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PUBLIC INTEREST ANALYSIS IN TRADE REMEDIES INVESTIGATIONS GUIDELINES IN BRAZIL

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1. INTRODUCTION

The public interest clause is provided for in the Brazilian legal system since 1995, with the publication of Decree n.1602, of August 23, 1995 (article 64, § 3), referring to anti-dumping measures, and Decree n. 1751, of December 19, 1995 (article 73, § 3), referring to countervailing measures. At that time, this prerogative was called “national interest”.

In 2012, with the publication of CAMEX Resolution number: 13, of February 29, 2012, which created the then existing Public interest test Group (“GTIP”), this analysis was renamed as public interest test, instead of national interest.

The legislation was then amended, in 2013, with the repeal of Decree n. 1,602, of August 23, 1995 and the publication of Decree n. 8,058, of July 26, 2013, referring to anti-dumping measures. The public interest test was provided in article 3 of Decree n. 8,058.

The public interest test was then regulated again, firstly by CAMEX Resolution number: 93, of September 24, 2015, and later by CAMEX Resolution number: 29, of April 11, 2017. Through the procedures provided for in these Resolutions, it was provided the procedural alternatives for evaluating requests for suspension or alteration of anti-dumping and definitive countervailing measures, as well as the non-application of anti-dumping and provisional countervailing measures, for reasons of public interest. The final decision, in turn, was taken by the Council of Ministers of the Foreign Trade Chamber (“CAMEX”).

In 2019, with the entry into force of Decrees number: 9,679, of January 2, 2019, and number: 9,745, of April 8, 2019, there was a change in the competence for public interest test, which began to be performed by the Undersecretariat of Trade Remedies and Public Interest (“SDCOM”), and no longer by GTIP. The final decision regarding the suspension or modification of definitive anti-dumping and countervailing measures, as well as the non-application of provisional anti-dumping and countervailing measures, in turn, became, temporarily, the competence of the Special Secretariat for Foreign Trade and International Affairs (“SECINT”) of the Ministry of Economy.

SECINT's competence to make this Decision was in force between January and October, when Decree n. 10.044, of October 4, 2019 was promulgated. From here onwards, the enforceability of anti-dumping measures and countervailing measures became the responsibility of the Executive Management Committee of the Foreign Trade Chamber (“GECEX”). This is the decision-making authority in force at the time of publication of this consolidated version of the Public Interest Guidelines in Trade remedies, which did not

change the respective competences of SDCOM and SECEX, provided for in Decree n. 9,745, of April 8, 2019.

In this context of changing decision-making structures, in progress since the beginning of 2019, it was necessary to change the procedural steps in order to update the Public interest test in Trade Remedies with the new legislation in force.

On April 17, 2019, Decree SECEX number: 8 of April 15, 2019 was published, as well as the Public Interest Procedural Guidelines, in order to ensure the necessary convergence of the procedural deadlines of public interest analysis with investigations of Trade Remedies, both conducted by the same SDCOM.

Then, on April 23, 2019, the Material Guidelines for Public interest test in Trade Remedies was released, in order to promote greater legal certainty, transparency and predictability to public and private entities, on the elements of merit that can be considered in the Public interest test in trade remedies.

These documents were submitted to Public Consultation for 30 days and SDCOM received contributions from civil society. Comments are received from the following entities: Brazilian Association of Machinery and Equipment Industry (“ABIMAQ”), Brazilian Plastic Industry Association (“ABIPLAST”), Brazilian Chemical Industry Association (“ABIQUIM”), Steel Institute Brazil, Brazilian Foreign Trade Association (“AEB”), National Association of the Music Industry (“ANAFIMA”), National Association of Manufacturers of Electronic Products (“Eletros”), Alba Dantas Advogados, Braskem SA, B&M Legal Defesa em International Trade, BMJ Consultores Associados, Embraco Indústria de Compressores e Soluções em Refrigeração Ltda., China Council for the Promotion of International Trade, National Confederation of Industry (“CNI”), Federation of Industries of the State of Rio de Janeiro (“Firjan”), GBI Consultoria Internacional, Brazilian Institute of Competition, Consumption and International Trade Studies (“IBRAC”), National Institute of Metrology, Quality and Technology (“INMETRO”), Professor Sergio Goldbaum of the São Paulo School of Business Administration at Fundação Getúlio Vargas (“FGV”), Sidera Consult and Whirlpool S.A.

Contributions from all entities are consolidated in Process S.E.I./ME number: 19972.100912/2019-30, publicly available. The aforementioned process also includes the consultations carried out with the Legal Consultancy of the Ministry of Economy, related to the issue of Public interest test in Trade Remedies Investigations.

Furthermore, it is noted that the update of the Procedural and Material Guidelines of Public interest test in Trade Remedies Investigations, now consolidated into a single

Guidelines, counted on the contributions of the World Bank, in the scope of the technical assistance project granted to the Department of Advocacy for Competition and Competitiveness (“SEAE”), with resources from the United Kingdom Prosperity Fund (“UK Prosperity Fund”).

In view of this brief presentation of the context of the publication of this consolidated version of the Public interest test in Trade Remedies Investigations Guidelines, it is now presented.

The document is separated into 6 sections, including this introduction. Section 2 presents international experience on the use of Public interest test in Trade Remedies Investigations, especially in the European Union, Canada and New Zealand. In this context, the legislation, the main precedents, the fundamentals used in the evaluation, the procedural flow and the basic structure of opinions in Public interest test in trade remedies will be exposed. Updates have been made regarding the international experience in this consolidated version of the Guidelines, both conceptually and in terms of precedent.

Furthermore, in section 3, a retrospective of the Brazilian experience on the use of the public interest clause was carried out, with the presentation of the pertinent legislation, the precedents and the grounds used by Brazilian public entities during the Public interest test. Updates were made regarding the national experience in this consolidated version of the Guidelines, especially in the section on precedents, in which a consolidated section of data on processes and decisions of public interest in Brazil is presented.

In section 4, the final version of the Procedural Guidelines for Public interest test in Trade remedies is presented, based on the new decree SECEX number: 13/2020, which revokes Decree SECEX number: 8/2019. The objective is to clarify the procedural steps and deadlines to be observed throughout the Public interest test procedure, as well as to resolve doubts that arose during the Public Consultation, based on the contributions received by SDCOM. It is important to highlight that this decree continues to aim to ensure the necessary convergence of procedural deadlines for public interest analysis with trade remedies investigations, both conducted by the same SDCOM. In addition, the new Guidelines aims to clarify doubts raised by civil society, as well as regulate points that were not provided for in the Decree in force at the time. Then, in section 5, the final version of the Material Guidelines for Public interest test in Trade Remedies is presented, with criteria that can be taken into account when making a decision on the existence or not of elements of public interest, preliminary or in a manner Final. For didactic purposes, it is clarified that the elements provided in the Material Guidelines are intended to answer, in general, the

following question: **does the imposition of the Trade Remedies measure impact the supply of the Product under analysis in the domestic market, in such a way as to significantly harm the dynamics of the domestic market?**

Specifically, the Public interest test seeks to answer the following question: **the imposition of the Trade Remedies measure impacts the supply of the Product under analysis in the domestic market (originating from both domestic and imports) in order to significantly harm the dynamics of the domestic market (including upstream, downstream and the links itself industry), in terms of price, quantity, quality and variety, among others?**

In this sense, the Guidelines proposes that the Public interest test in Brazil be carried out in two phases: preliminary and final, whose respective procedural explanations are included in section 4 of this Guidelines. For the preliminary evaluation, the following main elements will be taken into account: (1) characteristics, production chain and market of the Product under analysis; (2) International product supply under analysis; and (3) National Product Supply under Analysis. For the final assessment, in addition to deepening the elements of the preliminary analysis, the following additional criterion will be primarily analyzed: (4) Impacts of the trade remedies measure in the dynamics of the national market.

It is worth remembering that these criteria do not constitute an exhaustive list and none of them, alone or together, will necessarily be able to provide a decisive indication as to the existence or not of sufficient elements of public interest in trade remedies. It is clarified that, in this consolidated version of the Guidelines, the material criteria previously presented remain, in essence, very similar, but they were reorganized in order to promote greater efficiency and effectiveness in the presentation of data by the interested parties and also in the analysis of information and documents by SDCOM.

It is also pointed out that the application of the Partial Equilibrium Model was proposed, in order to estimate the impact on economic well-being in the application or suspension/change of Trade Remedies measures, whose script will be presented in this Consolidated Guidelines of Public Interest, for transparency purposes. Parties are not bound by the use of this model, since, despite their informational importance, economic models are simply tools to support Decision and their results are neither binding nor overlapping with other methodologies and analysis elements.

Finally, in section 6, a new Public Interest Questionnaire model is presented, which details, in an exemplary and non-exhaustive way, the information expected to be received during the instruction of the Public interest test administrative procedure in measures of

Trade Remedies. Such information may be submitted by the Trade Remedies action petitioners from the time of request for the original investigation or review. The objective is for the questionnaire to be answered by all parties interested in the process (exporters, importers, associations, consumer customers, public bodies, etc.), to the extent of their capacity. **It is important to emphasize, therefore, that not necessarily all interested parties must respond to all items in the Questionnaire. It is expected that each interested party presents the information and documents that it reasonably has available, aiming to increase, thus, the informational level of decision making.**

Thus, it is recognized that the Material Guidelines and the Public Interest Questionnaire are not binding and do not have the character of a standard (that is, they do not change legal or infra-legal provisions) and that the practices and procedures described therein may be changed at the discretion of convenience and SDCOM's opportunity, depending on the circumstances of the specific case, or the GECEX², when taking a Decision regarding the suspension or modification of definitive anti-dumping and countervailing measures, as well as the non-application of provisional anti-dumping and countervailing measures, pursuant to Article 7, items VI and VII, of Decree n. 10.044, of 04 of October 2019.

² Pursuant to Article 29 of Decree SECEX number: 13/2020, the provisions of this decree do not exclude the powers of the GECEX to decide on grounds of public interest, to regulate the respective decision-making processes within the scope of Camex and to establish guidelines for procedures analysis of public interest, pursuant to Article 3, §5, of Decree number: 8.058/2013 combined with Article 7, item X, of Decree number: 10.044/2019.

2. INTERNATIONAL EXPERIENCE ON TRADE REMEDIES AND PUBLIC INTEREST

In this section 2, the international experience of the main jurisdictions where there is Public interest test in Trade Remedies Investigations will be presented. It is clarified that, as the World Trade Organization (WTO) does not have a multilateral regulation regarding this clause, many countries do not contain, in its legislation, specific (or at least express) provision on this procedure. Thus, the public interest in national well-being is little considered among the countries of the world. A few of them, such as Brazil, Canada, European Union, New Zealand, China, Malaysia and Thailand, adopt normative provisions of public interest in their Trade Remedies legislation (FERRAZ, 2018).

In this context, considering the jurisdictions that have specific public interest analyses, the experiences of the European Union (2.1), Canada (2.2) and New Zealand (2.3) on the use of Public interest test in Trade Remedies Investigations are presented, describing the legislation of each country, the existing precedents, the fundamentals for taking a Decision, the analysis flow and the basic structure of the opinions. Furthermore, a case from China in which there was discussion in some way similar to the public interest will be presented, as well as the practical experience of two cases of public interest in India (2.4).

As mentioned above, updates have been made on the international experience in this consolidated version of the Guidelines, both conceptually and in terms of precedent.

2.1 European Union³

2.1.1 Legislation on the Union's interest in Trade Remedies in European Union

A first point that must be highlighted regarding the use of the public interest clause in the European Union is that it is conducted as a “Union interest” clause, which has peculiar contours, as can be seen in this updated version of the Guidelines. It must be noted that this clause, created in 1996, was then called the “community interest clause” (*Community Interest*)⁴ (DAVIS, 2009).

³The legislation, precedents, foundations, flow and basic structure of the opinions presented in this section of the European Union refer to dumping investigations. Both the Federal Interest Test and the procedures for subsidy investigations are the same as for dumping, but will not be covered in this section. Legislation on grant investigations Available on the website: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R1037>>.

⁴As a result of the Lisbon Treaty of 2009, the European Community became the European Union. As a result, the "Community Interest" became "Interest of the Union".

Procedures for the application of Trade Remedies measures by the European Union are conducted by the European Commission. According to the “Regulation of the European Parliament and of the Council concerning the defense against dumped imports from countries that are not members of the European Union” (hereinafter Basic Regulation), anti-dumping measures may not be applied if the authority concludes that they are not of the community interest its application (CORDOVIL, 2009, p. 71).

Since 2017, when the Basic Regulation was significantly amended by Regulation (EU) 2017/2321, in order for a dumping investigation to start, a written petition must be submitted by any natural or legal person or any association that does not have legal personality and acts on behalf of the domestic industry (EUROPEAN UNION, 2017a). If there is sufficient evidence, the European Commission will initiate the dumping investigation (EUROPEAN UNION, 2016a).

The European Commission is assisted in the investigation by a committee, composed of representatives from the Member States (EUROPEAN UNION, 2016a). Committees are provided for by Regulation (EU) 182/2011⁵ as mechanisms for the direct participation of Member States in the decisions of the European Commission (EUROPEAN UNION, 2011). By its own Decision or at the request of a Member State, the Committee may, at any time during the investigation, analyze and give an opinion on all matters relating to the investigation. Their considerations will be presented to the Commission, which will have to take them into account during the dumping investigation (EUROPEAN UNION, 2016a, p. 44).

Table 1: Difference between the Activities of the Committee of Member States and the European Commission

Commission	Committee
<ul style="list-style-type: none"> ● It receives the dumping complaint. ● It notifies interested parties. ● It takes into account assessments made by the Committee. ● It assesses the relevance of the evidence to justify the initiation of an anti-dumping investigation. ● It conducts investigations and make final decisions. 	<ul style="list-style-type: none"> ● Composed of representatives of the Member States of the European Union. ● It can make its own evaluations of the investigation, which must be taken into account by the Commission.

Source: EUROPEAN UNION, 2016a.
Elaboration: SDCOM.

⁵ Available on the website: <<https://eur-lex.europa.eu/legal-content/PT/ALL/?uri=CELEX:32011R0182>>.

The European Commission, while conducting the dumping investigation, will also conduct the Union interest assessment on the application of the anti-dumping measure. The Commission assumes that the application of an anti-dumping measure is, in itself, in the interest of the Union, since its application aims to solve problems arising from caused in the domestic market by the import of goods from the origins that are being investigated in the evaluation. However, the Commission seeks to consider in its analysis the possible burden that the application of the Trade Remedies measure could bring to the domestic market.

In this sense, users in general, downstream companies, consumer organizations and other interested parties may submit information to contribute to the assessment of the Union's interest, if they believe that the application of the Trade Remedies measure will bring more harm than good to the economy. To this end, claimants must clearly demonstrate that the imposition of measures is not in “the interest of the Union” (EUROPEAN UNION, 2016a, p. 47).

In accordance with Article 21 of the Basic Regulation:

“In order to determine whether or not the Union interest requires intervention, account is taken of an assessment of the various interests taken together, including the interests of the Union industry, users and consumers. determination under this article whether all parties have had the opportunity to present their views pursuant to paragraph 2. In that examination, particular attention shall be paid to the need to eliminate the trade-distorting effects of dumping that causes harm as well as the need to re-establish effective competition. Measures, as determined on the basis of the dumping and injury found, cannot be applied if the authorities, on the basis of the information provided, clearly conclude that it is not in the Union's interest to apply such measures” (EUROPEAN UNION, 2016a, p . 47) (excerpt from us that was highlighted).

It can be noted, then, that the test of "Union interest"⁶ in the European Union it is done in conjunction with all dumping investigations. Its objective is to assess whether the adoption of the anti-dumping measure will cause more harm than its benefits to society, including consumers, resellers, importers and industrial users of the Product under evaluation (EUROPEAN UNION, 2016a).

⁶ The Union interest test does not exactly correspond to the Brazilian concept of public interest, with some conceptual methodological differences between the two institutes.

In addition, there is another recent type of “Union interest” test created by amending Regulation (EU) 2018/825 to the Basic Regulation. This change creates the possibility of a provisional anti-dumping duty to be determined in a different way from the usual, which is by applying the lesser duty rule (Lesser Duty Rule). This new legislation establishes that, in the event of distortions at the level of raw materials of the Product analyzed, the determination of the provisional anti-dumping measure may not follow the rule of least duty (EUROPEAN UNION, 2018, article 7, paragraph 2).

These distortions are provided in a non-exhaustive list (EUROPEAN UNION, 2018, article 7, paragraph 2-A, second paragraph) originating from the “Inventory of the Organization for Economic Cooperation and Development ('OECD') on export restrictions of industrial raw materials”. Thus, if the Commission can clearly conclude that the least duty rule will not be sufficient to eliminate the injury caused by dumping, then it will be in the Union's interest to determine the amount of provisional duties pursuant to paragraph 2a, ie, considering the total amount of the dumping margin, without application of the lesser duty rule (EUROPEAN UNION, 2018, article 7, paragraph 2-B).

After the brief presentation on the legislation on the Union's interest in Trade Remedies, the precedents are analyzed.

2.1.2 Precedents of Union interest in Trade Remedies in European Union

Suspension of Trade Remedies measures based on the “interest of the Union”⁷ been quite limited in the experience of the European Union, according to the doctrine (DAVIS, 2009). This fact is, according to the author, due to the complexity and variety of issues related to Products subjected to anti-dumping measures, due to the large number of Member States and the profile of the affected parties. In general, smaller economic agents mobilize only after the application of provisional measures, when they are effectively affected by the measures. Larger agents, on the other hand, behave in a more organized way, presenting elements from the beginning of the investigation.

Despite all the efforts made by SDCOM in the consolidation of cases in which the Union's interest clause was used, it was found that there is not, neither by the authority nor

⁷ The issue of community interest, or common European interest, is present in all discussions since the construction of what is today the European Union. The Union's interest has always been thought of not as a sum of individual interests, but as the prevalence of an autonomous general interest of the community. During the Treaty of Rome, the community interest is dealt with in several passages that delimit the economic actions of the member countries. An example is Article 99, which provides that Member States consider their economic policies a matter of common interest.

academically, a consolidated survey of all cases in which a measure The Trade Remedies policy was affected by the Union interest test. Nor is there a survey of cases where the parties presented additional information to support a Union interest test, neither publicly nor for internal control. As such, it is impossible to accurately determine how many times the Union interest test was responsible for defining the outcome of a Trade Remedies assessment at the European Union.

Given that the Union interest test is mandatory and carried out in all EU Trade Remedies investigations, it can be considered that the number of Union interest tests carried out is equal to the number of Trade Remedies assessments already carried out by the European Union ⁸. According to WTO Trade Remedies data, which cover only original investigations ⁹, between 1996 (when the Union interest analysis was created) and 2018 the European Union initiated 558 Trade Remedies investigations ¹⁰. These data are consolidated in the table below.:

Table 2: Original Trade Remedies Investigations Initiated at the European Union – 1996 to 2018

	YEAR	Original investigations started
1	1996	26
2	1997	45
3	1998	30
4	1999	84
5	2000	32
6	2001	34
7	2002	23
8	2003	8
9	2004	30
10	2005	27
11	2006	36
12	2007	9
13	2008	21
14	2009	21
15	2010	18

⁸ A European Union counts the valuations considering the Product/Origin binomial, as is usual in trade defense.

⁹ Available on the website: <https://www.wto.org/english/tratop_e/adp_e/adp_e.htm> e <https://www.wto.org/english/tratop_e/scm_e/scm_e.htm>.

¹⁰ Number includes investigations of dumping and subsidies. However, it is important to emphasize that the WTO data do not account for sunset reviews, in which analyzes of federal interest are also carried out. Therefore, there were probably more assessments of federal interest than those accounted for here. It is recorded here that Davis (2009) counted 322 dumping investigations in the period 1998-2008 in the European Union, all relying on Union interest tests (then called community interest), since the test is mandatory in all investigations of trade defense made by the European Union.

16	2011	21
17	2012	19
18	2013	9
19	2014	16
20	2015	13
21	2016	15
22	2017	11
23	2018	10

Source: WORLD TRADE ORGANIZATION, 2019a.
Elaboration: SDCOM.

Of these, it was possible to obtain detailed information on at least 6 (S.E.I.s) cases in which the Trade Remedies investigations resulted in either a change in the applied measure (in four cases) or the non-application of the measure (in two cases). It is clarified that, by changing the measure, it is understood, for the purposes of the European Union, the possibility of changing the duration of the measure or the form of application of the measure (specific rate, ad valorem, imposition of minimum import price, commitment price, etc.). This concept of alteration is different from the one adopted for Canada, according to which it is possible to carry out a change in the measurement quantum, which is not the custom in the European Union.

The first 4 (four) cases are examples of trade remedies investigations in which there was a change in the measure applied for reasons of “in the interest of the Federal Government”. It must be noted that a decision to amend may be taken on grounds of Union interest, even if the Union interest test suggests that the measure does not need to be amended. This Amendment Decision will be based on additional information from the assessment, not just the conclusions of the Union interest test.

The first case, from 2009, defined the extension of the anti-dumping measure for a reduced period, but this reduction was not defined for reasons of Union interest. The case dealt with the extension of the imposition of anti-dumping measure on the import of shoes (footwear) from China and Vietnam ¹¹. The Union interest test found no reason not to maintain the Trade Remedies measures in force. Even so, it was defined that the measures would be extended for a period of 15 months, different from the usual extension period of 5 YEARS, since after this period it would not be possible to guarantee the existence of reason to European Union agents. This way, the extension period was reduced by the Union's

¹¹ Available on the website: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:352:0001:0069:EN:PDF>.

interest, even though the result of the Union interest test was that there would be no reasons for the non-extension of the anti-dumping measure (EUROPEAN UNION, 2009).

The second case, from 2013, deals with the application of a definitive anti-dumping measure on the import of solar panels (crystalline silicon photovoltaic modules and key components (i.e. cells)) originating in China. In that investigation, the Union interest test found that the problems that the application of the measure would bring to some importers would be less than the benefits to the Union industry and the establishment of a fair market. Thus, there would be no convincing reasons for not applying the anti-dumping measure. In turn, the conclusion of the Trade Remedies analysis was that the application of the anti-dumping measure for 5 YEARS would not adequately balance the benefits and disadvantages pointed out. Thus, it was decided to apply the anti-dumping measure for 2 YEARS, which would be enough time to combat the problems brought by dumping to the Union industry without unduly harming other agents of the economy affected by the measure (EUROPEAN UNION, 2013a).

The third case, from 2017, dealt with the application of a definitive anti-dumping measure on the import of hot rolled products of iron, steel or alloy steel (hot-rolled flat products of iron, non-alloy or alloy steel) originating in Brazil, Iran, Russia and Ukraine and the non-application of anti-dumping measure on the import of this Product originating in Serbia (EUROPEAN UNION, 2017b). Through the Union interest test, the Commission considered that modulating the form of application of the ad valorem anti-dumping measure by limiting it to a Minimum Import Price (MIP) would be necessary to balance the interests of European Union Producers and users (EUROPEAN UNION, 2017b, p. 101). However, after appealing this Decision, the Commission concluded that the best solution would be to impose measures in the form of specific rates per ton for each company (EUROPEAN UNION, 2017b, p. 115).

The fourth case, from 2017, also deals with the application of a definitive anti-dumping measure on the import of solar panels (crystalline silicon photovoltaic modules and key components (i.e. cells)) originating in China ¹². The Federal Government's interest test concluded that the benefits of applying the measure would be greater than the costs brought by it to agents. However, in the long term the measure could affect the demand for solar panels once the transition to new renewable energy policies is completed. Thus, to balance the benefits of the measure for the Union industry and the problems it brings to other affected

¹² Available on the website: <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0367&from=EN>>.

agents, it was decided to apply the anti-dumping measure for a period of 18 months (EUROPEAN UNION, 2017c).

In turn, there are at least 2 (two) cases in which Decision was for not applying the trade remedies measure for reasons of interest to the Union.

In this fifth case, of DVD+/-R's originating in China, Hong Kong and Taiwan, from 2006, after investigation of dumping, it was found that the domestic industry also imported the object Product, this import being greater than the domestic production itself. Furthermore, the market share of the domestic industry was not significant and it was found that most of the branches of its business group were located outside the European Union, which excluded it from the definition of "national industry". Such circumstances made a possible application of anti-dumping measures against the interest of the Union, having been decided, then, not to apply the measures (EUROPEAN UNION, 2006).

Finally, the sixth case, from 2013, dealt with the anti-dumping measure on the import of white phosphorus (white phosphorus, also called elemental or yellow phosphorus) from Kazakhstan¹³. Even though the existence of dumping was verified, the Union interest test concluded that it would not be interesting to apply anti-dumping measures in this case. To that end, it was first considered that the non-application of the measure would not allow the European Union industry to resume its production of white phosphorus. However, even with the application of the measure, the prices of the European industry would not be competitive in relation to the imported Product, so that even the measure would not allow that industry to recover. In addition, it was found that downstream agents would be deeply affected by the application of the anti-dumping measure, even making the operations of some of them unfeasible, as they would not be able to absorb the increase in costs and remain competitive. Thus, considering that the benefits of the measure would be questionable and the problems caused by its application would be excessive, it was decided not to apply the measure for reasons of interest to the Union (EUROPEAN UNION, 2013b).

After the brief presentation on some of the precedents for the use of the "interest of the Union" in Trade Remedies, the decision-making fundamentals are analyzed.

2.1.3 Fundamentals used in the assessment of the Union's interest in Trade Remedies in

¹³ Available on the website: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:043:0038:0058:EN:PDF>.

European Union

The criteria for evaluating the Union's interest in the European Union are not defined in its Basic Regulation. Overall, it is analyzed whether there is evidence that the measures would have a disproportionate impact on downstream industries, importers, consumers or other parties directly affected. Such parties, if they wish to question the application of the Trade Remedies measure, must provide evidence they consider relevant to prove the existence of the Union's interest in not applying the measure (EUROPEAN UNION, 2016a).

In the table below, Davis (2009) sampled 32 Trade Remedies investigations carried out by the European Union in the period 2005-2008 and compiled the findings of the Union interest tests (then called community interest tests) and their common concerns in with regard to interested parties.

Table 3: Conclusions of the Federal Interest Tests – 2005 to 2008

CONSUMER, IMPORTER AND USER INDUSTRY CONCERNS	
Expressed opposition to anti-dumping duties	32
Concern about price increases	24
Concern about supply shortages	17
Concern about anti-competitive behaviour	10
INVESTIGATION FINDINGS	
Duties are in the Community industry interest	32
Duties will have "minimal financial impact" on consumers	24
Community industry is not operating at 100% capacity	22
No evidence of anti-competitive behaviour amongst European firms	22
Community industry will go out of business if measures are not imposed	32
"Failure to respond" used as proxy for non-significant impact on consumers and user industries	24
Calculations given for potential injury to user industries	6
TOTAL NO. OF TESTS REVIEWED	32

Source: author's calculations based on Official Journal records, 2005 – 2008

Source: DAVIS, 2009.

Economic models are not usually used in the assessments of interest to the Union of Trade Remedies measures, despite certain calculations being performed to measure the impacts of the measures on economic agents, such as pass-through analysis of measures to the links downstream in the chain. Such estimates are carried out without the use of explicit economic models (DAVIS, 2009). Despite this, the European Commission requires that the evidence sent by the parties involved be "relevant" and must necessarily be proven by

concrete indications that substantiate its validity. It is important to note that the Union interest test is understood as a “negative test”: it assumes that the anti-dumping measure is in the interest of the Union, until proven otherwise. Thus, if interested parties do not manifest themselves, their inertia is taken as evidence that the costs of anti-dumping are tolerable by society in general (EUROPEAN UNION, 2016a).

Furthermore, the simple identification by the Union interest test of negative effects caused by the application of the Trade Remedies measure will not mean the automatic alteration or non-application of that measure. The analysis of the Union's interest in a Trade Remedies measure is not a mere comparison of its benefits and harms, and the fact that there are negative effects does not imply that the measure will not be in the Union's interest (EUROPEAN UNION, 2016a).

Furthermore, the anti-dumping questionnaires sent to the parties also bring issues related to the existence of elements of interest to the Union, such as other Product import Sources, level of employment, price, production process, sales and profitability (EUROPEAN UNION, 2016a).

Figure 1 shows a summary (index) of a questionnaire commonly used by the European Commission ¹⁴:

¹⁴ Questionnaire for analysis of anti-dumping measures, not specific for assessing the Union's interest.

Figure 1: Summary of the European Union Antidumping Questionnaire

INDEX	
INDEX	2
SECTION A – INTRODUCTION	3
SECTION B – PRODUCT IN QUESTION CONCERNED BY THIS PROCEEDING	5
SECTION C – GENERAL INFORMATION	7
SECTION D – PRODUCTION, PURCHASES AND STOCKS	9
SECTION E – SALES	10
SECTION F – DISTRIBUTION SYSTEM AND SELLING PRICES	11
SECTION G – TRANSACTION BY TRANSACTION LISTING	12
SECTION H – COST OF PRODUCTION	13
SECTION I – PROFITABILITY	15
SECTION J – EMPLOYMENT	17
SECTION K – OTHER QUESTIONS	18
CERTIFICATION	19
ANNEX I – GLOSSARY	20
ANNEX II – VERSION OPEN FOR CONSULTATION BY INTERESTED PARTIES	23

Source: European Commission. Available on the website:
<https://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_151937.pdf>.

After the brief presentation on the decision-making grounds for the use of the Union's interest in Trade Remedies, noting that its grounds are not so clear, neither in the legislation nor in the precedents, the analysis of the flow of the evaluation proceeds.

2.1.4 The Union's Interest Assessment Flow in European Union

The Union's interest assessment of Trade Remedies measures in the European Union is carried out concurrently with the investigation of dumping and subsidies. For this reason, if the existence of dumping, reason and a causal link is verified, the Union interest test will also occur (DAVIS, 2009). It is noteworthy that the process of analyzing the interest of the Union takes place not only in original investigations of Trade Remedies measures, but also in end-of-period reviews.

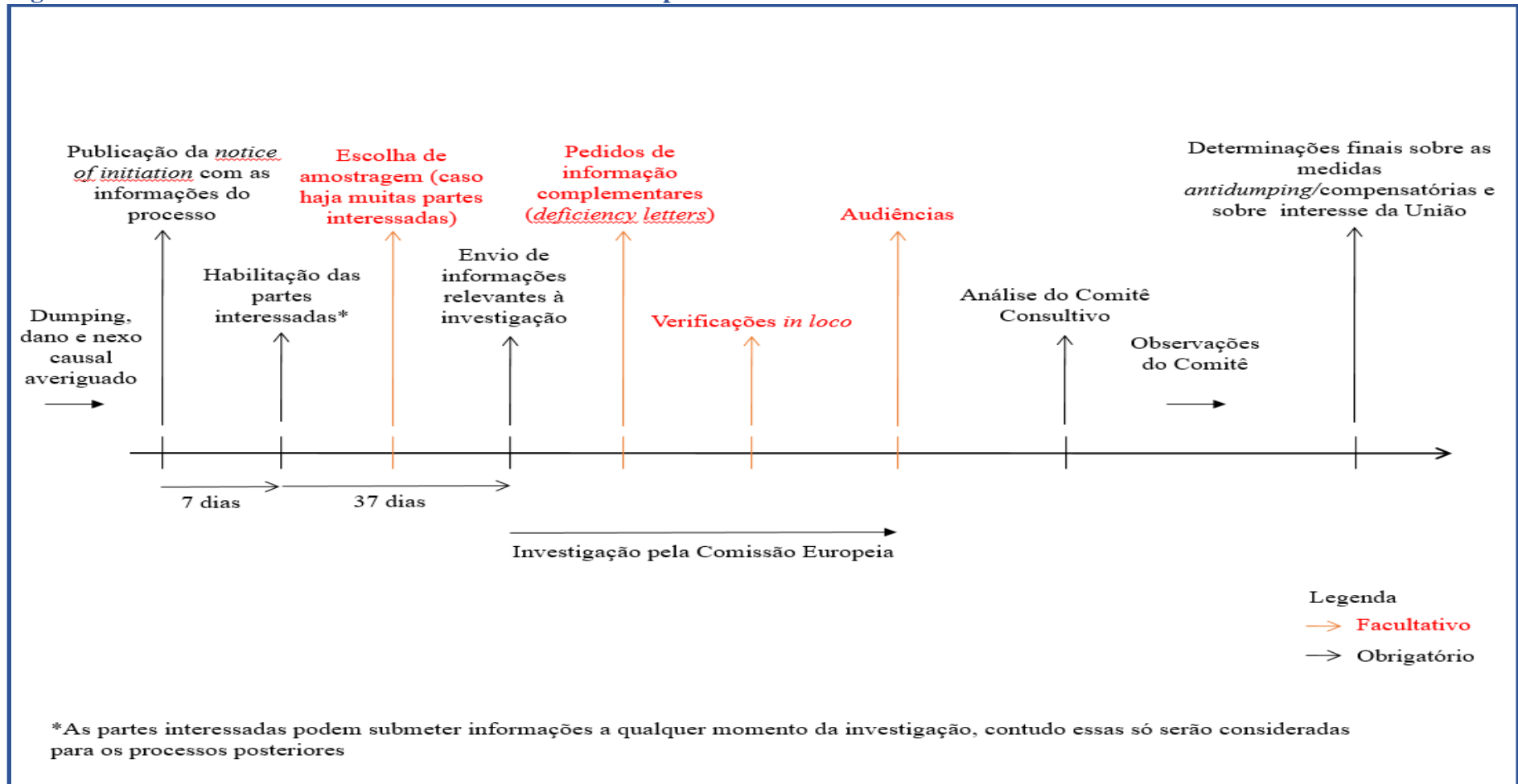
When the process starts, a submission period is opened for interested parties to send information regarding the Union's interest in the notice of initiation (published in the Official Journal of the European Union, similar to the Official Gazette), usually 7 (seven) days.

If there are a large number of interested parties in the process, the Commission will carry out a sampling procedure. At that time, the parties are invited to pass on to the Commission all the information they deem relevant to the Union interest test, through a general questionnaire on the case (which is passed on at the beginning of the process and in which there are questions related to interest of the Union) or in free format (however, other evidence may be submitted by interested parties at various stages of the investigation). The parties have 37 (thirty-seven) days to respond to the questionnaire and submit the information. Despite the deadlines set out in the notice of initiation, new relevant information can be sent at any time during the process, but such data cannot change previous decisions or documents (EUROPEAN UNION, 2016a).

After examining the information submitted, the Commission will determine the extent to which the arguments are representative. Although not common, the European Commission may notify parties throughout the process to request additional information (deficiency letters). The Commission may also carry out on-the-spot checks to confirm the validity and veracity of data submitted. The results of this analysis, together with an opinion on its basis, will be transmitted to the Committee composed of representatives of the member countries of the European Union), which will carry out an internal analysis of the case and will position itself in favor or against the adoption of an anti-dumping measure . Based on the Committee's comments, the Commission will make the final Decision, draft and distribute the determinations (EUROPEAN UNION, 2016a).

