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EXTERNAL GUIDELINES

ANTIDUMPING INVESTIGATIONS IN BRAZIL

MAIN CONCEPTS AND METHODOLOGIES
FORMAL ASPECTS AND PROCEDURAL TERMS
STEP BY STEP IN THE INVESTIGATIONS

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INTRODUCTION

The Undersecretariat of Trade remedies and Public Interest (SDCOM) of the Foreign Trade Secretariat (SECEX) of the Special Secretariat of Foreign Trade and International Affairs (SECINT) of the Ministry of Economy is the competent public authority to conduct investigations of trade remedies in Brazil, under art. 96 of Decree No. 9,745, of April 8, 2019; amended by Decree No. 10,072, of October 18, 2019.³ The competence to apply measures of trade remedies belong to the Executive Committee of the Chamber of Foreign Trade (Gecex/CAMEX)³, under art. 7 of Decree No. 10,044, of October 4, 2019. Among the trade remedies there are the *Antidumping*, countervailing and safeguards measures.

This Guidelines of *Antidumping* Investigations was elaborated according to the Brazilian law, multilateral agreements of the World Trade Organization (WTO), and WTO's case law on the theme, as well as theoretical and practical information arising from the consolidated experience of SDCOM to conduct of these investigations. Its purpose is to disclose the knowledge on *Antidumping* to the external public, however without the intention to exhaust completely the subject.

The parameters exposed in this Guidelines are merely indicative, which do not bound SDCOM in the conduction or analysis of the administrative procedures of its competence, bearing in mind the possible specificities in the concrete cases. This methodology does not have a mandatorily or binding aspect neither intends to exhaust all concepts, methodologies, analyses, and stages of the investigation. Specificities of each case could take to concrete analyses not necessarily connected to the original guidance presented.

In October 2019, it was published the preliminary version of the Guidelines lines of Antidumping Investigations in Brazil and submitted to public consultation until January 20, 2020. SDCOM received comments of the following entities: Brazilian Institute for Competition, Consumption, and International Trade (Instituto Brasileiro de Concorrência, Consumo e Comércio Internacional –Ibrac), Federation of the Industries of the State of São Paulo (Federação das Indústrias do Estado de São Paulo – FIESP), National Confederation of the Industry (Confederação Nacional da Indústria — CNI), Guedes, Bernardo and Imamura Associados (GBI), Tecumseh of Brazil, and China Chamber of International Commerce (CCOIC). All contributions of the civil society are public available at the electronic address <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/consultas-publicas-1/consultas-publicas-encerradas>.

³ Under paragraph 2 of art. 9 of Decree No. 10,044, of 2019, in the event of a tie on the resolutions of the Executive Committee of Management, the Council for Trade Strategy shall have the duty to the casting vote.

Thus, this Consolidated Guidelines of *Antidumping* Investigations is divided in three (3) parts, elaborated in the form of questions and answers. In the Part I, we will present the main concepts and methodologies inherent to the Antidumping investigations. In the Part II, we will list the main formal aspects and procedural terms. Finally, in the Part III will present the step-by-step of an Antidumping investigation. In total, we present, in an educational way, almost two hundred (200) questions and answers to the foreign public.

In this consolidated version of the Guidelines, additional clarifying 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 to be additional questions [63](#), [109](#), [110](#) and [111](#). In this sense, it has been made clear both conceptual and methodological aspects regarding operational questions already presents in the preliminary version of this Guidelines, besides to have been inserted information on new procedures adopted arising from the pandemic of COVID-19, according to SECEX Ordinance No. 21, of March 30, 2020, and the Normative Instruction No. 1, of August 17, 2020 (proceedings for verification of information reported by the interested parties and transmission of documents to the interested parties by SDCOM). Thus, it has been made clear on the causality analysis and non-attribution analysis, calculation of the margin of dumping, and the compliance with the correspondent case law of the World Trade Organization (WTO), the selection of foreign producers or exporters, the assessment of the margin of dumping in sunset reviews, and the difference between the analyses made by SDCOM in the event of continuation and recovery of *dumping*, the possible outcomes of sunset reviews and their impacts on the *Antidumping* duty in force, the use of the lesser duty rule, and the calculation of the lesser duty and duty to be recommended, the coverage 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 commitment by SDCOM. In the same way, it was presented more information on the use of the Digital DECOM System — DDS and what to do in cases of doubts, errors, or unavailability of this system, the definition of which parties could make a statement on the choice of the substitute country, the term for the statement on the selection of foreign producers or exporters, the terms of knowledge, the terms and conditions to elaborate the preliminary determinations in sunset reviews, the form of attendance of the non-qualified representatives, the requirements for the qualification of the legal representatives and the information requested through applications of the foreign producers or exporters. Besides, it was added new questions and answers on the analysis of probable price made by SDCOM

in sunset reviews, as well as on the use of the Information Electronic System of the Ministry of Economy — SEI/ME.

PART I.1 GENERAL CONCEPTUAL ASPECTS

1. What is the applicable law to the *Antidumping* investigations in Brazil?

The final minutes that incorporated the results of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade - GATT, of the WTO, was approved in Brazil by Legislative Decree No. 30, of December 15, 1994, and enacted by Decree No. 1,355, of December 30, 1994. This Decree incorporates the Agreement on the Implementation of the Article VI of GATT 1994 (“*Antidumping* Agreement”) to the Brazilian legal system.

The Law No. 9,019, of March 30, 1995, provides that the type of use and collection of provisional and definitive *Antidumping* duties, as well as the competences to the assessment of the margin of dumping, fixing and collection of duties and suspension of its enforceability, execution of price commitment and events of extension of *Antidumping* measures in case of finding of tax evasion practices.

The Decrees No. 9,745, of April 9, 2019, amended by Decree No. 10,072, of October 18, 2019, and No. 10,044, of October 04, of 2019, in turn, attribute in a comprehensively way the competences related to the *Antidumping* investigations and the decision-making process arising from them. (See question [2](#)).

Now the Decree No. 8,058, of July 26, 2013, is the main document that rules the Brazilian administrative proceedings related to the investigation and the use of *Antidumping* measures, detailing terms, methodologies, and criteria of analysis to be followed during these proceedings. It is emphasized that this Decree do not only incorporate the multilateral normative rule agreed with WTO, but also define the additional requirements (known as “*WTO Plus*” rules) to the Brazilian *Antidumping* investigations.

Art. 39 of Decree No. 8,058, of 2013, provides that “SECEX shall publish an act to make public information that shall be in the petition, as well as the format of its submission”. For this reason, it was published the SECEX Ordinances No. 41, of October 11, 2013, and No. 44, of October 29, 2013, which provide, respectively, on the required information to the elaboration of petitions of original *Antidumping* investigations and petitions of sunset reviews.

Also, the following normative acts are applicable to the Antidumping investigations as listed in this Guidelines in an illustrative way:

- Law No. 12,546, of December 14, 2011, provides that on the relationship between the investigations of trade remedies and the rules of non-preference origin. In its art. 29, the law determines that the investigations of trade remedies under competence of SDCOM shall be based on the stated origin of the product;

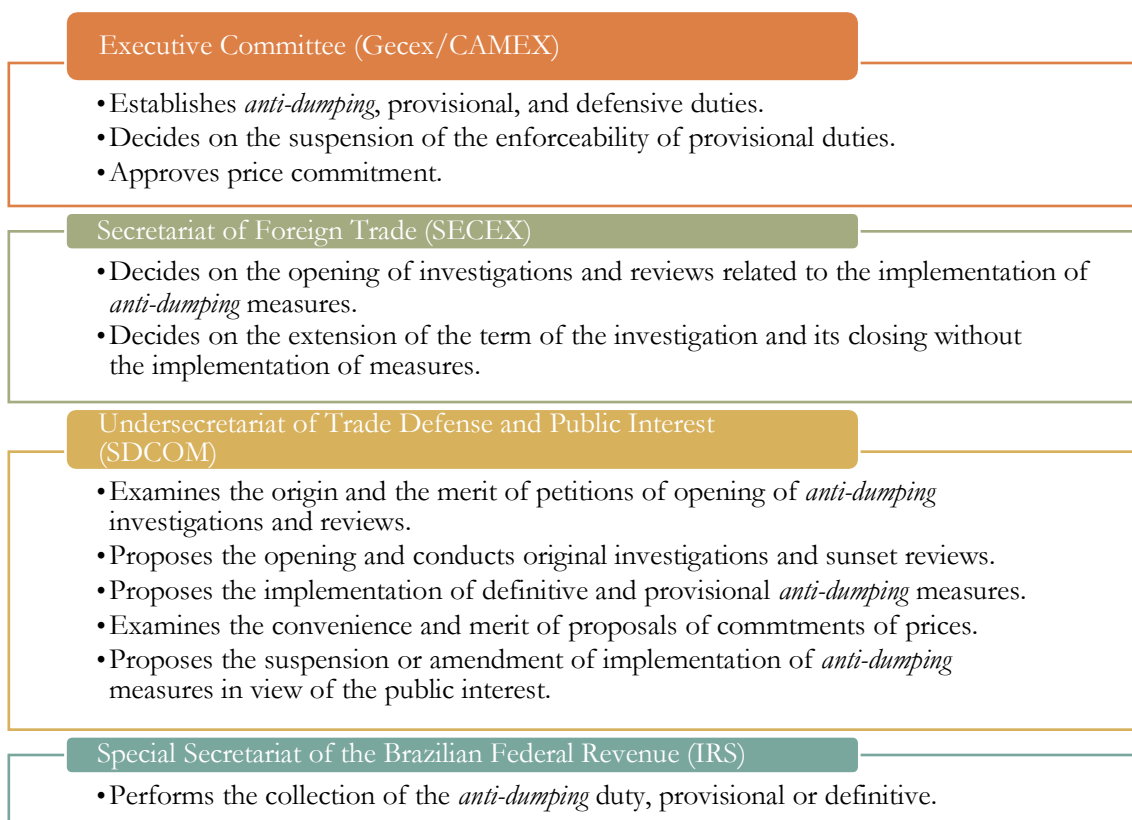
- Law No. 12,995, of June 18, 2014, that, in its articles 17, 18, and 19, provides on the use of electronic means, the incorporation of documents elaborated in foreign language to the case records and the count of terms in the investigations of trade remedies;
- Decree No. 9,107, of July 26, 2017, provides on the terms and applicable requirements to the fragmented industries under investigations of trade remedies;
- SECEX Ordinance No. 41, of July 27, 2018, provides on the required information to the qualification of the national production of determined product as fragmented industry for the purposes of trade remedies, as provided in Decree No. 9,107, of July 26, 2017;
- SECEX Ordinance No. 36, of September 18, 2013, provides on the submission of proposals of price commitment by foreign producers or exporters in *Antidumping* investigations; and
- SECEX Ordinance No. 30, June 7, 2018, which regulates the electronic administrative proceeding related to the processes of trade remedies supported by Decrees No. 1,488, of May 11, 1995, No. 1,751, of December 19, 1995, and No. 8,058, of July 26, 2013 (Digital DECOM System).
- SECEX Ordinance No. 21, of March 30, 2020, which provides on the notices and communications to the interested parties in the scope of processes of trade remedies provided 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 on the required adaptations to the proceedings of the investigations of trade remedies and evaluations of public interest conducted by the Undersecretariat of Trade remedies and Public Interest, arising from the pandemic of the new coronavirus (COVID-19).

The updated law could be consulted at the SDCOM's website at: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/legislacao-roteiros-e-questionarios>

2. Which are the main authorities involved in an *Antidumping* investigation?

Under Decrees No. 9,745, amended by Decree No. 10,072 and No. 10,044, both 2019, the process of implementation of an *Antidumping* measure involves four main authorities:

Figure 1: Main authorities in trade remedies in Brazil



Source: Ministry of Economy/SDCOM

It is emphasized that, between January 30 and October 6, 2019, the competences on matter of trade remedies currently attributed to Gecex were performed by the Special Secretariat of Foreign Trade and International Affairs (SECINT), under items V to VII of art. 82 of Decree No. 9,745, of 2019.

It is worth emphasizes the creation of the Committee for Trade remedies of the Chamber of Foreign Trade, through art. 2 of Decree No. 10,044, of 2019.

It is highlighted that, under art. 4 of Decree No. 8,058, of 2013, CAMEX shall be responsible for grant the status of market economy for the purposes of trade remedies.

3. Which are the fundamental elements to the implementation of an *Antidumping* measure?

There are three fundamental elements to the implementation of the *Antidumping* measure, which are; *dumping*, injury, and causal link.

Figure 2: Fundamental elements to the implementation of the *Antidumping* measure.



Source: Ministry of Economy/SDCOM

Thus, it is not sufficient the existence of the practice of *dumping* to that is imposed an *Antidumping* measure to the imports of a determined product. Also, it is necessary to demonstrate that the imports with *dumping* prices had caused a significative injury to the domestic industry. That is, it shall be demonstrated that there is injury and causal link between the imports with *dumping* prices and the injury to the domestic industry.

4. What is a *dumping*?

Under art. 7 of Decree No. 8,058,-of 2013, “the introduction of a product in the Brazilian domestic market, including under the *drawback* category, with an export price lower than its normal value is considered a practice of *dumping*”.

To facilitate the understanding, please see below an example of possible practice of *dumping*. If the company A, located in the country Alpha, exports a determined product to Brazil by US\$80.00 (that is, the export price) and sells a similar product in its domestic market, at the same level of trade, by US\$100.00 (that is, the normal value), it is considered that there is a practice of *dumping*, with a margin of US\$ 20.00 (US\$100.00 - US\$80.00 = US\$20.00; that is, a margin of dumping).

Thus, there is a practice of *dumping*, when a company exports to Brazil a product with price (export price) lower than practiced to the similar product in sales to its domestic market (normal value).

Figure 3: Normal value, export price, and margin of dumping

Normal Value	Export price US\$80.00	Dumping Margin US\$20.00
<ul style="list-style-type: none"> • Sales price of the product in the origin country of exports • Articles 8 to 17 of Decree No. 8,058, of 2013. 	<ul style="list-style-type: none"> • Export price of the product to Brazil • Articles 18 to 21 of Decree No. 8,058, of 2013. 	<ul style="list-style-type: none"> • Difference between the normal value and the export price • Articles 25 to 28 of Decree No. 8,058, of 2013.

Source: Ministry of Economy/SDCOM

More information on the practice of *dumping* could be found in Part I.2.

5. What is the injury to the domestic industry?

Under art. 29 of Decree No. 8,058, of 2013, the concept of injury is understood in the sense of pecuniary injury or threat of material injury to the domestic industry already established, or still as relevant delay in the implementation of the domestic industry.

Figure 4: Injury to the domestic industry



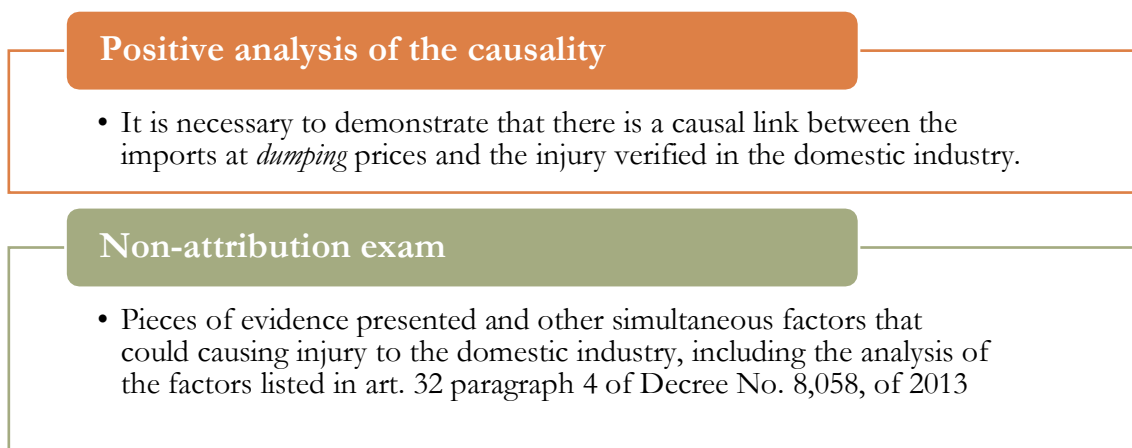
Source: Ministry of Economy/SDCOM

More information on the injury to the domestic industry could be found in Part I.4.

6. Which is the causal link between the practice of *dumping* and the injury to the domestic industry?

The causal link is the demonstration that, through the effects of *dumping*, the dumped imports significantly contributed to the injury caused to the domestic industry, even it is not the only causative factor of the injury. Thus, during the analysis of the causal link, it is necessary to separate and differentiate the effects of the dumped imports and the effects of possible other causes of injury to the domestic industry.

Figure 5: Demonstration of the causal link



Source: Ministry of Economy/SDCOM

More information on the practice of causal link could be found in Part I.5.

7. What is product under *Antidumping* investigation?

The product under investigation is that arising from⁴ countries where are located the investigated producers or exporters and exported to Brazil, encompassing identical products or that present (A) physical aspects or chemical composition, and (B) aspects of similar markets, as set forth in art. 10 of Decree No. 8,058, of 2013.

Figure 6: Product under investigation

Product under investigation	(A) Physical aspects or chemical composition to be considered	(B) Aspects of market that will be examined
<ul style="list-style-type: none"> •The term “product under investigation” will encompass identical products or that present physical aspects of chemical composition and aspect of similar markets. 	<ul style="list-style-type: none"> •used raw material •rules and technical specifications •productive process 	<ul style="list-style-type: none"> •uses and implementations •substitution degree •delivery channels

Source: Ministry of Economy/SDCOM

⁴ Origin country stated in the imports, under Law No. 12,546, of 2011.

If the product under investigation presents several models, it shall be created Codes of Product Identification (CODIPs). CODIP is represented by an alphanumeric combination reflecting the aspects of the product in a descending order of importance, starting from the most important and including the main elements that influence the production cost and the sales price. The SECEX Ordinances No. 41 and 44, both 2013, bring more guidance for the elaboration of CODIP.

The Petitioner shall propose the CODIP at the moment of the submission of the petition and it will be adopted by the interested parties in the investigation, if SDCOM understands that adequately reflects the circumstances of the product. Thus, after started the investigation, it shall be required to the foreign producers, Brazilian importers, and to other Brazilian national producers data classified by CODIP. In addition, since started the investigation, the interested parties could state on the models of the product, under item III, of paragraph 3 of art. 2 of SECEX Ordinance No. 30, of 2018.

For instance, please see in the table below, a case where there was the composition of CODIP.⁵ For objects of tableware,⁶ for instance, the aspect “A” identifies the raw material used (ceramic or porcelain), the aspect “B” appoints to the color of the product, and the aspect “C”, to the way of presentation (spare part or set).

Figure 7: Example of CODIP

Aspects	Explanation
A	A1 – Ceramic (Position 6912 of NCM)
	A2 – Porcelain (Position 6911 of NCM)
B	B1 – White
	B2 – Decorated low enamel
	B3 – Decorated on enamel
C	C1 – Spare part
	C2 – Set

Source: Ministry of Economy/SDCOM

⁵ Public information on the composition of CODIPs used in the *anti-dumping* investigations could be found in applications that are available on pages of the investigation in the following address: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes>

⁶ Object of the procedure MDIC/SECEX No. 52272.002151/2018-33. Information of this review of end of period could be found at <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-para-mesa>.

Thus, a set of white porcelain plates would be classified in CODIP A2B1C2. In turn, a single-piece cup of ceramic decorated with low enamel would be classified in CODIP A1B2C1.

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

Under art. 9 of Decree No. 8,058, of 2013, it is considered a similar product that it is identical, equal under all aspects to the product under investigation, or, in its absence, other product that, although it is not exactly the same under all aspects, but presents features quite closer to the product under analysis.

The similarity shall be evaluated according to the objective criteria, as raw materials; chemical composition; physical aspects; rules and technical specifications; production process; uses and applications; substitution degrees; delivery channels; or other criteria defined in the investigation.

Thus, it could be considered similar to the product under investigation: the Brazilian products considered in the analysis of injury and in the national production, the products imported from other non-investigated origins and products considered for the purposes of calculation of the normal value.

Figure 8: Criteria for the analysis of similarity

The similarity will be evaluated according to objective criteria, such as	raw materials
	chemical composition
	physical aspects
	rules and technical specifications
	production process
	uses and implementations
	substitution degree
	delivery channels
	* These criteria do not constitute an exhaustive list and none of them, jointly or separately, will be necessarily able to provide decisive appointment on the similarity

Source: Ministry of Economy/SDCOM

9. Is there any difference between the original product under an *Antidumping* investigation and the product under review of corresponding end of period?

Usually, the product under review of end of period shall be equal to the product under an original Antidumping investigation.

However, it is possible that in determined cases the scope of the product under review is reduced, which could occur for several reasons. A possibility would be that the own domestic industry considers that there is no need to maintain the same scope of the original investigation. Other it would be that the investigative authority to conclude, including *ex officio*, according to the pieces of evidence presented in the case records, which decrease the scope is justified.

Under any event the scope of the product under review will be increased, since that this would amount to extend the implementation of an Antidumping measure to products that were not previously analyzed. In these cases, a new petition of beginning of Antidumping investigation with these products shall be elaborated.

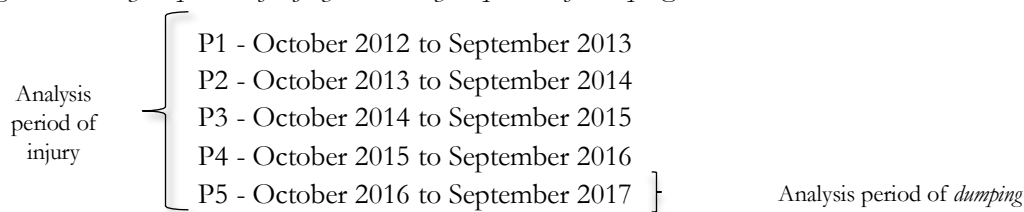
10. What are the periods of investigation of *dumping* and injury investigation?

Under art. 48, paragraph 1 of Decree No. 8,058, of 2013, the period of investigation of dumping shall comprehend twelve (12) months, ended in March, June, September, or December. In exceptional circumstances, duly justified, the period of investigation of *dumping* could be lesser than twelve (12) months, but never less than six (6) months, as provided in the paragraph 3 of abovementioned article.

In turn, art. 48, paragraph 4 of Decree No. 8,058, of 2013, establishes that the period of investigation of injury shall comprehend sixty (60) months, divided in five periods of twelve (12) months, and the most recent period shall coincide with the period of investigation of *dumping* and the other four periods will comprehend forty-eight (48) months before the first twelve (12) months of the period of investigation of *dumping*. In exceptional circumstances, duly justified, the period of investigation of injury could be lesser than sixty (60) months, but never lesser than thirty-six (36) months, Under paragraph 5 of the abovementioned article.

The figure below explains the period of investigation of *dumping* and contrasts it to the period of investigation of injury, in the event of periods ended in September.

Figure 9: Analysis period of injury and analysis period of dumping



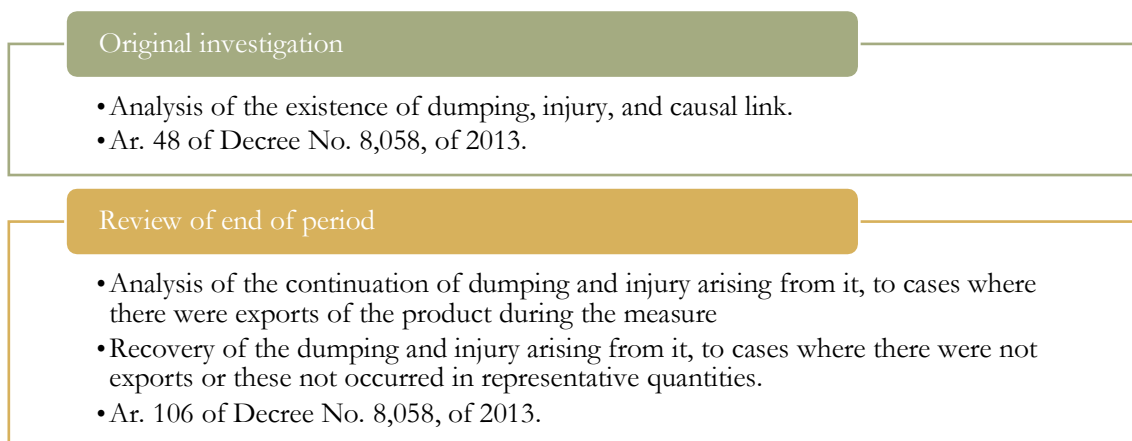
Source: Ministry of Economy/SDCOM

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

In an original *Antidumping* investigation, the existence of dumping, injury, and causal link between them is analyzed under art. 48 of Decree No. 8,058, of 2013.

Now in a sunset review, under art. 106 of Decree No. 8,058, of 2013, it is investigated if the extinction of *Antidumping* duty would probably take to the continuation or recovery of *dumping* and injury arising from it. For more information on the continuation or recovery of *dumping*, please see question [37](#).

Figure 10: Difference of the analysis conducted in original investigations and in sunset reviews.



Source: Ministry of Economy/SDCOM

12. What is the “normal value” in an *Antidumping* investigation?

Under arts. 8, 12, and 22 of Decree No. 8,058, of 2013, the term “normal value” refers to the price of the similar product, in ordinary course of trades and in “sufficient quantity”, destined to the consumption in the domestic market of the exporting country, usually called as *ex-factory*. However, under art. 14 of the mentioned decree, if

(i) there are no sales of the similar product in ordinary course of trades in the domestic market of the exporting country or (ii) when, (ii.a) in view of special conditions of market or (ii.b) low volume of sales of the similar product in the domestic market of the country, it was not possible a suitable comparison with the export price, the normal value will be assessed according to:

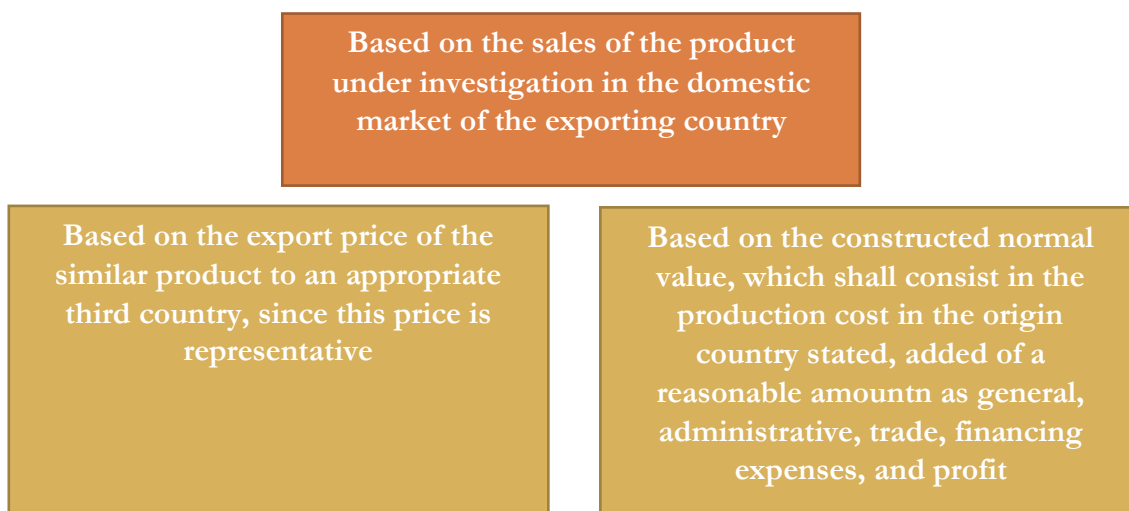
I - the export price of the similar product to an appropriate third country, since this price is representative; or

II - the constructed value, which shall consist in the production cost in the origin country stated, added of reasonable amount as:

- a) general expenses;
- b) administrative expenses;
- c) trade expenses;
- d) financing expenses; and
- e) profit.

Therefore, it is verified an hierarchy between the methodologies provided to the assessment of the normal value, and this should always be possible to be determined according to the sales of the similar product in the domestic market of the exporting country. It is emphasized that there is no hierarchy between methodologies when the assessment of the normal value for the purposes of the beginning of the investigation.

Figure 11: How the normal value should be assessed?



Source: Ministry of Economy/SDCOM

The methodology of assessment of the normal value to be used in each Antidumping investigation shall depend on the information filled by the interested parties in the scope of each process, always respecting the hierarchy abovementioned. In addition, it worth emphasizes that the way of assessment of the normal value could vary during the same investigation, as new information is attached to the case records.

It is worth emphasized that the normal value shall not be assessed according to the information related to the origin country of the product under investigation when, under art. 24 of Decree No. 8,058, of 2013: occur a mere transit of the product in this country; the product was no produced in that country; or there was not a comparable price to the product in this country.

13. When and how to calculate the normal value according to the sales of the similar product in the domestic market of the exporting country?

As mentioned above, art. 14 of Decree No. 8,058, of 2013, establishes an hierarchy among the three methodologies provided to the assessment of the normal value. For this reason, since started an investigation, whenever appropriate information is available for the calculation of the normal value according to the sales of the similar product in the domestic market of the exporter, this methodology shall be prioritized.

It worth emphasizes that this information shall be provided by the investigated foreign producers or exporters through answers to the applications sent by SDCOM thereupon the beginning of the investigation. It is recorded that applications of the foreign producer or exporter sent by SDCOM request disaggregated data of sale of the similar product in the domestic market of the exporting country, in order to the data shall be

separately presented to each sale made in the period of investigation of *dumping*. In addition, disaggregated data referring to the production cost of the product under investigation and similar product are requested.

However, even all information is correctly provided by the investigated foreign producer or exporter, in order to the sales of the similar product in the domestic market of the exporting country is used, they have to (i) be in “ordinary course of trades”, and (ii) occur in “sufficient quantity” otherwise the investigative authority shall appeal to one of the two other methodologies presented in the questions [17](#) and [18](#).

It worth emphasizes that such methodology is applicable when “special conditions of market” are not verified, when such conditions do not allow the appropriate comparison between the normal value and the export price (see question [16](#)).

For this reason, firstly, it is necessary to determine which sales consist in (i) “ordinary course of trades”. As a rule, all sales of the similar product in the domestic market of the exporting country or to a third country (see question [17](#)) made by the foreign producer or exporter under investigation shall be considered “ordinary course of trades for the purposes of assessment of the normal value. However, under paragraphs 1, 2, 5, 6, and 7 of art. 14 of Decree No. 8,058, of 2013, it will not consider “ordinary course of trades” and, therefore, it shall be disregarded in the assessment of the normal value:

(i.a) sales made at prices below the per unit production cost of the similar product, taking into consideration the manufacturing, fixed, and variable costs, and the general, administrative, trade, and financing expenses, since such sales are not made i.a.i) in the course of a reasonable period of time (preferably of twelve (12) months, but never lesser than six (6) months), i.a.ii) in substantial quantities, and i.a.iii) at price that does not allow to recover all costs within a reasonable period of time (preferably of twelve (12) months);

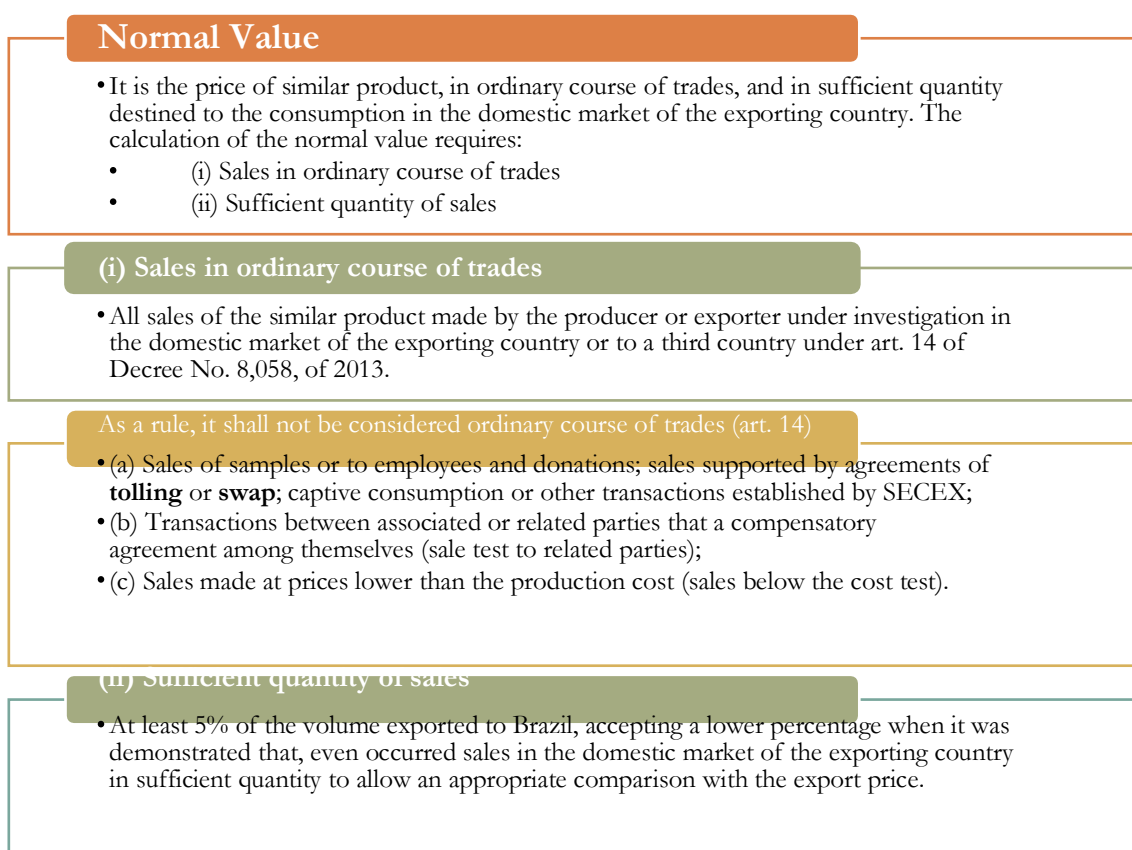
(i.b) transactions between associated or related parties that have countervailing agreement among themselves, unless the prices and costs related to these transactions are comparable to transactions made between the non-associated or non-related parties. This is, such transactions shall be considered normal if their price is not higher or lesser than at most 3% of the average price of sale to all parties without link among themselves; and

(i.c) sale of samples or sales to employees, and donations, sales supported by agreements involving industrialization to other companies (*tolling*) or exchange of products (*swap*), captive consumption, or other transactions established by SECEX.

To verify if the sales in the domestic market are fitted in the description of the item “i.a” above, it is necessary to make the sales below the cost test, detailed in the question [14](#). In turn, the assessment of which sales are fitted in the item i.b above, it shall be made through the sale test to related parties, explained in question [15](#).

Since defined the sales considered “ordinary course of trades”, it shall be evaluated if such sales were made in (ii) “sufficient quantity” for the assessment of the normal value, that is, if such sales represent at least 5% of the volume exported to Brazil of the product under investigation, under art. 12 of Decree No. 8,058, of 2013. If yes, these “ordinary course of trades” could be used to calculate the normal value according to the methodology of sales of the similar product in the domestic market of the exporting country.

Figure 12: Normal value, volume of significative sales, and ordinary course of trades



Source: Ministry of Economy/SDCOM

Since such transactions are determined as “ordinary course of trades” made in sufficient quantity, the sales price shall be assessed, as a rule, in *ex-factory* condition, referring to each one of these transactions. With this regard, it shall be evaluated the relevance to make adjustments of the gross sales prices informed by the foreign producer or exporter considering, among other possible factors, discounts and allowances, financing cost, taxes incurring on the sales, direct expenses of sales, expense of inventory maintenance, eventual adjustments related to the trade level, revenues with interests and reimbursed taxes (*drawback*). All of these data shall be provided by the foreign producer or exporter in its answer to the application of SDCOM.

If the margin of *dumping* is calculated according to “T-T” methodology (see question [27](#)), the price to be used as normal value for each transaction shall be achieved at the end of the activities described in the previous paragraph. However, if the margin of *dumping* is assessed according to “W-W” methodology (see question [27](#)), which is the most used methodology by SDCOM), the weighted average of these prices shall be calculated taking into consideration elements as CODIP.

14. How is made the sales below the cost test?

Under art. 14, paragraph 1, of Decree No. 8,058, of 2013, the sales of the similar product in the domestic market of the exporting country or the sales to a third country are not considered as ordinary course of trades, and they shall be disregarded in the assessment of the normal value, when they are made at prices lower than the per unit production cost of the similar product, calculated therein the manufacturing, fixed, and variable costs, and general, administrative, trade, and financing expenses. In Brazil, this assessment is made considering the production cost in the month of the sale.

Under art. 14, paragraph 2, in order to the sales are disregarded, it is necessary that (i) they had been made in the course of a reasonable period of time, (ii) in substantial quantities, and (iii) in a price that does not allow to recover all costs within a reasonable period of time.

(i) The reasonable period of time shall preferably be of twelve (12) months, but never lesser than six (6) months. In order to be considered a reasonable period of time, it is enough that use all the sales occurred in the period of investigation of *dumping*.

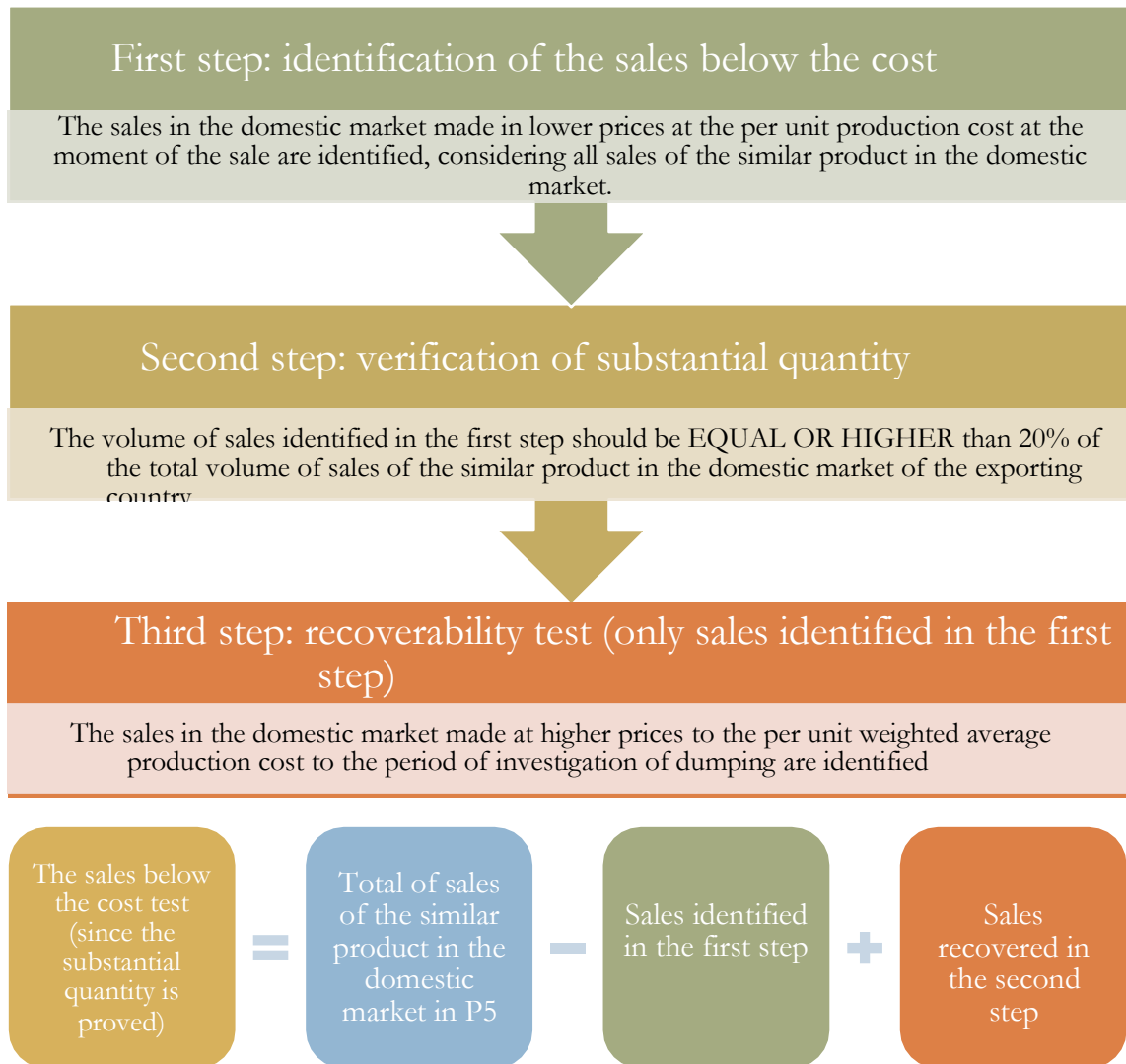
(ii) It is considered “substantial quantity” the situations where:

I - the weighted average price of sale of the similar product in the period of investigation of *dumping* is lower to the per unit weighted average production cost of the similar product in the said period; or II - the volume of sales of the similar product at price

lower than the per unit cost corresponding to twenty percent or more than the total volume of sales of the similar product. Despite to exist two options, it is prerogative of the investigative authority to choose which methodology will be used. In Brazil, only the second option is used, which is the worldwide most applied.

(iii) It will be considered that prices allowing the recovering of all costs within a reasonable period of time whenever the prices below the per unit production cost, at the moment of sale, surpass the per unit weighed average production cost of the similar product in the period of investigation of *dumping*.

Figure 13: Sales below the cost test



Source: Ministry of Economy/SDCOM

15. How is made the sale tests to related parties?

Under art. 14, paragraph 5, of Decree No. 8,058, of 2013, it shall be disregarded in the assessment of the normal value of the transactions between the associated or related parties or that had executed a countervailing agreement among themselves, unless proved that the prices and related costs to the transactions between the associated or related parties are comparable to the transactions made between non-associated or non-related parties.

Thus, under art. 14, paragraph 6, of Decree No. 8,058, of 2013, if the weighted average price of sale of the interested party to its associated or related party is not higher or lower at most three percent of the weighted average price of sale of the interested party to all parties that have not connections among themselves, the transactions between related or associated parties could be considered in the assessment of the normal value. It is emphasized that could be disregarded both sales to the related parties that decreased the normal value or that increased it.

Figure 14: Test of sales to related parties

The transactions between related parties will be disregarded in the assessment of the normal value when the sales price to this associated or related party is higher or lower than 3% of the sales price to all non-related parties.

Source: Ministry of Economy/SDCOM

16. What are the “special conditions of market”?

Under art. 14, paragraph 16, of Decree No. 8,058, of 2013, special conditions of market include situations where the formation of domestic prices, especially those related to basic inputs, do not occur in conditions of market or are determined or significantly influenced by action of the government.

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

Under art. 14, I, of Decree No. 8,058, of 2013, if there are no sales of the similar product in ordinary course of trades in the domestic market of the exporting country or when, in view of the special conditions of market or low volume of sales of the similar product in the domestic market of the exporting country, it is not possible an appropriate

comparison with the export price, the normal value could be assessed according to the export price of the similar product to an appropriate third country. It worth emphasizes that, for the purposes of the beginning of the investigation, there is no hierarchy to choose the methodology of assessment of the normal value (see question [12](#)).

For the assessment of the normal value according to this methodology is possible for the purposes of beginning of the investigation, the petitioner shall (i) clarify the reason by which the selected third country was considered appropriated, and (ii) provide, under art. 44 of SECEX Ordinance No. 41, of 2013, or art. 36 of SECEX Ordinance No. 44, of 2013, as the case may be, information on sales to a third country, specifying: (i) the volume exports to the selected third country; (ii) currency; (iii) sales condition; (iv) adjustments required to the fair comparison with the export price; and (v) *ex-factory* per unit price.

Since started the investigation, applications shall be sent to all identified foreign producers or exporters, which shall request data of sales of the similar product in the domestic market of these foreign producers or exporters. Therefore, it is emphasized that data for assessment of the normal value according to the first methodology are requested regardless of the methodology submitted by the petitioner in the petition and used by SDCOM for the purposes of the beginning of the investigation.

However, if these producers or exporters believe that the assessment of the normal value according to the sales of the similar product in the domestic market of the exporting country would not allow the suitable comparison with the export price of the product under investigation, they could submit disaggregated data of export of the similar product to an appropriate third country, besides disaggregated data of sales of the similar product in the domestic market of the exporting country. Therefore, it worth emphasizes that the charge of the foreign producer or exporter shall be higher if this methodology is chosen.

Besides to provide the abovementioned data, the foreign producer or exporter also have to (i) explain the reason it considers as inappropriate the data of sales in its domestic market for the purposes of calculation of the normal value; (ii) inform its three largest export markets; and (iii) if chooses to provide data to a country that it is not one of its three largest export markets of the similar product, to appoint the selected third country and justify in details the reasons by which it considers such country appropriated.

If it is verified the impossibility of use of the first methodology of assessment of the normal value (sales of the similar product in the domestic market of the exporting country) and justified the assessment of the normal value according to the export data provided by the foreign producer or exporter, SDCOM shall also to evaluate if such exports were made (i) in “ordinary course of trades” and (ii) in a “sufficient quantity”, otherwise, the investigative

authority shall appeal to the other methodology for assessment of the normal value. This assessment shall follow the same steps explained in the questions [13](#), [14](#), and [15](#), but considering that, in this case, the totality of the exports of the similar product made to the selected third country during the period of investigation of *dumping*, rather than sales of the similar product in the domestic market of the exporting country.

Since such transactions are determined as “ordinary course of trades” made in a sufficient quantity, the sales price shall be assessed, as a rule, in *ex-factory* condition, referring to each one of these transactions of export, such as explained in the question [13](#).

It worth emphasizes that, when the assessment of the normal value according to the export price of the similar product to an appropriate third country occurs, there is always the possibility that the investigated producer or exporter also is practicing *dumping* in its exports to the selected third country, which would make the price referring to such exports inappropriate for the purposes of comparison with the export price of the product under investigation and allow to SDCOM uses other methodology.

18. How is calculated the constructed normal value?

Under art. 14, II, of Decree No. 8,058, of 2013,-if there are no sales of the similar product in ordinary course of trades in the domestic market of the exporting country or when, in view of the special conditions of market or low volume of sales of the similar product in the domestic market of the exporting country, it is not possible the appropriate comparison with the export price, the normal value could be assessed according to the constructed value, which shall be in the “production cost in the stated origin country, added of a reasonable among as:

- a) general expenses;
- b) administrative expenses;
- c) trade expenses;
- d) financing expenses; and
- e) profit.

Under paragraph 8 of art. 14 of Decree No. 8,058, of 2013, the production cost shall preferably be calculated according to the records maintained by the investigated producer or exporter, since they agree with the generally accepted accounting principles of the exporting country and reflect the costs related to the production and sales of the similar product.

Thus, the paragraph 14 of art. 14 of Decree No. 8,058, of 2013, provides that “the calculation of the general, administrative, trade, and financing expenses, and the profit margin shall be based on effective data of production and sale of the similar product of the producer or exporter under investigation in the course of the ordinary course of trades.” When the assessment according to these data is not possible, it could be use one of the three alternative methodologies provided in the paragraph 15 of the same article, namely:

- a) quantities effectively expended and earned by the producer or exporter under investigation related to the production and sale of products of the same general category in the domestic market of the exporting country;
- b) weighted average of the quantities effectively expended and earned by other producers or exporters under investigation related to the production and trade of the similar product in the domestic market of the exporting country;
or
- c) any other reasonable method, since the stipulated amount to the profit does not exceed the profit usually earned by other producers or exporters with the sales of products of the same general category in the domestic market of the exporting country.

It emphasizes that, for the purposes of the beginning of investigation, it is common the constructed normal value has not as basis information provided by the own investigated foreign producer or exporter, since such construction is made by the petitioner domestic industry. In these cases, public information could be used, as available in sites as *Trade Map* or *Comtrade*. Also, specialized publications and reports that allow to assess the price of each item constituting the normal value could be used. It worth emphasizes that all information used to construct the normal value shall come followed of its respective sources, they shall be verifiable and with its respective justification of use.

