabs filled in when creating the petition will be charged. Below is an example of an Original Investigation petition amended. After changing the desired data, click on Save Petition to make the changes take effect.



Figure 61: Change Petition

Alterar Petição

Tipo da Petição: **Investigação Original**

Utilize as opções abaixo para solicitar sua petição

00000.000000/0000-00

[Peticionárias](#)
[Representantes](#)
[Produtos](#)
[Períodos de análise](#)
[Origens investigadas](#)

Cadastre uma ou várias

CNPJ:
 Nome da empresa ou Entidade Representativa:
 Tipo:

Nome da Empresa	CNPJ	Tipo	Entidade Representativa	Opções
Empresa Exemplo SA	40205993000152	Empresa		

Source: Ministry of Economy / SDCOM

- Attach files:

To add files click on the icon . The following screen will appear:

Anexar

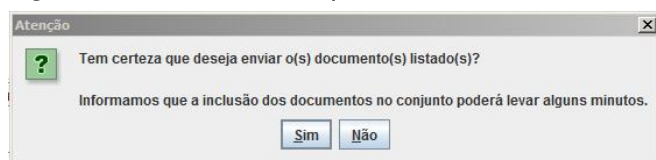
Figure 62: Attach Documents

Source: Ministry of Economy / SDCOM

Select Document Type (1) and Auto Type (2), provide, in the field Description (3), details of the files to be sent. Click on Add file (s) (4) and choose the documents you want, with the exception that the system only supports PDF files and spreadsheets in XLS / XLSX format. Click on Submit documents (5). It should be noted that the confidentiality of the filed documents will be defined by the type of auto chosen in field (2).

In the message box that appears confirm that you want to send the documents and then select the digital certificate that will be used to sign the submission and click "OK".

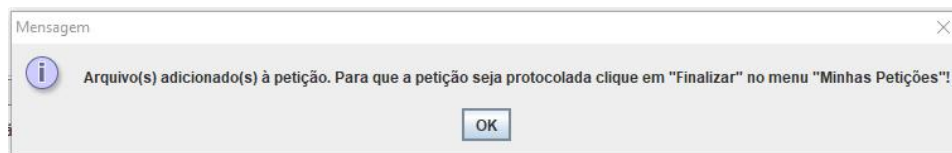
Figure 63: How to file a petition



Source: Ministry of Economy / SDCOM

At the end, the following message will be shown. Noting that the petition will only be filed by clicking the "Finish" button in the "My Petitions" menu.

Figure 64: How to file a petition



Source: Ministry of Economy / SDCOM

- Finish:  Finalizar


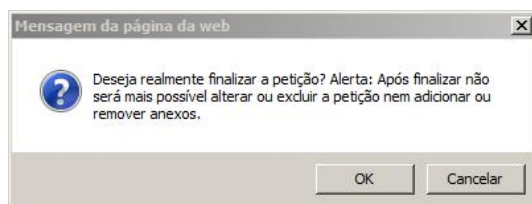
To finalize a petition click on the icon  Finalizar and confirm in the message box that will appear. Even though it was successfully uploaded without clicking on the option to finalize, the document is not submitted to the SDD and is not even in the interface of the SDCOM, so there will be no record of documentation submitted by the interested party. There will therefore be two receipts: one for uploading documents and one for of the finalization of the process.

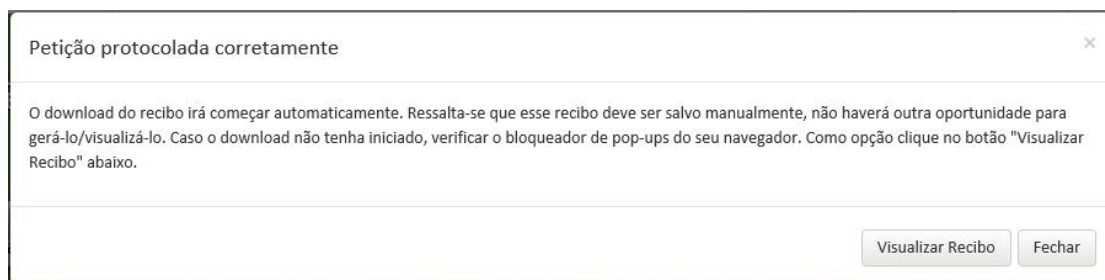
Figure 65: How to file a petition



Source: Ministry of Economy / SDCOM

The following message will be displayed, giving you the option to view the receipt of Protocol of petition:

Figure 66: How to file a petition



Source: Ministry of Economy / SDCOM

It should be noted that the petition will only be effectively filed before the SDCOM and will only be visible to the Under Secretary's technicians after its finalization. Moreover, only after its finalization, the petition will receive a valid protocol number. It should also be noted that, once finalized, the petition cannot be edited, deleted or have files added.

It is important to note that, before the petition is actually registered, the process number shown is 00000.000000/0000-00, as shown in Figure 59. However, after the registration, the system displays the process and its respective process number in the "Petitions" window, as shown in the image below.

Figure 67: How to file a petition



Source: Ministry of Economy / SDCOM

100. How can stakeholders qualify and gain access to case of a specific anti-dumping investigation in the SDD?

Under the terms of paragraph 2 of art. 2 of Ordinance SECEX 30 of 2018, the participation of the interested parties in the course of trade defense investigations shall be conducted by means of authorized representative from SDCOM, after the presentation of the required documentation in the restricted records of the SDD.

The representation documents referred to in questions 92 to 94 should be sent through the tab Parts not enabled. After verification of documents by SDCOM, company representatives may be qualified under a specific procedure, for the term established in their respective contracts or bylaws, powers of

attorney, minutes election, among other acts that may establish the power of representation. Once upon completion of the SDCOM enabling procedure, the user will be able to access the process in which he was qualified and submit the evidence and the manifestations that it deems necessary through the Processes tab of the SDD.

In order to send the documents referred to in the previous paragraph and request the qualification under a specific process, the user must first register with the SDD, as explained in question 98. Once registered, the user must access the area. Disqualified Parts of the SDD and search for the desired process by the process number entered in the SECEX Initiation Circular published in the Official Gazette (DOU) or contained in the notification letter received by the party. Once you have entered the process number, the following page should be loaded:

Figure 68: Non-registered Parties

Source: Ministry of Economy / SDCOM

The Interested Party (highlighted by 1 in the figure above) and Document Type Category (highlighted by 2 in figure above) and then the user should click on Create new set of files (highlighted by 3 in the figure above).

With the set of files created, click the "Attach" button highlighted in the image below to add documents to the set of files.

Figure 69: Adding Documents to the File Set

Meus Conjuntos de Arquivos			
	Data de Inclusão	Parte Interessada	Categoria do Documento
	15/03/2021 14:54:30	Peticionário	Petição
			Excluir Anexar

Source: Ministry of Economy / SDCOM / SDCOM

At the file upload screen, fill in the Document Type (highlighted by 1 in the figure below), Auto Type (highlighted by 2 in the figure below), and Description (highlighted by 3). in the picture below). Note that it is through the field "Auto Type" that the interested party classifies your document as "confidential" or "restricted". Then click on Add File (s) (highlighted by 4 in the figure below). Repeat this procedure for each file to be sent, always paying attention to the correct classification of the document as confidential or restricted, and, at the end, click on Save files in set (highlighted by 5 in the figure below).

Figure 70: File Upload

Documentos

Adicione um ou mais arquivos

Tipo de Documento

Tipo de Auto

Descrição

Adicionar Arquivo(s)

Remetente	Destinatário	Categoria	Tipo de Doc...	Tipo de Auto	Documento	Descrição	Doc. Vincula...	Status	Opções

Limpar

Salvar arquivos no conjunto

100%

Source: Ministry of Economy / SDCOM

After attaching at least one document to the file, the Finish option will be added to the action menu for the set of files to which the documents were added:

Figure 71: Finish File Set

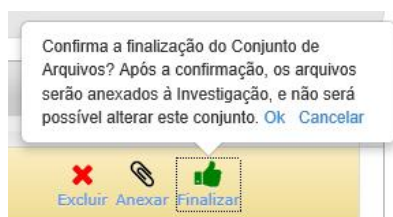


Source: Ministry of Economy / SDCOM

Note that until the set is finalized, the user will be able to delete or add new documents to that set of files.

When clicking "Finish" the message below will appear. It should be noted that, even if the upload is successful, without clicking on the finish option, the document is not submitted to the SDD and is not even in the SDCOM interface, so there will not be, in the records, any record of documentation sent by the interested party.

Figure 72: Confirmation



Source: Ministry of Economy / SDCOM
/SDCOM

Click Ok to confirm file set completion and complete the document protocol within the selected process.

It is essential to emphasize that the documents will only be filed with SDCOM after the user completes the fileset.

After the set of files has been finalized, the option to save or open the transmission receipt will open automatically and the following message will be loaded presenting the option to view the receipt via the View Receipt button. If not, check your browser pop-up blocker.

Figure 73: SDD Message

Conjunto finalizado com sucesso.



O download do recibo irá começar automaticamente. Ressalte-se que esse recibo deve ser salvo manualmente, não haverá outra oportunidade para gerá-lo/visualizá-lo. Caso o download não tenha iniciado, verificar o bloqueador de pop-ups do seu navegador. Como opção clique no botão "Visualizar Recibo" abaixo.

Visualizar Recibo

Fechar

Source: Ministry of Economy / SDCOM

101. Is there a time limit for the empowerment of representatives of the parties interested in SDD?

Interested parties identified by SDCOM will be notified of the initiation of the anti-dumping investigation and their representatives may be empowered at any time during this process.

However, under the terms of 3 of art. 45 of Decree No. 8,058 of 2013, other interested parties that are not identified by SDCOM will have a period of 20 (twenty) days from the date of publication of the SECEX Circular. Investigation or review to submit your application and their respective legal representatives.

It is noted that the unqualified representatives who have performed the acts provided for in

3 of art. 2 of Ordinance SECEX 30, 2018, will have to regularize their qualification within the period to be established in the SECEX Circular corresponding review, normally ninety-one (91) days after the beginning of the investigation, with no possibility of extension, as per 4 of art. 2nd of the mentioned ordinance. The absence of regularization of representation within the terms and conditions provided will result in these acts being non-existent.

Figure 74: Timeframe to qualify for trade remedy proceedings

Parties originally identified by SDCOM

- *May qualify at any time during the investigation*

Parties not identified by SDCOM

- *Must qualify within 20 (twenty) days from the date of publication of the SECEX Circular initiating the investigation or review*

Non-qualified representatives who have practiced the acts provided for in Paragraph 3 of art. 2 of SECEX Ordinance No. 30 of 2018

- *Must regularize their qualification within the period to be established in the SECEX Circular of initiation of the investigation or of the corresponding review, normally 91 (ninety-one) days after the initiation of the investigation*

Source: Ministry of Economy/SDCOM

102. How can qualified stakeholders submit documents through the SDD?

The SDD allows the external user, through the use of digital certificate, to file petitions to initiate original anti-dumping investigations or sunset reviews, as well as to participate in investigations or reviews already in progress as another party. Interested parties by sending evidence and statements to the case file. Thus, broadly speaking, external users submit documents and evidence through the SDD, while SDCOM reviews this material, requests further information if necessary, and makes its recommendations.

As provided in art. 7th of Ordinance SECEX 30, 2018, when the first use of the SDD to send the documents, the representative must provide the registration in the system, digitally sign the document (s), select one of the actions presented by the SDD, classify the document as "Restricted" or "Confidential" and forward the text files in Portable Document Format (PDF) and spreadsheets in XLSX ("Microsoft Excel" spreadsheet) format.

To file documents throughout the process, such as responses to questionnaires, statements and requests for a hearing, an already qualified interested party should access the "Processes" menu, identify the process of interest and click

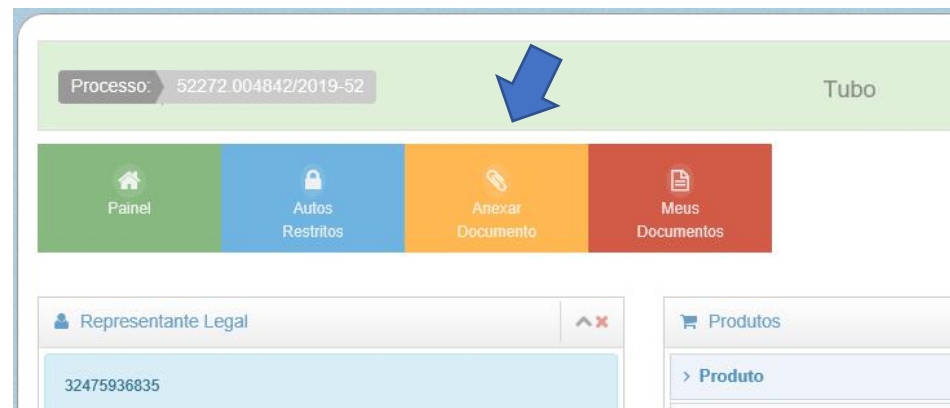
Figure 75: Access the process



Source: Ministry of Economy / SDCOM

Click on Attach Document:

Figure 76: Attach Document



Source: Ministry of Economy / SDCOM

In the next screen, the user should create a "File Set". To do this you must choose the interested party and the category of document to be sent, highlighted by 1 and 2 in the figure below. Then click on Create New File Set, highlighted by 3. In the message box that will appear the operation must be confirmed by clicking "OK".

With the set of files created, click Attach to add documents to the set.

Figure 77: Fileset

Conjuntos de Arquivos

	Data de Inclusão	Parte Interessada	Categoria do Documento	Ações
+	25/09/2019 17:52:05	Peticionário	Habilitação	Excluir Anexar

Source: Ministry of Economy / SDCOM

At the file upload screen, fill in the Document Type (highlighted by 1 in the figure below), Auto Type (highlighted by 2 in the figure below), and Description (highlighted by 3). in the picture below). Please note that it is through the Auto Type field that the interested party classifies your document as confidential or restricted. Then click on Add File (s) (highlighted by 4 in the figure below). Repeat this procedure for each file to be sent, always paying

attention to the correct classification of the document as confidential or restricted, and at the end, click on Save files in set (highlighted by 5 in the figure below).

Figure 78: Attach Documents

Source: Ministry of Economy / SDCOM

After attaching at least one document to the file set, the Finish option will be added to the action menu for the file set to which the documents have been added. Identify the set of files that was created and click "Finish." Note that until the set is finalized, the user will be able to delete or add new files to that set.

Figure 79: Finish File Set

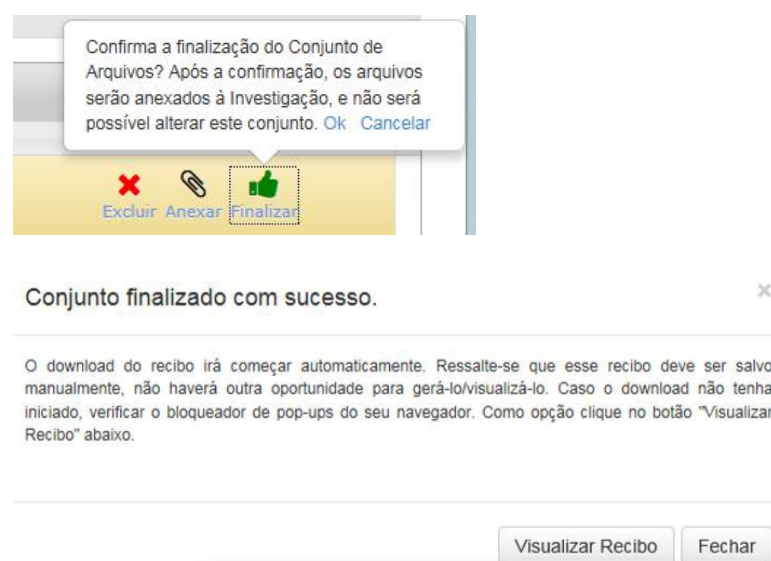
Meus Conjuntos de Arquivos			
Data de Inclusão	Parte Interessada	Categoria do Documento	Ações
+ 29/01/2019 15:42:08	Petionário	Informações complementares à petição	<div> <div>Excluir</div> <div>Anexar</div> <div>Finalizar</div> </div>

Source: Ministry of Economy / SDCOM

By clicking Finish the message below will appear. It should be noted that even if the document was successfully uploaded without clicking the finalize option, the document is not submitted to SDD and is not even on the SDCOM interface, so there will be no any record of documentation submitted by the interested party.

The user should click "OK" to confirm the submission of the files for investigation. After the set of files has been finalized, the option to save or open the transmission receipt will open automatically and the following message will be loaded presenting the option to view the receipt via the View Receipt button. If not, check your browser pop-up blocker.

Figure 80: SDD Confirmation Message



Source: Ministry of Economy / SDCOM

It is essential to emphasize that the documents will only be filed with SDCOM after the external user has finalized the fileset.

SDCOM

103. Once documents are submitted by SDD stakeholders, are they automatically available in the file and can no longer be withdrawn?

Documents submitted by SDD stakeholders will only be available in the file after SDCOM's review, which may or may not attach them. Until such time as the documents are reviewed by SDCOM, process-qualified stakeholders will have access only to the date, file protocol time, and type of file that was filed, but cannot download the document.

This is because, under the terms of 2o of art. 49 of Decree 8.048 of 2013, the following documents will not be attached to the file of anti-dumping investigation proceedings:

I - timely filed; or

II - filed in disagreement with applicable rules, such as documents prepared in a foreign language (except those in English, Spanish or French) unaccompanied from the translation by a public translator (see question 89) and documents that did not meet the requirements for granting confidential treatment (see questions 82 to 87).

Figure 81: Most recurrent causes of Not Attaching a Document



Source: Ministry of Economy / SDCOM

In case of non-attachment of any document in the SDD due to non-compliance with deadline, language or confidentiality, the interested party will be notified by letter, pursuant to 2 of art. 49 of Decree No. 8,048 of 2013.

It should be noted that once a document has been filed by finalizing a set of files, the external user will not be able to exclude the document from the SDD file. In such cases, the interested party shall file a formal request in the corresponding case file, so that SDCOM may detach the documents sent improperly through the registration of justification.

With the exception of the above cases, all other documents will be attached to the file after examination by SDCOM, even if received in duplicate.

It should be noted that, whenever deemed necessary, SDCOM may request the original physical document that has been presented in digital format, which must be delivered within the time specified in the request communication, as provided for in 3 of art. 4th of Ordinance SECEX 30, 2018. If the holder of the document sent does not meet the request within the specified time, the scanned document may be disregarded. Originals of scanned documents submitted to SDCOM shall be retained by their holder

until the statute of limitations and time limits set forth in the applicable laws have elapsed.

104. What are the opening hours of the SDD and its related services?

As provided in art. 10 of SECEX Ordinance No. 30, 2018, the SDD will be available 24 hours a day, uninterrupted, except for system maintenance periods. The art. 9th of this decree determines that, when the electronic file is sent to meet the procedural deadline, the files received by the SDD will be considered timely until 11:59:59 pm (twenty three hours, fifty nine minutes and fifty-nine seconds), according to Brasilia's official time, on the last day of the deadline.

Under the terms of art. 3 of Ordinance SECEX 30, 2018, will be kept scanning equipment and access to the global computer network available to representatives of stakeholders at the headquarters of the Ministry of Economy, from 10h to 17h²⁰. It is recommended that the user make a request to schedule the room and computer.

Should any assistance be required regarding the use of the system, the user must contact the Ministry of the Economy's Service Center by phone +55(61) 2027-7200, from 8am to 6pm.

For this reason, it is recommended that the external user make the necessary arrangements to file the documents in the SDD in reasonable time before the expiration of the procedural deadline, so that there is enough time to find a solution to any technical problem with the Service Center.

SDD

In addition, it is important to emphasize that, as the system's unavailability is not considered under the terms of 1 of art. 11 of Ordinance SECEX 30 of 2018, no time extensions will be granted due to data transmission failures between the external user's workstations and the public communication network, or because of technical impossibility resulting from failures in the user equipment or external programs.

105. What procedure should be followed in case of SDD unavailability?

²⁰Given the sanitary measures adopted due to the Covid-19 pandemic, we inform that all activities of the Undersecretariat for Commercial Defense and Public Interest are now performed remotely, according to internal guidelines established by the Ministry of Economy. For this reason, access to scanning equipment and access to the World Wide Web, referred to in Article 3 of SECEX Ordinance No. 30 of 2018, is suspended while the pandemic persists.

Under the terms of art. 11 of Ordinance SECEX 30, 2018, it is considered that the SDD is unavailable when users are not offered any of the following services: access to the system, user registration, consultation of digital records or electronic transmission of documents.

In these cases, the deadlines that expire on the day of unavailability of any of the services listed above will be extended to the first business day following system normalization. The extension will be made automatically by SDCOM and informed by registration in the records of the proceedings in progress, as provided in art. 12 of Ordinance SECEX 30, 2018.

SDD outages will be reviewed individually, and the external user should contact the Ministry of Economy's Service Center at + 55 61 2027-7200 at the time they encounter technical difficulties. its use. If the difficulty persists, the external user may send an email to sdcom@economia.gov.br, containing a description of the technical difficulty encountered, the protocol number, and the history of his contact with Service Center.

It is also clarified that the scheduled maintenance of the system will be informed in advance and performed preferably between 0h Saturday and 22h Sunday, or between 0h and 6h on other days of the week.

106. What to do if you have questions regarding SDD?

If the external user has any questions about how to use SDD, how to configure his computer to use SDD, or about error messages that he has observed, it is recommended that the user first consult the information contained in the Frequently Asked Questions and System Manual links available on the SDD homepage, which is <http://decomdigital.mdic.gov.br/>.

If the doubt persists, the external user can contact the Service Center of the Ministry of Economy at + 55 61 2027-7200 to deal with issues related to system problems and configuration of the user's computer. In turn, questions related to the use of the system, such as filing documents or obtaining access to the records, can be directed to the institutional e-mail of the corresponding investigation, which can be found in the SECEX Circular that initiated the respective investigation. To access all ongoing investigations: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes/investigacoes-d-e-defesa-comercial>.