The timeline below visually presents the flow of processes of interest to the Union, in the European Union:

Figure 2: Flowchart of Union Interest Processes in the European Union



Source: EUROPEAN UNION, 2016a.
 Elaboration: SDCOM.

Once the brief presentation on the flow of analysis of the “interest of the Union” in Trade Remedies is concluded, the analysis of the basic structure of the opinions begins.

2.1.5 Basic structure of opinions in the assessment of the Union's interest in Trade Remedies in European Union

The opinions of interest of the Union are not separate from the opinions of the Trade Remedies investigation, but consist of a specific topic within the preliminary and final determinations. Thus, the arguments of interest to the Union that are presented by the parties throughout the procedural instruction will be presented in this part of the document and divided among those presented by the industry, the importers and the users.

Finally, the Commission's Conclusion on Union interest will be presented, based on the facts presented by the parties. If no party presents evidence that the application of the Trade Remedies measure is not in the Union's interest, there will only be a section that will state that no comments have been made on the topic. It is important to stress that, as it is assumed that every anti-dumping measure applied by the Commission is in the interest of the Union until proven otherwise, then it is considered that all Trade Remedies measures applied are in the interest of the Union (MARSOLA, 2019; EUROPEAN UNION, 2016a).

2.2 Canada

2.2.1 Jurisdiction on Public interest test in Trade Remedies Investigations in Canada

Canada has two laws that deal with issues related to dumping and subsidies: the Special Import Measures Act (“SIMA”) and the Special Import Measures Regulation (“SIMR”)¹⁵, which are administered by government agencies Canada Border Services Agency (“CBSA”)¹⁶ and Canadian International Trade Court (“CITT” or “Tribunal”)¹⁷ (CANADA, 2019d; CANADA, 2019e; CANADA, 2019f).

The Canadian public interest clause is provided for in section 45 of the SIMA, which provides that, after the result of the investigation that verifies the feasibility of applying Trade Remedies measures, a public interest investigation may be conducted. This is what can be seen in the following excerpt:

¹⁵SIMR is a document to support SIMA procedures (CANADA, 2019d).

¹⁶The CBSA is the agency responsible for protecting the borders and controlling the entry and exit of Products and people from Canada (CANADA, 2019e).

¹⁷ The CITT is responsible for investigating trade defense measures and assisting the national government on tariff, trade and other economic issues. (CANADÁ, 2019f).

“(…) the Court (CITT) may, on its own initiative or at the request of an interested person, which is done within the time and in the prescribed manner, initiate an investigation of public interest if the Court (CITT) considers that there are reasonable grounds to consider that the the imposition of an anti-dumping measure or a countervailing duty, or the imposition of such a measure in the full amount provided for by any of these sections [of the SIMA], in relation to the goods, would not or could not be in the public interest” (CANADA, 1985, p. 66)

In addition to the CITT itself, they may request Public interest test (i) entities involved in the production, purchase, sale, export or import of foreign Products or goods that are of the same description as the goods under investigation; (ii) an entity required or authorized by any federal or provincial law to make representations to the CITT on the matter; and (iii) any association whose objective is to defend the interests of consumers in Canada (CANADA, 1985).

It is a public interest review conducted after the final decision on Trade Remedies, and not concurrent with the Trade Remedies investigation. The CITT will initiate the Public interest test and will analyze whether the application of the Trade Remedies measure is in the public interest or not. When considering that the total or partial imposition of anti-dumping or countervailing measures would not (or could not be) in the public interest, the CITT will submit a report to the Minister of Finance and provide a statement of facts and reasons for non-application (CANADA, 1985). The CITT's recommendation to the Minister can be either to reduce the level of the anti-dumping measure or countervailing measure or to define the price or prices that are adequate to remove thereason. The Minister may then, at his sole discretion, recommend the application of measures in whole or in part to the Governor General of Canada (BÉDARD, 2019).

After the brief presentation on the public interest legislation in Trade Remedies in Canada, the precedents are analyzed.

2.2.2 Public interest precedents in Trade Remedies in Canada

As already mentioned, section 45 of the SIMA, which deals with the public interest, has existed since 1985. Since then and until 2018, 23 (twenty-three) public interest analysis

were requested ¹⁸ in Trade Remedies to the CITT, which have all been judged and have final decisions recorded on the Court's website ¹⁹.

Of the 23 (twenty-three) requests for Public interest test, only 7 (seven) inquiries were initiated. From this, a very significant rigidity is inferred to decide for the beginning of public interest analyses. Of these 7 (seven) cases initiated, in 5 (five) recommendations were made to reduce the tariffs imposed and, in the other 2 (two), it was recommended that tariffs not be reduced. It is noted, then, that in none of the cases in Canada did the public interest test result in the total suspension of the anti-dumping measures originally imposed (BÉDARD, 2018; MARSOLA, 2019).

There were also 2 other cases in which aspects of public interest were assessed at the initiative of the Canadian government (government references): the cases of Grain Corn, 1989, and Gypsum Board, 2016. These cases do not follow the traditional Public interest test format in Trade Remedies in Canada because they were requested to the CITT by ministers of the Canadian government, that is, they were not initiated at the initiative of the CITT or at the request of an interested party (BÉDARD, 2019).

The table below presents the consolidated data of these 9 (nine) processes carried out by Canada, including the government references, which portray a total of 19 (nineteen) investigations under the binomial Origin-Product counting methodology.

¹⁸ The way of accounting for cases of public interest in Canada is based on the number of Products under analysis, different from the common method of trade remedies, which considers the Product/Origin binomial.

¹⁹ Available on the website: <<https://decisions.citt-tcce.gc.ca/citt-tcce/en/nav.do>>.

Table 4: Public interest test in Canada – 1985 to 2019

Lawsuit of Public interest test	Lawsuit Number	YEAR of start of evaluation	YEAR of publication of the Conclusion of the evaluation	Origins	Number de origins	Change of Trade Remedies measure	Recomendação da Public interest test ou da <i>government reference</i>
Grain Corn	N/A	1987	1987	EUA	1	1	Reduction of the anti-dumping duty
Grain Corn (<i>government reference</i>)	MN-89-002	1989	1989	EUA	1	0	no change
Beer	PI-91-001	1991	1991	EUA	1	1	Reduction of the anti-dumping duty
Refined Sugar	PB-95-002	1995	1996	Germany, Denmark, USA, Netherlands, UK and European Union	6	0	no change
Certain Prepared Baby Food	PB-98-001	1998	1998	EUA	1	1	Reduction of the anti-dumping duty
Iodinated Contrast Media	PB-2000-001	2000	2000	EUA	1	1	Reduction of the anti-dumping duty
Stainless Steel Wire	PB-2004-002	2004	2005	South Korea, USA, India and Switzerland	4	1	Reduction of anti-dumping duty on US imports
Concrete Reinforcing Bar	PB-2014-001	2014	2015	China, South Korea and Turkey	3	0	no change
Gypsum Board (<i>government reference</i>)	CG-2016-001	2016	2017	EUA	1	1	Application of the lesser duty rule
				Total	19	6	

Elaboration: SDCOM.

Below, the 7 stricto sensu public interest test that were initiated by CITT Decision will be briefly presented.

The first case of public interest investigation in Trade Remedies was that of corn grain (Grain Corn), 1987, on the application of an anti-dumping measure in relation to imports of corn grain originating in the United States for the production of snacks (snack foods) and tortillas. The Canadian Import Court (“CIT”) – replaced on December 31, 1988 by the CITT – received complaints from several local Producers stating that the measure would be against the public interest and the CIT recommended the reduction of the anti-dumping duty (CANADA, 1989; MARSSOLA, 2019).

The next case was beer (*Beer*)²⁰, initiated in 1991, on the application of anti-dumping measures in relation to malted beverages, commonly called beer, imported from the United States. The CITT considered that applying an anti-dumping measure could bring unnecessary benefits to the Canadian industry, which would affect its ability to generate jobs and attract investment, so it recommended the reduction of the measure initially defined (MARSSOLA, 2019).

In turn, the case of refined sugar (*Refined Sugar*)²¹ it was the first public interest investigation in Trade Remedies to result in the maintenance of the originally imposed anti-dumping measure. The investigation, concluded in 1996, concerned the application of an anti-dumping measure on the import of refined sugar from the United States, Denmark, Germany, Netherlands and the United Kingdom and a countervailing duty on the import of the Product from the European Union. The CITT considered that there were no elements of public interest that would justify the reduction or elimination of anti-dumping and countervailing measures (CANADA, 1996; MARSSOL, 2019).

In 1998, the case of baby food was evaluated. (*Certain Prepared Baby Food*)²², related to the application of anti-dumping measure on foods originating in the United States prepared for newborns. Several medical and public health associations protested against the application of the anti-dumping measure, claiming that the prices of these foods would be increased due to the elimination of the only US competitor and the monopoly of Canadian Production, with the greatest impact on low-income families. This kind as recommended by

²⁰ Beer, November 25, 1991, PI-91-001. Available on the website: <<https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353627/index.do?q=PI-91-001>>.

²¹ Refined Sugar, April 4, 1996, PB-95-002. Available on the website: <<https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353606/index.do?q=PB-95-002>>.

²² Certain Prepared Baby Food, November 30, 1998, PB-1998-001. Available on the website: <<https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353617/index.do?q=PB-98-001>>.

Canadian doctors, it became essential for these families and there was great concern in society about the possibility of parents saving on this type of food or diluting the Product in water to increase yield – thus increasing the chance of diseases. Considering this and other related factors, the CITT decided to reduce the anti-dumping measure by two-thirds of the amount initially determined (MARSSOLA, 2019).

The next investigation of public interest was in relation to iodinated contrast media (Certain Iodinated Contrast Media)²³, 2000, in relation to the anti-dumping measure on the import of iodinated contrast media for radiographic imaging from the United States and Puerto Rico. The CITT considered that reducing the anti-dumping measure, rather than eliminating it, would be the best option for the Canadian market. It would guarantee the maintenance of the quality of medical care without generating a harmful price increase, while guaranteeing the competitiveness of Canadian industry against similar imported Products (CANADA, 2000; MARSSOLA, 2019).

The next case involved stainless steel wires. (*Certain Stainless Steel Round Wire*)²⁴, of 2004, on the anti-dumping measure applied against imports of stainless-steel wires originating in South Korea, Switzerland, the United States and on the countervailing measure in relation to imports of the Product coming from India. The CITT recommended the reduction of the anti-dumping measure for Products imported from the United States due to its impact on the downstream chain in Canada (CANADA, 2005; MARSSOLA, 2019).

The latest public interest investigation case in Trade Remedies in Canada covered concrete rebar (Concrete Reinforcing Bar), of 2014, in relation to the anti-dumping measure on the import of rebar for concrete from China, South Korea and Turkey. The CITT concluded that there was no evidence that the reduction or elimination of the anti-dumping measure was in the public interest and recommended the maintenance of the initially determined measure (CANADA, 2015; MARSSOLA, 2019). In 2018, a request for review of this Decision was presented to the CITT, but denied by the Court (CANADA, 2019a).

Now the 2 public interest analysis made at the request of the Canadian government (government references) to the CITT will be presented shortly.

The first government reference case is a preliminary assessment of the Public interest test review of maize grains. (*Grain Corn*)²⁵, 1987 (continuation of the first case presented

²³ Certain Iodinated Contrast Media, 29 August, 2000, PB-2000-001. Available on the website: <<https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353609/index.do?q=PB-2000-001>>.

²⁴ Certain Stainless Steel Round Wire, March 22, 2005, PB-2004-002. Available on the website: <<https://decisions.citt-tcce.gc.ca/citt-tcce/a/en/item/353620/index.do?q=PB-2004-002>>.

²⁵ Grain Corn. December 29, 1989, MN-89-002 (CANADA, 1989).

above). The Minister of State for Privatization and Regulatory Affairs published a reference (reference) to the CITT in which it instructed, in October 1989, to conduct a preliminary assessment to determine whether there has been a substantial change in circumstances that would warrant a second Public interest test on the case of Grain Corn. After the preliminary assessment, the CITT concluded that there were not enough changes to justify a new Public interest test on this case (CANADA, 1989; CANADA, 2019g).

The second case of government reference was that of plasterboard (*Gypsum Board*)²⁶, of 2016, which deals with the provisional anti-dumping measure on the importation of plasterboard from the United States. On the recommendation of the Minister of Finance, the Governor General of Canada published an Order in Council (OIC) to make a reference (reference) to the CITT, ordering an investigation to assess whether the imposition of such a measure would be contrary to economic, business or Canada's economic, trade or commercial interests. The CITT concluded that the anti-dumping measure would substantially reduce competition and impose excessive additional costs on Canadian businesses and consumers. The CITT recommended the application of the lesser duty, with a 43% reduction in the dumping margin, as a measure to mitigate such problems brought about by the anti-dumping measure (Canada, 2017).

Once the detailed presentation of Canadian precedents of Public interest test in Trade Remedies Investigations has been completed, the typical fundamentals, provided for in the legislation, will be analyzed.

2.2.3 Fundamentals used in Public interest test in Trade Remedies in Canada

Section 45 of the SIMA also defines objective – but not exhaustive – criteria for analyzing the Public interest test in Trade Remedies Investigations. These criteria, briefly described below, must be considered, but are not restricted to the discretion of the Court in its decisions (MARSSOLA, 2019):

- a) Unavailability of an alternative supply in other countries;
- b) Damage to competition in the domestic market;
- c) reasons of the downstream chain;
- d) reasons of the upstream chain;
- e) Limitation of access to technology;
- f) Damage to consumers (smaller and less varied supply, higher prices).

²⁶ Gypsum Board, January 19, 2017, CG-2016-001. Available on the website: <<https://decisions.citt-tcce.gc.ca/citt-tcce/t/en/item/354635/index.do?>>>.

In an investigation of public interest, therefore, the CITT will take into account any factors that it deems relevant, including the so-called “prescribed factors”, under the terms of subsection 45 (3) of the SIMA (CANADÁ, 1985):

a) Whether goods of the same description are readily available in countries or exporters for which the order or finding does not apply;

b) If the application of an anti-dumping or countervailing duty in the total amount:

i. eliminated or substantially diminished (or if it is likely to eliminate or diminish) competition in the domestic market in relation to goods;

ii. caused or is likely to cause significant reasons to Producers in Canada who use the Goods as inputs in the production of other Goods and in providing services;

iii. significantly harmed or is likely to significantly harm competitiveness:

iii.1. By limiting access to goods that are used as inputs in the production of other goods and in the provision of services; or

iii.2. By limiting access to technology.

iv. has restricted or is likely to significantly restrict the choice or availability of goods at competitive prices for consumers or otherwise caused or is likely to cause significant reasons.

c) Whether the imposition of an anti-dumping or countervailing duty or the non-imposition of such a measure is likely to cause significant harm to domestic Producers of factors of production, including Primary Products used in domestic manufacturing or production of similar goods.

Once the brief presentation on the typical foundations provided for in the legislation for the analysis of Public interest test in Trade Remedies Investigations in Canada is concluded, the presentation of its evaluation flow will be made.

2.2.4 Flow of Public interest test in Canada

Public interest investigations may be initiated ex officio by CITT or at the request of an interested party within 45 days of the end of the dumping or subsidy investigation. The request for investigation must contain, as an argument, the grounds for analysis presented in section 2.2.3. If the CITT finds that the request does not meet the minimum requirements, the Court may decide to either initiate the review (in which case the process ends immediately) or, if the 45-day period has not yet expired, it may supply the applicant the

opportunity to amend your request (CANADA, 2014). If it considers that there are insufficient grounds, the Court issues a Decision closing the case. Otherwise, the Court publishes a notice of initiation of an investigation of public interest, divided into two phases: initial and investigation (CANADA, 2014).

If the CITT decides that a request to initiate a public interest investigation is properly documented, the inception phase officially begins. On the first day of this phase, the CITT notifies the parties that participated in the dumping or subsidy investigation of the existence of the public interest investigation and invites them to present their positions, which must be based on the aforementioned grounds and contain information relevant to the CITT. The parties have approximately two weeks to submit such information from receipt of notifications. The CITT requests that these parties seek to present only public information and, if this is not possible, a public summary of the information must be provided (CANADA, 2014).

By day 35 of the initial phase, the Court, based on the information presented, decides whether or not there are reasonable grounds to believe that the imposition of anti-dumping or countervailing duties or the imposition of such duties in full amount will or will not be in the public interest. If it understands that there are no reasonable reasons for doing so, the CITT will issue its Decision within fifteen days. CITT then publishes a Notice of Decision in the Canada Gazette along with its reasons and closes the process.

On the other hand, if the CITT understands that there are reasonable grounds to believe that the imposition of measures, in part or in full, will be contrary to the public interest, the CITT will issue a notice of initiation of the public interest investigation phase, briefly summarizing the main events that occurred in the initial phase that led the CITT to proceed with the public interest test, describing the procedures and deadlines to be followed in the investigation phase (CANADA, 2014). Any entity or government that wishes to participate in the public interest investigation must, within the established time limit, submit a form, known as a “Notice of Participation Form”.

After the deadline for submitting the Form, the CITT will distribute the list of participants who have submitted the necessary notifications. If the Court decides to collect additional information, questionnaires are published on its website on the first day of the investigation phase and, generally, the parties have three weeks to respond (CANADA, 2014).

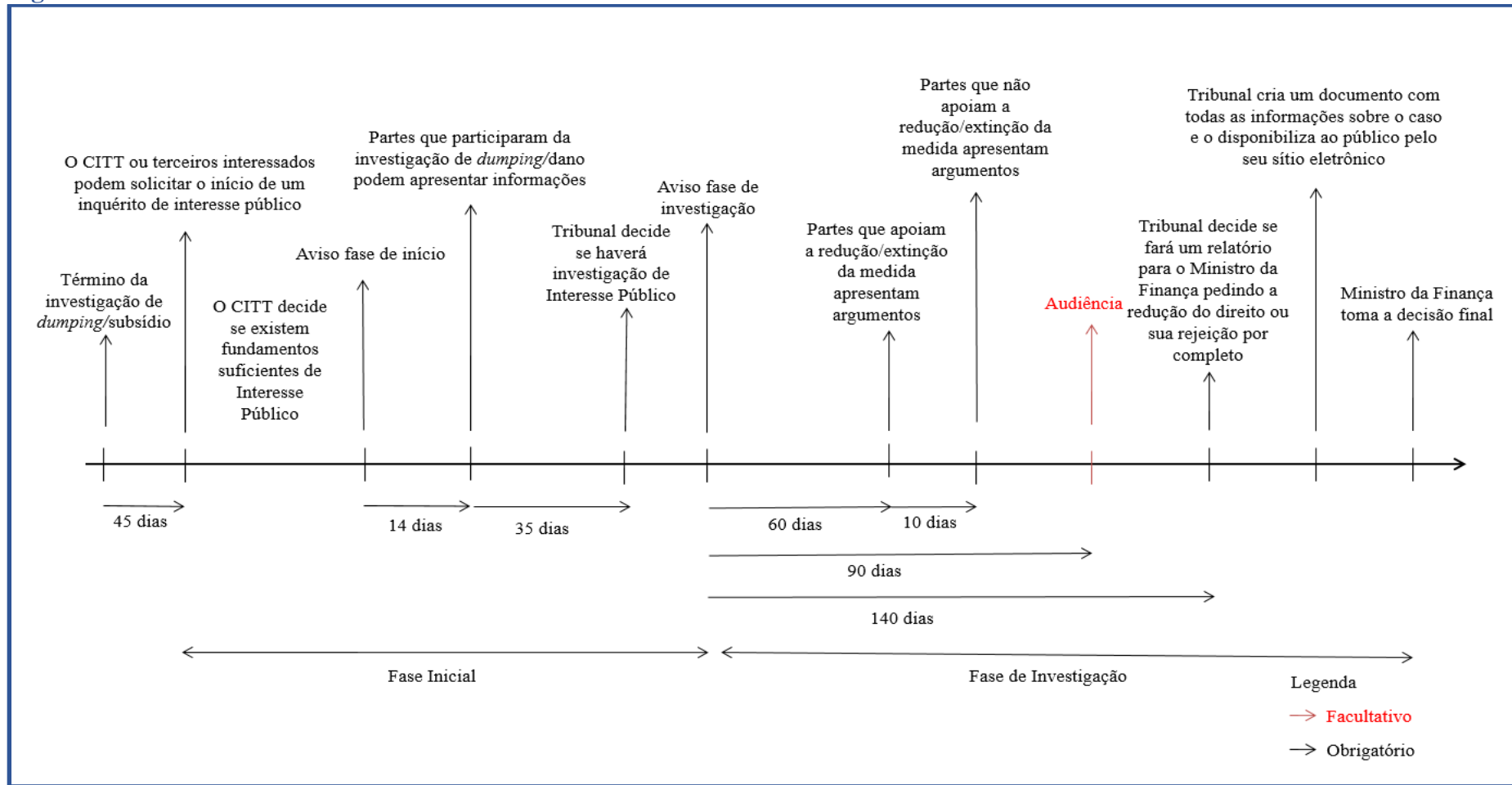
By day 50 of the investigation phase, public and confidential versions of the Court's investigation report, prepared based on the responses and other relevant information, are

distributed to the parties (CANADA, 2014). Around the 60th, the parties that support the reduction or non-application of Trade Remedies measures must submit their observations in writing. Approximately 10 days later, the parties supporting the maintenance of the measures must submit their comments in writing. By the 90th, the CITT will be able to hold a hearing to give the parties the opportunity to call and question witnesses and argue their position before the Court. The hearing also provides the CITT with the opportunity to test written observations and responses received, documentary evidence, as well as responses to questionnaires (CANADA, 2014).

Around 140, the CITT issues a report with its opinion on whether the reduction or elimination of measures is in the public interest, presents this document to the Minister of Finance and sends a copy to all parties involved, and publishes it in the Canadian Gazette and on its website. The final decision is taken by the Minister (CANADA, 2014).

The timeline below visually presents the flow of public interest processes in Canada:

Figure 3: Public Interest Processes Flowchart in Canada



Source: CANADÁ, 2014.
Elaboration: SDCOM.

After the brief presentation on the flow of the public interest process in Trade Remedies in Canada, the basic structure of its opinions will be analyzed.

2.2.5 Basic structure of opinions in Public interest test in trade remedies in Canada

CITT's public interest opinions are carried out in two ways: (i) or in the form of a report to the Minister of Finance, when it is believed that there is a public interest in the Change of Trade Remedies measure, or (ii) as a reasoning document and opinions that would support CITT's decision not to send a public interest report to the Minister (CANADA, 2014).

Form (i), of the report to the Minister of Finance, when it is believed that there is a public interest in the Change of Trade Remedies measure, contains an opening part and five other main parts. In the initial part, the CITT summarizes the case and its opinion. The main parts basically consist of a statement of the facts and reasons that supported the CITT's opinion. The main part I consists of a general introduction of the case and investigation of dumping/subsidies, ie a background. The main part II demonstrates the legal framework of the public interest and the consequences of its challenge in the dumping/subsidy investigation. Part III provides a survey of positions, opinions and a brief description of the facts presented by the parties involved in the investigation. Part IV, in turn, provides an analysis of the effects of the application of the antidumping/countervailing measure. This analysis, however, consolidates the arguments of the parties involved, without bringing up the Court's considerations. Finally, part V is composed of brief final analyzes and recommendations made to the Minister based on what was discussed above (CANADA, 2005).

For a better understanding of the structure of this report, below is a demonstrative figure of the Summary of the case of public interest inquiry in the process of application of anti-dumping measure on the import of stainless steel wires originating in South Korea, Switzerland and the United States, mentioned in the section 2.2.2:

Figure 4: Summary of CITT Decision on Certain Stainless Steel Round Wire

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Source: CITT (CANADÁ, 2005).

The second (ii) form of public interest opinion of the CITT consists of a document of reasons and opinions, used for situations in which it is not believed that there is a public interest and, as a result, there is no drafting of a report for the Minister of Finance (CANADA, 2015).

Unlike the report, this document is not divided into parts and contains only broader topics. The first topic consists of CITT's opinion on the non-existence of public interest. The CITT then describes the reasons that led it to reach this Conclusion. This part contains the background of the case, the legal framework of the public interest in Canadian Trade Remedies and the WTO, a description of the contexts in which the public interest is analyzed,

the position of the parties and a brief Public interest test in the case. Finally, everything is summarized in a Conclusion (CANADA, 2015).

To better understand the structure of this document, below is a demonstrative figure of the Summary of the case of public interest inquiry in the process of application of anti-dumping measure on the import of concrete rebar from China, South Korea and Turkey, mentioned in section 2.2.2 :

Figure 5: Summary of CITT Decision on Concrete Reinforcing Bars Case

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Source: CITT (CANADÁ, 2015).

2.3 New Zealand

2.3.1 Legislation on Public interest test in Trade Remedies Investigations in New Zealand

New Zealand was the second country in the world to establish anti-dumping and countervailing measures legislation in 1905. The measures, however, were only valid for

agricultural implements. In 1921, New Zealand had, through the Customs Amendment Act²⁷, an anti-dumping and countervailing measures legislation per se, which was not restricted to agricultural products. This new legislation had a public interest clause, in which the then Minister of Customs could choose not to impose an anti-dumping/countervailing measure if he believed it was against the public interest (DIXIT, 2017).

In 1966, however, the public interest clause was removed from New Zealand legislation without much opposition. From the Dumping and Countervailing Duties Act of 1998 until the Trade Amendment Act of 2017, the Minister of Commerce (successor to the position of Minister of Customs) had little discretion in being able to deny the imposition of antidumping/countervailing measures if dumping/ subsidy, reason and the causal link between these were investigated (DIXIT, 2017).

In 2014, the Minister of Commerce introduced a legislative reform that encompassed a series of changes in the country's commercial practices. This reform had the support of the Ministry of Business, Innovation and Employment (*Ministry of Business, Innovation and Employment – MBIE*)²⁸ and sought to follow the examples of Canada and the European Union (DIXIT, 2017). In this context, the public interest test was reintroduced into New Zealand legislation in 2017, by the Trade Amendment Act (NOVA ZEALAND, 2017, Number: 10F).

After the brief presentation of the public interest legislation in Trade Remedies in New Zealand, the precedents are analyzed.

2.3.2 Public interest precedents in Trade Remedies in New Zealand

As the public interest test, introduced in 2017 in New Zealand, only took effect in 2019, it has not been applied for investigations initiated prior to this YEAR. Thus, previous public interest applications in Trade Remedies in New Zealand are not yet available (MARSSOLA, 2019)²⁹.

As there are no public interest precedents in Trade Remedies in New Zealand, the possible foundations are analyzed.

²⁷ Customs Amendment Act 1921. Available on the website: <http://nzlii.org/nz/legis/hist_act/caa192112gv1921n19276/>.

²⁸The MBIE has 12 ministers in its structure, among them the Minister of Commerce and Consumer Affairs (NOVA ZELÂNDIA, 2019)).

²⁹ Available on the website: <<https://www.mbie.govt.nz/business-and-employment/business/trade-and-tariffs/trade-remedies/trade-remedy-investigations/>>.

2.3.3 Fundamentals used in Public interest test in Trade Remedies in New Zealand

The fundamentals of Public interest test in New Zealand are set out in Article 10F, § 3, of the Trade Amendment Act. When investigating whether the enforcement of the Trade Remedies measure is in the public interest, the issues that the MBIE must investigate include the following criteria (NEW ZEALAND, 2017):

- a) The effect of the measure on the prices of the object subject to dumping or subsidized;
- b) The effect of the measure on the prices of similar goods produced in New Zealand;
- c) The effect of the measure on the choice or availability of similar Products;
- d) The effect of the measure on the quality of the Product and service;
- e) The effect of the measure on the financial performance of the domestic industry;
- f) The effect of the measure on employment levels;
- g) The existence of an alternative supply (national or international) of similar Products;

Other factors that the executive head of the MBIE deems essential to ensure competition in the market

- a) ³⁰.

After the brief presentation on the fundamentals contained in the legislation of Public interest test in Trade Remedies Investigations in New Zealand, the flow is analyzed.

2.3.4 Flow of Public interest test in New Zealand

The Trade Amendment Act defines the Public interest test as part of the dumping/subsidy investigation process. This process is divided into two stages: step 1 (step 1), in which the existence of dumping, subsidy and material reason is analyzed; and step 2 (step 2), in which the public interest test itself is carried out. Thus, to understand New Zealand's Public interest test process, it is necessary to understand the elements of the dumping/subsidy analysis process (NOVA ZELÂNDIA, 2017).

First, it is important to explain that dumping/subsidy and public interest investigations are conducted by the executive head of the MBIE. In turn, the Minister of Commerce, one of

³⁰ Under the Trade Amendment Act, it can be considered in the evaluation “*any factor that the chief executive considers essential to ensure the existence of competition in the market*” (NOVA ZELÂNDIA, 2017).

the 12 Ministers that make up the MBIE, is responsible for the deliberations and final decisions (DIXIT, 2017; NOVA ZELÂNDIA, 2019).

O passo 1 da investigação de *dumping*/subsídio inicia-se quando o chefe executivo MBIE recebe uma solicitação para iniciar a investigação por Productres de bens similares ao objeto do alleged dumping/subsidy. Upon request, the Producers must send documentation with proof of dumping/subsidy, reason and the causal link between them. The executive head of MBIE will initiate the investigation if he is satisfied with the evidence presented. The findings of the investigation will be communicated to the Minister of Commerce, who will determine if there was dumping or subsidization that caused reason to the domestic industry. If the Minister of Commerce determines that there has been no dumping/subsidy, no Trade Remedies measures will be applied (and, consequently, the public interest test will not be carried out). If the Minister of Commerce understands that there is dumping or subsidies, he will determine to what extent the Trade Remedies instrument will be applied (NOVA ZELÂNDIA, 2017)³¹.

Once step 1 of the investigation has been completed (based on the dumping/subsidy tripod, reason and causal link), the Minister of Commerce may order the MBIE executive head to start step 2, the public interest test of the imposition of the Trade Remedies. Under topic 10F, subtopic (2), of the Trade Amendment Act, “the enforcement of the measure is in the public interest, unless the cost to downstream industries and consumers of enforcing the measure is likely to outweigh the benefit to the domestic industry of law enforcement” (NOVA ZELÂNDIA, 2017, p.1).

After the start of step 2, the MBIE Chief Executive has 60 days to conduct a preliminary public interest investigation and pass along his findings to the parties, together with the dumping/subsidy findings. Subsequently, the parties may submit, in writing, the evidence they deem relevant to the investigation. If justified, other evidence can also be presented orally. Based on the analysis of all the information presented (on dumping/subsidies and public interest), the executive head of the MBIE will present the results of the investigation to the Minister of Commerce (NOVA ZELÂNDIA, 2017).

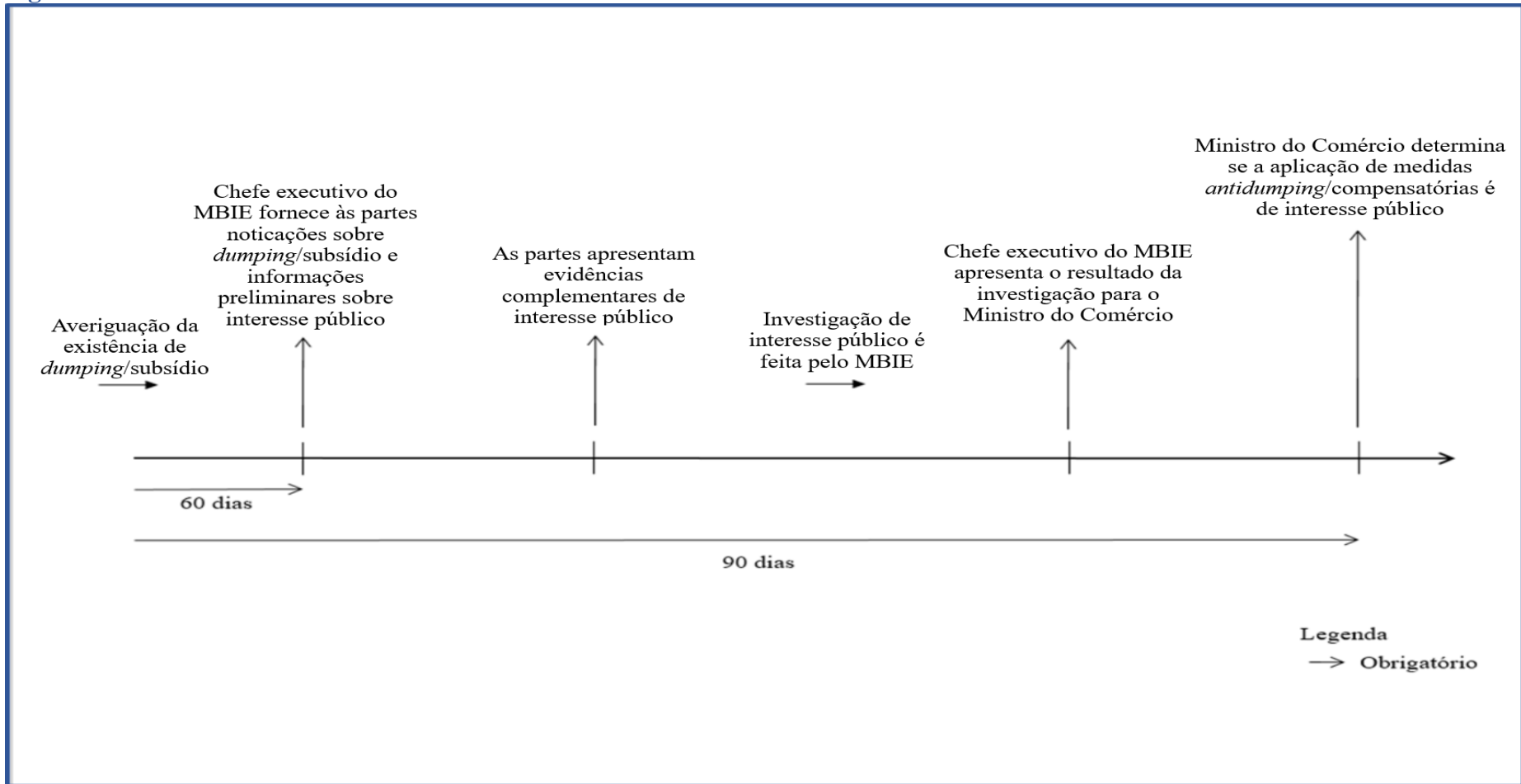
The Public interest test is restricted to the measure of application of the Trade Remedies instrument, defined by the Minister of Commerce in step 1 of the investigation, and cannot modify it, even if there is another measure of application that better serves the

³¹ “The Minister may, in respect of dumped or subsidised goods, (a) determine different rates or amounts of duty for named exporters: (b) determine a residual rate or amount of duty for all other exporters from the same country as a named exporter.”

public interest. Thus, the Public interest test can only recommend the non-application of the Trade Remedies measure or the full application of the Trade Remedies measure as previously recommended (DIXIT, 2017).