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

Under art. 15 of Decree No. 8,058, of 2013, if the product under investigation is arising from a non-market economy country, the normal value shall be determined according to:

- a) in the sales price of the similar product in the domestic market of a substitute country;
- b) in the constructed value of the similar product in a substitute country; or

- c) in the export price of the similar product of a substitute country to other countries, except to Brazil.

Since started the investigation, SDCOM shall send applications of third country to producers or exporters identified in the substitute country, in order to collect data of prices and costs of the similar product in this country for the purposes of assessment of the normal value. If the substitute country also is subject to the same investigation, SDCOM shall not need to send applications of third country, and it could use the data provided by the producers or exporters of the substitute country in its answers to the application of the foreign producer or exporter both in the calculation of the margin of *dumping* of these companies or in the assessment of the normal value of the non-market economy country.

It should be stressed that, if the substitute country is subject or not to the same investigation, SDCOM shall also send applications to the foreign producers or exporters of the non-market economy country, for the purposes to collect the required data to the assessment of the export price, among other information.

It is important to emphasize that, differently that occurs when the investigated country belongs to the market economy, in the case of countries that are not considered as market economies, there is no hierarchy among the abovementioned methodologies of assessment of the normal value, and the investigative authority could to choose by the assessment based on the export price or constructed value, even that it is possible to calculate the normal value according to the sales of the similar product in the domestic market of the substitute country.

It should be stressed that, when it is not possible to use any of the hypothesis above and since duly justified, the normal value could be determined according to any other reasonable price, including the paid or payable price in the Brazilian market duly adjusted, if necessary, in order to include a reasonable profit margin.

Figure 15: Assessment of the normal value to countries not considered as market economy.

For countries that are not considered market economies
the normal value to be assessed according to:

(i) In the sales price in the domestic market of a substitute country;

(ii) In the constructed value in a substitute country

(iii) In the export price of a substitute country to other countries, except to Brazil.

(iv) In any other reasonable price, when the other hypotheses are not feasible

Source: Ministry of Economy/SDCOM

20. How is defined the “substitute country” for the purposes of assessment of the normal value if the country is not considered a market economy?

Under paragraphs 1 and 2 of art. 15 of Decree No. 8,058, of 2013, the substitute country shall be a market economy third country that is considered appropriate and, where possible, it shall correspond to other country under the same investigation, ensuring more appropriate data to SDCOM (item “d” of the list below) to the assessment of the normal value of a non-market economy country. The analysis of the adequacy of a market economy third country shall take into consideration reliable information timeliness submitted by petitioner or the producer/exporter, including:

- a) the volume of exports of the similar product of the substitute country to Brazil and the main worldwide consumer markets;
- b) the volume of the sales of the similar product in the domestic market of a substitute country;
- c) the similarity between the product under investigation and the product sold in the domestic market or exported by the substitute country;
- d) the availability and degree of disaggregation of the required statistics to the investigation; or
- e) the degree of suitability of information delivered regarding the aspects of the investigation in course.

In the act of the beginning of the investigation, under art. 15, paragraph 3 of Decree No. 8,058, of 2013, the interested parties shall be informed of the substitute country which will be used. If there is a disagreement regarding the choose of the third country, the producer, exporter, or petitioner could suggest an alternative third country, since the suggestion is duly justified and delivered, together with the respective pieces of evidence, within the non-extendable deadline of seventy (70) days as from the date of the beginning of the investigation. There is no legal provision in the sense that the importers could make a statement on this matter. The final decision on the market economy third country to be used in the investigation shall have a preliminary determination.

21. Is it possible to assess the normal value according to the data of the producers or exporters of countries are not considered as market economy?

Under art. 16 of Decree No. 8,058, of 2013, within the term of seventy (70) days as from the date of the beginning of the investigation, the foreign producer or exporter of a non-market economy country by Brazil could submit pieces of evidence with the aim to allow that the normal value is assessed according to the methodologies provided to market

economy countries.

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

“Art. 17 [...]

Paragraph 1 The information related to the producer or exporter shall allow the proof of that:

I - the decisions of the producer or exporter related to prices, costs, and inputs, including raw materials, technology, labor, production, sales, and investments, are based on the conditions of supply and demand, without the significative governmental interference on this matter, and the costs of the main inputs substantially reflect the market values;

II - the producer or exporter has a single domestic accounting system, transparent and independently audited, according to the international accounting principles;

III - the production cost and the financial status of the producer or exporter are not subject to significative distortions arising from the links, currently or past, established with the government out of the market conditions; and

IV - the producer or exporter is subject to the bankruptcy and real estate laws, ensuring the legal security and tenure to its operation.

Paragraph 2 The information related to the economic sector of which the producer or exporter is a part shall allow the proof of that:

I - the governmental involvement in the determination of the conditions of production or in the formation of prices, including regarding the exchange rate and exchange transactions, is inexistent or very limited;

II - the sector works in a primarily way based on the market conditions, including regarding to the free determination of the salaries between employers and employees; and

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

Under paragraph 3 of art. 17 of Decree No. 8,058, of 2013, the positive determination related to the conditions abovementioned are in condition to the assessment of the normal value according to the methodologies provided to market economy countries.

22. What is the “export price” in an *Antidumping* investigation?

As a rule, the export price in *Antidumping* investigations correspond to the sales price of the exported product of the investigated country to the importer country, in comparable conditions to the assessed normal value. However, as well as occurs in the determination of the normal value, it could happen of the export price does not exist or it is not reliable, due to the association or relationship or by countervailing agreement between the parties.

To ensure that the export price to be used in the assessment of the margin of *dumping* will be reliable, it must always be seek to identify the paid or payable price by an independent purchaser, which subsequently shall be adjusted to be comparable to the assessed normal value.

To achieve an export price comparable with the normal value, adjustments related to differences affecting the comparison of prices could be made, such differences as: I - in conditions and terms of sales (as discounts offered in cases of large purchases or lower prices than that practiced in case of sale between associated companies); II - in taxation; III - in levels of trade; IV - in quantities; V - in physical features; and VI - any other that demonstrably affect the comparison of prices (art. 22, paragraph 2 of Decree No. 8,058, of 2013).

The definition and chose of the methodology to be used in the assessment of the export price in *Antidumping* investigations shall take into consideration (i) if the producer is the exporter of the product under investigation; (ii) if the producer and exporter of such product, although different, are or not related; and (iii) if there is an export price and if it is reliable, in situations of association, relationship or countervailing agreement between the foreign producer or exporter, and (iii.a) the importer or (iii.b) a third party. The export price in the *antidumping* investigations is ruled by arts. 18 to 21 of Decree No. 8,058, of 2013.

Under art. 18 of Decree No. 8,058, of 2013, if the producer is also the exporter of the product under investigation, the export price will be that received, or the receivable export price, by the product exported to Brazil, net of taxes, discounts or decreases effectively granted and directly related with the sales of the product under investigation.

In turn, under art. 19 of Decree No. 8,058, of 2013, if the producer is not the exporter and both are not related or associated parties, the export price preferably will be that received, or the receivable export price, by the producer by product exported to Brazil, net of taxes,

discounts or decreases effectively granted and directly related with the sales of the product under investigation.

Also, under art. 20 of Decree No. 8,058, of 2013, in the event of the producer or exporter shall be associated or related parties, the export price shall be reconstructed from the price effectively received, or the receivable price, by the exporter by product exported to Brazil.

Finally, under art. 21 of Decree No. 8,058, of 2013, in cases where there is no export price or this is not seems reliable, in view of the association, relationship or countervailing agreement between the producer or exporter and the importer or a third party, the export price could be constructed from (i) the price by which the imported products were resold at first time to an independent purchaser or (ii) a reasonable basis, in case of the products are not resold to an independent purchaser or in the same condition where they were imported.

Figure 16: Export price



Source: Ministry of Economy/SDCOM

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

The methodologies of assessment of the export price referring to companies non-market economy countries are similar to those used in the determination of this price in case of market economy (see question [22](#)), and it always pay attention to the normal value and the export price are in the same basis and the required adjustments are made, in order to ensure the fair comparison between the normal value and the export price.

It worth emphasizes, however, that the information to be used to make some of the adjustments, in the context of assessment of the export price, are not referring to the own investigated companies of non-market economy countries.

24. Which is a related party for the purposes of determination of *dumping*?

Paragraph 10 of art. 14 of Decree No. 8,058, of 2013, defines, for the purposes of determination of dumping, that the parties shall be considered related or associated if:

I - one of them occupies a position of responsibility or direction in a company of the other; II - they are legally acknowledged as associated in businesses;

III - they are employer and employee;

IV - any person, direct or indirectly, have, control or own five percent or more of the shares or bonds issued with a voting duty of both;

V - one of them, direct or indirectly, control the other, including through a shareholders agreement;

VI - both are, direct or indirectly, controlled by a third person; VII - together they control, direct or indirectly, a third person;

VIII - they are members of the same family; or

IX - if any relationship of economic dependence, financial or technological dependence with customers, suppliers or sponsors.

25. Could SDCOM request to the exporters information on the associated or related parties, for the purposes of determination of *dumping*?

The application of the foreign producer/exporter sent by SDCOM in the beginning of the investigations has several sections, providing the provision of distinct information depending on the concrete case.

Among the requested information there is the organizational chart of the legal structure of the company, which shall have all related or associated parties to the foreign producer/exporter that answer the application. In addition, when the disaggregated data of sales of the similar product in the domestic market of the exporting country are provided, exports of similar product to third countries and exports of the product under investigation to Brazil, the foreign producer/exporter shall appoint if each sale was made to a related or non-related party, under paragraph 10 of art. 14 of Decree No. 8,058, of 2013.

-SDCOM requests this information because in the assessment of the normal value and in the determination of the export price, the sales to related parties could affect the result, depending on the price practiced in these transactions. For this reason, these sales shall be duly identified to SDCOM could make the necessary tests and, thus, to define which sales could be used in the assessment of the normal value, as well as the most appropriate methodology to assess the normal value and export price.

In this sense, it worth emphasizes that, under art. 14, paragraph 5 of Decree No. 8,058, of 2013, in the assessment of the normal value, transactions between associated or related parties or that had executed a countervailing agreement between themselves shall be disregarded, since the prices and related costs to these transactions are not compatible to the transactions carried out between the non-associated or non-related parties.

In addition, under art. 20 of Decree No. 8,058, of 2013, in the event of the producer and exporter shall be associated or related parties, the export price shall be reconstructed from the price effectively received, or the receivable price, by the exporter by product exported to Brazil. Thus, information of the related parties could be necessary to reconstruct the export price.

It should be stressed that, in case of relationship or association between the producer/exporter and importer (art. 21 of Decree No. 8,058, of 2013), information referring to the selling trades carried out by the related or associated importer shall not be provided in the application of the producer/exporter, as guidances contained therein. Joint answers of the foreign producer/exporter and Brazilian importer shall not be accepted, in order that information referring to the transactions of the importer shall be submitted in the scope of the importer's application, which SDCOM will also send in the beginning of the investigations.

26. What information could be requested to the related or associated parties in an *Antidumping* investigation?

If there are associated or related parties involved in the production or sale of the similar product in the domestic market of the exporting country or in exports of the similar product to third country or the product under investigation to Brazil, SDCOM could request additional information referring to the acting of the associated or related parties in these activities.

The information to be requested shall depend on the concrete case and type of association or relationship (whether between foreign producer and exporter, or producer/exporter and Brazilian importer, etc), and aim to allow that the calculation of the margin of *dumping* is made through the appropriate methodology to the case in point and according to the data of the own foreign producer or exporter. The necessary basic information in each case is provided in several types of applications sent by SDCOM in the beginning of the investigations. After analysis of the answers of the interested parties to the applications, SDCOM could request complementary information.

For instance, in the case of the exports to Brazil are made through a related or associated party not located in Brazil, the foreign producer shall have to provide two (or more) databases with disaggregated information (“sale-by-sale”) referring to the exports of the product under investigation to Brazil: the first with information of the producer; and the second (and other bases that are necessary) with information of the related or associated party(ies) acting in the export. These information of prices, expenses, and costs of the related or associated parties are essential in order that could proceed the reconstruction of the export price under art. 20 of Decree No. 8,058, of 2013.

It worth emphasizes that the companies providing disaggregated databases could be subject to verifications *in loco*, for the purposes of proof of the submitted information.

27. What and how is calculated the margin of *dumping*?

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

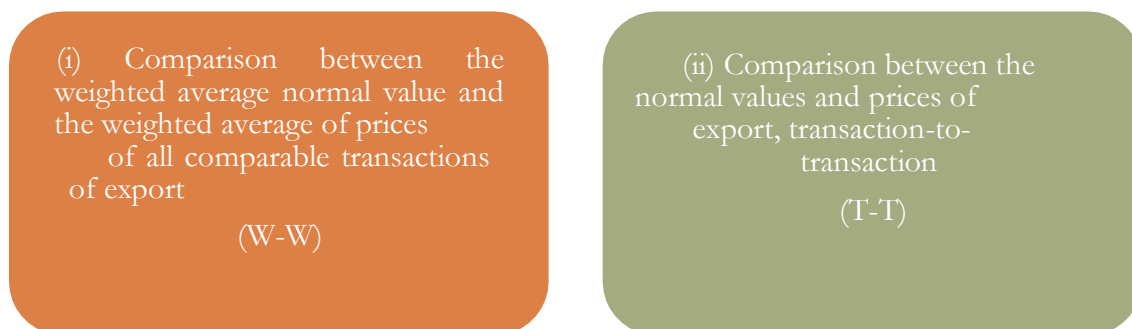
Figure 17: Margin of dumping



Source: Ministry of Economy/SDCOM

In addition, under art. 26 of Decree No. 8,058, of 2013, to calculate the margin of *dumping*, in principle, two main methods could 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: Methods of assessment of the margin of dumping



Source: Ministry of Economy/SDCOM

In order to the comparison between the normal value and export price is fair, it is necessary that both are in the same trade level and they are relative to sales carried out so simultaneously as possible. In addition, the differences on taxation, in trade levels, quantities, physical features, conditions, and terms of sale, and any others that affect the comparison of prices shall be considered and, as far as possible, eliminated through adjustments, under paragraph 2 of art. 22 of Decree No. 8,058, of 2013.

It should be stressed that, when the assessment of the margin of dumping through the methods provided in items I and II of art. 26 of Decree No. 8,058, of 2013, all export transactions of the product under investigation carried out to Brazil shall be considered, adding the positive and negative outcomes assessed to different transactions or models, and *zeroing*⁷ are not authorized, under case law of the Settlement Solution Body of WTC (DS402).

⁷ In general, *zeroing* is a methodology of calculation by which the negative results assessed to different

Therefore, it is emphasized that any export of the product under investigation to Brazil could be discharged in the assessment of the margin of *dumping*, differently that occurs with sales of the similar product in the domestic market of the exporting country or with sales of the similar product to third countries, which could be disregarded in the assessment of the normal value if they are not in “ordinary course of trades.”

It is worth emphasized that, under paragraph 2 of art. 26 of Decree No. 8,058, of 2013, the margin of dumping could be assessed through the comparison between the normal value established through the weighted average and individual prices of export (“W-T”), “if determined the existence of a pattern of export price that significantly differ between different purchasers, regions or periods of time and if is delivered an explanation on the reason by which such differences could not be appropriately considered through the adoption of methodologies dealt with item I and II of the *introductory paragraph*” of art. 26 of the mentioned Decree. According to DS534, this form of calculation “W-T” does not prohibit the *zeroing*, differently of the forms of calculation “W-W” and “T-T”, presented above.

Decree No. 8,058, of 2013, shows detailed provisions on the calculation of the margin of dumping, in accordance with that provides the Antidumping Agreement on the matter. Nevertheless, bearing in mind the complexity of the calculations and the great quantity of variable involved, SDCOM seeks to maintain updated on the decisions taken in the scope of the Settlement Solution Body of WTC, which, upon the litigations between the member countries, frequently issue guidances and understandings on the provisions of the Agreement. The General Coordination of Antidumping and Settlement Solution of SDCOM (CGSC/SDCOM) is responsible for the monitoring of the decisions and provision of technical subsidies to other government's agencies, in order to enable the Brazil's action in the scope of litigations of WTO.

To maintain the transparency and uniformization of its practices, SDCOM always seek to present, in its determinations, detailed descriptions of the adopted methodologies for calculation. In addition, the joint action of the Undersecretary with other governmental agencies before the Settlement Solution Body of WTO shows its commitment with the continuous updating of the adopted methodologies, in order to maintain the coherence and legality of its decisions.

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

28. What if the calculation of the margin of *dumping* requires currency conversion?

The normal value will not always be in the same currency of the sales to Brazil, considered in the determination of the export price. In many cases, it is necessary, firstly, to convert the normal value to US dollars or Euros, before to proceed the comparison of prices and calculation of the margin of *dumping*.

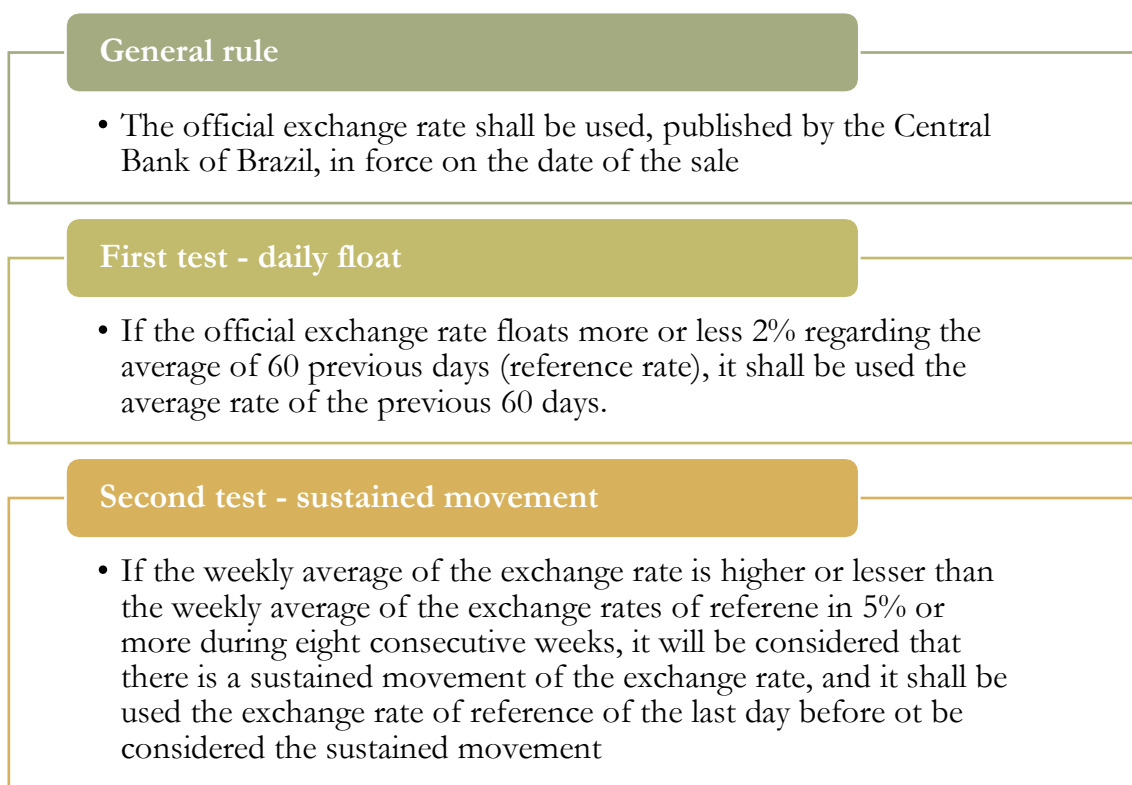
Under art. 23 of Decree No. 8,058, of 2013, in the event of the comparison of prices requires the currency conversion, the official exchange rate will be used, published by the Central Bank of Brazil, in force on the date of sale.⁸ When the sale of the foreign currency occurs in the future markets, directly connected 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 the sale is out of a range of fluctuation of more or less two percent regarding the average of the daily official exchange rates of the sixty (60) previous days - exchange rate of reference -, it will be used the average daily official exchange rate of sixty (60) days before.

If the weekly average of the daily official exchange rate is higher or lesser than the weekly average of the exchange rates of reference in five percent or more during eight consecutive weeks, it will be considered that there is a sustained movement of the exchange rate. Characterizing this movement, it shall be used, by a period of sixty (60) days, the exchange rate of reference of the last day before such sustained movement.

⁸ Under paragraph 6 of art. 23 of Decree No. 8,058, of 2013, the date of sale shall be, preferably, the date of the agreement, purchaser order or acceptance of order or issuance of the invoice, using, among these documents, that establishing the conditions of the transaction.

Figure 19: Test of currency float



Source: Ministry of Economy/SDCOM

29. Is individual or general the margin of *dumping*?

Under art. 27 of Decree No. 8,058, of 2013, the margin of dumping shall preferably be calculated to each one of the foreign producers or exporters known of the product under investigation. It is emphasized that, for the purposes of determination of the individual margin of dumping, under paragraph 9 of art. 28, “distinct legal entities could be dealt with the only producer or exporter when shown that the structural and commercial relationship of the entities between themselves, or with a third entity, is sufficient closer.”

However, under art. 28 of the mentioned Decree, if the number of foreign producers or exporters is excessive, in a way to be impractical the determination of the individual margin of Decree to all, SDCOM could limit this type of determination i) the samples statistically valid including a reasonable number of interested parties or models of product, based on the available information in the moment of the selection; or (ii) the selection of the producers or exporters responsible for the higher percentage reasonably to be investigated of the volume of the exports of the exporting country.

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

In the event of selection provided in the 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 investigation of *dumping*, according to the data of import by the Special Secretariat of the Internal Revenue Service (IRS), are listed in descending order of export volume, and included in the selection of the responsible for the largest volumes exported to Brazil in the same period under paragraph 1 of art. 28 of the mentioned Decree. It is emphasized that, under paragraph 3 of art. 28 of Decree No. 8,058, of 2013, other producers or exporters could be included in the selection, at SDCOM discretion. The decision on the number of selected companies shall take into consideration elements found in the concrete case, as well as the operational capability of the investigative authority to analyze the answers to the applications of the selected companies.

Under paragraphs 4 and 5 of art. 28 of the mentioned Decree, the interested parties could make statements on the selection, including with the purpose to clarify if the selected companies are exporters, trading companies, or producers of the product under investigation, within ten (10) days as of the date of awareness of the notice of the beginning of Antidumping investigation. On the term of 10 days for statements, the WTO Plus provision provides in Decree No. 8,058, of 2013, shall take into consideration that the Brazilian investigative authority shall obtain information in a fast track way to could evaluate the need of amendment of the selection, since such decision impact the receiving of answers to the applications sent and the issuance of preliminary determinations, which shall be provided to be issued in the term of 60 up to 120 days, as a rule, under art. 65 of the Brazilian Regulation.

31. Could non-selected foreign producers or exporters request the determination of an individual margin of *dumping* to SDCOM?

Under paragraphs 6 and 7 of art. 28 of Decree No. 8,058, of 2013, the individual margin of dumping to the non-selected producer or exporter that do not present in a timely basis the required information, except in cases where the number of exporters or producers is increased to the extent that the analysis of these cases precludes the conclusion of the investigation in the established terms shall be determined.

Thus, the paragraph 8 of Decree No. 8,058, of 2013, expressly prohibits any form of discourage the non-selected producers or exporters to not submit information for the purposes of individual margin of *dumping*.

32. Could non-selected foreign producers or exporters request the exclusion of the selection or they could not answer to the application sent by SDCOM?

Under art. 28, paragraph 2, of Decree No. 8,058, of 2013, selected foreign producers or exporters according to item II of art. 28 could have the margin of *dumping* assessed in accordance with the best available information (see questions [73](#) and [173](#)), if they not answer to the application or request their exclusion of the selection after they had confirmed their attendance in the investigation.

It worth emphasizes that similar treatment is applicable if the selected producer or exporter files an answer to the application after the term established by SDCOM.

33. What information is used to calculate the margin of *dumping* for the purposes of the beginning of the investigation?

In the beginning of the investigation, the margin of dumping for each investigated origin based on the information brought by the petitioner (information of product and normal value) and data of import provided by IRS (export price) shall be calculated.

The normal value submitted by the petitioner shall be assessed according to a reasonable method and followed of justification and calculations allowing its verification by SDCOM. In this sense, sources used to obtain data used as a basis for calculations should be informed, which shall be susceptible of consultation by the investigative authority.

Despite, as a rule, the normal value be assessed in the ex-factory condition, for the purposes to start the investigation, and if there is not information allowing the calculation of this term of trade, the calculation of the margin of dumping could have as basis the product delivered in the exporter country, or in the conditions of delivered or Free on Board (FOB), including sales expenses.

34. What information is used to calculate the margin of *dumping* in the preliminary and final determinations?

The preliminary and final determinations of SDCOM shall be elaborated according to the information brought not only by the petitioner, but also by the other interested parties (see question 90), through its answers to the applications sent by SDCOM in the beginning of the investigation, which are subject to the validation of SDCOM through verifications in loco.

It is recalled that, through their answers to the applications, foreign producers or

exporters and their related parties shall provide disaggregated information on their sales in the domestic market and their exports to Brazil. The calculation of the preliminary individual margin of dumping to these foreign producers or exporters, as a rule, shall take into consideration the information that they submitted and not that the petitioner provided or obtained from the official data of import of the IRS, which are used in the assessment of the margin of dumping for the purposes of the beginning of investigation.

The verification in loco in the foreign producers or exporters answering to the applications shall occur in general after the preliminary determination due to the legal terms for the submission of complementary information to the application and for publication of preliminary determinations. If, due to the results of the proceeding of on spot verification, a part or the totality of the information provided in the answer to the application of determined foreign producer or exporter has been changed or disregarded, the margin of dumping assessed to the Technical Note of essential facts or for the purposes of final determination could be different from that calculated for the purposes of preliminary determination, including, it could be determined according to the best available information, under paragraph 3 of art. 50 of Decree No. 8,058, of 2013.

For this reason, in the course of the administrative proceeding, it could occur amendments regarding the margin of dumping assessed for the purposes of the beginning of the investigation.

35. What is a “*de minimis*” margin of dumping?

Under paragraph 1 of art. 31 of Decree No. 8,058, of 2013, the margin of dumping shall be considered *de minimis* when it was lower than 2% (two percent) of the export price. When the margin of dumping assessed to determined foreign producer or exporter is *de minimis*, the investigation shall be terminated without the implementation of duties to this producer or exporter, under item II-of art. 74 of Decree No. 8,058, of 2013. However, the investigation shall continue to others producers or exporters for which the calculated margin of dumping had surpassed this minimum limit established in said Decree, unless the margin of dumping of the country of these producers or exporters is also *de minimis*.

In addition, as item I of art. 31 of Decree No. 8,058, of 2013, when the margin of dumping to the country is *de minimis*, the effects of their imports could not be cumulatively evaluated to the effects of imports of the same product arising from other countries that also are under investigation by SDCOM, since the investigation to such origin shall be terminated (see questions 50 and 51).

It is worth emphasized that, under paragraph 3 of art. 80 of Decree No. 8,058, of 2013, margins of dumping *de minimis* could not be used in the calculation of the individual Antidumping duty to be applied

to the foreign producers or exporters that, although are known, they do not have been included in the selection under art. 28 of Decree No. 8,058, of 2013. An example of the calculation of margin de minimis could be found on page 163 of the Decom Brochure No. 3.

36. How are assessed the margins of dumping in reviews of the end of period?

In a review of end of period, it is only necessary, under art. 107 of Decree No. 8,058 of 2013, to evaluate the probability of continuation or recovery of *dumping* if the measure is extinguished.

In this context, in the event of to have been exports of the country which is applying the *Antidumping* measure to Brazil in the period under review in representative quantities, that is, in cases of continuation of *dumping*, the Brazilian practice is to assess the margin of *dumping*, despite such assessment do not be an obligation arising from the *Antidumping* Agreement. In this assessment, it shall be, if applicable, the calculation of similar way to performed in an original investigation, as explained in the question [27](#).

If there was not have exports from the country for which the *Antidumping* measure is applied or to have only been exports in non-representative quantities during the review period, that is, in cases or recovery of *dumping*, the margin of *dumping* will not be calculated. In such cases, under paragraph 3 of this art. 107, SDCOM shall evaluate the probability of recovery of dumping, comparing the average normal value domesticized in the Brazilian market with one of the two alternatives brought in items I and II of paragraph 3 of this art. 107: i) the average price of sale of the domestic similar product in the Brazilian market, or ii) the average export price of other foreign suppliers to the Brazilian market in transactions made with representative quantities.

At the end of the review of the end of period, SDCOM shall issue a recommendation on the duty to be applied. It is recalled that the recommended duties do not correspond necessarily to the margin of dumping neither to the results of the comparisons abovementioned, under paragraph 3 of this art. 107. For more information on that it can occur with the Antidumping duties in a review of end of period and how the evaluation of probability of continuation or recovery of the duty occurs, please see question [77](#).

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

Continuation of *dumping*: if there were exports from the investigated origin during the effectiveness of the measure. It is verified if the exports occurred with prices of *dumping*. Thus, it is evaluated if there is a practice of dumping during the review period.

Recovery of dumping: if there were not exports during the effectiveness of the measure or these did not occur in a representative quantity. In this case, it is evaluated if, in the event of the measure is extinguished, there is the probability of the exports return and to be practiced with prices of *dumping*.

Figure 20: Difference between the continuation and recovery of the *dumping*

Continuation of <i>dumping</i>	Recovery of <i>dumping</i>
<ul style="list-style-type: none">• There were exports during the effectiveness of the measure• It is evaluated if there is the practice of dumping persisted during the review period	<ul style="list-style-type: none">• There were not exports during the effectiveness of the measure or exports are not representatives• It is evaluated if the extinction of the measure would take to return of the exports at the price of <i>dumbino</i>

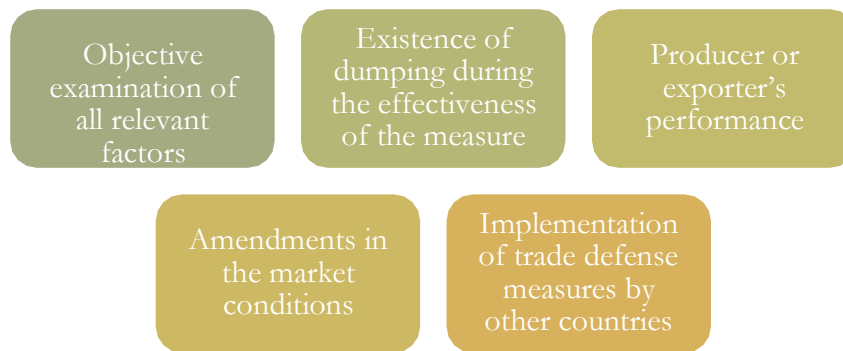
Source: Ministry of Economy/SDCOM

38. What criteria shall be considered in the analysis of probability of continuation or recovery of *dumping*?

Under art. 107 of Decree No. 8,058, of 2013, the determination of the extinction of the duty would take most probably to the continuation or recovery of the dumping shall be based on the objective exam of all relevant factors, including those listed in art. 103 of the same Decree:

- Existence of *dumping* during the effectiveness of the measure;
- Performance of the producer or exporter regarding the production, use of installed capacity, costs, sales volume, prices, exports, and profits;
- Amendments in the conditions of market, both of the exporter country or other countries, including amendments in the offer and demand by the product, in prices and market share of the producer or exporter of the exporting country; and
- Implementation of trade desense measures on the similar product by other countries and consequent possibility of deviation of trade to Brazil.

Figure 21: Criteria considered in the analysis of probability of or recovery of dumping



Source: Ministry of Economy/SDCOM

In the event of there not have been exports from the country for which the Antidumping measures are applied or there have been only exports in non-representative quantities during the review period, under paragraph 3 of art. 107, of Decree No. 8,058, of 2013, the probability of recovery of dumping shall be determined according to the comparison between the average normal value domesticized in the Brazilian market and (i) the average price of sale of the domestic similar product in the Brazilian market, assessed to the review period; or (ii) the average export price of other foreign suppliers to the Brazilian market in transactions made with representative quantities, assessed to the review period. If the domesticized normal value is higher than any alternatives described, it is considered that there is the possibility of recovery of dumping, since the producer/exporter would have to practice the export price to Brazil lower than the normal value to compete in the Brazilian market.

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

Examples and more information on the determination of dumping could be found in Brochure DECOM 3, 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>

40. What is “domestic industry” in an *Antidumping* investigation?

Under art. 34 of Decree No. 8,058, of-2013, it is considered as domestic industry the totality of the national producers of domestic similar product or, when it is not possible to gather the totality of these producers and since duly justified, the assemble of producers whose jointly production is a significative share of the national production of the domestic similar product.

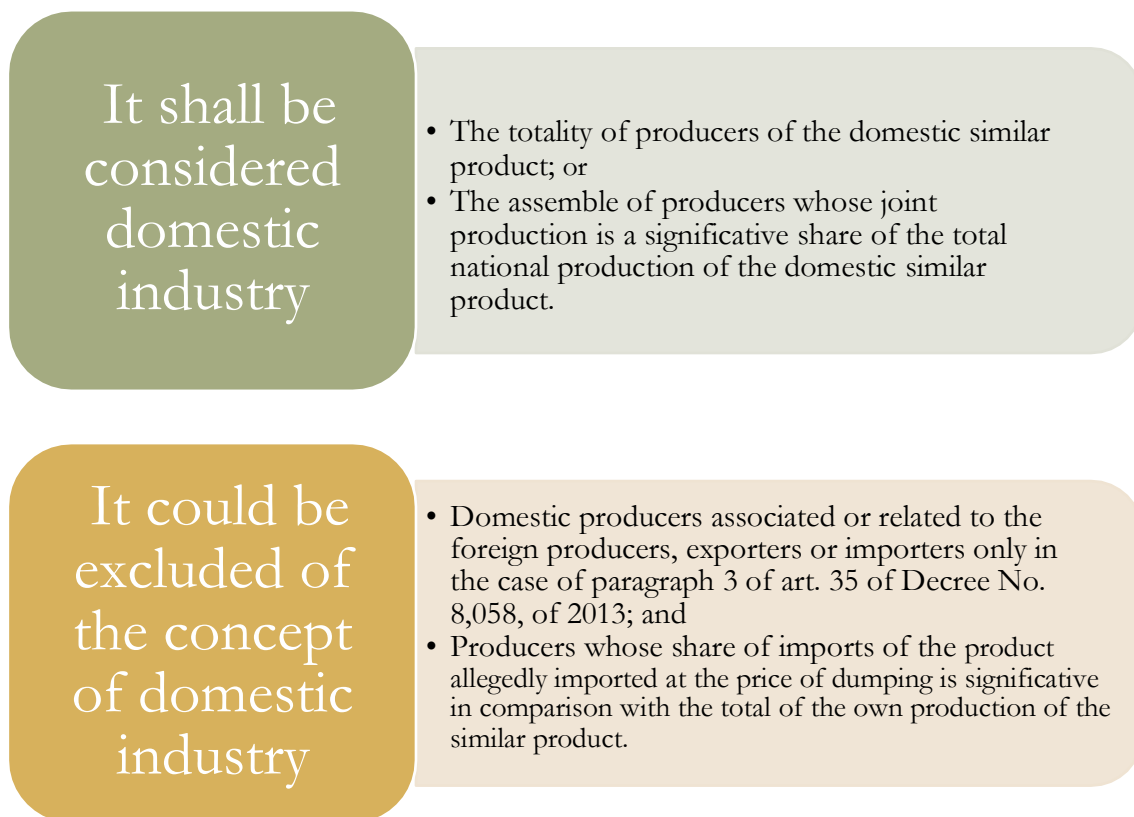
In this sense, under art. 35 of said Decree, it could be excluded of the concept of domestic industry:

I – domestic producers associated or related to foreign producers, to exporters or importers, only in the cases where there is suspect that this link makes the producer to act in a different way as producers without such link would act; and

II – producers whose share of imports of the product allegedly imported at the price of dumping is significative in comparison with the total of the own production of the similar product.

It worth emphasizes that the exclusion of the abovementioned national producers is not mandatorily.

Figure 22: Concept of domestic industry



Source: Ministry of Economy/SDCOM

It worth emphasizes that, in order to SDCOM accepts a petition for Antidumping of investigation, it have to be submitted by the domestic industry or on behalf, under art. 37 of Decree No. 8,058, of 2013 (see question [141](#)). For this reason, it is essential that national producers acting in a distinct way in view of its economic attachment could be excluded from the concept of domestic industry, without this exclusion affects its degree of representativity. Thus, exclusions provided in art. 35 of Decree No. 8,058, of 2013, only affect the denominator of the analysis of representativeness.

41. What is a related party for the purposes of exclusion of the concept of domestic industry?

Under paragraph 1 of art. 35 of Decree No. 8,058, of 2013, the definition of related or associated parties for the purposes of exclusion of the concept of domestic industry is distinct from that applicable to the purposes of determination of *dumping*. Thus, producers shall be considered associated or related to foreign producers, exporters, and importers only if:

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

It is emphasized that shall be considered that a person controls the other when the first is in legal or operational conditions to restrict or influence on decisions of second, under paragraph 2 of art. 35 of Decree No. 8,058, of 2013.

42. What is the difference between “domestic industry” and “national industry”?

For the purposes of Antidumping investigation, the concept of domestic industry could be different from that of national industry, since the term “national industry” corresponds necessarily to the totality of national producers of the similar product, while the expression “domestic industry” could correspond to the low share to the totality of national producers of the similar product, since this is a significative share of the national production. Due to this, indexes of the national industry (e.g.: “national production”) could differ of the indexes of the domestic industry (e.g. “production of the domestic industry”).

43. What is a “subnational domestic industry”?

Under art. 36 of Decree No. 8,058, of 2013, in exceptional circumstances, where the Brazilian territory could be divided in two or more different markets, the term “domestic industry” could be interpreted as the assemble of domestic producers of each one of these markets separately. In these cases, we will have “subnational domestic industries”.

In order to the assemble of the domestic producers of each one of these markets could be considered a subnational domestic industry is required that:

I - the producers of this market sell all or almost all their production of the similar product in this same market; and

II - the demand of this market is not supplied in a substantial share by producers of the similar product established out of this market.

It should be stressed that, in cases of subnational domestic industry, the existence of injury could be determined even when an important share of the national domestic industry is not been affected, since (i) there is concentration of dumped imports in the market; and (ii) these are causing injury to the subnational domestic industry. Therefore, it is verified the need to have a parallelism between the territory where the imports are concentrated and the territory where the injury is determined.

A concrete example of domestic industry considered as subnational in the scope of Antidumping investigation was the Portland cement.⁹ In the case, the petitioner achieved to prove, in the course of the investigation, that the industry of Portland cement was an effectively representative of the competitor market constituted by the states of Acre (AC), Amazonas (AM), Roraima (RR), and region comprehended at the west of the state of Pará (PA), limited by meridian 53.

In the period of investigation of injury, the company sold in the same market the almost totality of its production. In addition, bearing in mind the share of the sales of the producers established in other parts of the national territory in the same market, it was concluded that the demand are not supplied by them in substantial proportion. Finally, it was verified that the concentration of the imports at prices of dumping, arising from Mexico and Venezuela in the competitor market.

44. What is a “fragmented industry”?

Under paragraph 1 of art. 1 of Decree No. 9,107, of 2017, for the purposes of investigation of trade remedies, it is considered as fragmented industry that is involves a number specially elevated of domestic producers.

- SDCOM is responsible for the qualification the national production of determined product as fragmented industry for the proposes of investigation of trade remedies, under paragraph 2 of art. 1 of Decree No. 9,107. of 2017, and art. 1 of SECEX Ordinance No. 41, of July 27, 2018. This qualification shall remain valid unless otherwise determined by SDCOM.

The required information for the habilitation of the national production of determined product as fragmented industry could be found in SECEX Ordinance No. 41, of 2018. Among other provisions, this ordinance establishes who can request the qualification, the content that should be presented in the submission of the qualification as fragmented industry and the terms of the qualification proceeding.

It should be stressed that, in cases of fragmented industries due to the level of disaggregation of the domestic industry and higher difficulty of coordination among their agents, the terms to file of petitions and complementary information and information required in these petitions could be relaxed (see questions [114](#), [115](#), [135](#) and [141](#)).

⁹ Interministerial Ordinance MICT/MF No. 46, of July 12, 2000 (termination of the original anti-dumping investigation), and CAMEX Deliberation No. 18, of July 25, 2006 (termination of the review of end of period).

45. How is made the determination of material injury to the domestic industry in an original *Antidumping* investigation?

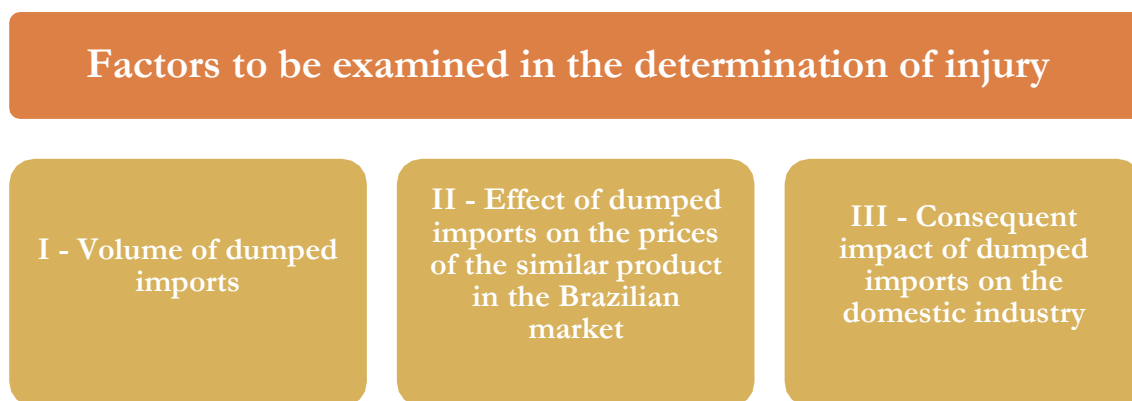
As explained in questions [5](#), [59](#), and [60](#), for the purposes of *Antidumping* investigations, injury shall be considered as:

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

Under art. 30 of Decree No. 8,058, of 2013, the determination of material injury to the domestic industry shall be based on pieces of evidence and include the objective examination of the following aspects:

- I - Volume of dumped imports (see question [46](#));
- II - Effect of dumped imports on the prices of the similar 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 the determination of material injury



Source: Ministry of Economy/SDCOM

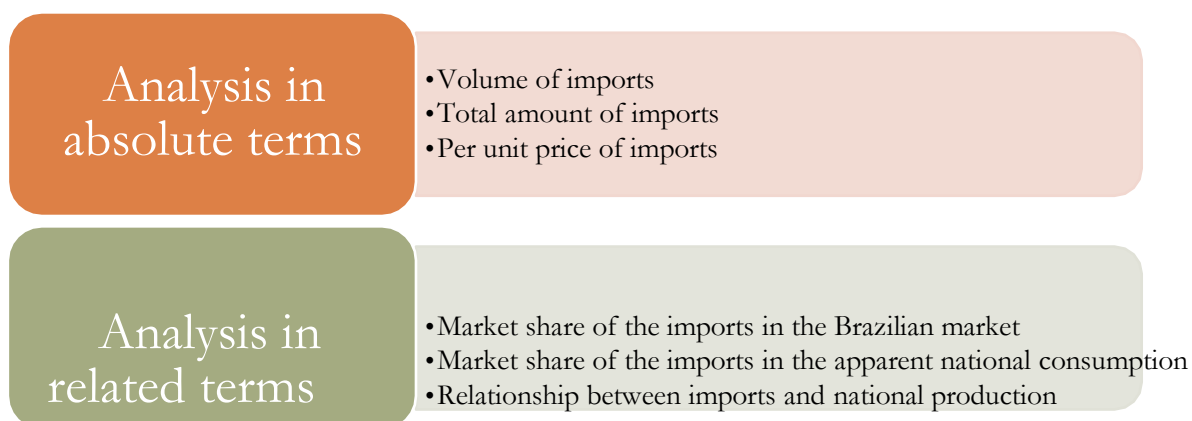
For the purposes of the beginning of an original Antidumping investigation, the analysis regarding the existence of material injury shall be made by SDCOM according to the information brought by the domestic industry in the petition and data of importation of the investigated product provided for the IRS. Since the investigation begins, SDCOM shall make on spot investigations in the petitionary companies and questionnaires to other national producers of the similar product whose data were not submitted in the petition, whose answers also could be subject to the proceeding of on spot investigation. The preliminary and final determinations of SDCOM regarding the existence of material injury shall, thus, elaborated according to the data presented in the petition, in the results of the on

spot investigations in the domestic industry, in the answers to the questionnaires submitted by other national producers and in other information provided for the interested parties. In this sense, during the administrative proceeding, amendments could occur regarding the determination of the material injury presented in the beginning of the investigation.

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

Under paragraph 1 of art. 30 of Decree No: 8,058, of 2013, the exam of the volume of imports of the product under investigation shall consider if there was a significant increase of these imports both in absolute terms or in relation to the production or to the consumption in Brazil, during the period of investigation of injury. It worth emphasizes that imports of the product under investigation correspond to the imports of the country of origin under the investigation (see questions 7 and 8).

Figure 24: Analysis of the volumes of imports



Source: Ministry of Economy/SDCOM

In the analysis in absolute terms, it is observed that both behavior of the volume and the amount of (i) imports of product of the countries of origin investigated both the behavior of the volume and amount (ii) the imports of the product of other countries of origin, and (iii) total imports of the product. These behaviors are analyzed (i) individually, as well as (ii) in comparison one with another, in order to evaluate if there was a significant absolute increase of the imports of the product under investigation, if there was increase of the market share of these imports in the total imports of the product and if there was increase of these imports in relation to the imports of the product arising from the other places.

In turn, in the analysis in relative terms, it is evaluated if there was a significant increase of the imports of the product under investigation in relation to the production and

consumption in Brazil. It is worth emphasizes that, if there is a captive consumption in Brazil could be divided in two, which are: analysis regarding the Brazilian market and analysis in relation to the apparent national consumption. Thus, it is evaluated both the evolution of (i) the Brazilian market, (ii) the apparent national consumption (if there is a captive consumption), and (iii) the national production of the similar product, separately, in the course of the period of investigation of injury, regarding the evolution of (iv) the market share of the imports of the product under investigation in the Brazilian market, (v) market share of the imports of the product under investigation in the apparent national consumption, and (vi) in relation to these imports with the national production in the period abovementioned.

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

For the purposes of trade remedies, the apparent national consumption of the investigated product in Brazil are: (i) in the Brazilian market of the of the said product added (ii) of the total volume of the similar product manufactured in Brazil and destined to the captive consumption. The apparent national consumption, therefore, could be larger than the Brazilian market, since part of the national demand that only could be supplied by products manufactured by the own plaintiff (captive consumption) is also considered. That is, the apparent national consumption also considers the similar product of own manufacturing despite consumed in Brazil is not destined to the sale in the Brazilian domestic market. For this reason, the apparent national consumption could include, for instance, the volume produced of the similar product used as raw material or input in the manufacturing of other products by own national producer company, without issuance of invoice, of the similar product of own manufacturing between the plants of the same company.

Figure 25: Apparent national consumption



Source: Ministry of Economy/SDCOM

In turn, for the purposes of determination of the Brazilian market, it is considered (i) the total volume of sales in the Brazilian domestic market of the domestic similar product of own manufacturing, net of returns, as well as (ii) the volume of total imports of the product, regardless of its origin. It should be noticed that resales of products imported by national producers are not considered in the total volume of sales of these producers in the Brazilian domestic market, since they are already included in the volume of the total imports of the product, avoiding, thus, double counting.

It is emphasized that the volume of sales in the domestic market includes both that referring to sales of the similar product of own manufacturing of companies that submitted the petition and that referring to sales of the similar product of own manufacturing of other national producer companies. The same thinking is applied to the captive consumption in the determination of the apparent national consumption, in order that it is considered both the captive consumption from petitioners and from other producer national companies of the similar product, if such other companies had submitted the required data.