107. How to access the SEI-ME for electronic petitioning purposes?

To be granted access to the SEI/ME, for the purposes of electronic submission (filing documents directly into the SEI/ME) or signing documents in a process in which the external user is interested, the external user must register with the Ministry of the Economy, as per the step-by-step detailed below. If you have any questions, please contact sei@economia.gov.br.

a) click on the following link and fill out the form, creating a login and password

1SEI/ME

https://sei.fazenda.gov.br/sei/controlador_externo.php?acao=usuario_externo_enviar_cadastro&acao_origem=usuario_externo_avisar_cadastro&id_orgao_acesso_externo=0

Attention: merely filling out this form will NOT grant access to the system. For this, it is necessary to complete all the registration steps.

Figure 82: Registration of external user in SEI

MINISTÉRIO DA ECONOMIA

sei!

3.1.5

Cadastro de Usuário Externo

Dados Cadastrais

Nome do Representante:

☐ Estrangeiro

CPF:

RG:

Órgão Expedidor:

Telefone Fixo:

Telefone Celular:

Endereço Residencial:

Complemento:

Bairro:

País:

Estado:

Cidade:

CEP:

Brasil

Dados de Autenticação

E-mail pessoal:

Senha (no mínimo 8 caracteres com letras e números):

Confirmar Senha:

Digite o código da imagem ao lado

Enviar

Voltar

Source: Ministry of Economy/SDCOM

b) download the Term of Agreement and Veracity, available at <https://www.gov.br/economia/pt-br/aceso-a-informacao/sistema-eletronic-o-de-informacoes-sei/arquivos/termo-de-declaracao-usuario-externo-sei-8.pdf>

c) fill in all the mandatory fields of the Term, with the same data informed in the online registration (step "a"). The conformity between the data informed in the Term of Agreement and Veracity and those contained in the registration made in the system and in the documents presented is essential. If there is any divergence of information, the registration will not be released.

d) follow the instructions below, according to the type of signature to be

122

made (1 - by handwriting, 2 - with Gov.BR Digital Signer, or 3 - with ICP-Brazil Digital Certificate):

d.1) Term signed in his own handwriting:

- print the completed Term (step "c");
- sign the Term in your own handwriting, with a pen. Note: the signature must be done as it appears on the civil identification document, to be presented along with the Term of Commitment to the Ministry of Economy;
- scan or photograph the signed Term, and save it in PDF format;
- make a copy in PDF format of your RG and CPF, or other official identification document with photo, with CPF and signature identical to the one used to sign the agreement;
- access the Ministry of Economy's Digital Protocol and read all the instructions carefully. Attention: this portal is NOT the SEI, and will serve to compensate for the lack of authentication of the signature of the Term. This portal can be accessed through the following link: <https://www.gov.br/pt-br/servicos/protocolar-documentos-junto-ao-ministerio-da-economia>);
- click on "Start" and log in with the user and password of the Gov.BR Services Portal (Single Federal Government Login). For questions about access to the Single Federal Government Login, please access [https://faq-login- unico.servicos.gov.br/en/latest/](https://faq-login-unico.servicos.gov.br/en/latest/) or the tool's support channel at <https://portaldeservicos.economia.gov.br/atendimento/>
- select the type of request "2 - Request external user registration in SEI/ME" and carefully follow the guidelines presented in each step to complete the registration of documents.

d.2) Term signed using the Federal Government's Digital Signer:

- save the completed Term (step "c");
- access the website <http://assinador.iti.br> login with the user and password of the Gov.BR Services Portal (Single Federal Government Login).

For questions about access to the Single Federal Government Login, please access <https://faq-login-unico.servicos.gov.br/en/latest/> or the tool's support channel at <https://portaldeservicos.economia.gov.br/atendimento/>

- Attention: this portal is NOT the SEI, and will serve to digitally sign the Term, with a verified or proven account in the Single Federal Government Login. For more information about the Digital Signer of the Federal Government, please access the electronic page of this service;

- click on "Choose File" and upload the completed Term;

Figure 83: Signing a document with the Digital Signer



Source: Ministry of Economy/SDCOM

- click on Digital Signature;

Figure 84: Signing a document with the Digital Signer

Assinatura de documento

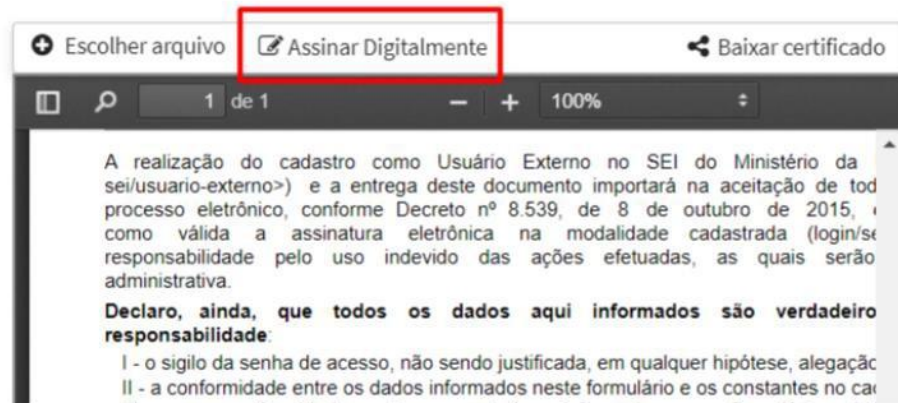


Assinatura digital não encontrada

O arquivo atual não foi assinado digitalmente.

Para assinar:

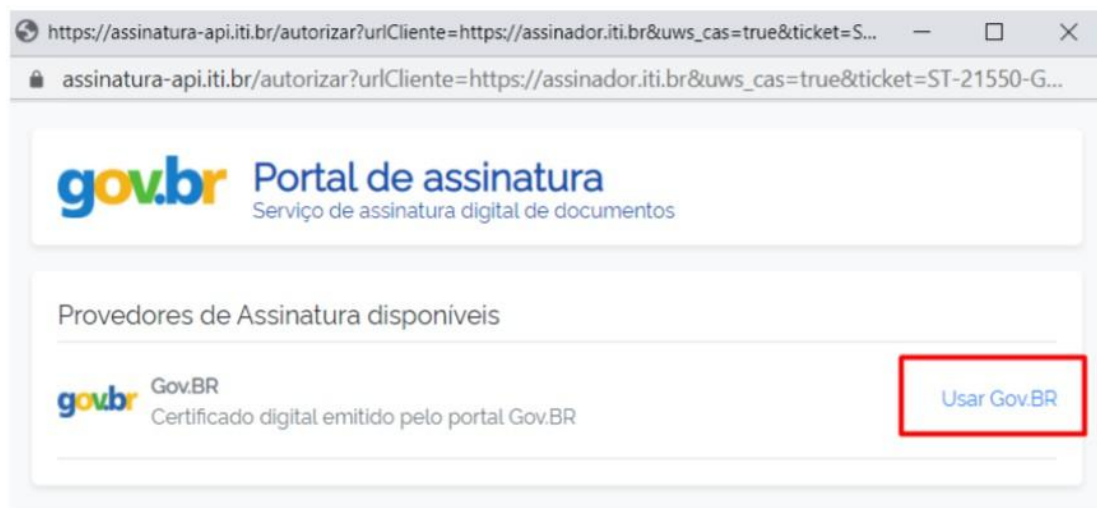
1. Clique no PDF e posicione



Source: Ministry of Economy/SDCOM

- in the pop-up that opens, click on "Use Gov.BR";

Figure 85: Signing a document with the Digital Signer



Source: Ministry of Economy/SDCOM

- in the "Code" field, type the numeric code that was sent to your cell phone number registered with Gov.BR, and click "Authorize";

Figure 86: Signing a document with the Digital Signer

gov.br Portal de assinatura
Serviço de assinatura digital de documentos

Autorização

Você autoriza o serviço Assinatura API Service a assinar digitalmente documentos?

Um SMS com o código foi enviado para o seu celular. Por favor, digite o código para autorizar a assinatura digital.

Código:

[Cancelar](#) [Re-enviar SMS](#) [Autorizar](#)

Source: Ministry of Economy/SDCOM

- click on "Download signed file" to download the file to your machine;

Figure 87: Signing a document with the Digital Signer

gov.br sair

Assinatura de documento

Assinado digitalmente por: > Nome do Usuário

Escolher arquivo Assinar Digitalmente **Baixar arquivo assinado** Baixar certificado

1 de 1 100%

MINISTÉRIO DA ECONOMIA
Secretaria Executiva
Secretaria de Gestão Corporativa

TERMO DE CONCORDÂNCIA E VERACIDADE
(Cadastro de Usuários Externos no SEI do Ministério da Economia)

- make a PDF copy of your RG and CPF, or other official photo ID with CPF;
- send the files (signed term and personal document) via e-mail to

sei@economia.gov.br , with the subject "External User Registration".

Note: the step-by-step of the Digital Signer presented above is for guidance purposes, to facilitate the use of the tool by the external user. Any problem related to the tool should be reported to the managers of this service, through the email governodigital@economia.gov.br.

governodigital@economia.gov.br

d.3) Term signed using an ICP-Brasil Digital Certificate

- for this type of signature, the user must have a valid ICP-Brasil digital certificate;

- save the completed Term (step "c");
- access the digital signature portal of your choice and login; Examples: SERPRO's Digital Signer, Signature Portal, etc. Any problem related to the use of these portals should be reported to the respective support channels, as they are independent solutions of the SEI;
- follow the guidelines presented on the service's page;
- download the signed file to your machine;
- make a PDF copy of your RG and CPF, or other official identification document with photo in which CPF is included;
- send the files (signed Term of Service and personal document) via e-mail to sei@economia.gov.br , with the subject External User Registration;+

After sending the documentation in the form presented in the previous topic, the requester must wait for a response from the analysis at the email address informed in the pre-registration. If all the documentation sent is in conformity, access to the SEI/ME as an external user will be granted. In case of inconsistency, the applicant must follow the instructions presented in the email message to regularize the pendency.

Attention: the deadline for analysis is up to three working days²¹ after receipt of the documentation, and may eventually be extended in case of considerable increase in demand. The release of the registration does not imply the availability of access to the process (when this is the case), which will be subject to analysis by the unit in which it is being processed. Thus, after the register is released, the user who requires access to the contents of a certain

process must file a request for access within the SEI process to be accessed.

Only after the registration is released will it be possible to log into the SEI/ME External Access page, using the access password generated by the external user himself at the time of pre-registration. We recommend using the Firefox web browser.

Figure 88: SEI Access screen

The screenshot shows a web form titled "Acesso para Usuários Externos". On the left is the SEI logo. The form contains two input fields: "E-mail:" and "Senha:". Below the password field are two buttons: "Confirma" and "Esqueci minha senha". At the bottom, there is a link that says "Clique aqui se você ainda não está cadastrado".

	Acesso para Usuários Externos
	E-mail: <input type="text"/>
	Senha: <input type="password"/>
	<input type="button" value="Confirma"/> <input type="button" value="Esqueci minha senha"/>
Clique aqui se você ainda não está cadastrado	

Source: Ministry of Economy/SDCOM

108. How do I create a new process in SEI-ME?

To file documents in a new process, after logging in to the system, the external user must

- a) on the main menu (left side of the screen), access the option "Petitioning" and click on "New Case";
- b) carefully read the general guidelines presented on the screen
- c) choose the type of process whose opening you want to formalize with the Ministry of Economy;
- d) carefully read the specific guidelines for the type of process selected;

Figure 89: Creating a new process in SEI

Source: Ministry of Economy/SDCOM

e) properly fill out all the fields on the "Petition New Process" screen:

- "Specification": insert summary of the subject of the petition;

- "Interested Parties": select "Pessoa Física" (Individual) or "Pessoa Jurídica" (Legal Entity), as appropriate; inform the CPF or CNPJ, as appropriate; click on Validate. If the system shows the corresponding name, click on "Add"; if the system does not find the corresponding name, fill out the "Interested Party Registration" screen that will open automatically; click on "Save", and then on "Add". If the new screen does not open, the user must check the browser's pop-up block and try the operation again;

- In the "Documents" section, items "Main Document" (required) and "Complementary Documents" (optional): click on "Browse"; locate the file on your computer; click "Open"; inform the "Complementary Document Type"; select the "Access Level":

Public: for documents that do not contain restricted information, in accordance with the legislation in force. Once this option is selected, the document will be available for consultation and access by any citizen, through the SEI Public Search;

Restricted: for documents that contain restricted information, according to the legislation in force, including personal information (CPF, address, etc.);

- Mark the "Format" (natural-digital or digitalized). Note: indicate the "Digitized" format only if the file was produced on paper and later digitized, and it is important to use the optical recognition resource (OCR) so that the text is searchable;

- Click on "Add";

f) after adding all the necessary documents (main and complementary), click on "Petition". Do not exceed one hour between the loading of the first document and the last. The system automatically eliminates the files uploaded and not concluded within this time limit, considering them as temporary;

g) in the "Complete Petition - Electronic Signature" window

- select the "Position/Function" closest to the position held;

- type the SEI access password;

- click on the "Sign" button.

After the petition processing is finished, the system automatically generates an Electronic Protocol Receipt for the external user, which is also included in the process.

For information purposes only, an automatic e-mail is sent to the external user confirming the petition, according to the protocol of the generated Electronic Protocol Receipt. At any time the user can access the list of the receipts of his petitions (main menu > Electronic Protocol Receipts).

109. How do I file documents in a process that is already in progress in SEI-ME?

Through the interlocutory petition, the external user can include documents in an existing proceeding or in a new related proceeding. To conduct the interlocutory petition, the external user must:

a) in the main menu (left side of the screen), access the option "Petitioning" and click on "Intercorrente";

b) enter the number of the process in which you wish to petition and click on the "Validate" button

c) if the number is validated, click on "Add" and the "Documents" section will be displayed;

Figure 90: Filling documents into an existing process

Source: Ministry of Economy/SDCOM

d) in the "Documents" section, for each document you wish to petition

- click on "Browse";
- locate the file on your computer;
- click on "Open"
- select the "Document Type";
- inform the "Document Type Complement";
- select the "Access Level":

Public: for documents that do not contain restricted information, in accordance with the legislation in force. Once this option is selected, the document will be available for consultation and access by any citizen, through the SEI Public Search;

Restricted: for documents that contain restricted information, according to the legislation in force, including personal information (CPF, address, etc.);

- mark the "Format" (natural-digital or digitalized). Note: indicate the "Digitized"

format only if the file was produced on paper and later digitized, and it is important to use the optical recognition resource (OCR) so that the text is searchable;

- click on "Add";

e) after adding all the necessary documents, click on "Petition";

f) in the window "Conclude Petitioning - Electronic Signature":

- select the "Position/Function" closest to the function exercised;

- enter the SEI access password;

- click on the "Sign" button.

After the petition processing is finished, the system automatically generates an Electronic Protocol Receipt for the external user, which is also included in the process.

For information purposes only, an automatic e-mail is sent to the external user confirming the petition, according to the protocol of the generated Electronic Protocol Receipt. At any time the user can access the list of the receipts of his petitions (main menu > Electronic Protocol Receipts).

PART II.4. DEADLINES ON ORIGINAL AND PREVIOUS ANTIDUMPING INVESTIGATIONS AT END OF PERIOD REVIEWS

110. How are deadlines counted in the anti-dumping investigation?

The deadlines set in Decree No. 8,058 of 2013 will be accounted for on a running basis, including the due date. The term shall be deemed to be extended until the first working day following if the due date falls on a day when there is no closed before normal hours, according to art. 185 of Decree No. 8,058 of 2013.

The counting of deadlines begins on the first business day following the publication of the act or the dispatch of correspondence, if any, pursuant to art. 187 of Decree No. 8,058 of 2013.

The deadlines set in months are from date to date. If in the month of maturity there is no day equivalent to that of the beginning of the term, the last day of the month is terminated, as provided in art. 188 of Decree No. 8,058 of 2013.

Moreover, for the deadlines provided for in the trade remedy legislation that begin after the interested party's awareness, it will be assumed that the interested parties will be aware of documents transmitted electronically 3 (three) days after the date of transmission, according to art. 19 of Law no. 12,995, of June 18, 2014, since the notifications and other communications made within the scope of the administrative process will be transmitted electronically by SDCOM to the interested parties, according to SECEX Ordinance no. 20, of March 30, 2020.

Specifically, in the case of the deadline for answering the questionnaires of the foreign producers or exporters, the term of awareness will be of 7 (seven) days counted from the transmission date, in conformity with footnote 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, included in the Final Act that incorporated the results of the Uruguay Round of GATT Multilateral Commercial Negotiations, promulgated by Decree no. 1.355, of December 30th, 1994. It should also be emphasized that the term of science starts on the first working day following the publication of the act or the transmission of the correspondence. Furthermore, if the date of presumed awareness falls on a day when there is no business day or when the business day is closed before the normal time, the date of presumed awareness will then be equivalent to the first subsequent business day. The deadlines themselves will begin to run from the day after the date of presumed awareness.

Example 1:

- Date of transmission of the letter requesting further information from the petitioner: 14/08/2019 (Wednesday).
- Date of presumed awareness:
 - - Awareness begins to count on the first business day following shipment:
 - day 1 = 15/08/2019
 - Awareness = three (3) days
 - day 3 = 17/08/2019 (Saturday).
 - As the due date of the awareness is Saturday, the awareness moves to the first subsequent business day, i.e.

19/08/2019 (Monday).

Example 2:

- Date of transmission of notification containing questionnaire for producer/exporter: 16/10/2019 (Wednesday).
- Date of presumed awareness:
 - Awareness begins to count on the first business day following mailing:
 - day 1 = 17/10/2019
 - Awareness of the questionnaire = 7 (seven) days
 - day 7 = 23/10/2019 (Wednesday).

111. Is it possible to extend the time limits for anti-dumping investigations and how are the extensions accounted for?

Under the terms of art. 194 of Decree No. 8,058 of 2013, SDCOM may extend, for a single time and for an equal period, the time limits provided for in the legislation, except those whose extension or prohibition are already provided²¹. It should be noted that the deadlines for presumption of awareness provided for in art. 19 of Law No. 12,995 of 2014 cannot be extended.

Requests for extension of deadlines, when admitted, may only be known if presented in the restricted records of the corresponding process, before the original deadline, pursuant to art. 189 of Decree 8.058 of 2013. The first day of the extended period shall be the day following the expiration of the original term. Accordingly, the extension period is in addition to the original, and the resulting total term is **uninterrupted** from the beginning of the original term.

Note that the Circular SECEX will disclose the deadlines related to the end of the investigation of each anti-dumping investigation, provided for in arts. 59 to 63 of Decree No. 8,058 of 2013, namely those referring to the end of the probationary phase, the submission of statements on the data and information contained in the restricted records, the disclosure of the SDCOM Technical Note containing the essential facts for judgment, the conclusion of the proceedings, the submission of the parties' final statements and the preparation of the determination opinion SDCOM. For this reason, any extensions of the aforementioned deadlines may be made by publication of a new SECEX Circular, for purposes of greater transparency and predictability.

²¹ It is important to highlight that, while the COVID-19 pandemic persists, the deadlines provided in Decree No. 8,058, of 2013, may be suspended, based on art. 67 of Law No. 9,784, of January 29, 1999, in order to ensure adequate time for the collection and analysis of the information necessary for SDCOM determinations, as provided in art. 7 of SECEX Normative Instruction No. 1, of 2020.

Example:

- Date of dispatch of the letter requesting further information from the petitioner: 08/14/2019 (Wednesday).
- Date of presumed awareness of the petitioner:
 - Awareness begins to count on the first business day following mailing:
 - day 1 = 15/08/2019
 - Awareness for interested parties= 3 (three) days
 - day 5 = 17/08/2019 (saturday).
 - Since the awareness due date is Saturday, the awareness is moved to the first subsequent business day, i.e. 19/08/2019 (Monday).
- Deadline for response to the complementary information letter = 5 (five) days from the petitioner's awareness:
 - The deadline for response will begin on 20/08/2019 (the first business day following the awareness).
 - The deadline day is 24/08/2019 (Saturday).
 - As it is not a business day, the deadline for reply to the complementary information letter will be automatically extended to 8/26/2019 (Monday).
- Extension of the deadline to respond to the complementary information letter
 - If the petitioner wishes to extend the deadline, he may request an extension until 26/08/2019 (the last day of the original deadline).
 - If SDCOM grants the deadline extension, the total deadline for reply will be 5 (five) days (original deadline) + 5 (five) days (extension), counted from the awareness.
 - The extended deadline (ten (10) days in total) begins on 20/08/2019 (first business day following the acknowledgement).
 - The expiration date of the period will be 29/08/2019 (Thursday).

112. What are the deadlines for the protocol of initial petitions for original anti-dumping investigations?

Under the terms of 1 of art. 48 of Decree 8.058 of 2013, the petitioner will have

until the last business day of the fourth month following the end of the dumping investigation period to file the original anti-dumping investigation petition, without the need to update the dumping investigation periods and of damage.

As mentioned in question 10, the dumping investigation period will necessarily correspond to the most recent injury investigation subperiod and should end in March, June, September or December. Considering this information and the petition protocol deadline mentioned in the previous paragraph, each year there are four windows for filing original antidumping investigation petitions, as presented in the table below.

Figure 79: Petition Presentation Windows

<i>Dumping investigation period</i>	<i>Deadline for petition protocol: last business day of</i>
<i>January 20X1 to December 20X1</i>	<i>April 20X2</i>
<i>April 20X1 to March 20X2</i>	<i>July 20X2</i>
<i>July 20X1 to June 20X2</i>	<i>October 20X2</i>
<i>October 20X1 to September 20X2</i>	<i>January 20X2</i>

Source: Ministry of Economy / SDCOM

For example, if the petition is made considering the dumping investigation period from October 1, 2018 through September 30, 2019, the petitioner will have until the last business day of January 2020 to file the petition. Should the petitioner lose this deadline and submit the data on the first working day of February 2020, you should update all petition data so that the investigation period of dumping corresponds to the period from 1 January to 31 December 2019.

113. What are the deadlines for filing sunset review petitions?

In view of the provisions of art. 94 of Decree 8.058 of 2013, the windows for filing original anti-dumping investigation petitions, mentioned in question 114, also apply to the filing of sunset review petitions.