The Minister of Commerce must then determine whether the anti-dumping/countervailing measure is in the public interest within the following timeframes: 90 days after the start of “step 2” of the investigation, but not less than 30 days after submission by the MBIE, from the results of the investigations (NOVA ZELÂNDIA, 2017). The timeline below visually presents the flow of public interest processes in New Zealand:

Figure 6: Flowchart of Public Interest Processes in New Zealand



Source: *Trade Amendment Act* (NOVA ZELÂNDIA, 2017).
Elaboration: SDCOM.

After the brief presentation on the decision-making flow on Public interest test in Trade Remedies Investigations in New Zealand, it is now time to verify the existence (or not) of a basic structure for the opinions.

2.3.5 Basic structure of opinions in Public interest test in trade remedies in New Zealand

New Zealand's Public interest test, as it follows the dumping/subsidy investigation process, is attached to the final investigation document. In this document, the evidences presented by the parties are presented and discussed. Finally, it is described whether or not there is a public interest in the application of the measure (NOVA ZELÂNDIA, 2017).

The public interest part, however, still does not have a basic structure of opinions, due to the lack of precedents.

2.4 Other countries

The experiences in the European Union, Canada and New Zealand have already been mentioned, considering that they are the jurisdictions in which there is more advanced legislation or precedents on the subject. Despite this, brief practical experiences from China and India on Public interest test in Trade Remedies Investigations will be analyzed.

2.4.1 Public interest test in China

The Chinese legislation ³² of anti-dumping, in force since 2008, provides, in article 37:

“If a final determination confirms the existence of dumping and reason caused by dumping to a domestic industry, an anti-dumping duty may be imposed. The imposition and collection of anti-dumping duties must be in the public interest.”

Even so, the Ministry of Commerce of China does not provide any description of what would be the public interest, and there are no legal definitions of this concept in terms of Trade Remedies. Although parties and consumers can request the Public interest test from the Ministry of Commerce, it is not clear how to do this.

The closest case of use in the public interest that we have information was related to the application of an anti-dumping duty on imports into China of the product called lysine. In this case, several users contested the application of the measure, as the Product would be used as feed for cattle and its encumbrance would cause farmers to suffer losses. Also

³² Regulations of the People's Republic of China on Anti-Dumping.

according to consumers, the domestic industry would not be able to supply the domestic market which, at the time (2002), was composed of around 90% of imported Products. Finally, the domestic lysine industry opted to withdraw the request for an anti-dumping investigation.

2.4.2 Public interest test in India

The country does not have specific legislation on Public interest test in Trade Remedies Investigations. However, section 9C of the Customs Tariffs Act (*Customs Tariff Act*)³³ of 1975 determines the possibility of appealing to the Customs, Excise and Service Tax Appellate Court (CESTAT) against the trade remedies decision on dumping and subsidies. The Court of Appeal will assess the request in a commission composed of the President of the Court and at least one member of the judiciary and one technical member (ÍNDIA, 1975). Through this Court, the central government indiYEAR performs an analysis similar to the Public interest test. There is also the possibility of appealing this Decision in the Indian High Court.

In addition, the Central Government is responsible for taking the final Decision on Trade Remedies measures based on the recommendations made by the Trade Remedies authority. If the recommendation is positive, the Central Government may diverge from the recommendation made by the Trade Remedies authority based on public interest. However, if the recommendation is negative, the Central Government is bound by the recommendation and cannot disagree for reasons of public interest. Divergences by the Central Government in relation to the recommendation of Trade Remedies for reasons of public interest have already occurred at least 2 (two) times, in the case of solar panels and penicillin (penicillin G – Alembic Ltd. V. Union of India).

³³Available on the website: <<http://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/THE%20CUSTOMS%20TARIFF%20ACT%20amended%20upto%20may.%202017%20by%20Act%2018%20of%202017.pdf;jsessionid=02C4A16A3CF6F30E8ED0782028E5E87C>>.

3. BRAZILIAN EXPERIENCE ON TRADE REMEDIES AND PUBLIC INTEREST

This section 3 will initially present the history of legislation on Public interest test in Trade Remedies Investigations matters in Brazil (3.1) and then national precedents on the subject (3.2) will be presented, as well as the main foundations of public interest in defense already used in Brazil, identified empirically (3.3). As already mentioned, updates were made regarding the national experience in this consolidated version of the Guidelines, especially in the section on precedents, in which a consolidated section of data on processes and decisions of public interest in Brazil is presented, as well as Graphs, with the visual display of the results found.

3.1 History of legislation on Public interest test in Trade Remedies Investigations in Brazil

As mentioned above, the public interest clause is provided for in the Brazilian legal system since the publication of Decree n. 1602, of August 23, 1995 (Article 64, § 3), referring to anti-dumping measures, and Decree n. 1751, of December 19, 1995 (Article 73, § 3), pertaining to countervailing measures. Throughout the YEARS, some normative milestones were relevant to the evolution of public interest analyses, which is why data will be presented together with the respective time frames.

In 2012, CAMEX Resolution number: 13, of February 29, 2012, was published, which created the GTIP. Then, on July 9, 2012, CAMEX Resolution number: 50, of July 5, 2012, was published, containing a script for requests for suspension or change of anti-dumping or countervailing measures, definitive or provisional, due to public interest. It was, therefore, a first attempt to create clear procedural steps to this analysis of Public interest test in Trade Remedies Investigations.

During this period, between 1995 and February 2012, 20 Public interest test processes were completed in Brazil. Of these 20 processes, it is known that 5 were initiated from claims filed by companies and/or associations and 5 were opened ex officio by the competent authority. There is no information, in terms of administrative proceedings, regarding the form of initiation of the other 10 cases. Of the 20 processes, it is known that 9 public interest analysis resulted in suspension of the applied Trade Remedies measures, 2 in Extension of the suspension, 1 in Extinction of the Trade Remedies measure, 3 in reapplication of the measure, 2 in modification and 3 under maintenance.

For terminological purposes, it is clarified that, the original assessments refer to cases in which there had not been a previous Public interest test in relation to Brazilian imports of

a certain Product from certain Origin(s). The first and second reviews occur in cases where there had already been, respectively, an original or one or more past public interest reviews for that same Product from the same Origin(s).

Table 5: Public interest analysis in Brazil – 1995 to February 2012

	YEAR Conclusion	Public interest test	Product	Origin	Decision
1	1998	Original Test	Light soda (light disodium carbonate)	Bulgaria Poland Romania	Suspension of the Trade Remedies measure
2	2002	Original Test	Peach preserves	Greece	Suspension of the Trade Remedies measure
3	2004	Original Test	Bicycle tires	China India	Suspension of the Trade Remedies measure
4	2004	Original Test	High carbon iron chromium	South Africa Kazakhstan Russia	Suspension of the Trade Remedies measure
5	2005	1st Sunset Review	Bicycle tires	China India	Reapplication of the Trade Remedies measure against China and Extension of the suspension against India
6	2005	Original Test	Medicines containing insulin	Denmark USA France	Suspension of the Trade Remedies measure
7	2006	Original Test	Portland cement	Venezuela México	Suspension of the Trade Remedies measure
8	2007	1st Sunset Review	High carbon iron chromium	South Africa Kazakhstan Russia	Reapplication of the Trade Remedies measure
9	2008	Original Test	PET resins	Argentina	Suspension of the Trade Remedies measure
10	2008	1st Sunset Review	PET resins	Argentina	Extension of the Suspension of the Trade Remedies measure
11	2008	Original Test	Stabilized ammonium nitrate (binary)	Russia Ukraine	Suspension of the Trade Remedies measure
12	2008	Original Test	metallic magnesium	China	Maintenance of the Trade Remedies measure
13	2009	2nd Sunset Review	Bicycle tires	India	Reapplication of the Trade Remedies measure
14	2009	Original Test	Shoes	China	Maintenance of the provisional trade remedies measure

15	2010	1st Sunset Review	Portland cement	Venezuela México	Extension of the Suspension of the Trade Remedies measure
16	2010	Original Test	ballpoint pens	China	Change of Trade Remedies measure
17	2010	Original Test	glyphosate	China	Change of Trade Remedies measure
18	2010	Original Test	Barium carbonate	China	Suspension of the Trade Remedies measure
19	2011	Original Test	PVC-S	EUA	Change of Trade Remedies measure
20	2011	1st Sunset Review	Barium carbonate	China	Extinction of the Trade Remedies measure

Elaboration: SDCOM.

In 2013, the anti-dumping legislation was amended with the publication of Decree n. 8,058, of July 26, 2013, and the legislation on countervailing measures remained unchanged. The YEARS 2013, 2014 and 2015 were also marked by an increase in the application of Trade Remedies measures by Brazil, which again attracted attention to the Public interest test regulation, tendo em vista o respectivo aumento no uso da cláusula de interesse público no país.

In this context, Public interest test was again regulated by CAMEX Resolution number: 27, of April 29, 2015, and the GTIP secretariat was initially exercised by the Economic Monitoring Secretariat of the Ministry of Finance ("SEAE/MF").

Between February 2012, when the GTIP was established, and April 2015, 14 Public interest test processes were completed in Brazil. Of these 14 processes, it is known that 9 were initiated from claims filed by companies and/or associations and 2 were opened ex officio by the competent authority. There is no information, in terms of administrative proceedings, regarding the form of initiation of other cases. Of the 14 processes about which there is information, 5 public interest analysis resulted in suspension of the applied Trade Remedies measures, 1 in Extension of the suspension, 1 in extinction of the Trade Remedies measure, 2 in alteration and 5 in maintenance.

Table 6: Public interest analysis in Brazil – February 2012 to April 2015

	YEAR Conclusion	Public interest test	Product	Origin	Decision
1	March 2012	Original Test	Toluene diisocyanate (TDI-80/20)	EUA Argentina	Suspension of the Trade Remedies measure

2	May 2012	1st Sunset Review	Toluene diisocyanate (TDI-80/20)	EUA Argentina	Extinction of the Trade Remedies measure
3	December 2012	Original Test	Synthetic fiber blankets	Uruguai Paraguai	Maintenance of the Trade Remedies measure
4	2013	Original Test	polymeric MDI	EUA China	Maintenance of the Trade Remedies measure
5	2013	Original Test	Light coated paper (LWC)	Alemanha Belgium Canada USA Finland Sweden	Maintenance of the Trade Remedies measure
6	2013	Original Test	All related to the 2013 and 2014 World Cups ³⁴		Suspension of the Trade Remedies measure
7	2013	Original Test	Cold rolled	Germany China South Korea Finland Chinese Taipei Vietnam	Maintenance of the Trade Remedies measure
8	2013	Original Test	Viscose Fibers	Austria China Indonesia Thailand Chinese Taipei	Suspension of the measure
9	2013	Original Test	Polycarbonate resin	Thailand	Suspension of the Trade Remedies measure
10	2014	Original Test	Steel GNO	South Korea Chinese Taipei China	Change of Trade Remedies measure
11	2014	1st Sunset Review	Polycarbonate resin	Thailand	Extension of the Suspension of the Trade Remedies measure
12	2014	Original Test	Monoblock fauber cranks for bicycles	China	Suspension of the Trade Remedies measure
13	2014	Original Test	cold type glasses	China	Change of Trade Remedies measure
14	2014	Original Test	PP resin	EUA South Africa South Korea India	Maintenance of the Trade Remedies measure

Elaboration: SDCOM.

Public interest test was once again regulated by CAMEX Resolution number: 93, of September 24, 2015. During this period, the GTIP secretariat continued to be exercised by SEAE/MF.

Between April 2015 and April 2016, under the secretariat of SEAE/MF, 7 Public interest test processes were completed in Brazil. Of these 7 processes, 3 were initiated from

³⁴ Given the generic nature of this assessment and this Public Interest Decision, it was not possible to define which Products and which sources were affected by this suspension.

claims filed by companies and/or associations and 4 were opened ex officio by the competent authority. Three public interest analysis resulted in suspension of the applied Trade Remedies measures, 1 in Extension of the suspension, 1 in extinction of the Trade Remedies measure, 1 in modification and 1 in maintenance.

Table 7: Public interest analysis in Brazil – April 2015 to April 2016

	YEAR Conclusion	Public interest test	Product	Origin	Decision
1	May 2015	1st Sunset Review	MDI polimérico	EUA China	Suspension of the Trade Remedies measure
2	May 2015	1st Sunset Review	Monoblock fauber cranks for bicycles	China	Extension of the Suspension of the Trade Remedies measure
3	May 2015	Original Test	Plastic tubes for blood collection	Germany China USA United Kingdom	Maintenance of the Trade Remedies measure
4	August 2015	Original Test	All related to the 2016 Olympics ³⁵		Suspension of the Trade Remedies measure
5	November 2015	1st Sunset Review	Steel GNO	Coreia do Sul Taipé Chinês China	Change of Trade Remedies measure
6	November 2015	Original Test	Rubber SBR	European Union	Suspension of the Trade Remedies measure
7	December 2015	2ª Sunset Review	Polycarbonate resin	Thailand	Extinction of the Trade Remedies measure

Elaboration: SDCOM.

However, after the publication of CAMEX Resolution Number: 30/2016, on April 1, 2016, the GTIP secretariat became the responsibility of the Ministry of Finance's Secretariat for International Affairs (“SAIN/MF”). Thus, between April 2016 and April 2017, under the secretariat of SAIN/MF, 5 Public interest test processes were completed in Brazil. Of these 5 processes, 2 were initiated from claims filed by companies and/or associations and 3 were opened ex officio by the competent authority. A Public interest test resulted in an extension of the suspension of applied Trade Remedies measures, 2 in extinction of the measure and 2 in maintenance.

Table 8: Public interest analysis in Brazil – April 2016 to April 2017

	YEAR Conclusion	Public interest test	Product	Origin	Decision
1	Junho 2016	2nd Sunset Review	MDI polimérico	EUA China	Extinction of the Trade Remedies measure

³⁵ Given the generic nature of this assessment and this Decision of public interest, it was not possible to define which Products and which origins were affected by this suspension.

2	Junho 2016	2nd Sunset Review	Monoblock fauber cranks for bicycles	China	Extinction of the Trade Remedies measure
3	Setembro 2016	Original Test	Fios de Náilon	China South Korea Thailand Chinese Taipei	Maintenance of the Trade Remedies measure
4	Outubro 2016	1st Sunset Review	Rubber SBR	European Union	Extension of the Suspension of the Trade Remedies measure
5	Outubro 2016	Original Test	PVC-S	China South Korea USA Mexico	Maintenance of the Trade Remedies measure

Elaboration: SDCOM.

Subsequently, pursuant to CAMEX Resolution number: 29, of April 7, 2017, deadlines were established for the GTIP secretariat to analyze both the admissibility of the requests and for conducting the analyzes after the initiation of the Public interest test process. Pursuant to article 12 of this Resolution, after the initiation of the process, the GTIP had up to 6 (SEIs) months to submit its conclusions to the Board or Executive Management Committee (“GECEX”) of CAMEX, which was responsible for the suspension decision or alteration of anti-dumping or countervailing measures for reasons of public interest. In addition, under the terms of that same Resolution, the use of public interest criteria without GTIP evaluation was allowed, directly on CAMEX.

Between April 2017 and January 2019, under the new CAMEX Resolution number: 29, of April 7, 2017, 7 Public interest test processes were completed in Brazil. Of these 7 processes, 6 were initiated from claims filed by companies and/or associations and 1 was opened ex officio by the competent authority. Four public interest analysis resulted in suspension of the applied Trade Remedies measures, 1 in an extension of the suspension, 1 in extinction of the Trade Remedies measure and 1 in an modification.

Table 9: Public interest analysis in Brazil – April 2017 to January 2019

	YEAR Conclusion	Public interest test	Product	Origin	Decision
1	October 2017	2nd Sunset Review	Rubber SBR	European Union	Extinction of the Trade Remedies measure
2	July 2017	Original Test	N-butYEARI	EUA South Africa Russia	Change of Trade Remedies measure
3	September 2017	Original Test	Coarse salt	Chile	Suspension of the Trade Remedies measure
4	2018	Original Test	Refratários Básicos MagnesiYEARS	China Mexico	Suspension of the Trade Remedies measure

5	2018	Original Test	Hot rolled	China Rússia	Suspension of the Trade Remedies measure
6	2018	1st Sunset Review	Hot rolled	China Russia	Extension of the Suspension of the Trade Remedies measure
7	2018	Original Test	Graphite Electrodes	China	Suspension of the Trade Remedies measure

Elaboration: SDCOM.

In 2019, Decrees number: 9,679, of January 2, 2019, and number: 9,745, of April 8, 2019, changed the competence for public interest analysis, which are now performed by SDCOM, and no longer by the GTIP. Thus, contrary to the provisions of CAMEX Resolution number: 29/2017, whose Public interest test procedures depended on submission to the GTIP and, later, to the CAMEX Council of Ministers, the competences were all inserted in the Ministry of Economy itself, both SDCOM and SECEX and SECINT.

In view of the change in the decision-making structure, and with a view to ensuring the necessary convergence of the procedural deadlines of the public interest analysis with the trade remedies investigations, since both are conducted, since 2019, by the same SDCOM, it was published on 17th of April 2019, Decree SECEX number: 8, of April 15, 2019, together with the preliminary version of the Procedural Guidelines .

On October 4, 2019, Decree n. 10.044, of October 4, 2019 was published, according to which the Executive Committee of Management of the Foreign Trade Chamber (“GECEX”). Thus, SECINT's competence for this decision-making was in effect between January and October, when, then, it returned to CAMEX. This is the decision-making authority in force at the time of publication of this consolidated version of the Public Interest Guidelines in Trade remedies. It must be noted that Decree n. 10,044, of 2019, did not change the respective powers of SDCOM and SECEX, already provided for in Decree n. 9,745, of April 8, 2019.

Between January and November 2019, 7 Public interest test processes were completed in Brazil. Of these 7 processes, 6 were initiated from claims filed by companies and/or associations and 1 was opened ex officio by the competent authority. An assessment of public interest resulted in an extension of the suspension of the applied Trade Remedies measures, one in extinction of the Trade Remedies measure, two in modification and 3 in maintenance.

Table 10: Public interest analysis in Brazil – January to November 2019

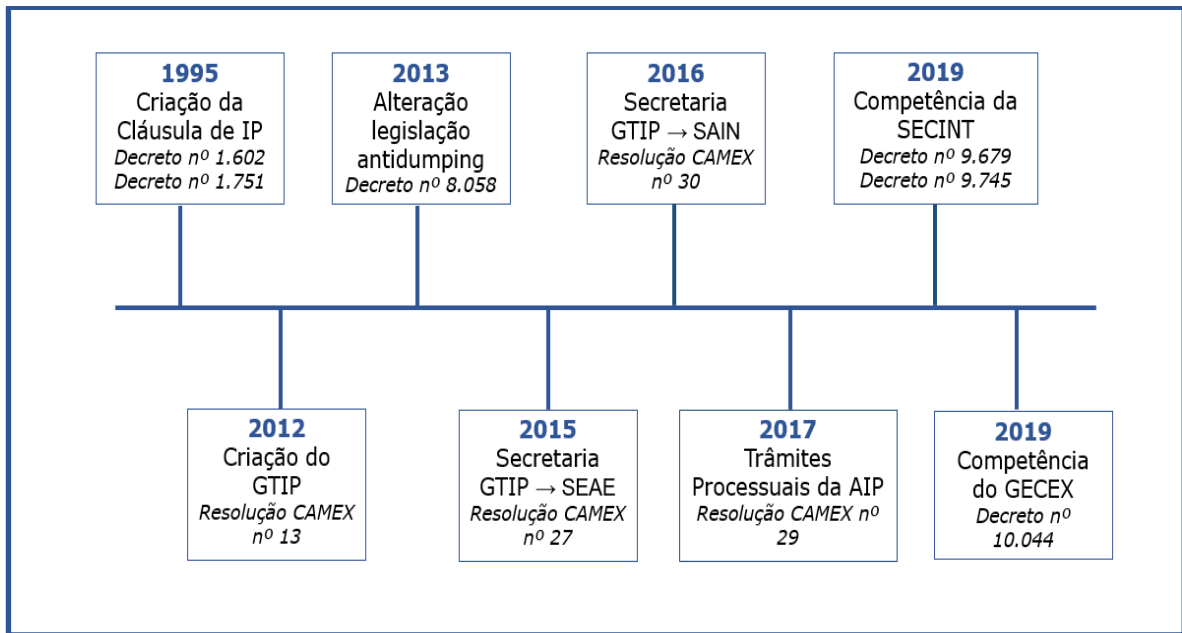
	YEAR	Public interest test	Product	Origin	Decision
1	April 2019	Original Test	Grinding machines	India	Maintenance of the Trade Remedies measure
2	May 2019	Original Test	Plasterboards	Mexico	Maintenance of the Trade Remedies measure
3	July 2019	Original Test	PET Films	Peru Bareine	Maintenance of the Trade Remedies measure
4	July 2019	Original Test/ 2nd Sunset Review*	GNO Steel	Germany South Korea Chinese Taipei China	Change of Trade Remedies measure
5	July 2019	1st Sunset Review	Coarse salt	Chile	Extension of suspension of the Trade Remedies measure
6	September 2019	1st Sunset Review	Graphite Electrodes	China	Extinction of the Trade Remedies measure
7	November 2019	Original Test	Cast iron pipes	China, UAE, India	Suspension of the Trade Remedies measure

Elaboration: SDCOM.

* Although the Public interest test in relation to GNO steel imports originating in Germany is the first and the Public interest test in relation to GNO steel imports originating in South Korea, Chinese Taipei and China is the third, a single process conducted the Public interest test in relation to imports of the product against the 4 origins.

In summary, for didactic purposes, the timeline regarding changes in legislation relating to the public interest in Brazil is presented below:

Figure 7: Timeline – history of Brazilian legislation



Elaboration: SDCOM.

3.2 Public interest precedents in Trade Remedies in Brazil

For the publication of this consolidated version of the Guidelines, extensive empirical research was conducted on the use of the public interest clause in Brazil. Therefore, the following criteria were used to define whether a decision was subject to Public interest test or not:

- a) For all periods: the decision must contain the expressions “on grounds of public interest” or “on grounds of public interest” or “on grounds of national interest”; there is a CAMEX Resolution that establishes or closes an “assessment” of public interest; there is a reason to understand that it is a decision in the public interest (ex.: CAMEX Resolution number: 2, of January 16, 2004); there is a decision that pronounces on the alteration, extinction, suspension or maintenance of the Trade Remedies decision.

- b) From August 1995: contain decision that uses as legal basis Article 64, §3 of Decree n. 1602, of August 23, 1995³⁶, or Article 68, § 1, or Article 73, § 3, of Decree n. 1.751, December 19, 1995³⁷.
- a) As of March 2012: mention actions of the Public interest test Technical Group (“GTIP”) for decision-making and mention CAMEX Resolution number: 13, of February 29, 2012³⁸.
- b) From July 2013: use, as a legal basis, Article 3 of Decree n. 8,058, of July 26, 2013³⁹.
- c) From 2019: based on Decree n. 9,679 of January 2, 2019⁴⁰; be based on Decree n. 9,745, of April 8, 2019; there is SECEX Decree that applies the decision in the public interest; or there is a SECEX News letter that establishes a public interest test .

³⁶ Decree Number: 1602, of August 23, 1995, which regulated the rules that disciplined administrative procedures related to the application of anti-dumping measures, was revoked by Decree Number: 8058, of July 26, 2013.

Article 64, § 3. In exceptional circumstances, even if there is evidence of dumping and injury arising therefrom, the authorities referred to in Article 2 may decide, for reasons of national interest, to suspend the application of the law or for the non-approval of price commitments, or, still, respect the provisions of the sole paragraph of Article 42, for the application of a law in a value different from that recommended, and, in this case, the act shall contain the reasons that substantiated such decision.

³⁷ Decree Number: 1751, of December 19, 1995, regulates the rules that govern administrative procedures related to the application of compensatory measures.

Article 68, §1. In exceptional cases of substantial changes in circumstances, or when in the national interest, reviews may be carried out at a shorter interval, at the request of an interested party or government or by agencies or entities of the Federal Public Administration or at the initiative of SECEX.

Article 73, § 3. In exceptional circumstances, even with proof of actionable subsidy and injury arising therefrom, the authorities referred to in Article 2 may decide, in view of reasons of national interest, to suspend the application of the measure or for the non-approval of commitments, or, even, respecting the provisions of the sole paragraph of Article 52, by applying a law in a value different from that recommended, and, in these cases, the act shall contain the reasons that substantiated the decision.

³⁸ CAMEX Resolution Number: 13, of February 29, 2012, established the GTIP.

³⁹ Decree number: 8,058, of July 26, 2013, regulates administrative procedures related to the investigation and application of anti-dumping measures; and amends Annex II to Decree number: 7,096, of February 4, 2010, which approves the Regimental Structure and the Demonstration Table of the Positions in Commission and the Gratified Functions of the Ministry of Development, Industry and Foreign Trade.

Article 3 In exceptional circumstances, the Council of Ministers may, in the public interest:

I – suspend, for up to one YEAR, extendable only once for an equal period, the enforceability of a definitive anti-dumping measure, or price commitment, in force;

II – not apply provisional anti-dumping duties; or

III - ratify a price commitment or apply a definitive anti-dumping measure in a value different from that recommended, respecting the provisions of paragraph 4 of Article 67 and paragraph 2 of Article 78.

⁴⁰ Decree Number: 9,679, of January 2, 2019, which approved the Regimental Structure and the Demonstrative Table of Commission Positions and Trust Functions of the Ministry of Economy, reallocated committee positions and trust functions and replaced positions in committee of the Superior Management and Advisory Group - DAS by Commissioned Functions of the Executive Branch - FCPE, was revoked by Decree Number: 9,745, of April 8, 2019.

d) To facilitate the understanding of which changes in Trade Remedies measures did not meet these criteria, the CAMEX Resolution number: 8, of February 19, 2014 is taken as an example

⁴¹, whereby a definitive anti-dumping duty was amended in relation to a specific exporter of nylon continuous filament textile yarns originating in Chinese Taipei, without any mention of “public interest”, “national interest” or any of the above criteria listed.

Therefore, all cases in which there was an assessment of public interest in Brazil based on the criteria listed above are consolidated in the table below, which, it is noteworthy, was prepared based on the product/origin binomial, as typically shown in the statistics of Trade Remedies. In other words, unlike Tables 5 to 10, which refer to the quantities of Public interest test processes completed per period (processes that often included more than one source), Table 11 presents all the product/origin binomials which have undergone public interest test .

In addition, Tables 5 to 10 only presented the evaluations completed in the respective periods. Table 11 also presents the cases that, until November 2019, were in progress with SDCOM, pending a final decision by the GECEX.

The results are presented in the following columns: (a) original assessment and reviews of public interest related to that specific binomial; (b) product; (c) country of origin; (d) type of Trade Remedies measure; (e) document containing the publication of the opening of public interest test ; (f) result of the public interest test ; and (g) document containing the publication of the result of the public interest test . For terminological purposes, it is clarified that, in column (f), the results of the Public interest test were classified into the following categories: (f.1) alteration of the Trade Remedies measure; (f.2) extinction of the trade remedies measure; (f.3) maintenance of the Trade Remedies measure; (f.4) reapplication of the Trade Remedies measure; (f.5) suspension of the Trade Remedies measure; (f.6) extension of the suspension of the Trade Remedies measure; (f.7) non-application of the Trade Remedies measure; and (f.8) Public interest test in progress.

Detailed and updated version in Excel of Table 11 and Graphs 1 to 12, all below, can be found at the following link:<[www.mdic.gov.br/images/REPOSITORIO/secex/decom/Interesse público/Guia de Interesse Público - Quadro 11 e Graphs.xlsx](http://www.mdic.gov.br/images/REPOSITORIO/secex/decom/Interesse_p%C3%BAllico/Guia_de_Interesse_P%C3%BAllico_-_Quadro_11_e_Graphs.xlsx)>.

⁴¹ Available on the website: <<http://www.camex.gov.br/noticias/62-resolucoes-da-camex/em-vigor/1313-resolucao-n-08-de-19-de-fevereiro-de-2014>>.

Table 11: History of Public interest analysis in Brazil – 1995 to November 2019

– Origin/Product Binomial

	(a) Original assessment and public interest reviews	(b) Product	(c) Country	(d) Type of Trade Remedies measure	(e) Publication of the establishment	(f) Outcomes of the public interest test	(g) Publication of the result
1	Original Test	Light soda ash (light disodium carbonate)	Bulgaria	Definitive <i>Anti-Dumping</i> Duty	AT ^[1]	Non-application	Interministerial Ordinance Number: 13, of June 16, 1998
2	Original Test	Light soda ash (light disodium carbonate)	Poland	Definitive <i>Anti-Dumping</i> Duty	AT	Non-application	Interministerial Ordinance Number: 13, of June 16, 1998
3	Original Test	Light soda ash (light disodium carbonate)	Romania	Definitive <i>Anti-Dumping</i> Duty	AT	Non-application	Interministerial Ordinance Number: 13, of June 16, 1998
4	Original Test	Peach preserves	Greece	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 11, of May 22, 2002
5	Original Test	Bicycle tires	China	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 2 of January 16, 2004
6	Original Test	Bicycle tires	India	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 2 of January 16, 2004

7	Original Test	High carbon iron chromium	South Africa	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 36, of December 13, 2004
8	Original Test	High carbon iron chromium	Kazakhstan	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 36, of December 13, 2004
9	Original Test	High carbon iron chromium	Russia	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 36, of December 13, 2004
10	Original Test	Medicines containing insulin	Denmark	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 04, of March 3, 2005
11	Original Test	Medicines containing insulin	USA	Price Commitment	AT	Suspension	Camex Resolution Number: 04, of March 3, 2005
12	Original Test	Medicines containing insulin	France	Price Commitment	AT	Suspension	Camex Resolution Number: 04, of March 3, 2005
13	1st sunset review	Bicycle tires	China	Definitive <i>Anti-Dumping</i> Duty	AT	Reapplication	Camex Resolution Number: 23, of August 11, 2005
14	1st sunset review	Bicycle tires	India	Definitive <i>Anti-Dumping</i> Duty	AT	Extension	Camex Resolution Number: 23, of August 11, 2005
15	Original Test	Portland cement	Venezuela	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 36, of November 22, 2006.