48. How data referring to the Brazilian market, apparent national consumption, and national production of the similar product in Brazil are obtained?

Since the Decree No. 8,058, of 2013, provides that the analysis of the volume of imports of the product under investigation regarding the production and consumption in Brazil, the data for the composition of the Brazilian market, of the apparent national consumption and the national production shall consider not only the information of the petitioner companies, but also from the other national producers of the similar product, and thus, reflecting all the national industry (see question [40](#)).

Thus, the data used to the assessment of the national production, of the volume of sales in the Brazilian domestic market of the national similar product of own manufacturing and captive consumption are arising from both the petition as from answers to the questionnaires of others national producers and statements of support or rejection to the petitions submitted by other national producers, and, therefore, they could vary between the beginning of the investigation and the preliminary and final determinations, as new information is attached to the case records.

49. How data referring to the imports of the product under investigation and the foreign similar product are obtained?

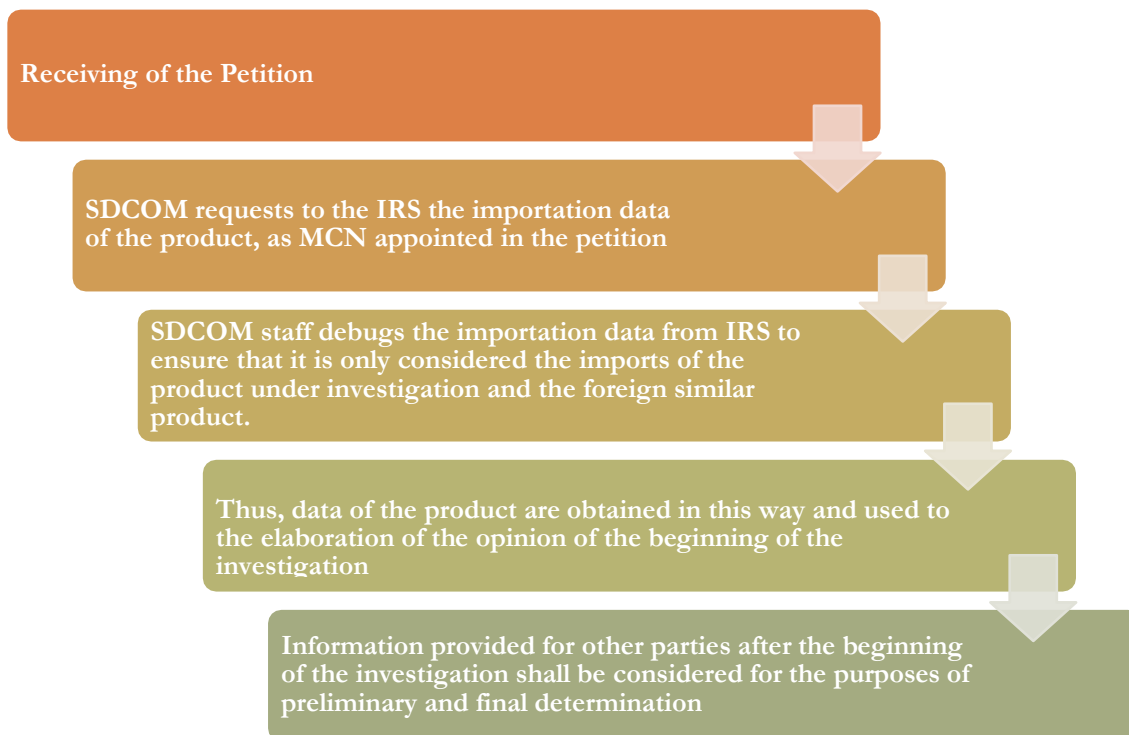
After receiving the petition, SDCOM requests to the IRS the data of import of the

investigated product of all origins, according to its classification in the Mercosur Common Nomenclature (MCN), which is informed in the petition. After that, data of import of the product under investigation (imports arising from the investigated origins) and foreign similar product (imports arising from other origins) are requested.

In the most part of the Antidumping investigations conducted by SDCOM, the tariff classification of the product under investigation also encompasses other products. Therefore, it is necessary to debug the data of import received from IRS, in order that it is only identified the transactions of the product under investigation and foreign similar product. This debug is made according to detailed descriptions of merchandises contained in the data of import of IRS and considering not only the description of the product presented in the petition, but also other information on the product presented by the interested parties in the course of the investigation, such as answers to the SDCOM's questionnaires.

Thus, the analysis of the evolution of the imports in the beginning of the investigation shall be made according to the information delivered by the petitioner and in the data provided by IRS. Now the preliminary and final determinations shall be made according to this information and information provided for the other parties after the beginning of the investigation. For instance, an importer could prove with documents that the product that it exports/purchases has other origin, and the stated origin is incorrect, which will affect the volume and amount of imports of the product under investigation and the foreign similar product, among other indexes. For this reason, the data of importation in the opinions and technical notes of SDCOM could vary during the investigation.

Figure 26: Data analysis referring to the import of the product under investigation



Source: Ministry of Economy/SDCOM

50. What are the conditions to make the cumulative analysis of the effects of the dumped imports?

Under art. 31 of Decree No. 8,058, of 2013, when the imports of a product from more than one country are simultaneously matter of investigation encompassing the same period of investigation of dumping, their effects could be cumulatively evaluated if is verified that:

I — the margin of dumping determined in relation to the imports of each one of the countries is not *de minimis* (see question [35](#));

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

III - the cumulative evaluation of the effects those imports is appropriated, bearing in mind that the conditions of competition between the imported products and the conditions of competition between the imported products and domestic similar product.

It should be stressed that the volumes of imports of the investigated product referring to (i) the eventual producers, exporters or countries for which have been assessed the margin of dumping *de minimis*; and (ii) countries whose volumes of importation are insignificant, shall be analyzed as other factor of injury (see question [9](#)).

51. What happens if the imported volume of an origin is not significant?

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According to the provision in item III of art. 74 of Decree No. 8,058, of 2013, the investigation shall be terminated without the implementation of the duties when the volume of dumped imports is insignificant, under paragraphs 2 and 3 of art. 31 of the said decree. The volume of imports of the product under investigation or under dumping, arising from determined country, shall be considered insignificant when it is lower than three percent (3%) of the total Brazilian imports of the product under investigation and the foreign similar product (see questions [7](#) and [8](#)).

If the set of countries that individually answer for lower than three percent (3%) of the total Brazilian imports of the product under investigation and the foreign similar product represents more than seven percent (7%) of the total Brazilian imports of these products, the volume of imports under investigation or the volume of dumped imports of each country will not be considered insignificant. It should be stressed that, in the analysis of the insignificant volume, the volumes of dumped imports shall be only considered. Thus, imports from companies or investigated countries whose margin of dumping are *de minimis* in the course of the investigation shall not be considered as imports under investigation (see question [35](#)). Bearing in mind that the margin of dumping and the volume of dumped imports calculated to the beginning of the investigation could suffer amendments during the process, as the interested parties submit new information to the case records, it is possible that the investigation is closed without the implementation of the duties to determined producers or exporters and investigated countries. If this happens, the volume of importation referring to these producers or exporters or countries shall be considered as volume of importation of the foreign similar product, and not more as imports of the product under investigation or dumped imports.

52. How is analyzed the effect of dumped imports on the prices of the similar product of the domestic industry in the Brazilian market?

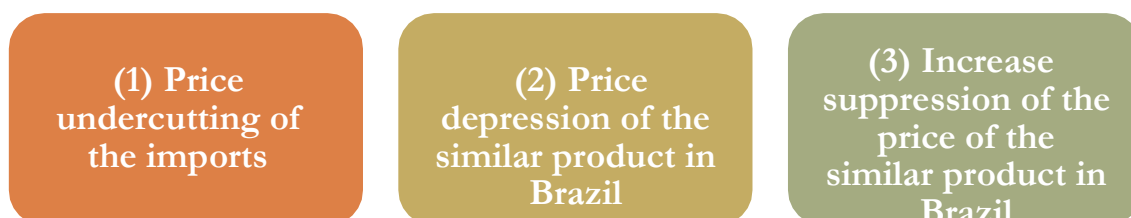
The effect of dumped imports on the prices of the domestic industry shall be evaluated under three aspects, Under paragraph 2 of art. 30 of Decree No. 8,058, of 2013:

I — Existence of significant **undercutting** of the price of the imports under dumping in relation to the price of the similar product in Brazil (question [53](#));

II — Existence of significant **depression** of the price of the similar product in Brazil (question [54](#)); and

III — Existence of significant **suppression** of increase of the price of the similar product in Brazil would have occurred in the absence of dumped imports (question [55](#)).

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



Source: Ministry of Economy/SDCOM

53. What and how is assessed the existence of undercutting for the purposes of injury analysis?

For the purposes of injury analysis, it is verified the existence of price undercutting of the dumped imports in relation to the price of the similar product in Brazil, when the domesticized price in Brazil of the product under investigation is lower to the price of the Brazilian similar product.

54. What and how is assessed the existence of price depression for the purposes of injury analysis?

For the purposes of injury analysis, it is verified the existence of price depression when the price of imports of the product under investigation has the effect to significantly decrease the price of the Brazilian similar product.

55. What and how is assessed the existence of price suppression for the purposes of injury analysis?

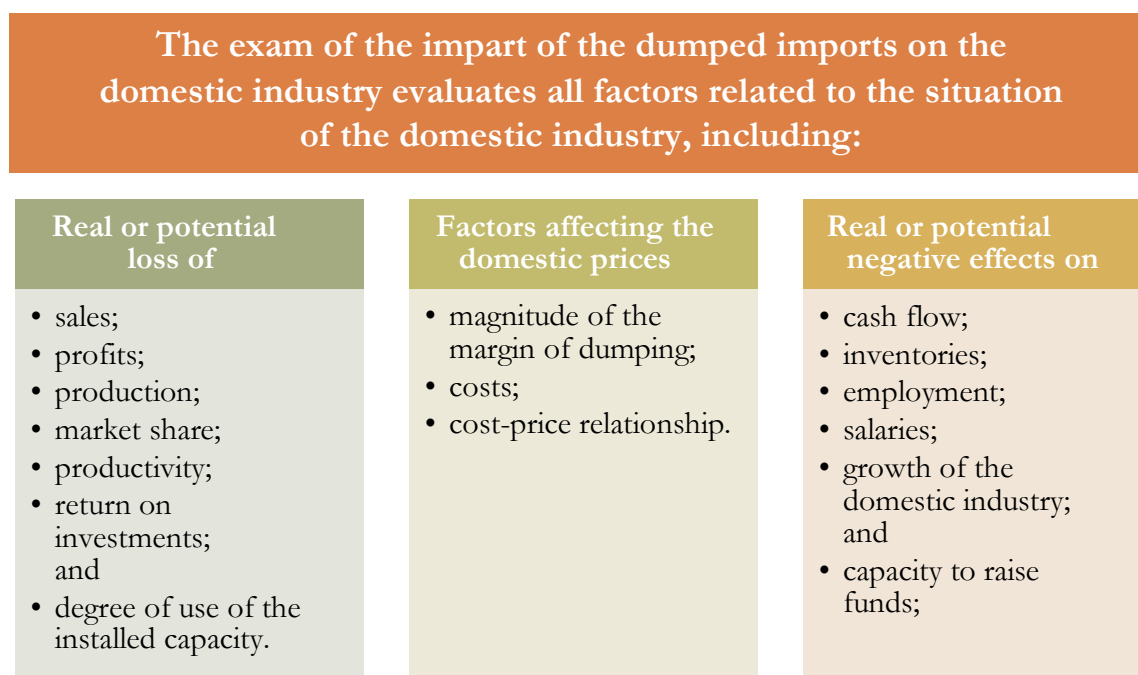
For the purposes of injury determination, it is verified the existence of price suppression when the price of imports of the product under investigation has the effect to preclude, significant, the increase of prices, due to the increase of costs, which would occurred in the absence of such imports.

56. How is analyzed the impact of the imports of the product under dumping on the indexes of the domestic industry in the injury determination?

Under paragraph 3 of art.30 of Decree No. 8,058, of 2013, the exam of the impact of the dumped imports on the domestic industry shall include the evaluation of all factors and pertinent economic indexes related with the situation of said industry, including the real or potential loss of sales, profits, production, market share, productivity, return on investments, and degree of use of the installed capacity.

In addition, it shall be considered the real or potential negative effects on the cash flow, inventories, employment, salaries, growth of the domestic industry, and capacity to raise funds or investments. Also, it shall be evaluated factors affecting the domestic prices, including the amplitude or magnitude of the margin of dumping (see question 58).

Figure 28: Impact of dumped imports on the domestic industry



Source: Ministry of Economy/SDCOM

It worth clarifies that SDCOM analyzes the evolution of each one of the indexes abovementioned in the course of five subperiods of injury investigation and in none of the factors or economic indexes, jointly or severally, shall necessarily be capable to conduct the decisive conclusion.

All indexes abovementioned are analyzed according to the data provided by petitioner and investigated with the on spot verification by SDCOM, in order that could suffer amendment

in the course of the investigation. It should be stressed that the analysis of the magnitude of the margin of dumping also considers information delivered by other interested parties after the beginning of the investigation, through their answers to the questionnaires send by SDCOM (question 58). SDCOM analyzes all indicators under paragraph 3 of art. 30 of Decree No. 8,058, of 2013, both under volume (if there is real or potential loss in the volume of sales, amendments in the market share of the domestic industry in the market, loss in the volume of production, increase of inventories, etc.), and in financial terms (real or potential loss of net income, profits, return on investment, etc.).

Figure 29: Injury analysis on SDCOM's opinions

Analyses related to the volume of sales of the domestic industry	Analyses related to the financial indicators of the domestic industry
<ul style="list-style-type: none"> • Volume of sales • Market share of the volume of sales in the Brazilian market • Production and degree of use of the installed capacity • Inventories • Employment, productivity and salary mass 	<ul style="list-style-type: none"> • Income statement • Net revenue • Weighted average prices • Results and margins • Costs • Cost-price relationship • Magnitude of the margin of dumping • Cash flow • Return on investments • Capacity to raise funds or investments

Source: Ministry of Economy/SDCOM

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

As a rule, the calculation of the installed capacity shall consider the following premises:

I - nominal capacity is the maximum quantity that a productive system could continuously produce disregarding the losses and considering all company's equipment, including those that not are currently in use. Therefore, it is the productivity capacity obtained in a work day of twenty-four (24) hours, in three hundred and sixty-five (365) days of the year, ignoring the losses of efficiency arising from the stops for maintenance, setups, and losses arising from the mistakes of production programming and lack of inputs; and

II - effective capacity makes reference to the maximum capacity of production of the company in an ordinary work day of operation and in realist conditions of work, considering the planned losses of this capacity. Thus, to calculate the effective installed capacity, it is recommended that are considered:

- a) the number of work shifts and regular hours of operation of the plant;
- b) only machinery and equipment in operation;
- c) scheduled stops for setup (exchange of products), regular preventive maintenances, repair, clean, exchange of shifts, intervals for rest and meals, sampling of quality, etc;
- d) full availability of work, raw materials, utilities, and other inputs; and
- e) only the usually conditions used by the company for the use of hiring of services or use of the facilities of production out of the plant.

It is emphasized that in the calculation of the effective installed capacity it shall not be considered stops or losses non-scheduled, as non-scheduled maintenances, stops of equipment for defect and loss of product due to problems of quality.

The interested parties could request adjustments to better reflect their productive processes and specificities of the case, which shall be evaluated by the investigative authority, since they are followed up of justifies and strength pieces of evidence to support them.

58. What is the purpose and how is assessed the magnitude of the margin of dumping?

The magnitude of the margin of dumping, also called amplitude of margin of dumping, has as an objective to evaluate how the margin of dumping of the producers, exporters, and investigated countries affected the domestic industry, examining which would be the impact on the prices of the similar product of the domestic industry if the exports of the product under investigation to Brazil had not been made at prices with evidence of dumping.

For this reason, SDCOM seeks to quantify to which amount the exports of the product under investigation would achieve to Brazil, considering the importation costs, if the amount referring to the normal value was practiced by these producers, exporters or countries in their exports. The normal value is used as basis in this analysis, since the amount corresponding to it represents the lower price by which a company could export determined product without incur in the practice of dumping.

To assess the imported normal value in Brazil, SDCOM, firstly, requires to put the normal value in CIF condition, since, as a rule, the normal value for the purposes of calculation of the margin of dumping is assessed in *ex-factory* condition. Thus, to the *ex-factory* normal value are added the amounts referring to the international freight and insurance, the expenses of sales incurred in the export, the cost of maintenance of inventory and other expenses related to the export of the product under investigation. After that, it is assessed the interned CIF

normal value in Brazil, through the accretion of the amounts referring to taxes incurring in the importation (import tax, AFRMM – if applicable – among others), and to the expenses of importation (expenses with storage in the port, customs fee, cargo release, among others).

The imported normal value in Brazil, as a rule in CIF condition, shall be compared with to the sales price of the Brazilian similar product practiced by the domestic industry, for the purposes of analysis of the magnitude of the margin of dumping.

It should be stressed that the analysis of the magnitude of the margin of dumping is only made to the period of investigation of dumping.

59. Which is the threat of injury?

Under art. 33 of Decree No. 8,058, of 2013, the determination of threat of material injury to the domestic industry shall be based on the possibility of occurrence of events clearly predictable and imminent, able to change the conditions in force in a way to create a situation where would occur material injury to the domestic industry arising from the imports under additional dumping.

In the analysis of threat of injury it shall be evaluate, therefore:

I – the possibility of occurrence of future events able to change the conditions in force;

II – the possibility of additional imports of the product under dumping and its conditions; and

III – the possibility of these additional imports cause material injury to the domestic industry.

In this sense, the expectation regarding the occurrence of future events able to change the conditions in force shall be based on the pieces of evidence in the case records and not in simple claims, conjectures, or remote possibility.

In turn, the analysis of the possibility to have additional imports of the product under dumping and the conditions where such imports will be made, shall involve the consideration, among others, of the following factors (paragraphs 4 and 5 of art. 33):

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

II – sufficient idle capacity or imminent substantial increase of the productive capacity in the exporting country, indicating a possibility of significant increase of the exports under dumping to Brazil;

III – existence of third markets able to absorb the possible increase of the exports and measures of trade remedies in force or investigations in course to third countries that

could justify deviations of trade of the product to Brazil;

IV – imports made at price that will have by effect to decrease or preclude the increase of the domestic prices in a significant way and probably shall increase the demand for additional imports; and

V – the existence of inventories of the product under investigation.

Finally, the analysis regarding the possibility of these additional imports to cause material injury to the domestic industry shall be made according to the criteria provided for in paragraph 3 of art. 30 of Decree No. 8,058, of 2013, referring to the analysis of impact of the dumped imports made for the purposes of determination of the material injury (see question 56). Finally, the analysis regarding the possibility of these additional imports cause material injury to the domestic industry shall be made according to the criteria under paragraph-3 of art. 30 of Decree No. 8,058, of 2013, referring to the analysis of impact of the dumped imports made for the purposes of determination of material injury (question 46).

The conclusion that imports under additional dumping are imminent and if there is not adopted the Antidumping measure, they will cause material injury to the domestic industry, shall be based on the joint analysis of the factors provided in art. 33 of the said Decree, and none of these factors separately able, necessarily, to conduct the definitive conclusion.

60. Which is the substantial delay in the implementation of the domestic industry for the purposes to characterize the injury?

Under item III of art. 29 of Decree No. 8,058, of 2019, the substantial delay in the implementation of the domestic industry is also an injury. SDCOM, as well as the most part of the Members of WTO, does not have case law in the analysis of substantial delay.

It should be stressed that, despite several debates on this hypothesis of injury made in the scope of the Negotiating Group on Rules in the WTO, the Members of this Organization have not success to achieve a consensus on the criteria to be considered for the purposes of determination of the substantial delay to the implementation of the domestic industry, neither on the criteria to determine if an industry is in stage of implementation.

In any event, in accordance with the decision of the panel DS513 *Morocco — Antidumping Measures on Certain Hot-Rolled Steel from Turkey*¹⁰ established in the scope of the Appellate Body of the WTO, the substantial delay to the implementation of the domestic industry is one of the forms of injury contemplated by the Antidumping Agreement and, by definition, it could only occurs in situations where the domestic industry is still not

¹⁰ https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds513_e.htm

completely established.

61. How is dealt with the question of injury in the sunset reviews of the Antidumping measures?

In the sunset reviews, Under art. 106 of Decree No. 8,058, of 2013, SDCOM shall evaluate if the extinction of the Antidumping duty would probably take to the continuation or recovery of dumping and the injury arising from it. Thus, in sunset reviews, it is not necessary to verify if the material injury to the domestic industry, but to the positive determination regarding the probability of the continuation or recovery of the injury in case of the extinction of the Antidumping duty.

The determination of the extinction of the duty would take most probably to the continuation or to the recovery of the injury shall be based on the objective exam of all relevant factors, including those listed in art. 104 of Decree No. 8,058, of 2013, which are:

- I – the situation of the domestic industry during the definitive effectiveness of the duty;
- II – the volume of imports of the product under the measure during its effectiveness and the probable trend of behavior of these imports, in absolute terms and related to the production or consumption of the similar product in the Brazilian market;
- III – the probable price of the dumped imports and its probable effect on the prices of the similar product in the Brazilian domestic market;
- IV – the probable impact of the dumped imports on the domestic industry, evaluated according to all factors and pertinent economic indexes defined in paragraphs 2 and 3 of art. 30 of said decree;
- V – amendments in the market conditions in the exporting country, in Brazil or in third markets, including amendments in the offer and supply of the similar product, in view of, for instance, the imposition of measures of trade remedies for other countries; and
- VI – the probable effect of other factors that are not the dumped imports on the domestic industry, such as:
 - a) volume and price of imports not subject to the Antidumping duty;
 - b) impact of the eventual processes of liberalization of the imports on the domestic prices;
 - c) hiring in supply or change of the patterns of consumption;
 - d) restrictive practices to the trade of domestic producers and foreigners and the competition among them;
 - e) technological progress;

- f) exporting performance;
- g) productivity of the domestic industry;
- h) captive consumption; and
- i) imports or resale of the imported product by the domestic industry.

Therefore, it is verified the existence of criteria related to the analysis of how the domestic industry and imports under the Antidumping measure behavior during the effectiveness of this measure, as well as the elements referring to the probable behavior of this industry and these imports after the review. The behavior of the international market of the investigated product, during the effectiveness of the measure and after the review, shall also be evaluated during the sunset review.

It should be stressed that for the purposes for the initiation of a sunset review, the analysis regarding the probability of continuation or recovery of the injury to the domestic industry shall be made by SDCOM according to the information brought by the domestic industry in the application. According to this Undersecretary, this information, as a rule, is object of on spot investigation to be performed before to initiate the review, since there is a timely term to perform this type of procedure during the phase of application.

Such practice is based on the principles of efficiency, provided for in art. 2 of Law No. 9784 of 1999, and in art. 37 of the Federal Constitution of 1988, and speedy trial, therein in item LXXVIII of art. 5 of the Constitution.

It worth emphasizes that, however, the on spot investigation in the applicant does not necessarily be made before to initiate the review. In any case, if it is, the data validated by SDCOM is already considered in the initial opinion.

Since the sunset review has been initiated, SDCOM shall send questionnaires to another national producers whose data are not submitted in the application, whose answers also could be under the procedure of on spot investigation. The preliminary and final determinations (if any) of SDCOM regarding the probability of continuation or recovery of injury to the domestic industry shall be, thus, elaborated according to the data of the application, in answers to the questionnaires submitted to other national producers, in results of the on spot investigations and in other information provided by the interested parties during the review. In this sense, during the administrative proceeding, amendments could occur regarding the determination of probability of continuation or recovery of the injury to the domestic industry presented in the beginning of the investigation.

62. What is the difference between the continuation and recovery of injury?

The scenario of continuation of injury occurs when the analysis of the situation of the domestic industry during the effectiveness of the measure confirms that there is still injury caused by the imports under the Antidumping duty. SDCOM then assesses the probability that this injury will continue if the duty is terminated.

In turn, the scenario of recovery of the injury occurs when the analysis appoints that the injury was neutralized or that eventual injury incurred in the review period was not caused by the imports under the duty during the effectiveness of the measure. Thus, it is possible that the duty is extended even the injury to the domestic industry had ceased.

Figure 30: Continuation and recovery of the injury

Continuation of the injury	Recovery of the injury
<ul style="list-style-type: none"> •The domestic industry continues to suffer injury arising from the imports under anti-dumping duty. •SDCOM analyzes the probability that such injury continues if the duty is extinct. 	<ul style="list-style-type: none"> •The injury was neutralized or the eventual injury incurred in the sunset period was not caused by imports under the duty during the effectiveness of the measure. •SDCOM evaluates the probability of recovery of the injury caused by imports at dumped prices if the duty is extinct.

Source: Ministry of Economy/SDCOM

Under art. 108 of Decree No. 8058 of 2013, the determination that the extinction of the duty will probably take to the continuation or recovery of the injury, it shall be based on the objective exam of all relevant factors, including that mentioned in art. 104 of the same Decree:

- I – the situation of the domestic industry during the definitive effectiveness of the duty;
- II – the volume of imports of the product under the measure during its effectiveness and the probable trend of behavior of these imports, in absolute terms and related to the production or consumption of the similar product in the Brazilian market;
- III – the probable price of the dumped imports and its probable effect on the prices of the similar product in the Brazilian internal market;
- IV – the probable impact of the dumped imports on the domestic industry, evaluated according to all factors and pertinent economic indexes defined in paragraph 2 and 3 of the art. 30;
- V - amendments in the market conditions in the exporting country, in Brazil or in third markets, including amendments in the offer and supply of the similar product, in view of, for instance, the imposition of measures of trade remedies for other countries; and
- VI - the probable impact of other factors that are not the dumped imports on the

domestic industry, such as:

- a) Volume and price of the imports not subject to the Antidumping duty;
- b) impact of the eventual processes of liberalization of the imports on the domestic prices;
- c) hiring in supply or change of the patterns of consumption;
- d) restrictive practices to the trade of domestic and foreign producers and the competition among them;
- e) technological progress;
- f) exporting performance;
- g) productivity of the domestic industry;
- h) captive consumption; and
- i) imports or resale of the imported product by the domestic industry.

63. What are the possible criteria to the assessment of the probable price in the scope of the analysis of continuation and recovery injury, especially in a scenario of dumping recovery?

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Under 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 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, among which is “III – the probable price of the dumped imports and its probable effect on the prices of the similar product in the Brazilian domestic market”.

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

64. How is the causality analysis carried out between the dumped imports and the injury incurred by the domestic industry?

In order for an Antidumping measure to be applied, it is necessary to prove not only the existence of dumping and injury to the domestic industry, but also the causal link between these two factors. Thus, under art. 32 of Decree No. 8.058, of 2013, it is necessary to demonstrate that, through the effects of dumping, dumped imports contributed significantly to the injury experienced by the domestic industry, even if they are not the only cause of that injury.

The demonstration of the causal link should be based on i) the examination of the relevant evidence presented (in favor of the existence of a causal link), as well as ii) the examination of other known factors in addition to dumped imports that may be simultaneously causing injury to the domestic industry. It should be noted that possible other causes are those specifically brought to SDCOM's attention by interested parties, provided they are accompanied by the appropriate justification and relevant evidence, and any other causes known to SDCOM. Examples of other factors that may be relevant to the causality analysis are shown in the figure below.

If there is injury caused by reasons beyond the dumped imports, this cannot be attributed to these imports and, depending on its magnitude, the application of Antidumping measures may not be recommended. It is therefore necessary to separate and distinguish the effects of dumped imports and the effects of possible other causes of injury to the domestic industry.

Figure 31: Analysis of causality

Analysis of causality	I - the relevant evidence presented	II - Other factors that may be causing injury to the domestic industry
<ul style="list-style-type: none"> • The causal link consists of the demonstration that, through the effects of <i>dumped imports</i> contributed significantly to the injury experienced by the domestic industry, even though they are not the only factor causing the injury. • The demonstration of the causal link must be based on the examination: • I - the relevant evidence presented • II - of factors other than the <i>dumped imports</i> that may simultaneously be causing injury to the domestic industry, and such injury caused by reasons other than the dumped imports cannot be attributed to them • 	<ul style="list-style-type: none"> • Elements that prove the existence of a causal link between dumped imports and injury to the domestic industry. 	<ul style="list-style-type: none"> • the volume and price of non-dumped imports ; • the impact of possible import liberalization processes on domestic prices; • the contraction in demand or changes in consumption patterns; • the restrictive trade practices of domestic and foreign producers; • competition between domestic and foreign producers; • technological advance • export performance; • the productivity of the domestic industry; • captive consumption; and • imports or resale of the imported product by the domestic industry. •

Source: Ministry of Economy/SDCOM

65. What are the types of Antidumping measures?

There are two types of *Antidumping* measures: (i) Antidumping duties and (ii) price commitment.

The (i) Antidumping duties consist of the levy of surcharge on imports of the product for which measures of this nature were applied, in an amount equal to or less than the *dumping* calculated margin. The amount of money to be collected as an *Antidumping duty* can be defined by establishing an *ad valorem* (i.1) or specific (i.2) rate.

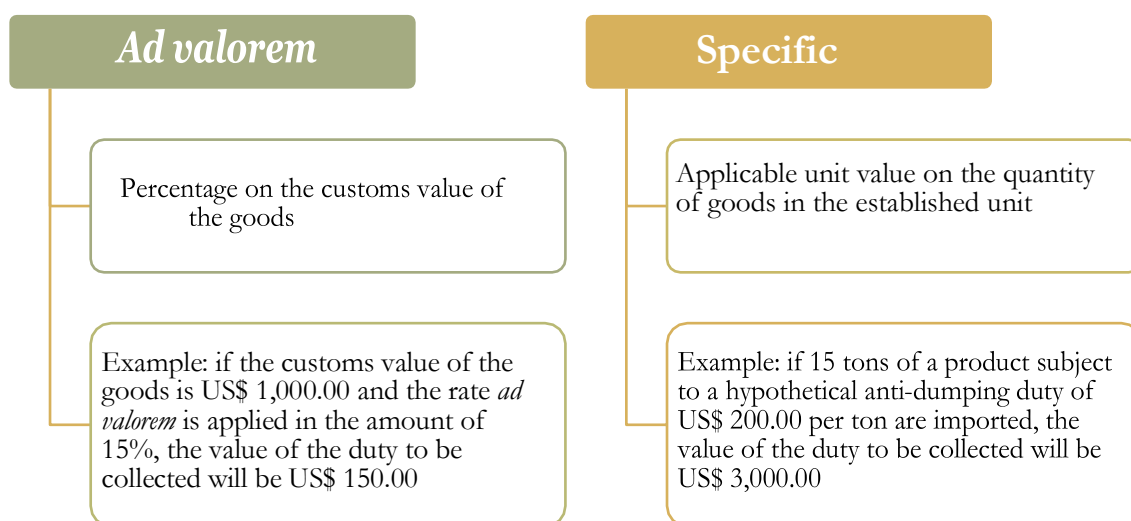
The Antidumping duty applied as a rate *ad valorem* (i.1) consists of a percentage applied to the customs value of the goods, based on *Cost, Insurance and Freight* – CIF , according to paragraph 5 or of art. 78 of Decree No. 8,058, of 2013.

In turn, the Antidumping law applied in the form of a specific rate (i.2) is fixed in foreign currency and converted into national currency, under paragraph 6 or of art. 78 of Decree No. 8,058, of 2013. In this case, the amount to be collected is usually defined by measurement unit, which can be calculated, for example, per ton or per kilo.

Finally, under the terms of paragraph 4 or of art. 78 of Decree No. 8,058, of 2013, the Antidumping duty can be defined as a combination of *ad valorem* and specific rates.

On the other hand, (ii) price commitments are voluntary agreements entered into by the foreign producer or exporter, in which the latter undertakes to revise its export prices in order to avoid the collection of Antidumping duties. They are entered into with SDCOM and submitted for approval by Gecex. (see questions 71 and 178 to [181](#)).

Figure 32: Types of rate of Antidumping duty



Source: Ministry of Economy/SDCOM

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

Provisional Antidumping measures are only applied in original Antidumping investigations (see question 68), in cases where Gecex deems that such measures are necessary to prevent injury from occurring during the investigation, under item III of art. 66 of Decree No. 8,058, of 2013.

Under paragraph 2 of art. 66 of Decree No. 8.058, of 2013, the provisional measures will be applied in the form of provisional duty or guarantee, the value of which will be equivalent to the provisional duty. Provisional duties will be collected and guarantees will be provided by means of a cash deposit or bank guarantee, with the IRS being responsible for establishing the collection procedures.

To find out what happens to escrow deposits in cases of positive or negative final determination, see the answer to question [193](#).

In turn, definitive *Antidumping* measures are applied with the closure of the *Antidumping* investigation or the sunset review and may take the form of definitive *Antidumping* duties or price commitments. The definitive *Antidumping* duties may be applied in the form of *ad valorem* or specific, fixed or variable rates, or by the combination of both, under paragraph 4 of art. 78 of Decree No. 8.058, of 2013. (see question 65).

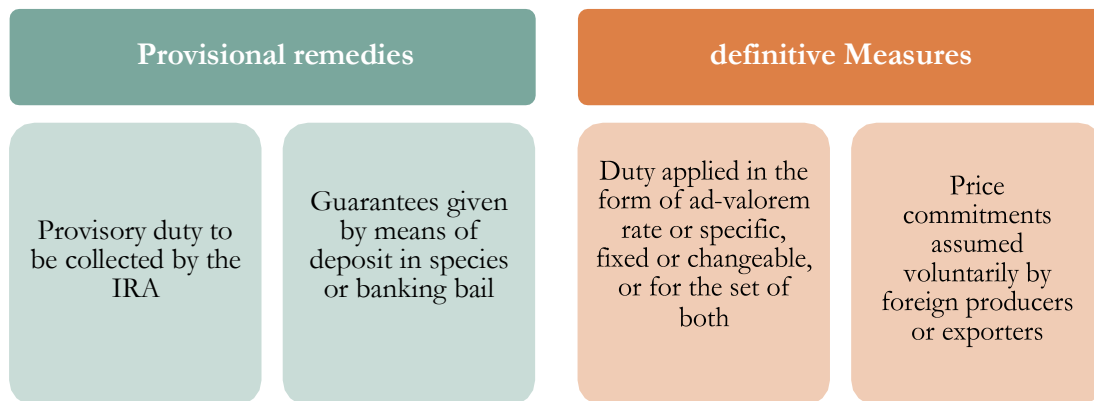
Alternatively, under art. 67 of Decree No. 8.058, of 2013, the Antidumping investigation may be suspended without the application of provisional measures or definitive duties for producers or exporters who have voluntarily assumed a commitment to review

their export prices or to terminate exports at the price of *dumping* to Brazil, provided that SDCOM considers the commitment to be satisfactory to eliminate the injury to the domestic industry caused by imports at the price of *dumping* (see questions 71 and 178 to 181).

In the case of definitive measures, the duty will have to be applied or the price commitment homologated in inferior level to the refined margin of *dumping*, since that such level is enough to eliminate the injury to the domestic industry, as made use in arts. 67, *introductory paragraph*, and 78, paragraph 1 of Decree n 8,058, of 2013.

Independently of the form as it will be applied, the Antidumping measure, either provisory or definitive it, never will be able to exceed the refined margin of *dumping*, as paragraph 1 of art. 66, paragraph 4 of art. 67 and paragraph 2 of art. 78 of Decree n 8,058, of 2013.

Figure 33: Forms of Application of Antidumping measure



Source: Ministry of Economy/SDCOM

67. When can provisional Antidumping duties be applied?

Under art. 66 of Decree n 8,058, of 2013, the provisional remedies have as objective to protect the domestic industry of practical of *dumping* during the original investigation. Positive the preliminary determination of *dumping*, injury to the domestic industry and the causal link between both, published by means of Circulating SECEX, is prerequisite for the application of provisional remedies (see question 129).

After positive the preliminary determination, the SECEX will be able to direct to the Executive Committee of Management (Gecex) recommendation how much to the application of provisory duties. However, the guiding of the recommendation, as well as the application of provisional remedy is not obligator in cases of positive preliminary determination.

If the Gecex to judge that the provisional remedies recommended by the SECEX are

necessary, after fulfilled the requirements legal, will be able to publish in the Federal Official Gazette to a Resolution on its decision, including the names of the producers or exporters to it.

The Antidumping measure provisory could be applied in the form of provisory duty or guarantee, as foreseen in art. 66 of Decree n 8,058, of 2013, and its value will not be able to exceed the margin of *dumping* (see questions 65 and 66).

68. Is the application of Antidumping provisional measures in sunset revisions possible?

No. It is not possible the application of provisory Antidumping measures in sunset revisions in view of that the definitive *Antidumping* measures applied by occasion of the closing of the original investigation remain in force during the duration period of the revision procedure, under paragraph 2 of art. 112 of Decree n 8,058, of 2013. -

69. How long can Antidumping measures be applied?

Under art. 66, paragraph 6, of Decree No. 8,058, of 2013, the provisory Antidumping measures will be able to invigorate for a period of up to 4 (four) months. In bonanza cases, this period could be of up to 6 (six) months, when the competent authorities to decide for the delay of the stated period, the order of the exporters who have representation of the commerce in question and that they will be able to present new facts that modify the final decision.

The exporters who to desire to the extension of the working time of the provisory Antidumping measure will have to request it in writing, in the stated period of 30 (thirty) days before the ending of the period of validity of the measure, as art. 66 of Decree n 8,058, of 2013.

Has been distinguished respectively that, in Antidumping the hypothesis of being applied measured provisory inferior to the margin of dumping, the periods foreseen in paragraph 6 starts to be of 6 (six) and 9 (nine) months.

70. How long can definitive Antidumping duties be applied?

According to art. 92 of Decree No 8,058, of 2013, Antidumping duty and commitments of prices will remain in force while to last the necessity to eliminate the injury to the domestic industry caused by the importations object of dumping. Although this, as made use in art. 93 of the same legal device, all Antidumping duty definitive will be extinct in the stated period of 5 (five) years, counted of the date of its application or the date of the conclusion of the

most recent revision that has enclosed dumping, the injury to the domestic industry and the causal link between both.

The stated period of validity of the definitive duties Antidumping is regulated by art. 132 of the Civil Code, second which “stated periods of months and years die in the day of equal number of beginning, or in the immediate one, if to lack accurate correspondence”. Thus, the stated periods of the applied definitive duties Antidumping die in the day of equal number to the one of the date of publication in GIVE it of the Gecex Resolution that applied the duty in question, if not having to differentiate the end of validity of a measure and its day of expiration. Of this form, an Antidumping measure definitive applied in 01/18/2021, usually, will have to be valid up to 01/18/2026, being this the last day of its validity and also the day of its expiration.

71. How long can price commitments remain in force?

Even so does not have forecast of duration of the price commitments in Decree n 8,058, of 2013, usually, such measures remains in force since its homologation, which can still occur during the Antidumping investigation original, until while to last the Antidumping duty definitive applied to the importations of the investigated product.

It is emphasizing that, in accordance with art. 71 of Decree n-8,058, of 2013, in case of breaking of the terms of the commitment, the investigation, that had been suspended without the application of provisional remedies or definitive duties, will be retaken by force of the introductory paragraph of art. 67 of Decree n 8,058, of 2013, and the duties immediately will be applied.

72. Can the Antidumping duty be higher than the margin of dumping?

No. No hypothesis the Antidumping duty , either provisory or definitive it, or the increase of price to the support of commitment, will be able to exceed the refined margin of *dumping* , in view of the provision in art. 9.3 of the Antidumping Agreement , in paragraph 1 of art. 66, *introductory paragraph* of art. 78 and paragraph 4 of art. 67 of Decree n 8,058, of 2013.

It fulfills to detach that Antidumping duty and margin of *dumping* consist of different concepts. To retake the difference between such concepts, please, see questions 27 and 65.

73. When the Antidumping duties shall be less than the margin of dumping (lesser duty)?

The *Antidumping* duties must be lesser than the margin of *dumping* whenever an inferior amount to such margin is enough to eliminate the injury to the domestic industry caused by the dumped importation under introductory paragraph of art. 78 of Decree n 8,058, of 2013.

This provision is known as “*lesser duty rule*”, and consists of disposal OMC *Plus*, that is, additional commitment to the assumed ones in the scope of the OMC, in view of that, if on the other hand art. 9.1 of the Antidumping Agreement only recommends that to the Antidumping duty either inferior to the margin in case that it is adjusted to eliminate the injury to domestic industry¹¹, Decree n 8,058, of 2013, determines the application of the duty minor in all the cases and enumerates the situations where the cited rule will not be applied.

In this direction, to if applying the remedy of commercial defense in a lesser dose for the cooperating companies, the Brazilian Government stimulates the cooperation of the exporters investigated in the processes of *dumping*, applies to the end of the investigation a measure that has the purpose to so only reestablish the commerce conditions just (it exempts of found the harmful effect of *dumping*), keeps the Brazilian market displayed to the competition the International and mitigates concerns on eventual rises of prices on the part of the domestic industry Brazilian.

Is excepted that the Antidumping duty to be applied will necessarily correspond to the margin of *dumping* for the producers or exporters whose margin of *dumping* was refined on the basis of the best available information. That is, for those interested people that had not collaborated with the investigation, or that they had not presented adequately its information and documents, it is not possible to carry through the calculation of the lesser duty, under art. 78, paragraph 3, I, of Decree n 8,058, of 2013.

¹¹ Anti-dumping Agreement, Art. 9.1 *The decision to whether or not you impose an anti-dumping duty in you marry where all requirements will be the imposition have been fulfilled, and the decision to whether the amount of the anti-dumping duty you be imposed shall be the full margin of dumping or less, ploughs decisions you 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 to lesser duty would be adequate you removes the injury you the domestic industry.*

74. When will the Antidumping duties necessarily correspond to the margin of dumping?

The Antidumping duty will have necessarily to correspond to the margin of *dumping* in the cases listed in items I to III of paragraph 3 of art. 78 of Decree n 8,058, of 2013, which is reproduced below:

I – producers or exporters whose margin of *dumping* was refined on the basis of the best available information or whose Antidumping duty will be applied under art. 80 of Decree No. 8,058, of 2013) (see question 73 and 173);

II - relative positive redeterminations to item II of *the introductory paragraph* of art. 155 of Decree n 8,058, of 2013, and

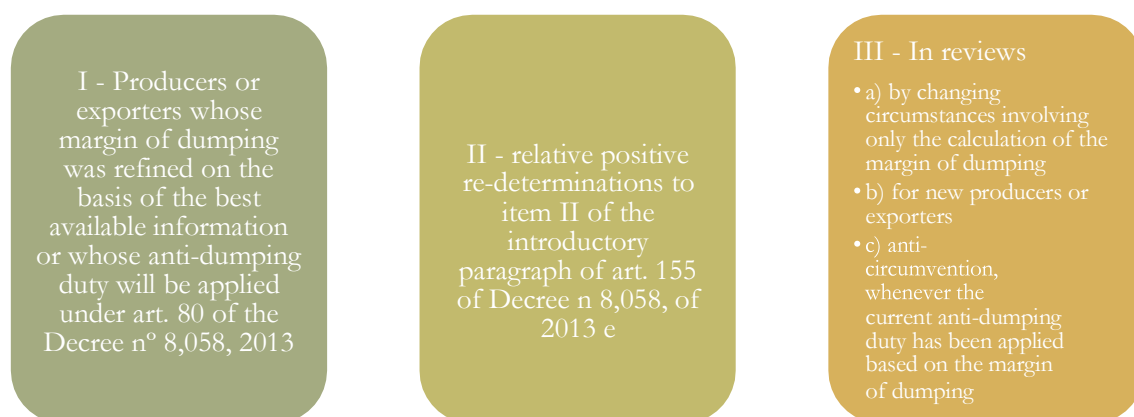
III - revisions:

a) for alteration of the circumstances that, supported in Sub-section I, of Section II, Chapter VIII of Decree n 8,058, of 2013, involves only the calculation of the margin of *dumping*;

b) for new producers or exporters, to the support of Sub-section I, Section III, Chapter VIII of Decree n 8,058, of 2013;

c) anti-circumvention, to the support of Sub-section II, Section III, Chapter VIII of Decree n 8,058, of 2013, whenever the Antidumping duty in force has been applied on the basis of the margin of *dumping*.

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



Source: Ministry of Economy/SDCOM

75. How the Antidumping duties recommended by SDCOM are calculated?

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

For the purpose of final determination, an individual *margin of dumping* is calculated for each of the producers or exporters who responded in a timely manner to the questionnaire, based on the respective primary data provided by the company itself and verified *in loco* by SDCOM (see questions 29,32 and 156).

The following is an example of calculating the absolute and relative margins of *dumping* based on the normal value and the export price:

Figure 35: Margin of dumping

(A)	(B)	(A-B)	(A-B)/B
Normal Value US\$/t	Export Price US\$/t	Absolute Margin of Dumping US\$/t	Relative Margin of Dumping (%)
1,500.00	1,200.00	300.00	25.0%

Source: Ministry of Economy/SDCOM

On the other hand, as explained in the answer to the question 73, the Antidumping duties may be lesser than the margin of dumping whenever an inferior sum to such margin is enough to eliminate the injury to the domestic industry caused by the dumped importation, under introductory paragraph of art. 78 of Decree n 8,058, of 2013. In this way, the application of an excessive Antidumping duty is avoided.

The criteria to be adopted for the determination of the *Antidumping duty* vary depending on the number of producers/exporters that were individually investigated. Usually, producers/exporters who answered questionnaires and were analyzed individually are aggregated into a single group for the purpose of applying the Antidumping law, known as Group I, producers/exporters known but not analyzed individually are aggregated in what is called Group II, while the other producers/exporters are aggregated into a third group (Group III).

It should be noted that the lowest duty must be applied only to the first group of producers or exporters (see item “i” below), with this not being mandatory 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 *margin of dumping* has been defined for each of the selected producers or exporters based on the respective responses to the questionnaires, it is verified whether the *margin of dumping* found was lower than the undercutting¹² observed in the company's exports to Brazil, in the investigation period of *dumping*.

If so, it is recommended to apply individual Antidumping duty 0659 in the same amount as the margin of dumping calculated for the selected producer or exporter. On the other hand, if the undercutting is lower than the calculated *margin of dumping*, the application of the *Antidumping* duty is recommended, based on the undercutting observed in the company's exports to Brazil

i) Second group: unselected producers or exporters:

In the case of producers or exporters for whom exports of the product under investigation to Brazil were identified during the investigation period of *dumping* but who were not selected in view of the provisions of art. 28 of Decree No. 8,058, of 2013¹³, art. 80 of Decree No. 8.058, of 2013, determines that the respective *Antidumping* duties will be determined based on the weighted average of the *margins of dumping* calculated for the producers or exporters included in the selection made under art. 28.

It should be noted that this calculation does not take into account the individual margins of dumping calculated for the first group when these are non-existent (zero margin) or de minimis (less than 2%), as per paragraph 3 of the art. 80 of Decree No. 1719 or 1728 8,058, of 2013.

It should also be noted that this hypothesis will only occur in investigations for which a selection of producers or exporters was carried out; 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 IRS's import data during the

¹² The undercutting for the purpose of determining the anti-dumping duty is calculated based on the comparison between the CIF price of export operations, internally in the Brazilian market, and the average selling price of the domestic industry in the Brazilian internal market, adjusted to reflect the price of the domestic industry in a scenario of no injury to its profitability as a result of imports at dumped prices. Note that the undercutting dealt with in this topic is not to be confused with that defined in item I of paragraph 2 of art. 30 of Decree No. 8058, of 2013, for injury analysis purposes.

¹³ Determination that the analysis of individual cases would result in an unreasonable burden for the investigating authority or in an impediment to the completion of the investigation within the deadlines established in Decree No. 8058, of 2013.

investigation period of dumping, the Antidumping duty is based on the best information available in the case records, under paragraph 4 o , art . 80 of Decree No. 8,058, of 2013.

The same applies to selected producers or exporters who, in the course of the investigation, have denied access to the necessary information, have not provided it in a timely manner or have created obstacles to the investigation, in view of the provisions of the paragraph 3 or of art. 51 of Decree No. 8,058, of 2013.