However, the party wishing to submit such a petition must also comply with the provisions of art. 111 of the aforementioned decree, according to which a sunset review petition must be filed at least four (4) months before the date

of expiry of the anti-dumping duty object of the petition, under penalty of its being considered untimely. If the party so wishes, the petition may be submitted before this period of four (4) months, in order to facilitate its adaptation to the windows mentioned above. However, should the party miss the deadline for filing the sunset review petition, the definitive anti-dumping duty intended to be extended will expire at the end of its term.

Accordingly, if a definitive anti-dumping duty is considered to expire on December 31, 2019, any petition for revision of this right must be filed by August 31, 2019, ie 4 (four) months before expiration date. However, as a petition filed on August 31, 2019 would have a dumping investigation period relating to the interval from July 1, 2018 to June 30, 2019, the petitioner would have only 2 (two) months to prepare and submit its petition after the end of the investigation period. For this reason, if the petitioner wishes to have more time to prepare his petition, he may choose to present it on July 31, 2019, i.e. 5 (five) months before the expiry of the anti-dumping duty in question, hypothesis in which the investigation period of dumping should correspond to the interval from 1 April 2018 to 31 March 2019.

114. What are the time limits for initiating an original anti-dumping investigation?

The following tables detail the deadlines provided for in art. 41 of Decree No. 8,058 of 2013, relating to proceedings prior to the initiation of an original anti-dumping investigation, i.e. the time limits for the examination phase of the petition. Note that the deadlines for Petition analysis will vary if additional information on the petition is required.

It should be noted that the analysis deadlines indicated in the tables below are internal and improper deadlines, so that non-compliance does not generate procedural repercussions.

Figure 92: Deadlines for initiating an original anti-dumping investigation in case no additional information is required from the petition

<i>Background of the Investigation</i>	<i>Deadlines</i>
<i>Protocol of the Initial Petition in the SDD</i>	<i>Observe the deadlines of art. 41 of Decree No. 8,058 of 2013 (see question 114)</i>
<i>SDCOM Preliminary Review of</i>	<i>Fifteen (15) days from the protocol of</i>

<i>Petition</i>	<i>the Petition</i>
<i>Decision that no further information is required on the application</i>	
<i>Consultation prior to opening - Mercosur countries</i>	<i>Before the investigation begins</i>
<i>Notification of petition directed to the governments of exporting countries</i>	
<i>Preparation of SDCOM Initial Opinion</i>	
<i>Publication of the SECEX Initiation Notice (day 0 of the investigation) OR Issuance of the letter rejecting the petition</i>	<i>Within fifteen (15) days after the preliminary examination of the petition</i>

Source: Ministry of Economy / SDCOM

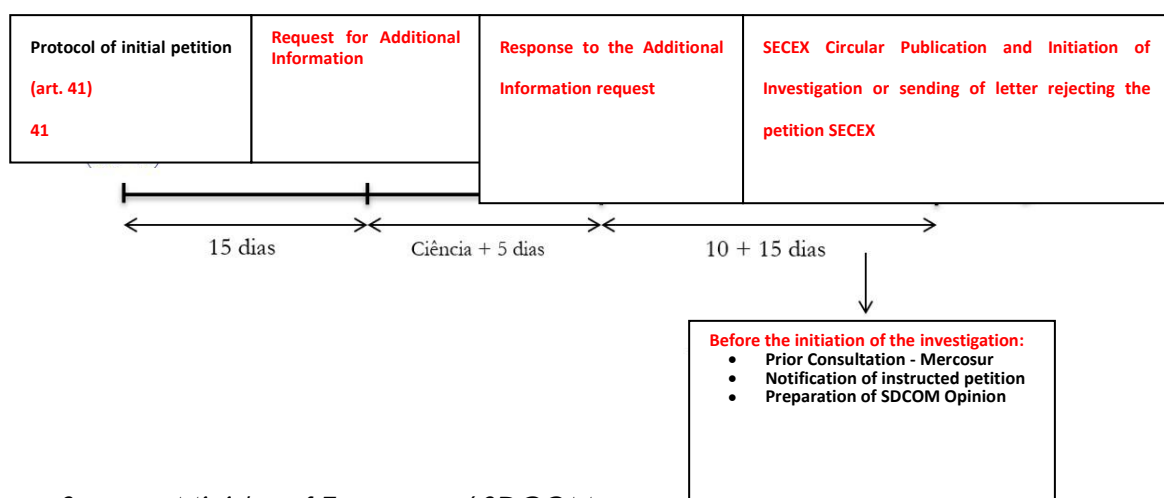
Figure 93: Deadlines for initiating an original anti-dumping investigation if additional information is needed on the petition:

<i>Background of the Investigation</i>	<i>Deadlines</i>
<i>SDD Petition Protocol</i>	<i>Observe the deadlines of art. 48 of Decree No. 8,058 of 2013 (see question 114)</i>
<i>SDCOM Preliminary Review of Petition</i>	<i>Fifteen (15) days from the protocol of the</i>
<i>SDCOM letter requesting additional information to petition</i>	
<i>Submission of Additional Information to Petition or Request for Deadline Extension (Petitioner)</i>	<i>5 (five) days + term of national awareness (3 (three) days)</i>
<i>Analysis of Additional Information by SDCOM</i>	<i>10 (ten) days from receipt of Additional Information</i>
<i>Consultation prior to opening - Mercosur countries</i>	<i>Before the investigation begins</i>
<i>Notification of petition directed to the governments of exporting countries</i>	

<i>SDCOM Opinion Preparation</i>	
<i>Publication of the SECEX Circular of Commencement (day 0 of the investigation) OR Issuance of the letter of rejection of the petition.</i>	<i>Within fifteen (15) days after examination of the supplementary information to the petition</i>

Source: Ministry of Economy / SDCOM

Figure 94: Petition Review Deadlines



Source: Ministry of Economy / SDCOM

115. What are the deadlines for initiating a sunset review?

Although Decree No. 8,058 of 2013 provides detailed deadlines for examining petitions for original antidumping investigations, these deadlines do not necessarily have to be applied to the analysis of sunset review petitions, as, as provided for in art. 94 of the aforementioned decree, sunset reviews will only comply with the deadlines set out in Chapter V of that decree, including petition review deadlines.

In addition, the art. 111 of Decree No. 8,058 of 2013 only provides that the decision to initiate the sunset review will have to be published before the expiry of the definitive anti-dumping duty subject to the review, a period which cannot be extended. Given that the petition must be filed at least four (4) months in advance of this deadline, there is no need for the sunset review petition to be reviewed as expeditiously as the original antidumping investigation petitions (see question 114).

Nevertheless, it should be clarified that SDCOM will, whenever possible,

analyze sunset review petitions on the basis of the time-limits for examining original anti-dumping investigation petitions to allow for on-the-spot verification of the petitioner companies prior to start of the review (see question 61). It should be noted that there is no violation of due process if such original investigative deadlines are not strictly met in sunset reviews.

Note that because the beginning of a sunset review is foreseeable, it is not necessary to send a letter of instruction before the commencement of such reviews.

116. What are the time limits during the investigation of the original anti-dumping investigation?

The following figure and table detail the time limits set out in Sections IV, V and VI of Chapter V of Decree 8.058 of 2013, concerning the proceedings conducted after the initiation of an original anti-dumping investigation, ie during the investigation of the proceeding.

Figure 95: Deadlines of an original anti-dumping investigation

95





Source: Ministry of Economy / SDCOM

Figure 96: Expected deadlines during the investigation of original antidumping investigations

Process Instruction	Deadlines	Investigation Days
Publication of SECEX Initiation Notice in the Official Gazette	Beginning of investigation	0
Notification of initiation (to interested parties and the WTO) and information request (questionnaires)	Immediately after the investigation begins	-
Deadline for qualification of other interested parties, not identified by SDCOM	20 (twenty) days from the beginning of the investigation (45 of art. 45)	20 (twenty) days
Deadline for government of exporting country to comment on eventual selection	10 (ten) days of notification of commencement + period of acknowledgment (paragraph 5 of art.28)	Approx. 15 (fifteen) days
Original deadline for submitting questionnaire replies or request for extension of	Up to thirty (30) days from notification of commencement + term of awareness	Approx. 40 (forty) days

<i>deadline for such submission</i>	<i>(seven (7) days for foreign producers or exporters and three (3) days for other parties) (art. 50, caput)</i>	
<i>On-the-spot verification in the domestic industry</i>	<i>Usually after initiation of investigation and before determination preliminary</i>	-
<i>Deadline for receiving information considered in preliminary determination</i>	<i>At least sixty (60) days from the beginning of the investigation, and extended, if not prejudging the deadline for the preparation of the preliminary determination - (7 of art. 65)</i>	<i>60 (sixty) days or more</i>
<i>Deadline for producer, exporter or petitioner to suggest third alternative country</i>	<i>70 (seventy) days from the beginning of the investigation (non-extendable) (15 of art. 15)</i>	<i>70 (seventy) days</i>
<i>Deadline for a producer or exporter from a non-market economy country to provide evidence to enable normal value to be established on the basis of the provisions of arts. 8th to 14th Decree No. 8,058, 2013</i>	<i>70 (seventy) days from the beginning of the investigation (non-extendable) (art. 16)</i>	<i>70 (seventy) days</i>
<i>Extended deadline for submitting questionnaire response</i>	<i>Up to sixty (60) days from the notification of commencement + notice period (5 (five)</i>	<i>Until approx. 70 (seventy) days</i>

	<i>days for domestic parties and 10 (ten) days for foreign parties) (paragraph 1 of article 50)</i>	
<i>Deadline for regularization of the qualification of representatives performed the acts provided for in 3 of art. 2nd of Ordinance SECEX 30, of 2018</i>	<i>Ninety-one (91) days from the beginning of the investigation (deadline set in the SECEX Circular for the initiation of the investigation)</i>	<i>91 (ninety-one) days</i>
<i>Dispatch of letter of request for additional information to questionnaires and / or letter of refusal of information</i>	<i>After analyzing the questionnaires received</i>	<i>-</i>
<i>Preparation of Preliminary Determination Opinion</i>	<i>Up to 120 (one hundred and twenty) days, but not earlier than 60 (sixty) days from the beginning of the investigation. Exceptionally up to 200 (two hundred) days from the beginning of the investigation (caput and 1 of art. 65)</i>	<i>Between 60 (sixty) and 120 (one hundred and twenty) days or, exceptionally, up to 200 (two hundred) days</i>
<i>Publication of Preliminary Determination - SECEX Circular</i>	<i>Within 3 (three) days after the Opinion of SDCOM (5 of art. 65)</i>	<i>-</i>
<i>Notification to parties and the WTO concerning the publication of the Preliminary</i>	<i>Immediately after the publication of the SECEX Circular of Determination preliminary</i>	<i>-</i>

<i>Determination</i>		
<i>Information Submission complementary to the questionnaires or deadline extension request for such submission</i>	<i>10 (ten) days of the request letter complementary information + deadline of awareness (5 (five) days for parts national and 10 (ten) days parties foreigners) and may be extended for another 10 (ten) days (art. 50)</i>	-
<i>Application of provisional duty, by publication of Resolution Gecex (optional)</i>	<i>After the publication of Circular Preliminary Determination SECEX</i>	-
<i>Notification to parties and the WTO concerning the application of provisional duty</i>	<i>Immediately after the publication of the Corresponding Gecex Resolution</i>	-
<i>Duration of the provisional measure (if there is)</i>	<i>From 4 (four) to 6 (six) months, may be extended at the request of the exporter for up to 9 (nine) months (6, 7 and 8 of art. 66)</i>	-
<i>Deadline for requesting Hearings</i>	<i>5 (five) months from the beginning of investigation (art. 55)</i>	<i>Up to 5 (five) months (approx. 150 (one hundred and fifty) days)</i>
<i>On-the-spot verification in the others companies (exporters, importers and other domestic producers)</i>	<i>Upon receipt of information complementary to the questionnaires and before phase closure probative investigation</i>	<i>Up to max. 240 (two hundred and forty) days</i>

<i>Submission of Price Undertaking Applications</i>	<i>After publication of determination positive preliminary and before the closure of the probationary phase of investigation (Paragraph 6 of Art. 67)</i>	<i>Approx. between 120 (one hundred and twenty) and 240 (two hundred and forty) days in maximum</i>
<i>Closure of the evidentiary stage</i>	<i>Within 120 (one hundred and twenty) days of determination publication preliminary (art. 59)</i>	<i>Until approx. 240 (two hundred and forty) days</i>
<i>Comments on the content of the case files</i>	<i>Twenty (20) days from the closure of the probationary phase (art. 60)</i>	-
<i>Disclosure of the Technical Note of SDCOM with the essential facts</i>	<i>Within 30 (thirty) days of closing of the demonstration phase (art 61)</i>	-
<i>Closure of the instruction stage, closing arguments</i>	<i>20 (twenty) days from the disclosure Technique (art 62)</i>	-

Source: Ministry of Economy / SDCOM

It should be noted that the analysis deadlines indicated in the tables above are internal and improper, so that their non-compliance has no procedural repercussions²².

117. What are the deadlines during the instruction stage of a sunset review?

The procedures conducted during the investigation phase of a sunset review are practically the same as those carried out during the investigation of

²² It is important to highlight that, while the COVID-19 pandemic persists, the deadlines provided in Decree No. 8,058, of 2013, may be suspended, based on art. 67 of Law No. 9,784, of January 29, 1999, in order to ensure adequate time for the collection and analysis of the information necessary for SDCOM determinations, as provided in art. 7 of SECEX Normative Instruction No. 1, of 2020.

original antidumping investigations (see question 114), given the provisions of art. 94 of the Decree 8,058 of 2013, except for the differences presented below.

The first difference is related to the timing of the on-the-spot verification at the petitioner companies. As explained earlier, in sunset reviews, SDCOM typically conducts on-the-spot verification of petitioners prior to the commencement of review, provided that there is sufficient time for such a procedure to be performed during the analysis of the initial petition. Such practice is based on the principles of efficiency, provided for in art. 2 of Law No. 9,784 of 1999, and in art. 37 of the Federal Constitution of 1988, and the procedural speed, contained in item LXXVIII of art. 5th of the Magna Carta. It should be noted, however, that the on-the-spot verification of the petitioner need not necessarily be carried out prior to the commencement of the review. Thus, if SDCOM chooses to carry out on-the-spot verification with the petitioner after the commencement of the review, this procedure will occur at the same time as it usually occurs in the original antidumping investigations presented in the previous question.

The second difference concerns the preliminary determinations. In view of the provisions of art. 94 of Decree 8.058 of 2013, the preparation of preliminary determinations is not mandatory in sunset reviews, unlike in original antidumping investigations. However, if SDCOM decides to make a preliminary determination under a sunset review, the preparation and publication of this determination will follow, preferably, the same deadlines set for preliminary determinations in original antidumping investigations, which were presented in the previous question.

It is important to note that the issuance of a preliminary determination is a condition for interested parties to submit price undertakings, pursuant to paragraph 6 of art. 67 of Decree No. 8,058, 2013, according to which foreign producers or exporters may only offer price undertakings or accept those offered by SDCOM during the period between the date of publication of the positive preliminary determination of dumping, of injury to domestic industry and of causal link between them, and the closure of the evidentiary phase (see question 178).

The last difference concerns the possibility of applying provisional duties. As the definitive anti-dumping duty remains in force during the sunset review (Art. 112 2 of Decree 8.058 of 2013), it is not necessary to apply provisional anti-dumping duties in a sunset review.

118. What are the time limits for on-the-spot²³ verifications in an anti-dumping investigation?

The following tables detail the procedures and deadlines related on-the-spot verifications, distinguishing those performed on i) domestic producers and ii) foreign exporters or domestic importers, as provided for in art. 175 of Decree 8.058 of 2013. These deadlines apply to both original anti-dumping investigations and sunset reviews.

It should be noted that the analysis deadlines indicated in the tables below are internal and improper deadlines, so that non-compliance does not generate procedural repercussions.

Figure 97: Deadlines for on-the-spot verification in domestic producers

<i>On-the-spot verification at national producers</i>	<i>Deadlines</i>
<i>Letter of intention to perform on-the-spot verification on domestic producers</i>	<i>Twenty (20) days prior to on-the-spot verification</i>
<i>Reply with the consent of the company</i>	<i>2 (two) days + term of awareness (3 (three) days)</i>
<i>Submission of on-the-spot verification script</i>	<i>10 (ten) days prior to on-the-spot verification</i>
<i>On-the-spot verification duration</i>	<i>Usually 1 (one) week¹</i>
<i>On-the-spot Verification Report</i>	<i>15 (fifteen) days after the final date of the researcher's removal</i>

²³ It should be noted that, as provided in SECEX Normative Instruction No. 1 of 2020, due to the COVID-19 pandemic and measures to face this pandemic, SDCOM had to suspend, for an undetermined period, all on-the-spot verifications. While this scenario persists, given the continued impossibility of performing on-the-spot verification procedures, SDCOM will continue, exceptionally, only with the detailed analysis of all information submitted by interested parties in the scope of trade remedy investigations and public interest assessments, seeking to verify its correctness based on the cross-analysis of the information filed by each interested party with those submitted by other parties, as well as with information contained in other sources available to the Undersecretariat, if possible and when applicable. For this purpose, SDCOM may request additional complementary information to that provided for in 2 of art. 41 and in 2 of art. 50 of Decree No. 8.058, 2013. Furthermore, under the terms of the sole paragraph of art. 179 of the mentioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and answers to questionnaires and details of specific expenditures, in order to validate information submitted by interested parties.,

<i>Availability of updated performance indicators in the case file (if possible / necessary)</i>	<i>After on-the-spot verification and before the closure of the evidentiary stage</i>
<i>Notification of Refusal of Information and Use of Best Information Available</i>	

Source: Ministry of Economy / SDCOM

Figure 98: Deadlines for on-spot verification at foreign exporters or domestic importers

<i>On-the-spot verification at foreign exporters or domestic importers</i>	<i>Deadlines</i>
<i>Letter of intention to perform on-the-spot verification on foreign exporters or domestic importers</i>	<i>30 (thirty) days prior to on-the-spot verification</i>
<i>Reply with the consent of the company</i>	<i>2 (two) days + term of awareness (3 (three) days)</i>
<i>Letter informing the government of the country about the on-the-spot verification (only in case of verification in foreign producer / exporter)</i>	<i>After the consent of the foreign company</i>
<i>Submission of on-the-spot verification script</i>	<i>Twenty (20) days prior to on-the-spot verification</i>
<i>Duration of the on-the-spot verification</i>	<i>Verification at foreign exporters: normally one (1) week Verification at domestic importers: normally 2 (two) days</i>
<i>On-the-spot verification Report</i>	<i>15 (fifteen) days after the end date of the investigator's removal</i>

<i>Notification of refusal of information and use of Best Information Available</i>	<i>After on-the-spot verification and before the end of the evidentiary stage</i>
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Source: Ministry of Economy / SDCOM

119. What are the time limits for holding hearings in an anti-dumping investigation?

The following table details the procedures and deadlines related to the hearings, as provided in art. 55 of Decree 8.058 of 2013. These time limits apply to both original anti-dumping investigations and sunset reviews.

It should be noted that the analysis deadlines indicated in the tables below are internal and improper deadlines, so that non-compliance does not generate procedural repercussions. In turn, the deadlines for stakeholders must be met, otherwise the untimely act will be disregarded by SDCOM.

Figure 99: Deadlines for holding hearings

<i>Hearing requested by the parties</i>	<i>Deadlines</i>
<i>Hearing Request</i>	<i>Within 5 (five) months of the beginning of the investigation</i>
<i>Notification of the parties</i>	<i>At least 20 (twenty) days before the hearing</i>
<i>Submission of arguments by the parties</i>	<i>Up to ten (10) days before the hearing</i>
<i>Appointment of legal representatives for the hearing</i>	<i>Up to three (3) days before the hearing</i> 3
<i>Information protocol presented orally at the hearing (may be waived in case of official recording of the hearing)</i>	<i>Within 10 (ten) days after the hearing</i>

Source: Ministry of Economy / SDCOM

It should be noted that hearings can be held by videoconference.

120. What are the deadlines for conclusion of an original anti-dumping investigation?

The following table details the terms of Articles 63, 72, 73 and 171 of the Decree No. 8.058, 2013, concerning procedures conducted after process termination instruction dumping in an original investigation.

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Figure 100: Time limits for the completion of an original anti-dumping investigation

Final Determination and Closing	Deadlines	Investigation Days
<i>Final Determination Opinion</i>	<i>Within 20 (twenty) days after the end of the investigation phase (art. 63)</i>	-
<i>SECEX Circular extending the deadline for completion of the investigation for up to eighteen (18) months</i>	<i>Prior to the period of 10 (ten) months for the completion of the original anti-dumping investigation (art. 72)</i>	<i>Before 10 (ten) months</i>
<i>Notification to interested parties of extension</i>	<i>Immediately following the publication of the SECEX Circular extending the deadline for completion of the investigation.</i>	-
<i>Termination of the investigation with the application of definitive anti-dumping measures by publication of Gecex Resolution</i>	<i>After drafting SDCOM's final determination opinion (art. 171)</i>	<i>Up to 10 (ten) months (or up to 18 (eighteen) months, if extended)</i>
<i>Termination of</i>	<i>After drafting SDCOM's</i>	<i>Up to 10 (ten) months</i>

<i>investigation without application of definitive anti-dumping measures by publication of</i>	<i>final determination opinion or upon petitioner's request (arts. 72, 73 and 171) SDCOM</i>	<i>(or up to 18 (eighteen) months if extended)</i>
<i>Notification to interested parties and to the WTO regarding the publication of final determination</i>	<i>Immediately following the publication of SECEX Circular or Gecex Resolution</i>	-

Source: Ministry of Economy / SDCOM

121. What are the deadlines for completing a sunset review?

The following table details the terms set forth in Articles 63, 73, 112, and 171 of Decree No. 8,058 of 2013, regarding procedures conducted after the end of the process instruction in a sunset review.