16	Original Test	Portland cement	Mexico	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 36, of November 22, 2006.
17	1st sunset review	High carbon iron chromium	South Africa	Definitive <i>Anti-Dumping</i> Duty	AT	Reapplication	Camex Resolution Number: 13, of April 25, 2007
18	1st sunset review	High carbon iron chromium	Kazakhstan	Definitive <i>Anti-Dumping</i> Duty	AT	Reapplication	Camex Resolution Number: 13, of April 25, 2007
19	1st sunset review	High carbon iron chromium	Russia	Definitive <i>Anti-Dumping</i> Duty	AT	Reapplication	Camex Resolution Number: 13, of April 25, 2007
20	Original Test	Polyethylene terephthalate (PET) resins	Argentina	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 04, of January 29, 2008
21	Original Test	Stabilized ammonium nitrate (binary)	Russia	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 71, of November 4, 2008
22	Original Testg	Stabilized ammonium nitrate (binary)	Ukraine	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 71, of November 4, 2008
23	Original Test	Metallic magnesium	China	Definitive <i>Anti-Dumping</i> Duty	AT	Maintenance	Camex Resolution Number: 72 of November 4, 2008

24	1st sunset review	Polyethylene terephthalate (PET) resins	Argentina	Definitive <i>Anti-Dumping</i> Duty	AT	Extension	Camex Resolution Number: 80 of December 18, 2008
25	2nd sunset review	Bicycle tires	India	Definitive <i>Anti-Dumping</i> Duty	AT	Reapplication	Camex Resolution Number: 16, of March 24, 2009
26	Original Test	Shoes	China	Provisional <i>Anti-Dumping</i> Duty ^[two]	AT	Change	Resolution Number: 48 of September 8, 2009
27	Original Test	Ballpoint pens	China	Definitive <i>Anti-Dumping</i> Duty	AT	Change	Resolution Number: 24 of April 28, 2010
28	Original Test	Glyphosate	China	Definitive <i>Anti-Dumping</i> Duty	AT	Change	Camex Resolution Number: 41 of June 8, 2010
29	1st sunset review	Portland cement	Mexico	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 64 of September 1, 2010
30	1st sunset review	Portland cement	Venezuela	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 64 of September 1, 2010
31	Original Test	Barium carbonate	China	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 75 of October 19, 2010
32	Original Test	Pvc-s	USA	Definitive <i>Anti-Dumping</i> Duty	AT	Change	Camex Resolution Number: 66 of September 6, 2011

33	1st sunset review	Barium carbonate	China	Definitive <i>Anti-Dumping</i> Duty	AT	Extinction	Camex Resolution Number: 77 of October 5, 2011
34	Original Test	Toluene diisocyanate (TDI-80/20)	USA	Definitive <i>Anti-Dumping</i> Duty and Price Undertaking	AT	Suspension	Camex Resolution Number: 16 of March 23, 2012
35	Original Test	Toluene diisocyanate (TDI-80/20)	Argentina	Definitive <i>Anti-Dumping</i> Duty and Price Undertaking	AT	Suspension	Camex Resolution Number: 16 of March 23, 2012
36	1st sunset review	Toluene diisocyanate (TDI-80/20)	USA	Definitive <i>Anti-Dumping</i> Duty and Price Undertaking	AT	Extinction	Camex Resolution Number: 32 of May 17, 2012
37	1st sunset review	Toluene diisocyanate (TDI-80/20)	Argentina	Definitive <i>Anti-Dumping</i> Duty and Price Undertaking	AT	Extinction	Camex Resolution Number: 32 of May 17, 2012
38	Original Test	Synthetic fiber blankets	Uruguay	Definitive <i>Anti-Dumping</i> Duty	AT	Maintenance	Camex Resolution Number: 92 of December 18, 2012
39	Original Test	Synthetic fiber blankets	Paraguay	Definitive <i>Anti-Dumping</i> Duty	AT	Maintenance	Camex Resolution Number: 92 of December 18, 2012
40	Original Test	Synthetic fiber long plush fabrics	China	Definitive <i>Anti-Dumping</i> Duty	AT	Maintenance	Camex Resolution Number: 92 of December 18, 2012

41	Original Test	Polymeric MDI	USA	Definitive <i>Anti-Dumping</i> Duty	Resolution Number: 50 of July 5, 2012	Maintenance	Camex Resolution Number: 28 of April 9, 2013
42	Original Testg	Polymeric MDI	China	Definitive <i>Anti-Dumping</i> Duty	Resolution Number: 50 of July 5, 2012	Maintenance	Camex Resolution Number: 28 of April 9, 2013
43	Original Test	Light coated paper (LWC)	Germany	Definitive <i>Anti-Dumping</i> Duty	AT	Maintenance	Camex Resolution Number: 29 of April 9, 2013
44	Original Test	Light coated paper (LWC)	Belgium	Definitive <i>Anti-Dumping</i> Duty	Resolution Number: 50 of July 5, 2012	Maintenance	Camex Resolution Number: 29 of April 9, 2013
45	Original Testg	Light coated paper (LWC)	Canada	Definitive <i>Anti-Dumping</i> Duty	Resolution Number: 50 of July 5, 2012	Maintenance	Camex Resolution Number: 29 of April 9, 2013
46	Original Test	Light coated paper (LWC)	USA	Definitive <i>Anti-Dumping</i> Duty	Resolution Number: 50 of July 5, 2012	Maintenance	Camex Resolution Number: 29 of April 9, 2013
47	Original Test	Light coated paper (LWC)	Finland	Definitive <i>Anti-Dumping</i> Duty	Resolution Number: 50 of July 5, 2012	Maintenance	Camex Resolution Number: 29 of April 9, 2013

48	Original Test	Light coated paper (LWC)	Sweden	Definitive <i>Anti-Dumping</i> Duty	Resolution Number: 50 of July 5, 2012	Maintenance	Camex Resolution Number: 29 of April 9, 2013
49	Original Test	Cold rolled	Germany	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 58, of July 24, 2018	Maintenance	Camex Resolution Number: 117 of December 18, 2013
50	Original Test	Cold rolled	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 58, of July 24, 2018	Maintenance	Camex Resolution Number: 117 of December 18, 2013
51	Original Test	Cold rolled	South Korea	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 58, of July 24, 2018	Maintenance	Camex Resolution Number: 117 of December 18, 2013
52	Original Test	Cold rolled	Finland	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 58, of July 24, 2018	Maintenance	Camex Resolution Number: 117 of December 18, 2013
53	Original Test	Cold rolled	Chinese Taipei	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 58, of July 24, 2018	Maintenance	Camex Resolution Number: 117 of December 18, 2013

54	Original Test	Cold rolled	Vietnam	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 58, of July 24, 2018	Maintenance	Camex Resolution Number: 117 of December 18, 2013
55	Original Test	Viscose fibers	Austria	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 116 of December 18, 2013
56	Original Test	Viscose fibers	China	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 116 of December 18, 2013
57	Original Test	Viscose fibers	Indonesia	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 116 of December 18, 2013
58	Original Test	Viscose fibers	Thailand	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 116 of December 18, 2013
59	Original Test	Viscose fibers	Chinese Taipei	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 116 of December 18, 2013
60	Original Test	Polycarbonate resin	Thailand	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 115, of December 18, 2013;
61	Original Test	Monoblock fauber cranks for bicycles	China	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 39, of May 22, 2014;

62	Original Test	Glass for use in cold line appliances	China	Definitive <i>Anti-Dumping</i> Duty	AT	Change	Resolution Number: 46 of July 3, 2014
63	Original Test	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	South Korea	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 100 of November 25, 2013	Change	Camex Resolution Number: 74, of August 22, 2014
64	Original Test	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	Chinese Taipei	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 100 of November 25, 2013	Change	Camex Resolution Number: 74, of August 22, 2014
65	Original Test	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 100 of November 25, 2013	Change	Camex Resolution Number: 74, of August 22, 2014
66	1st sunset review	Polycarbonate resin	Thailand	Definitive <i>Anti-Dumping</i> Duty	AT	Extension	Camex Resolution Number: 125, of December 18, 2014;
67	sunset review	Polymeric MDI	USA	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 41 of May 5, 2015

68	1st sunset review	Polymeric MDI	China	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 41 of May 5, 2015
69	1st sunset review	Monoblock fauber cranks for bicycles	China	Definitive <i>Anti-Dumping</i> Duty	AT	Extension	Camex Resolution Number: 47 of May 21, 2015
70	Original test	Polypropylene resins	South Africa	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 40 of May 22, 2014	Maintenance	Camex Resolution Number: 78 of August 4, 2015
71	Original test	Polypropylene resins	South Korea	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 40 of May 22, 2014	Maintenance	Camex Resolution Number: 78 of August 4, 2015
72	Original test	Polypropylene resins	USA	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 40 of May 22, 2014	Maintenance	Camex Resolution Number: 78 of August 4, 2015
73	Original test	Polypropylene resins	India	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 40 of May 22, 2014	Maintenance	Camex Resolution Number: 78 of August 4, 2015
74	Original test	Plastic tubes for blood collection	Germany	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution	Maintenance	Camex Resolution Number: 106 of November 4, 2015

					Number: 42 of May 5, 2015		
75	Original test	Plastic tubes for blood collection	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 42 of May 5, 2015	Maintenance	Camex Resolution Number: 106 of November 4, 2015
76	Original test	Plastic tubes for blood collection	USA	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 42 of May 5, 2015	Maintenance	Camex Resolution Number: 106 of November 4, 2015
77	Original test	Plastic tubes for blood collection	United Kingdom	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 42 of May 5, 2015	Maintenance	Camex Resolution Number: 106 of November 4, 2015
78	1st sunset review	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	South Korea	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 60 of June 19, 2015	Change	Camex Resolution Number: 108 of November 4, 2015
79	1st sunset review	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	Chinese Taipei	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 60 of June 19, 2015	Change	Camex Resolution Number: 108 of November 4, 2015

80	1st sunset review	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 60 of June 19, 2015	Change	Camex Resolution Number: 108 of November 4, 2015
81	Original Test	Styrene-butadiene rubber (e-sbr)	European Union	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 110 of November 19, 2015
82	2nd sunset review	Polycarbonate resin	Thailand	Definitive <i>Anti-Dumping</i> Duty	AT	Extinction	Camex Resolution Number: 118 of December 17, 2015
83	2nd sunset review	Polymeric MDI	USA	Definitive <i>Anti-Dumping</i> Duty	AT	Extinction	Camex Resolution Number: 54 of June 23, 2016
84	2nd sunset review	Polymeric MDI	China	Definitive <i>Anti-Dumping</i> Duty	AT	Extinction	Camex Resolution Number: 54 of June 23, 2016
85	2nd sunset review	Monoblock fauber cranks for bicycles	China	Definitive <i>Anti-Dumping</i> Duty	AT	Extinction	Camex Resolution Number: 62 of June 28, 2016
86	Original Test	Nylon threads	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 114 of November 24, 2015	Maintenance	Camex Resolution Number: 93 of September 29, 2016
87	Original Test	Nylon threads	South Korea	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution	Maintenance	Camex Resolution Number: 93 of September 29, 2016

					Number: 114 of November 24, 2015		
88	Original Test	Nylon threads	Thailand	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 114 of November 24, 2015	Maintenance	Camex Resolution Number: 93 of September 29, 2016
89	Original Test	Nylon threads	Chinese Taipei	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 114 of November 24, 2015	Maintenance	Camex Resolution Number: 93 of September 29, 2016
90	Original Test	Pvc-s	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 25 of March 24, 2016	Maintenance	Camex Resolution Number: 97 of October 10, 2016
91	Original Test	Pvc-s	South Korea	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 25 of March 24, 2016	Maintenance	Camex Resolution Number: 97 of October 10, 2016
92	Original Test	Pvc-s	USA	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution	Maintenance	Camex Resolution Number: 97 of October 10, 2016

					Number: 25 of March 24, 2016		
93	Original Test	Pvc-s	Mexico	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 25 of March 24, 2016	Maintenance	Camex Resolution Number: 97 of October 10, 2016
94	1st sunset review	Styrene-butadiene rubber (e-sbr)	European Union	Definitive <i>Anti-Dumping</i> Duty	AT	Extension	Camex Resolution Number: 96 of October 10, 2016;
95	Original Test	N-butyearl	USA	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 117 of November 23, 2016	Change	Camex Resolution Number: 48 of July 5, 2017
96	Original Test	N-butyearl	South Africa	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 117 of November 23, 2016	Change	Camex Resolution Number: 48 of July 5, 2017
97	Original Test	N-butyearl	Russia	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 117 of November 23, 2016	Change	Camex Resolution Number: 48 of July 5, 2017

98	2nd sunset review	Styrene-butadiene rubber (e-sbr)	European Union	Definitive <i>Anti-Dumping</i> Duty	AT	Extinction	Camex Resolution Number: 83 of October 17, 2017
99	Original test	Hot rolled	China	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 2 of January 18, 2018
100	Original test	Hot rolled	Russia	Definitive <i>Anti-Dumping</i> Duty	AT	Suspension	Camex Resolution Number: 2 of January 18, 2018
101	Original test	Hot rolled	China	Countervailing Measure	AT	Suspension	Resolution Number: 34 of May 21, 2018
102	Original test	Hot rolled	Russia	Countervailing Measure	AT	Suspension	Resolution Number: 34 of May 21, 2018
103	Original test	Magnesiyears Basic Refractories	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 92 of December 13, 2017	Suspension	Camex Resolution Number: 41, of June 18, 2018
104	Original test	Magnesiyears Basic Refractories	Mexico	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 92 of December 13, 2017	Suspension	Camex Resolution Number: 41, of June 18, 2018

105	Original test	Coarse salt	Chile	Definitive <i>Anti-Dumping</i> Duty and Price Undertaking	Camex Resolution Number: 73 of August 31, 2017	Suspension	Camex Resolution Number: 47, of July 12, 2018
106	Original test	Smaller graphite electrodes	China	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 20, of March 27, 2018	Suspension	Camex Resolution Number: 66, of September 20, 2018
107	1st sunset review	Hot rolled	China	Definitive <i>Anti-Dumping</i> Duty	AT	Extension	Resolution Number: 97 of December 7, 2018
108	1st sunset review	Hot rolled	Russia	Definitive <i>Anti-Dumping</i> Duty	AT	Extension	Resolution Number: 97 of December 7, 2018
109	Original Test	Grinding bodies	India	Definitive <i>Anti-Dumping</i> Duty and Countervailing Measure	Camex Resolution Number: 83, of November 9, 2018	Maintenance	Secex Ordinance Number: 247, of March 28, 2019
110	Original Test	Plasterboards	Mexico	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 74 of October 10, 2018	Maintenance	Secex Ordinance Number: 420, of May 21, 2019

111	Original Test	PET films	Bahrain	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 88 of November 29, 2018	Maintenance	Secex Ordinance Number: 473, of June 28, 2019
112	Original Test	PET films	Peru	Definitive <i>Anti-Dumping</i> Duty	Camex Resolution Number: 88 of November 29, 2018	Maintenance	Secex Ordinance Number: 473, of June 28, 2019
113	1st sunset review	Coarse salt	Chile	Definitive <i>Anti-Dumping</i> Duty and Price Undertaking	Secex News letter number: 29, of May 10, 2019	Extension	Secex Ordinance Number: 485, of July 10, 2019
114	Original Test	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	Germany	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 23, of April 15, 2019	Change	Secex Ordinance Number: 494, of July 12, 2019
115	Original Test	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	South Korea	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 23, of April 15, 2019	Change	Secex Ordinance Number: 494, of July 12, 2019

116	Original Test	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	Chinese Taipei	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 23, of April 15, 2019	Change	Secex Ordinance Number: 494, of July 12, 2019
117	Original Test	Silicon steel pyear laminates, called magnetic, non-oriented grain (GNO)	China	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 23, of April 15, 2019	Change	Secex Ordinance Number: 494, of July 12, 2019
118	1st sunset review	Smaller graphite electrodes	China	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 42, of July 5, 2019	Extinction	Secint Ordinance Number: 2,815 of September 19, 2019
119	Original Testg	Cast iron pipes	China	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 19, of April 3, 2019	Suspension	Camex Resolution Number: 8 of November 7, 2019
120	Original Test	Cast iron pipes	United Arab Emirates	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 19, of April 3, 2019	Suspension	Camex Resolution Number: 8 of November 7, 2019
121	Original Test	Cast iron pipes	India	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number:	Suspension	Camex Resolution Number: 8 of November 7, 2019

					19, of April 3, 2019		
122	Original Test	Metallic magnesium	China	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 17, of April 3, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
123	Original Test	Metallic magnesium	Russia	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 17, of April 3, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
124	1st sunset review	Polypropylene resin (PP)	USA	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 18, of April 3, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
125	1st sunset review	Polypropylene resin (PP)	South Africa	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 18, of April 3, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
126	1st sunset review	Polypropylene resin (PP)	South Korea	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 18, of April 3, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation

127	1st sunset review	Polypropylene resin (PP)	India	Definitive <i>Anti-Dumping</i> Duty	Secex News letter number: 18, of April 3, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
128	Original Test	Nitrile rubber (NBR)	South Korea	Definitive <i>Anti-Dumping</i> Duty	News letter number: 46, of August 8, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
129	Original Test	Nitrile rubber (NBR)	France	Definitive <i>Anti-Dumping</i> Duty	News letter number: 46, of August 8, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
130	Original Test	Ferrite magnet	China	Definitive <i>Anti-Dumping</i> Duty	News letter number: 49, of August 14, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
131	Original Test	Ferrite magnet	South Korea	Definitive <i>Anti-Dumping</i> Duty	News letter number: 49, of August 14, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
132	Original Test	Pencil	China	Ongoing Trade Remedies assessment ^[3]	Secex News letter number: 51, of August 15, 2019 (art 12.1)	Ongoing evaluation* (Nov/2019)	Ongoing evaluation

133	2nd sunset review	Hot rolled	China	Definitive <i>Anti-Dumping</i> Duty	News letter number: 59, of October 21, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
134	2nd sunset review	Hot rolled	Russia	Definitive <i>Anti-Dumping</i> Duty	News letter number: 59, of October 21, 2020	Ongoing evaluation* (Nov/2019)	Ongoing evaluation
135	1st sunset review	Glass for use in cold line appliances	China	Definitive <i>Anti-Dumping</i> Duty	News letter number: 60, of October 24, 2019	Ongoing evaluation* (Nov/2019)	Ongoing evaluation

Elaboration: SDCOM.

[1] N/A means that there is no information about the publication and the date of initiation of the public interest test .

[2] Only case where the Public interest test was made on a provisional *anti-dumping duty*.

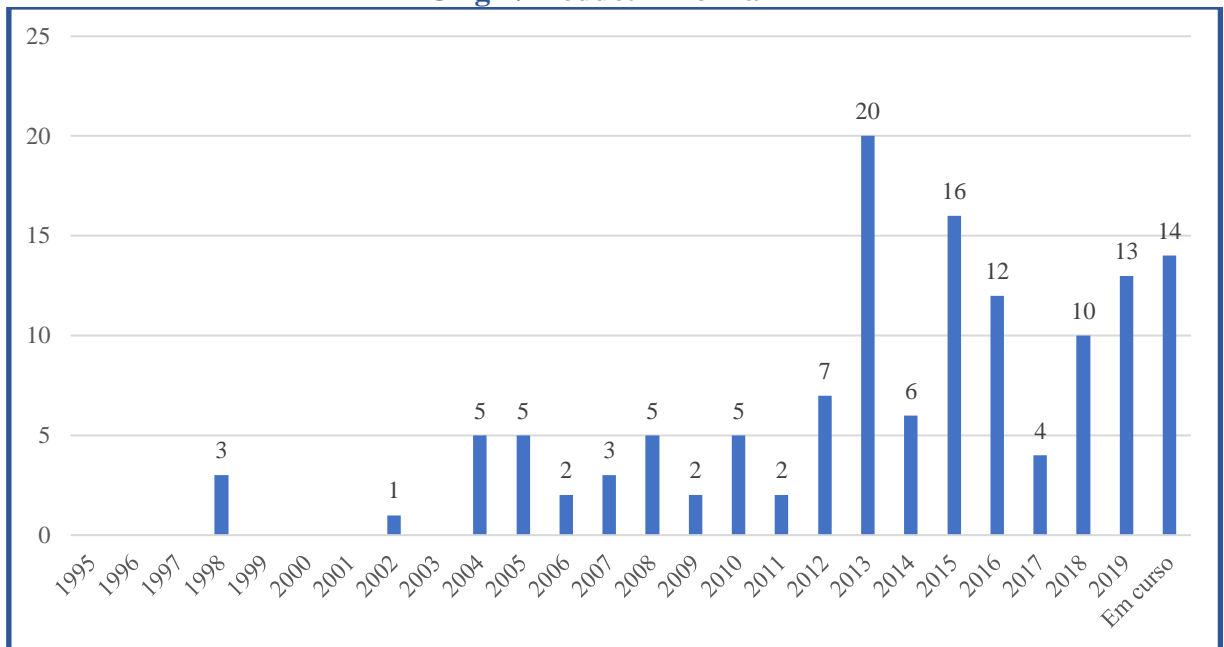
[3] In which case the Public interest test and the Trade Remedies assessment are taking place simultaneously.

3.3 Quantitative and qualitative analysis of public interest precedents in Trade Remedies in Brazil

From Table 11 contained in section 3.2., some analysis of the historical data of Public interest test will be carried out below. Remember that the count carried out in the table considers the product/origin binomial, as Trade Remedies statistics are typically presented.

In total, from 1995 to November 2019, 121 public interest analysis were completed in Brazil and 14 were ongoing in November 2019, totaling 135 public interest processes. The Graph below shows the history line, considering the YEAR of completion of each case:

Graph 1: Public interest test Decisions Completed – 1995 to November 2019 – Origin/Product Binomial



Elaboration: SDCOM.

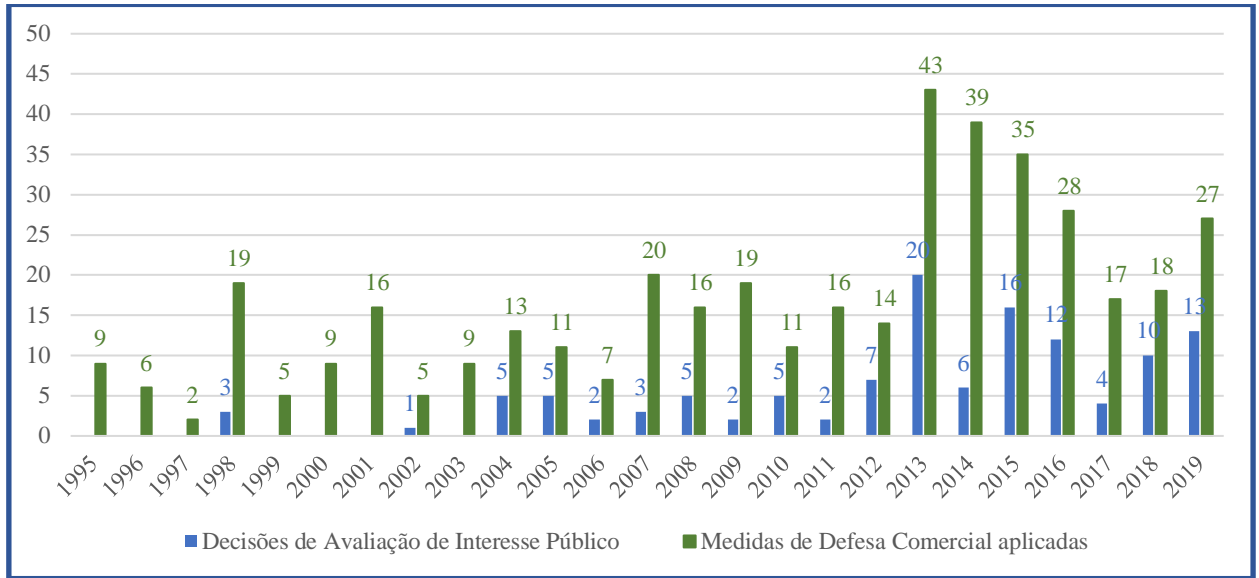
When analyzing the number of Public interest test decisions made by YEAR, the following result is obtained: 0 (0.0%) decisions in 1995, 1996 and 1997; 3 (2.2%) decisions in 1998; 0 (0.0%) decisions in 1999, 2000 and 2011; 1 (0.7%) decision in 2002; 0 (0.0%) decisions in 2003; 5 (3.7%) decisions in 2004; 5 (3.7%) decisions in 2005; 2 (1.5%) decisions in 2006; 3 (2.2%) decisions in 2007; 5 (3.7%) decisions in 2008; 2 (1.5%) decisions in 2009; 5 (3.7%) decisions in 2010; 2 (1.5%) decisions in 2011; 7 (5.2%) decisions in 2012; 20 (14.8%) decisions in 2013; 6 (4.4%) decisions in 2014; 16 (11.9%) decisions in 2015; 12 (8.9%) decisions in 2016; 4 (3.0%) decisions in 2017; 10 (7.4%) decisions in 2018; 13 (9.6%)

decisions until November 2019; and 14 (10.4%) assessments in progress until November 2019.

It can be noted, from the Graph above, that, until 2011, the Public interest test in Trade Remedies Investigations measures had been evaluated in 33 (24.4%) evaluations. From 2012, when the GTIP was created, until November 2019, the Public interest test was considered in 99 (75.6%) cases – even if some of these cases, from 2019, have not yet been completed. The peak of evaluations of public interest is verified between 2013 and 2016, when evaluations of 54 (40.0%) cases are concluded. It is recalled that in 2019 a Decree was published regulating the new procedural steps, that the assessment of public interest became mandatory in original investigations, and that some cases had been initiated in 2018.

The Graph below compares the number of decisions related to the public interest (of any type of outcome) with the number of definitive Trade Remedies measures applied by YEAR in Brazil. In each YEAR, the proportion of Public interest test decisions in relation to Trade Remedies measures applied was: 0% in 1995, 1996 and 1997; 15.8% in 1998; 0% in 1999, 2000 and 2001; 20% in 2002; 0% in 2003; 38.5% in 2004; 45.4% in 2005; 28.6% in 2006; 15% in 2007; 31.3% in 2008; 10.5% in 2009; 45.5% in 2010; 12.5% in 2011; 50% in 2012; 46.5% in 2013; 15.4% in 2014; 45.7% in 2015; 42.9% in 2016; 23.5% in 2017; 55.6% in 2018; and 48.1% until November 2019.

Graph 2: Decisions of Public Interest and Applied Trade Remedies Measures – 1995 to November 2019 – Origin/Product Binomial



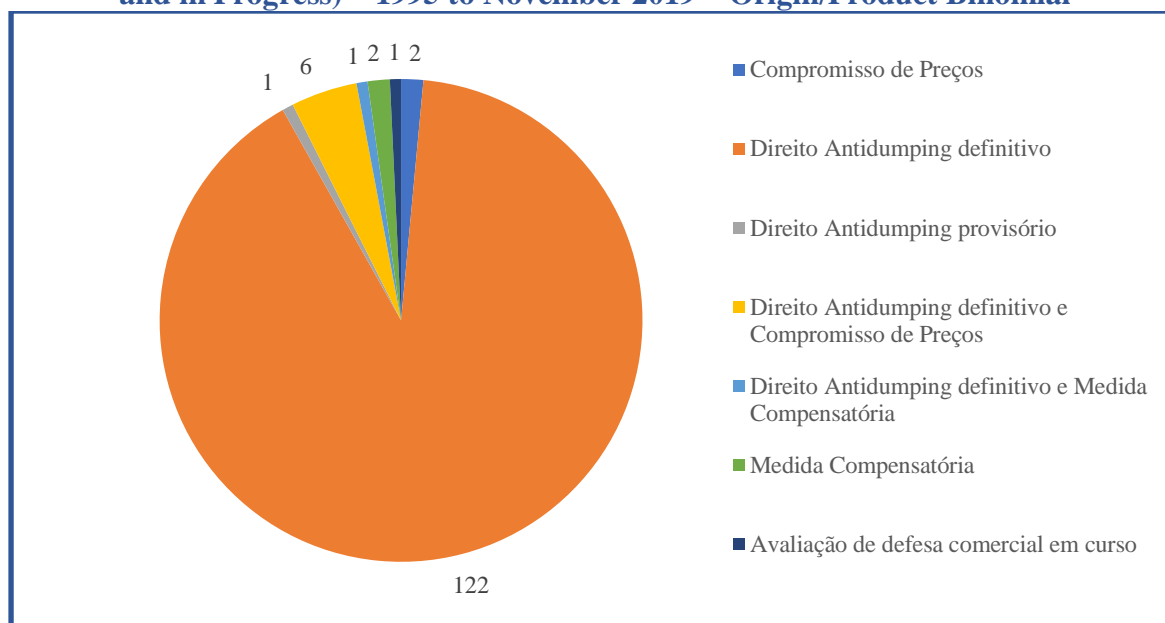
Elaboration: SDCOM.

On average across all YEARS, the proportion of public interest decisions in relation to Trade Remedies measures was 23.6%. Considering the 121 public interest decisions and 414 Trade Remedies measures applied, from 1995 to November 2019, the proportion of public interest decisions in relation to Trade Remedies measures was 29.2%. In relation to the period 2012 – November 2019 (after, therefore, the creation of the GTIP in 2012), the proportion of public interest decisions (88 decisions) in relation to applied Trade Remedies measures (221 measures) increased, rising to 39.8%. The peak, proportionally speaking, of decisions related to the public interest (of any type of result) with the number of definitive Trade Remedies measures applied by YEAR in Brazil occurred in 2018 (55.6%).

The Graph below then breaks down the 135 public interest analysis (completed and ongoing, 1995 through November 2019) by the types of Trade Remedies measure in which the Public interest test took place. It appears that: 2 (1.5%) were related to price commitments; 122 (90.4%) were related to definitive anti-dumping duty; 1 (0.7%) was related to provisional anti-dumping duty; 6 (4.4%) were related to definitive anti-dumping duty and price commitment; 1 (0.7%) was related to anti-dumping duty and countervailing measures; 2 (1.5%) were related to countervailing measure; and 1 (0.7%) was related to an ongoing Trade Remedies assessment.

It can be noted, therefore, that the main target of the public interest analysis was the anti-dumping law and not the countervailing measures. This may also reflect the fact that most Trade Remedies investigations are also anti-dumping investigations.

Graph 3: Types of Trade Remedies Measures object of Public interest test (Completed and in Progress) – 1995 to November 2019 – Origin/Product Binomial



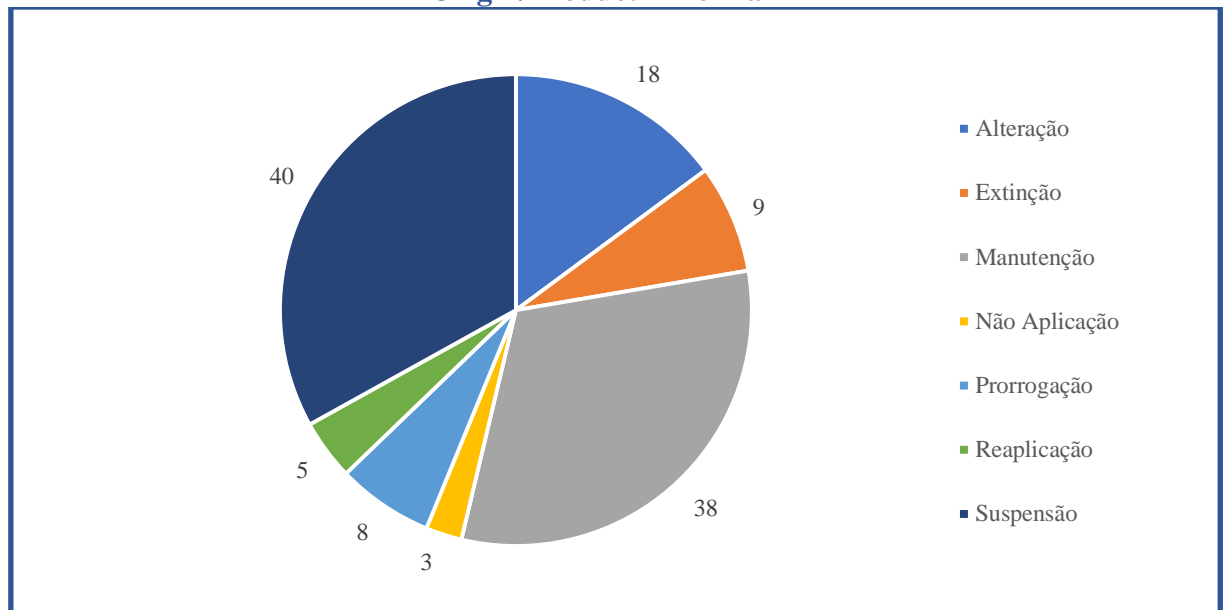
Elaboration: SDCOM.

The Graph below presents the consolidated result of the 121 public interest analysis in the product/origin binomial completed from 1995 to November 2019 (recall that 14 were ongoing in November 2019). The results were as follows: 18 (14.9%) changes in the Trade Remedies measure; 9 (7.4%) of extinctions of the Trade Remedies measure; 38 (31.4%) of maintenance of the Trade Remedies measure; 3 (2.5%) of non-application of the Trade Remedies measure; 8 (6.6%) extensions of the suspension of the Trade Remedies measure; 5 (4.1%) reapplications of the Trade Remedies measure; and 40 (33.1%) suspensions of the Trade Remedies measure. In this Graph, the 14 evaluations in progress were not considered because they still do not have final decisions, totaling the 135 cases with public interest evaluations (product/origin binomial).

In other words, from 1995 to November 2019, of the total number of cases (121) in which there was a Public interest test completed (product/origin binomial), 42.1% of the trade remedies measure was maintained, extended or reapplied, while in 57.9% there was a change, extinction,

não aplicação ou Suspension of the Trade Remedies measure por razões de interesse público.

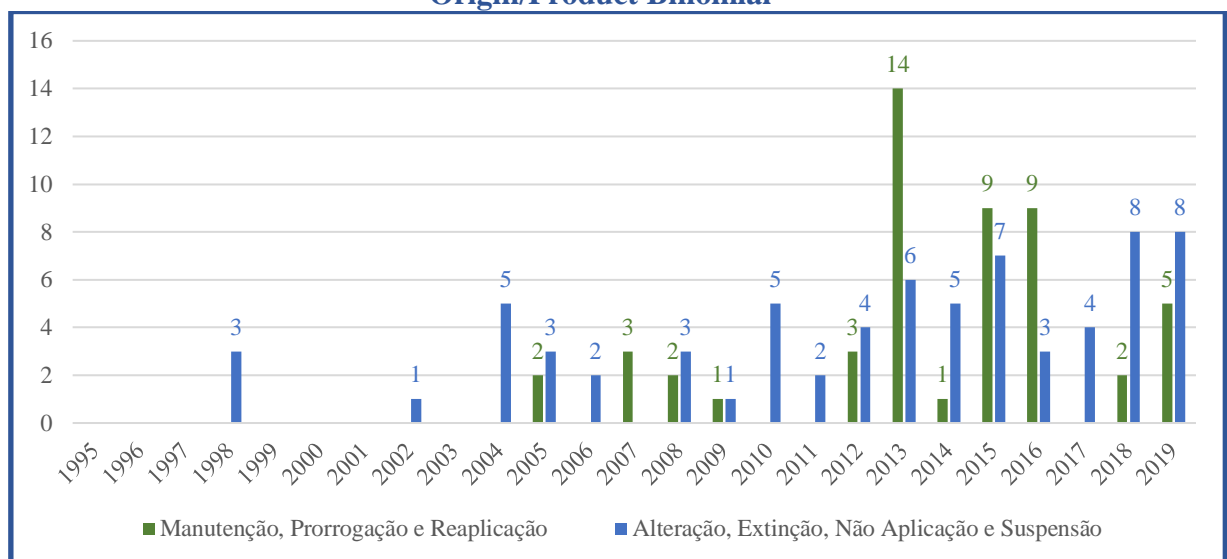
Graph 4: Result of Public interest analysis Completed – 1995 to November 2019 – Origin/Product Binomial



Elaboration: SDCOM.

In turn, the Graph below divides the 121 Public interest test decisions completed in Brazil YEAR to YEAR, between 1995 and November 2019 (product/origin binomial) into two groups: the 1st group, with maintenance decisions, extension and reapplication of the Trade Remedies measure; and the 2nd group, with the decisions of alteration, extinction, non-application and suspension due to public interest. In this Graph, the 14 evaluations in progress were not considered because they still do not have final decisions, totaling the 135 cases with public interest evaluations (product/origin binomial).

Graph 5: Grouped Public interest test Decisions – 1995 to November 2019 – Origin/Product Binomial



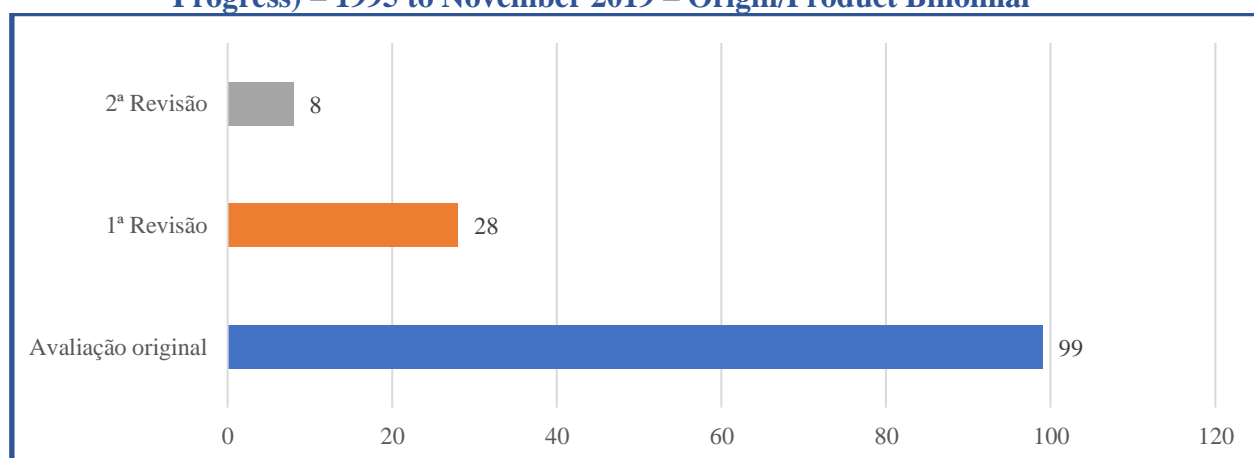
Elaboration: SDCOM.

Group 1, with decisions to maintain, extend and reapply the Trade Remedies measure, is composed of 51 (42.1%) decisions, while group 2, with decisions to change, terminate, not apply and suspend due to interest public, has 70 (57.9%) decisions, totaling 121 decisions. It must be remembered that 14 assessments in progress were not considered for not having final decisions yet, totaling 135 cases with assessments of public interest (product/origin binomial).

It is noted that until 2012, there was a relative stability between decisions to maintain the measure of Trade Remedies and public interest. In turn, in 2013, which represents the main peak of decisions on public interest, a profile is evident in terms of maintenance, extension and reapplication of the measure. In 2014, however, this profile is inverted, and there are more decisions for suspension out of public interest than for maintenance. In 2015 and 2016, the maintenance profile returns, which is once again reversed in 2017 and 2018, with more suspensions due to public interest.

The Graph below presents the 135 public interest reviews (completed and ongoing, 1995-November 2019) divided into original reviews, 1st reviews, and 2nd reviews. The original assessments refer to cases that had not yet had a public interest test. The 1st reviews refer to cases that underwent an original assessment and were analyzed again. The second reviews refer to cases that went through an original assessment and a 1st review and were analyzed again. Of the total cases, there are: 99 (73.3%) original assessments of public interest; 28 (20.7%) 1st reviews of public interest; and 8 (5.9%) 2nd reviews of public interest.