Figure 36: Criteria to be adopted for the assessment of the Antidumping duty

First Group	Second Group	Third Group
<ul style="list-style-type: none"> • Selected producers or exporters. • Individual margins of dumping calculated on the basis of the responses to the questionnaires. • Comparison between individual margin of dumping and undercutting in exports of the producer or exporter to Brazil. • Margin of dumping less than undercutting: anti-dumping duty equal to the margin. • Undercutting below the margin of dumping: anti-dumping duty based on undercutting. • Lesser duty 	<ul style="list-style-type: none"> • Selected producers or exporters. • Anti-dumping duties calculated based on the weighted average of margins of dumping calculated for selected producers or exporters (first group). • Zero margins of dumping or <i>de minimis</i> disregarded in the calculation. • This group only exists in investigations in which producers or exporters were selected. 	<ul style="list-style-type: none"> • Unidentified producers or exporters in the <i>dumping investigation period</i> import data. • Selected producers or exporters not cooperating with the investigation. • Anti-dumping duty based on best available information.

Source: Ministry of Economy/SDCOM

76. How is the smallest entitlement calculated?

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Under art. 78 of Decree No. 8,058, of 2013, law *Antidumping* means an amount in cash equal to or less than the *dumping* calculated. Under paragraphs 1 and 2 of the said article, the Antidumping duty to be applied shall be lower than the margin of dumping whenever an amount less than that margin is sufficient to eliminate the injury to the domestic industry caused by imports subject to *dumping*, not exceeding the margin of *dumping* found in the investigation. In this way, the application of an excessive Antidumping duty is avoided.

This amount is calculated in two steps: (1) calculation of the undercutting observed in the company's exports to Brazil during the investigation period of *dumping* and (2) comparison between the undercutting and the *margin of dumping* calculated for the said company. It should be noted that the undercutting dealt with in this topic is not to be confused with that defined in item I of paragraph 2 or of art. 30 of Decree No. 8,058, of 2013, used for injury analysis purposes. For injury purposes, the undercutting is analyzed for the set of investigated imports, while for the purposes of lesser duty, the undercutting is calculated individually for each producer/exporter in the first group.

This undercutting is calculated based on the comparison between the average sales price of the domestic industry in the Brazilian domestic market and the CIF price of the export operations of the individually investigated foreign producers or exporters in the Brazilian market. The comparison will take into account, whenever possible, the category of customer and the product model.

Where necessary, the domestic industry sales price used in the calculation of this undercutting should be adjusted to reflect a scenario of no harm from imports at *dumping* (non-harm price) prices. To calculate the CIF price of export operations, the values related to II, AFRMM and hospitalization expenses will be added to the export price on a CIF basis.

Figure 37: Margin of Dumping

(A)	(B)	(A-B)
Normal Value US\$/t	Export Price US\$/t	Margin of <i>Dumping</i> Absolute US\$/t
1.500,00	1.200,00	300,00

Source: Ministry of Economy/SDCOM

Figure 38: Lesser Duty

(C)	(D)	(E)	(D-E)
Price of Domestic industry of injury US\$/t	Price of Domestic industry injury US\$/t	CIF price internalized in Brazil US\$/t	<i>Lesser duty</i> US\$/t
1.600,00	1.700,00	1.500,00	200,00

Source: Ministry of Economy/SDCOM

If the undercutting (see figure above, with the example of US\$ 200.00/t) is lower than the margin of *dumping* individual (see figure above, with the example of US\$ 300.00/t), it is considered that, for this producer/exporter, this lower amount is sufficient to neutralize the injury and, consequently, its definitive Antidumping duty will be determined based on the undercutting, resulting in a *lesser duty* (see figure above, with the example of \$200.00/t).

For cases where the undercutting is greater than the individual *margin of dumping*, the amount of the *Antidumping duty* will be based on the *margin of dumping* found for this producer/exporter.

77. What can happen to the definitive Antidumping duties in as a result of an sunset review?

It is known that, based on art. 107 of Decree No. 8058, of 2013, in an sunset review, the authority must assess the likelihood of continuation or recovery of *dumping* and injury. In this context, the fact that the sunset review deals with an analysis of the probability of continuation or recovery of *dumping* impacts what may occur with the definitive Antidumping duties.

As explained in question 36 when it comes to assessing the probability of continuation of *dumping* in a sunset review, there is, by SDCOM's practice, the determination of a new *margin of dumping*, even though this is not an obligation arising from the Antidumping Agreement. Thus, the duty may be determined based on the 0659 margin of dumping calculated for the review period, if evidenced that said margin adequately reflects the behavior of producers or exporters during the entire review period, under paragraph 1 of this art. 107. In this situation, the amount of duty may not exceed the *margin of dumping* calculated for the review period (see question 72), and the new duty may be in an amount less than, greater than or equal to the duty current. It should be noted that the fact that the authority has calculated the *margin of dumping* during the review will not necessarily cause any recommended Antidumping *duty* to have the calculated margin as a parameter, since one is not confused with the other.

Please note that extended definitive *Antidumping duties* may be left unchanged, for example, if the *margin of dumping* calculated for the review period does not reflect the behavior of producers or exporters during the entire period of revision (paragraph 2^o of art. 107 of Decree No. 8,058, of 2013). The analysis of the behavior of producers or exporters referred to in paragraph 1^o and 2^o of art. 107 will be carried out in each concrete case, in light of the evidence available to the investigating authority, guaranteeing the duty to an adversary proceeding and to the full defense of the interested parties throughout the entire procedural instruction.

In turn, in an sunset review that analyzes the probability of recovery of *dumping*, when there are no exports from the country to which the *Antidumping measure* or applies, there were only exports in unrepresentative quantities during the period of revision, according to paragraph 3 of art. 107, the probability of recovery of *dumping* will be determined based on the comparison between the average normal value internalized in the Brazilian market and:

- i) the average selling price of the similar domestic product in the Brazilian market, calculated

for 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.

In this context, since the internalized average 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 it would be very likely that the extinction of the duty would lead to the recovery of dumping. If there is such a positive determination, SDCOM will recommend, under the terms of paragraph 4 of art. 107, that the duty under review be extended in an amount equal to or less than the duty in force, with no possibility of increasing the duty.

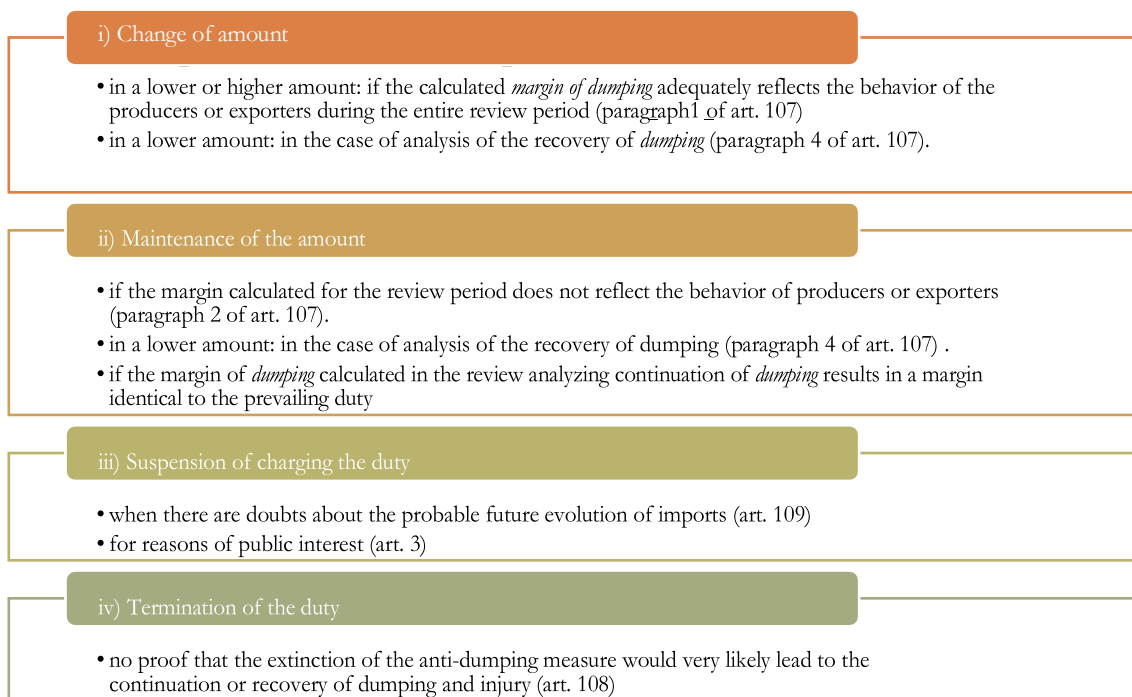
Finally, it should be noted that in an sunset review, the assessment of the existence of a *de minimis* margin of dumping is not mandatory, in accordance with WTO jurisprudence. In this regard, all relevant factors regarding the likelihood of continuation or recovery of dumping and injury will be taken into account by SDCOM in its recommendation on whether or not to extend Antidumping duties.

In any case of continuation or recovery of *dumping*, the extended definitive *Antidumping* duties may be suspended on the basis of art. 109 of Decree No. 8,058, of 2013, in situations where there are doubts about the likely future evolution of imports of the product subject to Antidumping law. 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 recovery of injury. Suspension for reasons of public interest is also possible (art. 3º of Decree No. 8.058, of 2013), whose detailed information can be obtained in the Consolidated Guidelines of Public Interest in Commercial Defense.¹⁴

In short, in an sunset review entitlements can be (i) extended or extinct. If extended, they can be (i.1) amended (paragraphs 1º and 4º of art. 107 of Decree No. 8.058, of 2013 and/or art. 3º of the Decree nº 8.058, of 2013)-or (i.2) maintained (paragraphs 2 and 4 of art. 107 of Decree nº 8.058, of 2013). It should be noted that, in the event of an extension of the Antidumping duty, their collection may be suspended, both under the terms of art. 109 of Decree No. 8,058, of 2013, and for the public interest (art. 3 of Decree No. 8,058, of 2013):

¹⁴ <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/guias>.

Figure 39: Possible recommendations on the extension or not of the *Antidumping* duty in end of period revisions



Source: Ministry of Economy/SDCOM

78. Are current price commitments automatically extended to the end of a period-end review closed with positive determination?

No Even if the extension of the definitive *Antidumping* duty applied to a product in relation to which there is an effective price commitment is requested, the revision of the commitment and its consequent extension are not automatic. For this reason, all procedures for offering price commitments must be carried out again as part of a sunset review. The procedures can be found in questions 178 to 181.

79. What happens if the foreign producer or exporter violates the price commitment?

The producer or exporter subject to a price undertaking must periodically provide, if requested, information regarding its fulfillment and allow on spot verification of the pertinent data, otherwise the terms of the undertaking will be considered violated. If there is evidence of violation of the terms of the price commitment, the producer or exporter will be given an opportunity to express themselves.

If a breach of the price commitment is found, as established by art. 71 of Decree No. 8,058, of 2013, SDCOM will notify the said producer or exporter and Gecex will publish an

act with information regarding the recovery of the investigation and the immediate application of provisional duties or on the application of definitive duties. Interested parties will be notified of the termination of the undertaking and of the *Antidumping* provisional or definitive duties applied.

PART II. FORMAL ASPECTS AND PROCEDURAL TERMS IN ANTIDUMPING INVESTIGATIONS

PART II.1. DOCUMENTATION IN ANTIDUMPING INVESTIGATIONS

80. What legislation governs the formal aspects and procedural terms of the Antidumping investigation ?

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Decree No. 8-058, of 2013, is the main document that regulates the administrative procedures related to the investigation and application of Antidumping measures.

The normative acts presented below also regulate the procedural acts and terms of the investigations *Antidumping*. Please note that the list below is not exhaustive:

- SECEX Ordinance No. 41, of 2013 (preparation of petitions related to original investigations *Antidumping*);
- SECEX Ordinance-No. 44, of 2013 (sunset reviews of the Antidumping measures);
- SECEX Ordinance No. 30, of 2018 (regulates the electronic administrative procedure relating to commercial defense processes - DECOM Digital System);
- Law No. 12.995, of June 18, 2014, which, in articles 17, 18 and 19, provides for the use of electronic means, the incorporation of documents prepared in a foreign language in the records and the counting of deadlines in the trade remedies investigations;
- Decree No. 9,107, of July 26, 2017, which provides for the deadlines and requirements applicable to fragmented industries in the scope of commercial defense investigations;
- The information necessary for the authorization of national production of a given product as a fragmented industry can be found in SECEX Ordinance No. 41, of 2018.
- SECEX Ordinance No. 21, of March 30, 2020, which provides for notifications and communications to interested parties in the context of commercial defense proceedings provided for in Decrees No. 8058, of July 26, 2013, No. 1751, of December 19, 1995, and n° 1488, of May 11, 1995, and in the commercial agreements in force in Brazil.
- Normative Instruction No. 1, of August 17, 2020, which provides for the necessary adaptations to the procedures of commercial defense investigations and public interest assessments conducted by the Undersecretary of

Commercial 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/produktividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/legislacao-roteiros-e-questionarios>

81. What are the main documents produced by SDCOM in an Antidumping investigation?

The original Antidumping investigation in Brazil has 4 (four) main documental milestones, from SDCOM's perspective, namely: (i) opinion of initiation; (ii) preliminary determination opinion; (iii) technical note of essential facts; and (iv) final determination opinion.

The opinions serve as motivation for the publication of SECEX Circulars and Gecex Resolutions, which will contain, in their attachments, 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 the referred investigation after the publication of the corresponding SECEX Circular or Gecex Resolution, pursuant to article 191 of Decree no. 8,058, of 2013.

Regarding preliminary determination opinions, it should be noted that their preparation, although mandatory in original antidumping investigations, is optional in sunset reviews. It should also be noted that an opinion of preliminary determination may result not only in the publication of a SECEX Circular of preliminary determination, but also in the publication of a Gecex Resolution, if a decision is made to apply a provisional Antidumping duty. It should be noted that, even in cases of recommendation for application of provisional duty, the opinion of preliminary determination will be attached to the case record soon after the publication of the corresponding SECEX Circular, since there is no deadline for the authorities to decide whether or not to apply a provisional duty.

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

The acts published in the Federal Official Gazette (DOU) resulting from the decisions of SECEX and Gecex will be available on SDCOM's electronic page 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/produktividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes/investigacoes-de-defesa-comercial>. In addition, a list of acts on commercial defense and public interest published in the DOU can be accessed at: <https://www.gov.br/produktividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/publicacoes-da-sdcom-no-diario-oficial-da-uniao>

Figure 40: What are the main documents produced by SDCOM in a Antidumping investigation ?

Document	Description	Legal basis (Decree No. 8.058, of 2013)
Starting Opinion	<p>Document prepared by SDCOM which contains analysis of the existence of evidence of <i>dumping</i>, injury to the domestic industry and a causal link between them at a sufficient level to initiate an administrative investigation procedure <i>Antidumping</i> regarding exports of a certain product to Brazil from specific countries.</p> <p>In the case of sunset review*, the opening opinion assesses whether there is sufficient evidence that the termination of a given definitive <i>Antidumping</i> measure would most likely lead to the continuation or recovery of <i>dumping</i> and the resulting injury.</p> <p>The initial opinion will serve as the basis for the rejection of a petition or for the publication of a SECEX Circular to initiate the investigation in the DOU.</p> <p>The confidential version of the initial opinion will be attached to the confidential records of the process and will only be available to SDCOM and the decision-making authorities of the commercial defense processes (SECEX and Gecex).</p> <p>The restricted version of the initial opinion will be made available to interested parties in the restricted file of the process.</p> <p>The public version will be published in the DOU, attached to the SECEX Circular of initiation of the investigation or review.</p>	Article 45

<p>Preliminary determination opinion</p>	<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 regarding the existence of <i>dumping</i>, injury and the causal link between both.</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 in the investigation period of <i>dumping</i>.</p> <p>In the preparation of the opinion, the evidence that has been presented, as a rule, in the first 60 (sixty) days from the beginning of the investigation will be taken into account (paragraph7º of art. 65 of Decree no.º 8,058, of 2013).</p> <p>The elements of proof presented after the first 60 (sixty) days may be used in the preparation of the document if its analysis does not prejudice the fulfillment of the deadline for the preparation of the preliminary determination (paragraph8º of art. 65 of Decree No.º 8,058, of 2013).</p> <p>There is no provision for the preparation of a preliminary determination opinion in sunset reviews, the document being mandatory only in investigations <i>Antidumping</i> originals.</p> <p>The preliminary determination opinion will serve as the 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 (paragraph5º of art. 65 of Decree No.8,058, of 2013).</p> <p>If the preliminary determination opinion recommends the application of provisional Antidumping law , said opinion may also serve as a basis for the publication of the Gecex Resolution applying the provisional law (art. 66 of Decree No. 8.058, of 2013) .</p> <p>If the aforementioned opinion has a negative preliminary determination in relation to injury to the domestic industry, the original investigation <i>Antidumping</i> may be closed, in which case the SECEX Circular of preliminary determination will serve as an act to close the investigation without the application of definitive Antidumping measures .</p> <p>The confidential version of the initial opinion will be attached to the confidential records of the process and will only be available to SDCOM and the decision-making authorities of the commercial defense processes (SECEX and Gecex).</p> <p>The restricted version of the initial opinion will be made available to interested parties in the restricted file of the process.</p> <p>The public version will be published in the DOU, attached to the SECEX Circular for preliminary determination.</p>	<p>Article 65</p>
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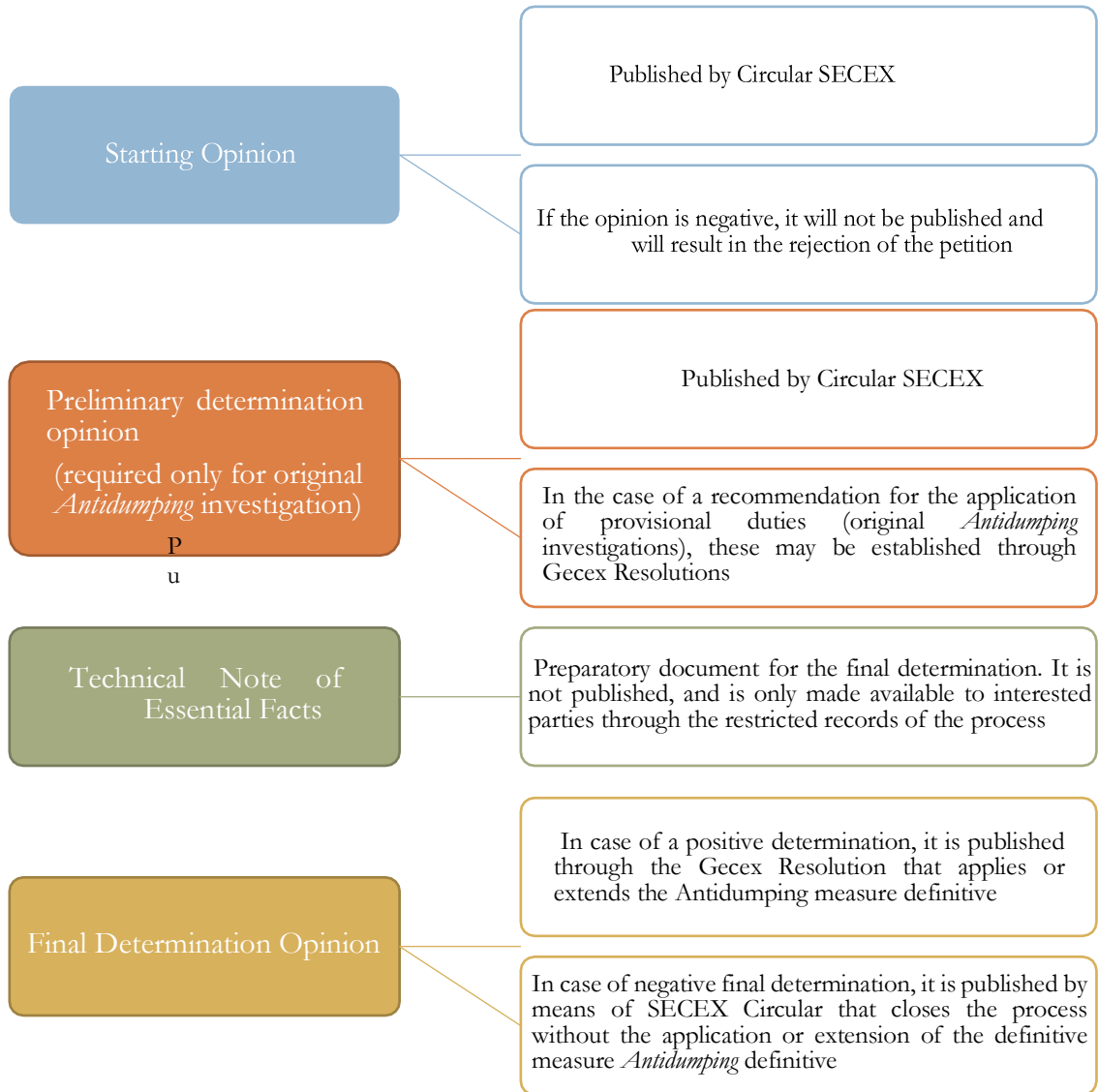
	<p>Specifically in the case of sunset review, Decree No. 8,058, of 2013, does not provide for the obligation for SDCOM to prepare a preliminary determination.</p> <p>Despite this, SDCOM may prepare such a document in case, for example, the parties express, in a timely manner, and provided that upon justified justification, their intention to offer price commitments under art. 67 of Decree No. 8,058, of 2013. It is important to highlight that SDCOM is not necessarily bound by price commitment proposals submitted by interested parties, nor is it obligated to issue preliminary determinations with the sole purpose of allowing the submission of such proposals. In this sense, Under the legislation, SDCOM may deny proposals considered ineffective or impracticable, under paragraph10 of art. 67 of Decree No. 8.058, of 2013, or for other reasons of general policy, in accordance with Article 8.3 of the Antidumping Agreement, which was internalized in Brazilian legislation, upon approval via Legislative Decree No. 30, of December 15, 1994, and enacted by Decree No. 1355, of December 30, 1994, having, therefore, the status of law in Brazil. It is noteworthy that proposals may be considered impracticable, among other reasons, if the financial burden is deemed excessive (due to the waiver of charging the duty, for example) or the operational burden of preparing preliminary determinations, negotiating compromise proposals is deemed excessive and subsequently monitor the fulfillment of any price commitment by the signatory exporters, which involves, in addition to the obligation to practice the minimum price, any other ancillary obligations that the authority deems necessary to neutralize the injury to the domestic industry.</p> <p>Since the definitive <i>Antidumping</i> measures remain in effect during the course of the sunset review, any preliminary ruling opinion to be prepared in the scope of this proceeding will not contain a recommendation on the application of provisional duties.</p>	
<p>Technical Note of Essential Facts</p>	<p>Document prepared by SDCOM after the end of the evidentiary phase and the deadline for the manifestation of interested parties on the elements of evidence contained in the records, so that no new elements of evidence can be brought in 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 <i>dumping</i>, injury to the domestic industry and the causal link between them or probability of continuation or recovery of <i>dumping</i> and injury resulting from it, also making clear which elements of evidence will be disregarded for the purposes of final determination.</p> <p>It is, therefore, a preliminary and preparatory document for the final determination opinion, 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>Article 61</p>

	<p>The confidential version of the initial opinion will be attached to the confidential records of the process and will only be available to SDCOM and the decision-making authorities of the commercial defense processes (SECEX and Gecex).</p> <p>The restricted version of its content is made available in the restricted files of the process, only to interested parties.</p>	
<p>Final Determination Opinion</p>	<p>Document prepared by SDCOM that brings the Sub-Secretariat's final determination regarding the existence of <i>dumping</i>, injury to the domestic industry and the causal link between them or the likelihood of continuation or recovery of <i>dumping</i> and the resulting injury.</p> <p>If there is a recommendation, by the investigating authority, to apply a definitive <i>Antidumping</i> measure or to extend the definitive <i>Antidumping</i> measure in force, this opinion will serve as the basis for the publication of the Gecex Resolution, which will represent the act of closure of 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 the basis for the publication of a SECEX Circular, which will represent the act of closure of the investigation.</p> <p>The confidential version of the initial opinion will be attached to the confidential records of the process and will only be available to SDCOM and the decision-making authorities of the commercial defense processes (SECEX and Gecex).</p> <p>The restricted version of the opinion of determination final will be made available to interested parties in the restricted records of the process.</p> <p>The public version will be published in the DOU, attached to the SECEX Circular for preliminary determination.</p>	<p>Article 63</p>

Source: Ministry of Economy/SDCOM

*According to art. 94 of Decree No. 8,058, of 2013, the sunset reviews shall comply, as appropriate, with the provisions of Chapters I, II, III, X to XIV and the principles, deadlines and procedures established in Chapter V of the Decree n° 8,058, of 2013.

Figure 41: Main documents produced by the SDCOM



Source: Ministry of Economy/SDCOM

In addition to these opinions and notes, it is important to highlight that SDCOM also prepares documents related to public interest assessments (art. 3º of Decree No. 8.058, of 2013), whose detailed information can be found in the Guidelines Consolidated Public Interest in Commercial Defense¹⁵, as well as other documents of a more procedural nature, such as the SECEX Circulars on deadlines, which are published in the case of sunset reviews that have no preliminary determination.

¹⁵ [https:// www.gov.br/produktividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/guias](https://www.gov.br/produktividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/guias).

82. What are the levels of confidentiality applicable to documents and information of an Antidumping investigation?

In the *Antidumping* 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: information with restricted access to interested parties and their legal representatives duly authorized in the DECOM Digital System (SDD);
- (3) Confidential: information thus identified by the interested parties who provided it, provided that the confidentiality request is duly justified. This information is used only by SDCOM and may not be disclosed without the express permission of the party that provided it. It should be noted that confidential opinions and technical notes prepared by SDCOM may also be made available to decision-making authorities acting in trade remedies processes (SECEX and Gecex), according to art. 191 of Decree No. 8,058, of 2013. -

Figure 42: Levels of confidentiality

Public	Restricted	Confidential
<ul style="list-style-type: none"> • Information in the public domain, published in the Official Gazette of the Union and on the SDCOM website. • Anyone can consult this public information. 	<ul style="list-style-type: none"> • Access information restricted to the interested parties of the process in question. • Only interested parties and their duly authorized legal representatives can access the restricted files of the process. 	<ul style="list-style-type: none"> • Sensitive information provided by the parties, either because of its very nature or because of the justification provided by the submitting party. • Only SDCOM has access to the confidential records of the process. • Confidential opinions and technical notes prepared by SDCOM are also made available to decision-making authorities (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 documents of a public nature, which are then published in the DOU and/or available on the SDCOM website.

83. How should confidential and restricted documents be presented and who is responsible for their correct classification?

Under the terms of paragraph 5 of art. 41 and paragraph 7 of art. 51 of Decree n. 8,058, of 2013, documents must be presented 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 can only be provided on a restricted basis.

The classification of documents as "Restricted" or "Confidential" must occur at the time of their filing in the SDD, under item IV of art. 7^{or} of SECEX Ordinance No. 30, of 2018. It is, therefore, the responsibility of the interested party to correctly classify these documents in the system, which will prevail in the event of an inconsistency between this classification and the content of the document sent, Under paragraph 1^{or} of art. 7^{or} of the aforementioned SECEX Ordinance.

With regard to the formatting of documents, it is worth noting that under the paragraphs 10 and 11 of art. 51 of Decree No. 8.058, of 2013, the indication of confidentiality must appear on all pages of the filed document, centered at the top and foot of each page, in red, and the pages must be sequentially numbered and contain an indication on the total number of pages that make up the document.

Note that paragraph 6^{or} of art. 41 of the aforementioned decree determines which documents filed without indication "confidential" or "restricted" will be treated as public.

84. What are the requirements for submitting information on a confidential basis?

Under paragraphs 1 and 2 of art. 51 of Decree No. 8.058, of 2013, for information to be considered confidential, by its very nature or for any other reason presented by the party that provided it, it is necessary that the interested party that submitted it:

- I – has identified it as such (see question 83);
- II – has presented adequate justification for considering the information as confidential (see question 82); and
- III – has presented a restricted summary with details that allow understanding the information provided (see questions 86 and 87).

Whenever a party classifies a document or parts of a document as "confidential", it must file a justification of confidentiality and summary of the information in the restricted records, under penalty of the document being disregarded or treated as public, under paragraph 6^{or} of art. 41 of the aforementioned decree.

When it is not possible to present the restricted abstract, as provided in the paragraph³ of art. 51 of Decree n. 8.058, of 2013, the interested party must provide justification for such circumstance, under penalty of disregarding the confidential information.

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 a confidential basis, under paragraph⁴ of art. 51 of the aforementioned decree.

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

Furthermore, under paragraph 8 of art. 51 of Decree n. 8,058, of 2013, at the discretion of SDCOM, documents, data and information presented on a confidential basis will not be considered when the confidential treatment may result in curtailing the duties of defense and contradictory of other interested parties.

It is worth emphasizing that all these requirements are intended to ensure greater transparency in investigations *Antidumping*, as well as to ensure the duties of all interested parties to the adversary system and full defense, without prejudice to those who submitted confidential information.

85. What information, data and documents may not be treated as confidential in an investigation Antidumping?

Those identified by interested parties will be treated as confidential information, provided that their request is duly justified. However, under paragraph⁵ of art. 51 of Decree No. 8,058, of 2013, will not be considered adequate justifications of confidentiality for documents, data and information, among others, when they have a notorious public nature in Brazil, or are in the public domain, in Brazil or abroad, or are related 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 with a public notary or at a commercial board, in Brazil or abroad; and

V – the equity, financial and business statements of a publicly-held company; company equivalent 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 under corporate law or the securities market.

86. What should the restricted summary presented by interested parties contain?

Under the terms of paragraph 2 of art. 51 of Decree n. 8,058, of 2013, interested parties who provide confidential information must submit restricted summaries with details that allow for the understanding of the information provided, otherwise the confidential information will be disregarded.

The restricted summary relating to confidential numerical information must 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 is always equivalent to 100 (see question 87).

When such a summary is not possible, the interested party must provide a justification, under penalty of disregarding the confidential information.

87. How to transform 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: Importation for period

Period	Imports
P1	17.018
P2	16.686
P3	16.015
P4	16.282
P5	16.641

Source: Ministry of Economy/SDCOM

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

Figure 44: Identification of the value of reference

Period	Imports	Reference value	Index numbers
P1	17.018	17.018	100
P2	16.686		
P3	16.015		
P4	16.282		
P5	16.641		

Source: Ministry of Economy/SDCOM

2 – Multiply the other values by 100 and divide by the reference value, performing simple “rule of three”.

Figure 45: Calculation of the number-index

Period	imports (t)	Reference value	Numbers Table of Contents	Variation
P1	17.018	17.018	100	
P2	16.686	$(16.686 \times 100)/17.018$	98	2% smaller than in P1
P3	16.015	$(16.015 \times 100)/17.018$	94	6% smaller than in P1
P4	16.282	$(16.272 \times 100)/17.018$	96	4% smaller than in P1
P5	16.641	$(16.641 \times 100)/17.018$	98	2% smaller than in P1

Source: Ministry of Economy/SDCOM

1 When interpreting tables on index numbers, when the index number is greater than 100, the observed value for that item in the series is greater than the reference value. In turn, when the index number is less than 100, the observed value is lower than the reference.

88. In which language is the investigation conducted Antidumping?

Antidumping *investigations* are conducted by SDCOM in Portuguese. However, submission of documents originally prepared in the official languages of the WTO, namely

English, French or Spanish, under art. 18 of Law No. 1659 or 1668 12.995, of June 18, 2014.

89. 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 done by a public translator in Brazil, in accordance with art. 18 of Decree No. 1669 or 1678 13.609, of October 21, 1943.

Under art. 18 of Law n^or 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 made by the official representation of the exporting origin in Brazil will be accepted, provided they are accompanied of official communication attesting the authorship of the translation.

PART II.4. PARTIES INVOLVED IN THE INVESTIGATIONS ANTIDUMPING

90. Who are the interested parties in investigations Antidumping?

According to paragraph 2 or of art. 45 of Decree n.

I – the domestic producers of the similar product and the class entity that represents them;

II – Brazilian importers who imported the product under investigation during the period of investigation of *dumping* and the professional association representing them;

III – Brazilian importers who imported the product under investigation during the period of investigation of dumping and the professional association representing them;

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

V – other domestic or foreign parties affected by the investigated practice, at SDCOM's discretion.

It should be noted that, Under paragraph 3 or of art. 45 of Decree No. 8,058, of 2013, a period of 20 (twenty) days will be granted, counting from the date of publication of the SECEX Circular of initiation of the investigation or review, for other interested parties to present their requests and their respective legal representatives. Such requests must be submitted via SDD, within the scope of the corresponding investigation process *Antidumping*.

The identification of interested parties in sunset reviews shall comply, as appropriate, with the provisions of paragraph 2^or of art. 45 of Decree No. 8,058, of 2013, being possible the inclusion of other national or foreign parties affected by the investigated practice, at

SDCOM's discretion, such as producers/exporters for whom the duty has been determined individual at the time of the original investigation, even if they have not exported the product object of the measure in the review period.

91. How do you know if SDCOM has identified a particular company as a interested party in an Antidumping investigation?

When a company is identified as an interested party in an Antidumping investigation, SDCOM sends a notification to that company indicating that it has been deemed an interested party under paragraph 2^o of Art. 45 of Decree No. 8.058, of 2013 and who may participate in the investigation if he so wishes.

It should be noted that, 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 government representation of the exporting country in Brazil. The foreign government will have the deadline established in this notification of initiation (usually 15 (fifteen) days) to list other producers of the product under investigation not identified by SDCOM and, eventually, inform unknown address of the producers listed in the letter.

It should be noted that, although participation in investigations *Antidumping* is not mandatory, such participation can guarantee a better result for the interested party than 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 with a view to ensuring that investigations *Antidumping* are always supplied with as much evidence as possible, SDCOM encourages the participation of all interested parties in the proceedings.

92. Are there any peculiarities in the representation of national stakeholders?

The participation of national interested parties in the course of investigations *Antidumping* will be done through a qualified representative, under paragraph 2^o of art. 2^o of SECEX Ordinance No.º 30, of 2018.

In the case of legal entities, representation will, as a rule:

- Through its presidents, directors, administrators or any other employee, according to the powers established to them in the articles of incorporation (articles of incorporation or bylaws and its amendments) and, when applicable,

in the minutes of the meeting and term of investiture; or

- By means of an agent appointed by means of a public or private mandate, instruments that exclusively confer powers ad judicia are not accepted.

In the event of granting a mandate by private instrument, this must be accompanied by the constitutive acts of the interested party, and the minutes of the meeting and term of investiture, when applicable, granting the representative the power to appoint a proxy. Signature recognition may be required when there is doubt as to the authenticity of the particular power of attorney.

Power of attorney granted in disagreement with the above Guidelines or with the conditions established in the constitution of a legal entity and, when applicable, in the minutes of the meeting, may be considered invalid and the acts that have been performed under these instruments may be considered non-existent.

Under art. 4, paragraph 1 and 2 of SECEX Ordinance No. 30, of June 7, 2019, all procedural acts must be digitally signed using a digital certificate issued within the scope of the Brazilian Public Key Infrastructure (ICP-Brasil).

93. Are there any peculiarities in the representation of national stakeholders?

As a rule, representation of foreign stakeholders (except governments) will be carried out in the terms mentioned for representation of national stakeholders (question 92), in accordance with paragraph 2^o of art. 2^o of SECEX Ordinance No. 30, of 2018.

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

It should be noted that, if the translation of the power of attorney in the aforementioned cases is necessary, it must be done directly from the original language in which the power of attorney was signed into Portuguese. Furthermore, it should be emphasized that the provisions of art. 18 of Law n^o 12.995, of 2014, also applies to power of attorney (see question 89).

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

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

Under Decree No. 1679 or 1688 56.435, of June 8, 1965, and Decree No.-1699 or 1708 61,078, of July 26, 1967, the representation of foreign governments will take place through the head of the official representation in Brazil or through a representative designated by it. This designation must be filed with the SDD (questions 102 and 104) in an official communication of the corresponding representation, which must expressly include the commercial defense process to which the designation refers.

95. It is possible the intervention of representatives not qualified in the investigation Antidumping?

Under the terms of paragraph³ of art. 2° of SECEX Ordinance No.° 30, of 2018, the intervention in commercial defense processes of representatives of interested parties who are not duly qualified will only be allowed in the execution of the following acts:

I – submission of relevant documentation for qualification as a legal representative of the interested party;

II – request for an extension of the deadline for submitting responses to the questionnaires;

III – submission of responses to questionnaires and demonstrations about product models;

IV – request for authorization from other interested parties; and V – submission of a proposal for a third country with an alternative market economy.

It should be noted that, in these cases, the regularization of the qualification of the representative who performed the act must be done within the period to be established in the SECEX Circular of initiation of the investigation or corresponding review, normally 91 (ninety-one) days after the beginning of the investigation, with no-possibility of extension, according to paragraph⁴ of art. 2° of SECEX Ordinance No.° 30, of 2108. The lack of regularization of representation within the terms and conditions set forth will cause these acts to be considered non-existent.

It should be noted that representatives **not enabled** must file the documents through the SDD "Non-Enabled Parties" tab, similarly to step by step presented in question For more information on how to

submit documents by authorized representatives , see question .

96. How to validate powers of attorney and documents issued abroad (legalization and consularization of documents and Apostille Convention)?

The Convention on the Elimination of the Legalization Requirement of Foreign Public Documents (“Apostille Convention”) entered into force in Brazil, on August 14, 2016. Based on this Convention, foreign documents containing an Apostille issued by the competent authorities of the States Parties to the aforementioned Convention, without the need for consularization (legalization or consular seal), are now accepted in Brazil. It should be noted that, according to CNJ Ordinance No. 228, of 06/22/2016, 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, when applicable, the authenticity of the seal or stamp affixed to it”.

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

The simplification of the procedure, however, does not eliminate other requirements, such as the need for sworn translations that must accompany the instruments of mandate (see question 93).

The National Council of Justice (CNJ) maintains, on its website, an updated list of participating countries. This list can be consulted at the address

In turn, the list of authorities responsible for affixing the apostille in each country can be found at address.

It should be noted that the provisions of treaties, conventions or agreements to which Brazil is a party and which deal with the simplification or waiver of the diplomatic or consular legalization process of documents will prevail over the provisions of the Apostille Convention, whenever such formal requirements are less strict than those set out in the aforementioned Convention.

According to Decree No. 8.742, of May 4, 2016, and Law No. 6.015, of December 31, 1973, if the country where the document was produced is not a signatory of the Convention of the Apostille, the instruments of mandate in a foreign language must be (i) notarized, (ii)

legalized by the corresponding Brazilian consular or diplomatic representation and (iii) registered, when not in English, Spanish or French, accompanied by the respective translations for Portuguese, made by a public translator in Brazil, carried out after the document has been legalized. Notarization 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 for Legalization of Foreign Public Documents, promulgated by Decree No. 8660, of January 29, 2016), there will be no need for consularization /legalization. Thus, the instruments of mandate must be (i) notarized, (ii) receive the “Hague Apostille” and (iii) be filed, when not in English, Spanish or French, accompanied by the respective translations into Portuguese, made by a public translator in Brazil, made after the document has been posted. Notarization and affixing of apostille will be mandatory even in case the power of attorney is granted in Portuguese.

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

O SDD é um sistema de formação de autos digitais, cujos objetivos são conferir maior transparência aos processos de investigação de defesa comercial conduzidos pela SDCOM e reduzir os custos de participação nesses processos.

The SDD is a system for the formation of digital records, whose objectives are to provide greater transparency to the commercial defense investigation processes conducted by SDCOM and to reduce the costs of participating in these processes.

The SDD is available at [\[link\]](#),¹⁶ and information about its use can be obtained in the system manual¹⁷ and in the quick Guidelines to configuration and use of the SDD available at [\[link\]](#).

The participation of interested parties in the course of the investigation must necessarily take place through the SDD, documents physically filed or sent by e-mail will not be accepted, Under SECEX Ordinance No. 30, of 2018. The original *Antidumping* investigations and the end-of-measurement *Antidumping* investigations are therefore conducted exclusively through electronic administrative processes¹⁸ supported by Decree No.º 8.058, of 2013, and regulated by the Ordinance SECEX No. 30, of 2018.

The SDD allows the electronic submission of documents in the context of commercial defense processes, as well as the visualization of these documents at any time and from anywhere in the world. It should be noted that all procedural acts will be digitally signed using a digital certificate issued within the scope of ICP-Brasil,¹⁹ in order to maintain the integrity, authenticity, interoperability and, when necessary, the confidentiality of documents.

¹⁶ In the first access to the SDD, the user will carry out his registration, by filling out a specific form. Additional guidance regarding registration and use of the system can be obtained from the System Manual, available on the SDD homepage, and in the question ¹⁷

¹⁸ Admissibility of the use of electronic means in procedures related to Trade Defense investigations is provided for in art. 17 of Law No. 12.995, of 2014.

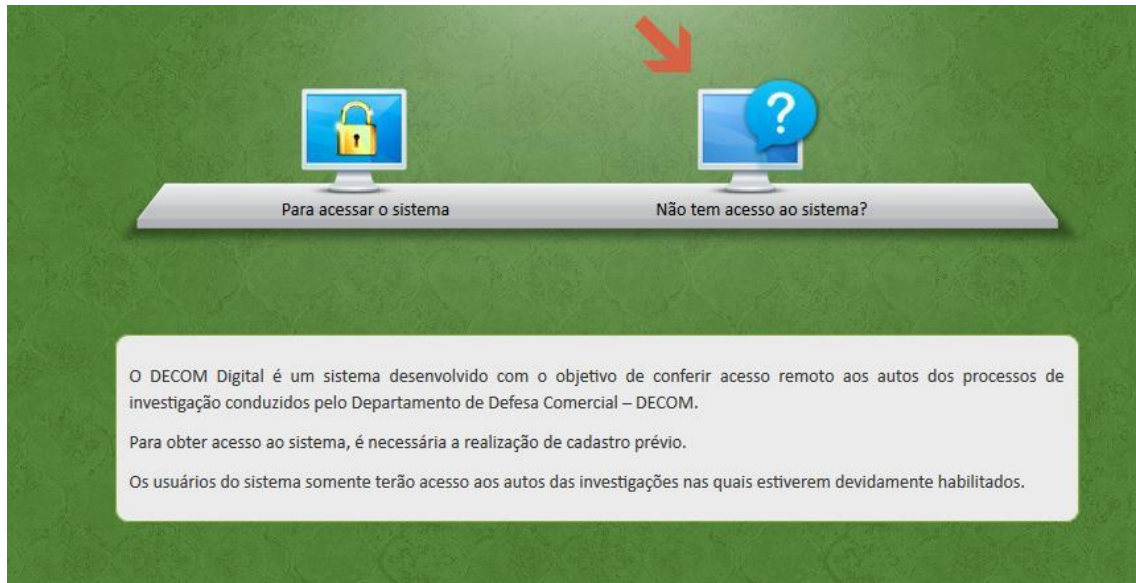
¹⁹ The interested party's representative must follow the guidelines established by the National Institute of Information Technology at the electronic address [\[link\]](#) to acquire the ICP-Brasil standard digital certificate.

98. How to register with the SDD?

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

After entering the password for the digital certificate, the user must click on the icon “Don't have access to the system?”, as indicated in the image below.

Figure 46: How to register with the SDD?



Source: Ministry of Economy/SDCOM

After reading the information on the screen "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 register with the 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.

 [Cadastro](#) [Voltar](#)

Source: Ministry of Economy/SDCOM

Figure 48 : How to register with the SDD?

The image shows a web form titled "Cadastro" (Registration) with the following fields and buttons:

- CPF/CNPJ* (text input)
- Nome* (text input)
- Informações de Contato:**
 - Telefone (text input)
 - Celular (text input)
 - Endereço (text input)
 - Email * (text input)
- Buttons: "Cadastrar" (with a red arrow pointing to it) and "Voltar" (Return).

Source: Ministry of Economy/SDCOM

If everything is completed 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 the processes in which he is enabled, by clicking on the icon “To access the system”, presented on the SDD homepage.

99. Who can consult the file and make a statement in the context of investigations Antidumping ongoing in the SDD?

Under the provisions of paragraph 3^{or} of art. 170 of Decree No. 8.058, of 2013, the duty to consult the restricted files of the investigation processes *Antidumping* and to request a certificate on the progress of the investigation is limited to qualified interested parties and their legal representatives (see question 90), subject to the provisions relating to confidentiality of information and internal government documents.

The consultation of the restricted records of a specific process and the possibility of manifesting within its scope are only granted after the user has been authorized in the aforementioned SDD process (see questions 102 to 104) .

100. Is it possible to consult the records of the petitions that are still under analysis at SDD?

Under art. 47 of Decree No. 8.058, of 2013; until the beginning of an Antidumping investigation is made public through the publication of a SECEX Circular, information regarding the existence of petitions will not be disclosed, given their confidential nature, under art. 5.5. of the Antidumping Agreement.²⁰ Thus, only the petitioners will have access to the records of the petitions filed by them in the SDD, before the investigation or review begins. For this reason, in the SDD, any administrative process will only be available for consultation and authorization by other interested parties after the publication of the SECEX Circular for the initiation of the investigation or review, at which time the process is transferred from the petition category to that of investigation.

101. How to file a petition for investigation Antidumping in the SDD?

In the menu "Requests" click on "Create petition":

Figure 49 How to file a petition



Source: Ministry of Economy/SDCOM

On the screen that will appear, select the type of investigation that corresponds to the petition you want to create. The types are highlighted by 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 an original investigation petition or “End of Period Review” for the end of period review petition. Finally, click on "Start Petition":

²⁰ 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 51 : How to file a petition



Source: Ministry of Economy/SDCOM

Five tabs will be opened (Petitioners, Representatives, Products, Analysis Periods, and Investigated Origins) which must have their fields filled in in accordance with the instructions below and at the end, click on the "Save Petition" button.

Figure 52: How to file a petition



Source: Ministry of Economy/SDCOM

- Filling in the petitioner's data:

When filling the “CNPJ” field (1) and pressing the TAB key, the system will try to identify if it has already been used before and will fill the “Company name or Representative Entity” field (2) automatically. If not in the system, the company name must be filled in manually by the user. In the “Type” field (3) the user will choose between “Company” and “Association”. If the “Company” type is chosen by clicking on “Add” (4), the company data will be stored and will appear in the region (5).

Choosing the “Association” type, opens the (not mandatory) option to add a linked company.

Figure 53 : How to file a petition

Source: Ministry of Economy/SDCOM

By clicking on “Add” (4), the association and linked company data, if any, will be stored and will appear in the region (5).

You can add as many “companies”/”associations”/”companies linked to associations” as needed. It is possible to exclude “Petitioners” within “Options”. With the exception that in order to exclude an association, all companies linked to it must have been excluded beforehand.

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

- Filling in the data of legal representatives:

Figure 55 : How to file a petition

Representante Legal

1 CPF

2 Nome

3 Entidade Vinculada

Salvar Petição

Source: Ministry of Economy/SDCOM

The fields “CPF” (1) and “Name” (2) will be automatically filled in with the data of the digital certificate used by the user. The “Linked Entity” field (3) must be filled in manually by the user and contain the linked entity of the legal representative (ex.: name of the law firm where he works).

- Product Details:

Figure 56 : How to file a petition

Produtos

1 Produto

2 Detalhamento do seu produto

3 NCM

4 Adicionar

NCM	Nome do produto	Opções

5

Salvar Petição

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 the search field, and it is possible to search both by text and by the NCM code, a list should appear and the user will select the appropriate code. By clicking on “Add”, the NCM data will be registered and will appear in the table located at the end of the page (5). You can add in as many as required.