Figure 101: Deadlines for Completing a Sunset Review

<i>Final Determination and Closing</i>	<i>Deadlines</i>	<i>Investigation Days</i>
<i>Final Determination Opinion</i>	<i>Within 20 (twenty) days after the end of the investigation phase (art. 63)</i>	-
<i>SECEX Circular for extension of the deadline to complete the review for up to twelve (12) months</i>	<i>Before the period of 10 (ten) months to complete the review (art. 112)</i>	<i>Before 10 (ten) months</i>
<i>Notification to interested parties of extension</i>	<i>Immediately following the publication of the SECEX Circular extending the deadline for completing the review.</i>	-
<i>Termination of investigation</i>	<i>After drafting SDCOM's</i>	<i>Up to 10 (ten) months</i>

<i>with extension of definitive anti-dumping measure by publication of Gecex Resolution Gecex</i>	<i>final determination opinion (art. 171) SDCOM171</i>	<i>(or up to 12 (twelve) months, if extended) 1012</i>
<i>Termination of investigation without extension of definitive anti-dumping measure by publication of SECEX Circular</i>	<i>After drafting SDCOM's final determination opinion or upon petitioner's request (arts. 73, 112 and 171). SDCOM</i>	<i>Up to ten (10) months (or up to twelve (12) months, if extended)</i>
<i>Notification to interested parties and the Commission WTO concerning publication of final determination</i>	<i>Immediately following the publication of SECEX Circular or Gecex Resolution</i>	<i>-</i>

Source: Ministry of Economy / SDCO

122. It is possible to extend the deadline for completion of the anti-dumping investigation?

Under the terms of art. 72 of Decree No. 8,058 of 2013, in exceptional circumstances, SECEX may extend the deadline for completion of an original anti-dumping investigation from 10 (ten) to up to 18 (eighteen) months by Circular. In the case of sunset reviews, art. 112 of the aforementioned decree determines that the term for its conclusion may be extended from ten (10) to up to twelve (12) months, by means of SECEX Circular, in exceptional circumstances. The parties shall be notified of the act of SECEX extending the deadline for the completion of the anti-dumping investigation.

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PART III. STEP-BY-STEP OF ANTIDUMPING INVESTIGATIONS IN BRAZIL

PART III.1. MAIN STEPS OF ANTIDUMPING INVESTIGATIONS

123. What are the main stages of an anti-dumping investigation?

An anti-dumping investigation can be divided into 6 (six) main steps.

Figure 90: Main stages of antidumping investigation

- a) Pre-application (optional)*
- b) Protocol and examination of the petition*
- c) Initiation of investigation and instruction of the process*
- d) Preliminary determination (optional in sunset reviews) and closure of the evidentiary stage*
- e) Disclosure of the Technical Note and final Instruction*
- f) Final Determination*

Source: Ministry of Economy / SDCOM

It should be noted that the above-mentioned steps c, d and e correspond, respectively, to the beginning, middle and end of the investigation of the anti-dumping investigation proceeding. During the process instruction, there is the probative phase, which begins in the step "c" and ends in step "d" above.

124. What is the pre-application stage (optional)?

Prior to filing an anti-dumping investigation petition at the SDD, the petitioner may request a meeting with SDCOM and / or file electronically via the Electronic Information System at the Ministry of Economy (SEI / ME), draft of which it intends to submit as petition. SDCOM, if it has time to do so, may conduct a brief compliance analysis of the submitted (pre-petition) draft, based on SECEX Rulings 41 and 44, both of 2013. It is important to emphasize that SDCOM may respond to any pre-application filed in the SEI with a statement to the effect that it does not have the operational capacity and/or human resources available for analysis.

It should also be noted that the pre-application is not mandatory for the domestic industry, nor is there any obligation for SDCOM to comment on the pre-application submitted via SEI, nor any deadline for any manifestation of this Sub-Secretariat. In addition, it should be mentioned that if there are any comments, they are not binding on SDCOM's official position in the analysis of the information that may be submitted by the petitioner at the time of the SDD's petition protocol.

It should be stressed again that the pre-application must be filed electronically and processed by the SEI / ME system and that there is no deadline defined in the law for eventual response from SDCOM. The pre-claim must be directed in the CES to the unit SDCOM / SECEX / SECINT / ME and classified as confidential process. Spreadsheets (eg Excel files) may also be sent in Zip format at SEI / ME itself.

Questions about SEI / ME can be solved by consulting the user guide external:
http://fazenda.gov.br/sei/publicacoes/00-cartilha_usuario_externo_sei.pdf.

125. What is the stage of the protocol and consideration of the petition?

As soon as the domestic industry files the SDD anti-dumping investigation petition, SDCOM's examination of the petition begins. During this procedure, SDCOM may request additional information from the petitioner, if necessary, which should also be answered within the scope of the SDD. If the necessary requirements for admissibility of a petition, provided for in Decree No. 8.058 of 2013 and SECEX Ordinance No. 41 or 44, both of 2013, are present, the anti-dumping investigation will be initiated by publication of SECEX Circular. Any SECEX Circular for the initiation of an anti-dumping investigation will be based on the opening opinion prepared by SDCOM, whose public version will be attached to the circular.

Please note that prior to the commencement of an original anti-dumping investigation, SDCOM must inform the government of the investigated country of the existence of a properly informed petition (see question 145). This requirement does not apply in the case of requests for sunset review.

As mentioned above, it should be noted that in the case of sunset reviews, on-the-spot verification at the petitioner companies may occur during the petition review phase or after the initiation of the investigation (see question 61).

To learn more about the specifics of the petition and its analysis and the opening opinion, see questions 114 to 116.

To learn more about the petition protocol in the SDD, see questions 97 to 108.

126. What is the stage of the initiation of the anti-dumping investigation?

If the necessary requirements for admissibility of a petition, provided for in Decree No. 8,058 of 2013 and SECEX Ordinance No. 41 or 44, both of 2013, are present, the anti-dumping investigation will be initiated by publication of SECEX Circular. The publication of this circular thus marks the beginning of the probationary stage and the investigation into the anti-dumping investigation.

In the event that an original anti-dumping investigation is initiated, Circular SECEX shall indicate the existence of dumping, injury to the domestic industry

and causation. In the event that a sunset review is initiated, the abovementioned legal provision will state the indications of continuation or resumption of dumping and resulting injury to the domestic industry.

Soon after publication, SDCOM will notify the initiation of the investigation to the WTO and to all interested parties defined in 2 of art. 45 of Decree 8.058 of 2013, identified by SDCOM (see questions 90 and 91). Notification to interested parties will be made by sending a notification²⁴ containing the procedures and deadlines for replying to the questionnaires, as well as other general information on the anti-dumping investigation and the parties' performance in this investigation. The email address for access to the petition giving rise to the investigation will also be included in the notification to be sent to or foreign exporters and the government of the investigated country, pursuant to art. 45, Paragraph 4 of Decree No. 8,058 of 2013.

Other interested parties not identified by SDCOM must submit a request for authorization within twenty (20) days from the publication of the initiating act if they wish to participate in the anti-dumping investigation in question, pursuant to Paragraph 3 of art. 45 of Decree No. 8,058 of 2013.

Still in the initial phase of the anti-dumping investigation, replies to the questionnaires are received and letters sent requesting additional information to these replies. Furthermore, in the case of original anti-dumping investigations, on-the-spot checks are carried out at the petitioner companies.

To learn more about the initiation of antidumping investigations, see questions 148 to 173.

To learn more about document access and file submission on SDD, see questions 97 to 108.

127. What is the preliminary determination (optional in sunset reviews) and the step of closure of evidentiary stage? The period between the preparation and publication of the preliminary determination and the conclusion of the evidentiary stage correspond to the means of the procedural investigation of antidumping investigations. At this stage, SDCOM's preliminary findings on the case under consideration are disclosed and the phase for submission of new evidence is closed. It should be noted that as the preparation of preliminary determinations is not mandatory in sunset reviews, in these processes, this step can begin with the publication of the SECEX Circular of Review Deadlines (see question 119).

²⁴ According to SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

The preliminary determination, in an original anti-dumping investigation, must contain all available factual and legal elements as to the existence of dumping, injury to the domestic industry and causation under Art. 65 of Decree No. 8,058, 2013. In the case of preliminary determinations prepared in the context of sunset reviews, all available factual and legal elements shall be explained. The likelihood of continuation or resumption of dumping and the resulting injury to the domestic industry. In the preliminary determination, the deadlines referring to the end of the procedural instruction, provided for in arts. 59 to 63 of Decree No. 8,058 of 2013.

The preliminary determination opinion is drawn up by SDCOM on the basis of the evidence set out in the file up to the date defined in the opinion itself, including, as a rule, the result of on-the-spot verifications of industry data. In the application and the replies to the questionnaires of exporters, importers and other interested parties, as well as other submissions made by those parties in the initial stage of the anti-dumping investigation. This opinion also presents the preliminary findings of the dumping margins for the selected producers or exporters based on the replies to the questionnaires. Note that, as provided in 7 of art. 65 of Decree 8.058 of 2013, preliminary determinations will consider, as a minimum, evidence presented by the 60th day of the investigation. The preliminary determination will be published in the DOU by Circular SECEX, up to 3 (three) days after its preparation, pursuant to 50 of art. 65 of Decree No. 8,058, of 2013.

In original antidumping investigations, if preliminary determination is found to be positive for dumping, injury to the domestic industry and causal link between them, Gecex may apply provisional anti-dumping duties by means of Resolution, pursuant to art. 66 of Decree No. 8,058 of 2013 (see question 132). These measures are intended to prevent injury to the domestic industry during the investigation. On the other hand, negative preliminary determinations of injury or causation may justify the termination of the investigation at this stage.

As mentioned above, the preliminary determination constitutes a mandatory stage of the original antidumping investigation proceeding, pursuant to art. 65 of Decree No. 8,058 of 2013. In cases of sunset review, Decree No. 8,058 of 2013 does not have an express provision for preliminary determination. Thus, it is SDCOM's practice to make such determination in sunset reviews only if interested parties demonstrate an interest in offering price undertaking, in view of the provisions of 6 of art. 67 of Decree No. 8,058 of 2013 (see question 178). It is important to note, however, that SDCOM is not necessarily bound to

price undertaking proposals submitted by interested parties, nor is it obliged to issue preliminary determinations with the sole purpose of allowing the submission of such proposals. In this sense, as provided in the legislation, SDCOM may deny proposals deemed ineffective or impractical, pursuant to 10 of art. 67 of Decree no. 8,058, of 2013, or for other general policy reasons, in accordance with Article 8.3 of the Antidumping Agreement, which was internalized in the Brazilian legislation, through approval via Legislative Decree no. 30, of December 15, 1994, and promulgation by Decree no. 1,355, of December 30, 1994, having, therefore, the status of law in Brazil. It should be noted that proposals may be considered impractical, among other reasons, if the financial burden is judged excessive (due to the waiver of the collection of the duty, for example) or if the operational burden of preparing preliminary determinations, negotiating price undertaking proposals and subsequently monitoring compliance with any price undertaking by signatory exporters is judged excessive, which involves, in addition to the obligation to practice the minimum price, any other accessory obligations that the authority considers necessary to neutralize the injury to the domestic industry.

It should be noted that, when no preliminary determination is prepared in the scope of a sunset review, the requirement to publish the deadlines provided for in arts. 59 to 63 of Decree No. 8,058 of 2013 will be met by SDCOM by means of the publication of a SECEX Circular of review deadlines. Although there is no legal deadline for such publication, SDCOM usually publishes such Circular within 120 (one hundred and twenty) days from the beginning of the sunset review, or within 200 (two hundred) days, pursuant to art. 65 of the Brazilian Regulation. It is important to highlight that, even at this stage, after the publication of the preliminary determination, i) are received and analyzed any complementary information to the questionnaires submitted by the parties; ii) Hearings are held upon express request of stakeholders; iii) on-the-spot verifications of the submitted data were made through answers to the questionnaires and corresponding complementary information; iv) received price commitment proposals; and (v) received and analyzed other evidence and statements submitted by interested parties.

It should be stressed that evidence submitted after the conclusion of the evidentiary stage will not be attached to the case file, as provided for in the sole paragraph of art. 59 of Decree No. 8,058 of 2013.

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To learn more about preliminary determination, provisional duties and the closure of the evidentiary stage, see questions 129, 130, 174, 176, 183, 184, 185.

128. What is the stage of disclosure of the Technical Note and final instruction?

This stage includes the procedures provided for in Articles 60 to 62 of Decree No. 8,058 of 2013, which mark the termination of the anti-dumping investigation proceeding.

At this stage, SDCOM will prepare a technical note containing the essential facts under consideration that will be considered in the final determination. The document will be prepared based on (i) the evidence provided by interested parties during the probationary stage of the proceeding and (ii) the submissions made by those parties regarding the data and information contained in the restricted file within twenty (20) days from the closure of the evidentiary stage of the anti-dumping investigation. As the Technical Note will therefore consider the entire evidential set of the process, including on-the-spot verifications on the data submitted by exporters, importers and other interested parties in response to the questionnaires, there may be changes in SDCOM's preliminary findings, in particular as regards the dumping margins found for the purpose of preliminary determination.

The Technical Note will be released to the SDD only within 30 (thirty) days from the closing of the above-mentioned demonstration phase. After its disclosure, the parties will have twenty (20) days to present their final statements in writing, thus ending the instruction of the process.

To learn more about drafting the Technical Note and the end of the procedural instruction, see questions 183 to 185.

129. What is the final determination step?

Under the terms of art. 63 of Decree No. 8,058 of 2013, SDCOM will prepare its final determination within twenty (20) days from the end of the case instruction. The final determination will consider all information submitted during the procedural instruction, clarifying all facts and law concerning the investigation, as well as SDCOM's final conclusions as to the existence of dumping, injury to the domestic industry and causal link between them. In the case of investigations anti-dumping measures or the likelihood of continuation or resumption of dumping and the resulting injury to the domestic industry in the case of sunset reviews.

SDCOM's final determination opinion will support the termination of the anti-dumping investigation. If SDCOM's final determination is negative, the investigation will be terminated without application or extension of measures

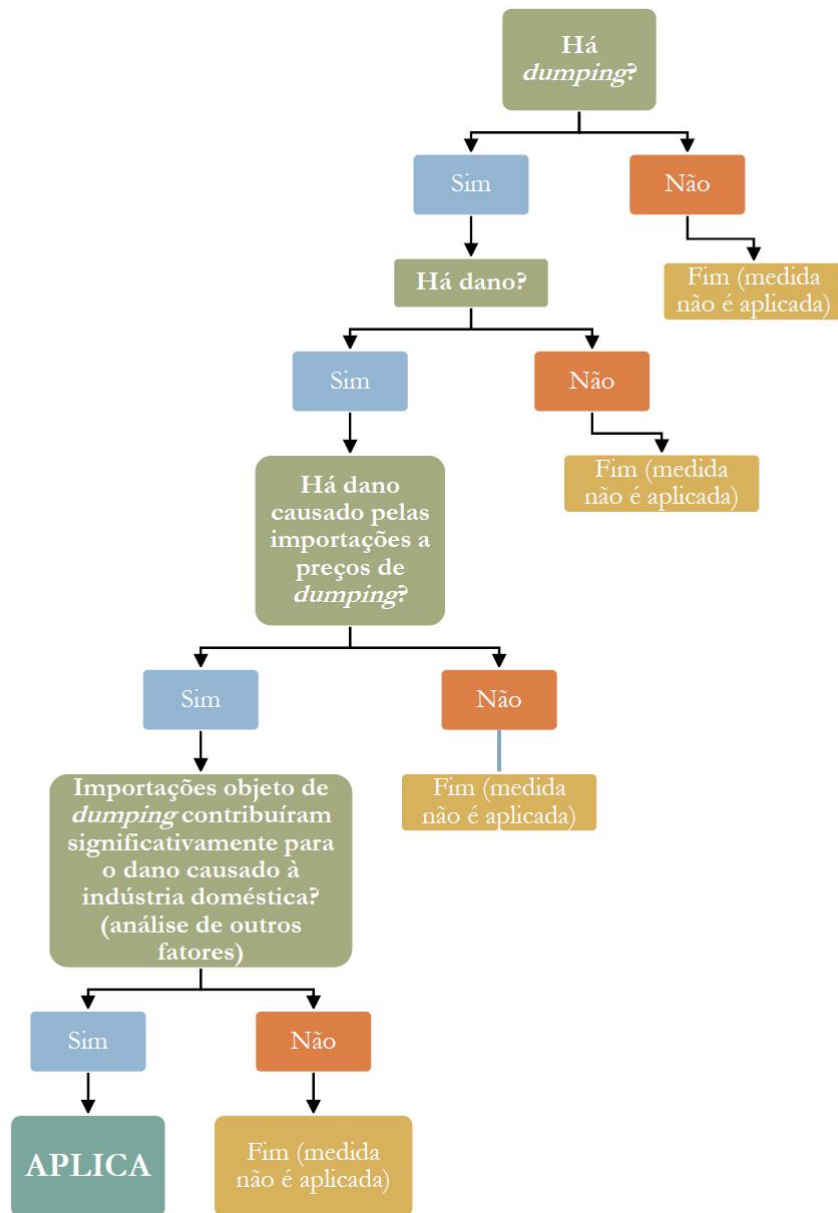
by means of SECEX Circular. If SDCOM's final determination is positive, it will be up to Gecex to settle any definitive anti-dumping measure by Resolution (see question 132).

As mentioned above, the original investigations will be completed within ten (10) months from the date of commencement of the investigation, except in exceptional circumstances, where the period may be extended to up to eighteen (18) months. In the case of sunset reviews, the initial period of 10 (ten) months may be extended to up to 12 (twelve) months, also in exceptional circumstances.

To find out more about the final opinion, the termination of the investigation and the collection of definitive anti-dumping duties, see questions 186 to 193.

130. What is the analysis flow of an original anti-dumping investigation?

Figure 103: Analysis flow of an original anti-dumping investigation

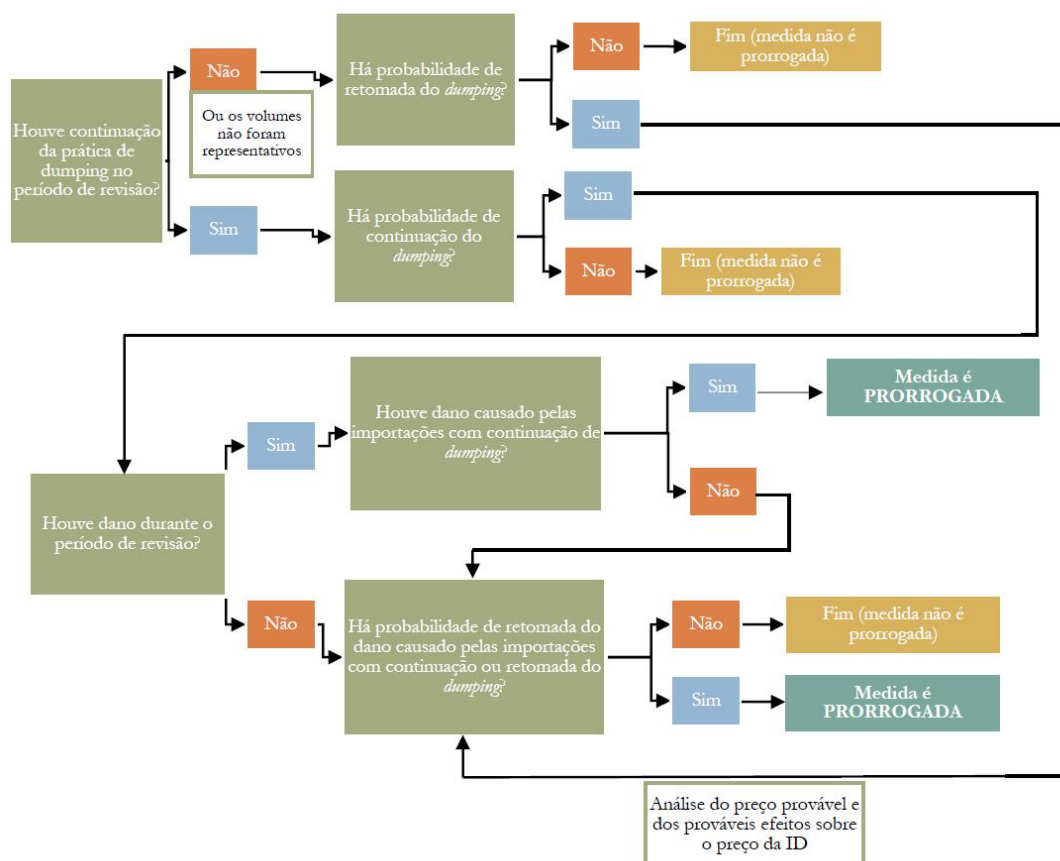


Source: Ministry of Economy / SDCOM

It is noteworthy that the present flow is merely indicative of the flow traditionally followed in an original anti-dumping investigation. Specificities of each case may lead to concrete analyzes not necessarily linked to the general guidelines presented.

131. What is the flow of analysis for a sunset review?

Figure 104: Analysis Flow of a Sunset Review



Source: Ministry of Economy / SDCOM

It is noteworthy that the present flow is merely indicative of the flow traditionally traveled in a sunset review. Specificities of each case may lead to concrete analyzes not necessarily linked to the general guidelines presented.

PART III.2. PETITION AND PROCEDURES PRIOR TO THE BEGINNING OF ANTI-DUMPING INVESTIGATIONS

132. Who can request the initiation of an anti-dumping investigation in Brazil?

Under the terms of the caput of art. 37 of Decree 8.058 of 2013, the original anti-dumping investigation petition must be submitted by or on behalf of the domestic industry. However, as provided in art. 44 of the aforementioned Decree, in exceptional and duly justified circumstances, SECEX may initiate an original anti-dumping investigation by trade provided that it has sufficient evidence of dumping, injury to the domestic industry and a causal link between them.

With regard to sunset review petitions, art. 110 of Decree No. 8,058 of 2013, establishes that such petitions must also be submitted by or on behalf of the domestic industry. Note that in the case of these revisions, it is not possible to start by letter from SECEX.

133. What rule provides for the information necessary for drawing up an anti-dumping investigation petition?

Requests for original anti-dumping investigations shall be prepared using only the format contained in SECEX Ordinance No. 41 of October 11, 2013, and containing all information specified therein, otherwise they will be rejected. In turn, sunset review requests must be prepared in accordance with the provisions of Ordinance SECEX 44, of November 29, 2013.

These ordinances therefore consist of the roadmaps to be followed by domestic producers wishing to request an anti-dumping investigation. It should be emphasized that, except for the case mentioned in the paragraph below, petitions that do not contain all the information requested in the above-mentioned orders may be rejected.