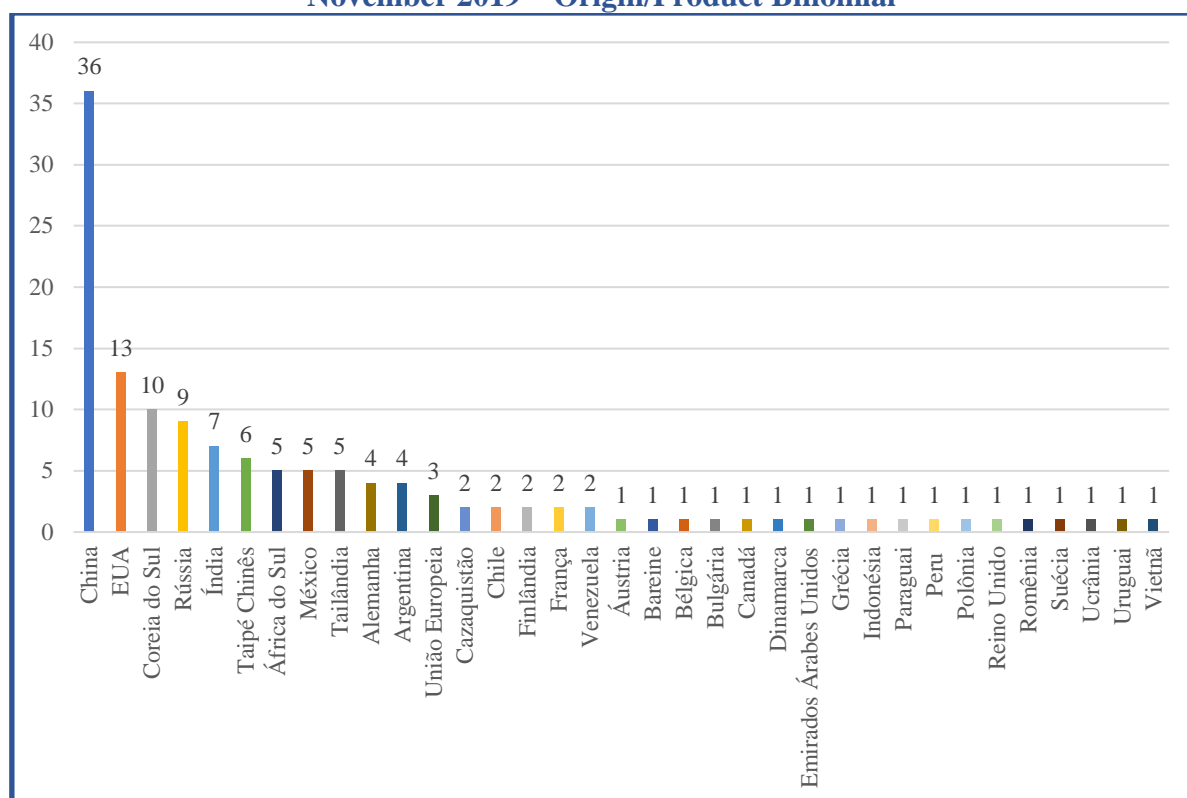
Graph 6: A Original Investigation and Reviews of Public Interest (Completed and in Progress) – 1995 to November 2019 – Origin/Product Binomial



Elaboration: SDCOM.

The following Graph breaks down the 135 public interest analysis (completed and ongoing, 1995 through November 2019) by the 35 product origins analyzed in each public interest test . The following result is obtained, in relation to each origin: 36 (26.7%) cases from China; 13 (9.6%) from the USA; 10 (7.4%) from South Korea; 9 (6.7%) from Russia; 7 (5.2%) from India; 6 (4.4%) from Chinese Taipei; 5 (3.7%) from South Africa, Mexico and Thailand; 4 (3.0%) from Germany and Argentina; 3 (2.2%) from the European Union; 2 (1.5%) from Kazakhstan, Chile, Finland, France, Venezuela; and 1 (0.7%) from Austria, Bahrain, Belgium, Bulgaria, Canada, Denmark, UAE, Greece, Indonesia, Paraguay, Peru, Poland, United Kingdom, Romania, Sweden, Ukraine, Uruguay and Vietnam.

Graph 7: Public interest analysis (Completed and Ongoing) by Country – 1995 to November 2019 – Origin/Product Binomial



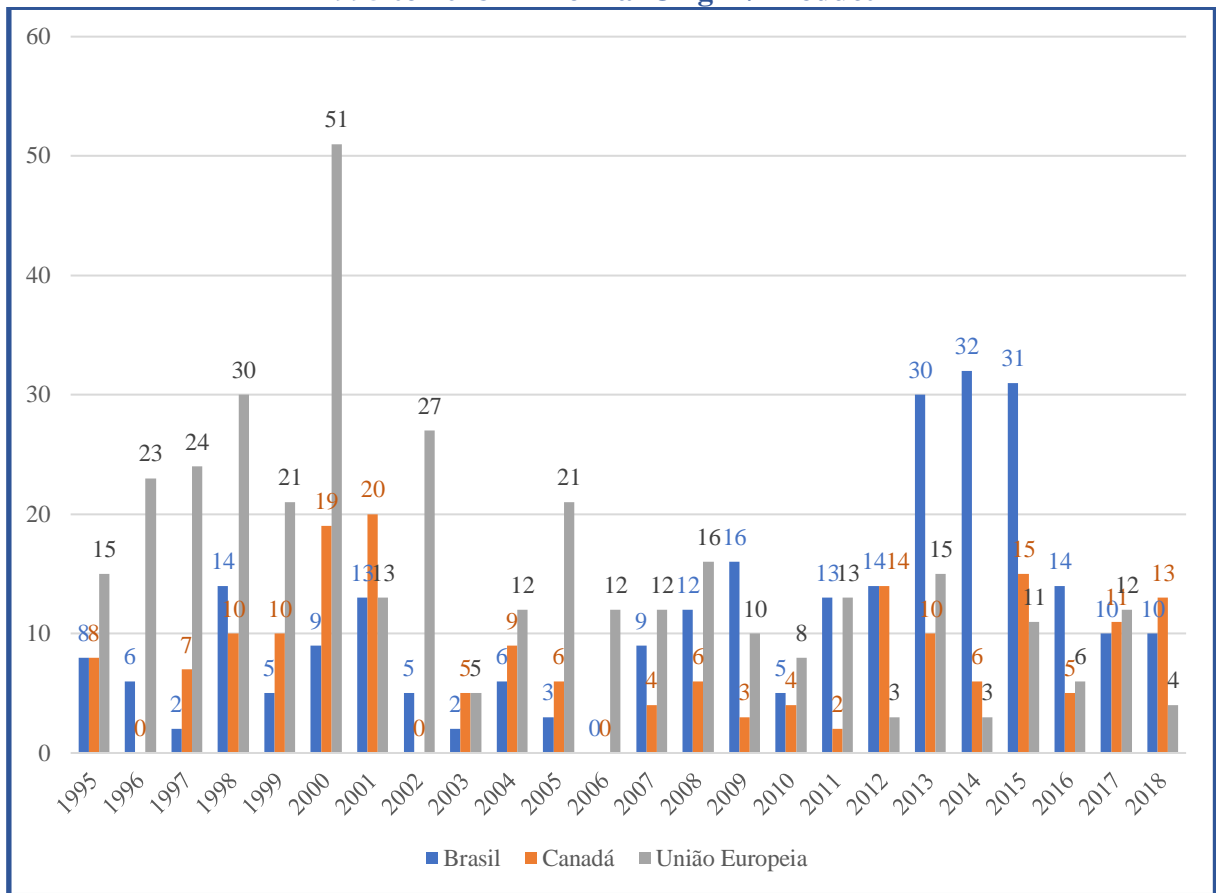
Elaboration: SDCOM.

3.4. Comparative analysis of international and national experience in public interest precedents in Trade Remedies in Brazil

Under Section 2.1.2, about the precedents on the interest of the Union in the European Union, in Section 2.2.2, about the precedents on public interest in Canada and in sections 3.2. and 3.3, on the precedents in Brazil, is a brief comparison of the consolidated data on public interest in trade remedies.

The chart below compares the Numbers of Trade remedies Measures applied by Brazil, Canada and European Union. The data were removed from the WTO in order to maintain the same parameter of analysis between the Countries. The existing WTO data cover the period 1995 by 2018 (given the existence of consolidated trade remedies data). In total, 187 trade remedies measures applied by Canada, 269 trade remedies measures applied by Brazil and 367 trade remedies measures applied by the European Union.

Chart 8: Trade remedies Measures Applied in Brazil, Canada and European Union - 1995 to 2018 - Binomial Origin / Product

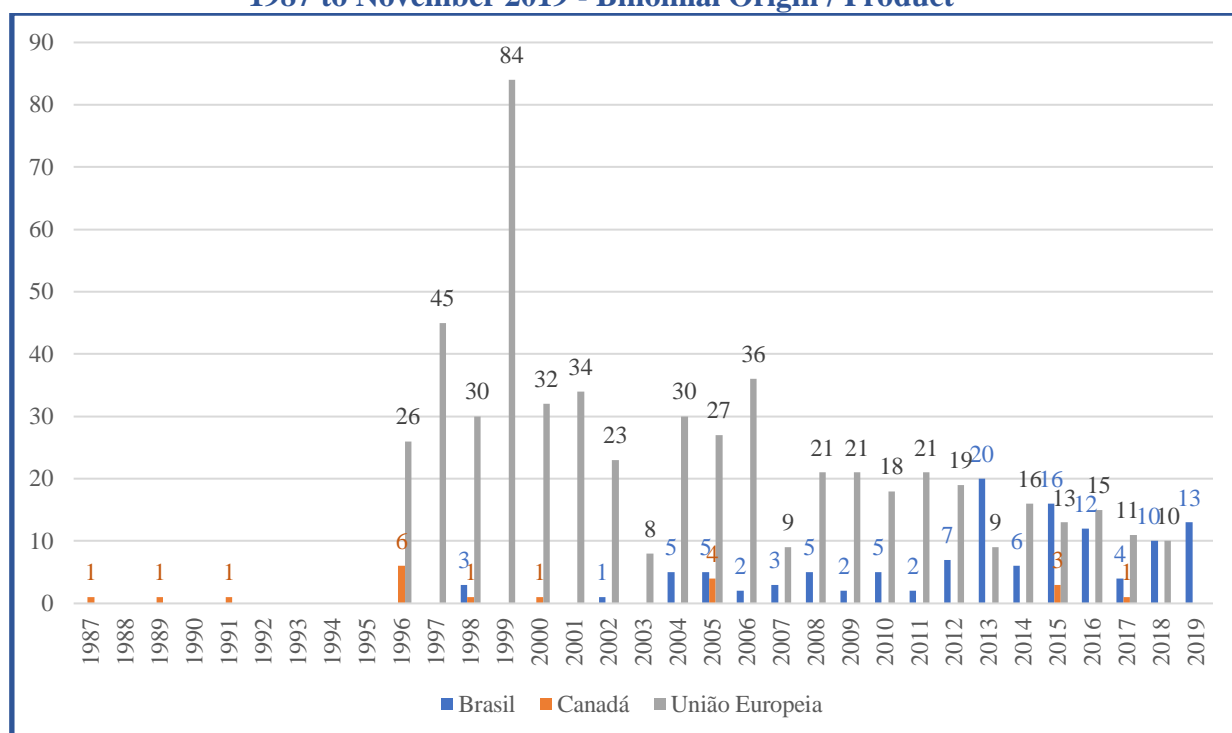


Source: WTO, 2019a; WTO, 2019b.
Elaboration: SDCOM.

The next chart compares public interest tests in Brazil, Canada and European Union, considering the product / source binomial. As evidenced in Section 2.2.2, Canada, and between 1987 and 2019, he concluded 19 public interest rates in the binomial origin / product. Already Brazil, as presented in sections 3.2 and 3.3, between 1995 and November 2019, concluded 121 evaluations of public interest in the binomial origin / product. The European Union, in turn, as evidenced in Section 2.1.2, between 1996 and 2018 (2019 data are not available), initiated 558 assessments of "Union Interest" in the Binomial Origin / Product -

as presumption that all Cases of trade remedies also concomitantly have an analysis of interest of the Union. The data of the above chart, on the number of implemented trade remedies measures, can be compared with the number of evaluations of public interest in trade remedies of the chart below.

Chart 9: Public Interest Reviews Completed in Brazil, Canada and European Union - 1987 to November 2019 - Binomial Origin / Product

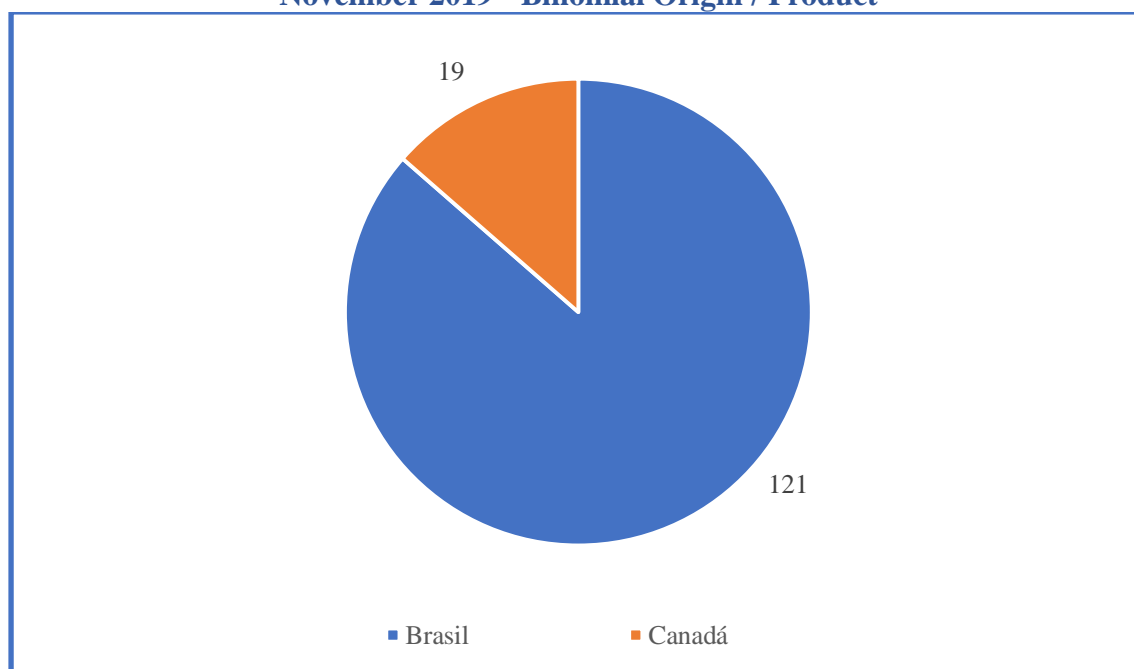


Source: CANADÁ, 2019b; MARSSOLA, 2019; SDCOM; WTO, 2019a; WTO, 2019b.
Elaboration: SDCOM.

The presumption that the assessment of the Union's interest is made in all trade remedies analyzes initiated in the European Union explains the great historical difference between the number of assessments of interest of the Union and the Numbers of Assessment of Public Interest made by Brazil and Canada . As evidenced in Section 2.1.2, however, accurate data was not possible as to how many of these Union interest assessments have resulted in modifications to the trade remedies measure, while in Brazil and Canada it was possible to identify all cases, as well as their respective motivations. For this reason, they are also presented below, also comparative between the evaluations only in Brazil and Canada, showing that from 1987 to November 2019, Brazil and Canada, respectively, 121 and 19 reviews of Public Interest in Binomial Origin / Product . Of the 121 assessments of public interest in the binomial origin / product completed in Brazil, 70 resulted in modifications of

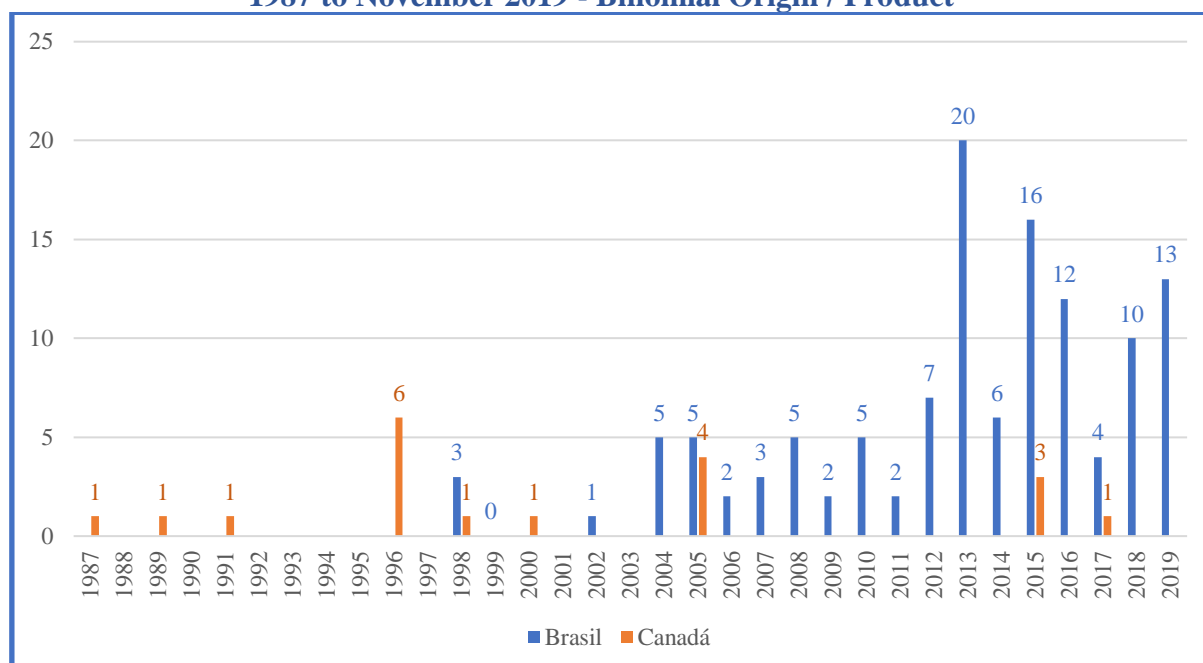
trade remedies measures (57.8%), while, from the 19 reviews of public interest in the binomial origin / product completed by Canada, 6 resulted in in modifications in trade remedies measures (31.5%).

Graph 10: Total public interest test completed in Brazil and Canada - 1987 to November 2019 - Binomial Origin / Product



Source: CANADÁ, 2019b; MARSSOLA, 2019; SDCOM.
Elaboration: SDCOM.

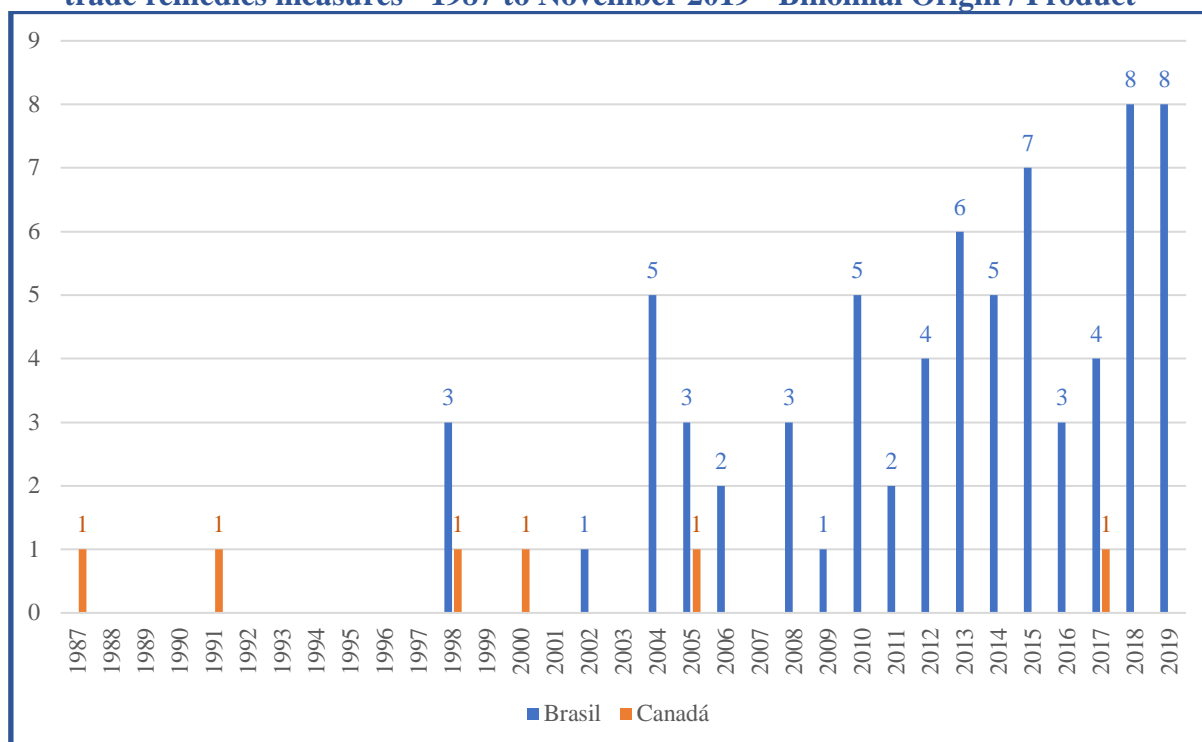
Chart 11: Public Interest Reviews Completed in Brazil and Canada - Year A Year - 1987 to November 2019 - Binomial Origin / Product



Source: CANADÁ, 2019b; MARSSOLA, 2019; SDCOM.

Elaboration: SDCOM.

Graph 12: Public Interest Reviews Completed in Brazil and Canada that modified trade remedies measures - 1987 to November 2019 - Binomial Origin / Product



Source: CANADÁ, 2019b; MARSSOLA, 2019; SDCOM.

Elaboration: SDCOM.

3.5 Fundamentals used in the evaluation of public interest in trade remedies in Brazil

In January 2014, SEAE published the "Economic Analysis Guidelines for Public Interest" that, in addition to guiding the petitioners about filling the script, it brought some concepts for evaluation of public interest, such as the relevance of the product object of measurement Antidumping / countervailing for the productive chain and the degree of concentration of producing companies in the internal market.

The public interest in Brazil, as defined in the SEAE document, would be:

"(...) An analysis of the impact of the imposition of trade remedies measures in the importing country, taking several interests together. Therefore, the public interest would be the sum of all the private interests of the economy. In this context, the application of this clause allows a more comprehensive assessment of the effects of trade remedies measures, by comparing the benefits earned by the domestic industry with any dyes caused to other industries, consumers (families) and / or other agents of the economy They do not use the product in their productive process or do not consume it directly. "

The script for information in the scope of the Public interest test process (Camex Number resolution: 93/2015) indicated the information to be submitted by interested parties in the process:

a) Economic performance of the company as part of interest in the evaluation of the public interest: manufacturing industry, trading company, distributor / local reseller or other.

b) Product characteristics similar to imported product subject to trade remedies measure, applications, identification of the company's productive segments in the manufacturing chain that may be affected by the trade remedies measure.

(c) participation of the product in question in the costs of production of goods in the downstream stages in the production chain (industrial users' segments of the product concerned), the weight of the product in the purchases of industrial users, as well as the participation of the product subject to the measure of trade remedies in sales in the upstream segments, raw materials, parts, parts or components used in the manufacture of the product subject to trade remedies measures.

d) Availability of equal or substitutes, by external suppliers originating from Countries not affected by the trade remedies measure, and information about the costs associated with such imports (tariff preferences, commercial or other agreements).

e) Detailing of the import process, participation of intermediaries, intercompany or other purchases.

f) data on international prices of imported product.

g) identification of the main consumers of the product.

h) Evolution of domestic prices of the product manufactured in Brazil similar to the imported and purchasing data carried out in the internal market.

i) Production costs affected by the trade remedies measure.

With the entry into force of the Camex Number resolution: 29/2017, the following elements were presented as indicative of evaluation of public interest in trade remedies. Article 3 presented the following text:

Article 3 The public interest is present, for the purpose of this resolution, where the impact of the imposition of the trade remedies measure on economic agents as a whole is potentially further more than compared to the positive effects of the application of the measure.

Paragraph 1 In the analysis, the impact on the downstream and upstream chain impact, the availability of substituting products in unaffected origins from the trade remedies measure, the structure of the market and competition, and the appropriateness to the current public policies.

Paragraph 2. The criteria referred to in paragraph 1 do not constitute exhaustive list and none of them, in isolation or together, will necessarily be able to provide decisive indication.

In addition to the criteria brought in the SEAE Guidelines and the Camex Number Resolution: 29/2017, a study under the Institute of Applied Economic Research ("IPEA") (Naidin, 2019) points out that, despite the low standardization of arguments for the decision on the public interest, the main arguments used for the suspension of anti-dumping measure due to public interest were, by 2018, as follows:

- a) Conditions of the supply and structure of the Brazilian market in question.
- (b) Effects of the trade remedies measure on prices and costs in the economy.

Effects of the trade remedies measure on the competitiveness of exports from downstream products in the production chain.

The figure below, extracted from Naidin (2019), current the main criteria used in public interest tests between 2013 and 2018.

Figure 8: Criteria for decision on public interest in Brazil - 2013 to 2018

		Decisões de interesse público				Frequência do critério nas decisões IP
		Casos com manutenção da medida		Casos com alteração da medida		
Fatores considerados na análise IP		Nº casos em que o argumento é considerado (1)	Frequência do argumento na manutenção de medidas (%) (2)	Nº casos em que o argumento é considerado (3)	Frequência do argumento na alteração de medidas (%) (4)	Total (5)
Condições da oferta e da estrutura do mercado brasileiro						
A	Elevada concentração na estrutura do mercado doméstico e as condições de concorrência, e efeitos líquidos negativos na economia.	5	71,43%	19	86,36%	24
B	Restrições das condições de oferta, insuficiência ou paralização da produção nacional do produto, ou alteração do processo produtivo, ou escopo da medida deixa de ser adequado	1	14,29%	10	45,45%	11
C	Disponibilidade ou não do produto por parte de outros fornecedores extremos e custos associados às importações	6	85,71%	7	31,82%	13
D	Especificações do produto sem substituto, alteração do processo produtivo, dificuldades em homologar fornecedores alternativos por razões técnicas e da oferta mundial	1	14,29%	7	31,82%	8
E	Indústria doméstica capaz de abastecer o mercado, medida não contribui para o desabastecimento	1	14,29%	0	0,00%	1
F	Necessidade de estímulo à produção nacional, de preservação do parque fabril, de avaliação de implementação de projetos de investimento	2	28,57%	1	4,55%	3
Efeitos sobre preços e custos na economia						
G	Impacto da medida nos preços domésticos do produto objeto da medida, necessidade de preservar estabilidade de preços	3	42,86%	11	50,00%	14
H	A longevidade da medida afeta a avaliação dos impactos na cadeia de produção e avaliação do interesse	1	14,29%	0	0,00%	1
I	Produto relevante na cadeia, impacto nos custos de produção a jusante ou a montante, efeitos sobre outros agentes econômicos que não a indústria doméstica	2	28,57%	11	50,00%	13
J	Desvalorização cambial após período objeto da investigação de defesa comercial	0	0,00%	3	13,64%	3
Efeitos sobre competitividade das exportações						
K	Efeitos sobre a competitividade das exportações de produtos das indústrias usuárias, coerência com Plano Nacional de Exportações	0	0,00%	3	13,64%	3
Elementos de política externa						
L	Elementos de política externa, medida contraria o adensamento das relações comerciais	0	0,00%	1	4,55%	1
TOTAIS DE CASOS DE INTERESSE PÚBLICO		7		22		29

Source: Naidin (2019).

Faced with all the above, having been presented the international and national experience of public interest in trade remedies, as well as their respective updates, is given to the consolidated versions of the procedural and material Guidelines lines.

4. Procedural assessment Guidelines of public interest in trade remedies

4.1 Brief considerations on the procedural process of public interest in trade remedies in Brazil

In this section, the final version of the procedural evaluation Guidelines of public interest in trade remedies, based on the new Decree Secex Number: 13/2020, which revokes the Decree Secex Number: 8/2019.

The objective is to clarify the procedural process and the deadlines to be observed throughout the public interest evaluation procedure, as well as to heal doubts that have emerged throughout the public consultation, based on the contributions received by SDCOM. It is important to note that this decree continues to ensure the necessary convergence of the procedural time limits of public interest analysis with trade remedies investigations, both conducted by the same SDCOM. And that the new Guidelines aims to clarify doubts brought by civil society, as well as regulating points that were not foreseen in the then decree in force.

The procedural Guidelines clarifies that the evaluation of public interest will be conducted concomitantly to the original dumping or subsidy research or the final period of an anti-dumping or countervailing measurement period. In the case of original research, it will be mandatory, while in the case of period end of period, it will be optional.

However, exceptionally, since fulfilled certain criteria provided for in SECEX Decree n. 13/2020, evaluations of public interest in a non-concomitant way to the original dumping or subsidy research or the final period of an anti-dumping measurement period or countervailing.

It is a modification in relation to the previous version of the decree, which did not provide any exceptionality for opening assessments of public interest in relation to trade remedies measures or in relation to dumping or in progress investigations whose interested parties had Extrapolated procedural deadlines for submitting a questionnaire of public interest when entering into force of the then current Decree Secex Number: 8/2019.

It is clarified, in this procedural Guidelines, that in the case of original dumping or subsidies investigation, the evaluation of public interest will continue to be mandatory and initiated in SDCOM concomitantly to the publication of the original research initiation of dumping or subsidies (commonly published by means of a "News letterSecex at Home").

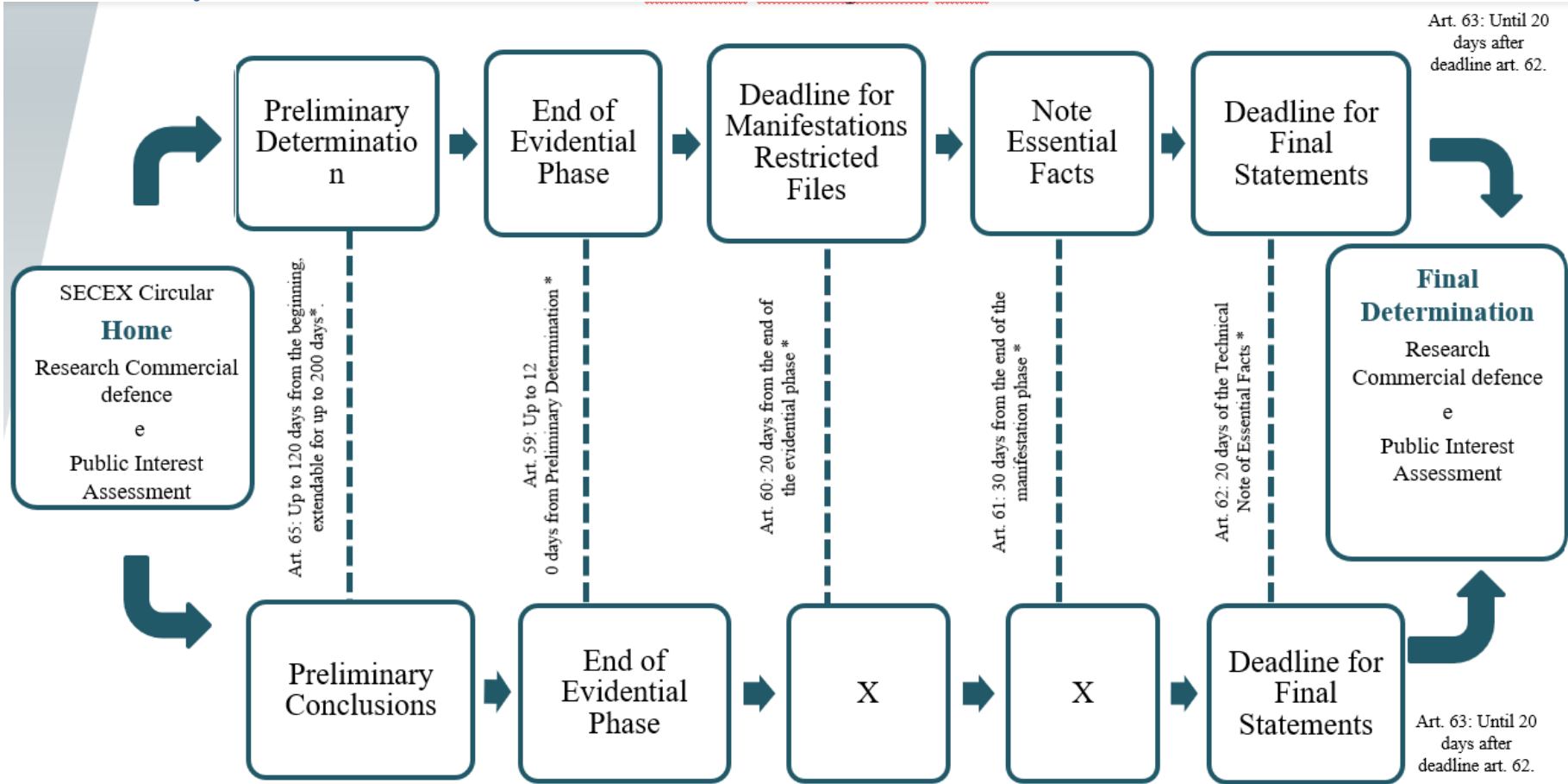
Subsequently, together with the publication of the preliminary determination opinion drawn up in the framework of an original dumping or subsidy investigation, SDCOM will also submit its preliminary findings concerning the evaluation of public interest, which will

subsidize the decision on the application or not of provisional measures (commonly published by means of a "News lettersecex of preliminary determination").

In the same way, concomitantly at the opinion of final determination elaborated in the original dumping or subsidy research, SDCOM will present its final conclusions on the evaluation of public interest, which will subsidize the final decision of the competent authority. As a rule, Newsletters and resolutions contain, in Annex I, the fundamentals related to trade remedies and, in Annex II, the grounds for the public interest.

It is present below for didactic purposes, the procedural flow of an assessment of public interest concomitant to the original dumping or subsidy research in Brazil:

Figure 9: Procedural flowchart of public interest Test in original trade remedies analysis



Elaboration: SDCOM.

It is also clear that in cases of sunset reviews of an anti-dumping or countervailing measurement period, the evaluation of public interest will continue to be optional, by laws presented on the basis of a questionnaire of public interest duly completed, or ex officio, at the discretion of SDCOM. The opportunity for interested parties to present a questionnaire of public interest begins with the publication of SECEX act of the beginning of the final review of anti-dumping or countervailing measurement period (commonly published by means of a "News lettersecex starting").

In this sense, it is emphasized that the opening of public interest shall be admitted to the investigations of final period of an anti-dumping or countervailing measurement period when the questionnaire of public interest submitted by interested parties do not present, in the narrative of their facts and fundamentals, indications of public interest and / or minimum intelligibility elements, and SDCOM may reject the lawsuit, without analysis of merit.

It will also not be admitted to the opening of public interest Test in the reviews of final period of an anti-dumping or countervailing measurement period by lawsuit presented based on a questionnaire of public interest submitted exclusively by foreign producers or exporters or any related parts and / or governments foreigners who do not collaborate with the current period review.