- Analysis period

Figure 57 : Analysis period

Períodos de Análise				
Investigação de Dano				
Período 1	1	<input type="text" value="Data Inicial"/>	<input type="text" value="Data Final"/>	<input type="text"/>
Período 2	2	<input type="text" value="Data Inicial"/>	<input type="text" value="Data Final"/>	<input type="text"/>
Período 3	3	<input type="text" value="Data Inicial"/>	<input type="text" value="Data Final"/>	<input type="text"/>
Período 4	4	<input type="text" value="Data Inicial"/>	<input type="text" value="Data Final"/>	<input type="text"/>
Período 5	5	<input type="text" value="Data Inicial"/>	<input type="text" value="Data Final"/>	<input type="text"/>
Investigação de Dumping				
	6	<input type="text" value="Data Inicial"/>	<input type="text" value="Data Final"/>	<input type="text"/>

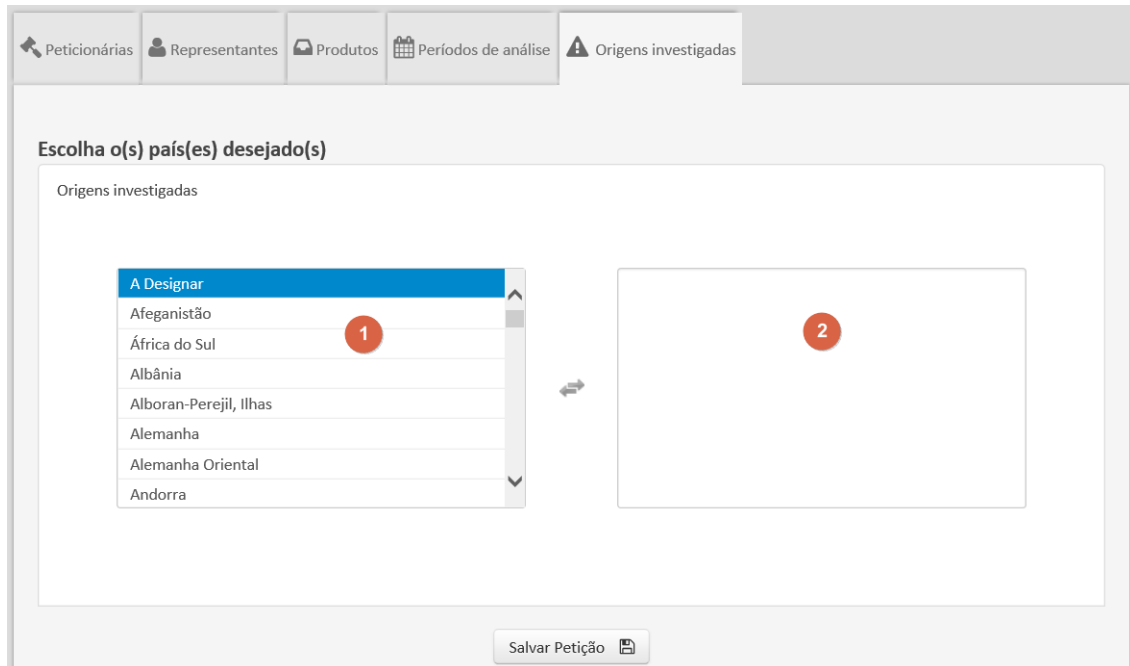
Salvar Petição

Source: Ministry of Economy/SDCOM

You must fill in (by manually entering the values or clicking on the calendar icon) the start date in the "Period" fields (1) to (5) and the end date associated with each will be filled in automatically when press the TAB key. After filling in "Period 3", the system will automatically complete the "Investigation period of *Dumping*" (6).

- Choice of origins to be investigated:

Figure 58 : Origins investigated



Source: Ministry of Economy/SDCOM

To choose the countries, just click on the name of the country in the list on the left (1) and it will go to the list on the duty (2). To remove the chosen country, click on its name in the list on the duty (2) and it will return to the list on the left (1). After completing all the tabs on the cover sheet, click on the “Save Petition” button. In the register of sunset reviews, the “Product” and “Investigated Origins” tabs are replaced by the “CAMEX Resolution” tab.²¹ In this tab, the user must fill in only the field "Type the number or CAMEX Resolution" (1) in the nn/yyyy format (ex: 85/2013) and the system will automatically search and fill in the information in the fields indicated by (2) to (6). Once saved, the request will appear in the request list.

²¹ In 2015, the year the DECOM Digital System (SDD) was implemented, trade defense measures were established through CAMEX Resolutions, which is why the System presents this designation for the normative act extending the anti-dumping measure. However, in view of the changes in trade defense competences that have taken place since then, there will also be publications in the format of SECINT Ordinance or Gecex Resolution, without prejudice to filling out the form fields and searching the system for the information.

Figure 59: Registration of sunset reviews

00000.000000/0000-00 Tipo: Investigação Original

Petitionário	Empresa Exemplo SA	Produto	Tubos de aço inox
24.08.2017			
15:00:05	Representante		
	MARTA CARLIDO DA COSTA		

Excluir Alterar Anexar Finalizar

Source: Ministry of Economy/SDCOM

The functionality of each icon shown above is detailed below:

- Delete:  **Excluir**


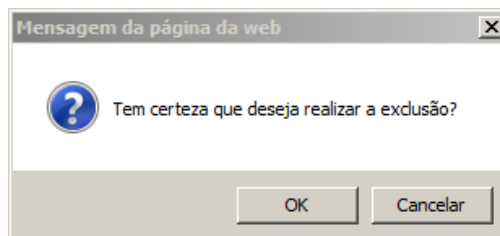
To delete an unfinished petition, click on the icon and confirm in the message box  **Excluir** that will appear next.

Figure 60: How to file a petition



Source: Ministry of Economy/SDCOM

- Change:  **Alterar**


It is possible to edit all the data of a petition that has not yet been finalized. To do so, just click on the  **Alterar** icon and the same tabs filled in when the petition was created will be loaded. Below is an example of a petition of the type "Original investigation" being amended. After changing the desired data, click on "Save Petition" for 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 Escolha Adicionar

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

Excluir Voltar Salvar Petição

Excluir Voltar **Salvar Petição**

Source: Ministry of Economy/SDCOM

- Attach files” 

To add files, click on the icon, 

The following screen will appear.

Figure 62: Attach documents

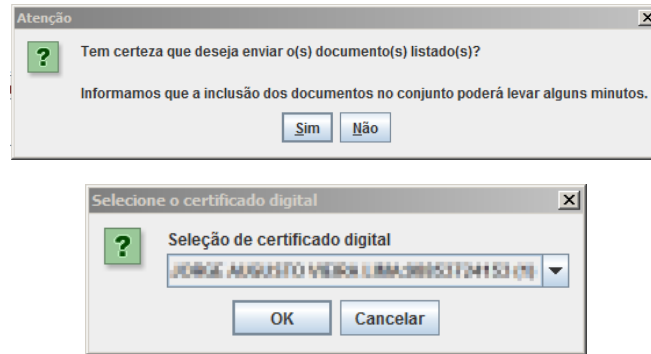
The screenshot shows a web interface for attaching documents. At the top, there is a navigation bar with three buttons: 'Painel' (green), 'Anexar Documento' (blue), and 'Meus Documentos' (orange). Below this is a header 'Anexar documentos' with a paperclip icon. The main area is titled 'Documentos' and contains the instruction 'Adicione um ou mais arquivos'. There are five numbered callouts: 1 points to the 'Tipo de Documento' dropdown; 2 points to the 'Tipo de Auto' dropdown; 3 points to the 'Descrição' text area; 4 points to the 'Adicionar Arquivo(s)' button; and 5 points to the 'Enviar documentos' button. Below the form is a table with the following columns: Remetente, Destinatário, Categoria, Tipo de Documento, Tipo de Auto, Documento, Descrição, Doc. Vinculado, Status, and Opções. At the bottom left is a 'Limpar' button, and at the bottom right is a '1.0.43' version number and a lock icon. A progress bar at the very bottom indicates 100% completion.

Source: Ministry of Economy/SDCOM

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

In the message box that will appear, confirm that you want to send the documents and then select the digital certificate that will be used to sign the shipment and click “OK”.

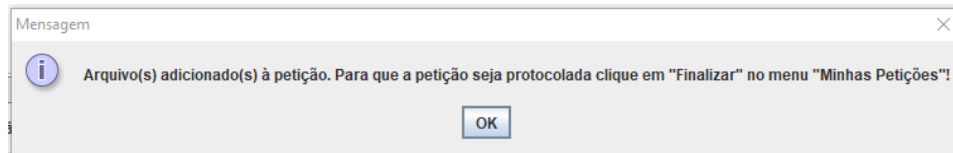
Figure 63: How to file a petition



Source: Ministry of Economy/SDCOM

At the end, the following message will be displayed, stating that the petition it will only be filed by clicking on the "Finish" button in the "My Petitions" menu:

Figure 64: How to file a petition



Source: Ministry of Economy/SDCOM

- Checkout  **Finalizar**


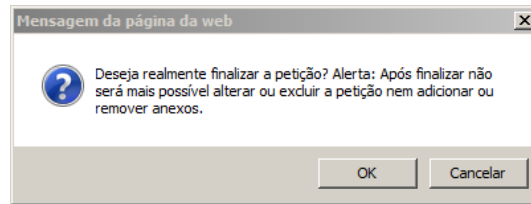
To delete an unfinished petition, click on the icon  **Finalizar** and confirm in the message box that will appear next. It should be noted that, even though the upload was done successfully, without clicking the option to finish, the document is not submitted to the SDD and is not even included in the interface SDCOM, so that there will not be, in the file, any record of documentation sent by the interested party. There will therefore be two receipts: one for the upload of the documents and the other for the completion of the process.

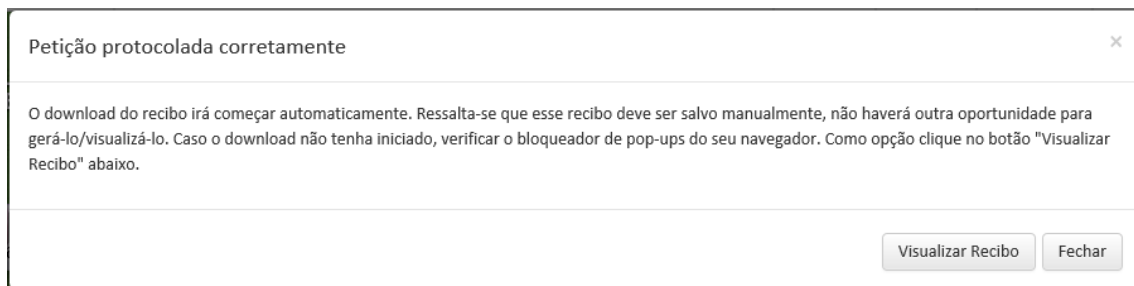
Figure 65: How to file a petition



Source: Ministry of Economy/SDCOM

A The following message will be displayed, giving the option to view the protocol receipt for the 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 with SDCOM and will be visible to technicians of the Undersecretary after its completion.** Furthermore, only after completion, the petition will receive a valid protocol number. It should also be noted that, once completed, the petition cannot be edited, deleted or have files added.

It is important to note that, before the effective filing of the petition, the case number displayed is 00000.000000/0000-00, as shown in Figure 59, however, after the filing, the system starts to display the case and its respective case number in the “Requests” window, as shown in the image below.

Figure 67: How to file a petition



Source: Ministry of Economy/SDCOM

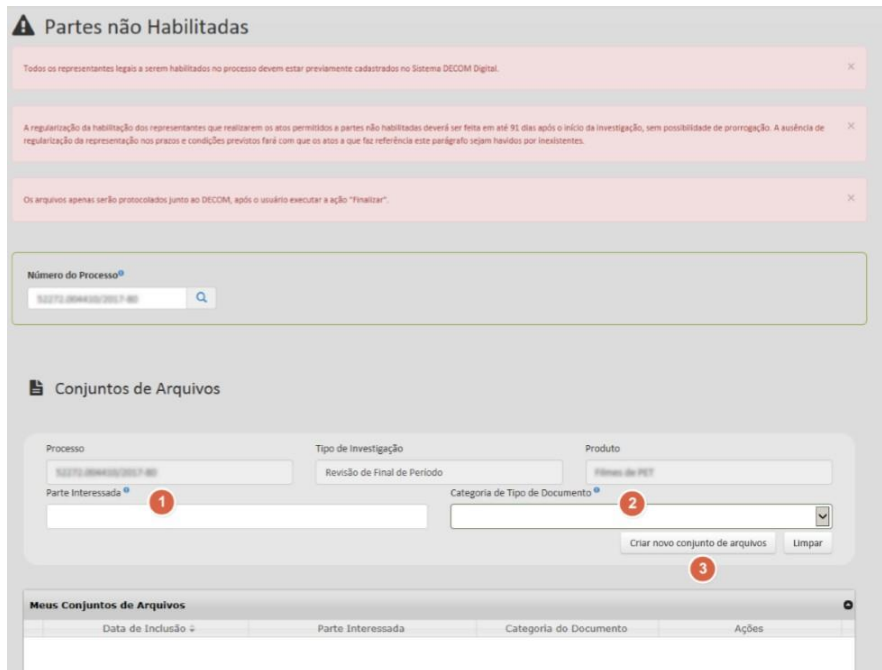
102. How can interested parties qualify and gain access to the file of a specific Antidumping investigation in the SDD?

Under the terms of paragraph 2^{or} of art. 2^o of SECEX Ordinance No. 30, of 2018, the participation of interested parties in the course of trade remedies investigations must be carried out through a legal representative qualified with SDCOM, upon presentation of the relevant documentation in the restricted records of the SDD.

The representation documents mentioned in questions 92 to 94 must be sent through the "Parts not enabled" tab. After verification of the documents by SDCOM, the representatives of the companies may be qualified within the scope of a specific process, for the period established in their respective contracts or bylaws, powers of attorney, minutes of election, among other acts that may establish the power of representation. Once the qualification procedure has been completed by SDCOM, the user will be able to access the restricted files of the process in which he/she was authorized and submit the evidence and manifestations that he/she deems necessary through the "Processes" tab of the SDD.

To send the documents referred to in the previous paragraph and request authorization within a specific process, the user must first register in the SDD, as explained in question 98. Once registered, the user must access the "Parts not enabled" area of the SDD and search for the desired process by means of the process number informed in the SECEX Circular at the beginning published in the DOU or contained in the notification letter received by the party. Once the process number has been entered, the following page should be loaded:

Figure 68: Parts not enabled



Source: Ministry of Economy/SDCOM

Then, the fields "Stakeholder" (highlighted by "1" in the figure above) and "Category of Document Type" (highlighted by "2" in the figure above) must be filled in and then the user must click on "Create new set of files" (highlighted by "3" in the figure above).

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

Figure 69: Adding documents to the fileset



Source: Ministry of Economy/SDCOM

On the upload file screen, fill in the fields "Document Type" (highlighted by "1" in the figure below), "Self Type" (highlighted by "2" in the figure below) and "Description" (highlighted by "3" in the figure below). It should be noted 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 the set" (highlighted by "5" in the figure below).

Figure 70: Uploading files

Documentos

Adicione um ou mais arquivos

Tipo de Documento 1

Tipo de Auto 2

Descrição 3

Adicionar Arquivo(s) 4

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

Limpar

Salvar arquivos no conjunto 5

1.0.43

100%

Source: Ministry of Economy/SDCOM

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

Figure 71: End set of files

Meus Conjuntos de Arquivos

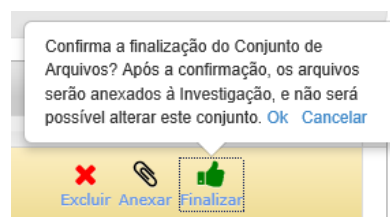
Data de Inclusão	Parte Interessada	Categoria do Documento	Ações
29/01/2019 15:42:08	Peticionário	Informações complementares à petição	Excluir Anexar Finalizar

Source: Ministry of Economy/SDCOM

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

When clicking "Finish" the message below will appear. It should be noted that, even though upload was successfully done, without clicking the finish option, the document is not submitted to the SDD and does not even appear 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

Click “Ok” to confirm the completion of the set of files and complete the protocol of documents within the scope of the selected process.

It is essential to emphasize that the documents will only be filed with SDCOM after the end of the set of files by the user.

After completing the set of files, 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 through the “View Receipt” button. If not, check your browser's *pop-up blocker*.

Figure 73: Message from the SDD



Source: Ministry of Economy/SDCOM

103. Is there a deadline for the authorization of representatives of interested parties in the SDD

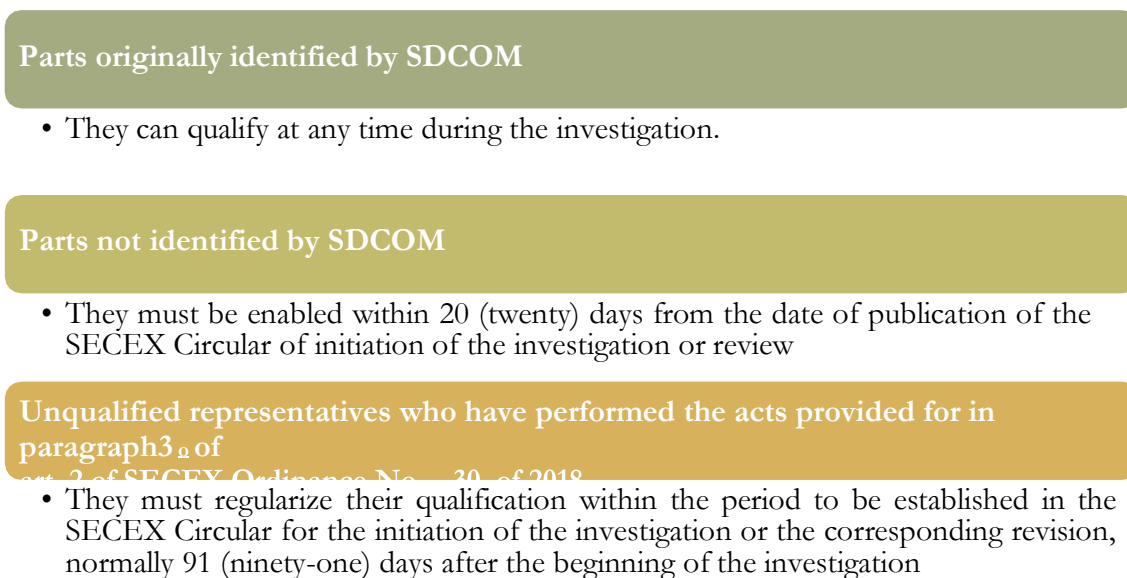
The interested parties identified by SDCOM will be notified of the initiation of the investigation Antidumping and their representatives may carry out their authorization at any time during this process.

However, under the terms of paragraph 3 or of art. 45 of Decree No. 8,058, of 2013, other parties that are considered interested and that have not been identified by SDCOM will have a period of 20 (twenty) days, counted from the date of publication of the SECEX Circular of initiation of the investigation or of the review, to present their application for qualification and their respective legal representatives.

It should be noted that, in these cases, the regularization of the qualification of the representative who performed the act must be done within the period to be established in the SECEX Circular of initiation of the investigation or corresponding review, normally 91 (ninety-one) days after the beginning of the investigation, with no possibility of extension, according to paragraph 4 or of art. 2º of SECEX Ordinance No. 30, of 2108. The lack of regularization of representation within the terms and conditions set forth will cause these acts to be considered non-existent.

A ausência de regularização da representação nos prazos e condições previstos fará com que esses atos sejam havidos por inexistentes.-

Figure 74: Deadline for qualifying for commercial defense processes



Source: Ministry of Economy/SDCOM

104. How can enabled interested parties submit documents through the SDD?

The SDD allows the external user, through the use of a digital certificate, to file petitions to initiate investigations *Antidumping* original or sunset reviews, as well as to participate in investigations or reviews already in progress as another interested party through the sending elements of evidence and manifestations to the records of that process. Thus, in general terms, external users submit documents and evidence through the SDD, while SDCOM analyzes this material, requests more information, if necessary, and issues its recommendations.

Under art. 7º of SECEX Ordinance No.º 30, of 2018, when the SDD is first used to send documents, the representative must arrange for 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 PDF format (*Portable Document Format*) and the electronic spreadsheets in XLSX format ("Microsoft Excel spreadsheet").

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

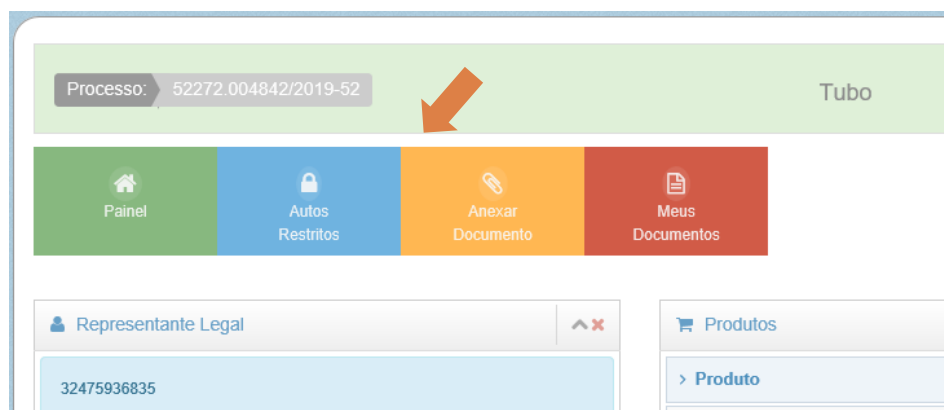
Figure 75: Access the process



Source: Ministry of Economy/SDCOM

Click on "Attach Document":

Figure 76: Attach documents



Source: Ministry of Economy/SDCOM

On the next screen, the user will have to create a "Set of files". To do so, choose the interested party and the category of document that will be sent, highlighted by "1" and "2" in the figure below. Then click on "Create new set of files", 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 on "Attach" to add documents to the set.

Figure 77: Set of files

Conjuntos de Arquivos

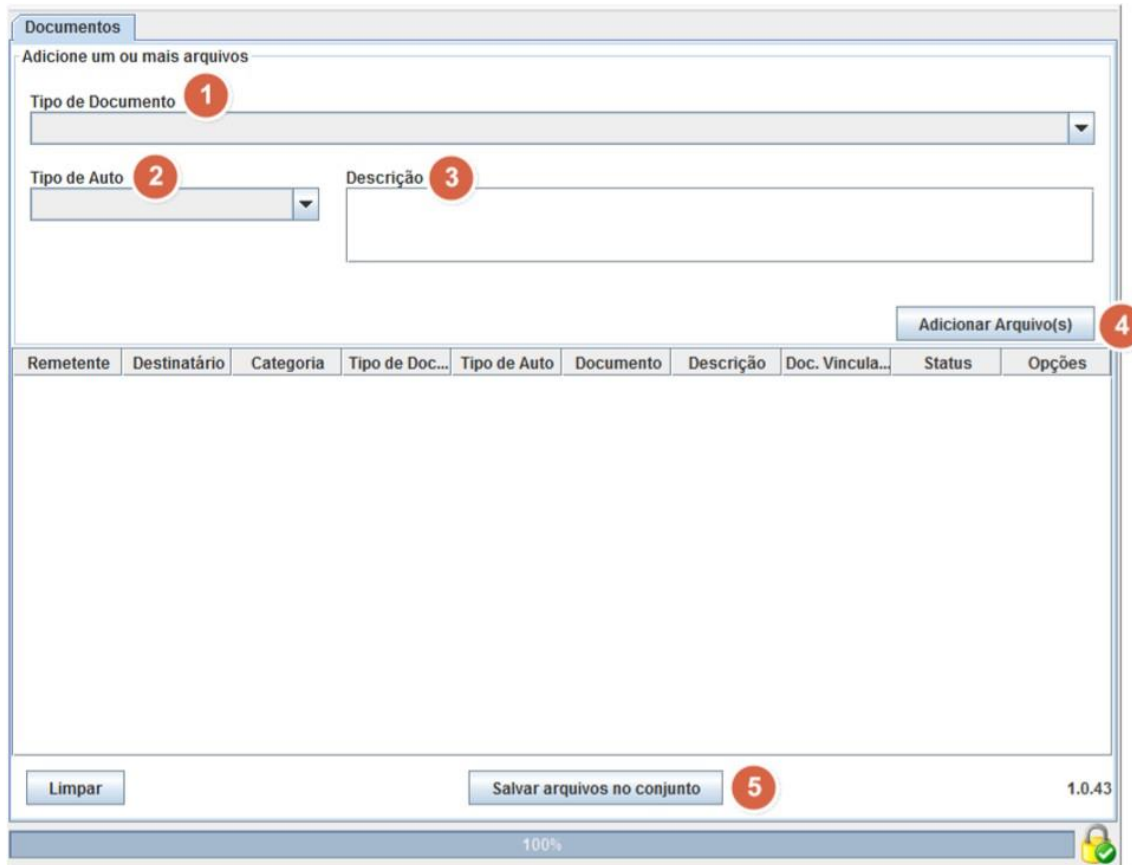
The screenshot shows the 'Conjuntos de Arquivos' interface. At the top, there are two dropdown menus: 'Parte interessada' (highlighted with a red circle '1') and 'Categoria de Tipo de Documento' (highlighted with a red circle '2'). The 'Parte interessada' dropdown is currently set to 'Petitionário'. The 'Categoria de Tipo de Documento' dropdown is currently empty. Below these are two buttons: 'Limpar' and 'Criar novo conjunto de arquivos' (highlighted with a red circle '3').

Below the form is a table titled 'Meus Conjuntos de Arquivos'. The table has four columns: 'Data de Inclusão', 'Parte Interessada', 'Categoria do Documento', and 'Ações'. The first row of data shows a date of '25/09/2019 17:52:05', the interested party 'Petitionário', and the document category 'Habilitação'. The 'Ações' column contains three icons: a red 'X' for 'Excluir', a paperclip for 'Anexar', and a red arrow pointing left.

Source: Ministry of Economy/SDCOM

On the upload file screen, fill in the fields "Document Type" (highlighted by "1" in the figure below), "Self Type" (highlighted by "2" in the figure below) and "Description" (highlighted by "3" in the figure below). It should be noted 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 the 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 set of files, the option "Finish" will be added to the action menu referring to the set of files to which the documents were 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: End set of files

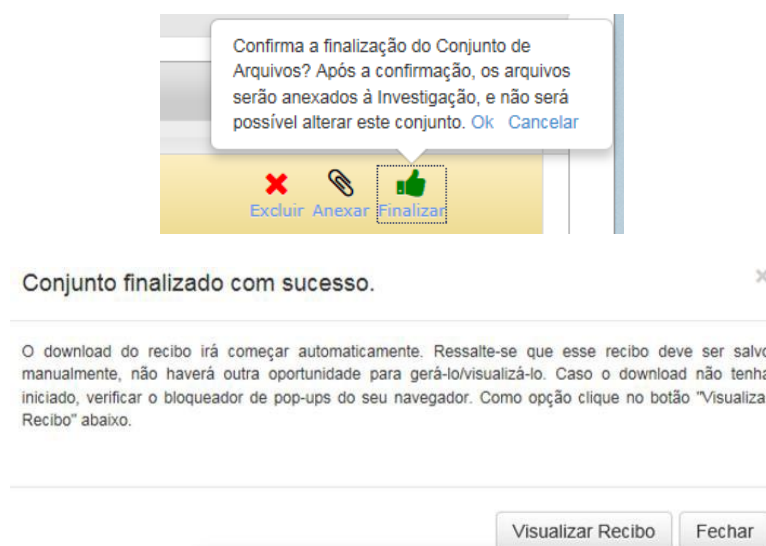


Source: Ministry of Economy/SDCOM

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

The user must click “OK” to confirm the submission of files for investigation. After completing the set of files, 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 through the “View Receipt” button. If not, check your browser's *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 end of the set of files by the user.

105. Once the documents are submitted by interested parties in the SDD, do they automatically become available in the file and can no longer be withdrawn?

The documents submitted by the interested parties in the SDD will only be available in the records after analysis by SDCOM, which may or may not attach them. As long as the documents are not analyzed by SDCOM, interested parties qualified in the process will only have access to the date, time of filing of the files and the type of file that was filed, without being able, however, to download the document.

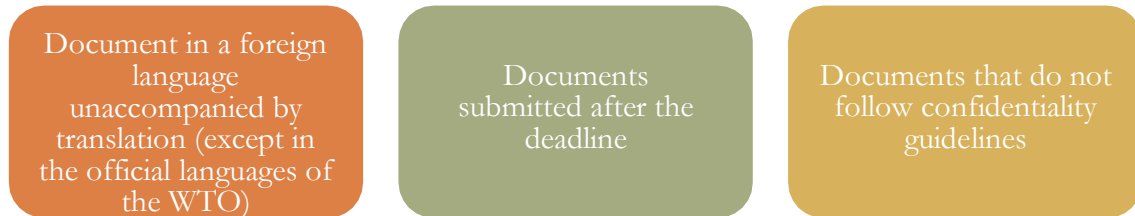
This is because, under the terms of paragraph^{2^{or}} of art. 49 of Decree 8048 of 2013, the following documents will not be attached to the records of the investigation processes *Antidumping* :

I – untimely filed; or

II – filed in disagreement with the applicable rules, such as documents prepared in a foreign

language (except those in English, Spanish or French) without a translation made by a public translator (see question 89) and documents that did not meet the requirements for the granting of confidential treatment (see questions 82 to 87).

Figure 81: Main reasons for 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 the deadline, language or confidentiality, the interested party will be notified by letter, under paragraph 2 or of art. 49 of Decree No. 1699 or 1708 8,048, of 2013.

It should be noted that, once the protocol of a document is concluded, through the finalization of a set of files, the external user will not be able, by itself, to exclude the document from the case records in the SDD. In these cases, the interested party must submit a formal request in the corresponding case file, so that SDCOM can unearth the documents sent inappropriately by registering the justification.

With the exception of the cases mentioned above, all other documents will be attached to the file after analysis 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 period specified in the communication of request, Under paragraph 3^{or} of the-art. 4^o of SECEX Ordinance N^o. 30, of 2018. If the holder of the document sent does not meet the request within the specified period, the scanned document may be disregarded. The originals of the digitized documents that are submitted to SDCOM must be preserved by their holder until the statute of limitations and statute of limitations established in the specific laws have elapsed.

106. What are the hours of operation of the SDD and the services related to it related?

Under art. 10 of SECEX Ordinance No. 30, of 2018, the SDD will be available 24 (twenty-four) hours a day, without interruption, except for the periods of system maintenance. Art. 9 of this ordinance determines that, when the electronic file is sent to meet the procedural deadline, the files received by the SDD until 23:59:59 (twenty-three hours, fifty-nine minutes and fifty-nine seconds) of according to the official Brasília time, on the last day of the established deadline.

Under art. 3º of SECEX Ordinance No.º 30, of 2018, equipment for digitization and access to the world wide web will be kept available to representatives of interested parties, at the headquarters of the Ministry of Economy, from 10 am to 5 pm.²² It is recommended that a request for scheduling the room and the computer be made.

In turn, if assistance is required regarding the use of the system, the user must contact the Ministry of Economy's Service Center at +55(61) 2027-7200, **from 8:00 am to 6:00 pm.**

For this reason, it is recommended that the external user **schedules to file the documents in the SDD in advance of the expiration of the procedural deadline, so that there is sufficient time to find a solution to any technical problem with the Service Center.**

Furthermore, it is incumbent to emphasize that, as they are not considered to be outages of the system under the terms of paragraph^{1º} of art. 11 of SECEX Ordinance No. 30, of 2018, no extensions will be granted due to failures in data transmission between the external user's workstations and the public communication network or due to technical impossibility arising from failures in the equipment or programs of external users.

107. What procedure should be adopted in case of unavailability of the SDD?

Under art. 11 of SECEX Ordinance No. 30, of 2018, it is considered that the SDD is unavailable when there is no offer to users of any of the following services: system access, user registration, consultation of digital records or electronic transmission of documents.

²² In view of the sanitary measures adopted as a result of the Covid-19 pandemic, we would like to inform you that all activities of the Undersecretary of Trade Defense and Public Interest are now performed remotely, in accordance with internal guidelines established by the Ministry of Economy. For this reason, access to digitization equipment and access to the world wide web, referred to in art. 3º of SECEX Ordinance No.º 30, of 2018, is suspended for as long as the pandemic lasts.

In these cases, the deadlines that expire on the day when the unavailability of any of the services listed above occurs will be extended to the first business day following the normalization of the system. The extension will be carried out automatically by SDCOM and informed upon registration in the records of the processes in progress, Under art. 12 of SECEX Ordinance No. 30, of 2018. –

The unavailability of the SDD will be analyzed individually, and the external user must contact the Service Center of the Ministry of Economy at the number + 55 61 2027-7200, **when they encounter technical difficulties in its use**. If the difficulty persists, the external user may send an electronic message to containing a description of the technical difficulty encountered, protocol number and history of contact with the Service Center.

It is also clarified that the system's scheduled maintenance will be informed in advance and carried out, preferably, between 12:00 am on Saturday and 10:00 pm on Sunday, or between 12:00 am and 6:00 am on other days of the week.

108. What to do in case of doubts related to the SDD?

If the external user has any questions about how to use SDD, about how to configure their computer to use SDD or about error messages that they have observed, it is recommended that the user first consult the information contained in the "Frequently Asked Questions" links and "System Manual" available on the SDD homepage, namely.

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 problems in the system and configuration of the user's computer. In turn, questions related to the use of the system, such as filing documents or obtaining views of the records, can be sent to the institutional e-mail of the corresponding investigation, which can be found in the SECEX Circular that initiated the respective investigation. For access to all the investigations in course:

https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-_0778/commercial-defense-and-public-interest/investigations/defense-investigations-commercial .

109. How can I access SEI-ME for electronic petition purposes?

In order to be granted access to the SEI/ME, for the purpose of electronic petition (document filing directly at the SEI/ME) or for signing documents in the process in which they are interested, the external user must register with the Ministry of Economy, as detailed step-by-step below. In case of doubts, get in touch via .

a) click on the link below and fill out the form, creating a login and password in SEI/ME. https://sei.fazenda.gov.br/sei/controlador_externo.php?acao=usuario_externo_enviar_cadastro&acao_origem=usuario_externo_externo_adviser_07_08_07_externo_07_07_07_externo_access_07_08_07_externo_access_07_07_externo_access_07_08_07_08_07_externo_1_access_07_08_0_0_07_externo_access_07_08_07_externo_org_07_access_07_08_07_08_0_0 system. To do so, it is necessary to complete all stages of registration.

Figure 82: Registration of an external user in the 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:

Dados de Autenticação

E-mail pessoal:

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

Confirmar Senha:

 Digite o código da imagem ao lado

Source: Ministry of Economy/SDCOM

- b) download the Term of Agreement and Veracity, available at
- c) fill in all the mandatory fields of the Term, with the same data informed in the online registration (step “a”). It is essential that the data informed in the Term of Agreement and Veracity are consistent with those contained in the registration made in the system and in the documents presented. 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 carried out (1 - by hand, 2 - with Digital Gov.BR 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 made as shown in the civil identification document, to be presented together with the Term 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 a photo that contains CPF and the signature identical to the one used in the signature of the Term;
- access the Ministry of Economy's Digital Protocol and carefully read all instructions. Attention: this portal **NO** is the SEI, and will serve to make up for the lack of authentication in the Term signature. This portal can be accessed through the following link:);
- click on “Start” and log in with the user and password of the Gov.BR Services Portal (Single Login of the Federal Government). If you have any questions about access to the Federal Government's Single Login, please access or support channel of the tool in
- select the type of request "2 - Request registration of an external user at SEI/ME" and carefully follow the Guidelines presented at each stage to complete the registration of documents.

d.2) Term signed using the Federal Government Digital Signer:

- print the completed Term (step “c”);
- access the electronic page Log in with the username and password of the Gov.BR Services Portal (Single Login of the Federal Government). If you have any questions about access to the Federal Government's Single Login, please access <https://faq-login-unico.servicos.gov.br/en/latest/> or support channel of the tool in <https://portaldeservicos.economia.gov.br/atendimento/>
- Attention: this portal **NO** is the SEI, and will serve to digitally sign the Term, using a verified or verified account in the Federal Government's Single Login. For more information about the Federal Government Digital Subscriber, please access the website of this service;
- click on “Choose file” and upload the completed Term;

Figure 83: Document signing with the Digital Signer



Source: Ministry of Economy/SDCOM

- click Digitally Sign;

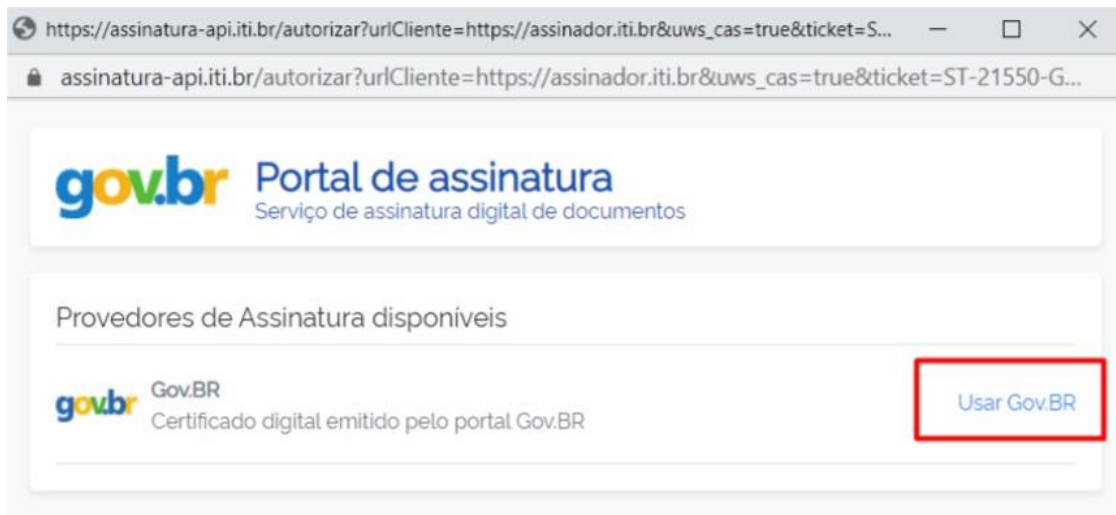
Figure 84: Document signing with the Digital Signer



Source: Ministry of Economy/SDCOM

- in the pop-up that will open, click on “Usar Gov.BR”;

Figure 85: Document signing 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 in Gov.BR, and click on “Authorize”;

Figure 86: Signing document with the Digital Signer

The screenshot shows the 'Portal de assinatura' (Digital Signature Portal) on gov.br. The page title is 'Autorização' (Authorization). The main heading asks: 'Você autoriza o serviço Assinatura API Service a assinar digitalmente documentos?' (Do you authorize the Assinatura API Service to digitally sign documents?). Below this, a message states: 'Um SMS com o código foi enviado para o seu celular. Por favor, digite o código para autorizar a assinatura digital.' (An SMS with the code was sent to your cell phone. Please enter the code to authorize digital signing). There is a text input field labeled 'Código:' containing the placeholder text 'Código enviado via SMS'. Below the input field are three buttons: 'Cancelar' (Cancel), 'Re-enviar SMS' (Resend SMS), and 'Autorizar' (Authorize). The 'Código:' label, the input field, and the 'Autorizar' button are highlighted with red boxes.

Source: Ministry of Economy/SDCOM

- click on “Download Signed File” to download the file to your machine;

Figure 87: Signing document with the Digital Signer

The screenshot shows the 'Assinatura de documento' (Document Signing) page on gov.br. At the top left is the gov.br logo, and at the top right is a 'sair' (logout) button. The main heading is 'Assinatura de documento'. Below the heading, there is a navigation bar with four options: 'Escolher arquivo' (Choose file), 'Assinar Digitalmente' (Sign Digitally), 'Baixar arquivo assinado' (Download signed file), and 'Baixar certificado' (Download certificate). The 'Baixar arquivo assinado' option is highlighted with a red box. Below the navigation bar, there is a preview of a document. The document header reads: 'MINISTÉRIO DA ECONOMIA', 'Secretaria Executiva', 'Secretaria de Gestão Corporativa'. The main title of the document is 'TERMO DE CONCORDÂNCIA E VERACIDADE' (Term of Agreement and Truthfulness), with the subtitle '(Cadastro de Usuários Externos no SEI do Ministério da Economia)'. On the left side of the document preview, there is a box labeled 'Assinado digitalmente por:' (Digitally signed by:) containing a green checkmark icon and the text 'Nome do Usuário' (User Name).

Source: Ministry of Economy/SDCOM

- make a copy in PDF format of your RG and CPF, or other official identification document with a photo that contains CPF and the signature identical to the one used in the signature of the Term;

- send the files (signed term and personal document) via e-mail to , with the subject “External User Registration”.

Note: the step by step of the Digital Signer presented above is for guidance purposes, in order to facilitate the use of the tool by the external user. Any problem related to the tool must be reported to the managers of this service, via e-mail

a.2) Term signed using ICP-Brasil Digital Certificate

- for this type of signature, the user must have a valid ICP-Brasil digital certificate;
- print the completed

Term (step “c”);

- access your preferred digital signature portal and log in *login*; Examples: SERPRO Digital Signer, Signature Portal, etc. Any problems related to the use of these portals must be reported to the respective support channels, as these are solutions independent of the SEI;
- follow the Guidelines presented on the service page;
- download the signed file on your machine;
- make a copy in PDF format of your RG and CPF, or other official identification document with a photo that contains CPF and the signature identical to the one used in the signature of the Term;
- send the files (signed term and personal document) via e-mail to , with the subject “External User Registration”.

After sending the documentation in the form presented in the previous topic, the applicant must wait for a response from the analysis at the e-mail address provided in the pre-registration. If all submitted documentation is in compliance, access to 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 settle the pending issue.

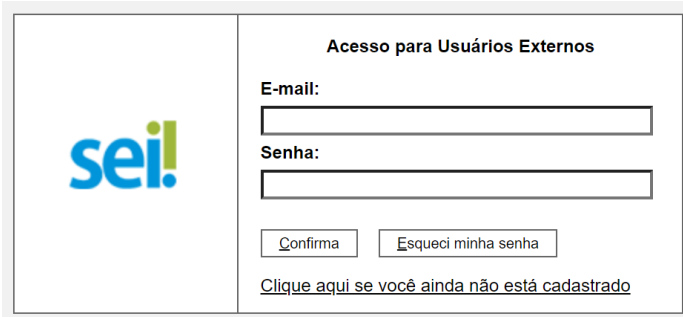
Attention: the period for analysis is **up to three working days**²³ after receiving the documentation, which may eventually be extended in case of considerable increase in demand. The release of the registration does not imply the availability of access to the process (when applicable), which will be analyzed by the unit in which it is in progress. Thus, after registration is released, the user who requires access to the content of a given process must file the request for access within the scope of the SEI process to be accessed.

Only after the registration is released will it be possible to perform *login* on the SEI/ME

²³ Information provided by the SEI team, available at

External Access page, using the access password generated by the external user at the time of pre-registration. It is recommended to use the Firefox web browser.

Figure 88: SEI access screen



The screenshot shows a web form titled "Acesso para Usuários Externos". On the left side, there is the SEI logo. The form contains two input fields: "E-mail:" and "Senha:". Below the "Senha:" field, there are two buttons: "Confirma" and "Esqueci minha senha". At the bottom of the form, there is a link: "Clique aqui se você ainda não está cadastrado".

Source: Ministry of Economy/SDCOM

110. How to create a new process in SEI-ME?

To apply in a new process, after performing the *login* in the system, the external user must:

- a) on the main menu (left side of the screen), access the option "Petition" and click on "New Process";
- 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 on the type of process selected;

Figure 89: Creating a new process in the SEI

Source: Ministry of Economy/SDCOM

e) duly fill in all fields on the "Petition New Process" screen:

- “Specification”: insert a summary of the subject that the petition deals with;
- “Stakeholders”: select “Individuals” or “Legal Entities”, as applicable; inform the CPF or CNPJ, as the case may be; click on Validate. If the system presents the corresponding name, click on “Add”; if the system does not find the corresponding name, fill in the “Stakeholder Registration” screen, which 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 blocking and try the operation again;
- In the “Documents” section, items “Main Document” (mandatory) and “Complementary Documents” (optional): click on “Browse”; locate the file on your computer; click on “Open”; inform the “Document Type Supplement”; select the "Access Level":

Public: for documents that do not contain restricted information, in accordance with current legislation. Once this option is selected, the document will be available for consultation and access by any citizen, through the SEI Public Survey;

Restricted: for documents that contain restricted information, in accordance with current legislation, including personal information (CPF, address, etc.);

- Check the “Format” (nato-digital or digitized). If “scanned”, select the option corresponding to “Conference with the scanned document; Note: indicate the “Scanned” format only if the file was produced on paper and later digitized, it being important to use the optical recognition feature (OCR) so that the text is searchable;
- Click on “Add”;

f) after having added all the necessary documents (main and complementary), click on “Petition”. Do not exceed an hour between loading the first document and the last. The system automatically deletes uploaded and unfinished files within this time limit, considering them as temporary;

g) in the "Complete Petition - Electronic Signature" window:

- select the "Position/Function" closest to the function performed;
- enter the password to access the SEI;
- click on the "Subscribe" button.

After the petition processing is completed, 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 request made, according to the protocol of the Electronic Protocol Receipt generated. At any time, the user can access the list of receipts for their requests (main menu > Electronic Protocol Receipts).

111. How to file documents in a process that is already being processed at SEI-ME?

Through the intercurrent petition, the external user can include documents in an existing process or in a new related process. To carry out the intercurrent petition, the external user must:

- a) on the main menu (left side of the screen), access the option "Petition" and click on "Intercurrent";
- b) insert 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: Filing processes in an existing process

MINISTÉRIO DA FAZENDA
sei Publicações Eletrônicas Menu

Controle de Acessos Externos
Alterar Senha
Pesquisa Pública
Petitionamento
Recibos Eletrônicos de Protocolo

Petitionamento Intercorrente

Petitionar Fechar

Orientações

Este petitionamento serve para protocolizar documentos em processos já existentes. Condicionado ao número do processo e parametrizações da administração sobre o Tipo de Processo correspondente, os documentos poderão ser incluídos diretamente no processo indicado ou em processo novo relacionado.

Processo

Número:	Tipo:
12600.110191/2017-74	Pessoal: Férias

Validar Adicionar

Source: Ministry of Economy/SDCOM

d) in the "Documents" section, for each document you intend to petition:

- click on "Browse";
- locate the file on your computer;
- click on "Open";
- select the "Type of Document";
- inform the "Document Type Supplement";
- select the "Access Level":

Public: for documents that do not contain restricted information, in accordance with current legislation. Once this option is selected, the document will be available for consultation and access by any citizen, through the SEI Public Survey;

Restricted: for documents that contain restricted information, in accordance with current legislation, including personal information (CPF, address, etc.);

- Check the "Format" (nato-digital or digitized). If "scanned", select the option corresponding to "Conference with the scanned document.; Note: indicate the "Scanned" format only if the file was produced on paper and later digitized, it being important to use the optical recognition feature (OCR) so that the text is searchable;
- Click on "Add";

e) after having added all the necessary documents (main and complementary), click on "Petitate".

f) in the "Complete Petition - Electronic Signature" window:

- select the "Position/Function" closest to the function performed;
- enter the password to access the SEI;
- click on the "Subscribe" button.

After the petition processing is completed, 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 request made, according to the protocol of the Electronic Protocol Receipt generated. At any time, the user can access the list of receipts for their requests (main menu > Electronic Protocol Receipts).

PART II.4. DEADLINES IN INVESTIGATIONS ANTIDUMPING ORIGINAL AND IN END OF PERIOD REVIEWS

112. How are the deadlines in the Antidumping investigation accounted for?

The deadlines provided for in Decree No. 8,058, of 2013, will be counted in a rush, including the due date. The term is considered extended until the first following business day, if the expiration date falls on a day when there is no working day or it is closed before the normal time, according to art. 185 of Decree No. 1659 or 1668 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, under art. 187 of Decree No. 1669 or 1678 8,058, of 2013.

Deadlines set in months are counted from date to date. If in the month of expiration there is no day equivalent to that of the beginning of the term, the last day of the month shall be used as the term, Under art. 188 of Decree No. 1659 or 1668 8,058, of 2013.