It should be noted that, as provided for in Decree No. 9,107, 2017, the information to be contained in petitions to be filed by or on behalf of fragmented industries may differ from that set forth in the abovementioned ordinances.

Figure 105: Rules for petition making

- *Petitions for original anti-dumping investigation: Ordinance SECEX No. 41, of 11 October 2013*
- *Petitions for sunset reviews: Ordinance SECEX No. 44, of 29 November 2013*

Source: Ministry of Economy/SDCOM.

134. What are the general requirements of an anti-dumping investigation petition?

An original anti-dumping investigation petition should indicate dumping, injury to the domestic industry and causal link between the dumped imports and the alleged injury. In cases where the petition is filed by more than one national producer of the like product, some of these indications may be filed together, while others will necessarily have to be filed for each individual

company.

This question deals with indications that may be presented jointly by the petitioner companies, which are provided for in Chapter 2 of Ordinance SECEX No. 41 of 2013.

Under that chapter, an original anti-dumping investigation petition must contain, among other information, information on:

2

- the qualification of the petitioner (s);
- the dumping investigation period and the injury investigation period;
- the product under investigation, such as: full description of the product allegedly imported at dumped prices, name of country (ies) of origin and export, identity of each known exporter or foreign producer, item (s) of Nomenclature MERCOSUR Common Market (NCM) classifying the product and the list of known importers of the product concerned;
- the similar product produced in Brazil, such as: detailed description of the product manufactured by the domestic industry, explanation of possible product classification in models with product identification codes (CODIP) and similarity between the products;
- the domestic industry and its representativeness, such as: estimate of the volume and value of the total production of the domestic industry of like product, list of known domestic producers of the like product which are not represented in the petition, and, as far as possible, an indication of the volume and value of domestic production of the like product corresponding to those producers, as well as their expression of support or rejection of the petition;
- the domestic industry and its representativeness, such as: estimate of the volume and value of the total production of the domestic industry of a like product, list of for drafting petitions Investigation petitions original anti-dumping Ordinance SECEX No. 41 of 11 October 2013 Petitions for Sunset Revisions Ordinance SECEX 44 of November 29, 2013 Known domestic producers of the like product not represented in the petition and, as far as possible, an indication of the volume and value of domestic production of the like product corresponding to those producers, as well as their expression of support or rejection of the petition;
- total imports and the Brazilian market of the product;
- normal value, by presenting: the representative price at which the product is sold, when intended for consumption on the domestic market of the exporting country (ies) or, where applicable, the

representative price by the which product is sold by the exporting country or countries to a third country or the constructed value of the product;

-
- the representative export price or, where applicable, the representative price at which the product is sold for the first time to an independent buyer located in Brazil;
- the comparison of normal value with export price; and
- the threat of damage, if any. Because SDCOM may conduct on-the-spot verification to review the records and verify the information provided, the ancillary documents used in the preparation of the petition should be preserved for the purpose of verifying the information. In addition, all information presented in the petition must be accompanied by proof, justification and the sources and methodologies used.

135. What are the specific requirements of each company when filing an original anti-dumping investigation petition involving more than one petitioner?

As mentioned in the previous question, an original anti-dumping investigation petition should include evidence of dumping, injury to the domestic industry and causal link between the dumped imports and the alleged injury. In cases where the petition is filed by more than one national producer of the like product, some of these indications may be filed together, while others will necessarily have to be filed for each individual company.

This question addresses the indications that must be presented individually by each company represented in the petition, which are provided for in Chapter 3 of Ordinance SECEX No. 41 of 2013. Thus, according to Chapter 3 of the mentioned SECEX Ordinance, each company must present individually:

- information about its structure and affiliations, its accounting practices and its sales and distribution process;
- performance indicators for all injury investigation subperiods, such as: volume and total sales value; List of each sales invoice for the similar product of its own manufacture for the domestic market; production and degree of utilization of installed capacity; stocks; income statement; employment and wage bill; return on investment; ability to raise funds or investments; production cost; injury characterization to the domestic industry; and effects of allegedly dumped imports on domestic prices of the like product;

Other factors that could simultaneously be causing injury to the domestic industry, such as: the volume and price of other Brazilian imports; the impact of any import liberalization processes on domestic prices; contraction in demand or changes in consumption patterns; restrictive trade practices of domestic and foreign producers and competition between them; technological progress; exporter performance; domestic industry productivity; captive consumption; imports or resale of products imported by the domestic industry, among others. The provision by petitioners of transaction-specific information any imports of the allegedly dumped product by the petitioner, purchases of the allegedly dumped product or like product from third parties, industrializations for third parties, resale of the allegedly dumped product, among other operations, is not provided for in SECEX Ordinance No. 41 of 2013, but may be requested for additional information to the petition. Please note that additional information on these types of transactions may also be requested as additional information to questionnaires sent to importers.

As mentioned in the previous question, since SDCOM may conduct on-the-spot verification to review the records and verify the information provided, the ancillary documents used in the preparation of the petition should be preserved for the verification of the information. In addition, all information presented in the petition must be accompanied by evidence, justification and the sources and methodologies used.

136. What are the general requirements of the sunset review petition?

A sunset review petition should include indications that the termination of the definitive anti-dumping measure in force would most likely lead to the continuation or resumption of dumping and related injury to the domestic industry. In cases where the petition is filed by more than one domestic producer of the like product, some of these indications may be filed together, while others will necessarily have to be filed for each individual company.

This question deals with the indications that may be presented jointly by the petitioner companies, which are provided for in Chapter 2 of Ordinance SECEX No. 44, 2013.

Pursuant to that chapter, a sunset review petition must contain, among other information, information on:

- the qualification of the petitioner;
- the period for the investigation of continuation or resumption of dumping and the period for the investigation of continuation or

- resumption of injury;
- the product under review, such as the full description of the product under review, also indicating the number of Gecex Resolution or SECINT Ordinance that has applied or extended the anti-dumping duty;
- the similar product produced in Brazil, such as: detailed description of the product manufactured by the domestic industry, explanation of possible product classification in models with product identification codes (CODIP) and similarity between the products;
- the domestic industry and its representativeness, such as: estimate of the volume and value of total production of the domestic industry of the like product, list of known domestic producers of the like product not represented in petition and, as far as possible, an indication of the volume and value of domestic production of the like product corresponding to those producers, as well as their expression of support or rejection of the petition;
- total imports and the Brazilian market of the product;
- normal value, by presenting: the representative price at which the product is sold, when intended for consumption on the domestic market of the exporting country (ies) or, where applicable, the representative price by which product is sold by the exporting country (ies) to a third country or the constructed value of the product;
- the export price or, where applicable, the price at which the product is sold for the first time to an independent buyer located in Brazil;
- the comparison of normal value with export price;
- the resumption of dumping, if any.

Because SDCOM may conduct on-the-spot verification to review the records and verify the information provided, the ancillary documents used in the preparation of the petition should be preserved for the purpose of verifying the information. In addition, all information presented in the petition must be accompanied by evidence, justification and the sources and methodologies used.

137. What are the specific requirements of each company when filing a petition for a sunset anti-dumping duty review involving more than one petitioner?

As mentioned in the previous question, a sunset review petition should include evidence that the termination of the definitive anti-dumping measure in force would most likely lead to the continuation or resumption of dumping and injury to the industry, resulting from the dumping practice. In cases where the petition is filed by more than one national producer of the like product, some

of these indications may be filed together, while others will necessarily have to be filed for each individual company.

This question addresses the indications that must be presented individually by each company represented in the petition, which are provided for in Chapter 3 of Ordinance SECEX No. 44, 2013.

Thus, pursuant to Chapter 3 of the aforementioned SECEX Ordinance, each company must present individually:

- information about its structure and affiliations, its accounting practices and its sales and distribution process;
- performance indicators for all injury investigation subperiods, such as: volume and total sales value; List of each sales invoice for the similar product of its own manufacture for the domestic market; production and degree of utilization of capacity installed; stocks; income statement; employment and wage bill; return on investment; ability to raise funds or investments; and production cost;
- information regarding the continuation or resumption of injury to the domestic industry, as well as other factors that could simultaneously be causing injury to the domestic industry, such as: the volume and price of other imports. Brazilian women; the impact of any import liberalization processes on domestic prices; contraction in demand or changes in consumption patterns; restrictive trade practices of domestic and foreign producers and competition between them; technological progress; exporter performance; domestic industry productivity; captive consumption; imports or resale of products imported by the domestic industry, among others.
- As mentioned in the previous question, since SDCOM may conduct on-the-spot verification to examine the records and verify the information provided, the ancillary documents used in the preparation of the petition should be preserved for the verification of the information. In addition, all information presented in the petition must be accompanied by evidence, justification and the sources and methodologies used.

138. Can SDCOM request additional information related to an original anti-dumping or sunset review petition?

SDCOM will examine the petition to verify that it is properly instructed or that additional information is required. The result of this examination will be communicated to the petitioner. If additional information is requested, the

petition will be re-examined upon receipt of this information to verify that the petition is properly instructed.

It is clarified, however, that according to 2o of art. 42 of Decree No. 8,058 of 2013, petitions requiring additional information, corrections or significant adjustments will be rejected (see question 143).

139. How is the degree of representativeness of a petition assessed?

Under the terms of art. 37 of Decree No. 8,058 of 2013, the petition must be submitted to SDCOM by the domestic industry or on its behalf. To this end, it is necessary that other domestic producers making up the domestic industry have been consulted and that produced the like product during the investigation period of dumping.

In the context of this consultation, it is first necessary that producers of the like product who have expressly expressed support for the petition represent more than 50% of the total production of the like product from those who have expressed themselves in the consultation. Secondly, pursuant to paragraph 2 of art. 37 of the aforementioned decree, it is necessary that producers expressly supporting the petition represent 25% or more of domestic like product during the investigation period of dumping. Note the difference in the bases for calculating the above percentages: only the producers who manifested themselves in the scope of the consultation vs. the total domestic production of the domestic like product in the investigation period of dumping.

Figure 106: Representativity analysis of the domestic industry

1. Consultation with other producers in the domestic industry

The authority shall consult other domestic producers that are part of the domestic industry and that produced the like product during the period of dumping investigation.

2. Express support from 50% of those who responded to the consultation

The producers of the like product who have explicitly expressed support for the petition must represent more than fifty percent of the total production of the like product of those who have expressed support in the consultation

3. Representativeness of those who supported the petition: at least 25% of national production

Domestic producers who have explicitly expressed their support to the petition must represent at least 25% of the domestic production of the like product during the period of dumping investigation

Source: Ministry of Economy / SDCOM

Expression of support or rejection by producers will only be considered by SDCOM when accompanied by information corresponding to the production volume or value and the domestic sales volume during the injury analysis, pursuant to 4 of art. 37 of Decree No. 8,058, 2013. These data will be necessary for a more adequate calculation of the national production and the Brazilian market for the investigated product.

In addition, as provided for in 6 of art. 37 of the aforementioned decree, the petition must contain the data necessary to determine the injury to the domestic industry concerning the domestic producers who expressly expressed their support for the petition.

Under the terms of 3 and 7 of art. 37 of Decree 8.058 of 2013, in the case of a fragmented industry involving a particularly large number of domestic producers. The degree of support or rejection may be confirmed by a statistically valid sample. Furthermore, in such cases, a petition containing data concerning domestic producers accounting for less than 25% of the domestic production of the like product in the investigation period of dumping may be accepted.

Finally, it should be noted that examination of the degree of representativeness of the petition is not required in sunset reviews.

140. Is the information submitted in the anti-dumping investigation petitions verified by SDCOM?

The information provided by the domestic industry in the petition will be

verified by SDCOM during the on-the-spot²⁵ verification, which is normally performed after the original anti-dumping investigation has commenced. In the case of minor adjustments to the verified information, the injury indicators may be changed in the preliminary determination.

In sunset review processes, based on the principles of efficiency provided for in art. 2 of Law No. 9,784 of 1999 and art. 37 of the Federal Constitution of 1988, and the procedural speed, contained in item LXXVIII of art. 5th of the Magna Carta. On-the-spot verification may be carried out prior to the initiation of the investigation, provided there is enough time to do so.

141. Can the petition be rejected by SDCOM?

Under the terms of paragraph 2 of art. 42 of Decree 8.058 of 2013, petitions for original anti-dumping investigations which do not contain evidence of dumping, injury to the domestic industry and causal link between them will be rejected. Similarly, petitions for sunset reviews will be rejected if they contain no indications that the termination of the definitive antidumping measure in force would most likely lead to the continuation or resumption of dumping and resulting injury.

In addition to the material rejection aspects mentioned above, formal aspects such as document language rules and requirements for confidential handling of information must be respected. Documents not in accordance with current legislation will not be attached to the case file and, when the defects are not remedied in a timely manner, may cause the rejection of the claim. In addition, petitions and their supplementary information must be filed timely by the domestic industry in the SDD, and petitions filed in disagreement with the deadlines provided for in paragraph 2 of art. 48 and in art. 111 of Decree 8.058 of 2013 will not be accepted by SDCOM either.

Petitions that require additional information, corrections or significant adjustments, pursuant to paragraph 2 of art. 42 of Decree No. 8,058 of 2013.

²⁵ It should be noted that, as provided for in SECEX Normative Instruction No. 1 of 2020, due to the COVID-19 pandemic and measures to combat it, SDCOM had to suspend, for an indefinite period, all on-the-spot verifications. While this scenario persists, given the continued impossibility of performing on-the-spot verification procedures, SDCOM will continue, exceptionally, only with the detailed analysis of all information submitted by interested parties in the scope of trade defense investigations and public interest assessments, seeking to verify its accuracy based on the cross analysis of the information filed by each interested party with those submitted by other parties, as well as with information contained in other sources available to the Undersecretariat, if possible and when applicable. For this purpose, SDCOM may request additional complementary information to that provided for in 2 of art. 41 and in 2 of art. 50 of Decree No. 8.058, 2013. Furthermore, under the terms of the sole paragraph of art. 179 of the mentioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and answers to questionnaires and details of specific expenditures, in order to validate information submitted by interested parties.,

Thus, no petitions that do not meet the requirements established will be known. in Sections I and II of Chapter V, paragraph 2 of art. 48, in art. 51, in art. 53 and / or in art. 111 of 168 Decree No. 8,058 of 2013, or those provided for in SECEX Ordinances No. 41 or 44, both from 2013.

If SDCOM finds that the requirements for admissibility of the petition mentioned in this question have not been met, a rejection letter or even an opinion may be issued with a negative recommendation to initiate proceedings, depending on the type of deficiency found in the petition (form and / or content).

142. Can the petition be withdrawn by the domestic industry?

Yes. Given that the existence or otherwise of petitions is confidential information, where the domestic industry requests the withdrawal of the petition prior to the initiation of the anti-dumping investigation, SDCOM will review the petition, confirm the withdrawal of the petition by letter, and will archive the process to the SDD. Please note that the withdrawal of the petition is not subject to publication in the DOU and there is no grace period to be respected by the industry before filing a new petition on the same product and origin (s).

143. Should Brazil notify the government of the exporting country of petitions?

As mentioned in questions 100 and 127, although information regarding the existence or otherwise of a particular petition is confidential in nature, SDCOM must notify the government of the exporting country of the existence of a properly instructed petition before of the initiation of an original anti-dumping investigation pursuant to art. 47 of Decree 8.058 of 2013. This notification is made by sending a notification²⁶ to the official representative of the exporting country to Brazil.

The government of the exporting country, for its part, should also not publicly disclose receipt of notification of the petition before the investigation begins, which only becomes public at the time of publication of the SECEX Circular of initiation.

It should be noted that the notification of the existence of a petition is only compulsory in the case of petitions for original anti-dumping investigations and

²⁶ According to SECEX Ordinance no. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

therefore does not apply to sunset review petitions.

144. Are there any special procedures for examining petitions and initiating anti-dumping investigations concerning imports originating in Mercosur?

In the case of requests for original anti-dumping investigations related to imports originating in Mercosur Member countries, SDCOM, by official letter containing notification of the existence of a petition duly instructed, shall invite the exporting government country for consultation prior to the commencement of the corresponding investigation and shall make available a copy of the restricted version of the petition.

The notification will be sent to the official representation of the government of the exporting country Member of Mercosur to Brazil suggesting a date for consultations. Please find attached information on the petitioned product, representativeness of the petitioner, identification of the producer or exporter, data on normal value and export price, data on imports, by volume, totals and by denounced origin of the product concerned, injury indicator data submitted by the petitioner as well as as sources of these data and periods to which they refer. The exporting government may express its opinion on the suggested date for the consultation within the period stipulated in the letter (usually three (3) business days from the date of receipt of the notification).

It should be noted that, in addition to the foregoing obligations, when original anti-dumping investigations and sunset reviews conducted by Brazil include interested parties from one or more MERCOSUR States Parties, copies of all notifications shall be by electronic means directly to their respective investigating authorities, pursuant to art. 168 of Decree No. 8,058 of 2013.

145. What are the particulars of a petition when the investigated origin is not considered a market economy?

A petition concerning imports from a non-market economy country must contain the same information as petitions concerning imports from market economy countries, with the exception of data to be used normal value calculation.

Thus, if the origin investigated is not a market economy, under the terms of art. 46 of Ordinance SECEX 41 of 2013, and of art. 38 of SECEX Ordinance No. 44 of 2013, the petitioner should suggest a third market economy country to be used for the determination of normal value, justifying his choice, and present data for the calculation of normal value based on one of the alternatives

below:

I - representative domestic selling price of that third market economy country;
II - export price of this third market economy country to another market economy country, except Brazil; or
III - normal value built in this third market economy country. It should be noted that, whenever none of the above hypotheses is feasible and as long as duly justified, the normal value suggestion may be based on any other reasonable price, including the price paid or payable for the like product in the Brazilian domestic market, duly adjusted. , if necessary, to include a reasonable profit margin.

The petitioner should clarify the reasons why the substitute country was deemed appropriate taking into account (i) the volume of exports of the like product from the substitute country to Brazil and to major world consumer markets; (ii) the volume domestic sales of the like product in the substitute country; (iii) the similarity between the product under investigation / review and the like product sold domestically or exported by the substitute country; (iv) the availability and degree of disaggregation of statistics needed for research; or (v) the appropriateness of the information presented in relation to the characteristics of the ongoing investigation.

PART III.3. START OF INVESTIGATION AND RECEIPT OF INFORMATION ON BEGINNING OF PROCEDURAL INSTRUCTION

146. How does an anti-dumping investigation begin?

SDCOM will recommend the initiation of the investigation when a formally appropriate petition contains sufficient evidence of dumping of exports of the investigated product to Brazil and of injury to the domestic industry resulting from such investigation. Based in SDCOM's opening opinion, SECEX will publish in the DOU the original anti-dumping investigation or sunset review Circular, pursuant to article 45 of Decree 8.058 of 2013.

In the opening opinion of SDCOM, the representativeness and degree of support of the domestic industry, product information and similarity, the absolute increase will be analyzed.

and / or relative to imports of the investigated product, the effects of imports on the domestic industry price, the other factors that may at the same time be causing injury to the domestic industry, in addition to the other information available in the petition. In addition, the original anti-dumping investigation initiating opinions examine the allegation of dumping, the evolution of the

performance indicators on which allegation of injury and the causal link between dumping and injury to the domestic industry. In turn, in the case of an opinion on the beginning of the sunset review, the allegations as to the likelihood of continuation or resumption of dumping and the resulting injury to the domestic industry are also considered.

The opening opinion will be attached to the file before the SDD on the date of initiation of the anti-dumping investigation. Interested parties and their SDD-enabled legal representatives may consult the restricted version of this opinion on the SDD.

The SECEX initiation act shall specify the countries of the investigated exporters or producers, the product under investigation, the date of initiation of the investigation and the initial basic deadlines for interested parties to comment on the investigation in question. The annex to the SECEX Circular will consist of the public version of SDCOM's initial opinion.

The date of publication of the SECEX Circular of commencement in the DOU is day 0 of the anti-dumping investigation, so that all deadlines begin to run from the first working day following such publication.

WTO and all identified interested parties of the initiation of the investigation / review (see questions 90 and 91) in order to provide further details on the required information and procedures and deadlines for participation in the investigation.

147. How can I follow up on anti-dumping investigations that are initiated?

Following the publication of the initial SECEX Circular, information about ongoing anti-dumping investigations, whether original or sunset reviews, may be found on the SDCOM website: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes>.

In addition, interested parties and their authorized representatives may access the restricted records of the administrative proceeding corresponding to the anti-dumping investigation through the SDD (see questions 98, 99 and 102 to 105). The number of the administrative proceeding in question will be disclosed in the initial SECEX Circular and may also be consulted at the aforementioned website.

148. How does SDCOM request information from identified interested parties?

Throughout the anti-dumping investigation, SDCOM may request a variety of information from interested parties. Such requests will normally be made by letter of notification²⁷.

Thus, after the publication of the SECEX Circular of Initiation, SDCOM will send official letters to the identified interested parties, notifying the beginning of the investigation and sending questionnaires that will contain the necessary information for the investigation, pursuant to art. 50 of Decree No. 8,058 of 2013.

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The questionnaires can be found on the page of each investigation, available at the following address: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes>. The unofficial translation of questionnaires from foreign producers or exporters into English will be available for consultation at the same email address.

Subsequent to the analysis of stakeholder responses to the questionnaires, SDCOM may request additional information from the questionnaires, if deemed necessary, also by letters.

Likewise, if SDCOM deems it necessary to receive any other information from interested parties throughout the investigation, letters will be sent specifying the other required information and setting deadlines for submission.

149. What is the content of notifications of the initiation of an anti-dumping investigation?

Under the terms of art. 49 of Decree No. 8.058 of 2013, notifications will be sent by official letter²⁸ to interested parties identified in the anti-dumping investigation, which will contain guidance on the information required by SDCOM and the procedures and deadlines for replying to the questionnaires, as well as other general information on the anti-dumping investigation and the parties' actions in that investigation.

In this sense, the notifications will indicate the electronic address where the

²⁷ According to SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

²⁸ According to SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

questionnaires of foreign producers or exporters, importers and other domestic producers will be made available. The unofficial translation of the questionnaires. Foreign producers or exporters to English will be available for consultation at the same email address. In addition, the notification will contain the e-mail address of Circular SECEX that made public the facts that justified the decision to initiate the investigation.