In the case of ex officio evaluation, at the discretion of SDCOM, they will be preponderantly considered, among other factors, the temporality of the trade remedies measure in force and the characterization of the product under analysis as input to the downstream chain, as well as the fact that The measurement object of the final period of an anti-dumping or countervailing measurement period or any measures that preceded them have already been the subject of evaluation that resulted in their suspension or modification for reasons of public interest.

Concomitantly to the publication of ACO of SECEX containing the deadlines for the period final review (commonly published by means of a "News lettersecex of deadlines") or, if applicable to the case, the opinion of preliminary determination (commonly published by means of a " News lettersecex of preliminary determination "), SDCOM will present its preliminary findings about the evaluation of public interest.

If the preliminary findings, in the period end of period, are therefore sufficient elements, the analysis will not continue and the evaluation of public interest will not be initiated, on the basis of the pleas presented in the opinion drawn up by SDCOM.

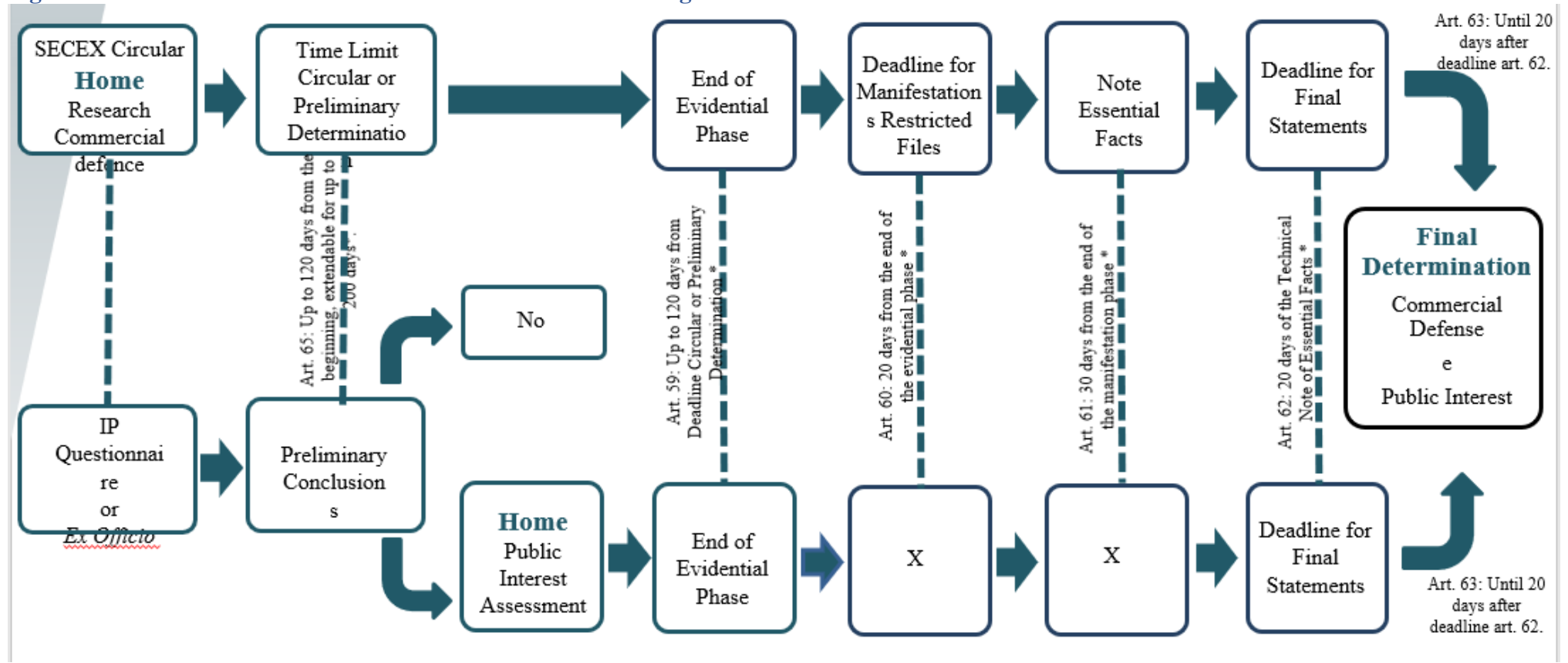
On the other hand, if SDCOM understands that there are sufficient elements, the evaluation of public interest will be initiated and its reasons will be published, as a rule, as an annex of the "News letterSecex of Deadlines" or "News letterSecex of Preliminary Determination". This opinion of preliminary findings may undergo non-application or modification of anti-dumping and provisional compensation measures by Gecex.

It is at this intermediary, therefore, that it decides by the beginning or not of the evaluation of public interest in period end reviews, unlike what happens in the case of original investigations, which initiate automatically and necessarily at the beginning of the process. Therefore, there is an important distinction between public interest evaluations conducted in the context of original dumping or subsidies and those carried out in the context of end-of-measure or countervailing period reviews: in the measurement period end reviews Antidumping or countervailing, evaluation of public interest may not even be initiated. In the original investigations of dumping or subsidies, in turn, the evaluation of public interest will be conducted until the end determination.

If the Public interest test has been initiated in the final period of an anti-dumping or countervailing measurement period, similar to what occurs in the original dumping or subsidy investigations, together with the opinion of final determination of the sunset review of anti-dumping or countervailing measure, SDCOM will present its final conclusions on the evaluation of public interest, which will subsidize the final decision of the competent authority. As a rule, Newsletters and resolutions contain the grounds for trade remedies, and Annex II the grounds for the public interest in Annex II.

The procedural flow of an assessment of public interest concomitant to the period end of period in Brazil is presented below.

Figure 10: Procedural flowchart of Public interest test in investigation of sunset review



Elaboration: SDCOM.

In the final conclusions, both in public interests conducted in the context of original dumping or subsidies investigations in those carried out in the framework of final period of an anti-dumping or countervailing measurement period, SDCOM may recommend, in accordance with Article 3 of Decree n. 8.058, of July 26, 2013 and Article 73 § 3 of Decree n. 1,751, of 19 December 1995:

(a) the suspension, by up to a year, extendable one time for the same period, the requirements of definitive anti-dumping law or price commitments, in force;

(b) the non-application of the provisional anti-dumping duty;

(c) the approval of pricing commitment or the application of definitive anti-dumping law in different value from the recommended;

(d) the suspension of the application of provisional or definitive countervailing law or non-approval of commitments;

(e) the application of the provisional or definitive countervailing measure in different value than recommended.

It is also emphasized that SDCOM hopes to receive information from all interested parties in the application or suspension / change of the trade remedies measure, so that the evaluation of public interest is possible in a technical and objective way. In this sense, the information listed in the Single Public Interest Questionnaire may be submitted by the petitioner (s) of the anti-dumping or countervailing measure from the protocol of its petition, in so far as, in this initial moment, it is possible to present Elements that justify, in the petitioner (s), the application of the trade remedies measure and the way that this application meets the public interest.

Following the publication of the SECEX act at the beginning of trade remedies investigation, whether in original investigations or in period end reviews, all other interested ones may further manifest itself favorably or against the implementation of the Trade remedies Measure, completing the single "public interest questionnaire" model, whose submission term is as said above, the same as that granted to the national producer for a trade remedies questionnaire.

Impends that only information and documents presented in the period between News letterSecex at the beginning and the term of responses of the national producer / importer to the trade remedies questionnaire will be considered for the purposes of elaboration of the preliminary conclusions opinion in SDCOM. The questionnaires of public interest submitted

after a term of responses from the national producer / importer to the trade remedies questionnaire may be considered for the purpose of final determination, provided that they submitted within 60 days of the date of publication of the preliminary findings. Other data presented outside this period and until the end of the probative phase will also be taken into account for the purposes of the final determination opinion, where applicable.

In addition, throughout the procedural instruction, SDCOM may send offices, convene meetings and hearings, to carry out on-site checks, as well as to adopt any other measures necessary to obtain information of public interest of dumping or subsidies. Gecex members will always be informed to, if they wish to express their concerns regarding the public interest from the beginning of the cases, which aims to increase predictability in decision-making by public interest.

Another prediction of the new ordinance concerns the regulation of the procedural process of those cases where the trade remedies measure was suspended for reasons of public interest.

The decree establishes that if the suspension act of the anti-dumping measure does not set the automatic reapplication of the measurement after the suspension period and if no reapplication requests of the anti-dumping measure are not submitted, SDCOM will automatically refer to GECEX opinion (I) by extension of suspension for another year or (ii) by extinction of the anti-dumping measure, when the suspension for the period of up to 2 (two) years has already occurred. That is, in this situation, there is no need for manifestation of interested parties in the continuity in the suspension / extinction of the measure by public interest.

Possible request for reapplication of the suspended antidumping measure must be submitted in the form of a public interest questionnaire in the case of the evaluation process of public interest which gave rise to suspension, within minimum of 3 (three) and maximum of 4 (four) months before the expiration of the suspension.

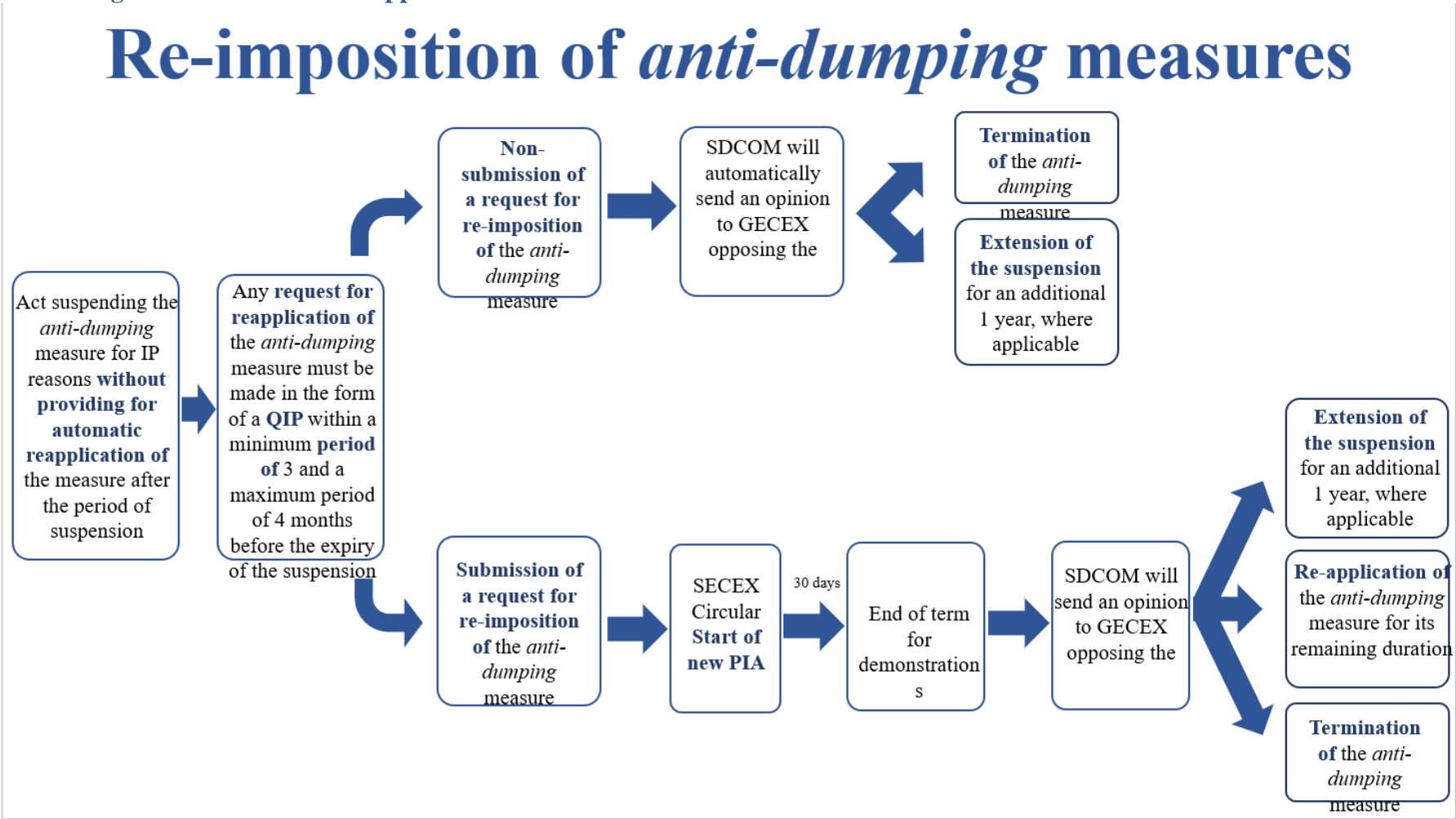
SDCOM will then advertise the request for reapplication of the anti-dumping measure by means of a SECEX act, which will open a period of 30 (thirty) days for interested parties submit their manifestations about the claim of the reapplication of the anti-dumping measure, after the no new information will be known brought to the records by interested parties.

SDCOM will then issue its final opinion, and may suggest to Gecex (i) the extension of suspension by up to 1 (one) year, in cases where the extension has not occurred; (ii) the

reapplication of the anti-dumping measure, equally or different from that previously applied, by the period of validity of this measure; or (iii) the extinction of the anti-dumping measure.

The procedural flow of an assessment of public interest in cases of anti-dumping measure reapplication cases are presented below for didactics.

Figure 11: Procedural flowchart of Public interest test in cases where the suspension of the anti-dumping measure were suspended for reasons of public interest without forecasting automatic measure reapplication



Elaboration: SDCOM.

Likewise, requests for reapplication of the definitive countervailing measure for the remaining term of its validity, if the suspension act does not establish automatic reapplication of the definitive countervailing measure at the end of the suspension period.

Possible request for reapplication of the countervailing measure shall be presented in the form of the questionnaire of public interest, filed in the proceedings of the evaluation process of public interest which gave rise to the suspension, after a minimum, 1 (one) year of the publication of the act Suspension and at least 3 (three) and at most 4 (four) months before the expiration of the suspension of the trade remedies measure.

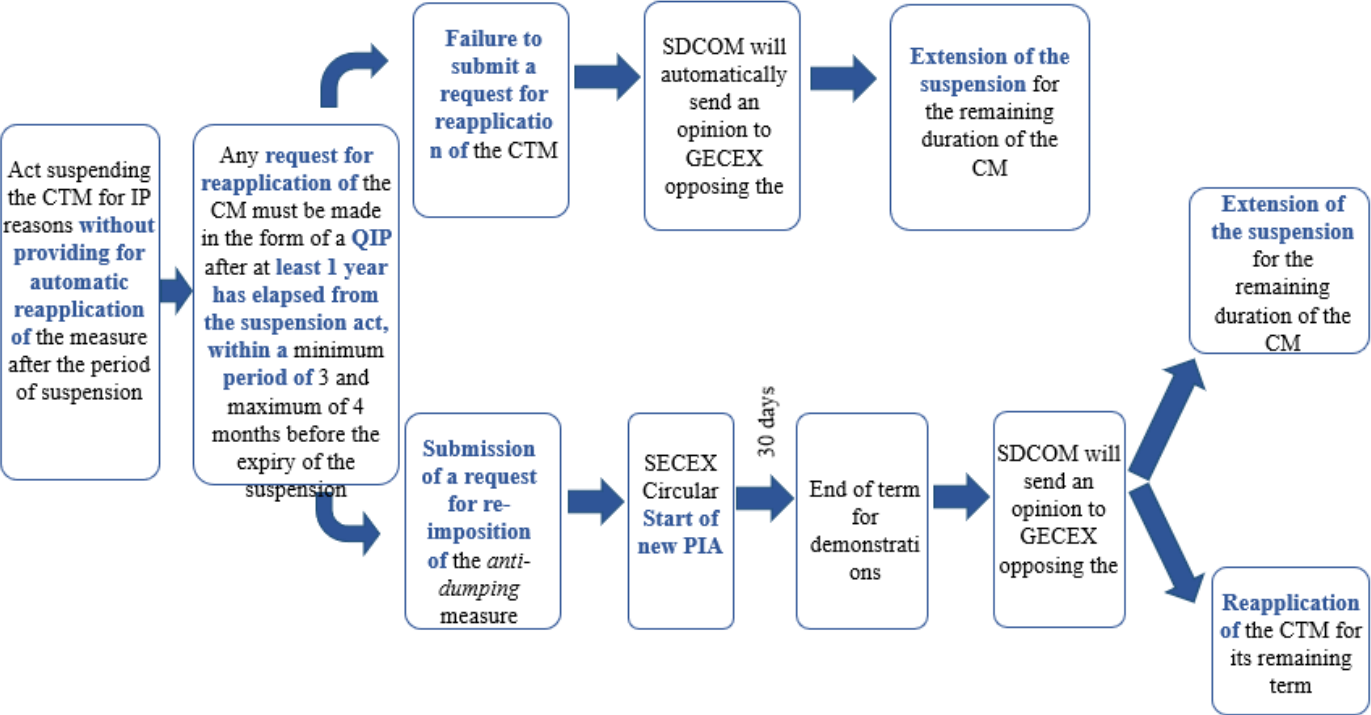
At the end of the analysis of the requirement of the definitive countervailing measure, SDCOM may recommend: (i) the maintenance of the definitive countervailing measure suspension by the remaining term of validity of this suspension or by the remaining term of the definitive countervailing measure; or (ii) the reapplication of the countervailing measure, in value equal to or other than that previously applied, by the deadline for the remaining measure.

If applications for reapplication of the countervailing measure are not submitted, SDCOM will automatically refer to GecEx, a recommendation for extending suspension by the remaining term of measure.

The procedural flow of an assessment of public interest in cases of requests for reapplication of the countervailing measure is present below.

Figure 12: Procedural flow chart of Public interest test in cases where the countervailing measure was suspended for reasons of public interest without forecasting automatic measure reapplication

Reapplication of Countervailing Measures



Elaboration: SDCOM.

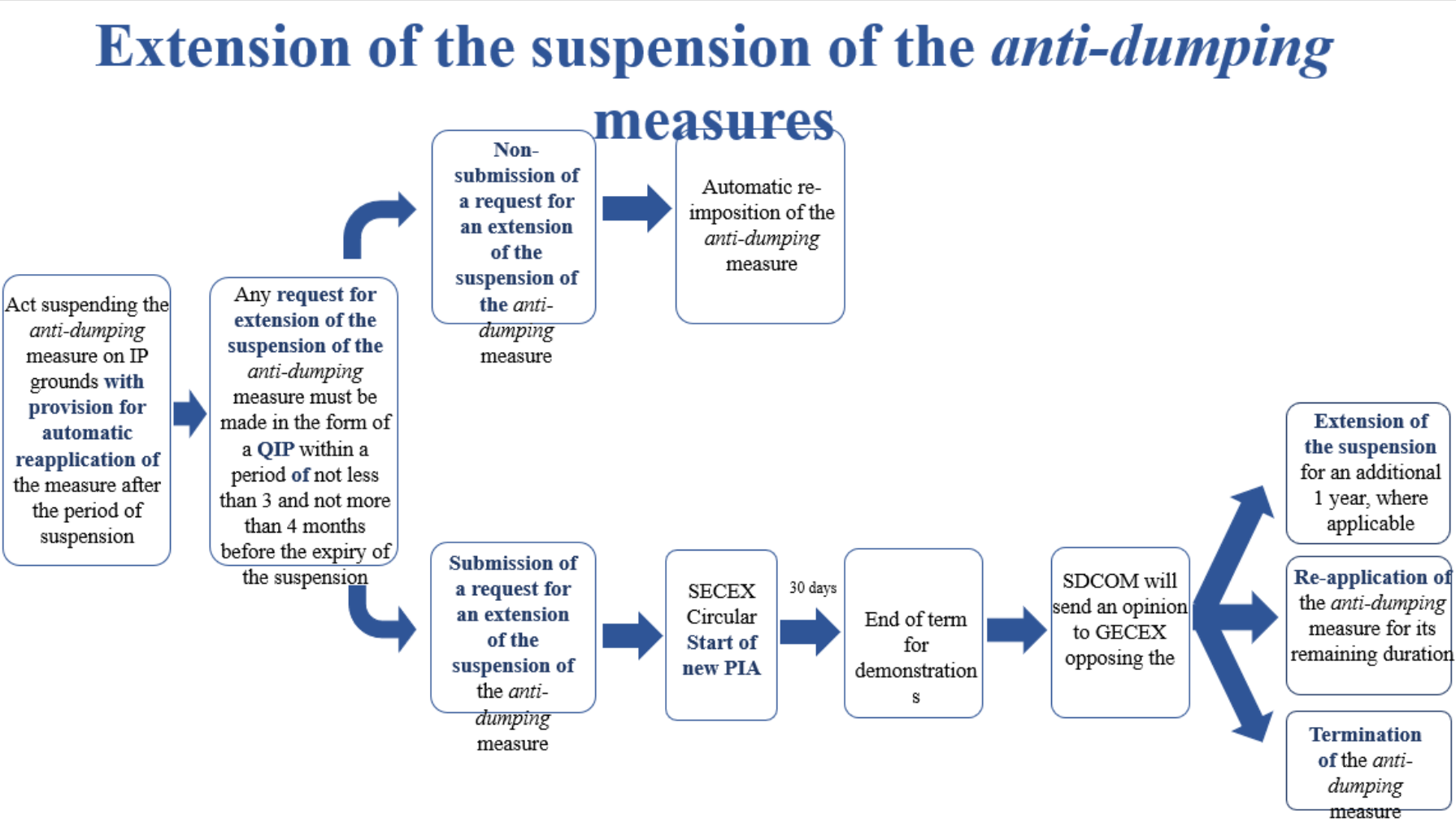
On the other hand, if the suspension act of the trade remedies measure expressly establishes the reapplication of the trade remedies measure at the end of the suspension period, applications for extension of the suspension of the anti-dumping measure or the countervailing measure may be submitted. It is therefore a clarification on the logic of incentives for the presentation of information on public interest after a positive settlement.

It must be noted that if the suspension act of the countervailing measure does not have its validity expressly foreseen, the suspension will subsist on the remaining term of the countervailing measure.

It is also worth noting that the procedural flowchart to be followed in cases of requests for extension of the suspension of anti-dumping measurements or countervailing measures is the same, distinguishing so only in relation to the possible results of the evaluation of public interest: while in accordance with the Decree n. 8.058 / 2013, requests for extension of suspension of anti-dumping measurements may result in (i) extension of suspension for another 1 (one) year, when applicable, (ii) reapplication of the anti-dumping measure for its remaining or even deadline (III) in extinction of the anti-dumping measure; Requests for reapplication of the countervailing measures, in line with the provisions of the Number: 1,751 / 2013, can only result in (i) extension of the suspension by the remaining term of the measure or (ii) reapplication by the remaining term of the measure.

The procedural flow of an assessment of public interest in cases of requests for extension of the suspension of the anti-dumping or countervailing measure:

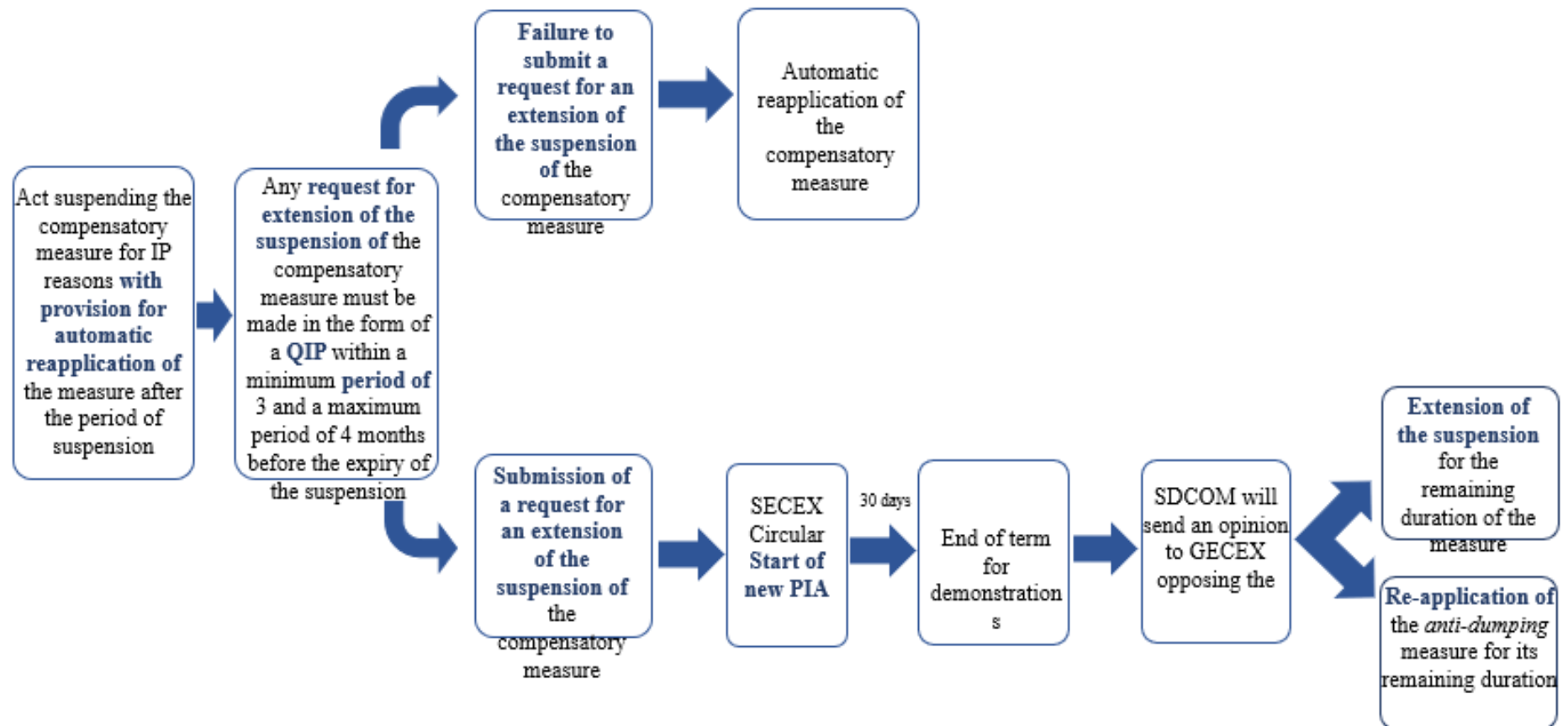
Figure 13: Procedural flowchart of Public interest test in cases where the suspension of the anti-dumping measure was suspended for reasons of public interest with automatic measure reapplication forecast



Elaboration: SDCOM.

Figure 14: Procedural flowchart of Public interest test in cases where the countervailing measure was suspended for public interest reasons with automatic reapplication forecast

Extension of the Suspension of Countervailing Measures



Elaboration: SDCOM.

The regulation also predicts that if the act that apply definitive or countervailing anti-dumping duty to terminate a period before the end of the validity of the anti-dumping or countervailing measure, requests for reapplication of the trade remedies measure, which will follow, if applicable, rules on requests for reapplication of anti-dumping and countervailing measures.

Finally, the regulation points out that all the documentation related to the evaluation process of public interest must be directly filed in the SEI / Me, whose booklet to the user, containing guidance on the use of the system, is available in the link <[http: / /www.fazenda.gov.br/sei/publicacoes/carilha-do-usuario-do-sei](http://www.fazenda.gov.br/sei/publicacoes/carilha-do-usuario-do-sei)>.

After the brief presentation of the main procedural elements contained in the new regulation, the full text of the Secex Ordinance Number: 13/2020 is passed.

4.2 New Regulation for Public Interest Test in Trade Remedies

public interest that that recommended the suspension of the definitive antidumping SECEX
SECEX ORDINANCE N.: 13, January 30, 2020.

Discipline the administrative procedures Public Interest in Trade Remedies.

The Secretariat of Foreign Trade, in the use of its tasks conferred on it Article 91, Item VIII, of the Number Decree: 9,745, of April 8, 2019, and based on Article 3 of Decree n. 8,058, of July 26 2013, and Article 73 § 3 of Decree n. 1,751, of 19 December 1995, and:

Considering the Decree n. 9,745, 2019, which approved the regimental structure of the Ministry of Economy and altered, in its Arts. 91 and 96, the powers of the Secretariat for Foreign Trade and the Undersecretariat of Trade Remedies and Public Interest;

Whereas, in accordance with Article 91, incisions VIII and X, point "C" of Decree n. 9,745, 2019, is for the Foreign Trade Secretariat to regulate the procedures for trade remedies and tests of public interest, as well as deciding on the opening of public interest tests;

Considering that all activities related to the technical instruction of evaluations of public interest are now exercised by the Undersecretariat of Trade Remedies and Public Interest;

Whereas, in accordance with Article 96, the Decree n. 9,745, 2019, competes for the trade remedies and public interest to examine the origin and merit of Public interest test petitions, with a view to assessing the impact of trade remedies measures on the national economy;

Whereas, under Article 96, item XVIII, of Decree n. 9,745, 2019, it is attributed to trade remedies and public interest to propose the suspension or modification of the application of anti-dumping or countervailing duties due to public interest;

Whereas the analyses of public interest, conducted by the Undersecretariat of Trade Remedies and Public Interest, will converge to follow the same procedural rite of dumping or subsidies investigations, also conducted by this Ordinance;

Whereas, in accordance with Article 7, item VI, of the Decree n. 10,044, 2019, the Executive Committee of the Chamber of Foreign Trade (is responsible for fixing provisional or definitive anti-dumping, countervailing duties, and safeguards, resolves:

Article 1st. Disciplining the administrative test of public interest, to be conducted by the Undersecretariat of Trade Remedies and Public Interest.

CHAPTER I

Delimitation of public interest Test

Article 2nd. The public interest test aims to evaluate the existence of elements which exceptionally justify the suspension or modification of definitive anti-dumping measures and provisional or definitive countervailing duties, as well as the non-application of interim anti-dumping measures.

Article 3rd. There is this public interest, for purposes of this SECEX Ordinance, when the overall impact of the imposition of anti-dumping and countervailing duties over economic agents as a whole shows to be causing potentially more injury, compared to the positive effects of the application of trade remedies measure .

Paragraph 1st. During tests conducted by the Undersecretariat of Trade Remedies and Public Interest, may be observed criteria such as the impact on the downstream and upstream product chain, the availability of substitute products in sources not affected by trade remedies measure as well as the market structure and competition.

Paragraph 2nd. In the case of optional evaluation of public interest, ex officio, at the discretion of the Undersecretariat of Trade Remedies and Public Interest, provided for in Article 6th., will be mainly considered, among other factors, the temporality of Trade Remedies measure in force and characterization of the product under analysis as input for the downstream chain, as well as the existence of previous public interest tests involving the object under analysis in sunset reviews, or any previous measures that may have already been subject of analysis, that resulted in suspension or modification for public interest reasons.

§3rd. The criteria that reference the paragraphs 1st. and 2nd. are non-exhaustive list and none of them, alone or together, will necessarily be able to provide decisive conclusion..

CHAPTER II

PUBLIC INTEREST TEST IN DUMPING AND SUBSIDIES

Article 4th. The evaluation process of public interest will be conducted concurrently to the original investigation of dumping or subsidies or along sunset reviews of antidumping measure or countervailing duties. .

Single paragraph. In exceptional circumstances, in accordance to Article 7, the process of evaluation of public interest may be initiated and conducted not necessarily concurrent with the original investigation of dumping or subsidies or sunset reviews of final antidumping measure or countervailing period.

Article 5th In the original investigation of dumping or subsidies, evaluation of public interest will be mandatory and started by the Undersecretariat of Trade Remedies and Public Interest through the act of the Foreign Trade Secretariat which has started the original investigation of dumping or subsidies.

§1st Concurrent with the preliminary determination elaborated in original dumping or subsidies investigations, the Undersecretariat for Trade Remedies and Public Interest will present its preliminary findings on the public interest test, which will subsidize the decision on the application or not of provisional anti-dumping measures and on the suspension or modification of provisional countervailing duties.

Paragraph 2nd. The Undersecretariat of Trade Remedies and Public Interest base its preliminary determination on the information provided by interested parties and the members and guests of the Executive Committee of the Foreign Trade Chamber Management, according to Decree n. 10044, 2019, and their respective regulations, until the submission of the Public Interest Questionnaire deadline, which must be submitted at the same time allowed the importer or domestic producer to submit their questionnaires as part of the original investigation of dumping or subsidies.

§3rd At the discretion of the Undersecretariat of Trade Remedies and Public Interest, upon request accompanied by justification filed in the records of the corresponding public interest

test process on the Information System of the Ministry of Economy Electronic - SEI / ME, the period provided in § 2nd may be extended for up to thirty (30) days.

§4th The public interest questionnaires submitted after the deadlines set in 2nd and §3rd may be considered for final determination purposes, provided submitted within 60 (sixty) days from the date of publication of the preliminary determination.

Paragraph 5th. In cases where there is no need for in locos verification of documents for confirmation of the information submitted in the public interest questionnaires, the term that references the previous paragraph may be extended for up to thirty (30) days, subject to prior request by the interested part and approval by SDCOM.

§ 6th Concurrently to the final determination of for original investigation for dumping or subsidies, the Undersecretariat of Trade Remedies and Public Interest Trade Remedies Secretariat and will present its final conclusions for the public interest test, which will subsidize the final decision of the competent authority.

Paragraph 7th The Undersecretariat of Trade Remedies and Public Interest base its conclusions on the information submitted by the interested parts and the members and guests of the Executive Committee of the Foreign Trade Management Chamber, according to Decree n. 10044, 2019, and its respective regulations, since the act of the Secretariat of Foreign Trade for starting the original dumping or subsidies investigation, until the end the investigation phase, except the cases of §4th and §5th.

§8th The Undersecretariat of Trade Remedies and Public Interest may use information available in the records of the original investigation process of dumping or subsidies and / or alternative sources of information.

Article 6th During sunset reviews of antidumping or countervailing measures, public interest tests shall be optional according to Public Interest Questionnaires presented, or ex officio, at the discretion of the Undersecretariat o Trade Remedies and Public Interest.

§1st.Concomitantly to the publication of Act of the Secretariat of Foreign Trade containing the deadlines for sunset reviews or preliminary determinations, if applicable to the case, drawn up in the review, the substance of trade remedies and public interest will present, except in the hypotheses of Paragraphs and 5th, their preliminary determinations of the public interest test, which will subsidize the decision on the opening or not of an of public interest analysis.

Paragraph 2nd The Undersecretariat of Trade Remedies and Public Interest shall base their preliminary determinations according to the information submitted s by interested parties and members and guests of the Executive Chamber of Foreign Trade Management e Committee, in accordance to Decree n. 10,044, 2019 and its respective regulation, until the deadline for submitting the questionnaire of public interest, which must be submitted within the same period granted to the importer or the national producer for the submission of their respective questionnaires for sunset reviwis of an anti-dumping or countervailing duties period.

Paragraph 3rd At the discretion of the Undersecretariat of Trade Remedies and trade remedies Public Interest, upon request accompanied by a justification for the case of the corresponding Public interest test procedure, under the SEI / ME, the period provided for in paragraph 2 may be extended by up to 30 (thirty) days.