In addition, for the periods provided for in the trade remedies legislation that begin after the interested party is aware of it, it will be assumed that the interested parties will be aware of documents transmitted electronically 3 (three) days after the date of transmission, under art. 19 of Law No. 12.995, of June 18, 2014, since notifications and other communications made within the scope of the administrative process will be transmitted electronically by SDCOM to interested parties, as per SECEX Ordinance No. 20, of March 30, 2020.

Specifically, in the case of the deadline for replying to questionnaires from foreign producers or exporters, the notice period will be 7 (seven) days from the date of transmission, in accordance with footnote 15 of the Agreement on the 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 Multilateral Trade Negotiations of the GATT, promulgated by Decree No. 1669 or 1678 1355, of December 30, 1994. It should also be noted that the notice period begins to run on the first business day following the publication of the act or transmission of correspondence. In addition, if the date of presumed knowledge falls on a day when there is no working day or it is closed before normal time, the date

of presumed knowledge will then be equivalent to the first subsequent business day. The deadlines themselves will start from the day after the date of presumed awareness.

Example 1:

- Date of transmission of the official letter requesting additional information from the petitioner: **8/14/2019 (Wednesday)**.

- Date of presumed science:
 - Science starts counting on the first business day following the dispatch:
 - day 1 = 8/15/2019
 - Science = **3 (three) days**
 - day 3 = 8/17/2019 (Saturday).
 - As the expiration date of the acknowledgment is Saturday, the acknowledgment passes to the first subsequent business day, which is **8/19/2019 (Monday- thursday)** .

Example 2:

- Date of transmission of notification containing questionnaire to producer/exporter : **10/16/2019 (Wednesday)**.

- Date of presumed science:
 - Science starts counting on the first business day following the dispatch:
 - day 1 = 10/17/2019
 - Questionnaire science = **7 (seven) days**
 - day 7 = 10/23/2019 (Wednesday).

113. Is it possible to extend the deadlines in investigations Antidumping and how are the extensions accounted for?

Under art. 194 of Decree No. 8,058, of 2013, SDCOM may extend, for a single time and for an equal period, the deadlines provided for in the legislation, except for those whose extension or prohibition is already

provided for.²⁴ It should be noted that the deadlines for precovery of science provided for in art. 19 of Law n^o 12.995, of 2014, cannot be extended.

Requests for extension of deadlines, when accepted, may only be known if presented, in the restricted records of the corresponding process, before the expiration of the original deadline, as per art. 189 of Decree No. 1669 or 1678 8,058, of 2013. The first day of the extended term will be the day following the expiration of the original term. In this way, the extension term is added to the original term, and the resulting total term is counted **without interruption** from the beginning of the original term.

It should be noted that, by means of Circular SECEX, the deadlines related to the end of the instruction of each investigation will be disclosed *Antidumping*, provided for in arts. 59 to 63 of Decree No. 8.058, of 2013, which are those referring to the end of the probationary phase, the submission of manifestations on the data and information contained in the restricted records, the disclosure of the SDCOM Technical Note containing the essential facts for judgments, at the end of the process instruction, the submission of final manifestations of the parties and the preparation of the determination opinion final by SDCOM. For this reason, any extensions of the aforementioned terms may be carried out by publishing a new SECEX Circular, for purposes of greater transparency and predictability.

Example:

- Date of transmission of the official letter requesting additional information from the petitioner: 8/14/2019 (Wednesday) .

- Date of the petitioner's presumed knowledge:
 - Science starts counting on the first business day following the dispatch:
 - day 1 = 8/15/2019
 - Science to interested parties = 3 (three) days
 - day 5 = 8/17/2019 (Saturday).
 - As the expiration date of the acknowledgment is Saturday, the acknowledgment passes to the first subsequent business day, which is 8/19/2019 (Monday- Thursday).

²⁴ It is important to highlight that, as long as the COVID-19 pandemic lasts, the deadlines provided for 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 information necessary for SDCOM's determinations, Under art. 7 of Normative Instruction SECEX No. 1, of 2020.

- Deadline for replying to the complementary information letter = 5 (five) days of the petitioner's knowledge:
 - The deadline for reply will start from 8/20/2019 (first business day following the acknowledgment).
 - The expiration date will be 8/24/2019 (Saturday).
 - As it is not a business day, the deadline for replying to the supplementary information letter will be automatically extended to 8/26/2019 (Monday).

- Extension of the deadline for replying to the supplementary information letter:
 - If the petitioner wishes to extend the deadline, he may request an extension until 8/26/2019 (last day of the original deadline).
 - If SDCOM grants an extension of the term, the total period for reply will be 5 (five) days (original term) + 5 (five) days (extension), counted from the date of acknowledgment.
 - The extended period (10 (ten) days in total) starts from 8/20/2019 (first business day following the knowledge).
 - The expiration date of the term will be 8/29/2019 (Thursday).

114. What are the deadlines for filing investigation petitions Antidumping originals?

Under the terms of paragraph 1 or of art. 48 of Decree No. 8.058, of 2013, the petitioner will have until the last business day of the fourth month following the end of the investigation period of dumping to file the original petition for Antidumping investigation, without the need for updating dumping and injury investigation periods.

As mentioned in question 10, the investigation period for dumping will necessarily correspond to the most recent injury investigation subperiod and shall end in March, June, September or December. Considering this information and the deadline for filing the petition mentioned in the previous paragraph, there are annually four “windows” for the submission of original Antidumping investigation petitions, as shown in the table below.

Figure 91: Windows for presentation of the petition

Investigation period for <i>dumping</i>	Deadline for petition protocol: last working day of
January 20X1 to December 20X1	April 20X2
April 20X1 to March 20X2	July 20X2
July 20X1 to June 20X2	October 20X2
October 20X1 to September 20X2	January 20X2

Source: Ministry of Economy/SDCOM

For example, if the petition is prepared considering the investigation period of *dumping* from 1^o October 2018 to September 30, 2019, the petitioner will have until the last business day of January 2020 to file the petition. If the petitioner misses this deadline and submits the data on the first business day of February 2020, he must update all the data in the petition so that the investigation period for *dumping* corresponds to the period between 1^o of January and 31st of January December 2019.

115. What are the deadlines for filing petitions for review at the end of the period?

In view of the provisions of art. 94 of Decree No. 8,058, of 2013, the "windows" for submission of petitions for Antidumping investigation originals, mentioned in question 114 also apply to the submission of petitions for final revisions of time course.

However, the party that wishes to present this type of 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 end of the period of validity of the *Antidumping* law object of the petition, under penalty of this be considered untimely. If the party so wishes, the petition may be presented before this period of 4 (four) months, in order to facilitate its adaptation to the "windows" mentioned above. However, if the party misses the deadline for filing the sunset review petition, the definitive *Antidumping duty* that it was intended to extend will be terminated at the end of its effective period.

Therefore, if a definitive *Antidumping* duty is considered whose validity final period s on December 31, 2019, any petition for review of this

duty will have to be filed by August 31, 2019, that is, 4 (four) months before the expiration date. However, as a petition filed on August 31, 2019 would have an investigation period of *dumping* for the range from 1^o July 2018 to June 30, 2019, the petitioner would have only 2 (two) months to prepare and present your petition after the end of the aforementioned period of investigation. 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, that is, 5 (five) months before the end of the period of validity of the *Antidumping law* in question, in which case the investigation period of *dumping* should correspond to the range from 1^o from April 2018 to March 31, 2019.

116. What are the deadlines for initiating an original Antidumping investigation?

The tables below detail the deadlines provided for in art. 41 of Decree No. 8,058, of 2013, referring to procedures prior to the initiation of an original Antidumping investigation, that is, the deadlines for the analysis phase of the petition. Note that the deadlines for analyzing the petition vary if additional information is required for the petition.

It should be noted that the deadlines for analysis indicated in the tables below are internal deadlines and improper, so that their non-compliance does not generate procedural repercussions.

Figure 92: Deadlines for initiating an original Antidumping investigation, if not necessary Supplementary information to the petition

Background to the investigation	Deadlines
Petition protocol in the SDD	Observe the terms of art. 41 of Decree No. 1659 or 1669 8,058, of 2013 (see question 114)
Preliminary Analysis of the Petition by SDCOM	15 (fifteen) days, counted from the protocol of the petition
Decision that no supplementary information is required for the petition	
Consultation prior to opening - Mercosur Countries	

Notice of petition instructed for the governments of exporting countries	Before starting the investigation
Preparation of SDCOM Opinion	
Publication of SECEX Circular of beginning (day “0” of the investigation) OR dispatch of the official letter of rejection of the petition	Up to 15 (fifteen) days after the preliminary analysis of the petition

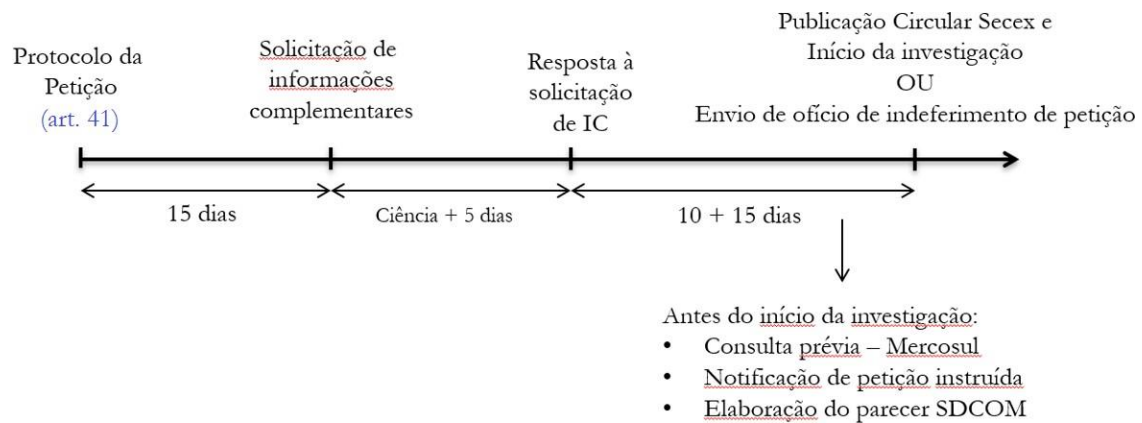
Source: Ministry of Economy/SDCOM

*Figure 93: Deadlines for initiating an original Antidumping investigation, if not necessary
Supplementary information to the petition*

Background to the investigation	Deadlines
Petition protocol in the SDD	Observe the terms of art. 41 of Decree No. 1659 or 1669 8,058, of 2013 (see question 114)
Preliminary Analysis of the Petition by SDCOM	15 (fifteen) days, counted from the protocol of the petition
Submission of SDCOM letter requesting additional information to the petition	
Submission of additional information to the petition or request for an extension of time (petitioner)	5 (five) days + notice period (3 (three) days)
Analysis of additional information by SDCOM	10 (ten) days from the receipt of the ADDITIONAL INFORMATION
Consultation prior to opening - Mercosur Countries	
Notice of petition instructed for the governments of exporting countries	Before starting the investigation
Preparation of SDCOM Opinion	
Publication of SECEX Circular of beginning (day “0” of the investigation) OR dispatch of the official letter of rejection of the petition	Up to 15 (fifteen) days after analysis of additional information to the petition

Source: Ministry of Economy/SDCOM

Figure 94: Deadlines for the analysis of petitions



Source: Ministry of Economy/SDCOM

117. What are the deadlines for starting a sunset review?

Although Decree No- 8,058, of 2013, provides detailed deadlines for the analysis of petitions for original Antidumping investigations, these deadlines do not necessarily need to be applied to the analysis of petitions for sunset reviews, since, Under art. 94 of the aforementioned decree, the sunset reviews will only comply with the deadlines established in Chapter V of that decree, among which are the deadlines for the analysis of the petition.

Furthermore, art. 111 of Decree No. 8,058, of 2013, only determines that the decision to initiate the sunset review must be published before the expiration of the definitive *Antidumping* law object of the review, which period is not subject to extension. Since the petition must be filed at least four (4) months in advance of this period, there is no need for the sunset review petition to be analyzed as expeditiously as the original petitions for investigations *Antidumping* (see question 114).

Nevertheless, it should be clarified that SDCOM will, whenever possible, analyze the sunset review petitions based on the deadlines for the analysis of the original *Antidumping* investigation petitions, in order to allow the verification *in loco* in the petitioner companies before the start of the review (see question 61). It should be noted that there is no breach of due process if such original investigation deadlines are not strictly adhered to in sunset reviews.

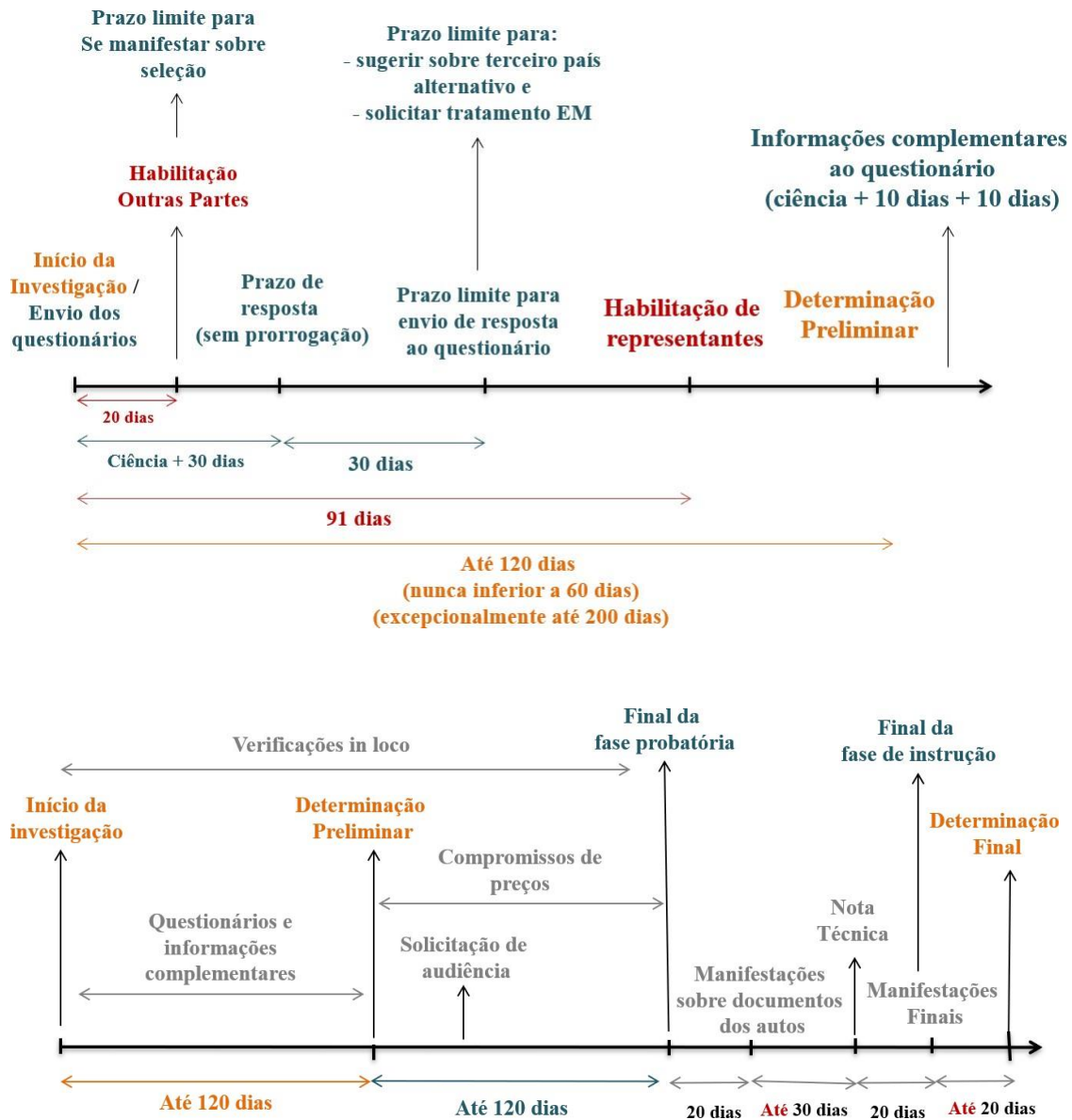
It should be noted that, since the beginning of a sunset review is predictable, it is not necessary to send an informed petition before the start of these reviews.

118. What are the deadlines during the investigation of the original

investigation Antidumping?

The following figure and table detail the deadlines provided for in Sections IV, V and VI of Chapter V of Decree No. 8.058, of 2013, referring to the procedures carried out after the initiation of an original Antidumping investigation, during the process instruction.

Figure 95: Deadlines for an original Antidumping investigation



Source: Ministry of Economy/SDCOM

Figure 96: Deadlines during the investigation of original Antidumping investigations

Process instruction	Deadlines	Days of investigation
Publication of SECEX Circular in the DOU	Initiation of the investigations	0
Sending of notifications of beginning (to interested people and to OMC) e request of information (questionnaires)	Immediately after the beginning of the investigation	-
Stated period for qualification of parts that if they consider interested parties, however they had not been identified by the SDCOM	20 (twenty) days of the beginning of investigation (paragraph3of art. 45)	20 (twenty) days
Stated period for government of the country exporter if to reveal on eventual election	10 (ten) days of the beginning notification science stated period (3 (three) days) (paragraph5of art. 28)	Approx 15 (fifteen) days
Original stated period for submission of answers to the questionnaires or request of extension of stated period for such submission	Up to 30 (thirty) days of the notification of beginning science stated period (7 (seven) foreign days for producers or exporters and 3 (three) days for too much parts) (art. 50, <i>introductory paragraph</i>)	Approx 40 (forty) days
On spot verification in the domestic industry	Normally after the beginning of investigation and before the preliminary determination	-
Stated period for act of receiving of information considered in the preliminary determination	At least, 60 (sixty) days of beginning of the investigation, being able to be extending, if not to harm the stated period for elaboration of the preliminary determination (paragraph7of-art. 65)	60 (sixty) days or more
Stated period for producer, exporter or petitioner to suggest third country alternative	70 (seventy) days of the beginning of the investigation (unextendible) (paragraph3 of art. 15)	70 (seventy) days

<p>Stated period for producer or exporter of considered country market economy not to present elements of test with intention to allow that the normal value will be calculated based on:</p>	<p>70 (seventy) days of the beginning of the investigation (unextendible)</p>	<p>70 (seventy) days</p>
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in the made use one in arts. 8the 14 of Decree n8,058, of 2013		
Extending stated period for submission of answers to the questionnaires	Up to 60 (sixty) days of the notification beginning science stated period (7 (seven) foreign days for producers or exporters and 3 (three) days for too much parts) (paragraph1 of art. 50)	Until approx 70 (seventy) days
Stated period for regularization of qualification of the representatives who had carried through the acts foreseen in paragraph3of art. 2of Ordinance SECEX n30, of 2018	91 (ninety and one) days of the beginning of the investigation (stated period foreseen in Circulating SECEX of beginning of the investigation)	91 (ninety and one) days
Expedition of the craft of request of complementary information to the questionnaires and/or of the craft of information refusal	After the analysis of the received questionnaires	-
Preliminary determination opinion	Up to 120 (one hundred and twenty) days, but never before 60 (sixty) days of the beginning of the investigation. Bonanza up to 200 (two hundred) days of the beginning of the investigation (<i>introductory paragraph</i> and paragraph1of art. 65)	Between 60 (sixty) and 120 (one hundred and twenty) days or, bonanza, up to 200 (two hundred) days
Publication of the preliminary determination - To circulate SECEX	Up to 3 (three) days after Parecer of SDCOM (paragraph5 of art. 65)	-
Sending of notification for the parts interested and for the referring OMC the determination publication preliminary	Immediately after the publication of Circulating SECEX of preliminary determination	-

Submission of complementary information to the questionnaires or request of time extension for such submission	10 (ten) days of the craft of request of complementary information science stated period (3 (three) days), being able to be extending per more 10 (ten) days (art. 50)	-
Application of provisory duty, by means of publication of Gecex Resolution (facultative)	After the publication of Circulating SECEX of positive preliminary determination	-
Sending of notification for the parts interested and for the referring OMC the provisory application of duty	Immediately after the publication of corresponding the Gecex Resolution	-
Duration of the provisional remedy (it will be had)	Of the 4 (four) 6 (six) months, being able to be extending the order of exporter for up to 9 (nine) months (paragraph 6, 7 and 8 of art. 66)	-
Maximum stated period for request of hearings	5 (five) months of the beginning of the investigation (art. 55)	Up to 5 (five) months (approx 150 (one hundred and fifty days))
On spot verification in excessively companies (exporting, import and others national producers)	After act of receiving of the information complementary to the questionnaires and before the end of the evidentiary phase of the investigation	Up to max. 240 (two hundred and forty) days
Price commitment presentation	After publication of the determination positive preliminary and before the conclusion of the evidentiary phase of the investigation (paragraph 6 of art. 67)	Approx. between 120 (one hundred and twenty) and 240 (two hundred and forty) days, in the maximum

Closing of the probationary phase	Up to 120 (one hundred and twenty) days from the publication of the preliminary determination (art. 59)	Up to ca. 240 (two hundred and forty) days
Statement on the information in the records	20 (twenty) days from the end of the probationary phase (art. 60)	-
Disclosure of SDCOM Technical Note with essential facts	Up to 30 (thirty) days after closing of the demonstration phase (art 61)	-
Closing of the instruction phase, final statements	20 (twenty) days from the release of the Note Technique (art 62)	-

Source: Ministry of Economy/SDCOM

It should be noted that the deadlines for analysis indicated in the tables below are internal deadlines and improper, so that their non-compliance does not generate procedural repercussions.²⁵

119. What are the deadlines during the sunset review instruction?

The procedures carried out during the instruction phase of a sunset review are practically the same as those carried out during the investigation of original Antidumping investigations (see question 114), given the provisions of art. 94 of Decree no 8,058, of 2013, subject to the differences presented below.

The first difference is related to the timing of the verification *in loco* in the petitioner companies. As explained above, in sunset reviews, SDCOM typically performs on-site verification on Petitioners prior to the start of the review, provided that there is a time frame for performing this type of procedure during the petition review phase. This practice is based on the principles of efficiency, provided for in art. 2 or 1668 of Law No. 1679 or 1688 9784, of 1999, and in art. 37 of the Federal Constitution of 1988, and the procedural celerity, contained in item LXXVIII of art. 5 or of the Magna Carta. It should be noted, however, that the verification *in loco* in the petitioner does not necessarily need to be carried out before

²⁵ It is important to highlight that, as long as the COVID-19 pandemic lasts, the deadlines provided for 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 information necessary for SDCOM's determinations, Under art. 7 of Normative Instruction SECEX No. or 1, of 2020.

the start of the review. Thus, if SDCOM chooses to perform the *on spot verification* on the Petitioner after starting the review, this procedure will take place 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 No. 8,058, of 2013, the preparation of preliminary determinations is not mandatory in sunset reviews, unlike what occurs in original *Antidumping* investigations. However, if SDCOM decides to make a preliminary determination within the scope of an sunset review, the preparation and publication of this determination will preferably follow the same deadlines set for preliminary determinations in original *Antidumping* investigations 0659, which were presented in the previous question .

It is important to highlight that issuing a preliminary determination is a condition for interested parties to submit a price commitment, under paragraph6 or of art. 67 of Decree No. 1709 or 1718 8,058, of 2013, according to which foreign producers or exporters may only offer price commitments or accept those offered by SDCOM during the period between the date of publication of the preliminary positive determination of *dumping*, injury to the domestic industry and the causal link between the two, and the closing of the evidentiary phase (see question 178).

It is important to highlight that SDCOM is not necessarily bound by price commitment proposals submitted by interested parties, nor is it obligated to issue preliminary determinations with the sole purpose of allowing the submission of such proposals. In this sense, Under the legislation, SDCOM may deny proposals considered ineffective or impracticable, under paragraph10 of art. 67 of Decree No. 8.058, of 2013, or for other reasons of general policy, in accordance with Article 8.3 of the Antidumping Agreement, which was internalized in Brazilian legislation, upon approval via Legislative Decree No. 30, of December 15, 1994, and enacted by Decree No. 1355, of December 30, 1994, having, therefore, the status of law in Brazil. It is noteworthy that proposals may be considered impracticable, among other reasons, if the financial burden is deemed excessive (due to the waiver of charging the duty, for example) or the operational burden of preparing preliminary determinations, negotiating compromise proposals is deemed excessive and subsequently monitor the fulfillment of any price commitment by the signatory exporters, which involves, in addition to the obligation to practice the minimum price, any other ancillary obligations that the authority deems necessary to neutralize the injury to the domestic industry.

It should be noted that, when a preliminary determination is not made within the scope of a sunset review, the requirement to publish the deadlines provided for in arts. 59 to 63 of Decree n.^o 8,058, of 2013, will be complied with by SDCOM through the publication of a SECEX Circular of review deadlines. Although there is no legal deadline for such

publication, SDCOM usually discloses this Circular within 120 (one hundred and twenty) days from the beginning of the sunset review, or within 200 (two hundred) days, under art. 65 of the Brazilian Regulation.

The last difference concerns the possibility of applying provisional duties. Since the definitive Antidumping duty remains in force during the sunset review (paragraph 2^o of art. 112 of Decree No. 8,058, of 2013)²⁶, the application is not necessary of provisional *Antidumping duties* in a period-end review.

120. What are the deadlines related to the on spot checks²⁷ in a Antidumping investigation ?

The following tables detail the procedures and deadlines related to verifications *in loco*, distinguishing those carried out in i) domestic producers and in ii) foreign exporters or domestic importers, Under art. 175 of Decree No. 8,058, of 2013. These deadlines apply to both the original *Antidumping* investigations and sunset reviews.

It should be noted that the deadlines for analysis indicated in the tables below are internal deadlines and improper, so that their non-compliance does not generate procedural repercussions.

Figure 97: Deadlines for on-site verification in national producers

Verification <i>in loco</i> in national producers	Deadlines
Letter of intent of the date of realization of Verification <i>in loco</i> in national producers	20 (twenty) days before verification <i>in loco</i>
Response with the company's consent	2 (two) days + notice period (3 (three) days)

²⁶ It is important to highlight that, as long as the COVID-19 pandemic lasts, the deadlines provided for 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 information necessary for SDCOM's determinations, Under art. 7 of Normative Instruction SECEX No. 1, of 2020. The anti-dumping duties subject to revisions remain in effect during the suspensions based on art. 67 of Law No. 9,784, based on paragraph 2 or of art. 112 of Decree No. 1709 or 0719 8,058, of 2013.

²⁷ It should be noted that, Under SECEX Normative Instruction No. 1, of 2020, due to the COVID-19 pandemic and the measures to combat this pandemic, SDCOM had to suspend, for an indefinite period, the performance of all verifications face-to-face. As long as this scenario persists, given the impossibility of carrying out on-site verification procedures, SDCOM will proceed, exceptionally, only with a detailed analysis of all information submitted by interested parties in the context of trade defense investigations and interest assessments public, seeking to verify its correctness based on a cross-analysis of the information filed by each interested party with that submitted by the other parties, as well as with information contained in other sources available to the Secretariat, if possible and when applicable. For this purpose, SDCOM may request additional information in addition to those provided for in paragraph 2 of art. 41 and in paragraph 2 of art. 50 of Decree No. 8058, of 2013. Furthermore, under the sole paragraph of art. 179 of the aforementioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and responses to questionnaires and details of specific expenses, in order to validate information submitted by interested parties.

Submission of verification script <i>on site</i>	20 (twenty) days before verification <i>in loco</i>
Duration of verification <i>on-site</i>	Usually 1 (one) week
Verification report <i>on site</i>	15 (fifteen) days after the end date of the investigator's leave
Availability of indicators of updated performance in the case records (if possible/necessary)	After verification <i>in loco</i> and before the end of the probationary phase
Notification of denial of information and use of best available information	

Source: Ministry of Economy/SDCOM

Figure 98: Deadlines for on-site verification in foreign exporters or national importers

Verification <i>in loco</i> in exporters foreign or domestic importers	Deadlines
Letter of intent of the date of realization of	
Deadlines for on-site verification in foreign exporters or national importers	20 (twenty) days before verification <i>in loco</i>
Response with the company's consent	2 (two) days + notice period (3 (three) days)
Letter informing the country's government foreign about verification <i>on the spot</i> (only in case of verification at a foreign producer/exporter)	After the consent of the foreign company
Submission of verification script <i>on site</i>	20 (twenty) days before verification <i>in loco</i>
Duration of verification <i>on-site</i>	Verification with foreign exporters: normally 1 (one) week Verification in national importers: normally 2 (two) days
Verification report <i>on site</i>	15 (fifteen) days after the end date of the investigator's leave
Notification of denial of information and use of best available information	After verification <i>on-site</i> and before the Closing of the probationary phase

Source: Ministry of Economy/SDCOM

121. What are the deadlines related to holding hearings in a Antidumping investigation ?

The table below details the procedures and deadlines related to the hearings, Under art. 55 of Decree No. 1669 or 1678 8,058, of 2013. These deadlines apply to both the original *Antidumping* investigations and sunset reviews.

It should be noted that the deadlines for analysis indicated in the tables below are internal deadlines and improper, so that their non-compliance does not generate procedural repercussions. In turn, the deadlines referring to the interested parties must be complied with, otherwise the untimely act will be disregarded by SDCOM.

Figure 99: Deadlines for holding hearings

Hearing requested by the parties	Deadlines
Hearing request	Up to 5 (five) months from the beginning of the investigation
Notification of the parties	At least 20 (twenty) days before the Hearing.
Submission of arguments by the parties	Up to 10 (ten) days before the hearing
Appointment of legal representatives for the hearing	Up to 3 (three) days before the hearing
Protocol of information presented orally during the Hearing. (may be waived in case of official recording of the hearing)	Up to 10 (ten) days after the hearing

Source: Ministry of Economy/SDCOM

It should be noted that hearings can be held by videoconference.

122. What are the deadlines for completing an original investigation Antidumping?

The table below details the deadlines provided for in articles 63, 72, 73 and 171 of Decree n. 8058, of 2013, referring to the procedures conducted after the termination of the evidence procedure in an original Antidumping investigation.

Figure 100: Deadlines for the completion of an original Antidumping investigation

Final determination and closing	Deadlines	Days of investigation
Final Determination Opinion	Up to 20 (twenty) days after the closing of the instruction phase (art. 63)	-
SECEX Circular extending the deadline for completion of the investigation up to 18 (eighteen) months	Before the period of 10 (ten) months Completion of research <i>Antidumping</i> original (art. 72)	Before the period of 10 (ten) months
Sending notification to interested parties regarding the extension	Immediately after the publication of the SECEX Circular extending the deadline for completion of the investigation.	-
End of investigation with application of Antidumping measures by means of publication of Gecex Resolution	After preparation of the SDCOM final determination opinion (art. 171)	Up to 10 (ten) months (or up to 18 (eighteen) months, if extended)
End of investigation without application of Antidumping measures definitive, upon publication of SECEX Circular	After drafting the opinion of SDCOM's final determination or upon petitioner's request (arts. 72, 73 and 171)	Up to 10 (ten) months (or up to 18 (eighteen) months if extended)
Sending of notification for the parts interested and for the referring OMC the determination publication	Immediately after the publication of the SECEX Circular or Gecex Resolution	-

Source: Ministry of Economy/SDCOM

123. What are the deadlines for starting a sunset review?

The table below details the deadlines provided for in articles 63, 72, 73 and 171 of Decree n. 8058, of 2013, referring to the procedures conducted after the termination of the evidence procedure in an original Antidumping investigation.

Figure 101: What are the deadlines for starting a sunset review?

Final determination and closing	Deadlines	Days of investigation
Final Determination Opinion	Up to 20 (twenty) days after the end of the instruction phase (art. 63)	-
SECEX Circular of extension of the deadline for completion of the review to up to	Before the ten (10) month period for completion of the review Article 112.	Before the period of 10 (ten) months
Twelve (12) months		
Sending notification to interested parties regarding the extension	Immediately after the publication of the SECEX Circular extending the deadline for completion of the investigation.	-
End of investigation without with extension of the measure by means of publication of Gecex Resolution	After preparation of the SDCOM final determination opinion (art. 171)	Up to 10 (ten) months (or up to 12 (twelve) months, if extended)
End of investigation without no extension of the measure definitive, upon publication of SECEX Circular	After drafting the opinion of SDCOM's final determination or upon petitioner's request (arts. 73, 112 and 171).	Up to 10 (ten) months (or up to 12 (twelve) months, if extended)
Sending notification to interested and for the referring OMC the determination publication	Immediately after the publication of the SECEX Circular or the Gecex Resolution	-
Final determination and		

Source: Ministry of Economy/SDCOM

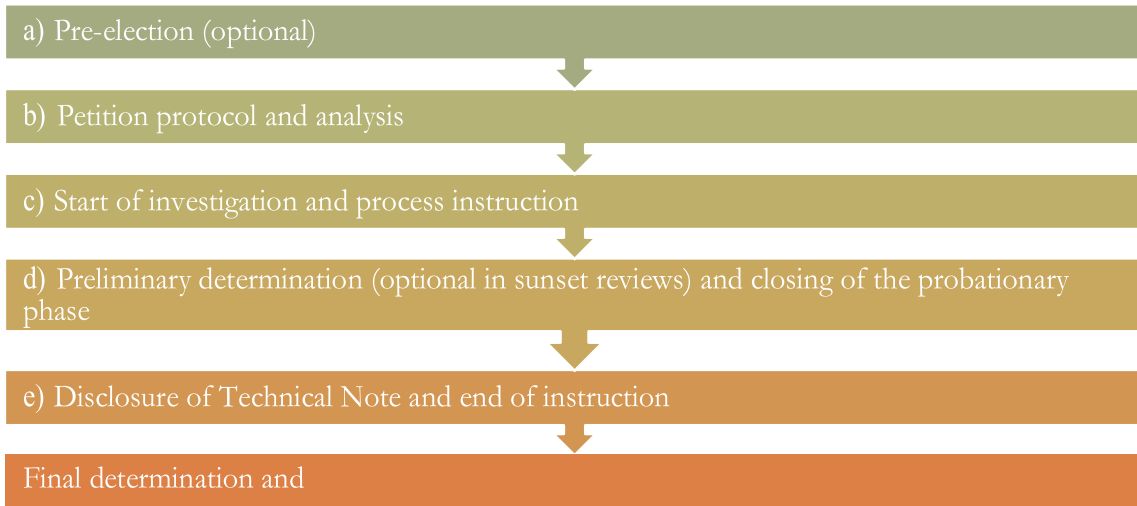
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124. Is it possible to extend the deadline of conclusion of the investigation Antidumping?

Under art. 72 of Decree No. 8,058, of 2013, in exceptional circumstances, SECEX may extend the deadline for completion of an original *Antidumping* investigation from 10 (ten) to up to 18 (eighteen) months, by means of a Circular. In the case of sunset reviews, art. 112 of the aforementioned decree determines that the deadline for its conclusion may be extended from 10 (ten) to up to 12 (twelve) months, by means of Circular SECEX, in exceptional circumstances. The parties will be notified of the SECEX act extending the deadline for completion of the Antidumping investigation.

125. What are the main stages of an Antidumping investigation?

Figure 102: Main stages of the Antidumping investigation



Source: Ministry of Economy/SDCOM

It should be noted that steps “c”, “d” and “e” mentioned above correspond, respectively, to the beginning, middle and end of the investigation process instruction *Antidumping*. During the process of instruction, there is the probationary phase, which begins in step "c" and ends in step "d" mentioned above.

126. What does the pre-election stage (optional) consist of?

Before filing a petition for Antidumping investigation in 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), a draft of what intends to submit as a petition. SDCOM, if it has time to do so, may carry out a brief compliance analysis of the draft petition (pre-election) submitted, based on SECEX Ordinances n.º 41 and 44, both from 2013. It is worth emphasizing that SDCOM may respond to a possible pre-request filed with the SEI with a statement that it does not have operational capacity and/or human resources available for the analysis.

It should also be noted that the pre-election is not mandatory for the domestic industry, as well as there is no obligation for SDCOM to comment on the pre-election submitted via SEI, nor are there any deadlines for any possible manifestation by this Secretariat. It should also be mentioned that, in case there are comments, they do not bind the official position of SDCOM in the analysis of the information that may be presented by the petitioner when filing the SDD petition.

It should be emphasized again that the pre-election must be filed electronically and processed through the SEI/ME system and that there is no deadline defined in the legislation for an eventual response from SDCOM. The pre-election must be directed, in the SEI, to the SDCOM/SECEX/SECINT/ME unit and classified as "restricted process" (justification: "Commercial Defense and Public Interest (Arts 22 and 36 of Law 12527/11; 6th, I, and 74 Dec 7724/12)"). Electronic spreadsheets (ex.: Excel files) may also be sent in "Zip" format at the SEI/ME.

Doubts about the SEI/ME can be resolved by consulting the external user Guidelines:

127. What is the step of filing and analyzing the petition?

As soon as the domestic industry files the investigation petition *Antidumping* with the SDD, the procedure for analyzing the petition by SDCOM begins. During this procedure, SDCOM may request additional information to the petition, if necessary, which must also be answered in the heart of the SDD. If the necessary requirements for the admissibility of a petition are present, provided for in Decree No. 8.058, of 2013, and SECEX Ordinance No. 41 or 44, both of 2013, the Antidumping investigation will be initiated through publication of SECEX Circular. Possible SECEX Circular for initiation of investigation *Antidumping* will be based on the initial opinion prepared by SDCOM, whose public version will be included in an annex to the aforementioned circular.

It should be noted that, prior to commencing an original *Antidumping* investigation, SDCOM must inform the government of the country under investigation of the existence of a duly informed petition (see question 145). This requirement does not apply in the case of sunset review petitions.

As mentioned above, it should be noted that, in the case of sunset reviews, the verification *in loco* in the petitioner companies may occur during the petition analysis phase or after the start of the investigation (see question 61).

To learn more about the specifics of the petition and its analysis and the inception

opinion, see questions 114 [to 116](#).

To learn more about the filing of the petition in the SDD, see questions 97 [to 108](#).

128. What is the stage of initiating an Antidumping investigation?

If the necessary requirements for the admissibility of a petition are present, provided for in Decree No. 8.058, of 2013, and SECEX Ordinance No. 41 or 44, both of 2013, the Antidumping investigation will be initiated through publication of SECEX Circular. The publication of this circular marks, therefore, the beginning of the evidentiary phase and the instruction of the investigation process *Antidumping*.

In the event of the initiation of an original Antidumping investigation, Circular SECEX will explain the evidence of the existence of *dumping*, injury to the domestic industry and a causal link. In turn, in the event of the beginning of an sunset review, the aforementioned legal provision will clarify the evidence of the existence of continuation or recovery of *dumping* and of the 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 paragraph 2^o of art. 45 of Decree No. 8.058, of 2013, and identified by SDCOM (see questions 90 and 91). Notification to the interested parties will be carried out by sending a letter,²⁸ which will contain the procedures and deadlines for replying to the questionnaires, as well as other general information about the investigation *Antidumping* and the actions of the parties in the scope of this investigation. The electronic address for accessing the petition that gave rise to the investigation will also be included in the notification to be sent to foreign producers or exporters and to the government of the investigated country, under art. 45, paragraph 4 o, of Decree No. 1679 o 8,058, of 2013.

Other interested parties that have not been identified by SDCOM must submit a request for authorization within twenty (20) days from the publication of the act that initiated the investigation, if they wish to participate in the Antidumping investigation in question, under paragraph 3 or of art. 45 of Decree No. 1719 or 1728 8,058, of 2013.

Still in the initial phase of the investigation *Antidumping*, responses to the questionnaires are received and letters are sent requesting additional information to these responses. Furthermore, in the case of original *Antidumping* investigations, on spot verification are carried out in the petitioner companies.

To learn more about the beginning of antidumping investigations see questions 148 to 173.

²⁸ Under SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

To learn more about accessing documents and submitting files in SDD, see questions [97](#) to [108](#).

129. Preliminary determination (optional in sunset reviews) and closing of the probationary phase?

The period between the preparation and publication of the preliminary determination and the closing of the evidentiary phase corresponds to the middle of the procedural instruction for Antidumping investigations. At this stage, the preliminary conclusions of SDCOM on the case under analysis are disclosed and the phase for submission of new elements of evidence ends. It should be noted that, as the preparation of preliminary determinations is not mandatory in sunset reviews, in these processes, this step can start with the publication of the SECEX Circular of review deadlines (see question [119](#)).

The preliminary determination, in an original Antidumping investigation, must contain all elements of fact and law available as to the existence of dumping, injury to the domestic industry and the causal link, under art. 65 of Decree No. 1719 or 1728 8,058, of 2013. In the case of preliminary determinations made within the scope of sunset reviews, all elements of fact and law available regarding the probability of continuation or recovery of dumping must be explained and the resulting injury to 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. 1659 or 1668 8,058, of 2013.

The preliminary determination opinion is prepared by SDCOM based on the evidence contained in the process until the date defined in the opinion itself, including, as a rule, the result of the on spot verifications of the data presented by the domestic industry in the petition for initiation and responses to questionnaires from exporters, importers and other interested parties, as well as other manifestations submitted by these parties in the initial stage of the Antidumping investigation. This opinion also presents the preliminary determinations of 0659 margins of dumping for selected producers or exporters, based on the responses to the questionnaires. It should be noted that, Under paragraph 7 or of art. 65 of Decree No. 1679 or 1688 8,058, of 2013, the preliminary determinations will consider, at least, the elements of evidence presented by the 60 or 1708 day of the investigation. The preliminary determination will be published in the DOU by means of Circular SECEX, up to 3 (three) days after its preparation, under paragraph 50 of art. 65 of Decree No. 1659 or 1668 8,058, of 2013.

In original investigations *Antidumping*, in case the preliminary determination is positive for *dumping*, injury to the domestic industry and a causal link between them, Gecex may apply provisional *Antidumping* duties by means of a Resolution, under the 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, preliminary negative determinations of injury or causality may justify the termination of the investigation at this stage.

As mentioned above, the preliminary determination is a mandatory stage of the original Antidumping investigation, under 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 prepare this type of determination, in sunset reviews, only if the interested parties demonstrate interest in offering a price commitment, in view of the provisions of paragraph 6^{or} of art. 67 of Decree No. 8.058, of 2013 (see question 178). It is important to highlight that SDCOM is not necessarily bound by price commitment proposals submitted by interested parties, nor is it obligated to issue preliminary determinations with the sole purpose of allowing the submission of such proposals. In this sense, Under the legislation, SDCOM may deny proposals considered ineffective or impracticable, under paragraph 10 of art. 67 of Decree No. 8.058, of 2013, or for other reasons of general policy, in accordance with Article 8.3 of the Antidumping Agreement, which was internalized in Brazilian legislation, upon approval via Legislative Decree No. 30, of December 15, 1994, and enacted by Decree No. 1355, of December 30, 1994, having, therefore, the status of law in Brazil. It is noteworthy that proposals may be considered impracticable, among other reasons, if the financial burden is deemed excessive (due to the waiver of charging the duty, for example) or the operational burden of preparing preliminary determinations, negotiating compromise proposals is deemed excessive and subsequently monitor the fulfillment of any price commitment by the signatory exporters, which involves, in addition to the obligation to practice the minimum price, any other ancillary obligations that the authority deems necessary to neutralize the injury to the domestic industry.

It should be noted that, when a preliminary determination is not made within the scope of a sunset review, the requirement to publish the deadlines provided for in arts. 59 to 63 of Decree n.º 8,058, of 2013, will be complied with by SDCOM through the publication of a SECEX Circular of review deadlines. Although there is no legal deadline for such publication, SDCOM usually discloses this Circular within 120 (one hundred and twenty) days from the beginning of the sunset review, or within 200 (two hundred) days, under art. 65 of the Brazilian Regulation. It is important to highlight that, even at this stage, after the publication of the preliminary determination, i) any additional information to the questionnaires submitted by the

parties is received and analyzed; ii) hearings were held, at the express request of interested parties; iii) verifications carried out *in loco* of the data submitted through responses to the questionnaires and corresponding complementary information; iv) price commitment proposals received; and v) received and analyzed other elements of evidence and manifestations submitted by the interested parties. It should be emphasized that evidence submitted after the end of the probationary phase will not be attached to the case file, Under the sole paragraph 3 or of art. 51 of Decree No. 8,058, of 2013.

To learn more about preliminary determination, provisional duties, and the closing of the probationary phase, see questions [129](#), [130](#), [174](#), [176](#), [183](#), [184](#), [185](#).

130. What is the stage of disclosure of the Technical Note and the end of the instruction?

This stage includes the procedures provided for in articles 60 to 62 of Decree n.

At this stage, SDCOM will prepare a technical note containing the essential facts under analysis that will be considered in the final determination. The document will be prepared based on i) in the evidence brought by the interested parties during the evidentiary phase of the process and ii) in the manifestations submitted by these parties in relation to the data and information contained in the restricted records of the process, within 20 (twenty) days after the closing of the evidentiary phase of the Antidumping investigation. Since the technical note will therefore consider the entire evidential set of the process, including verifications *in loco* of the data presented by exporters, importers and other interested parties in response to the questionnaires, there may be changes in the preliminary conclusions of SDCOM, in particular with respect to *margins of dumping* determined for the purpose of preliminary determination.

The technical note will only be published in the SDD, within a period of 30 (thirty) days, counting from the closing date of the aforementioned manifestation phase. After its disclosure, the parties will have 20 (twenty) days to present their final statements in writing, thus ending the process.

To learn more about the preparation of the technical note and the end of the procedural instruction, see questions 183 to 185.

131. What is the step of the final determination?

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Under art. 63 of Decree No. 8,058, of 2013, SDCOM will prepare its final determination within 20 (twenty) days after the conclusion of the process. The final determination will consider all the information submitted during the procedural instruction, explaining all the elements of fact and law related to the investigation, as well as SDCOM's final conclusions regarding the existence of *dumping*, injury to the domestic industry and a causal link between the two, in the case of original *Antidumping* investigations, or as to the likelihood of continuation or recovery of *dumping* and the resulting injury to domestic industry, in the case of sunset reviews.