The notification to be sent to foreign producers or exporters and the government of the investigated country will also contain the email address for access to the petition that led to the investigation, pursuant to art. 45, Paragraph 4 of Decree No. 8,058 of 2013.

150. What should the interested party do after receiving a notification from SDCOM about the initiation of an anti-dumping investigation?

Upon receiving notification of the initiation of an anti-dumping investigation, the party shall consult, at the email address indicated in the official letter, the basic information regarding the investigation and the time and procedures for answering the questionnaires and for participating in the corresponding administrative proceeding. If the interested party wishes to know more information about the product or the analyses carried out by SDCOM, please consult the SECEX Circular which initiated the original anti-dumping investigation or the sunset review.

If the interested party is interested in participating in the investigation, he / she should apply for the process through the SDD (see question 102) and answer the questionnaire available at the email address indicated in the letter, meeting the deadlines indicated by SDCOM. If the party considers that more time is required to prepare a response to the questionnaire, it may request an extension of the deadline originally set by SDCOM through the SDD. The request for an extension of the deadline for replying to the questionnaire shall be a protocol in the restricted case file before the expiration of the term originally determined by SDCOM.

It should be noted that, regardless of whether or not the party submits a questionnaire reply, all SDD-qualified interested parties are guaranteed the right to consult the file and to comment in the course of the proceedings.

Submission of any evidence by interested parties, such as statements and replies to questionnaires sent by SDCOM, should be done by SDD (see questions 102 to 104).

Please note that while submitting responses to questionnaires is not mandatory, if any interested party denies access to the necessary information, does not provide it in a timely manner or creates obstacles to investigation, the opinion on preliminary or final determinations will be made on the basis of the best information available, pursuant to 3 of art. 50 and Chapter XIV of Decree No. 8,058 of 2013.

151. What should the party do if it has not been identified by SDCOM but considers itself interested and wishes to participate in a particular anti-dumping investigation?

When a company is identified as an interested party in an anti-dumping investigation, SDCOM sends a notification²⁹ to that company indicating that it has been considered an interested party pursuant to 2 of art. 45 of Decree No. 8,058 of 2013 and who can participate in the investigation if you wish.

If a party that it considers to be interested is not identified by SDCOM, SDCOM may request its qualification and its legal representatives within twenty (20) days from the date of publication of the SECEX Circular to initiate the investigation or review as provided for in 3 of art. 45 of Decree No. 8,058 of 2013. The application for qualification and the necessary representation documents must be submitted by means of SDD in the corresponding anti-dumping investigation procedure (see questions 98 and 102).

152. What happens if there are large numbers of producers or exporters identified in the anti-dumping investigation?

Where there is an excessive number of foreign producers or exporters identified by SDCOM, for the submission of the questionnaire, either (i) the producers or exporters responsible for the highest reasonably investigable percentage of the exporting country's export volume (item II of art. 28 of Decree no. 8.058, of 2013); or (ii) statistically valid sample including number foreign producers or exporters, based on information available at the time of the selection (item I of art. 28 of Decree No. 8.058, 2013). The decision on the number of companies selected will take into account the elements found in the specific case, as well as the operational capacity of the investigating authority to analyze the questionnaire responses of the selected companies.

Under the terms of 4 and 5 of art. 28 of the aforementioned Decree, interested parties may comment on the selection, including with the purpose

²⁹ According to SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.2020SECEX21SDCOM

of clarifying if the selected companies are exporters, trading companies or producers of the product object of the selection. Within 10 (ten) days from the date of the notification of the initiation of the anti-dumping investigation.

The unselected companies may submit voluntary answers to the questionnaires, provided that within the established deadline, as provided for in 6 of art. 28 of the aforementioned Decree.

It should be noted that regardless of whether or not they are included in the selection, all foreign producers or exporters will be notified³⁰ of the initiation of the anti-dumping investigation. The start notification will tell you whether or not the company has been selected.

To better understand how the selection is made under the hypothesis of item II of art. 28 of Decree no. 8,058, of 2013, see question 30.

153. What information may be requested by SDCOM through questionnaires from other national producers?

Under the terms of art. 50 of Decree 8.058 of 2013, the other Brazilian producers of the like product that were not part of the petition will be notified of the initiation of the anti-dumping investigation and will receive a questionnaire indicating the necessary information to investigation.

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The national producer questionnaire will request information similar to that required by each company in the petition, as mentioned in question 137. Thus, information will be requested on each national producer's structure and affiliations, accounting practices and sales and distribution process, as well as volume and value. total sales, list of each sales invoice for the domestic-made similar product, production and degree of utilization of installed capacity, inventories, income statement, employment and wage bill, return on investment, ability to raise resources or investments, cost of production, characterization of injury to the domestic industry, effects of allegedly dumped imports on domestic prices of the like product and other factors that may simultaneously be causing injury to the domestic industry.

The information requested should be provided for the injury investigation period indicated in the questionnaire. Information from other domestic producers could be used to compose industry performance indicators. Together with the information submitted by the petitioners, or be used as other

³⁰ According to SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

factors of injury to the domestic industry (see question 64). Regardless of the situation, such information will be considered in determining the Brazilian market, apparent domestic consumption and domestic production.

Specifically at sunset reviews, information may also be requested regarding the continuation or resumption of injury to the domestic industry, as well as other factors causing damage.

Please note that, together with the questionnaire response, the interested party should submit the signed disclaimer, certifying the accuracy of the information contained in the questionnaire response, confirming that they are subject to on-the-spot verification and authorizing the SDCOM using the information presented.

154. What information may be requested by SDCOM through questionnaires from foreign producers or exporters?

Provided for in art. 50 of Decree No. 8.058, 2013, the questionnaire of foreign producers or exporters requests general information about the company and its production process, as well as data for the determination of normal value and export price.

Thus, in the first part of the questionnaire, information on structure and affiliations, accounting and financial practices, product and production process, distribution and sales processes, total period sales records, among others, is requested.

For the purpose of calculating normal value, export price and dumping margin, detailed information is requested on exports of the investigated product from the exporting country to Brazil, on domestic sales of the like product on the domestic market of the exporting country, on exports of the like product to a third country, and the costs incurred by the company in the manufacture, distribution and sale of the investigated product.

As a rule, the information requested by the foreign producer or exporter's questionnaire will refer to the investigation period of dumping (P5). However, it should be noted that, specifically at sunset reviews, information on installed capacity, production and inventories will be requested for the entire investigation period of continuing or resuming domestic industry injury (P1 to P5) in order to evaluate the factors listed in art. 103 of Decree No. 8,058 of 2013. Furthermore, in cases of resumption of dumping, detailed information about

exports of the like product to a third country will be requested.

Please note that, together with the questionnaire response, the interested party should submit the signed disclaimer, certifying the accuracy of the information contained in the questionnaire response, confirming that they are subject to on-the-spot verification and authorizing the SDCOM using the information presented.

155. What information may be requested by SDCOM through importers' questionnaires?

Under the terms of art. 50 of Decree 8.058 of 2013, the companies that imported the product under investigation in the period from dumping investigation will be notified of the initiation of the investigation and will receive a questionnaire requesting general information on details of the imports of the aforementioned product, the hospitalization expenses related to these imports, the imported product and any resale of that product.

Information from importers about the product is important to confirm the volume and value of total Brazilian imports of the product under investigation, as well as the mix of imported CODIP. Import expenses will be considered in the analysis of the effects of imports of the product under investigation on the domestic industry price, the extent of the dumping margin and any recommendation of the anti-dumping duty below the dumping margin sufficient to eliminate the injury to the domestic industry caused by the dumped imports.

In the case of importing companies related to foreign producers or exporters (see question 24), the export price used in the dumping margin calculation may be constructed from the resale price of the product under investigation. To the first independent buyer, requested in the importer's questionnaire, pursuant to art. 21 of Decree 8.058 of 2013. However, if the products are not resold to an independent buyer or are not resold under the same condition as they were imported, the export price may be constructed using any other method deemed reasonable provided duly justified.

In some investigations, in order to clarify doubts about the similarity of the investigated product with the like product, questionnaires may be sent to the companies that imported the investigated product during the injury investigation period and / or to the companies that imported similar product from other sources.

Please note that, together with the questionnaire response, the interested party should submit the signed disclaimer, certifying the accuracy of the information contained in the questionnaire response, confirming that they are subject to on-the-spot verification and authorizing the SDCOM using the information presented.

156. What information may SDCOM request through market economy third country questionnaires?

Under the terms of art. 15 of Decree 8.058 of 2013, in anti-dumping investigations in which the exporting country is not considered to be a predominantly market economy country (questions 16, 19, 20 and 21) normal value will be determined on the basis of the selling price of the like product in a third market economy country.

In such cases, producers of the like product from the third market economy country chosen will be notified of the initiation of the investigation and will be provided with a questionnaire requesting detailed information on sales of the like product in their market. The completion of the third country market economy questionnaire is optional in nature and is intended to assist in the determination of normal value in the anti-dumping investigation.

Please note that, together with the questionnaire response, the company must submit the signed disclaimer, certifying the accuracy of the information contained in the questionnaire response, confirming that they are subject to on-the-spot verification and authorizing SDCOM, using the information presented.

157. What is the deadline for submitting a reply to the questionnaires and complementary information to the questionnaires?

As provided in art. 50 of Decree 8.058 of 2013, interested parties will have 30 (thirty) days to return the questionnaires received through the SDD, as of the acknowledgment date. It is assumed the science of documents transmitted electronically 3 (three) days after the date of transmission, according to art. 19 of Law no. 12,995, of June 18, 2014. Specifically, in the case of the deadline for response to questionnaires from foreign producers or exporters, the deadline for science will be 7 (seven) days from the date of transmission, in accordance with footnote 15 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 contained in the Final Act that incorporated the results of the Uruguay Round of GATT Multilateral Trade Negotiations, promulgated by Decree no. 1,355, of December 30, 1994.

Whenever possible, the deadline for submission of questionnaires may be extended by up to 30 (thirty) days, upon request, provided that it is duly justified and taking into account the other deadlines to be met during the course of the investigation. The request for extension of the questionnaire response deadline must necessarily be filed before the corresponding original deadline. Deadlines for the return of original and extended questionnaires will be posted on the SDCOM website which contains information on ongoing investigations:

<https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes>.

After analyzing the questionnaire responses, additional information may be requested in writing. The deadline for providing supplementary information to the questionnaire will be 10 (ten) days, counted from the date of awareness of the request (3 (three) days after the transmission; applicable to all interested parties, including producers/exporters), and may be extended for an equal period, upon request and provided that it is duly justified. The request to extend the deadline for submission of supplementary information to the questionnaire must be filed before the corresponding original deadline.

158. How does SDCOM evaluate the accuracy and appropriateness of information provided by stakeholders?

In the course of investigations, SDCOM will endeavor to verify the correctness and adequacy of information provided by interested parties. To this end, SDCOM will review all documentation provided by interested parties, verify the sources and documents cited by the parties in their submissions, critically assess the relevance and appropriateness of the evidence presented, and check for inconsistencies in the data provided by a particular party, interested party and the set of information in the file. In addition, SDCOM may carry out on-the-spot³¹ verifications at the companies involved, located both in Brazil and abroad, according to art. 175 of Decree No. 8,058 of 2013.

³¹ It should be noted that, as provided for in SECEX Normative Instruction No. 1 of 2020, due to the COVID-19 pandemic and the measures to combat it, SDCOM had to suspend, for an indefinite period, the conduct of all on-the-spot verifications. While this scenario persists, given the permanence of the impossibility of performing on-site verification procedures, SDCOM will proceed, exceptionally, only with the detailed analysis of all information submitted by interested parties in the scope of trade defense investigations and public interest assessments, seeking to verify its accuracy based on the cross-analysis of the information filed by each interested party with those submitted by other parties, as well as with information contained in other sources available to the Under Secretary's Office, if possible and when applicable. For this purpose, SDCOM may request additional complementary information to that provided for in 2 of art. 41 and in 2 of art. 50 of Decree No. 8.058, 2013. Furthermore, under the terms of the sole paragraph of art. 179 of the mentioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and answers to questionnaires and details of specific expenditures, in order to validate information submitted by interested parties.

159. Why is SDCOM conducting on-the-spot verifications on interested parties?

Through on-the-spot³² verifications, SDCOM seeks to verify the correctness of the information provided by interested parties and to obtain any further details necessary regarding such information as provided for in Annex I of the Anti-Dumping Agreement.

It should be noted, therefore, that on-the-spot verification is not intended to allow the company to submit new data that could substantially change the information in the process. For this reason, after sending the communication that formalizes the SDCOM's intention to carry out on-the-spot verification in a given company, new information will only be accepted to make minor corrections and clarifications regarding the data previously presented (minor corrections, pursuant to 175 and 175 of the Decree) and provided they are submitted for evaluation by the technical team at the beginning of the on-the-spot verification.

160. As a rule, when are on-the-spot³³ verifications performed?

Given that the information provided by the parties must be verifiable and that, according to art. 178 of Decree No. 8,058 of 2013, answers to requests for information from SDCOM or questions from the government or the producers or exporters of exporting country should, where possible, be provided prior to

³² It should be noted that, as provided for in SECEX Normative Instruction No. 1 of 2020, due to the COVID-19 pandemic and the measures to combat it, SDCOM had to suspend, for an indefinite period, the conduct of all on-the-spot verifications. While this scenario persists, given the permanence of the impossibility of performing on-site verification procedures, SDCOM will proceed, exceptionally, only with the detailed analysis of all information submitted by interested parties in the scope of trade defense investigations and public interest assessments, seeking to verify its accuracy based on the cross-analysis of the information filed by each interested party with those submitted by other parties, as well as with information contained in other sources available to the Under Secretary's Office, if possible and when applicable. For this purpose, SDCOM may request additional complementary information to that provided for in 2 of art. 41 and in 2 of art. 50 of Decree No. 8.058, 2013. Furthermore, under the terms of the sole paragraph of art. 179 of the mentioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and answers to questionnaires and details of specific expenditures, in order to validate information submitted by interested parties.,

³³ It should be noted that, as provided for in SECEX Normative Instruction No. 1 of 2020, due to the COVID-19 pandemic and the measures to combat it, SDCOM had to suspend, for an indefinite period, the conduct of all on-the-spot verifications. While this scenario persists, given the permanence of the impossibility of performing on-site verification procedures, SDCOM will proceed, exceptionally, only with the detailed analysis of all information submitted by interested parties in the scope of trade defense investigations and public interest assessments, seeking to verify its accuracy based on the cross-analysis of the information filed by each interested party with those submitted by other parties, as well as with information contained in other sources available to the Under Secretary's Office, if possible and when applicable. For this purpose, SDCOM may request additional complementary information to that provided for in 2 of art. 41 and in 2 of art. 50 of Decree No. 8.058, 2013. Furthermore, under the terms of the sole paragraph of art. 179 of the mentioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and answers to questionnaires and details of specific expenditures, in order to validate information submitted by interested parties.

the verification, on-the-spot verifications tend to occur after the initiation of the anti-dumping investigation. Thus, on-the-spot verification of the information contained in the petition of the companies making up the domestic industry will normally be carried out after the original anti-dumping investigation is initiated and prior to the preliminary determination. In the case of sunset reviews, on-the-spot verification at the petitioner companies may be performed prior to the commencement of the review, provided there is enough time to do so. In turn, any verification of the information provided by the other interested parties tends to be carried out after the preliminary determination and before the closing of the phase. Evidence as they depend on the submission of questionnaire replies and additional information requested by SDCOM.

161. What are the steps prior to performing on-the-spot checks and how long do these procedures last?

In order to carry out an on-the-spot verification, SDCOM must: (i) receive verifiable information from the interested party; (ii) notify the relevant interested party of its intention and propose a date for the verification; (iii) obtain the consent of the interested party; (iv) notify the government of the exporting country in the case of on-the-spot verification abroad; and v) submit in advance the schedule of activities to be performed during the on-the-spot verification.

As a rule, on-the-spot verifications have an average duration of one (1) week when it comes to petitioners, other domestic producers and foreign producers or exporters. In turn, checks on importers, related trading. Producers or exporters from non-market economy countries and producers from third market economy countries have an average duration of 3 (three) days.

162. Does SDCOM communicate with interested parties and the investigated exporting government in advance about the on-the-spot verification?

Yes. Under the terms of 1 of art. 175 of Decree 8.058 of 2013, SDCOM will communicate³⁴ foreign producers or exporters, domestic producers and selected importers of their intention to carry out on-the-spot verification. In this communication, SDCOM will suggest dates for the visits.

Please note that the communication will be made at least thirty (30) days in advance of the suggested date for verification, in the case of foreign

³⁴ According to SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

producers or exporters and importers, or at least twenty (20) days in advance of the suggested date for verification for domestic producers.

After obtaining the consent of the foreign producer or exporter, the government of the exporting country shall be immediately notified of the names and addresses of the producers or exporters to be verified, as well as the agreed dates for the visits, pursuant to 10 of art. 175 of the aforementioned Decree.

163. What should an interested party do after receiving a letter from SDCOM indicating its intention to perform on-the-spot verification?

In accordance with paragraphs 2 and 3 of art. 175 of Decree No. 8,058 of 2013, within two (2) days from the acknowledgment of the communication indicating SDCOM's intention to carry out on-the-spot verification, the foreign producer or exporter, domestic producer or importer shall state in writing, whether or not you expressly consent to the on-the-spot verification. The absence of timely response from the foreign producer or exporter or importer may give rise to the application of the best information available (see questions 73 and 173). The absence of timely response from the petitioner companies may give rise to the termination of the investigation without judgment on the merits.

Following consent, the party shall prepare for on-the-spot verification, based on the verification roadmap sent by SDCOM, which will clarify the information that will be requested and reviewed at the time of the visit.

164. Does SDCOM provide stakeholders with a roadmap in advance of what it expects to obtain from information and documents for on-the-spot verification?

As provided for in 6 of art. 175 of Decree 8.058 of 2013, SDCOM will send verification script³⁵ at least 20 (twenty) days prior to verification for foreign producers or exporters and importers, or at least 10 (ten) days prior to verification in the case of domestic producers.

The roadmap, in addition to presenting the general nature of an on-the-spot verification, spells out the information that will be requested and analyzed by SDCOM, as well as the documents to be presented by the company during

³⁵ According to SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

the on-the-spot verification. The script too specifies the verification steps and procedures that will be conducted by SDCOM staff.

The types of documents listed in the roadmap that may be reviewed by SDCOM staff during an on-the-spot verification include:

- I - financial statements and explanatory notes, including balance sheets;
- II - general diary and general reason;
- III - all documents related to the sales selected for verification (invoice / sales invoice, bill of lading, packing list, insurance policies, certificate of origin, among others);
- IV - controls and records related to production and stocks;
- V - supply agreements with customers, in domestic and foreign markets;
- VI - agreements for the supply of raw materials and inputs;
- VII - Controls and records related to cost accounting, highlighting the main items: raw materials, utilities, labor and other fixed and variable costs (GGF);
- VIII - books and records of the Department of Human Resources (Personnel), in the case of the domestic industry;
- IX - management reports related to production, sales and costs, among other documents.

Through the script, the company is also informed that spreadsheets prepared for the specific purpose of data verification will not be accepted. If the company's accounting system does not find certain numbers as requested by SDCOM. The calculation methodology used to calculate the data is demonstrated.

In addition, the script makes it clear to the company that it is essential that the work be done in a private room, to which all necessary documentation should be moved. In addition, given the need for copies of accounting records, invoices and documents in general, it is convenient to easily scan or reproduce this material in a location close to that room. All original documents must be easily accessible by SDCOM staff so that investigators, if they deem it necessary, may examine them.

Please note that, as stated in the script, copies of all documents requested by SDCOM staff will be numbered, listed in the final minutes and attached to the confidential SDD records. For this reason, the company is allowed to keep copies of all documents delivered to the technicians since, after verification, these copies will be attached to the confidential file of the case in question.

Through the script, stakeholders are also aware that if SDCOM investigators deem it essential, the documents, when in a foreign language, must be

translated into Portuguese so that they can be attached to the confidential case file.

165. During on-the-spot verification, SDCOM may request access to other information and documents than those originally provided for in the roadmap?

The prior submission of the verification script, provided for in 6 of art. 175 of Decree 8.058 of 2013, does not prevent, during the visit, requests for further clarification or additional documents as a result of the information previously obtained. This possibility is even clearly stated in the verification roadmap.

In this sense, for example, if necessary, views of the originals of the copies of the submitted documents may be required and, if the information is extracted from an electronic system, the screens may be requested to allow tracking of the required information. SDCOM technicians may request access to the screens during on-the-spot verification.

166. What to expect from the first on-the-spot verification day (s)?

At the beginning of the verification, SDCOM's verification team will briefly present the procedures to be followed, already listed in the roadmap (see question 166). At this time, a list will also be provided with numbering referring to other sales, export and / or import operations not anticipated in the itinerary. Note that the request for these additional operations at the beginning of the verification is foreseen in the roadmap. At the beginning of the verification, SDCOM investigators may request intervals with invoice numbers or invoices that were not listed in the appendices of the questionnaires or petition to verify whether such operations include sales of the like product or of the product under investigation.

After the introduction of the SDCOM team and prior to the start of the analysis of the items selected for verification, the company may present any adjustments to the data provided prior to the on-the-spot verification (minor corrections), which should be evaluated by the SDCOM team at this time.

In order to assist the evaluation of the SDCOM team, it is recommended that the company describe the nature of each new information presented, such as the original value, the corrected value and the reason for the need for correction. It should be stressed that new information will only be accepted to make minor corrections and clarifications regarding the data previously presented and provided that they are submitted for evaluation by the

technical team at the beginning of the on-the-spot verification, as already mentioned in question 157.

For this reason, as a general rule, in order to be considered as minor corrections, new information / clarification should not imply the need to submit new databases (appendices) with sales of the like or investigated product or the total costs. similar product or object of investigation, previously submitted with the petition or the answer to the questionnaire and its information complementary.

Subsequently, company representatives should briefly present their institutional and organizational structure, explaining their industrial and commercial activities, any changes and restructurings during the investigation period of dumping and interconnections with other companies (associates, affiliates, parent companies and subsidiaries).), including product or service providers and customers. Information about company interconnections should be accompanied by documents that identify these relationships.