Paragraph 4th The questionnaires of public interest submitted after the deadlines provided for in §22 and 3 may be considered for the purpose of final determination, if they are submitted within 60 (sixty) days from the date of publication of the preliminary determinations.

§5th In cases in which there is no need of in locus verification of the information presented in the questionnaire of public interest, the deadline referred to in the preceding paragraph may be extended for up to 30 days, conditioned to interest part request and deferment by SDCOM.

Paragraph 6thPublic interest tests shall not be admitted to sunset reviews of anti-dumping or countervailing measure period, upon request by submission of interested parts of

questionnaire of public interest which does not present, in the narrative of their facts and foundations, Public interest elements and / or minimum elements of intelligibility, and the Undersecretariat of Trade Remedies and Public Interest can reject the petition, without analysis of the merit.

Paragraph 7th Public Interest Tests will not be admitted to the opening of sunset reviews of anti-dumping or countervailing measures period, if questionnaires of public interest are submitted exclusively by foreign producers or exporters or any related parts and / or Foreign governments that do not collaborate with the sunset review.

§8 If Public Interest Tests has been opened, the Undersecretariat of Trade Remedies and Public Interest, concomitantly to the determination of sunset reviews of an anti-dumping or countervailing measures, will submit its final conclusions on the public interest test, which will subsidize the final decision of the competent authority.

§9th The Undersecretariat of Trade Remedies and Public Interest shall base their final conclusions on the information submitted by interested parties and members and guests of the Executive Committee on Foreign Trade Management Chamber, in accordance with Decree n.: 10,044, 2019 and its respective regulation, from the act of the Secretariat of Foreign Trade at the beginning of the sunset review of an anti-dumping or countervailing duty measure period until the end of the investigation phase, with the exception of the hypotheses of §4th and 5th.

Paragraph 10th The Undersecretariat of Trade Remedies and Public Interest may use information available in the proceeds of the anti-dumping or countervailing measures during sunset review process and in alternative information sources.

Article 7th In exception to hypotheses of Arts. 5th and 6th, a public interest test may be uniquely started on the basis of a questionnaire of public interest duly completed, provided that the following requirements are met: .

I - period of at least 1 (one) year of application or the last extension of the anti-dumping or countervailing measure, and

II - proof, by evidence, of exceptional supervenient occurrence.

Paragraph 1st. Exceptionally, the Public interest test referred to in the caput may be open ex officio, by the decision of the Undersecretariat of Trade Remedies and Public Interest, if requirements are met, without the need of submission of public interest questionnaires. .

Paragraph 2nd. It may be considered an exceptional supervenient fact, among other factors, the proven permanent interruption of the production of the domestic product industry under analysis or the production in irrisory volume for the Brazilian market supply.

Paragraph 3rd The processes of Public interest test instituted in the exceptional hypothesis of this article shall comply with the procedures and deadlines set forth for sunset reviews of the anti-dumping or countervailing measures in accordance to Article 6th of this regulation.

Paragraph 4th The opening of exceptional Public Interest Test shall not be admitted upon submission on a questionnaire of public interest made exclusively by foreign producers or exporters or any of their related parts and / or foreign governments that have not collaborated with the original investigation of dumping or subsidies or with the sunset reviews of and anti-dumping or corresponding countervailing measure..

Article 8 For purposes of this ordinance, it shall be considered as interested parties in the process of Public interest test those that can be affected by the decision to implement of trade remedies measures, if they present a proxy with specific powers and submit questionnaires of public interest available in the Electronic page of this ministry.

Paragraph 1st The petitioners for trade remedies measures may submit in S.E.I./me platform, the protocol form of their petition in the Digital Decom system, providing information on public interest test, according to the questionnaire of public interest available on the Internet page of this ministry.

Paragraph 2nd. It will be automatically considered as interested parties in the process of public interest test the parties involved in dumping or subsidies evaluations. .

Article 9th Interested parties shall clearly state in their questionnaire of public interest and their other manifestations, which information is confidential, otherwise can be treated as public.

Paragraph 1st Because of confidential information resulting from law or by constituting information on the business activity of physical or legal persons of private law whose disclosure may represent competitive advantage to other economic agents, confidential treatment may be granted to the autos, documents, objects, and information related to:

I - Mercantile books;

II - economic-financial situation of company;

III - fiscal or bank secrecy;

IV - Secrets of Company;

V - productive process and industry secrets, notably linked to industrial processes and formulas relating to the manufacture of products;

VI - Invoices;

VII - last annual report elaborated for shareholders , except when the document has a public character;

VIII - Value and quantity of sales and financial statements;

IX - customers and suppliers;

X - installed capacity;

XI – Production costs and expenses with research and development of new products or services; or

XIV - Other hypotheses, at the discretion of the authority.

Paragraph 2nd. Upon the submission of confidential information in the questionnaire of public interest or in any other manifestation, the interested party that submitted confidential information must, at the same time,

I - Protocol in the confidential records a complete l version, with the elements classified as confidential, identified at the top of each page with the term [confidential version] in red; and

II - Protocol in the public arrest a partial version, identified at the top of each page with the term [public version], which must contain public summaries with justifications for the confidentiality of each data identified as confidential and with details that allow the

understanding of the information, as well as being edited with marks, erasures or suppressions, in order to omit strictly the elements reputed as confidential.

§3rd The impossibility of having a public version of the corresponding confidential part must exceptionally justified and such a justification must necessarily be public.

Paragraph 4th If the Undersecretariat of Trade Remedies and Public Interest does not considers the request for confidentiality, and the interested part refuses to classify the information as public , the information may be disregarded, except, and by appropriate source, that such information is confidential.

§5th The public version of numerical information must be presented in the form of numbers-index or another indicator that allows understanding of the nature of the information.

§6th The disclosure of confidential information by error in the protocol or in the classification of the document in S.E.I./me is the exclusive responsibility of the interested part that submitted it.

§7th In the case of inconsistency between the content of the document sent and the confidential indications carried out previously in S.E.I./ME by the representative about that document, the indications provided by representatives in SEI/me must remain.

Chapter III INSTRUCTION

Article 10 From the publication act of the Secretariat for Foreign Trade for original dumping or subsidies investigations or sunset reviews,, and throughout the procedural instruction of the evaluation of public interest, The Undersecretariat of Trade Remedies and Public Interest may

I - Send official letters requesting for information to interested parties and any other entities that are judge necessary.

II - to set meetings with representatives from other bodies and government entities, when the subject in analysis include matters of their respective spheres of action, as well as requesting information that helps in the process instruction.

III – to make, at its criterion of convenience and opportunity, in loco verification, to confirm with the information presented by interested parts;

IV - hold audiences with interested part;

V - Adopt any other measures necessary to obtain information relevant to the evaluation of public interest related to anti-dumping or countervailing duties measures.

Single paragraph. The Undersecretariat of Trade Remedies and Public Interest shall inform about the public interest test to the members and guests of the Executive Committee of Foreign Trade Management so that they manifest their concerns about the public interest test before the closure of the investigative stage of these assessments .

Article 11 The implementation of the in locos verification mentioned in Article 10, item III of this regulation shall be conditional to the consent of the interested parties involved.

Paragraph 1st The intention to proceed with in locos verification will be communicated by official letters, at least 20 (twenty) days prior to of the date suggested for verification.

§2nd Within two (two) days, counted from the communication date referred in the previous paragraph, the interested party must express by official letter his consent to the verification.

§3rd It is assumed that interested parties will have acknowledge of the electronically transmitted documents by the Undersecretariat of trade remedies and public interest 3 (three) days after electronic communication transmission or, in the case of printed documents sent by this Undersecretariat, 5 (five) days after the date of the physical shipping of the letter, if they are national interested parties, and 10 (ten) days after the date of the physical shipping of the communication, if they are foreign interested parties.

Paragraph 4th If the interested parts agrees with in locus verification, the Undersecretariat of Trade Remedies and Public Interest will send, at least 10 (ten) days before the date of its realization, communication containing the information about what will be requested and analyzed, as well as the list of documents which must be presented during the visit.

§5th Before initiating the in loco verification, those involved will have the opportunity to provide information on the documents previously presented for the verifying team.

§6 New information presented at in loco verifications will only be accepted to make small changes if they are provided to the verifying team, previously to the beginning of the analysis of the selected items.

§7 The reports of in loco verifications will be submitted in the respective processes by up to 15 (fifteen) days counted from the first business day after the end of the visit.

Paragraph 8th. If parts don't comply with paragraph 2, refusing to allow in locos verification, as well as not providing proof of the data submitted in the public interest questionnaire, this may lead the Undersecretariat of Trade Remedies and Public Interest trade to discard the information provided by the interested party will use elements available in the process to meet the gaps arising from non-cooperation.

Article 12 The date of the audience to hearing from interested parties and the Undersecretariat of Trade Remedies and Public Interest, according to Article 10, item IV of this regulation, shall be communicated to interested parties by craft at least 20 (twenty) days in advance and, at the discretion of this Undersecretariat, the number of legal representatives per interested party may be limited.

Paragraph 1 - Attendance to the audience is optional and the absence of any interested party will not be used to their disadvantage..

Paragraph 2. Interested Parties shall send by official letter with at least 10 (ten) days in advance, arguments wishing to attend the audience, and, at least 3 (three) days in advance, the formal legal representatives which will be presented in the audience, being possible for interested parties present additional information orally at the audience.

§3rd The information presented orally during the hearing will only be considered by the Undersecretariat of Trade Remedies and Public Interest, if reproduced in writing and submitted in the electronic process of public interest within 10 (ten) days after its completion.

Paragraph 4th. Members of the t Executive Chamber Committee of Foreign Trade Management may participate to the audience if they want the hear from interested parties and the Undersecretariat of Trade Remedies and Public Interest.

Article 13 The investigation phase of theof public interest test process will follow the same instruction periods of the original investigations of dumping or subsidies or sunset reviews antidumping or countervailing duties periods, according to the arts. 59 to 62, Decree n. 8058, 2013, and Article 43 Decree n. 1751, of 1995.

CHAPTER IV

CONCLUSION OF THE PUBLIC INTEREST TEST

Article 14 Due to public interest, the Undersecretariat of Trade Remedies and Public Interest may recommend:

I - the suspension, for up tooneyear, with possibility of extension for the same period, the p=the final determination of anti-dumping duties or price undertakings in force, according to to Article 3, paragraph 1st, of Decree n. 8058, 2013 ;

II - the non-application of the provisional anti-dumping duty according to to Article 3, paragraph II of Decree n. 8058, 2013;

III – The implementation of price undertakings or approval ofr the implementation of definitive anti-dumping duty on different amount than recommended, in accordance with Article 3rd, paragraph III of Decree n. 8058, 2013;

IV - the suspension of the application of provisional or definitive countervailing duty or non-approval of price undertakings under Article 73, paragraph 3rd, of the Decree n. 1751, 1995;

V - the application of provisional or definitive countervailing duties at a different amount than recommended, in accordance with Article 73, § 3rs of Decree n. 1751, 1995.

§1st The amount of anti-dumping duty or countervailing duty recommended under this Article shall not exceed the margin of dumping or the amount of calculated countervailing duties..

Paragraph 2nd. In case of negative determination of application or extension of anti-dumping or countervailing duties measure, according to section IX of Article 91 of Decree n. 9745, 2019, it is the responsibility of the Secretariat Foreign Trade Secretariat to end f public

interest concurrently to end of the original investigation of dumping or subsidies, or to sunset reviews of antidumping measure period or the countervailing, due to loss of t object of public interest analysis.

°§3rd In case of positive determination of application or extension of dumping or countervailing duties measures in accordance with sections VI and VIII of Article 7 of the Decree n. 10,044, 2019 and in case of on going dumping or countervailing duties measures, the Executive Committee Chamber of the Foreign Trade Management is responsible for the closure of the public interest test and the final determinations about the cases provided for in the caput, accompanied by the reasons that motivated the decision under item VII of Article 7 of Decree n. 10,044, of 2019.

§4th In hypothesis when antidumping or countervailing duties measures are applied in different amount than recommended, according to sections III and V of the ordinance, the Secretariat of Trade Remedies and Public Interest will define for each particular case the methodology to be used in calculating the amount of duty to be recommended for reasons of public interest, considering, if applicable, among other factors, parameter information and suggestions submitted by interest parts

Paragraph 5. In the cases provided in sections III, IV and V, if the act of suspension or modification does not have its validity expressly provided, the suspension or modification shall stand for the remaining period of the anti-dumping or countervailing measure.

§ 6 In observance to the provisions of paragraph 2nd of Article 3 of Decree n. 8058, 2013, suspended anti-dumping measures according to the item I will be automatically extinct at the end of the suspension period, if they have not been re-applied by decision of the Executive Committee Chamber of Foreign Trader Management, or if the suspension act does not expressly provided reapplication in the end of the suspension period.

CHAPTER V

Reapplying antidumping and countervailing measures

Article 15 If the suspension act provided for in Article 14, section I, does not establish the automatic reapplication of anti-dumping measure at the end of the suspension,, reapplication

requests may be made of anti-dumping definitive measure for the remaining period of its validity.

§7 under the presented hypothesis, if it's not presented requests for the reapplication of the anti-dumping measure, the Undersecretariat of Trade Remedies and and Public Interest will automatically transmit to the Executive Committee Chamber of Foreign Trade Management, following the expiration of the minimum period referred to in paragraph 3, recommendation to extend the suspension for one (1) year, or in cases where the extension has already occurred, extinguishing recommendation of the anti-dumping measure.

§2nd Possible request for reapplication of t antidumping measure must be presented in the Public Interest Questionnaire, that must be completed with subsequent events that may alter the conclusions of the final determination of previous measure.

§3rd. The Public Interest Questionnaire must be filed in the records of of the public interest test case which gave rise to the suspension, available on SEI / ME system, not less than three (3) months and a maximum of four (4) months before the deadline for the suspension of dumping measure.

§4th If the conditions in paragraph 2nd are met, the Undersecretary for Trade Remedies and Public Interest Interest will report the request of reapplication of anti-dumping measure through act of the Foreign Trade Secretariat, which will give the non-extendable period of thirty (30) days, from the date of its publication, so that interested parts submit their claims about reapplying the anti-dumping measure, after which will not be allowed new information to be submitted by interested parts.

§5 The Undersecretariat for Trade Remedies and Public Interest will report its final determination and transmit for consideration of the Executive Committee Chamber of the Foreign Trade Management.

§6 After the analysis of the need for reapplication of antidumping measure, the Undersecretariat for Trade Remedies and Public Interest may recommend:

I - for one more time, the extension of the suspension for one (1) year, in cases which such extension has not yet occurred;

II - reapplying the dumping measure, at equal or different amounts from which has been previously applied for a period of remaining term of the measure; or

III - the extinction of the definitive antidumping measure.

§ 7th The recommendation of the Undersecretariat for Trade Remedies and Public Interest , according to § 1 or § 6, about the extension of the suspension for longer than one (1) year, for extinction or reapplication of the definitive anti-dumping measure, will subsidize the decision of Executive Committee Chamber of Foreign Trade Management, to be published until the expiration of the suspension period.

Article 16th If the suspension act provided in Article 14, item IV, does not establish automatic reapplication of the definitive countervailing measure at the end of the foreseen suspension period , it may be submitted requests for reapplication of the definitive countervailing measure by the remaining period of their validity.

Paragraph 1st, if request s for reapplication of the countervailing measure are not provided, the Undersecretariat of Trade Remedies and Public Interest trade shall automatically refer to the Executive Committee Chamber of the Foreign Trade Management, after the r the minimum expiration period of 3 (three) months, according to §3th and 4th, recommendation for extending the suspension until the deadline for the remaining countervailing measure period.

Paragraph 2ndPossible request for reapplication shall be submitted in the form of questionnaire of public interest, which must be filled with supervenient facts which may contrast to the conclusions in the final determination of the previous public interest test that recommended the suspension of the final determination of the countervailing measure.

§3rd The questionnaire of public interest must be submitted in the electronic process of the public interest test which gave rise to the suspension, available in the SEI / ME, after a minimum, 1 (one) year of the publication of the suspension act referred in this ordinance, at least 3 (three) and at latest 4 (four) months before the expiration of the suspension of the trade remedies measure.

Paragraph 4th The provisions of the previous paragraph shall not be applied if the period of suspension is equal or less than 1 (one) year, hypothesis in which the questionnaire of public interest must be submitted to of public interest test process which gave rise to suspension, available in the SEI / Me, within a minimum period of 3 (three) months and maximum of 4 (four) months before the expiration of the suspension of the final countervailing duty measure.

§5th If the requirements established h in §2nd and 3rd, the Undersecretariat of Trade Remedies and Public Interest shall give publicity to the request for reapplication of the countervailing measure by means of act of the Secretariat of Foreign Trade, which shall give an non-extensive period of 30 (thirty) day, counted from the date of its publication, so that interested parties submit their manifestations about the claim of the reapplication of the countervailing measure, after which new information submitted to the process by interested parties shall not be considered..

Paragraph 6th The Undersecretariat of Trade Remedies and Public Interest shall pronounce its final determinations and shall send it to the assessment of the Executive Committee Chamber of the Foreign Trade Management .

Paragraph 7th. At the end of the analysis if the reapplication of the definitive countervailing duty measure is needed, the Undersecretariat of Trade Remedies and Public Interest may recommend:

- I - the maintenance of the suspension of the definitive countervailing measure by the remaining valid period of this suspension or the complete remaining period of the definitive countervailing measure; or
- II - the reapplication of the countervailing measure, in equal or different amount that was previously applied, until the deadline for the remaining measure.

Paragraph 2nd There will only be an analysis for the need of a definitive countervailing measurement t during the suspension period.

Paragraph 9th The recommendation of the Undersecretariat of Trade Remedies and Public Interest , according to paragraph 1st or paragraph 7th, about the maintenance of the

suspension or the reapplication of the definitive countervailing measure, subsidizes the decision of the Executive Committee Chamber of Foreign Trade Management, which must be published until the expiration of the suspension period.

Chapter VI

Extension of Suspensions of Anti-dumping and countervailing duties

Article 17th If the suspension act mentioned in Article 14, item I, establishes the reapplication of the definitive anti-dumping measure at the end of the suspension period, requirements to extend the suspension of the of the anti-dumping measure s may be submitted to extend the suspension, if it has not yet been extended.

Paragraph 1st Applications for extension of an anti-dumping measure shall follow , y the provisions of Article 15.

§2nd If requests for the suspension of the extension is not submitted, the Undersecretariat for Trade Remedies and Public Interest Trade will automatically transmit to the Executive Committee Chamber of Foreign Trade Management the r reapplication recommendation for the remaining duration period of the definitive anti-dumping measure at the end of period.

Article 18th If the suspension act established in Article 14, section IV, set expiration date previous to the suspension to the total validity period of the definitive countervailing duty, and expressly establishes the reapplication of this measure at the end of the suspension period, it may be presented requests for extension of the suspension of the definitive countervailing duty.

§ 1st Requests for extension of the suspension of the definitive countervailing duty shall obey, as applicable, the provisions of Article 16.

Paragraph 2. If the suspension extension petition is not submitted, the Undersecretariat for Trade Remedies and Public Interest Secretariat will automatically transmit to the Executive Chamber Foreign Trade Management a reapplication recommendation the period of remaining validity of the definitive countervailing duty.

§3 After the analysis of the need for extension of the suspension of the definitive countervailing duty, the Undersecretariat of Trade Remedies and Public Interest may recommend:

I - the extension of the suspension of the definitive countervailing duty for a period of remaining validity of this measure; or

II - the reapplication of the definitive countervailing duty, for an equal or different period from that previously applied, for the remaining validity of this measure period.

Chapter VII

CHANGE IN VALUE OR ENFORCEABILITY ANTIDUMPING AND COUNTERVAILING MEASURES OBJECT OF PUBLIC INTEREST ANALYSIS

Article 19th If the act of applying definitive antidumping or provisional or definitive countervailing measures or approved price undertaking in different amount than recommended, as accorded in Article 14, sections III and V, set term to expire the antidumping or countervailing measure before the end of this total period, the Secretariat for Trade Remedies and Public Interest Trade Remedies will submit to the Executive Committee Chamber of Foreign Trade recommendation of extension of application of antidumping or countervailing measure or the previous accorded price undertaking, for the remaining period of the antidumping or countervailing measure.

§1st The caput does not apply when it is suggested change for the amount or claims suspension of dumping or countervailing measure.

§h 2nd Requests for changes of the amount or suspension of dumping or countervailing measure mentioned in the previous paragraph shall comply, where applicable, the provisions of Chapter V, unless otherwise provided in this article.

§ 3rd After the analysis, the Undersecretariat of Trade Remedies and Public Interest Interest may recommend:

I - the maintenance of the antidumping or countervailing duty for the remain measure period;

II - the application of dumping or countervailing duty at a different amount than previously applied, for reasons of public interest, for the remaining period of the measure;

III - suspension, for up to one year, renewable one more single time for the same period of the definitive antidumping or price undertakings in force, according to Article 3, paragraph 1st, of Decree n. 8058, 2013 ;

IV - suspension of application of definitive countervailing duty or non-approval of price undertakings under Article 73, § 3rd of Decree n. 1751, 1995.

Chapter VII

General Provisions

Article 21st. Every Documentation regarding the process public interest test must be submitted directly to the SEI/ME system.

Article 22nd. The Undersecretariat of Trade Remedies and Public Interest and public interest shall not accept information and / or documents brought not in accordance with this decree.

Article 23rd. The deadlines provided for in this ordinance shall be counted in calendar days excluding the day of the beginning and including the day of deadline.

Article 24th. Time counting begins on the first business day subsequent to the publication of the act or the confirmation of receipt of correspondence..

Article 25th. The deadlines set in months and are counted in calendar dates.

Single paragraph. If in the month of the deadline there is no day equivalent to the beginning of the deadline, the last day of the month shall be considered as final date.

Article 26th. The Undersecretariat of Trade Remedies and Public Interest may require sending, in electronic means, information of the case, to facilitate the analysis and evaluation and processing of information.

Article 27th. For public interest tests, documents may be submitted when elaborated in the official languages of the World Trade Organization, and, in the case of documents written in

other foreign languages for which there is no public translator in Brazil, translations shall be accepted for the Portuguese language made by the official representation of the exporting origin in Brazil, accompanied by official communication attesting the authorship of the translation.

Article 28th. The procedures provided in this ordinance shall be applied, to public interest tests in the date of their publication.

Article 29th The provisions of this ordinance do not exclude the powers of the Executive Committee Chamber of Foreign Trade Management to decide on public interest tests, to regulate the respective decision-making processes within the Foreign Trade Chamber and to establish guidelines for analysis procedures of public interest, in accordance to Article 3, §5th, of the Decree n. 8.058, of 2013 C / C. Article 7, item X, of Decree n. 10,044, 2019.

Article 30th The provisions of this ordinance shall apply to the administrative procedures for the investigation of safeguards referred to in the safeguards agreement approved by the Legislative Decree n. 30, 1994, promulgated by the Decree n. 1,355, 1994, regulated by Decrees n.: 1,488, 1995 and n.: 1,936, 1996, as well as the investigations of preferred safeguards provided for trade agreements of which Brazil is part.

Article 31st This ordinance shall be into force on the date of its publication, revoking the the SECEX Ordinance N.: 8, of April 15, 2019.

5. Guidelines Assessment material of public interest in trade remedies

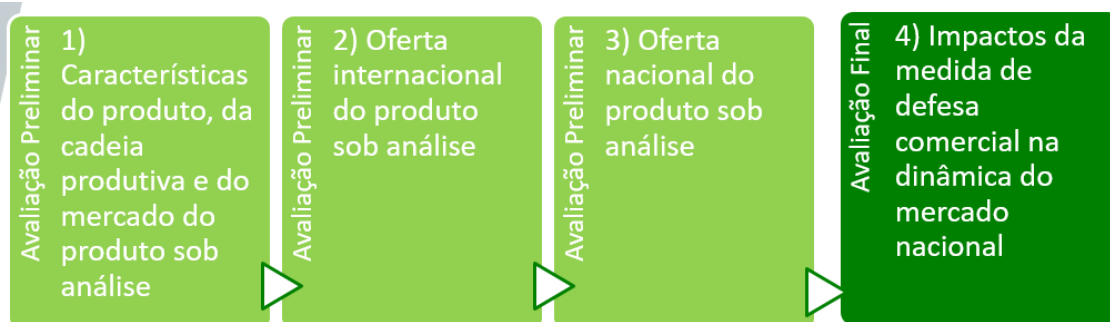
5.1 Brief considerations on the criteria Materials for evaluation of public interest in trade remedies in Brazil

In this section, the final version of the Public interest test Material Guidelines in trade remedies, with criteria that can be taken into account when decision-making or not elements of public interest, preliminarily or ultimately. It is worth remembering that these criteria do not constitute a thorough list and none of them, in isolation or together, will necessarily be able to provide decisive indication of the existence or not of sufficient elements of public interest in trade remedies. It is clarified that, in this consolidated version of the Guidelines, the material criteria previously presented, in essence, are very similar, but were reorganized in order to promote greater efficiency in the presentation of the data by interested parties and also in the analysis of information and documents SDCOM.

For teaching purposes, it is clarified that the elements arranged in the material Guidelines are generally proposed to respond to the following question: **the impact of the trade remedies measure impacts the supply of the product under analysis in the internal market in order to significantly harm The Dynamics of the National Market?**

The following question is the following question: The following question: the imposition of the trade remedies measure impacts the supply of the product under analysis in the internal market (arising from both national and imports) producers in order to significantly harm Dynamics of the national market (including the upstream, downstream and industry links), in terms of price, quantity, quality and variety, among others?

In this sense, the Guidelines proposes that the evaluation of public interest in Brazil is carried out in two phases: preliminary and final, whose respective procedural explanations are in section 4 of this Guidelines. The preliminary evaluation will take in account the following primordial elements: (1) characteristics, productive chain and product market under analysis; (2) International Products Supply Under Analysis; and (3) National Product Supply Under Analysis. For the final evaluation, in addition to deepening the elements of the preliminary analysis, the following additional criteria will be analyzed: (4) Impacts of the Trade remedies Measure in the Dynamics of the National Market.



It is what is presented in the table below, detailed in the following sections:

Table 12: Analyzed criteria in the evaluation of public interest (summary)

Analyzed criteria	Preliminary evaluation of public interest	Final evaluation of public interest
I.Characteristics of the product, the productive chain and the product market under analysis		
I.1 Product characteristics under analysis	X	X
I.2 Productive product chain under analysis	X	X
I.3 Substitutability of the product under analysis	X	X
I.4. Product market concentration under analysis	X	X
II.International product supply under analysis		
II.1 Alternative origins of the product under analysis	X	X
II.2 Tariff and non-tariff barriers to the product under analysis	X	X
III. National Product Supply under Analysis		
III.1 Apparent national consumption of the product under analysis	X	X
III.2 Risk of shortage and disruption of supply in quantitative terms	X	X
III.3 Risk of restrictions on national supply in terms of price, quality and variety	X	X
IV. Impacts of the trade remedies measure in the dynamics of the national market		
IV.1 Impacts in the domestic industry	-	X
IV.2 Impacts in the upstream chain	-	X
IV.3 Impacts in the downstream chain	-	X
Annex		
Impact simulation	-	X

5. 2 Criteria for Preliminary Evaluation of Public Interest

In the Preliminary Evaluation of Public Interest in trade remedies, the following elements will be considered: (i) features, productive chain and product market under review, (ii) International Product Supply Under Analysis and (iii) National Product Supply Under

Analysis. The table below shows the elements that are expected to analyze, in a primordial way, in this preliminary evaluation:

Table 13: Preliminary elements of public interest

Analyzed criteria	Preliminary evaluation of public interest
I. Product characteristics, productive chain and product market under analysis	
I.1 Product characteristics under analysis	X
I.2 Productive product chain under analysis	X
I.3 Substitutability of the product under analysis	X
I.4. Product market concentration under analysis	X
II. International product supply under analysis	
II.1 Alternative origins of the product under analysis	X
II.2 Tariff and non-tariff barriers to the product under analysis	X
III. National Product Supply under Analysis	
III.1 Apparent national consumption of the product under analysis	X
III.2 Risk of shortage and disruption of supply in quantitative terms	X
III.3 Risk of restrictions on national supply in terms of price, quality and variety	X

I. Features, Productive chain and product market under analysis

At this stage of the preliminary evaluation, the following elements will be considered:

(i.1) Product Characteristics Under Analysis; (I.2) Productive chain; (I.3) substitutability of the product under analysis, and (i.4) concentration of the market.

Table 14: First criterion analyzed –Characteristics of the product, the productive chain and the product market under analysis

Analyzed criteria	Preliminary evaluation of public interest
I.Characteristics of the product, the productive chain and the product market under analysis	
I.1 Product characteristics under analysis <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • Definition of the product under analysis in terms of trade remedies Uses / product functionalities under analysis in terms of trade remedies 	X
I.2 Productive product chain under analysis <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • As the product under analysis is produced (inputs, productive route, etc.) • As the product under analysis is used in the following links (including, including how many links there are subsequent in terms of "thread") • List of consumers in the following links and associations 	X

<i>Distinctive commercial practices of supply and distribution contracts, as well as other market functioning information.</i>	
I.3 Substitutability of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i> • <i>Substitutability by the optics of the supply</i> <i>Substitutability by demand optics</i>	X
I.4. Product market concentration under analysis <i>Exemplary and non-exhaustive list of elements:</i> • <i>Calculation of market concentration indexes, in particular HHI, considering national production (in terms of trade remedies), imports and substitutes, if applicable</i> • <i>Barriers at the entrance (input cost, entries history, etc.)</i> <i>Concentration Acts (History and Prospective, if applicable)</i>	X

I.1. Product characteristics under analysis

Table 15: First criterion analyzed – Item I.1 Product characteristics under analysis

Analyzed criteria	Preliminary evaluation of public interest
I.Characteristics of the product, the productive chain and the product market under analysis	
I.1 Product characteristics under analysis <i>Exemplary and non-exhaustive list of elements:</i> • <i>Definition of the product under analysis in terms of trade remedies</i> <i>Uses / product functionalities under analysis in terms of trade remedies</i>	X

At this stage of the preliminary evaluation, it is necessary to distinguish if the product under analysis is input or final product. This is because, when it comes to input for other productive chains, the application of a trade remedies measure brings, at least in the thesis, greater concerns, given the possible repercussions on other Brazilian productive links, signaling the need to analyze, in terms of the public interest in the implementation of the trade remedies measure.

This is how, in the Ordinary Secex No 13/2020, it is a prediction that they will be preponderantly considered, among other factors, temporality of the existing trade remedies measure and the characterization of the product under analysisuch as input to the downstream chain, in cases case of evaluation of optional public interest in period end reviews, ex officio, at the discretion of SDCOM.

Several trade remedies measures are applied to raw materials or intermediate goods used by local industries in their productive processes. According to Naidin (2019), more than 80% of the anti-dumping and countervailing measures applied in 2018 in the country were

applied to intermediary goods. Kotsiusbka (2011), in turn, signals that the impact of such measures in the industries translates, initially, by increasing production costs, and can affect their competition capacity not only in the national market, but also in export markets. In this aspect, the uses and functionalities of the product under analysis must be presented.

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

I.2. Productive product chain under analysis

Table 16: First Criteria Analyzed - Item I.2 Productive Chain of Product Under Analysis

Analyzed criteria	Preliminary evaluation of public interest
I. Characteristics of the product, the productive chain and the product market under analysis	
I.2 Productive product chain under analysis <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • <i>As the product under analysis is produced (inputs, productive route, etc.)</i> • <i>As the product under analysis is used in the following links (including, including how many links there are subsequent in terms of "thread")</i> • <i>List of consumers in the following links and associations</i> <i>Distinctive commercial practices of supply and distribution contracts, as well as other market functioning information.</i>	X

At this stage of the preliminary evaluation, it is relevant that interested parties in the evaluation of public interest, in a detailed manner, present all stages of the productive process of the product under analysis, such as the inputs used, the production routes and the amounting links between the chain. Therefore, graphics and illustrations that show the productive structure are of extreme importance, for the exact understanding of how the product is produced.

It must also be presented as the product under analysis is used in the following links in the chain, indicating how many posterior links exist and explaining the "thread" of the sectors in this productive process. If possible, present contact information from the main consumers and associations.

When applicable, it is also interesting to indicate whether distinct commercial practices in the importation of the product under analysis and acquisition in the domestic

market, as well as mention the existence of supply contracts and their periodicity, rules of pricing, usual batches of trade, as well as other relevant information on the market.

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

1.3. Substitutability of the product under analysis

Table 17: First criterion analyzed - Item I.3 Replacement of the product under analysis

Analyzed criteria	Preliminary evaluation of public interest
I. Characteristics of the product, the productive chain and the product market under analysis	
I.3 Substitutability of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • <i>Substitutability by the optics of the supply</i> <i>Substitutability by demand optics</i> 	X

At this stage of the preliminary evaluation, it is also necessary to ascertain if there are other substitutes to the product under analysis of the trade remedies measure both on the side of the supply and on the demand side ⁴².

Under the perspective of demand, the substitution ⁴³ is measured by the possibility of consumers to divert their demand to other products, whose characteristics, prices and utilities are similar. In this analysis, there can also be considered, among other factors, the profile of the customers, the importance of the brand and standard of purchase of consumers in the past, in response to price increase or terms of marketing. Thus, it is relevant that interested parties in the evaluation of public interest present information on the differences

⁴² For more information, it is suggested reading item 2.3.2 of the CADE concentration acts analysis guide.

⁴³ Under CADE: "To make this substitutability [by the optics of demand], the possibility of consumers to divert their demand to other products. For this examination, Cade considers several factors, such as: customer profiles (income, age, sex, education, profession, location, mobility or other observable characteristics); scaling of these customers (quantity or billing); nature and characteristics of products and / or services; importance of prices of products and / or services; importance of the quality of products and / or services; importance of the brand, credit, payment deadlines, form and moments of consumption; Evidence of changing consumer purchase pattern in the past, in response to price increase or terms of marketing; Research information carried out with consumers, competitors, among others; Applicants' documents, in relation to how they comprise the degree of replacement of products when they present the market to shareholders or to the general public; Evidence of price discrimination between consumers, between locations and between brands. " Guide for Horizontal Concentration Acts Analysis, Available On The Website: http://www.cade.gov.br/acao-a-informacao/publicacoes-institucionais/guias_do_Cade/guia-para-analise-de-atos-de-concentracao-horizontal.pdf.

of uses, quality and technology between products that can be substitutes or non-substitutes, as well as data of elasticity price of demand.

Under the optics of the supply, substitutability relates to the assessment of the capacity and availability of other companies begin to produce and supply the product under analysis. It is worth mentioning that, in some cases, under a Preliminary Evaluation of Public Interest, it is not possible to reach a conclusion about the substitutability between different goods, so that the theme is in-depth when the final Evaluation of Public Interest. Also desirable is the presentation of data from the elasticity price of the supply.