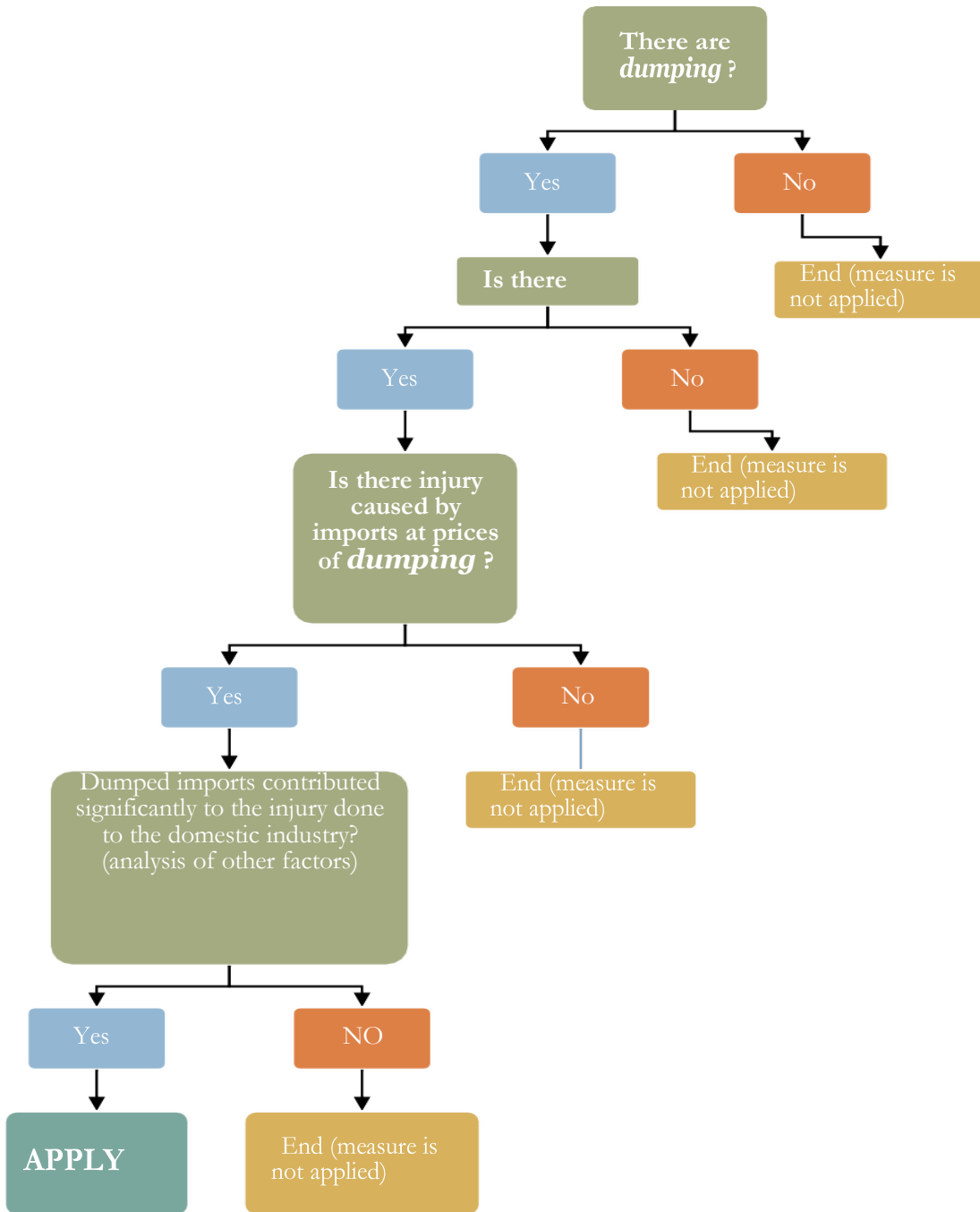
SDCOM's final determination opinion will support the closing of the *Antidumping investigation*. If SDCOM's final determination is negative, the investigation will be closed without application or extension of measures, by means of Circular SECEX. If SDCOM's final determination is positive, it will be up to Gecex to establish any definitive Antidumping measure, by means of a Resolution (see question [132](#)).

As mentioned above, the original investigations will be completed within 10 (ten) months from the date of initiation of the investigation, except in exceptional circumstances, when the period may be extended to up to 18 (eighteen) 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 learn more about the final opinion, the closing of the investigation, and the collection of definitive Antidumping duties, see questions [186](#) to [193](#).

132. What is the flow of the analysis of an original Antidumping investigation?

Figure 103: Analysis flow of an original Antidumping investigation

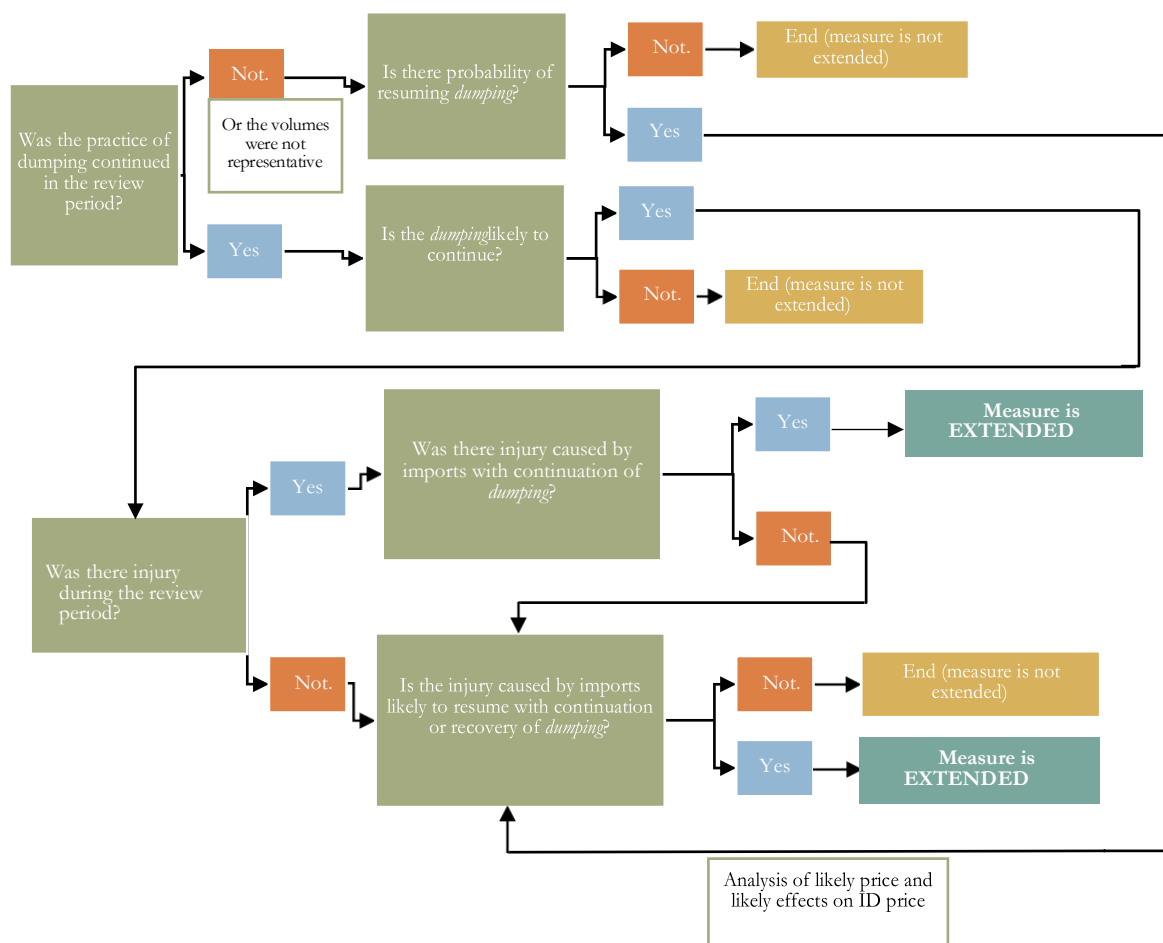


Source: Ministry of Economy/SDCOM

It should be noted that this flow is merely indicative of the flow traditionally followed in an original Antidumping investigation. Specifics of each case can lead to concrete analyzes not necessarily linked to the general Guidelines presented.

133. What is the flow of the analysis of a sunset review?

Figure 104: Analysis flow for a sunset review



Source: Ministry of Economy/SDCOM

It should be noted that this flow is merely indicative of the flow traditionally followed in an original Antidumping investigation. Specifics of each case can lead to concrete analyzes not necessarily linked to the general Guidelines presented.

PART III.2. THE PETITION AND PROCEDURES PRIOR TO THE START OF INVESTIGATIONS *ANTIDUMPING*

134. Who can request the initiation of an investigation *Antidumping* in Brazil?

Under *caput* of art. 37 of Decree No. 8,058, of 2013, the original petition for investigation *Antidumping* must be filed by the domestic industry or on its behalf. However, Under art. 44 of the aforementioned decree, in exceptional and duly justified circumstances, SECEX may initiate an Antidumping investigation original ex-officio, provided it has sufficient evidence of the existence of *dumping*, injury to the domestic industry and a causal link between them.

With regard to petitions for sunset reviews, art. 110 of Decree No. 1669 or 1678 8,058, of 2013, establishes that such petitions must also be presented by the domestic industry or on its behalf. It should be noted that, in the case of these reviews, it is not possible to start the official letter by SECEX.

135. Which rule provides for the information necessary to prepare an investigation petition *Antidumping*?

The original petitions for investigations *Antidumping* must be prepared using exclusively the format present in SECEX Ordinance No. 41, of October 11, 2013, and containing all the information specified therein, under penalty of being rejected.

In turn, petitions for sunset reviews must be prepared in accordance with the provisions of Ordinance SECEX No. 44, of November 29, 2013.

These ordinances consist, therefore, of the petition scripts to be followed by national producing companies that wish to plead an Antidumping 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 aforementioned decrees may be rejected.

It should be noted that, Under Decree No. 9,107, of 2017, the information that must be included in the petitions to be presented by fragmented industries, or on their behalf, and the form of their presentation may differ from what is established in the ordinances mentioned above.

Figure 105: Normative for the preparation of petitions



Source: Ministry of Economy/SDCOM

136. What are the general requirements of an investigation petition Antidumping originals?

An original Antidumping investigation must include evidence of dumping, injury to the domestic industry and a 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 signs may be presented together, while others will necessarily have to be presented in relation to each company individually.

This question deals with the evidence that may be presented jointly by the petitioner companies, which are provided for in Chapter 2 of SECEX Ordinance No. 41, of 2013.

Under the aforementioned chapter, an original Antidumping investigation must contain, among other data, information on:

- 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 *dumping prices*, name of country(ies) of origin and export, identity of each known foreign exporter or producer, item(s) the MERCOSUR Common Nomenclature (NCM) in which the product is classified and the list of known importers of the product in question;
- the similar product produced in Brazil, such as: detailed description of the product manufactured by the domestic industry, explanation about possible classification of the product 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 a similar product, list of known domestic producers of the similar product who are not represented in the petition and, as far as possible, an indication of the volume and value of domestic production of the similar product

corresponding to those producers, as well as their expression of support or rejection of the petition;

- total imports and the Brazilian market for the product;
- the normal value, through the presentation of: the representative price at which the product is sold, when intended for consumption in the domestic market of the exporting country(ies) or, when applicable, the representative price at which the product is sold by the exporting country(ies) to a third country, or even of the constructed value of the product;

- the representative export price or, when applicable, the representative price at which the product is sold, for the first time, to an independent buyer located in Brazilian territory;

- comparing the normal value with the export price; and
- the threat of harm, if any.
- Since SDCOM may conduct on-site verification to examine the records and verify the information provided, the auxiliary documents used in preparing the petition must be preserved to verify the information. Furthermore, all information presented in the petition must be accompanied by proof, justification and the sources and methodologies used.

137. What are the specific requirements of each company when filing an original *Antidumping* investigation petition that involves more than one petitioner?

As mentioned in the previous question an original Antidumping investigation must include evidence of dumping, injury to the domestic industry and a 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 signs may be presented together, while others will necessarily have to be presented in relation to each company individually.

This question deals with the evidence that must be presented individually by each company represented in the petition, which are provided for in Chapter 3 of SECEX Ordinance No. 41, of 2013.

Thus, under the terms of 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: total sales volume and value; list of each sales invoice of the similar product manufactured by itself 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; characterization of the injury to the domestic industry; and effects of imports allegedly at *dumping prices* on prices of the similar product in the domestic market;

other factors that could be simultaneously causing injury to the domestic industry, such as: the volume and price of other Brazilian imports; the impact of possible 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; export performance; productivity of domestic industry; captive consumption; imports or resale of imported product by the domestic industry, among others. The provision by the petitioner companies of specific information on operations relating to possible imports of the product allegedly *dumped* by the petitioner, to acquisitions of the allegedly dumped product or similar third-party product, industrializations for third parties, resales of the product allegedly object of *dumping*, among other operations, is not provided for in SECEX Ordinance No. 41, of 2013, but may be requested in the context of additional information to the petition. It should be noted that additional information on these types of operations may also be requested as complementary information to the questionnaires sent to importers.

As mentioned in the previous question since SDCOM may conduct on-site verification to examine the records and verify the information provided, the auxiliary documents used in preparing the petition must be preserved to verify the information. Furthermore, all information presented in the petition must be accompanied by proof, justification and the sources and methodologies used.

138. What are the general requirements for the sunset review petition?

A sunset review petition must include evidence that the termination of the definitive *Antidumping measure* in effect would most likely lead to the continuation or recovery of dumping and the resulting injury to the domestic industry. In cases where the in cases where the petition is filed by more than one national producer of the like product, some of these signs may be presented together, while others will necessarily have to be presented in relation to each company individually.

This question deals with the evidence that may be presented jointly by the petitioner companies, which are provided for in Chapter 2 of SECEX Ordinance No. 44, of 2013.

Under the aforementioned chapter, a sunset review petition must contain, among other data, information on:

- the qualification of the petitioner(s);
- the investigation period for continuation or recovery of *dumping* and the investigation period for continuation or recovery of injury;
- the product under review, such as the full description of the product under review, also indicating the number of the Gecex Resolution or SECINT Ordinance that applied or extended the Antidumping law ;
- the similar product produced in Brazil, such as: detailed description of the product manufactured by the domestic industry, explanation about possible classification of the product in models with product identification codes (CODIP) and similarity between the products;
- known domestic producers of the similar product who are not represented in the petition and, as far as possible, an indication of the volume and value of domestic production of the similar product corresponding to those producers, as well as their expression of support or rejection of the petition;
- total imports and the Brazilian market for the product;
- the normal value, through the presentation of: the representative price at which the product is sold, when intended for consumption in the domestic market of the exporting country(ies) or, when applicable, the representative price at which the product is sold by the exporting country(ies) to a third country, or even of the constructed value of the product;
- the representative export price or, when applicable, the representative price at which the product is sold, for the first time, to an independent buyer located in Brazilian territory;
- comparing the normal value with the export price; and
- the recovery of *dumping*, if applicable.

Since SDCOM may conduct on-site verification to examine the records and verify the information provided, the auxiliary documents used in preparing the petition must be preserved to verify the information. Furthermore, all information presented in the petition must be accompanied by proof, justification and the sources and methodologies used.

original *Antidumping* investigation petition that involves more than one petitioner?

A sunset review petition must include evidence that the termination of the definitive *Antidumping measure* in effect would most likely lead to the continuation or recovery of dumping and the resulting injury to the domestic industry. In cases where the petition is filed by more than one national producer of the like product, some of these signs may be presented together, while others will necessarily have to be presented in relation to each company individually.

This question deals with the evidence that must be presented individually by each company represented in the petition, which are provided for in Chapter 3 of SECEX Ordinance No. 44, of 2013.

Thus, under the terms of 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: total sales volume and value; list of each sales invoice of the similar product manufactured by itself 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; characterization of the injury to the domestic industry; and effects of imports allegedly at dumping prices on prices of the similar product in the domestic market;

other factors that could be simultaneously causing injury to the domestic industry, such as: the volume and price of other Brazilian imports; the impact of possible 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; export performance; productivity of domestic industry; captive consumption; imports or resale of imported product by the domestic industry, among them; technological progress; export performance; productivity of domestic industry; captive consumption; imports or resale of imported product by the domestic industry, among others.

As mentioned in the previous question since SDCOM may conduct on-site verification to examine the records and verify the information provided, the auxiliary documents used in preparing the petition must be preserved to verify the information. Furthermore, all information presented in the petition must be accompanied by proof, justification and the sources and methodologies used.

140. Can SDCOM request additional information regarding an original *Antidumping* investigation or sunset review petition?

SDCOM will examine the petition with the aim of verifying whether it is properly supported or whether additional information is needed. The result of this examination will be communicated to the petitioner. If additional information is requested to the petition, a new examination will be carried out after receiving this information, with a view to verifying whether the petition is properly instructed.

However, according to paragraph^{2^{or}} of art. 42 of Decree No.- 8,058, of 2013, petitions that require additional information, corrections or significant adjustments will be rejected (see question 143).

141. How do you assess the degree of representativeness of a petition?

Under caput of art. 37 of Decree No. 8.058, of 2013, the original petition for investigation Antidumping must be filed by the domestic industry or in his name. To that end, it is necessary that other domestic producers that make part of the domestic industry and that produced the similar product during the investigation period of *dumping* have been consulted.

Within the scope of this consultation, it is necessary, first, that the producers of the similar product who have expressly expressed support for the petition represent more than 50% of the total production of the similar product of those who expressed themselves in the consultation. Second, under the terms of paragraph^{2^{or}} of art. 37 of the aforementioned decree, it is necessary that producers who expressly support the petition represent 25% or more of the domestic production of the similar domestic product during the investigation period of *dumping*. Note the difference in the bases for calculating the aforementioned percentages: only producers that manifested themselves in the scope of the consultation vs. the total domestic production of the similar domestic product in the investigation period of *dumping*.

Figure 106: Analysis of the representativeness of the domestic industry



Source: Ministry of Economy/SDCOM

The expression of support or rejection by the producers will only be considered by SDCOM when accompanied by information corresponding to the volume or value of production and the volume of sales in the domestic market during the injury analysis period, under paragraph 4 or of art. 37 of Decree No. 8,058, of 2013. These data will be necessary for the most adequate determination of the national production and the Brazilian market referring to the investigated product.

Furthermore, Under paragraph 6^{or} of art. 37 of the aforementioned decree, the petition must contain the data necessary to determine the injury to the domestic industry relative to domestic producers who expressly expressed their support for the petition.

Under paragraph 3^o-and 7^o of art. 37 of Decree-No 8,058, of 2013, in the case of a fragmented industry, involving a particularly high number of domestic producers, the degree of support or rejection may be confirmed by means of a statistically valid sample. Furthermore, in these cases, a petition containing data relating to domestic producers that account for less than 25% of the national production of the similar product in the period of investigation of *dumping* may be accepted.

Finally, it should be noted that the examination of the degree of representativeness of the petition is not mandatory in sunset reviews.

142. The information presented in the investigation petitions *Antidumping* are verified by SDCOM?

The information provided by the domestic industry in the petition will be verified by SDCOM during the *on spot verification*²⁹, which is normally carried out after the initiation of the original *Antidumping* investigation. In the case of minor adjustments to the verified information, the injury indicators may be changed in the preliminary determination.

In the sunset review processes, based on the principles of efficiency, provided for in art. 2^{or} of Law No. 9,784, of 1999 and in art. 37 of the Federal Constitution of 1988, and procedural celerity, contained in item LXXVIII of art. 5^{or} of the Magna Carta, the on spot verification may be carried out prior to the beginning of the investigation, provided there is sufficient time to do so.

143. Can the petition be rejected by SDCOM ?

Under the terms of paragraph 2^{or} of art. 42 of Decree No. 8,058, of 2013, original petitions for investigations *Antidumping* that do not contain evidence of the existence of *dumping*, injury to the domestic industry and a causal link between them will be rejected. A sunset review petition must include evidence that the termination of the definitive *Antidumping measure* in effect would most likely lead to the continuation or recovery of dumping and the resulting injury to the domestic industry.

In addition to the material aspects of rejection mentioned above, formal aspects, such as rules regarding the language of documents and requirements for the confidential treatment of information, must be respected. Documents in disagreement with current legislation will not be attached to the case records and, when the defects are not remedied in a timely manner, they may cause the claim to be rejected. Furthermore, the petitions and their complementary information must be timely filed by the domestic industry in the SDD, and petitions filed in disagreement with the deadlines provided for in paragraph 2^{or} of art. 48 and

²⁹ It should be noted that, Under SECEX Normative Instruction No. 1, of 2020, due to the COVID-19 pandemic and the measures to combat this pandemic, SDCOM had to suspend, for an indefinite period, the performance of all verifications face-to-face. As long as this scenario persists, given the impossibility of carrying out on-site verification procedures, SDCOM will proceed, exceptionally, only with a detailed analysis of all information submitted by interested parties in the context of trade defense investigations and interest assessments public, seeking to verify its correctness based on a cross-analysis of the information filed by each interested party with that submitted by the other parties, as well as with information contained in other sources available to the Secretariat, if possible and when applicable. For this purpose, SDCOM may request additional information in addition to those provided for in paragraph 2 of art. 41 and in paragraph 2 of art. 50 of Decree No. 8058, of 2013. Furthermore, under the sole paragraph of art. 179 of the aforementioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and responses to questionnaires and details of specific expenses, in order to validate information submitted by interested parties

in art. 111 of Decree n^o 8,058, of 2013, will not be accepted by SDCOM either.

Petitions that require additional information, corrections or significant adjustments will also be rejected, under paragraph 2 of art. 42 of Decree No. 8,058, of 2013.

Thus, petitions that do not comply with the requirements established in Sections I and II of Chapter V, in paragraph 2^o of art. 48, in art. 51, in art. 53 and/or in art. 111 of Decree No. 8,058, of 2013, or even those provided for in SECEX Ordinances No. 41 or 44, both of 2013.

If SDCOM finds that the requirements for admissibility of the petition mentioned in this question have not been fulfilled, a dismissal letter or even an initial opinion may be prepared with a negative recommendation to start the process, depending on the type of deficiency found in the petition (form and/ or content).

144. Can the petition be withdrawn by the domestic industry?

Yes. Once observed the existence or not of petitions consists of confidential information, in cases where the domestic industry requests the withdrawal of the petition before the initiation of the Antidumping investigation, SDCOM will analyze the claim, confirm the withdrawal of the petition by letter and will file the case in the SDD. It should be noted that the withdrawal of the petition is not published in the DOU and that there is no grace period to be respected by the domestic industry before the submission of a new petition for the same product and origin(s).

145. Should Brazil notify the government of the exporting country of the existence of petitions?

As mentioned in questions 100 and 127, despite the fact that information as to the existence or not of a particular petition is confidential, SDCOM must notify the government of the exporting country of the existence petition duly filed before the initiation of an original Antidumping investigation, Under art. 47 of Decree No. 1819 or 1828 8,058, of 2013. This notification is made by sending official letter³⁰ to the official representation of the exporting country in Brazil.

The government of the exporting country, must also not publicly disclose the receipt of notice of notice of petition prior to the initiation of the investigation, which only becomes public at the time of publication of the SECEX Circular at the beginning.

³⁰ Under SECEX Ordinance No. or 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

It should be noted that notification of the existence of an instructed petition is only mandatory in the case of original *Antidumping* investigation petitions, and therefore does not apply to sunset review petitions.

146. Is there any special procedure for analyzing petitions and for initiating investigations *Antidumping* related to imports from Mercosur?

In the case of original petitions for investigations *Antidumping* related to imports from Mercosur Member countries, SDCOM, through the official letter that forwards notification of the existence of a duly filed petition, will invite the exporting government's country for consultation prior to the initiation of the investigation correspondent and will make available a copy of the restricted version of the petition.

The official letter will be sent to the official government representation of the exporting country Member of Mercosur in Brazil, suggesting a date for consultations. Attached will be information on the product object of the petition, representation of the petitioner, identification of the producer or exporter, data on normal value and export price, data on imports, in volume, total and by reported origin of the product in question, data on the injury indicators presented by the petitioner, as well as the sources of these data and the periods to which they refer. The exporting government may express its opinion on the suggested date for carrying out the consultation within the period stipulated in the official letter (usually 3 (three) business days from the date of receipt of the notification).

It should be noted that, in addition to the aforementioned obligations, when the original Antidumping investigations and sunset reviews conducted by Brazil include interested parties from one or more MERCOSUR States Parties, copies of all notifications will be advanced electronically directly to their respective investigating authorities, under art. 168 of Decree No. 8,058 of 2013.

147. What are the peculiarities of a petition when the origin investigated is not considered to be a market economy?

A petition related to imports from a non-market economy country must contain the same information as petitions related to imports from market economy countries, with the exception of data to be used for the purposes of determining normal value.

Thus, if the investigated origin is not a market economy, under the terms of art. 46 of SECEX Ordinance No. 41, of 2013, and of art. 38 of SECEX Ordinance No. 44, of 2013, the petitioner must suggest a third market economy country to be used for the determination of normal value, justifying its choice, and present data for calculation of normal value based on a of the alternatives below:

I - representative sales price on the domestic market of that third market economy country;

II - export price from that third market economy country to another market economy country, except Brazil; or

III - normal value constructed in this third market economy country.

It should be noted that, whenever none of the aforementioned hypotheses is feasible and provided that it is duly justified, the normal value suggestion may be based on any other reasonable price, including the price paid or payable for the similar product in the Brazilian domestic market, duly adjusted, if necessary, to include a reasonable profit margin.

The petitioner must clarify the reasons why the substitute country was deemed appropriate taking into account (i) the volume of exports of the similar product from the substitute country to Brazil and the main world consumer markets; (ii) the volume of sales of the similar product in the domestic market of the substitute country; (iii) the similarity between the product under investigation/review and the similar product sold in the domestic market or exported by the substitute country; (iv) the availability and degree of disaggregation of statistics needed for research; or (v) the degree of adequacy of the information presented in relation to the characteristics of the ongoing investigation.

PART III.3. FROM THE BEGINNING OF THE INVESTIGATION AND THE RECEIPT OF INFORMATION AT THE BEGINNING OF THE PROCESSUAL INSTRUCTION

148. How do you initiate an Antidumping investigation?

SDCOM will recommend the initiation of the investigation when a formally appropriate petition contains sufficient evidence of *dumping* in exports of the investigated product to Brazil and of injury to the domestic industry resulting from such practice. Based on SDCOM's initial opinion, SECEX will publish in the DOU the original Circular for the initiation of investigation *Antidumping* or for revision at the end of the period, under art.45 of Decree-No. 8.058, of 2013.

In the SDCOM initial opinion, the representativeness and degree of support of the domestic industry, information about the product and similarity, the absolute and/or relative increase in imports of the investigated product, the effects of imports on the price of the domestic industry will be analyzed., the other factors that may at the same time be causing harm to the domestic industry, in addition to the other information available in the petition. Furthermore, in the original opinions at the beginning of investigations *Antidumping*, the allegation of *dumping*, the evolution of the performance indicators on which the injury allegation is based and the causal link between the practice of *dumping are analyzed* and the injury to the domestic industry. In turn, in the case of an opinion to start a review at the end of the period, it also analyzes the allegations about the probability of continuation or recovery of *dumping* and the resulting injury to the domestic industry are also analyzed.

The opening opinion will be attached to the case file at the SDD on the date of initiation of the Antidumping investigation. Interested parties and their legal representatives qualified in the SDD will be able to consult the restricted version of this opinion in the referred system.

The SECEX initiation act will specify the countries of the investigated exporters or producers, the product under investigation, the starting date of the investigation and the basic initial deadlines for interested parties to express themselves in the scope of the investigation in question. The annex to the SECEX Circular will consist of the public version of the initial opinion prepared by SDCOM.

The date of publication of the SECEX Circular beginning in the DOU consists of day “0” of the investigation *Antidumping*, so that all deadlines start from the first business day following such publication.

Immediately upon initiation of the investigation, SDCOM will notify the WTO and

all identified stakeholders of the initiation of the investigation/review (see questions 90 and 91), in order to provide more details about the information required and the procedures and deadlines for participation in the process.

149. How can I follow up on investigations *Antidumping* that are initiated?

After the publication of the SECEX Circular at the beginning, information about Antidumping *investigations* in progress, whether original or sunset reviews, may be consulted on SDCOM website: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes>.

Interested parties and their authorized representatives will be able to access the restricted files of the administrative proceeding corresponding to the Antidumping investigation through the SDD (see questions 98, 99, 102 to 105). The number of the administrative proceeding in question will be disclosed in the SECEX Circular at the beginning and may also be consulted at the aforementioned electronic address.

150. How does SDCOM request information from interested parties?

During the *Antidumping investigation*, SDCOM may request various information from interested parties. These requests will, as a rule, be made through official letters.³¹

Thus, after the publication of the SECEX Circular at the beginning, SDCOM will send official letters to the identified interested parties, notifying them of the beginning of the investigation and forwarding questionnaires that will contain the information necessary for the investigation, under art. 50 of Decree No. 1669 or 1678 8,058, of 2013.

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 link.

After analyzing the responses of interested parties to the questionnaires, SDCOM may request additional information to the questionnaires, if necessary, also through official letters.

Likewise, if SDCOM deems it necessary to receive any other information from

³¹ Under SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

interested parties during the investigation, official letters will be sent specifying the other required information and establishing deadlines for its submission.

151. What is the content of notifications of initiation of investigation Antidumping?

Under art. 49 of Decree No. 8,058, of 2013, notifications will be sent by letter³² to the interested parties identified in the Antidumping investigation, which will contain Guidelines on the information required by SDCOM and the procedures and deadlines for response to questionnaires, as well as general information on the Antidumping investigation and the actions of the parties in the scope of this investigation.

Therefore, the notifications will indicate the electronic address where the questionnaires of foreign producers or exporters, importers and other domestic producers will be made available. The unofficial translation of questionnaires from foreign producers or exporters into English will be available for consultation at the same email address. Furthermore, the e-mail address of Circular SECEX that made public the facts that justified the decision to initiate the investigation will be included in the notification.

The electronic address for accessing the petition that gave rise to the investigation will also be included in the notification to be sent to foreign producers or exporters and to the government of the investigated country, under art. 45, paragraph 4°, of Decree No. 8,058, of 2013.

152. What should an interested party do after receiving notification from SDCOM about the initiation of an Antidumping investigation?

After receiving an notification of initiation Antidumping investigation, the party must consult, at the electronic address indicated in the letter, the basic information regarding the investigation and the deadlines and procedures for replying to the questionnaires and for participating in the corresponding administrative proceeding. If the interested party wants to know more information about the product or the analyzes carried out by SDCOM, it should consult the SECEX Circular that initiated the original Antidumping investigation or the sunset review.

If the interested party is interested in participating in the investigation, they must request their authorization in the process through the SDD (see question 102) and respond to the questionnaire provided at the electronic address indicated in the letter, paying attention to

³² Under SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

the deadlines indicated by SDCOM. If the party deems that more time is needed to prepare the response to the questionnaire, it may request an extension of the period originally established by SDCOM through the SDD. The request for an extension of the deadline for replying to the questionnaire must be registered in the restricted file of the process before the deadline originally determined by SDCOM.

It should be noted that, regardless of whether the party submits a response to the questionnaire or not, all interested parties qualified in the SDD are guaranteed the duty to consult the records and express their opinion in the scope of the process.

The submission of any elements of evidence by interested parties, such as manifestations and responses to questionnaires sent by SDCOM, must be carried out through the SDD (see questions 102 to 104).

It should be noted that, although the submission of responses to the 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 the investigation, the opinion regarding the preliminary or final determinations will be prepared based on the best available information, under paragraph 3 or of art. 50 and Chapter XIV of Decree No. 8,058, of 2013.

153. What should the party do if it has not been identified by SDCOM, but if is interested and wishes to participate in a particular investigation?

When a company is identified as an interested party in an Antidumping investigation, SDCOM sends a notification³³ to that company indicating that it has been deemed an interested party under paragraph 2 or of Art. 45 of Decree No. 8,058, of 2013 and who may participate in the investigation if he so wishes.

If a party that considers itself interested is not identified by SDCOM, it may request its authorization and that of its legal representatives within a period of 20 (twenty) days, counting from the date of publication of the SECEX Circular of initiation of the investigation or review, as provided in paragraph 3 of art. 45 of Decree No. 8,058, of 2013. The request for qualification and the representation documents necessary for the qualification must be submitted through the SDD, within the scope of the corresponding investigation process Antidumping (see questions 98 and 102).

154. What happens if there are a large number of producers or exporters

³³ Under SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

identified in the Antidumping investigation?

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Once identified an excessive number of foreign producers or exporters by SDCOM, for the submission of the questionnaire, i) the producers or exporters responsible for the highest reasonably investigable percentage of the export volume of the exporting country will be selected (item II of art. 28) of Decree no 8.058, of 2013) or ii) statistically valid sample that includes a reasonable number of foreign producers or exporters, based on information available at the time of selection (item I of art. 28 of Decree no 8.058, of 2013). 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 responses to the questionnaires of the selected companies.

Under paragraph 4° and 5° of art. 28 of the aforementioned Decree, interested parties may express their opinion regarding the selection, including with the purpose of clarifying if the selected companies are exporters, trading companies or producers of the product under investigation, within 10 (ten) days, counted after the date of receipt notification of initiation Antidumping investigation.

Companies not selected may submit voluntary responses to the questionnaires, provided that within the established period, Under paragraph 6° of art. 28 of the aforementioned Decree.

Please note that, regardless of whether or not they are included in the selection, all foreign producers or exporters will be notified³⁴ of the initiation of the investigation Antidumping. The start notification will inform you whether or not the company has been selected.

To better understand how the selection is made, in the case of item II of Art. 28 of Decree n ,1678 8.058, 2013, see question 30.

155. What information may SDCOM request through the questionnaires from other national producers?

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Under art. 50 of Decree n 8,058, of 2013, the excessively producing Brazilians of the similar product who had not been part of the petition will be notified of the beginning of the Antidumping investigation and will receive questionnaire indicating the necessary information to the investigation.

³⁴ Under SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

The questionnaire of the national producer will request similar information to the demanded ones of each company in the petition, as mentioned in the question 137. Thus, will be requested information on structure and affiliations, practical countable and process of sales and distribution of each national producer, as well as volume and total value of sales, list of each forma bill of sale of sales of the similar product of proper manufacture for the domestic market, production and degree of use of the capacity installed, supplies, demonstrative of result, job and wage mass, return on the investment, capacity to catch resources or investments, cost of production, characterization of the injury to the domestic industry, effect of the importations allegedly the prices of *dumping* on the prices of the similar product in domestic market e other factors that can simultaneously be causing injury to the domestic industry.

The requested information will have to be supplied in relation to the period of investigation of injury indicated in the questionnaire. The information of others nationals producers could be used to compose the pointers of performance of the domestic industry, together with the information submitted for the companies petitioners, or to be used as other factors of injury to the domestic industry (see question 64). Independently of the situation, such information will be considered in the determination of the Brazilian market, the apparent national consumption and the national production.

Specifically in revisions of final period, also they could be requested relative information to the continuation or the retaken one of the injury to the domestic industry, as well as regarding other causing factors of injury.

It is registered that, together with the reply to the questionnaire, the interested person will have to send the signed term of responsibility, certifying the veracity of the information contained in the reply to the questionnaire, confirming its science of that these information can be confirmed with the on spot verification and authorizing the SDCOM to use the presented information.

156. What information may SDCOM request through the questionnaires from other national producers?

Foreseen in art. 50 of Decree n 8,058, of 2013, the foreign questionnaire of the producers or exporters requests general information on the company and its productive process, as well as data for verification of the normal value and the price of exportation.

Therefore, in the first part of the questionnaire, they are requested information on structure and affiliations, practical countable and financial, product and productive process, total processes of distribution and sales, registers of sales of the period, among others.

With sights to the calculation of the normal value, the price of exportation and the margin of *dumping*, is requested information detailed on sales of the similar product in the domestic market of the exporting country, on the exportations of the similar product for one third country, on the exportations of the product object of the investigation for Brazil and on the costs incurred for the company into the manufacture, distribution and sales of the investigated product.

Usually, the requested information by means of the questionnaire of the producer or foreign exporter will make reference to the period of investigation of *dumping* (P5). It registers, however, that, specifically in revisions of end of period, the information about installed capacity, production and supplies they will be requested for all the period of investigation of retaken continuation or of the injury to the domestic industry (P1 to P5), in order to evaluate the factors listed in art. 103 of Decree n 8,058, of 2013. In addition, in cases of retaken of dumping, will be requested information detailed on exportations of similar product for one third country.

It is registered that, together with the reply to the questionnaire, the interested person will have to send the signed term of responsibility, certifying the veracity of the information contained in the reply to the questionnaire, confirming that this information will be confirmed with the on spot verification and authorizing the SDCOM to use the presented information.

157. What information may SDCOM request through the questionnaires from other national producers?

Under art. 50 of Decree n 8,058, of 2013, the companies who had imported the product object of the investigation in the period of investigation of dumping will be informed of the beginning of the investigation and will receive questionnaire requesting general information on the company, as well as data detailed concerning the importations of the above-mentioned product, of the related expenditures of internment to these importations, of the imported product and eventual resales of this product.

The information of the importers on the product are important to confirm the volume and the value of the Brazilian total importations of the product object of the investigation, as well as mix of imported CODIP. Already the importation expenditures will be considered in the analysis of the effect of the importations of the product object of the investigation on the price of the domestic industry, of the amplitude of the margin of dumping and eventual recommendation of the Antidumping duty inferior to the margin of dumping that it is enough to eliminate the injury to the domestic industry caused by

importation object of dumping.

In the case of import companies related the foreign producers or exporters (see question 24), the price of exportation used in the calculation of the margin of *dumping* could be constructed from the price of resale of the product object of the investigation to the first independent, requested purchaser in the questionnaire of the importer, the terms of art. 21 of Decree n 8,058, of 2013. However, in case that the products are not resold the independent purchaser or they are not resold in the same condition where they had been mattered, the exportation price could be constructed from any other considered method reasonable, since that duly justified.

In some inquiries, with sights to clarify doubts on the similarity of the product object of the investigation with the similar product, questionnaires for the companies who had imported the product object of the investigation in the period of investigation of injury and/or for the companies could be sent who had imported the similar product of other origins.

It is registered that, together with the reply to the questionnaire, the interested person will have to send the signed term of responsibility, certifying the veracity of the information contained in the reply to the questionnaire, confirming that this information will be confirmed with the on spot verification and authorizing the SDCOM to use the presented information.

158. What information may SDCOM request through the Third Party Market Economy Country questionnaires?

Under art. 15 of Decree n 8,058, of 2013, in the inquiries Antidumping where the exporting country will not be considered country of market economy predominantly (questions 16, 19, 20 and 21), the normal value will be determined on the basis of the price of sale of the similar product in one third country of market economy.

In these cases, the producers of the similar product of the third country of economy market chosen will be notified at the beginning of the investigation and will receive questionnaire, by means of which they will be requested detailed information about the sales of the similar product in your domestic market. The fulfilling of the questionnaire of third country of market economy it's optional and has as objective to collaborate with the verification of the normal value in the scope of the Antidumping investigation.

Therefore, together with the reply to the questionnaire, the interested person will have to send the signed term of responsibility, certifying the veracity of the information contained

in the reply to the questionnaire, confirming that this information will be confirmed with the on spot verification and authorizing the SDCOM to use the presented information.

159. What is the deadline for submitting responses to the questionnaires and additional information to the questionnaires?

As made use in art. 50 of Decree n 8,058, of 2013, the interested people will have 30 (thirty) days to reconstitute the received questionnaires, by means of the SDD, counted of the date of science. It is presumed after document science transmitted electronically 3 (three) days the date of transmission, as art. 19 of Law n 12,995, of 18 of June of 2014. Specifically, in the case of the deadline for replying to questionnaires from foreign producers or exporters, the notice period will be 7 (seven) days from the date of transmission, in accordance with footnote 15 of the Agreement on the 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 Multilateral Trade Negotiations of the GATT, promulgated by Decree No. 1355, of December 30, 1994.

Whenever possible, the stated period for submission of the questionnaires could be extending for up to 30 (thirty) days, if requested, since that duly justified and having in mind the deadlines to be completed during the course of investigation. The order of time extension of reply to the questionnaire will have necessarily to be protocolled before the ending of the corresponding original stated period.

The stated periods for the restitution of the questionnaires, extending original and, will be divulged in the electronic page of the SDCOM that to contain information on the inquiries in course in the Undersecretariats, which is: <https://www.gov.br/produktividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/investigacoes>.

After the analysis of the answers to the questionnaires, could be requested, in writing, information adds. The stated period for the supply of the complementary information to the questionnaire will be of 10 (ten) days, counted of the date of science (3 (three) days after the transmission; applicable to all the interested people, producing/also exporting), being able to be extending for equal period, the order and since that duly justified. The request for a deadline extension for submission of complementary information to the questionnaire must be protocolled before the ending of the corresponding original deadline.

160. How does SDCOM assess the correctness and adequacy of information provided by interested parties?

The SDCOM will search, during the investigation, to verify the correction and the adequacy of the information supplied for the interested people. For in such a way, the SDCOM will analyze all documentation supplied for the interested people, will confer the sources and the documents cited for the parts in its manifestations, will critically evaluate the relevancy and the adequacy of the presented elements of test and will verify the existence of inconsistencies in the data supplied for determined interested person and in the set of constant information of files of legal documents. In addition, the SDCOM will be able to carry through on spot verifications³⁵ in the involved companies, located in such a way in Brazil how much in the exterior, consonant art. 175 of Decree n 8,058, of 2013.

161. Why does SDCOM carry out on spot verifications on interested parties?

Through the on spot verifications³⁶, the SDCOM searches to verify the correction of the information supplied for the interested people and to get more details that if make necessary concerning these information, as mentioned in the Attached I of the Antidumping Agreement .

It's worth emphasizing, therefore, that the on spot verification does not have intention to allow the company presents new data that can modify significantly the information presents in the process. Therefore, after the sending the notification indicating the intention of the SDCOM to start the on spot verification in the company, new information will only be accepted to make small corrections and clarifications in relation to the data previously presented (*minor corrections*, Under paragraph 5 and 7° of art. 175 of the cited Decree) and since that presented for evaluation of the team technique at the beginning of the on spot verification.

162. As a rule, when are the checks carried out on spot verifications³⁷?

In view of that the information supplied for the parts must be verifiable and that, according to art. 178 of Decree n 8,058, of 2013, answers upon request of information of

³⁵ It should be noted that, Under SECEX Normative Instruction No. 1, of 2020, due to the COVID-19 pandemic and the measures to combat this pandemic, SDCOM had to suspend, for an indefinite period, the performance of all verifications face-to-face. As long as this scenario persists, given the impossibility of carrying out on-site verification procedures, SDCOM will proceed, exceptionally, only with a detailed analysis of all information submitted by interested parties in the context of trade defense investigations and interest assessments public, seeking to verify its correctness based on a cross-analysis of the information filed by each interested party with that submitted by the other parties, as well as with information contained in other sources available to the Secretariat, if possible and when applicable. For this purpose, SDCOM may request additional information in addition to those provided for in paragraph2 of art. 41 and in paragraph2 of art. 50 of Decree No. 8058, of 2013. Furthermore, under the sole paragraph of art. 179 of the aforementioned decree, SDCOM may request evidence, such as samples of operations contained in petitions and responses to questionnaires and details of specific expenses, in order to validate information submitted by interested parties.

³⁶ Idem.

³⁷ Idem.

SDCOM or the questions formulated for the government or the producers or exporters of the exporting country will have, whenever possible, to be supplied before the accomplishment of the verification, the on spot verifications tend to be done after the beginning of the Antidumping investigation. Thus, normally, the on spot verification of the constant information in the petition of the companies who compose the domestic industry will be done after the beginning of the Antidumping investigation original and before the preliminary determination. In the case of sunset revisions, the on spot verification in the companies petitioners could be carried through before the beginning of the revision, since that it has skillful time for such. In turn, any verification of the information provided by other interested parties tends to be carried out after the preliminary determination and before the conclusion of the evidentiary phase of the investigation, as they depend on the submission of responses to the questionnaires and additional information requested by SDCOM.

163. What are the steps that precedes the on spot verification and how long do these procedures take ?

In the process of on spot verification, SDCOM i) must receive verifiable information from the interested party; (ii) notify its intention to the corresponding interested party and propose a date for verification; (iii) obtain the agreement of the interested party; iv) notify the government of the exporting country in the event of verification on site abroad; and v) send in advance the route of the activities to be carried out during the on spot verification on.

As standard procedure, on spot verifications have an average duration of 1 (one) week when it comes to petitioners, other domestic producers and foreign producers or exporters. In turn, checks on importers, in related tradings, on producers or exporters from countries not considered market economies and on third country market economy producers last on average 3 (three) days.

164. Does SDCOM previously communicate the interested parties and the government of the investigated exporting country about the on spot verification?

Yes. Under paragraph 1 of Article 175 of Decree No 8,058 of 2013, SDCOM shall communicate³⁸ foreign producers or exporters, national producers and selected importers indicating the intention to start the on spot verification. When this communication

³⁸ Under SECEX Ordinance No. 21, of 2020, SDCOM will transmit its notifications and communications to interested parties by electronic means.

is made, SDCOM will suggest dates for the visits.

Please note that the communication will be made at least 30 (thirty) days before the suggested date for verification, in the case of foreign producers or exporters and importers, or at least 20 (twenty) days before the suggested date for verification, in the case of domestic producers.

Once the consent of the foreign producer or exporter is obtained, the government of the exporting country will be immediately informed of the names and addresses of the producers or exporters to be verified, as well as the dates agreed for the visits, under paragraph 10 of art. 175 of the decree No 8.058.

165. What should an interested party do after receiving an official letter from SDCOM indicating its intention to start the on spot verification?

Under paragraphs 2 and 3 art. 175 of Decree No 8,058 of 2013, within two (2) days, from the date of communication indicating SDCOM's intention to start the on spot verification, the foreign producer or exporter, the national producer or importer shall express in writing their express consent (or not) to the on spot verification. The absence of a timely response from the foreign producer or exporter or importer may give the opportunity to apply the best available information (see questions 73 and 173). The absence of response from the petitioners may give the opportunity to close the investigation without a merit judgment.

After the consent, the party shall prepare for the on spot verification, based on the verification script sent by SDCOM, which will clarify the information that will be requested and analyzed at the time of the visit.

166. Does SDCOM previously send to interested parties any script of what it expects to obtain from information and documents in the on spot verification?

Under paragraph 6 or art.175 of Decree No 8,058 of 2013, SDCOM shall send a script for verification at least 20 (twenty) days before the verification in the case of foreign producers or exporters and importers, or at least 10 (ten) days before verification, in the case of national producers.

The script, in addition to showing how the on spot verification works, explains the information that will be requested and analyzed by SDCOM, as well as the documents to be submitted by the company during the on spot verification. the script also specifies the verification steps and procedures that will be conducted by the SDCOM team.

The types of documents listed in the script that can be examined by the SDCOM team during the on spot verification include:

I – financial statements and explanatory notes, including verification balance sheets;

II – general diary and general ledger;

III – all sales-related documents selected for verification (invoice/sales invoice, bill of lading, *packing list*, insurance policies, certificate of origin, among others);

IV – controls and records relating to production and stocks;

V – supply agreements with customers, in the domestic and foreign market;

VI – raw material and input supply agreements;

VII – controls and records related to cost accounting, highlighting the main items: raw materials, utilities, labor and other fixed and variable costs (General Manufacturing Expenses – GGF);

VIII – books and records of the Department of Human Resources (Personnel), in the case of domestic industry;

IX – management reports related to production, sales and costs, among other documents.

With script, the company is also informed that spreadsheets prepared for the specific purpose of proving the data will not be accepted. If the company's accounting system does not calculate some numbers as requested by SDCOM, the calculation methodology used to calculate the data must be demonstrated.

In addition, the script makes it clear to the company that it is essential that the work be carried out in a reserved room, where all the necessary documentation should be shifted. Therefore, given the need for copies of accounting records, invoices and documents in general, it is appropriate that there is easy to digitize or reproduce this material in a place near that room. All original documents must be easily accessible by the SDCOM team so that investigators, if necessary, can examine them.

Please note that, as stated in the script, copies of all documents requested by the SDCOM team will be numbered, listed in the final meeting minutes, and attached to the confidential SDD file. For this reason, the company is entitled to keep copies of all documents delivered to the technicians, since, after verification, these copies will be attached to the confidential records of the process in question.

Through the script, the interested parties 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 records of the process.

167. During the on spot verification, may SDCOM request access to other information and documents, in addition to those initially requested in the script?

The prior submission of the verification script, provided for in paragraph 6 or of Art. 175 of Decree N 8,058, 2013, does not prevent requests for further clarification from being made during the visit or requests for additional clarifications to be requested as a result of the information previously obtained. This possibility is also clearly stated in the verification script.

Therefore, for example, if necessary, views of the originals of the documents presented may be required, and if the information is extracted from an electronic system, the printing of the screens that allow the tracking of the required information may be requested. SDCOM technicians may request access to the screens during the *on spot verification*.

168. What to expect from the first day(s) of on spot verification?

At the beginning of the verification, the verifying team of the SDCOM will present the procedures briefly to be fulfilled, already listed previously in the script (vide question 166). At this moment, also it will be supplied not anticipated list with referring numeration to the other operations of sales, exportation and/or importation in the script. It is expressly stated for the record that the request of these operations at the beginning of the verification can be found in the script. Still at the beginning of the verification, they could be requested, for the investigators of the SDCOM, intervals with forma bill of sale numbers or invoices that had not been related in the appendices of the questionnaires or the petition, with the objective to verify if the cited operations they include sales of the similar product or the product object of the investigation.

After the introduction of the team of the SDCOM and previously to the beginning of the analysis of the item selected for verification, the company will be able to present eventual adjustments of the data supplied before the on spot verification (small corrections), which will have to be evaluated by the SDCOM team at this moment.