Subsequently, the company should briefly present its accounting practices, including summary of the company's bookkeeping and details of the bookkeeping of sales amounts and their expenses. The company should provide flowchart complete statement of accounts used to record income, costs, expenses and all other entries related to the production and sale of the product or product under investigation in their respective accounting books (journal, ledger and balance sheet).

Then, the company should describe the production process of the similar product or object of investigation. At this time, a visit may be made to the company's production plant if the SDCOM team deems it necessary. After the process presentation SDCOM staff will, as a rule, verify the production, inventory and sales volumes of the like or investigated product and may assess the reported information regarding the company's installed capacity. During these proceedings, it is often requested information about the company's product list, the relationship of the company's product codes with the CODIP defined in the scope of the anti-dumping investigation, the criteria for classifying products as a like product or object of investigation and their identification in the systems, accounting and coding of the company's product, among other information.

Once this initial step is completed, it will proceed to the totality test and other procedures provided in the roadmap, related to the verification of sales and

costs of the company. It should be noted that all procedures performed as part of an on-the-spot verification will depend on the nature of the information requested by SDCOM from each company. Thus, on-the-spot checks on importers will be significantly different from on-the-spot checks on foreign producers or exporters, which in turn differ from those on domestic producers. The definition of part of the procedures conducted in each verification will also depend on the information that SDCOM deems most relevant in each specific case.

167. What are the conciliations made by SDCOM in the on-the-spot verifications?

The information conciliation procedures performed by SDCOM staff consist of verifying that the information contained in the company's systems (accounting, management, production, among others) and in its documents and records corresponds to i) the information disclosed in financial statements, and / or ii) the information submitted by the company to SDCOM through the petition or responses to the questionnaires and their supplementary information.

Reconciliation with audited financial statements allows us to validate the company's systems. Once validated, these systems are used, together with other relevant documents and records, to ascertain the truth and completeness of the other information submitted by the company to SDCOM.

By way of example, in the on-the-spot checks carried out on domestic producers, the reported data regarding the evolution of the number of employees and the wage bill may be reconciled with the company's accounting system as well as with records and records.
controls of your Human Resources Department.

The composition of the cost of manufacturing the similar or investigated product and the methodologies for calculating the company's general, administrative, sales and financial expenses may also be audited in detail by SDCOM staff during on-the-spot verification. For this reason, the systems, accounting records and all other sources used in the preparation of this information should be made available to the team, with the the objective of allowing, for example:

- I - the reconciliation of the cost accounting system with the company's financial accounting system;
- II - the conciliation of the cost of raw material and other inputs, by checking

the accounting entries of consumption used in the manufacture of the product, tracking the quantities consumed in each month of the period investigated based on the company's inventory sheets and reconciliation of finished product inventory and consumption cost accounting accounts in the company's general ledger; and

III - the conciliation of utility costs, direct labor costs, depreciation and maintenance costs, other fixed and variable GGF and other elements related to the accounting of costs reported to SDCOM with the corresponding data, company records and systems.

In turn, in the event of on-the-spot verification of importers of the product under investigation, SDCOM staff may request the company to present the import detention cost structure, the import financial procedure and the import declaration processes. (DI) selected to allow validation of the data provided in the appendices of the importer's questionnaire.

Finally, it should be noted that if any discrepancies are found in any of these procedures, they will appear in the on-the-spot verification report prepared by SDCOM staff and may result in the rejection of all or all of the information submitted by the company to the case file.

168. What is the wholeness test performed on the spot verification?

This on-the-spot verification step consists of proving the company's total sales figures and volumes, usually indicated in the total sales appendices of the questionnaires or petition. It should be noted that, as mentioned above, the information verified will depend on the data provided by each type of interested party (foreign producer or exporter, importer and domestic producer).

It should be emphasized that prior to carrying out the full test described in the paragraph below, SDCOM staff reconcile the financial result obtained with the company's total sales with the respective audited financial statements, which must be accompanied by the relevant documents. For this reconciliation, we generally consider (i) the accounting period that best fits the dumping investigation period and for which audited financial statements exist and (ii) the revenue from all the company's business. Note that the accounting period may vary from company to company, especially foreign producers or exporters. As mentioned in the previous question, this reconciliation procedure with audited financial statements is necessary for the validation of the company's accounting system, which is the basis of SDCOM's on-the-spot verification.

In turn, in the wholeness test itself, as a rule, the total volume and value are checked, as well as (i) sales of the like product or object of the investigation of own manufacture, but also the total volume and value of ii) resale of the like product or object of investigation and iii) sales of other products manufactured by the company. This information is verified both generally and by destination market, ie segregated between domestic sales or resale, exports to other countries and exports to Brazil.

To perform this test, SDCOM staff reconcile the information submitted by the company in the petition or questionnaire response with the data contained in the company's systems, previously validated. In this sense, we start from the company's total sales revenue, which is included in its financial statements, and seek to validate the procedure for selecting data related only to the similar product. Thus, the company must demonstrate how you segregated sales data by target market (domestic and foreign) and type of product sold (similar or other products).

169. During the on-the-spot verification, will SDCOM be able to track the sale operations of the like or investigated product in detail (individual reconciliation)?

The on-the-spot verification roadmap shall inform the operations of selected sale / resale / import that should be tracked during the visit, from purchase orders to journal entries to proof of payment. Thus, the company must provide in advance copies of all documents related to the selected operations, including those that may not be explicitly listed in the script. The same documents shall provided for additional sales operations reported by SDCOM staff at the beginning of the verification.

For the individual reconciliation of each sales invoice selected for verification in domestic producers, copies of the following documents and accounting entries must be presented:

I - sales invoice;

II - accounting records made on sale: posting to trade accounts receivable (debit) and the offsetting entry in the product sales ledger account (credit), as well as posting the goods issue from the inventory and the offsetting entry into the CPV;

III - accounting records made on sale: entry of taxes (ICMS, IPI, PIS and COFINS);

IV - accounting entry made on receipt of payment of sale: entry in the

customer account (credit) and the corresponding entry in the respective accounting account (debit), as well as a copy of the receipt receipt of payment (bank statement, proof of bank deposit, bank statement, etc.);

V - in the case of sales return, posting entry in the customer account (credit) and the counterpart in the sales return accounting (debit) account, also presenting the return / receipt invoice;

VI - in the case of resale of imported product, proof of reported amounts related to administrative expenses, sales insurance, indirect selling expenses, financial cost and inventory maintenance cost; and

VII - other documents not listed in the script, but also related to sales operations, such as quality tests and other documents depending on the nature of the operation and / or product.

In case of individual reconciliation of each invoice selected for verification in foreign producing or exporting companies, copies of documents and accounting entries listed below:

I - invoice;

II - sales contract, sales purchase order / purchase order confirmation;

III - freight contracts and invoices, knowledge of cargo transportation;

IV - insurance policies and premium payment records, if applicable;

V - bill of lading;

VI - packing list;

VII - certificate of origin;

VIII - accounting records of the revenue obtained from the sale of the selected invoice:

posting to the daily ledger, to the customer (debit) account and the offsetting entry to the product sales ledger account (credit), as well as posting the inventory issue and the offsetting entry to the CPV ledger account;

IX - financial record of the sale payment of the selected invoice: the payment in the bank statement (occurrence report, paycheck, letter of credit, credit / debit memo, slip or bank deposit slip or any other bank document);

X - accounting of the amounts of selling expenses reported in the appendices of the questionnaires: entry in the daily ledger, accounts payable from suppliers (credit) and the offsetting entry in the expense account with service providers (debit);

XI - financial record of payment of selling expenses reported in the appendices of the questionnaires: bank statement or bank deposit slip or any other bank document of the supplier upon receipt of payment;

XII - proof of methodology, financial and accounting records of other amounts reported in the appendices of the questionnaires requested by SDCOM staff, such as inventory maintenance expense, financial cost /

expense, interest income, freight revenue and tax refund, among others. others;

XIII - in the case of sales return, posting entry in the customer account (credit) and the counterpart in the sales return accounting account (debit); and

XIV - other documents, besides those mentioned above, related to the selected sales operations.

In turn, for the individual reconciliation of each selected import operation, in the verifications of national producers or importers. Copies of the following documents and accounting entries are presented:

I - import declaration and proof;

II - commercial invoice (invoice);

III - bill of lading;

IV - packing list;

V - Invoices / proof of hospitalization costs;

VI - import accounting record, with the following entries in the general ledger: accounts payable / suppliers (credit) and the counterpart in the product inventory account (debit);

VII - accounting of importation hospitalization costs, with the following entries in the ledger account: accounts payable / suppliers, import expenses, etc. (credit) and the counterpart in the product inventory account (debit);

VIII - financial register of import payment and hospitalization costs: payment on the bank statement (occurrence report, paycheck, letter of credit, credit / debit memo, slip or bank deposit slip or any other bank document);

IX - accounting record of import payment and hospitalization costs, with the following entry in the ledger account: write-off of accounts payable / suppliers, import expenses, etc. (debit); and

X - Other documents related to the selected import operations.

Finally, regarding the resale of selected imported products in the Brazilian market, in the verifications of national producers or importers, copies of the following documents and accounting entries should be presented:

I - invoice;

II - bill of lading;

III - accounting record made on resale: entry in the customer account (debit) and the counterpart in the product sales accounting account (credit); Posting of the write-off of the inventory goods and the corresponding entry in the CPV ledger account;

IV - accounting records made on sale: entry of taxes (ICMS, PIS and COFINS);

V - accounting entry made on receipt of sale: posting to customer account

(credit) and the corresponding entry in the respective ledger account (debit), presenting a copy of the receipt (bank statement, bank deposit slip, bank statement, etc.).

VI - in the case of sales return, posting entry in customer receivables (credit) and the corresponding entry in the sales return ledger account (debit), as well as return / receipt invoice;

VII - accounting record of the payment of amounts related to freight on sale;

VIII - evidence of reported amounts related to administrative expenses, sales insurance, indirect selling expenses, financial cost and inventory maintenance cost; and

IX - Other documents also related to selected resale operations.

170. Does the information obtained during the on-the-spot verification make up any specific document in the anti-dumping investigation?

At the end of the on-the-spot verification, the "On-the-spot Verification Act" shall be signed, which shall contain the signature of the SDCOM team and the company's authorized representatives who accompanied the verification. These minutes will contain a list of the documents requested during the on-the-spot verification and will be attached to the case file.

In addition, the procedures performed to verify the correctness and completeness of data provided by interested parties, the results of these procedures and the additional clarifications obtained during the on-the-spot verification will be included in SDCOM's verification report. Please note that the report will have as an attachment a copy of the documents requested by SDCOM during the verification.

The reports of the on-the-spot verifications will be attached to the respective electronic case file in the restricted and confidential versions. The verified company will be granted access to the report within 15 (fifteen) days, contacting the final date of the removal authorization of the servers that make up the verification team, pursuant to 8 of art. 175 of Decree No. 8,058 of 2013.

Finally, if SDCOM deems it appropriate, after on-the-spot verification, to accept certain data or information provided by the interested party, SDCOM may, on reasonable grounds, make its determinations based on the best information available (see questions 73 and 173).). In such cases, SDCOM shall notify the interested party of the reason for the refusal of the information, so that it may provide due explanations within notification itself, so as not to prejudice the progress of the anti-dumping investigation.

171. What happens if SDCOM does not receive or validate the information and documents requested from interested parties?

Under the terms of 3 of art. 50 of Decree 8.058 of 2013, if an interested party denies access to the required information, does not provide it in a timely manner or creates obstacles to the investigation, SDCOM may make its preliminary determinations or based on the best information available, including information submitted through the initiation petition, which may result in a less favorable determination to the non-cooperating party than would have occurred if it had cooperated. Chapter XIV of the aforementioned Decree (arts. 179 to 184) provides for the use of the best information available - BIA.

An example of applying the best information available is when a foreign producer or exporter cannot prove during the on-spot verification procedure the production costs associated with the production of the product under investigation. As the cost of production is essential information for the calculation of normal value, SDCOM may use as the best information available, for example, the normal value calculated at the beginning of the investigation.

SDCOM

PART III.4. PRELIMINARY DETERMINATION, PROVISIONAL DUTIES AND PRICE UNDERTAKINGS, RECEIVING INFORMATION UNDER PROCEDURAL INSTRUCTION AND CLOSING THE PROBATORY PHASE

172. How is the Preliminary Determination Opinion prepared?

Under the terms of art. 65 of Decree No. 8,058 of 2013, within 120 (one hundred and twenty) days, and not less than 60 (sixty) days from the date of commencement of the original anti-dumping investigation, SDCOM shall prepare a preliminary determination, which shall contain all the facts and law available as to the existence of dumping, injury to the domestic industry and causal link between them. Exceptionally, the deadline for the preparation of the preliminary determination may be extended to up to 200 (two hundred) days from the date of the beginning of the investigation. It should be noted that, as mentioned earlier, the preparation of preliminary determinations is not mandatory in sunset reviews (see questions 81 and 129).

Preliminary determinations will be made based on the evidence presented within 60 (sixty) days from the date of the initiation of the investigation.

Evidence submitted after this deadline may be used by SDCOM if its analysis does not affect the fulfillment of the preliminary determination deadline.

In view of the submission of information by interested parties after the initiation of the investigation, SDCOM's analyzes contained in the preliminary determination are likely to differ from those presented in the opening opinion. In this regard, changes in product and similarity analysis, imports, injury, dumping and causality may be observed.

SDCOM's preliminary analysis of the injury may change from that contained in the opening opinion as the data provided by the petitioner may be modified due to on-the-spot verification and as other interested parties such as other producers may submit information on the injury after the investigation has commenced.

In turn, SDCOM's preliminary dumping analysis will most likely consider the replies to the questionnaires submitted by foreign producers or exporters, third country market economy producers and importers after the initiation of the investigation.

It should be emphasized that, pursuant to 4 of art. 15 and 5 of art. 65 of Decree 8.058 of 2013, SDCOM's preliminary determination shall contain the final decision regarding the third market economy country to be used in the investigation and the deadlines referred to in Articles 59 to 63 of the Decree. If no preliminary determination is made in a sunset review, these requirements will be met through the publication of a specific SECEX Circular.

Please note that if any interested party denies access to the required information, does not provide it in a timely manner or creates obstacles to the investigation, the preliminary determination opinion may be based on the best information available, which may result in the use of the information submitted in the petition (see questions 73 and 173).

173. How is it disclosed and what may be the impact of the preliminary determination on an original anti-dumping investigation?

SECEX shall publish the preliminary determination of SDCOM within three (3) days from the date of said determination, pursuant to 5 of art. 65 of Decree No. 8,058 of 2013.

As provided in art. 163 of the aforementioned decree, the SECEX Preliminary Determination Circular should contain sufficiently detailed explanations of the

preliminary determinations concerning dumping, injury and causation as well as references to matters of fact and law which led to the acceptance or rejection of arguments submitted by interested parties. For this reason, among other information, the aforementioned SECEX Circular will include:

I - names of the producers or exporters to whom the provisional anti-dumping measures will be applied or, if the number of producers or exporters is such that they cannot be distinguished, the names of the countries in which the investigated producers or exporters are located;

II - detailed description of the product subject to the provisional anti-dumping measure;

III - the dumping margins found and detailed explanation of the methodology used for the establishment and comparison of the export price with the normal value;

IV - data relating to the main parameters deemed necessary to determine the injury and causal link; and

V - the reasons of fact and law justifying the positive preliminary determination of dumping, injury and causation between them.

The SECEX Circular of Preliminary Determination will also disclose the deadlines referred to in articles 59 to 63 of Decree 8.058 of 2013, whatever the deadlines for the end of the probationary phase, the statement on the data and information contained in the file. SDCOM's Technical Note containing the essential facts for judgment, the interested parties' final statements, the conclusion of the process instruction, and the preparation of SDCOM's final determination opinion. In addition, this Circular will contain SDCOM's final decision regarding the third market economy country to be used in a non-market economy country investigation.

It should be emphasized that negative preliminary determinations of injury to the domestic industry or causal link may justify the termination of the investigation through SECEX Circular, observing the obligation to disclose the technical note that contains the essential facts, pursuant to 4 of art. 65 of Decree No. 8,058 of 2013.

In turn, positive preliminary determinations of dumping, injury to the domestic industry and causal link between them may give rise to a possible recommendation to apply provisional anti-dumping duties, which will be forwarded to Gecex. If the Executive Management Committee decides to apply this right, it shall publish a corresponding act, pursuant to 6 of art. 65 of Decree No. 8,058 of 2013.

It should be noted that once published the SECEX Circular of Preliminary Determination, the opinion of SDCOM will be added to the case file, as provided in art. 191 of Decree No. 8,058 of 2013. Through the SDD, qualified interested parties will have access to the restricted version of the opinion and may request an extract of their confidential information considered for the purpose of preliminary determination. The parties will be notified of the publication of the SECEX Circular of preliminary determination, pursuant to art. 167 of the aforementioned decree, so that they may manifest themselves in the file.

174. What are the requirements for the application of provisional anti-dumping measures?

The provisional anti-dumping measures are intended to prevent injury to the domestic industry during an original anti-dumping investigation.

Under the terms of art. 66 of Decree No 8.058 of 2013, provisional anti-dumping measures may only be applied if:

- I - an investigation has been commenced in accordance with the provisions of Section III of Chapter V (Articles 44 to 47) of the aforementioned Decree, the act commencing the investigation has been published and the interested parties have been offered an opportunity adequate to manifest;
- II - there is a positive preliminary determination of dumping, injury to the domestic industry and causal link between them; and
- III - Gecex considers that such measures are necessary to prevent injury during the investigation.

Thus, in the event of a positive preliminary determination of dumping, injury to the industry SECEX may send Gecex a recommendation on the application of provisional anti-dumping measures.

If Gecex deems such measures necessary and provided that the above legal requirements are met, Gecex may decide to apply those measures. Any decision by Gecex to this effect shall be published in the DOU by Resolution, which shall details of the application and duration of the provisional anti-dumping measure.

As provided for in paragraphs 1 and 2 of art. 66 of Decree No 8.058 of 2013, the provisional anti-dumping measure may not exceed the dumping margin and may be applied as a provisional or collateral duty, the value of which will be equivalent to that of provisional.

With respect to the period of validity of these measures, paragraphs 6, 7 and 8 of the same art. 66 state that provisional anti-dumping measures may be in force for up to four (4) months. However, this period may be up to six (6) months, when Gecex decides to extend the term and provided that exporters representing a significant percentage of the trade in question so request within thirty (30) days prior to the termination of the duration of the measure. Note that if it is applied provisional anti-dumping measure below the dumping margin found, the above deadlines will be 6 (six) and 9 (nine) months respectively.

The parties will be notified of the decision of Gecex, pursuant to art. art. 167 of Decree No. 8,058 of 2013.

175. What should I know about the hearings held during the procedural instruction?

Under the terms of art. 55 of Decree 8.058 of 2013, hearings with interested parties will be held at the request of one or more interested parties or on the initiative of SDCOM, to allow the exercise of the adversarial and full defense principles. These hearings can be held in person or virtually.

Interested parties may request hearings within five (5) months from the date of commencement of the original anti-dumping investigation or of the sunset review. The request must be made through the SDD and must be accompanied by list of the specific topics to be addressed. Only requests for a hearing involving aspects of dumping, injury or causation between them will be granted.

Known stakeholders will be informed of the hearing and the matters to be discussed at least twenty (20) days in advance of the scheduled date of the hearing.

Those interested in attending should indicate the legal representatives who will be present at the hearing up to 3 (three) days prior to the hearing and send in writing, up to 10 (ten) days before the hearing, the arguments they wish to make at the hearing. These deadlines must be met through the protocol of the information mentioned in the restricted records of the corresponding process in the SDD.

The information presented orally by the interested parties during the hearing will only be considered by SDCOM, if reproduced in writing and filed in the

restricted records of the corresponding process in the SDD, within 10 (ten) days after the hearing, observed, when applicable, the right to secrecy.

There will be no obligation for interested parties to attend such hearings and the absence of the parties may not be used to the detriment of their interests, pursuant to art. 55 of Decree No. 8,058 of 2013.

Please note that only representatives duly qualified and nominated within the time frame mentioned in this question may access the courtroom and speak on behalf of interested parties at such times. Please note that, at SDCOM's discretion, the number of interested party representatives at the hearing may be limited.

176. At what procedural time is it possible to submit offers of price undertakings?

Under the terms of 6 of art. 67 of Decree 8.058 of 2013, foreign producers or exporters may only offer price commitments or accept those offered by SDCOM during the period from the date of publication positive preliminary determination of dumping, injury to the domestic industry and causal link between them, and the termination of the probationary phase.

In view of the fact that, at sunset reviews, the preparation of preliminary determination is not mandatory, if the foreign producer or exporter has an interest in renewing the current price undertaking or submitting a new price undertaking proposal, it should ask SDCOM to draw up a preliminary determination. It is essential to emphasize that, in this case, the request of the foreign producer or exporter must be submitted to SDCOM in a timely manner for possible preliminary determination, since the preparation of such determination requires reasonable time from SDCOM. Thus, the request for issuance of a preliminary determination with a view to enabling the submission of price commitment proposals must be made before the 120-day deadline for the preparation of the preliminary determination, in the terms of the caput of art. 65.

It is also noteworthy that the existence of a positive preliminary determination is not only a timeframe for the presentation of price undertakings, but also a material requirement sine qua non, since without them there is not even the substratum. SDCOM could consider any type of price undertaking offer.

It is reiterated that SDCOM is not necessarily bound to the price undertaking proposal, nor is it obliged to issue preliminary determinations with the sole

purpose of allowing the submission of such proposals. In this sense, as provided in the legislation, SDCOM may deny proposals deemed ineffective or impractical, pursuant to paragraph 10 of art. 67 of Decree no. 8,058, of 2013, or for other general policy reasons, in accordance with Article 8.3 of the Antidumping Agreement, which was internalized in the Brazilian legislation, through approval via Legislative Decree no. 30, of December 15, 1994, and promulgation by Decree no. 1,355, of December 30, 1994, having, therefore, the status of law in Brazil. It should be noted that proposals may be considered impractical, among other reasons, if the financial burden is judged excessive (due to the waiver of the collection of the duty) or if the operational burden of preparing preliminary determinations, negotiating price undertaking proposals and subsequently monitoring the compliance of the signatory exporters with any price undertaking, which involves, in addition to the obligation to practice the minimum price, any other accessory obligations that the authority considers necessary to neutralize the damage to the domestic industry. It should be emphasized that foreign producers or exporters are not obliged to propose price commitments or to accept them.