In order to assist the evaluation of the team of the SDCOM, one sends regards that the company describes the nature of each new presented information, such as the original value, the value corrected and the reason of the correction necessity. It fulfills to strengthen that new information will only be accepted to effect small corrections and clarifications in relation to the data previously presented and since that presented for evaluation of the team technique at the beginning of the on spot verification, in the terms already mentioned in the

161 question

Therefore, usually, to be considered as small corrections, the new information/clarifications do not have to imply the necessity of presentation of new databases (appendices) with sales of the similar product or object of the investigation or with the total costs of manufacture of the similar product or object of the investigation, previously directed with the petition or the complementary reply to the questionnaire and its information.

After that, the representatives of the company will have to present its institutional and organizational structure of brief form, explaining its industrial and commercial activities, eventual changes and reorganizations throughout the period of investigation of *dumping* and interconnections with other companies (associates, affiliated, controlled and controllers), including of products or services and customers supplying. The information concerning interconnections of the company will have to be followed of the documents that identify these relations.

Afterwards, the company will have to present its practical briefly countable, including of the bookkeeping of the company and detailing of the bookkeeping of the values of sales and its expenditures summary. The company will have to supply complete flowchart contends the indication of the accounts used in the prescription accounting, costs, expenditures and all the other launchings related to the for sale production and of the similar product or the product object of the investigation in its respective accounting books (daily, reason and temporary balance sheets).

After that, the company will have to describe the productive process of the similar product or object of the investigation. At this moment, it could be carried through visits the production plant of the company, if the SDCOM team judges necessary. After the presentation on productive process, the SDCOM team, usually, will verify the volumes of production, supplies and sales of the similar product or object of the investigation, as well as will be able to evaluate the information reported referring to the installed capacity of the company. In elapsing of these procedures, they use to be requested information concerning the list of products of the company, the relation of the codes of product of the company with the CODIP defined in the scope of the Antidumping investigation, the criteria for classification of products as similar product or object of the investigation and its identification in the systems countable and of codification of the product of the company, among others information.

A concluded time this initial stage, will transfer it the “test of totality” and to the other procedures mentioned in the script, related to the verification of sales and the costs of the company. It fulfills to point out that all the procedures carried through in the scope of

the on spot verification will depend on the nature of the requested information for the SDCOM to each company. Thus, the on spot verifications in importers will be significantly different of the on spot verifications in producers or foreign exporters, which, in turn, they differ from the carried through ones in national producers. The definition of part of the procedures lead in each verification also will depend on the information that the SDCOM to judge more excellent in each case concrete.

169. What are the “conciliations” carried out by SDCOM during the on spot verifications?

The procedures of “conciliation” of information carried through for the SDCOM team consist of verifying if the information contained in the systems of the company (accounting, management, production, among others) and in its documents and registers corresponds i) to the information divulged in audited financial demonstratives and/or II) to the information submitted for the company to SDCOM by through the petition or the answers to the questionnaires and complementary information.

The conciliation with the audited financial demonstratives allow to validate the systems of the company. A time validated, these systems are used, together with other pertinent documents and registers, to select the veracity and the integrity of the others information submitted for the company to the SDCOM.

For a reason or purpose exemplification, in the carried through on spot verifications national producers, the data informed referring to the evolution of the number of employed and the wage mass could in such a way be conciliated with the countable system of the company how much with registers and controls of its Department of Human resources.

The composition of the cost of manufacture of the similar product or object of the investigation and the methodologies of verification of the overheads, administrative, of sales and financiers of the company also could be audited in detail for the SDCOM team during the on spot verification. Therefore, the systems, accountings and all will have to be placed to the disposal of the team the others sources used in the elaboration of these information, with the objective to allow, for example:

I - the conciliation of the system of accounting of cost with the system of financial accounting of the company;

II - the conciliation of the raw material cost and other inputs, by means of the verification of the countable launchings of the consumption used in the manufacture of the product, the tracking of the amounts consumed in each month of the investigated period on the basis of the fiches of supply of the company and the conciliation of the countable accounts of supply of finished product and constant in the ledger of the company; and

III - the conciliation of the cost of utilities, the cost of direct labor costs, the costs of depreciation and maintenance, other fixed and changeable GGF and other referring elements to the accounting of the costs reported to the SDCOM with the constant corresponding data of the systems and registers of the company.

However, the on spot verification in importers of the product object of the investigation, the team of the SDCOM will be able to request that the company presents the structure of costs of internment of the importations, the decurrent financial procedure of the importations and the processes of the declarations of importation (DI) selected, in order to allow the validation of the data supplied in the appendices of the questionnaire of the importer.

Finally, it is important to emphasize that, in case that is verified discrepancies in any of these procedures, these will be included in the on spot verification report elaborated by the SDCOM team and will be able to cause the rejection of part or the totality of the information submitted for the company to files of legal documents of the corresponding process.

170. What does the “completeness test” performed in the on spot verification consist of?

This stage of the on spot verification consists of the evidence of the values and total volumes of sales of the company, generally indicated in the total appendices of sales of the questionnaires or the petition. It is registered that, as mentioned previously, the verified information will depend on the data supplied for each type of interested person (producing or exporting foreigner, importer and national producer).

It is important to emphasize that, before you do the totality test described in the paragraph below, the SDCOM team carries through the conciliation of the gotten financial result with sales total of the company with the respective audited financial demonstrations, which must be followed of pertinent documents. For this conciliation, they are considered, usually, i) the countable period that more fits in the period of dumping investigation and for which exists audited financial demonstrations and II) the revenue gotten with all the businesses of the company. It is registered that the countable period can vary from company to company, especially in foreign producers or exporters. As mentioned in the previous question, this procedure of conciliation with demonstrations financing audited are necessary for the validation of the countable system of the company, which consists of the base of the verification in leases carried through by the SDCOM.

Despite, during the test of totality, they are verified, usually, the total volume and the value, beyond i) sales of the similar product or object of the investigation of proper manufacture, but also the total volume and the value of II) resales of the similar product or object of the investigation and of III) sales of other products manufactured for the company. These information are verified in such a way of general form, how much for destination market, that is, segregated between sales or resales in the domestic market, exportations for other countries and exportations for Brazil.

For the accomplishment of this test, the team of the SDCOM conciliates the information submitted for the company in the petition or the reply to the questionnaire with the data contained in the systems of the company, previously validated. It has been broken, in this direction, of the total prescription of sales of the company, constant of its financial demonstratives, and searches to only validate the selection of procedure of the relative data to the similar product. Of this form, the company must demonstrate of that she forms segregated the data of sales in accordance with the market of destination (internal and external) and the type of product sold. (similar or other products).

171. During the on spot verification , SDCOM will be able to track the sale transactions of the similar product or object of investigation in detail

In the on spot verification script, will be informed the operations of sales/selected resale/importation that will have to be tracked during the visit, since the purchase order, passing for the countable launchings until the respective evidence of the payment. Thus, the company will have to provide copies of all previously the documents that are related to the selected operations, also of that by chance is not explicit listed in the script. The same documents will have to be provided for the operations of sales add at the beginning informed for the team of the SDCOM of the verification.

For the individual conciliation of each forma bill of sale of sales selected for verification in national producers, copies of documents and countable launchings indicated will have to be presented to follow:

I - invoice;

II - effected accountings in sales: launching in the accounts receivable from customers (debit) and the against the account countable counterpart of sales of products (credit), well as launching of low of the merchandise of the supply and the against the account countable counterpart of CPV;

III - effected accounting in sales: launching of the tributes (ICMS, IPI, PIS and COFINS);

IV - effected accounting in the act of receiving of the payment of sales: launching against the account customers (credit) and the against the account respective countable counterpart (debit), as well as copy of the voucher of the act of receiving of the payment (borderô bank clerk, banking deposit slip, bank statement, etc.);

V - in the case of devolution of sales, accounting of the launching against the account customers (credit) and the against the account countable counterpart of devolutions of sales (debit), presenting itself, also, the forma bill of sale of entered devolution/;

VI - in the case of resales of imported, evidence of the values reported related to the administrative expenditures, safe from product sales, indirect expenditures of sales, financial cost and cost of maintenance of supplies; and

VII - other documents not listed in the script, but also related to the operations of sales, as, for example, tests of quality and other documents depending on the nature of the operation and/or the product.

In the case of individual conciliation of each invoice selected for verification in producing companies or exporting foreigners, will have below to be presented listed copies of documents and countable launchings:

I - invoice;

II - contract of customer, order of purchase of customer/confirmation of order of purchase;

III - contracts and invoices of freight, bill of landing of loads; IV - insurance policies and registers of payment of the prize, will be the case; V - bill of landing;

VI - *packing list*;

VII - certificate of origin;

VIII - accountings of the prescription gotten with sales of the selected invoice: launching in the daily book reason, against the account customers (debit) and the against the account countable counterpart of sales of products (credit), as well as launching of low of the merchandise of the supply and the against the account countable counterpart of CPV;

IX – financial record of the payment of the selected invoice sale: payment in the bank statement (occurrence report, payment check, letter of credit, credit memorandum/debit, *slip* or banking deposit slip or any another banking document);

X - accounting of the values of the expenditures with sales reported in the appendices of the questionnaires: launching in the daily book reason, accounts payable of suppliers (credit) and the against the account countable counterpart of expenditure with suppliers of services (debit);

XI - financial register of the payment of expenditures with sales reported in the

appendices of the questionnaires: bank statement or banking deposit slip or any another banking document of the supplier with the act of receiving of the payment;

XII - methodology evidence, registers financial and countable of other values reported in the appendices of the requested questionnaires for the team of the SDCOM, such as operating expenses of supplies, cost/financial expenditure, prescription of interests, prescription of freight and reimbursement of tax, among others;

XIII - in the case of devolution of sales, accounting of the launching against the account customers (credit) and the against the account countable counterpart of devolutions of sales (debit), presenting itself, also, the forma bill of sale of entered devolution/;

XIV - other documents, beyond the above-mentioned ones, related with the selected operations of sale.

In turn, for the individual conciliation of each operation of selected importation, in the verifications in national or import producers, countable copies of documents and launchings will have to be presented to follow indicated:

I - declaration and voucher of importation; II -

commercial invoice (*invoice*);

III - bill of landing; IV - *packing*

list;

V - Corroborative Invoices/of the internment costs;

VI - accounting of the importation, with the following launchings in the book reason: accounts payable/supplying (credit) and the counterpart against the account of supply of the product (debit);

VII - accounting of the costs of internment of the importation, with the following launchings against the account reason: accounts payable/supplying, expenditures with importation, etc. (credit) and the counterpart against the account of supply of the product (debit);

VIII - financial register of the payment of the importation and the costs of internment: the payment in borderô bank clerk (report of occurrences, check of payment, letter of credit, memorandum of credit/debit, *slip* or banking deposit slip or any another banking document);

IX - accounting of the costs of internment of the importation, with the following launchings against the account reason: accounts payable/supplying, expenditures with importation, etc. (credit) and the counterpart against the account of supply of the product (debit);

X - other documents related to the selected operations of importation.

Finally, in regards to the resales of products imported in the Brazilian market selected,

in the verifications in national or import producers, countable copies of documents and launchings will have to be presented to follow indicated:

I - invoice;

II - bill of landing;

III - accountings of the prescription gotten with sales of the selected invoice: launching in the daily book reason, against the account customers (debit) and the against the account countable counterpart of sales of products (credit), as well as launching of low of the merchandise of the supply and the against the account countable counterpart of CPV;

IV - effected accounting in sales: launching of the tributes (ICMS, IPI, PIS and COFINS);

V - effected accounting in the act of receiving of the payment of sales: launching against the account customers (credit) and the against the account respective countable counterpart (debit), as well as copy of the voucher of the act of receiving of the payment (borderô bank clerk, banking deposit slip, bank statement, etc.);

VI - in the case of devolution of sales, accounting of the launching against the account customers (credit) and the against the account countable counterpart of devolutions of sales (debit), presenting itself, also, the forma bill of sale of entered devolution/;

VII - accounting of the payment of the values related to the freight on sales; VIII - evidence of the values reported related to the administrative expenditures, safe from sales, indirect expenditures of sales, financial cost and cost of maintenance of supplies; e

IX - Other documents also related to the selected operations of resale.

172. Does the information obtained during the on spot verification become any specific document of the Antidumping investigation ?

To the end of the on spot verification, will be firméd the “Act of on spot Verification”, which will have to contain the signature of the team of-the SDCOM and the qualified representatives of the company whom they had followed the verification. The cited act *will contain list of requested documents during the on spot verification* and will be joined in files of legal documents of the process.

In addition, the procedures carried through with intention to verify the correction and the integrity of the data supplied for the interested people, the results of these procedures and the clarifications you add gotten during the on spot verification will consist of the report of verification of the SDCOM. It is registered that the report will have, as attached, copy of requested documents for the SDCOM throughout the verification.

The reports of the on spot verifications will be joined to respective files of legal documents of the electronic process in the versions restricted and confidential. Access of the company verified to the report in the stated period of 15 (fifteen) days will be authorized, contact of the final date of the authorization of removal of the servers who compose the verifying team, in the 8 terms of paragraph of art. 175 of Decree n 8,058, of 2013.

Finally, in case that the SDCOM understands, after the on spot verification, not to be possible the determined acceptance of given or information supplied for the interested person, will be able, by means of joust recital, to elaborate its determination on the basis of the best available information (see questions 73 and 173). In these cases, the SDCOM will notify the interested person of the reason of the refusal of the information, so that it can supply the due explanations, in stated period established in the proper notification, of form not to harm the course of the Antidumping investigation.

173. What happens if SDCOM does not receive or validate the information and the documents requested from interested parties?

Under paragraph 3 of art. 50 of Decree n 8,058, of 2013, in case that an interested person denies access to the necessary information, does not supply them timely or creates obstacles to the investigation, the SDCOM will be able to elaborate its preliminary determination or final on the basis of the best available information, enclosed those submitted by means of the petition of beginning of the investigation, what it will be able to result in determination less favorable to the part that did not collaborate of what the same one would occur case had cooperated. Chapter XIV of the cited Decree (arts. 179 the 184) foresee the use of the best available information, in English best information available - BIA.

An example of application of the best available information is when a producer or exporting foreigner does not obtain to prove, during the on spot verification procedure, the production costs associate to the production of the product object of the investigation. As the production cost is an essential information for the calculation of the normal value, the SDCOM will be able to use as better available information, for example, the calculated normal value at the beginning of the investigation.

PART III.4. PRELIMINARY DETERMINATION, PROVISIONAL DUTIES AND COMMITMENTS OF PRICES, RECEIVING OF INFORMATION IN THE MIDDLE OF THE PRODUCTION OF EVIDENCE AND CLOSING OF THE EVIDENTIARY STAGE

174. How is the preliminary determination opinion prepared?

Under art. 65 of Decree n 8,058, of 2013, in the stated period of 120 (one hundred and twenty) days, and never inferior the 60 (sixty) days, counted of the date of the beginning of the Antidumping investigation original, the SDCOM will elaborate preliminary determination, of which the available elements in fact and of duty how much to the existence of *will consist all dumping*, of injury to the domestic industry and causal link between both. Bonanza, the stated period for elaboration of the preliminary determination could be extending stops up to 200 (two hundred) days, counted of the date of the beginning of the investigation. It is registered that, as mentioned previously, the elaboration of preliminary determination is not obligatory in a sunset review (see questions 129 and 81).

The preliminary determination will be elaborated on the basis of the presented elements of test in the stated period of 60 (sixty) days, counted of the date of the beginning of the investigation. The elements of test presented this stated period after could be used by the SDCOM, if its analysis not to harm the fulfilment of the stated period of elaboration of the preliminary determination.

In view of the submission of information for the interested people after the beginning of the investigation, is probable that the analyses of the SDCOM contained in the preliminary determination differ from those presented in seeming of beginning. In this direction, they could be observed, for example, alterations in the product analyses and similarity, importation, injury, *dumping* and causalities.

The preliminary analysis of the SDCOM how much to the injury it will be able to suffer alterations in relation to that one contained in seeming of beginning of the investigation, a time that the data supplied for the petitioner could be modified by the on spot verification and data that other interested parties, as other national producers, will be able to submit information regarding the injury after the beginning of the investigation.

In turn, the preliminary analysis of the SDCOM in relation to *dumping* very probably will consider the foreign answers to the questionnaires submitted for the producers or exporters, the producers of third country of market economy and for the importers after the beginning of the investigation.

It is to emphasize that, under paragraph 4 of art. 15 and of paragraph 5 of art. 65 of Decree n 8,058, of 2013, the preliminary determination of the SDCOM will have to contain the final decision regarding the third country of market economy to be used in the investigation and the stated periods the one that makes reference articles 59 the 63 of the cited decree. In case that preliminary determination in a sunset review is not elaborated, these requirements will be fulfilled by means of the publication of Circulating specific SECEX.

It is registered that, in case that any interested person denies access the necessary information, it does not supply it timely or it creates obstacles to the investigation, seeming of preliminary determination could on the basis of be elaborated the best available information, what it will be able to result in the use of the information submitted in the petition (see questions 73 and 173).

175. How is it disclosed and what might be the impacts of the original preliminary ruling on an original Antidumping investigation?

The SECEX will publish the preliminary determination of the SDCOM in up to 3 (three) days counted of the date of the cited determination; Under paragraph 5 of art. 65 of the Decree in the 8,058, 2013.

As foreseen in art. 163 of the cited decree, To circulate it SECEX of preliminary determination will have to contain explanations detailed enough on relative the preliminary determination to dumping, the injury and the causal link between both, as well as references to the substances in fact and of duty that had led to the acceptance or the rejection of the arguments presented for the interested people. Therefore, amongst other information, they will consist of supramentioned Circulating SECEX:

I - names of the producers or exporters which will be applied the provisory Antidumping measures or, in the case of the number of producers or exporters to be in such high way that it hinders its singularize, the name them countries in which if they locate the investigated producers or exporters;

II - detailed description of the product object of the provisory Antidumping measure;

III - the refined margins of *dumping* and detailed explanation of the methodology used for the establishment and the comparison of the price of exportation with the normal value;

IV - the relative data to the main necessary considered parameters to the determination of the injury and the causal nexus; e

V - the reasons in fact and of duty that justify positive the preliminary determination

of *dumping*, of injury and causal link between both.

To circulate it SECEX of preliminary determination also the one that make reference articles 59 the 63 of the Decree in the 8,058, of 2013 will divulge the stated periods, which is the stated periods of the end of the discovery process, of the manifestation on the data and constant information of files of legal documents of the process, of the spreading of the Note Technique of the SDCOM contends the essential facts for judgments, of the manifestations ends of the interested people, of the end of the instruction of the process and elaboration of seeming of determination end of the SDCOM. In addition, this To circulate will contain the final decision of the SDCOM regarding the third country of market economy to be used in referring investigation the country that is not considered market economy.

It is emphasizing that negative preliminary determination of injury to the domestic industry or causal link will be able to justify the closing of the investigation, by means of Circulating SECEX, observed the obligation how much to the spreading of the note technique that contains the essential facts, Under paragraph4 of art. 65 of Decree n 8,058, of 2013.

In turn, positive preliminary determination of *dumping*, injury to the domestic industry and causal link enters both will be able to try eventual recommendation of Antidumping application of provisory duties , which will be directed to the Gecex. In case that Committee-Executive decides for the application of the duty related one, she will publish corresponding act, in the 6 terms of paragraph of art. 65 of Decree n 8,058, of 2013.

Is registered that, a published time To circulate it SECEX of preliminary determination, seeming of the SDCOM will be joined to files of legal documents of the corresponding process, as foreseen in art. 191 of Decree n 8,058, of 2013. By means of the SDD, the qualified interested people they will have access to the restricted version of seeming and will be able to request extract of its considered confidential information for ends of preliminary determination. The parts will be informed of the publication of Circulating SECEX of preliminary determination, Under art. 167 of the cited decree, so that they can be disclosed in files of legal documents.

176. What are the requirements for the application of the measure Antidumping provisional?

These measures are intended to prevent injury to the domestic industry during the investigation.

Under art. 66 of Decree n 8,058, of-2013, measured *Antidumping one* provisory could only be applied if:

- I - an investigation will have been initiated in accordance with the constant disposals of Section III of Chapter V (arts. 44 the 47) of the cited decree, the act that has given beginning to investigation will have been published and to the interested people it will have been offered adjusted chance to be disclosed;
- II - dumping will have positive preliminary determination of , injury to the domestic industry and the causal link between both; e
- III- the Gecex to judge that such measures are necessary to hinder that occurs injury during the investigation.

Of this form, in the case of positive preliminary determination of *dumping*, injury to the domestic industry and causal link between both, the SECEX will be able to direct to the Gecex recommendation how much to the Antidumping application of provisory measures.

If to judge that such measures necessary and since that are fulfilled legal the requirements supramentioned, the Gecex will be able to decide for the application of these measures. Eventual decision of the Gecex in this direction will have to be published in GIVES it by means of Resolution, which will detail the form of application and the validity of the provisory Antidumping measure.

As foreseen in paragraphparagraph1 and 2 of art. 66 of Decree n 8,058, of 2013, the provisory Antidumping measure will not be able to exceed the margin of *dumping* and could be applied in the form of provisory duty or guarantee, whose value will be equivalent to the one of the provisory duty.

In regards to the period of validity of these measures, paragraphparagraph6, 7 and 8 of the same art. 66 establish that the provisory Antidumping measures will be able to invigorate for a period of up to 4 (four) months. However, this period could be of up to 6 (six) months, when the Gecex to decide for the delay of the stated period and since that the exporters who represent significant percentage of the commerce in question thus request it in the stated period of 30 (thirty) days before the ending of the period of validity of the measure. It is registered respectively that, in case that is applied measured *Antidumping* provisory inferior to the margin of *dumping* verified, the supramentioned stated periods will correspond the 6 (six) and 9 (nine) months.

The parts will be informed of the decision of the Gecex, Under art. art. 167 of Decree n 8,058, of 2013.

177. What should I know about hearings held during instruction procedural ?

Under art. 55 of Decree n 8,058, of 2013, hearings with the interested people will be

carried through the order of one or more interested people or for initiative of the SDCOM, in order to allow the exercise of the contradictory and legal defense. These hearings can actually be carried through or of virtual form.

The interested people will be able to request hearings in the stated period of 5 (five) months, counted of the date of beginning of the Antidumping investigation original or of the sunset review. The request will have to be made by means of the SDD and will have to be followed of the relation of the specific subjects to be in it treat. They will only be granted order of accomplishment of hearing that *involves relative aspects to dumping*, to the injury or the causal link between both.

The known interested people will be informed of the accomplishment of the hearing and the subjects to be in it treat with minimum antecedence to 20 (twenty) days of the date foreseen for its accomplishment.

The interested parties in participating will have to indicate the legal representatives who will be gifts in the hearing up to 3 (three) days before its accomplishment and sending in writing, up to 10 (ten) days before its accomplishment, the arguments that to desire to present in the hearing. These stated periods will have to be fulfilled by means of the protocol of the information mentioned in restricted files of legal documents of the corresponding process in the SDD.

The information presented verbally for the interested people during the hearing will only be considered by the SDCOM, in case that reproduced in writing and protocolled in restricted files of legal documents of the corresponding process in the SDD, the stated period of 10 (ten) days after the accomplishment of the hearing, observed, when to fit, the duty of secrecy.

will not exist any obligatoriness of attendance of the interested people to such hearings and the absence of the parts could not be used in injury of its interests, consonant art. 55 of Decree n 8,058, of 2013. -

It is standed out that only representative duly qualified and indicated in the stated period mentioned in this question they will be able to have access to the enclosure of the hearings and if to reveal on behalf of interested people in these occasions. It fulfills to inform that, the criterion of the SDCOM, the number of representatives on the part interested in the hearing could be limited.

178. What procedural moment is it possible to submit offers for price commitments?

Under paragraph 6 of art. 67 of Decree n 8,058, of 2013, the foreign producers or exporters will be able to offer commitments of prices or only to accept those offered by the

SDCOM during the period understood between the date of the publication of positive the preliminary determination of *dumping*, injury to the domestic industry and causal link between both, and the closing of the discovery process.

Considering, in the sunset review, the elaboration of preliminary determination is not obligator, case the producer or foreign exporter has interest in to renew the commitment of effective price or to present new commitment proposal, will have to request to the SDCOM that elaborates a preliminary determination. It is essential to emphasize that, in this hypothesis, the request of the producer or foreign exporter will have to be submitted to the SDCOM in skillful time so that has eventual preliminary determination, a time that the elaboration of this type of determination demand reasonable time of the SDCOM. Thus, the request of emission of preliminary determination with sights to make possible presentation of proposals of price commitment will have to be made before the stated period of 120 days foreseen for the elaboration of the preliminary determination, Under **introductory paragraph** of art. 65.

Considering that the existence of positive a preliminary determination consists not only of a secular landmark for the presentation of commitments of prices, as well as in sine qua non a material requirement, a time that, without its existence, does not have at least the factual substrate regarding which the SDCOM could analyze any type of offers of price commitment.

It is important to highlight that SDCOM is not necessarily bound by price commitment proposals submitted by interested parties, nor is it obligated to issue preliminary determinations with the sole purpose of allowing the submission of such proposals. In this sense, Under the legislation, SDCOM may deny proposals considered ineffective or impracticable, under paragraph 10 of art. 67 of Decree No. 8.058, of 2013, or for other reasons of general policy, in accordance with Article 8.3 of the Antidumping Agreement, which was internalized in Brazilian legislation, upon approval via Legislative Decree No. 30, of December 15, 1994, and enacted by Decree No. 1355, of December 30, 1994, having, therefore, the status of law in Brazil. It is noteworthy that proposals may be considered impracticable, among other reasons, if the financial burden is deemed excessive (due to the waiver of charging the duty, for example) or the operational burden of preparing preliminary determinations, negotiating compromise proposals is deemed excessive and subsequently monitor the fulfillment of any price commitment by the signatory exporters, which involves, in addition to the obligation to practice the minimum price, any other ancillary obligations that the authority deems necessary to neutralize the injury to the domestic industry. It fits to emphasize that the foreign producers or exporters are not obliged to consider commitments of prices nor to accept them.

To understand better on the stated periods for request of price commitment, it

consults the questions 118 and 119.

179. What information should be included in the price commitment offers?

The offers of commitments of prices will have to obey the disposals of art. 67 of Decree n 8,058, of 2013, and Ordinance SECEX n° 36, of 18 of September of 2013.

Thus, it offers of price commitment will have to contain express permission of on spot verification for the SDCOM and forecast of supply of relative periodic information its fulfilment.

In addition, as foreseen in would carry supramentioned, offers of price commitment will have to contain, among others, the following information:

I - corporate name, complete address, telephone and electronic address of (s) producing (you are) the /exporter one (you are) that it intends (m) to assume commitments of prices;

II - name, function, complete address, telephone and electronic address of the qualified legal representative next to the SDCOM;

III - number of the administrative proceeding of the Antidumping investigation referring to the exportations of the product object of the price commitment and decurrent injury of such practical;

IV - description of the product object of the price commitment;

V - item (ns) of the Common Nomenclature of MERCOSUL (NCM) where it classifies the product object of the price commitment;

VI - native country of the Brazilian importations of the product object of the price commitment;

VII - price of exportation CIF, or equivalent, considered for (s) producing (you are) /exporter (you are) of the product the object of the price commitment;

VIII - respective memory of calculation that based the elaboration of the considered commitment;

IX - elements that they prove that the considered price of exportation is enough to eliminate the actual injury to the domestic industry for the importations the price of dumping;

X - regularity of the corrections of the price commitment, in order to guarantee that the exportation price continues to eliminate the injury to the domestic industry during all the validity of the commitment;

XI - source that will determine the corrections of the price commitment; and- mathematical formula of the corrections of the price commitment, as well as the justification of these corrections.

180. How does SDCOM review price undertaking offers submitted by

foreign producers or exporters and on what basis can SDCOM refuse a price undertaking offer?

In the analysis of the offers of commitments of prices, the SDCOM will consider, amongst other factors, i) if the information foreseen in art. 67 of Decree n 8,058, of 2013, and in Ordinance SECEX in the 36, of 2013, are gifts; II) the margin of *dumping* for the producer or proponent foreign exporter of the price commitment and the form as this margin was refined; e III) if the price commitment offered is efficient and viable. Prominence that, as made use in paragraph 13 of art. 67 of Decree n 8,058, of 2013, in the analysis of the possibility of homologation of price commitment, also will be taken in consideration if the commitments had been offered by exporting producers or of the States Parts of the MERCOSUL.

Thus, according to art. 2 of Ordinance SECEX in the 36, of 2013, will not be known proposals of price commitment that do not take care of to the made use one in the cited one would carry.

Moreover, on the basis of paragraph 4 of art. 67 of the Decree in the 8,058, of 2013, the SDCOM will not be able to accept offers that foresee price increase that exceeds the refined margin of *dumping*.

In turn, paragraph 1 and 2 of art. 5 of Ordinance Secex n 36, of 2013, establish that only it will be analyzed proposal of commitment of producer price or exporter that has answered to the questionnaire and whose individual margin of *dumping* has been refined on the basis of the information supplied for the proper producer or exporter and verified by the SDCOM. In addition, will not be accepted proposals of commitments of producer prices or foreign exporter whose margin of *dumping* has been defined on the basis of the best available information.

Therefore that paragraph 10 of art. 67 of Decree n 8,058, of 2013, foresees that the SDCOM will be able to refuse offers of commitments of inefficient or impracticable considered prices. In this decision, they will be led in consideration, among others factors, the degree of homogeneity of the product, the number of offers of commitments of prices and the existence of association or relationship between interested people. They can, still, be considered impracticable proposals that impose extreme financial responsibility to the Brazilian government (due to resignation of the collection of the duty), or still extreme operational responsibility to restore and to follow the fulfilment of the price commitment considered. Under art. 8.3 of the Antidumping Agreement, internalizado by Decree n 1,355, of 30 of December of 1994, a price commitment could, still, be refused by reasons of general politics.

In the case of refusal of the offers of price commitment, the producer or foreign exporter will be informed of the reasons for which the commitment was inefficacious or impracticable judgment and will be granted a stated period of 10 (ten) days for manifestation, in writing, as paragraph 12 of art. 67 of the cited decree.

181. What happens if the price commitment is approved?

In case that the SDCOM and the producer or foreign exporter arrive at an agreement on the price commitment offered, the SECEX will decide concerning the acceptance of this commitment and, in case of positive decision, it will submit it for homologation of the Gecex, Under interpolated proposition XI of art. 91 of Decree n 9,745, of 2019 and interpolated proposition VIII of art. 7 of Decree n 10,044, of 2019.

Figure 107: Analysis of Price Commitment Proposals



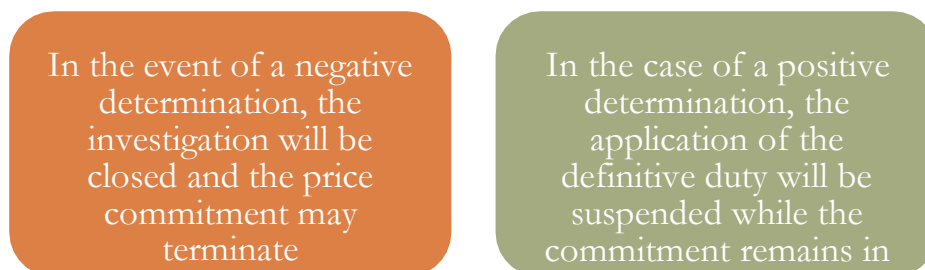
Source: Ministry of Economy/SDCOM

In case that the commitment is homologated, the Antidumping investigation corresponding will be able as much being suspended without the Antidumping application of definitive provisory or duty duties *Antidumping* for the producer or foreign exporter whom if it voluntarily submitted to the commitment how much to continue, the order of the producer or foreign exporter in question or the criterion of the SDCOM.

As foreseen in art. 76 of Decree n 8,058, of 2013, in the hypothesis to have been homologated price commitment with subsecente continuation of the investigation, in case that the SDCOM reach a negative determination of *dumping*, injury to the domestic industry or causal link between both, the investigation is locked up and the price commitment is automatically extinct, except when the negative determination to result, substantially, of the proper existence of the price commitment, in case that where its maintenance for reasonable period could be required, fitting to the Gecex to publish the act correspondent.

Still, if the SDCOM to reach a positive determination of *dumping*, injury to the domestic industry or causal link between both, the investigation will be concluded and the application of the definitive duty will be suspended for the producer or foreign exporter in question while to invigorate the price commitment.

Figure 108: SDCOM's Price Commitments and the Final Determination



Source: Ministry of Economy/SDCOM

Acts relating to the closure or suspension of an Antidumping investigation as a result of the acceptance of a price commitment shall contain a transcript of the non-confidential part of that undertaking.

182. What is and when does the probationary phase end?

The evidentiary phase is the period of investigation during which evidence can be presented in the case file.

Under art. 59 of Decree n 8,058, of-2013, the discovery process will be locked up in not superior stated period the 120 (one hundred and twenty) days, counted of the date of publication of the preliminary determination.

In original inquiries *Antidumping*, the stated period of closing of the discovery process will be divulged in Circulating SECEX of preliminary determination, and, it will be the case, it could be extending by means of Circulating SECEX of time extension of the investigation.

In revisions of final period, the stated period of closing of the discovery process will be divulged in Circulating SECEX of stated periods of revision (given that it does not have obligatoriness of preliminary determination in revisions, vide question) e, will be the case, could be extending by means of Circulating SECEX of time extension of the revision.

The elements of test presented in the SDD the closing of the discovery process will after not be joined to files of legal documents of the process, as only paragraph of art. 59 of the cited decree.

PART III.5. TECHNICAL NOTE OF ESSENTIAL FACTS AND RECEIVING INFORMATION AT THE END OF THE INSTRUCTION PROCRESSUAL

183. Until what time of the procedural instruction can interested parties present manifestations on the information contained in the records?

Under art. 60 of Decree n 8,058, of 2013, the parts will be able to protocol manifestations on the data and the constant information of restricted files of legal documents of the process, by means of the SDD, in up to 20 (twenty) days counted of the date of closing of the discovery process of the investigation.

The stated period in question will be divulged by means of Circulating SECEX of preliminary determination, in the Antidumping case of original inquiries , or by means of Circulating SECEX of stated periods, in the case of revisions of final period .

Presented manifestations will intempestively not be considered for ends of the note technique of essential facts or of the final determination.

184. When is the essential facts technical note released and what information comprises this document?

Under art. 61 of Decree n 8,058, of the 2013, SDCOM will divulge, in the stated period of 30 (thirty) days, counted of the date of closing of the phase of manifestations, the note technique I contend the essential facts that they meet in analysis and that they will be considered in the final determination. The spreading of the note technique will be carried through only in files of legal documents of the corresponding process in the SDD, a time that this document does not possess public nature.

The note technique of essential facts will consider all the information adequately presented in files of legal documents of the process until the closing of the phase of manifestations foreseen in art. 60 of the cited decree (see question 183), also the results of the on spot verifications and the manifestations presented after the closing of the discovery process. Therefore, the analyses of the SDCOM carried through for occasion of the note technique of essential facts very probably will differ significantly from the analyses carried through for ends of beginning of the Antidumping investigation and of preliminary determination (it will be had).

By means of the SDD, the qualified interested people they will have access to the

restricted version of the note technique of essential facts and will be able to request extract of its considered confidential information in this decision.

185. When do the final manifestations and procedural instruction end?

Under art. 62 of Decree n 8,058, of 2013, the interested people will have 20 (twenty) days, counted of the date of spreading of the note technique, to present its final manifestations in writing in files of legal documents of the corresponding process in the SDD, stated period this that consists of the closing of the procedural instruction.

The information presented after the closing of the instruction of the process will not be considered for ends of final determination.

PART III.6. FINAL DETERMINATION, OF CLOSING OF THE INVESTIGATION AND THE COLLECTION OF THE ANTIDUMPING DUTY

186. How is it prepared and what is the deadline for preparing the final determination?

The final determination will consider all the information submitted during the procedural instruction, explaining all the elements of fact and law related to the investigation, as well as SDCOM's final conclusions regarding the existence of dumping, injury to the domestic industry and a causal link between the two, in the case of original Antidumping investigations, or as to the likelihood of continuation or recovery of dumping and the resulting injury to domestic industry, in the case of sunset reviews. Beyond evaluating all the essential facts divulged in the note technique, the final determination of the SDCOM also considers the final manifestations presented by the interested people in the scope of each process. Therefore, calculations and/or conclusions of the SDCOM contained in the note technique of essential facts will be able to suffer alterations in the final determination.

As foreseen in art. 63 supramentioned, the SDCOM will elaborate the final determination in the stated period of 20 (twenty) days counted of the closing of the procedural instruction.

Is registered that, a published time To circulate it SECEX of preliminary determination, seeming of the SDCOM will be joined to files of legal documents of the corresponding process, as foreseen in art. 191 of Decree n 8,058, of 2013.

By means of the SDD, the qualified interested people they will have access to the restricted version of seeming and will be able to request extract of its considered confidential information for ends of preliminary determination.

The parts will be informed of the publication of Circulating SECEX and/or the Gecex Resolution of closing of the Antidumping investigation, Under art. 167 of the cited decree.

As partes interessadas serão notificadas da decisão do Gecex, conforme art. 167 do decreto supracitado.

187. What are the possible conclusions of a final determination opinion of the SDCOM?

Seeming of final determination of the SDCOM will be able to conclude for:

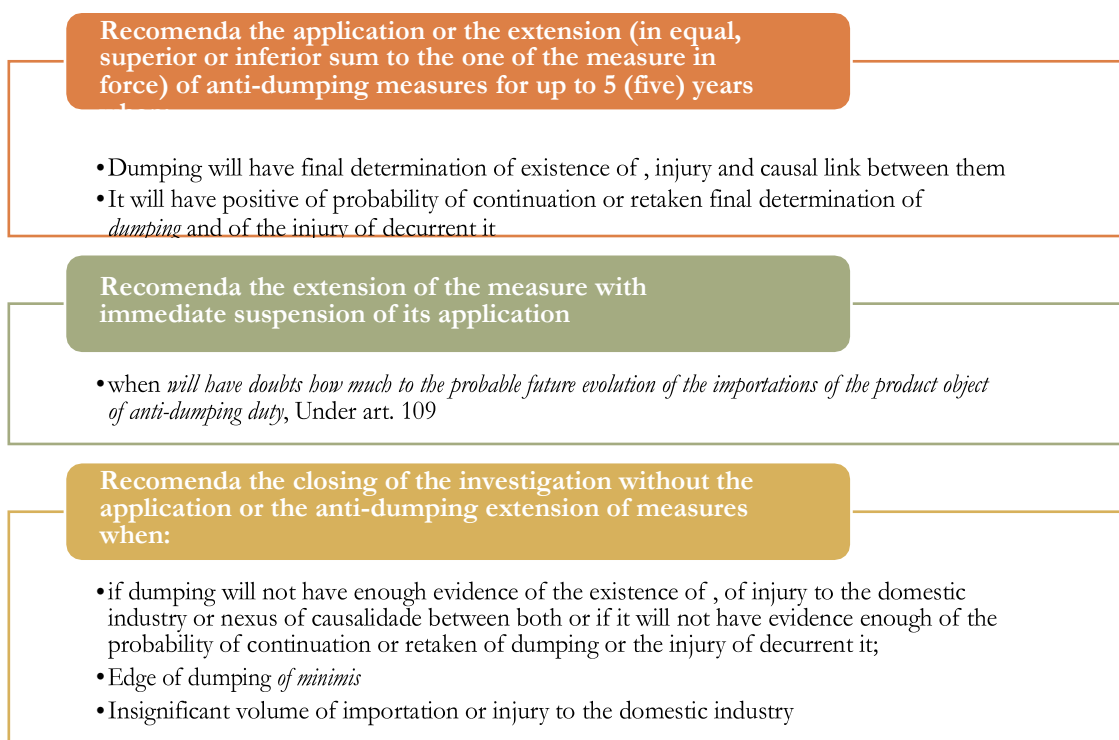
I - to recommend to the application or the extension (in equal, superior or inferior sum to the one of the measure in force - vide 77 question) of definitive Antidumping measures , for up to 5 (five) years, when dumping will have positive determination final of existence of , of injury to the domestic industry and causal link between both or when it will have final determination positive of probability of continuation or retaken of *dumping* and the injury of decurrent it, as arts. 75 and 106 of the Decree in the 8,058, 2013;

II - to recommend to the Antidumping extension of definitive measures with the immediate suspension of its application, when *will have doubts how much to the probable future evolution of the importations of the product object of Antidumping duty*, Under art. 109 of the Decree in the 8,058, 2013;

III - to recommend to the closing of the Antidumping investigation without the application or the Antidumping extension of definitive measures in the following situations, as art. 74 of the Decree in the 8,058, 2013:

- a) if dumping will not have enough evidence of the existence of , of injury to the domestic industry or causal link between both or if it will not have evidence enough of the probability of continuation or retaken of *dumping* or the injury of decurrent it;
- b) if the margin of *dumping* will be *of minimis* (see question 35); and/or
- c) if the volume, Real or potential, of importation object of *dumping* (see question 51) or the injury to the domestic industry will be insignificant.

Figure 109: Conclusions of a final determination opinion



Source: Ministry of Economy/SDCOM

It is to observe that the SDCOM also can recommend to the suspension or the Antidumping alteration of measures for reasons of public interest (art. 3 of Decree n 8,058, of 2013), whose detailed information can be gotten in the Consolidated Guidelines of Public Interest in Commercial Defense.³⁹

³⁹ [https:// www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/guias](https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/comercio-exterior/defesa-comercial-e-interesse-publico/guias).

188. What is the decision-making procedure in case the investigation is closed by the SECEX (without application or extension of the measure Antidumping definitive)?

Under art. 74 of Decree n 8,058, of 2013, in case that the SDCOM recommends to the closing of the investigation without the application or the Antidumping extension of definitive measures , will be published To circulate SECEX.

Figure 110 : Closure of investigation without application of measures



Source: Ministry of Economy/SDCOM

Is registered that, Under paragraph2 of art. 73 and of the only paragraph of art. 74 of Decree n 8,058, of 2013, in case that the investigation is locked up without merit judgment the order of the petitioner or on the basis of negative determination, new petition on product the same alone will be analyzed if after protocolled 12 (twelve) months, counted of the date of the closing of the investigation. In the closing case on the basis of negative determination, this stated period, in bonanza cases and duly justified, could be reduced for 6 (six) months.

The interested people will be informed of the decision of the SECEX, as art. 167 of the above-mentioned decree.

189. What is the decision-making procedure in the event of the investigation being closed by the Gecex (with application of measure Antidumping definitive, regardless of the for public interest)?

Under art. 77 of Decree n 8,058, of 2013, in case that the SDCOM recommends to the closing of the investigation with application or Antidumping extension of definitive measures , will be published Gecex Resolution, independently of the existence or not of recommendation of alteration of the measure in question or the suspension of its application for reasons of 39 public interest or on the basis of art. 109 of the cited decree.

Figure 111: Termination of investigation with the application of measures



Source: Ministry of Economy/SDCOM

In the Gecex Resolution, the excellent information on the substances in fact and of duty and on the reasons that had led to positive the final determination for the SDCOM, also the reasons for acceptance or rejection of the arguments presented for the interested people, Under art will be disponibilizadas all. 164 of Decree n-8,058, of 2013.

The interested people will be informed of the decision of the SECEX, as art. 167 of the above-mentioned decree.

Is registered that interpolated proposition VII of art. 2º of Decree n 10,044, of 2019, foresees the creation of the Committee of Commercial Defense, which will integrate the Camex.

190. How is it possible to find out what Antidumping measures are prevailing?

List of the Antidumping measures in force can be consulted in the following electronic address of the SDCOM: .

191. How is the collection of duties Antidumping done?

The Antidumping duty will independently be charged of the incident tributes in the importation⁴⁰, the aliquot form of *ad-valorem* or specific, also being able to be a mixture of both. Usually, as art. 84 of Decree n 8,058, of 2013, are only charged *Antidumping duty* after the date of normative publication of that it applied the measure, being allowed the retroactive collection only in some specific situations.

the collection is carried through by the IRS, Under Law n 9,019, of 30 of March of 1995. The classification of the merchandise imported in the NCM is mere indicative and the duties *Antidumping* can be applied the products imported under distinct tariff codes of what *consists of the statute that applied the Antidumping measure*, since that the examination of its physical characteristics and market allows to fit that merchandise as similar product Under art. 10 of Decree n 8,058, of 2013 (vide question). -

192. When can the retroactive charges of Antidumping duty occur?

Usually, the Antidumping collection of provisory measures or definitive duties can be made only to the dispatched imported products for consumption from the date of publication, in Federal official gazette, of Gecex Resolution that the application decision contains. However, art. 85 of Decree n 8,058, of 2013, establishes the hypotheses where the retroactive charges of the duty will be possible:

- Positive final determination of material injury to the domestic industry; e
- Positive final determination of threat of material injury to the domestic industry: in this in case that, Antidumping the retroactive application of duties only can occur when demonstrated that the Antidumping absence of provisory measures would have made with that the effect of the importations object of *dumping* had led to a positive determination of material injury to the domestic industry.

Therefore,, *injury or causal link are not allowed to the retroactive collection in the cases (i) of negative final determination of dumping; (II) of significant retardation in the establishment of the domestic industry; or (III) of mere positive final determination of threat of material injury to the domestic industry.*

In addition, Antidumping the retroactive collection of duties possible if is only taken care of the following requirements, cumulatively:

⁴⁰ Article 1º, only paragraph of the Law nº 9,019, 1995: “*the compensatory duties anti-dumping and duties will independently be charged of any obligations of relative nature tax to the importation of the affected products*”.

have been application of provisory Antidumping measure (*introductory paragraph* of art. 89);

- Existence of antecedents of *dumping*, injury to the domestic industry and causal link between both, or that the importer was or would have to be client of that the producer or exporter practices *dumping* and of that this would cause injury, what can be proven by the existence of the situations to follow (interpolated proposition I of art. 89 c/c art. 90):
 - i. the imported products object of *dumping* had been object of Antidumping measure, provisory or definitive, applied in Brazil or the imported products object of *dumping* are or had been object of Antidumping measure, provisory or definitive, applied in third country; e
 - ii. the importer was or would have to be client of that the producer or exporter he practices *dumping* and of that this would cause injury when the date of the bill of landing of the imported products the price of *dumping* will be subsequent to the date of the beginning of the investigation.
- The injury is caused by voluminous importations of a product the price of *dumping* in relatively short period, what, taking in account the period where they had been effected and the volume of the importations object of *dumping* and other factors, as the fast growth of the supplies of the imported product, very probably *will reduce significantly the corrective effect of the definitive duties Antidumping* to be applied (interpolated proposition II of art. 89).

Anyway, Under *introductory paragraph* of art. 89 of Decree n- 8,058, of 2013, Antidumping duty definitive could only be charged of importation the price of *dumping* whose date of the bill of landing precedes in up to 90 (ninety) days the date of application of the provisory Antidumping measures. In addition, Under paragraph1 of the related-article, could not be charged duty on the importations whose date of the bill of landing is previous to the date of beginning of the investigation or breaking of the price commitment.

193. What happens with the Antidumping provisional duties and Antidumping measures provisional applied in the form of guarantees at the end of an original investigation?

Under art. 88 of Decree n 8,058, of 2013, in case that the value of the definitive duty is inferior to the value of the duty provisionally collected or guaranteed by deposit in money or banking bail, the paid value the greater will be restituted or returned, or the conversion of the adjusted guarantee, as the case.

In case that the value of the definitive duty is superior to the value of the duty provisionally collected or guaranteed by deposit, the difference will not be charged Under art. 87 of Decree n 8,058, of 2013.

Finally, second art. 86 of Decree n 8,058, of-2013, the value of the duty provisionally collected, guaranteed for deposit or banking bail, will be restituted, returned or extinct of form promptly, in the hypothesis of:

- I - positive final determination of threat of material injury to the domestic industry;
- II - significant retardation in the establishment of the domestic industry; or
- III - negative final determination of *dumping*, injury to the domestic industry or causal link between both.

For more information about provisory Antidumping measures in the guarantee form, see question 66.