To better understand the deadlines for requesting price undertakings, please refer to questions 118 and 119 .

177. What information should be included in price undertaking proposals?

The price undertaking proposals must observe the provisions of art. 67 of Decree No. 8,058 of 2013 and of SECEX Ordinance No. 36 of September 18, 2013.

Accordingly, the price undertaking offer must contain express permission for on-the-spot verification by SDCOM and provision for the supply of periodic information regarding its compliance.

In addition, as provided in the aforementioned ordinance, the price undertaking offer must contain, among others, the following information:

- I - company name, full address, telephone number and e-mail address of the producer (s) / exporter (s) intending to make price commitments;
- II - name, function, full address, telephone and e-mail address of the legal representative authorized by SDCOM;
- III - number of the administrative proceeding of the anti-dumping investigation regarding exports of the product object of the price commitment and of injury resulting from such practice;
- IV - description of the product object of the price commitment;

V - item (s) of the MERCOSUR Common Nomenclature (NCM) which classifies the product object of the price commitment;

VI - country of origin of Brazilian imports of the product object of the price commitment;

VII - CIF export price, or equivalent, offered by producer (s) / exporter (s) of the price undertaking product;

VIII - respective calculation memory that supported the preparation of the proposed commitment;

IX - evidence that the proposed export price is sufficient to eliminate the injury caused to the domestic industry by dumped imports;

X - the frequency of price undertaking corrections to ensure that the export price continues to eliminate injury to the domestic industry throughout the duration of the undertaking;

XI - source that will determine price commitment corrections; and

XII - mathematical formula of corrections to the price commitment, as well as the justification of these corrections.

178. How SDCOM Analyzes price undertaking proposals submitted by foreign producers or exporters and on what grounds could SDCOM refuse a price undertaking proposal?

In the analysis of price undertaking offers, SDCOM will consider, among other factors, i) if the information provided for in art. 67 of Decree No. 8,058, 2013, and Ordinance SECEX No. 36, 2013, are present; (ii) the dumping margin for the producer or foreign exporter proposing the price undertaking and how this margin was calculated; and iii) whether the offered price commitment is effective and viable. It should be noted that, as provided in 13 of art. 67 of Decree 8.058 of 2013, in the analysis of the possibility of approval of a price undertaking will also be taken into consideration if the undertakings were offered by producers or exporters of MERCOSUR States Parties.

Thus, according to art. 2 of Ordinance SECEX 36, 2013, no proposals of price compromise that do not comply with the provisions of said ordinance will be known.

In addition, based on 4 of art. 67 of Decree 8.058 of 2013, SDCOM will not be able to accept offers that anticipate a price increase that exceeds the dumping margin found.

In turn, paragraphs 1 and 2 of art. 5 of Secex Ordinance No 36 of 2013 stipulate that only a price undertaking proposal from a producer or exporter who has replied to the questionnaire and whose individual dumping margin

has been established on the basis of information provided by the producer or exporter himself and verified by SDCOM. Furthermore, price undertaking proposals from foreign producers or exporters whose dumping margins have been defined on the basis of the best information available will not be accepted.

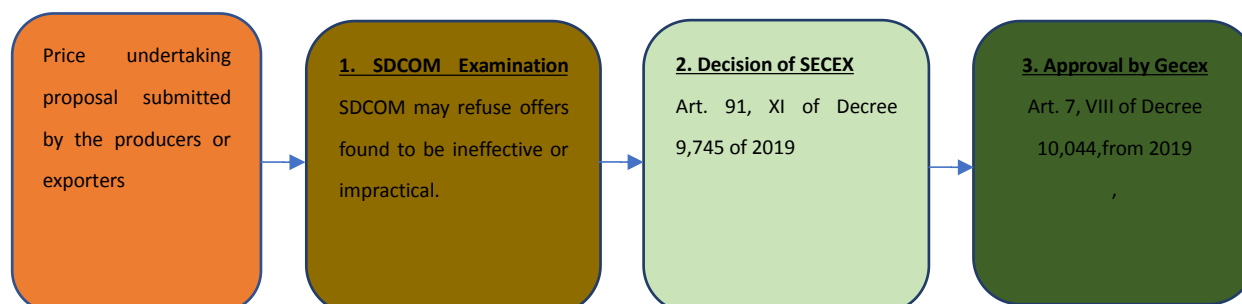
It should also be noted that 10 of art. 67 of Decree 8.058 of 2013 provides that SDCOM may refuse offers of price undertakings that are deemed ineffective or impractical. This decision shall take into account, among other factors, the degree of product homogeneity, the number of price undertaking offers, and the existence of association or relationship between interested parties. Furthermore, proposals that impose an excessive financial burden on the Brazilian government (due to the waiver of the collection of the duty), or an excessive operational burden to establish and monitor compliance with the proposed price undertaking, may also be considered impracticable. Under article 8.3 of the Antidumping Agreement, internalized by Decree No. 1.355, dated December 30, 1994, a price undertaking may also be refused for general policy reasons.

In the event of a refusal to offer a price undertaking, the foreign producer or exporter shall be informed of the reasons why the undertaking was found to be ineffective or impracticable and a period of ten (10) days in writing shall be granted, in accordance with Paragraph 12 of art. 67 of the aforementioned Decree.

179. What happens if the price undertaking is approved?

Should SDCOM and the foreign producer or exporter agree on the price undertaking offered, SECEX shall decide whether to accept this undertaking and, if so, submit it for Gecex approval pursuant to terms of item XI of art. 91 of Decree No. 9,745, 2019 and item VIII of art. 7th of Decree 10,044 of 2019.

Figure 107: Analysis of price undertaking proposals



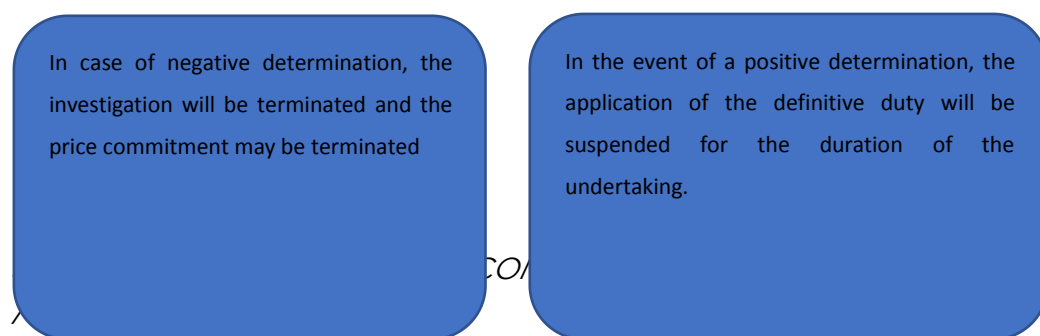
Source: Ministry of Economy / SDCOM

If the undertaking is approved, the corresponding anti-dumping investigation may be suspended either without the application of provisional anti-dumping duties or definitive anti-dumping duties to the foreign producer or exporter who submitted voluntarily to the undertaking as it proceeds, at the request of the foreign producer or exporter concerned or at the discretion of SDCOM.

As provided in art. 76 of Decree 8.058 of 2013, in the event that a price undertaking was approved with subsequent investigation, should SDCOM reach a negative determination of dumping, injury to the domestic industry or causal link between them, the investigation will be terminated and the price commitment will be automatically terminated except when the negative determination results, substantially, from the existence of the price undertaking itself, in which case it may be required to be maintained for a reasonable period, and Gecex is responsible for publishing the corresponding act.

Furthermore, if SDCOM reaches a positive determination of dumping, injury to the domestic industry or causal link between them, the investigation will be terminated and the application of the definitive duty will be suspended for the foreign producer or exporter concerned as long as the undertaking to prices.

Figure 108: Price Undertakings and SDCOM's Final Determination
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Acts concerning the termination or suspension of an anti-dumping investigation as a result of the acceptance of a price undertaking shall contain a transcript of the non-confidential of this commitment.

180. What is the evidentiary stage and when does it ends?

The evidentiary stage is the period of the investigation during which evidence

may be presented in the files.

Under the terms of art. 59 of Decree No. 8,058 of 2013, the probationary phase shall be terminated within no more than 120 (one hundred and twenty) days from the date of publication of the preliminary determination.

In original anti-dumping investigations, the closing period of the probationary phase will be disclosed in the SECEX Circular of Preliminary Determination, and, if applicable, may be extended by means of SECEX Circular for the extension of the investigation period.

In sunset reviews, the closing period of the probationary phase will be disclosed in the SECEX Circular of review terms and, if applicable, may be extended by means of SECEX Circular for the extension of review periods (since there is no requirement for preliminary determination in reviews, see question 81) and, if applicable, may be extended by means of SECEX Circular extending the review deadlines.

The evidence presented in the SDD after the conclusion of the probationary phase will not be attached to the case file, as per sole paragraph of art. 59 of the aforementioned Decree.

PART III.5. TECHNICAL NOTE OF ESSENTIAL FACTS AND RECEIPT OF INFORMATION AT THE END OF PROCEDURAL INSTRUCTION

181. At what point in the written procedure can interested parties lodge comments on the information in the file?

Under the terms of art. 60 of Decree No. 8,058, 2013, the parties may file statements on the data and information contained in the restricted case, through the SDD, within 20 (twenty) days from the closing date of the probationary phase of the investigation.

This deadline will be disclosed by means of a preliminary SECEX Circular for original anti-dumping investigations, or by SECEX Circular of Deadlines in the case of period-end revisions.

Manifestations filed in a timely manner will not be considered for the purposes of the fact sheet or final determination.

182. When the Technical Note of Essential Facts is disclosed and which

information make up this document?

Under the terms of art. 61 of Decree No. 8,058 of 2013, SDCOM will disclose, within 30 (thirty) days from the closing date of the demonstration phase, the technical note containing the essential facts under consideration that will be considered in the final determination. The disclosure of the technical note will be made only in the case file of the SDD, since this document is not public in nature.

The technical note of essential facts will consider all information properly presented in the case file until the closing of the manifestations phase provided for in art. 60 of the aforementioned decree (see question 183), including the results of the on-the-spot verifications and the statements made after the closure of the probationary phase. For this reason, SDCOM's analyzes made on the occasion of the essential facts technical note will most likely differ significantly from those undertaken for the purpose of initiating the anti-dumping investigation and preliminary determination (if any).

Through the SDD, qualified stakeholders will have access to the restricted version of the essential facts fact sheet and may request an extract from their confidential information considered in this decision.

183. When is the deadline for closing arguments and the end of the procedural instruction?

Under the terms of art. 62 of Decree 8.058 of 2013, interested parties will have twenty (20) days from the date of disclosure of the technical note to submit their final written statements in the case file of the SDD, which is the closing of procedural instruction.

Information submitted after the termination of the process instruction will not be considered for final determination purposes.

PART III.6. FINAL DETERMINATION, CLOSURE OF INVESTIGATION AND COLLECTION OF ANTI-DUMPING DUTY

184. How is the Final Determination Opinion prepared, and what the deadline for it?

Under the sole paragraph of art. 62 and art. 63 of Decree No. 8,058 of 2013, after the conclusion of the procedural instruction, SDCOM will prepare the final determination of the anti-dumping investigation, which will include all the

facts and law relating to anti-dumping investigation as well as SDCOM's final findings on dumping, injury to the domestic industry and causal original anti-dumping investigations, or on the likelihood of continuation or resumption of dumping and related injury in the case of sunset reviews. In addition to assessing all key facts disclosed in the technical note, SDCOM's final determination also considers the final statements made by interested parties in each process. For this reason, SDCOM calculations and / or conclusions contained in note essential facts may change in the final determination.

As provided in art. 63 above, SDCOM shall prepare the final determination within twenty (20) days from the end of the procedural instruction.

It should be noted that once the SECEX Circular and / or the Gecex Resolution terminating the anti-dumping investigation is published, SDCOM's opinion will be added to the corresponding file, as provided for in art. 191 of Decree No. 8,058 of 2013. Through the SDD, qualified stakeholders will have access to the restricted version of the opinion and may request an extract from their confidential information considered for final determination. The parties shall be notified of the publication of the SECEX Circular and / or the Gecex Resolution terminating the anti-dumping investigation, pursuant to art. 167 of the aforementioned Decree.

185. What are the possible conclusions of a Final Determination Opinion from SDCOM?

SDCOM's Final Determination Opinion may reach the following conclusions:

I - recommend the application or extension of definitive anti-dumping measures for up to 5 (five) years, when there is a definitive positive determination of dumping, injury to the domestic industry and causal link between them or when there is a positive final determination of the likelihood of continuation or resumption of dumping and the resulting injury, pursuant to arts. 75 and 106 of Decree No. 8,058 of 2013;

II - recommend the extension (in equal, superior or lower amount to the measure in force see question 77) of definitive anti-dumping measures with the immediate suspension of their application, when there are doubts as to the probable future evolution of imports of the product subject to anti-dumping duty, pursuant to art. 109 of Decree no 8,058, 2013;

III - recommend the termination of the anti-dumping investigation without the application or extension of definitive anti-dumping measures in the following

situations, as per art. 74 of Decree No. 8,058 of 2013:

- (a) if there is insufficient evidence of dumping, injury to the domestic industry or causal link between them or if there is insufficient evidence of the likelihood of continuation or continuation of dumping or of injury resulting therefrom;
- (b) if the dumping margin is de minimis (see question 35); and / or
- (c) whether the actual or potential volume of dumped imports (see question 51) or the injury to the domestic industry is insignificant.

Figure 109: Conclusions of a final determination opinion

It recommends the application or extension (in an amount equal to, greater than or less than that of the measure in force) of antidumping measures for up to five (5) years when:

- *There is a final determination of dumping, injury and causal link between them*
- *There is a final determination of likelihood of continuation or recurrence of dumping and resulting injury*

Recommends the extension of the measure with immediate suspension of its application

- *when there is doubt as to the likely future development of imports of the product subject to antidumping duty, pursuant to art. 109*

Recommends terminating the investigation without the application or extension of antidumping measures when:

- *There is insufficient evidence of the existence or likelihood of continuation or recurrence of dumping, injury to the domestic industry, or causal link between them*
- *De minimis dumping margin*
- *Import volume or injury to domestic industry are insignificant*

Source: Ministry of Economy / SDCOM

Please note that SDCOM may also recommend the suspension or amendment of anti-dumping measures for reasons of public interest (art. 3 of the Decree No. 8,058/2013), whose detailed information can be found in the Consolidated Guide of Public Interest in Trade Remedy³⁶.

³⁶

<https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/guias>

186. What is the decision-making process in the event that SECEX's investigation is terminated (without the imposition or extension of a definitive anti-dumping measure)?

Under the terms of art. 74 of Decree No. 8,058 of 2013, if SDCOM recommends the termination of the investigation without the application or extension of definitive anti-dumping measures, SECEX Circular will be published.

Figure 110: Termination of investigation without imposition of measures

- Technical Analysis by SDCOM
- Recommendation for termination without imposition or extension of definitive antidumping measure
- Termination of the investigation is made public by SECEX Circular

Source: Ministry of Economy / SDCOM

It should be noted that, pursuant to paragraph 2 of art. 73 and the sole paragraph of art. 74 of Decree No. 8,058 of 2013, if the investigation is terminated without judgment on the merits at the petitioner's request or on the basis of a negative determination, new petition on the same product will only be analyzed if filed after twelve (12) months from the date of termination of the investigation. In case of closure on the basis of a negative determination, this period may, in exceptional and duly justified cases, be shortened for 6 (six) months.

Interested parties will be notified of SECEX's decision, as per art. 167 of the aforementioned Decree.

187. What is the decision-making process in the event of the termination of the investigation by Gecex (with the application of a definitive anti-dumping measure, regardless of the decision on suspension, amendment or maintenance of the measure in the public interest)?

Under the terms of art. 77 of Decree 8.058 of 2013, if SDCOM recommends the termination of the investigation with the application or extension of definitive anti-dumping measures, Gecex Resolution will be published, regardless of whether or not recommendation to change the measure in question or to suspend its application for reasons of public interest³⁷ or based on art. 109 of the aforementioned Decree.

³⁷ About public interest (art. 3 of Decree No. 8.058, 2013), detailed information can be obtained in the Consolidated Guide to Public Interest in Trade Remedy.

Figure 111: Closure of investigation with application of measures

- SDCOM Technical Analysis
- Recommendation for application or extension of definitive anti-dumping measure for up to 5 (five) years
- Anti-dumping measure is applied by means of Gecex resolution and can be immediately changed or suspended for reasons of public interest or based on in art. 109 of Decree No. 8,058 of 2013

Source: Ministry of Economy / SDCOM

The Gecex Resolution will provide all relevant information on matters of fact and law and the reasons that led to the positive final determination by SDCOM, including the reasons for accepting or rejecting the arguments presented by interested parties, pursuant to art. 164 of Decree No. 8,058 of 2013.

Interested parties will be notified of Gecex's decision, as per art. 167 of the aforementioned Decree.

Note that item VII of art. 2 of Decree no. 10,044, of 2019, provides for the creation of the Trade Remedy Committee, which will integrate Camex.

188. How do you know which anti-dumping measures are in force?

A list of anti-dumping measures in force can be found at the following SDCOM website:

<https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/medidas-em-vigor>.

189. How are anti-dumping duties collected?

The anti-dumping duty will be charged irrespective of import duties³⁸, in the form of ad valorem or specific tax rates, and may also be a mixture of both. As a rule, according to art. 84 of Decree No. 8,058 of 2013, anti-dumping duties are only levied after the date of publication of the regulation that applied the measure, being allowed retroactive only in some specific situations.

The collection is made by RFB pursuant to Law No. 9,019 of March 30, 1995. The classification of the imported goods in the NCM is purely indicative and the anti-dumping duties may be applied to imported products under tariff codes

³⁸ Article 1, sole paragraph of Law No. 9,019 of 1995: "Anti-dumping and countervailing duties shall be levied independently of any tax obligations relating to the importation of the affected products."

other than those provided for in the statute, which applied the anti-dumping measure, provided that an examination of its physical and market characteristics allows that product to be classified as a like product under Art. 10 of Decree 8.058 of 2013 (see question 8).

The collection is made by RFB pursuant to Law No. 9,019 of March 30, 1995. The classification of the imported goods in the NCM is purely indicative and the anti-dumping duties may be applied to imported products under tariff codes other than those provided for in the statute, which applied the anti-dumping measure, provided that an examination of its physical and market characteristics allows it to be classified as a like product under Art. 10 of Decree 8.058 of 2013 (see question 8).

190. When retroactive collection of antidumping duty may occur?

As a rule, provisional anti-dumping measures or definitive duties may be charged only on imported products dispatched for consumption from the date of publication in the Official Gazette of a Gecex Resolution containing the decision to impose the measure. However, art. 85 of Decree No. 8,058 of 2013, establishes the hypotheses in which the retroactive collection of the right will be possible:

- Positive final determination of material injury to domestic industry; and
- Positive final determination of threat of material injury to the domestic industry: In this case, the retroactive application of anti-dumping duties can only occur when it is shown that the absence of provisional anti-dumping measures would have led to the effects of the dumped imports being determined. material injury to the domestic industry.

Therefore, retroactive charging is not permitted in cases of (i) negative final determination of dumping, injury or causation; (ii) significant delay in the establishment of the domestic industry; or (iii) mere positive final determination of threat of material injury to the domestic industry.

In addition, retroactive collection of anti-dumping duties is only possible if the following requirements are cumulatively met:

- There has been application of provisional anti-dumping measure (caput of art. 89);
There is a history of dumping, injury to the domestic industry and a causal link between them, or that the importer was or should have been aware that the producer or exporter practices dumping and that

it would cause injury, which can be proven by the existence of the following situations (sub I of art. 89 c/c art. 90):

- i. the imported dumped products were subject to antidumping measures, provisional or definitive, applied in Brazil or the imported dumped products are or were subject to antidumping measures, provisional or definitive, applied in a third country; provisional or definitive anti-dumping duty imposed in Brazil or the dumped imported products are or have been the subject of a provisional or definitive anti-dumping measure imposed in a third country; and
 - ii. the importer was or should have been aware that the producer or exporter was dumping and that dumping would cause injury when the date of the bill of lading for the dumped imported goods is after the date of initiation of the investigation.
- Injury is caused by massive imports of a product at dumped price in a relatively short period, which, taking into account the period in which they were made and the volume of dumped imports and other factors such as rapid stock growth. most likely to significantly reduce the corrective effect of the definitive anti-dumping duties to be applied (Article 89, II).

In any case, pursuant to the caput of art. 89 of Decree No 8.058 of 2013, definitive anti-dumping duties may only be collected from imports at dumped prices whose date of bill of lading is ninety (90) days prior to the date of application of the provisional anti-dumping measures. In addition, pursuant to paragraph 1 of that article, duties may not be charged on imports whose date of boarding date prior to the start of the investigation or breach of the price.

191. What about provisional anti-dumping duties and provisional anti-dumping measures applied in the form of guarantees at the end of an original anti-dumping investigation?

According to art. 88 of Decree 8.058 of 2013, if the amount of the definitive duty is less than the amount of the duty provisionally collected or secured by a cash deposit or bank guarantee, the overpayment will be refunded or returned, or the conversion of the collateral adjusted, as appropriate.

If the amount of the definitive duty is higher than the value of the duty provisionally collected or guaranteed by deposit, the difference will not be charged under art. 87 of Decree No. 8,058 of 2013.

Finally, according to art. 86 of Decree No. 8,058 of 2013, the value of the provisionally collected, secured by deposit or bank guarantee, will be refunded, returned or extinguished promptly if:

I - positive final determination of threat of material injury to the domestic industry;

II - significant delay in the establishment of domestic industry; or

III - negative final determination of dumping, injury to the domestic industry or causality between them both.

For more information on provisional anti-dumping measures applied in the form of collateral, see question 66.