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

I.4. Product market concentration under analysis

Table 18: First Criteria Analyzed - Item I.4 Product market concentration under analysis

Analyzed criteria	Preliminary evaluation of public interest
I. Characteristics of the product, the productive chain and the product market under analysis	
I.4. Product market concentration under analysis <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • <i>Calculation of market concentration indexes, in particular HHI, considering national production (in terms of trade remedies), imports and substitutes, if applicable</i> • <i>Barriers at the entrance (input cost, entries history, etc.)</i> <i>Concentration Acts (History and Prospective, if applicable)</i>	X

At this stage of the preliminary evaluation, it must be analyzed if the petitioner (s) of the trade remedies measure is monopoly or oligopolist in the market of the product under analysis. Faced with this market structure, it is necessary to assess to what extent the implementation of a trade remedies measure can impair competition, reduce rivalry and increase domestic industry market power.

In this respect, it is relevant that interested parties in the evaluation of public interest presenting domestic industry market concentration indexes such as the Herfindahl-Hirschman index ("HHI"), C4 and / or LERNER index. In addition, indications must be submitted that they signal that this market concentration results (or not) in the petitionary market power (s).

HHI can be used to calculate the degree of concentration of markets. It is calculated based on the sum of the market shareholdings of all companies of a given market and indicates that markets (i) are not concentrated when the result is less than 1,500 points; (ii) are moderately concentrated, when the result is between 1,500 and 2,500 points; and (iii) highly concentrated, when above 2,500 points. HHI can reach up to 10,000 points, value that indicates the existence of a monopoly, that is, of a single company with 100% of the market.

Equation 1: HHI Index

$$HHI = \sum_{i=1}^n S_i^2$$

where n is the number of companies in the market and S is the market share (%) of each company

In relation to such an index, it is of paramount interested parties to present the market share data in the most segregated way, including by undertaking and not only by origin, so that the results obtained are more accurate and expressed with greater likelihood The real sector scenario.

In addition, considerations must be presented about the composition of the world market under analysis, taking into account the participation of each of the parties involved in the market of the product under analysis, for example, based on the HHI and / or C4 indicators. Again, it is of paramount interested parties to present the market share data as a segregated way, including by undertaking and not only by the origin, so that the results obtained are more accurate and expressed with greater likelihood the real scenario of the sector.

In addition, if applicable, it is important that market share data for substitutes are presented, indicating, as segregated as possible, the share of each producer, to integrate the calculation of HHI.

The C4 Index, in turn, is obtained from the sum of the participations of the four largest market agents. The higher the index, the higher the level of concentration.

Equation 2: Index C4

$$C4 = \sum_{i=1}^4 S_i$$

in which S is market share (%) of each company

Lerner's index is a measure of monopoly power calculated as excess price in relation to marginal cost on price. The result varies between 0 and 1, and the higher the index, the higher the degree of monopoly power of the company.

Equation 3: Lerner Index

$$L = \frac{P - CMg}{P}$$

where p is the price and CMG is the marginal cost

The existence of barriers must also be observed at the entry into the market or any factor that places an incoming market in a disadvantage in relation to the economic agents already established. In terms of the Guidelines for analysis of CADE horizontal concentration acts, barriers to entry can be defined as any factor in a market that puts a competitive potential at disadvantage with the established economic agents. The higher the barriers to entry into a given market, larger are the financial costs and in terms of time that an incoming potential must be incurred so that the invested capital is adequately remunerated. The higher these barriers, the lower the likelihood of entry of new companies in the relevant market defined

. Barriers at entry allow companies to maintain prices on higher levels and make it difficult to enter new competitors with productive capacity as it decreases the effective possibility of competition.

Some examples of barriers to entry are irrecoverable costs (Sunk Costs), legal or regulatory barriers, exclusive property resources of installed companies, economies of scale and/or scope, degree of integration of the productive chain, consumer loyalty to the established brands and threat to reaction from installed competitors. In this respect, it is worth informing the input history (s) on the market, so that it is possible to consider elements of probability, timing and sufficiency of such any entries in the market.

Finally, the history of concentration acts involving the product under analysis must be presented and, if applicable, prospective information and acquisitions in the sector that may further impact competition.

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

II. International product supply under analysis

At this stage of the preliminary evaluation, the following elements will be considered: alternative origins (II.1) and tariff and non-tariff barriers (II.2) to the product under analysis.

Table 19: Second criterion analyzed –International product supply under analysis

Analyzed criteria	Preliminary evaluation of public interest
II. International product supply under analysis	
<p>II.1 Alternative origins of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>World production data from product under analysis (market concentration analysis, economic groups, if applicable)</i> • <i>World export data from product under analysis (volume and price)</i> • <i>Commercial Interested parties Data for World Exporters of the Product under Analysis</i> • <i>Brazilian import data from the product under analysis (volume and price), both recorded and non-recorded origins</i> <p><i>Installed capacity (and eventual excess capacity) of the product under analysis or its substitute in alternative origins</i></p>	X
<p>II.2 Tariff and non-tariff barriers to the product under analysis <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>II of the product under analysis</i> • <i>Comparison of the II of Brazil with a World Average II of the WTO Countries, with the world's largest producers and the largest world exporters.</i> • <i>Exceptions to the II of the product under analysis (eg, former tariff, LETEC, LEBIT, etc.)</i> • <i>Tariff preferences</i> • <i>Foreign Trade Instruments (eg Drawback)</i> • <i>Other non-tariff barriers (government and private, such as approval, technical standards, etc.)</i> • <i>Trade remedies measures applied by Brazil to the product under analysis (including temporality analysis, behavior of economic groups, etc.)</i> • <i>Other trade remedies measures applied by Brazil to correlated products and / or the same domestic industry</i> • <i>Trade remedies Measures applied by the world</i> 	X

II.1. Alternative origins of the product under analysis

Table 20: Second criterion analyzed – Item II.1 Alternative origins of the product under analysis

Analyzed criteria	Preliminary evaluation of public interest
II.International product supply under analysis	
<p>II.1 Alternative origins of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>World production data from product under analysis (market concentration analysis, economic groups, if applicable)</i> • <i>World export data from product under analysis (volume and price)</i> • <i>Trade Balance Data for World Exporters of the Product under Analysis</i> • <i>Brazilian import data from the product under analysis (volume and price), both recorded and non-recorded origins</i> <p><i>Installed capacity (and eventual excess capacity) of the product under analysis or its substitute in alternative origins</i></p>	X

At this stage of the preliminary evaluation, we seek to verify the availability of alternatives in the supply of the product under analysis. In this regard, it is relevant that interested parties in public interest test, in a detailed way, product production data under analysis (market concentration analysis, economic groups, if applicable). Such information is sometimes available to agents in sectoral studies, for example).

In addition, it is relevant that interested parties in the evaluation of public interest presenting worldwide export data from the product under analysis (volume and price), as well as trade balance data of the world exporters from the product under analysis, to analyze the its net capacity to meet the possible demand of the Brazilian market. The presentation of the list of the product exporters under analysis is relevant, indicating quantity, price and percentage of its holdings in world trade, flow of exports and imports into the product, considering the available sources of foreign trade statistics or sectoral studies. It must be noted, as if it occurred in the case of DVD +/- R analyzed by the European Union (quoted in Section 2.1.2), which is relevant information on the existence of related parties of the domestic industry itself in possible alternative origins in order to If you observe whether such counties are configured, in fact, as an alternative source of the product under analysis.

Also, it is relevant that interested parties in the evaluation of public interest presented Brazilian import data from the product under analysis (volume and price), both recorded and non-recorded origins. It is possible that even recorded origins continue to be bidding from the product under analysis, but it is possible, also that there has been a shutdown of trade to

other origins. It is important to note that these data do not need to be restricted to the trade remedies periods (P1 to P5).

Another point to be considered is whether, although there are no imports from certain courts, there is installed capacity of production (and eventual excess capacity) of the product under analysis or its substitute in these alternative sources. It is worth mentioning, however, that the possible existence of installed capacity is not, by itself, indicative of exports viability to the Brazilian market, since there are several factors that hinder the importation of other origins, as questions about quality, adaptation to production line and need for approval, which will be addressed in the next topic.

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

II.2. Tariff and non-tariff barriers to the product under analysis

Table 21: Second criterion analyzed - item II.2 Tariff and non-tariff barriers of the product under analysis

Analyzed criteria	Preliminary evaluation of public interest
II. International product supply under analysis	
<p>II.2 Tariff and non-tariff barriers to the product under analysis</p> <p><i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>II of the product under analysis</i> • <i>Comparison of the II of Brazil with a World Average II of the WTO Countries, with the world's largest producers and the largest world exporters.</i> • <i>Exceptions to the II of the product under analysis (eg, former tariff, LETEC, LEBIT, etc.)</i> • <i>Tariff preferences</i> • <i>Foreign Trade Instruments (eg Drawback)</i> • <i>Other non-tariff barriers (government and private, such as approval, technical standards, etc.)</i> • <i>Trade remedies measures applied by Brazil to the product under analysis (including temporality analysis, behavior of economic groups, etc.)</i> • <i>Other trade remedies measures applied by Brazil to correlated products and / or the same domestic industry</i> <p><i>Trade remedies Measures applied by the world</i></p>	X

At this stage of the preliminary evaluation, it is necessary to consider the import tax (II) applicable to the product under analysis. In this respect, it is relevant that interested parties in the evaluation of public interest, in a detailed way, present the comparison between the Brazilian import rates and the average of the WTO Countries, as well as the comparative

between the Brazilian import rates and the average Main producers and exporters of the product under analysis and the mean of the WTO Countries (applied aliquot). With this, it is possible to obtain evidence of a greater or lower tariff level of the product market under analysis to international competition.

It also fulfills the interested party to inform if the product under analysis is included in some specific tariff list, such as former tariff, list of exceptions to the common external tariff ("LETEC"), list of exceptions of computer and telecommunications goods ("Lebit"), list of temporary reductions by shortages, etc.

In addition, it is relevant that information on whether, for some reason, the import tax is not relevant to the evaluation of public interest, given the existence, for example, of tariff preferences, the use of foreign trade policy instruments, such as drawback, or the existence of non-tariff, governmental or private barriers, in important world consumer markets (such as the need for product type-approval, existence of technical standards, etc.).

Also seeks to deepen the feasibility considerations of alternative sources, by verifying the existence of different trade remedies measures applied by Brazil to the product under analysis (including temporality analysis, behavior of economic groups, etc.). In this context, it is important to observe the temporality of trade remedies measures on the product under analysis, pondering, based on the time of validity of such measures, the benefits to domestic producers versus negative effects on other economic agents and society in general. Thus, it is relevant that interested parties in the evaluation of public interest, in detail, present the relationship between the temporal lapse of implementation of trade remedies measures and their impacts verified in the market over time. Details, for example, on the application of provisional and / or definitive measures, the amounts applied (and if there was alteration of the quantum over time), as well as whether there were extensions of measures and / or new original investigations of other Origins in the temporal lapse analyzed. Information on the existence of trade remedies measures on correlated products (including the same domestic industry) is also relevant.

Finally, it is emphasized that interested parties in the evaluation of public interest must inform if trade remedies measures applied by the world to the product under analysis or related products, and also if such measures refer to related parts of the domestic industry or the Companies of the same economic group.

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

III. National Product Supply under Analysis

At this stage of the preliminary evaluation, the conditions of National Product Supply Under Analysis will be observed: apparent national consumption (III.1), the risk of shortage and disruption of supply in quantitative terms (III.2) and risk of restrictions on supply National in terms of price, quality and variety (III.3).

Table 22: Third criterion analyzed – National Product Supply under Analysis

Analyzed criteria	Preliminary evaluation of public interest
III. National Product Supply under Analysis	
<p>III.1 Apparent national consumption of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Brazilian market data and apparent national consumption</i> • <i>Representativeness of the domestic industry supply (sales, excluding captive consumption) in the Brazilian market</i> • <i>Representativeness of the supply of imports in the Brazilian market</i> 	X
<p>III.2 Risk of supply and disruption of supply in quantitative terms <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>National production data in terms of installed (nominal and effective), idle and inventory capacity, in terms of trade remedies compared to the Brazilian market. Include analysis of eventual interruption of national production.</i> • <i>Shreddy risks in terms of market prioritization (foreign market vs domestic market vs Captive consumption vs sales for related)</i> • <i>Discrimination of customers</i> 	X
<p>III.3 Risk of restrictions on national supply in terms of price, quality and variety <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>indicators of any restrictions on national supply in terms of price</i> <i>The evolution of the price of the product under analysis with cost of domestic industry (detachment analysis cost vs product price under analysis)</i> • <i>The evolution of the price of the product under analysis with other prices / indexes (comparison with other market parameters, such as price indexes, other chain links, international prices, etc.)</i> • <i>indicators of any restrictions on national supply in terms of quality and variety</i> <i>The representativeness of returns on domestic industry sales, in terms of trade remedies (%)</i> <i>Evidence of product technology delays under analysis of domestic industry compared to imported products</i> 	X

<i>Evidence of product quality differences under domestic industry analysis compared to imported products (eg existence of customer productive plant adaptation costs)</i> <i>Coordinated and unilateral anti-suppliers</i>	
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III.1 Apparent national consumption of the product under analysis

Table 23: Third Criterion Analyzed - Item III.1 Apparent National Consumption

Analyzed criteria	Preliminary evaluation of public interest
III. National Product Supply under Analysis	
III.1 Apparent national consumption of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • <i>Brazilian market data and apparent national consumption</i> • <i>Representativeness of the domestic industry supply (sales, excluding captive consumption) in the Brazilian market</i> • <i>Representativeness of the supply of imports in the Brazilian market</i> 	X

At this stage of the preliminary evaluation, it is necessary to analyze the Brazilian market data and apparent national consumption.⁴⁴

Under the traditional SDCOM analysis, the Brazilian market is obtained through the following calculation:

Equation 4: Brazilian market

$$\text{Brazilian market} = \text{sales of the national industry (from domestic industry + other companies)} + \text{imports (of the origins investigated and other origins)}$$

In turn, apparent national consumption is obtained through the following calculation:

Equation 5: Apparent National Consumption

$$\text{Apparent national consumption} = \text{Brazilian market} + \text{captive consumption (when applicable)}^{45}$$

⁴⁴ In terms of question 47 of the Anti-Dumping Investigations Guide, "47. What is the difference between Brazilian market and apparent national consumption? For the purposes of trade remedies investigations, the apparent national consumption of the product investigated in Brazil consists (i) in the Brazilian market for that product *plus II) of the full volume of the like product manufactured in Brazil and intended for captive consumption. The apparent national consumption, therefore, may be greater than the Brazilian market, since it also considers part of the national demand that can only be supplied by products manufactured by the applicant (captive consumption)."*

⁴⁵ This formula, generally calculated during anti-dumping investigation, may consider captive product consumption (when existing), allowing more precise analysis of the impact to other consumers.

The importance of this analysis is to verify how much (%) domestic industry sales and imports of the main origins represent in terms of apparent national consumption (when applicable) or the Brazilian market. As a result, it is possible to verify, for example, the existence of a possible degree of dependence on the Brazilian market to the national and international supply of the product under analysis. In this context, imports made by the domestic industry itself may be highlighted.

In this regard, it is relevant that interested parties in the evaluation of public interest, in detail, present data even after the implementation of the trade remedies measure (not being restricted to the periods of analysis p1 to p5, when appropriate).

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

III.2 Risk of shortage and disruption of supply in quantitative terms

Table 24: Third Criteria Analyzed - Item III.2 Risk of supply and interruption of supply in quantitative terms

Analyzed criteria	Preliminary evaluation of public interest
III. National Product Supply under Analysis	
III.2 Risk of shortage and disruption of supply in quantitative terms <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • <i>National production data in terms of installed (nominal and effective), idle and inventory capacity, in terms of trade remedies compared to the Brazilian market. Include analysis of eventual interruption of national production.</i> • <i>Shreddry risks in terms of market prioritization (foreign market vs domestic market vs Captive consumption vs sales for related)</i> <i>Discrimination of customers</i>	X

At this stage of the preliminary evaluation, it is necessary to analyze the risk of shortage and interruption of the supply by the domestic industry, in case of application or maintenance of the trade remedies measure. Concern about the supply capacity of national production is essential to assess to what extent product consumers can be achieved by the application of the anti-dumping and countervailing measure. This was even the main element in the history of alterations of anti-dumping and countervailing measures in Brazil in the last years, according to Naidin (2019).

For the purposes of this analysis, national production data is expected to be presented in terms of installed (nominal and effective) capacity of domestic industry, idle capacity,

inventories, in terms already verified in trade remedies, so that they can be compared with data from the Brazilian market. It is relevant that interested parties in a detailed provisory evidence on care or not the national demand of the downstream chain or the final consumer.

In this context, it is important that they are brought to the evidence of any interruptions of national production. For purposes of this analysis, SDCOM may also be carried out, for example, in loco verifications in the domestic industry.

Win special relevance to identify exceptional cases in which permanent interruption of production of the domestic product industry under analysis or production in derisory volume for Brazilian market care. Such situations may occur when the domestic industry ceases to produce the product under analysis and becomes total or predominantly importer / reseller, or in hypotheses whose determination of production is consumed in a captive by the domestic industry, without destination to the Brazilian market. In these cases, it is even possible an exceptional evaluation of public interest in terms of Article 7th, from Secex Ordinance Number: 13/2020.

It must also be attended for situations where the domestic industry can prioritize exports or its own operations, for example, when the company is belonging to the vertical chain group, with captive consumption or sales to related companies, bringing possible risk of decision to market Brazilian.

In addition, it must be reported if there are any discriminatory practices (in terms of price, quality, etc.) in relation to certain clients or types of clients, which may compromise access of a particular group to the product under analysis.

For the final evaluation, if applicable, it is also expected to deepen the elements of the preliminary analysis.

III.3 Risk of restrictions on national supply in terms of price, quality and variety

Table 25: Third Criteria Analyzed - Item III.3 Risk of restrictions on national supply in terms of price, quality and variety

Analyzed criteria	Preliminary evaluation of public interest
III. National Product Supply under Analysis	
III.3 Risk of restrictions on national supply in terms of price, quality and variety <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • indicators of any restrictions on national supply in terms of price <i>The evolution of the price of the product under analysis with cost of domestic industry (detachment analysis cost vs product price under analysis)</i>	X

<p><i>The evolution of the price of the product under analysis with other prices / indexes (comparison with other market parameters, such as price indexes, other chain links, international prices, etc.)</i></p> <ul style="list-style-type: none"> <i>• indicators of any restrictions on national supply in terms of quality and variety</i> <p><i>The representativeness of returns on domestic industry sales, in terms of trade remedies (%)</i></p> <p><i>Evidence of product technology delays under analysis of domestic industry compared to imported products</i></p> <p><i>Evidence of product quality differences under domestic industry analysis compared to imported products (eg existence of customer productive plant adaptation costs)</i></p> <p><i>Coordinated and unilateral anti-suppliers</i></p>	
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At this stage of preliminary evaluation, it is necessary to evaluate any risk of restrictions on national supply in terms of price, quality and variety. That is, more than purely quantitative aspects (volume), such which analyzed in Section III.2., This element evaluates more qualitative aspects for intermediate and final consumers.

To do so, it is important that indicators of any restrictions on the national supply in terms of price be presented. It is clarified that such restrictions can be imposed on both the consumers of the following chain on the downstream and final consumers.

Based on information derived from trade protection, it is possible to evaluate the evolution of the price with cost of the product under review in order to assess the occurrence of any detachment between the cost and price of the product under review.

Furthermore, it is important that they be brought data other prices and other indices that serve as a comparator of the price of the product under review, such as product prices of the following links in the production chain of related industries, international prices under review, price indices calculated by recognized institutions such as the Brazilian Institute of Geography and Statistics ("IBGE") and Getúlio Vargas ("FGV"). It is noteworthy that, as far as possible, the data must be presented on a monthly basis to capture seasonality.

Also of possible restrictions must be presented to the national supply in terms of quality and product variety.

As the product in input analysis used in the production of another good, differences in quality can impact the downstream chain in terms of production of the final good, such as when there is significant cost to the customer's production plant to adapt to a different product under review. Being well end quality differences may also indicate the existence of variety to the final consumer. In this respect it is important that interested parties in the evaluation of public interest present, in detail, information on the quality of the product from analysis

of the domestic industry and other sources, through their respective technical information, certifications, peculiarities in the use, installation, etc. and representative rates of returns on sales. If the difference in quality of the product under review impact the income or the affected product production costs, it is essential that interested parties provide evidence to be evaluated by SDCOM.

Similarly, considerations of the product under analysis technology may be elements of public interest. Interested parties must submit in detail and proven information about the existence of advances or technological delays in product under review (by the domestic industry and / or other sources), as well as the use of the product under review to the technological development of final product.

Finally, it is important information about possible anticompetitive practices (unilateral or coordinated) in the product sector under analysis, whose evidence may come from CADE investigations of any administrative claims and / or legal, etc.

For the final assessment, if any, it is also expected to deepen the elements of the preliminary analysis.

5.3 Final Criteria Evaluation of Public Interest

In the final Evaluation of Public Interest in trade remedies measures, it is expected to deepen the elements of the preliminary analysis, with new elements brought by interested parties. In addition, an element is added to the analysis, whatsoever: the impacts of the trade remedies measure in the dynamics of the national market.

IV. Impacts of the trade remedies measure in the dynamics of the national market

Therefore, there is a distinctive criterion of the final Evaluation of Public Interest, which is the analysis of the impacts of the trade remedies measure in the dynamics of the national market. For this purpose, we seek to evaluate the impacts generated in the domestic industry (IV.1), in the upstream chains (IV.2) and downstream (IV.3). If you want to quantitatively estimate the impacts by means of an economic model, interested parties may submit their respective studies, and the results shall be inserted in each of their respective topics and methodology must be described and detailed.

It must be noted that partial equilibrium model application has also been implemented in this impact analysis (Annex).

Table 26: Fourth criterion analyzed - Impacts of the trade remedies measure in the dynamics of the national market

Analyzed criteria	Final evaluation of public interest
IV. Impacts of the trade remedies measure in the dynamics of the national market	
<p>IV.1 Impacts in the domestic industry <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • Domestic industry investments in productive and research and development / innovation capability • Level of employment / productivity and regional development elements <p><i>Evolution of domestic industry indicators along the measure validity (applicable only to review cases), in terms of trade remedies</i></p>	X
<p>IV.2 Impacts in the upstream chain <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • Investments of the amounting link in productive and research and development / innovation capacity • Level of employment / productivity and regional development elements • Degree of dependence on the amounting link in relation to the supply to the domestic industry <p><i>Market conditions in the upstream link that may undermine duplicity the downstream links (eg existence of other amounting measures of trade remedies)</i></p>	X
<p>IV.3 Impacts in the downstream chain <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • Investments of the downstream link in productive and research and development / innovation capacity • Level of employment / productivity and regional development elements • Degree of downstream link in relation to domestic industry distribution • Representativeness of the cost of the product under analysis in the downstream link • Risks of increased prices, or reduction of production, or the reduction of options to consumers, or loss of competitiveness (national and / or international), with the consequent reduction of sales volume, billing and financial results of Next Elo. <p><i>Development data-demand price</i></p>	X
Annex	
Impact simulation	X

That is, the elements listed in Section 5.2, appreciated in the preliminary evaluation, may have their in-depth evaluation with new elements brought by interested parties. In

addition, an element is added to the analysis, whatsoever: the impacts of the trade remedies measure in the dynamics of the national market

Therefore, a distinctive criterion of the final Evaluation of Public Interest, which is the analysis of the impacts of the trade remedies measure in the domestic market dynamics, that is, the impacts generated in the domestic industry and in the downstream and upstream chains .

IV.1 Impacts in the domestic industry

Table 27: Fourth Criteria Analyzed - Item IV.1 Impacts in the Domestic Industry

Analyzed criteria	Final evaluation of public interest
IV. Impacts of the trade remedies measure in the dynamics of the national market	
IV.1 Impacts in the domestic industry <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • Domestic industry investments in productive and research and development / innovation capability • Level of employment / productivity and regional development elements <i>Evolution of domestic industry indicators along the measure validity (applicable only to reviews), in terms of trade remedies</i>	X

In the final evaluation of public interest, it is necessary to analyze the possible effects arising from the trade remedies measure and predictions of the possible impacts of the application or suspension / modification of the measure on the domestic industry. To do so, both descriptions of qualitative and quantitative impacts can be used.

From the point of view of the impacts on the domestic industry, the analysis of impacts may contain, inter alia, the following considerations:

(a) if there was / there will be the recovery of the domestic industry indicators and the cessation of reason after the implementation of the trade remedies measure;

b) If such a recovery of the domestic industry can / may lead to return on investment, both in productive capacity and new investments in research and development, or in other innovation efforts.

c) If there was / there will be an increase in the market share of the domestic industry, reflecting the increase in sales in the internal and external market, of productive and / or effective production, productivity, billing and financial results, among others.

(d) if there were / there will be economies of scale and / or scope in the production of domestic industry, in the sense that greater production may lead to a greater dilution of fixed

costs, which may (i) be passed on, albeit partially to the Downstream in the form of lower prices and / or (ii) lead to the recovery of the profit margins of the company.

e) If the implementation of the trade remedies measure led / will take the domestic industry to hire more labor, raising the level of employment and productivity.

(f) If the implementation of the trade remedies measure led / will lead to a greater income available, so that economic market agents can stimulate production in other sectors of the economy.

(g) if the implementation of the trade remedies measures has local / regional impacts.

(h) if there are market conditions in the upstream link which may undermine duplicity the downstream links (eg existence of other amounting trade remedies measures).

IV.2 Impacts in the upstream chain

Table 28: Fourth Criteria Analyzed - Item IV.2 Impacts in the upstream chain

Analyzed criteria	Final evaluation of public interest
IV. Impacts of the trade remedies measure in the dynamics of the national market	
<p>IV.2 Impacts in the upstream chain <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Investments of the amounting link in productive and research and development / innovation capacity</i> • <i>Level of employment / productivity and regional development elements</i> • <i>Degree of dependence on the amounting link in relation to the supply to the domestic industry</i> <p><i>Market conditions in the upstream link which may undermine duplicity the downstream links (eg existence of other amounting trade remedies measures)</i></p>	X

In the final evaluation of public interest, it is necessary to analyze the possible effects of Trade Remedies measures and forecasts the possible application of impact or suspension / modification of the measure on the upstream chain.

This is because any suspension / modification of Trade Remedies measures could have an adverse effect on the upstream segment (raw materials, components, etc.), as the economic performance of these agents depends, in part, the prosperity of the domestic industry petitioner's antidumping or countervailing measure.

Thus, the final evaluation of the expected effects of Trade Remedies measure in the domestic industry and impacts upstream, it is necessary to examine more broadly, the impact

on the upstream chain. From the point of view of impacts on the upstream chain, impact analysis must contain, among others, the following considerations:

a) If the application of Trade Remedies measure led / will lead to the recovery of the market share of domestic industry and the consequent increase in production, which may / may increase the demand for upstream chain inputs (to vary their degree dependence), with consequent growth in sales volume, revenues and financial results of the two links.

b) If possible recovery of the domestic industry may / may lead to the return on investment in the upstream link, both in capacity and in new investments in research and development, or other efforts in innovation.

c) If there has been / will be economies of scale and scope in the sense that increased production in the upstream links can lead to greater dilution of fixed costs, increasing profit margins of these industries.

d) the application of Trade Remedies measure took / take the links upstream to hire more labor, raising the level of employment and productivity.

a) If the application of Trade Remedies measure led / will lead to greater disposable income, so that the economic market agents may stimulate production in other sectors of the economy.

b) the application of Trade Remedies measure has local / regional impacts.

It is therefore noted that in the case of the product under analysis having inputs, it is important to participate in the companies of the links to the amount of public interest, so that they have detailed, accounting data, including. Such data are required to the extent that most of the products analyzed are not part of the basket of products analyzed by trade remedies. SDCOM may lead in loco verification to examine the records and prove the information provided by interested parties.

It is important that current and future industry investment reports are presented in Brazil and in the region, both in productive capacity and research, development and innovation, indicating, if possible, the results achieved.

IV.3. Impacts in the downstream chain

Table 29: Fourth Criteria Analyzed - Item IV.3 Impacts in the downstream chain

Analyzed criteria	Final evaluation of public interest
IV Impacts of the trade remedies measure in the dynamics of the national market	
IV.3 Impacts in the downstream chain	X

<p><i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Investments of the downstream link in productive and research and development / innovation capacity</i> • <i>Level of employment / productivity and regional development elements</i> • <i>Degree of downstream link in relation to domestic industry distribution</i> • <i>Representativeness of the cost of the product under analysis in the downstream link</i> • <i>Risks of increased prices, or reduction of production, or the reduction of options to consumers, or loss of competitiveness (national and / or international), with the consequent reduction of sales volume, billing and financial results of Next link.</i> <p><i>Development data-demand price</i></p>	
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In the final evaluation of public interest, it is necessary to analyze the possible effects of the Trade Remedies measure and forecast the possible application of impact or suspension / modification of the measure on the downstream chain.

This is because any application of Trade Remedies measures could have an adverse effect on the downstream segment, as the inputs of these agents may, in whole or in part, have transfer costs resulting from the imposition of anti-dumping duty or countervailing duty.

In this context, it seeks to analyze the supply and demand conditions of the product, aiming to determine the impacts, costs and the possibility of transmission of these costs to final prices. It is also necessary to analyze reflections in terms of jobs and income in the downstream chain.

Thus, the final evaluation of the expected effects of Trade Remedies measure in the domestic industry and downstream impacts, it is necessary to examine more broadly, the impact on the downstream chain. From the point of view of the impact on the downstream chain, an analysis must include, among others, the following considerations:

a) If the application of Trade Remedies measure led / will lead to increased downstream link costs (varying according to the degree of downstream link of dependence on the distribution of domestic industry) and the resulting increase in their prices, or reduce the production, or reduction options to consumers, or the loss of competitiveness (national and / or international), with the consequent reduction in sales volume, revenues and financial results of the next link. It is known that the effect of Trade Remedies measures depends on the price elasticity of demand as the price elasticity of demand is inelastic, there may be major negative implications for the welfare of consumers.

b) the application of Trade Remedies measure took / take downstream links to hire less labor, reducing the level of employment and productivity.

c) the application of Trade Remedies measure led / will lead to less disposable income, so that the economic market agents may discourage production in other sectors of the economy.

d) the application of Trade Remedies measure has local / regional impacts.

It must be noted, therefore, that in the case of the product under analysis is input, it is important the participation of companies of the links the following downstream in assessing the public interest, that these present detailed data, for example, of their purchase prices, the representativeness of this cost in your product, the selling price of the affected product (accounting data, inclusive). Such data is necessary to the extent that most of the products discussed are not part of the basket of products analyzed by Trade Remedies. SDCOM may lead in loco verification to examine the records and prove the information provided by interested parties.

It is important that they be presented current and future investments in the downstream industry reports in Brazil and the region, both in capacity and in research, development and innovation, including if possible the results achieved.

Annex: Simulation of Impacts

Table 30: Annex - Simulation of impacts

Analyzed criteria	Final evaluation of public interest
IV. Impacts of the trade remedies measure in the dynamics of the national market Annex	
Impact simulation	X

In addition to the exemplary elements presented above, on the impacts of the application or suspension / change of the trade remedies measure, it is possible, if desired, quantitatively estimate the impacts by means of an economic model. Interested parties may submit their respective studies, and the results must be inserted in each of their respective topics and methodology must be described and detailed.

There are several ways to evaluate the impacts in the chain, and the two quantitative methods most used in the literature are (i) cost-benefit analysis and (ii) general and partial equilibrium analysis. It must be noted that, despite its informational importance, economic models are so only decision support tools and their results do not have binding conduct and do not overlap other methodologies for analysis. In this sense, the parties may also present

descriptive or qualitative information as elements for analysis of public interest, such as already mentioned above.

One (i) cost-benefit analysis involves a systematic process to calculate and compare the benefits and costs of applying, suspending or changing a trade remedies measure and must, inter alia, the following considerations:

- (a) the effect of tariffs, depending on demand-price elasticity.
- b) Recovery of domestic industry in terms of sales increase, billing, etc.
- (c) the presence of economies of scale and scope, which can dilute fixed costs.
- d) investments, both in productive and research and development capacity.
- e) The generation of jobs.
- f) The stimulus to production in some sectors.

In turn, one (ii) partial or general equilibrium analysis of the anti-dumping or countervailing measure part of the decision on which method to be used. This choice will always involve a decision: while the general equilibrium model allows you to consider the effects between markets and give more aggregate results, partial equilibrium does not consider markets effects and will give results as disaggregated as if desired.

As an example of partial equilibrium, among other methodologies, SDCOM has carried out, to the present moment, impact simulations on well-being (in the optics of the producer or consumer), based on Partial equilibrium model, whose script will be presented in this consolidated Guidelines of public interest for transparency purposes. Interested parties are not linked to the use of this model, since, once again, despite their informational importance, economic models are so only tools to support the decision and their results have no binding conduct and do not overlap to other methodologies and elements analysis.

This model was elaborated on the basis of the structure of Armington⁴⁶, ein which the products of different origins are treated as imperfect substitutes. It is assumed that the replacement elasticity structure is constant (CES) and that the substitutability between the products is governed by the replacement elasticity (σ), known as Armington's elasticity.

⁴⁶ ARMINGTON, P. S. A theory of demand for products distinguished by place of production. IMF Staff Papers, v. 16, n. 1, p. 159–178, 1969. Available on the website: <<https://EconPapers.repec.org/RePEc:pal:imfstp:v:16:y:1969:i:1:p:159-178>>. Acesso em 31/05/2019.

In addition, the structure of the model follows the work of Francois (2009), with a single difference: the model is elaborated by the optics of a single country, while Francois (2009) considers a global model with N Countries importing and exporting.

The model⁴⁷ is described by the system of equations below, and the table below shows the descriptions of the parameters and variables of each equation.

Equation 6: Total Expenditure

$$E = k_d P^{\eta+1}$$

Equation 7: Compound Product Price Index⁴⁸

$$P = \left[\sum_{i=1}^N \alpha_i^\sigma p_i^{1-\sigma} \right]^{\frac{1}{1-\sigma}}$$

Equation 8: Demand for origin

$$q_i^d = \alpha_i^\sigma \left(\frac{p_i}{P} \right)^{-\sigma} \frac{E}{P}$$

Equation 9: Supply by origin

$$q_i^s = k_i^s \left(\frac{p_i}{1+t_i} \right)^{\varepsilon_i}$$

Equation 10: Equilibrium Condition

$$q_i^s = q_i^d$$

Table 31: Descriptions of the parameters and variables of the model

Parameter/Variable	Description
η	Elasticity-Price of Demand
α_i	Preference parameter
σ	Elasticity of substitution between varieties
ε_i	Elasticity-price of variety supply: i

⁴⁷The model is resolved in the form of exact variation. For example, an equation is rewritten as $\hat{Z} = \hat{X}\hat{Y}$ in which $\hat{Z} = \frac{z'}{z}$ e Z' represents the value of in the new equilibrium.

⁴⁸ O well compound Q, considering a preference structure of type CES, can be calculated as $Q = \frac{E}{P}$.

k_i^s	Shift on variety supply curve: i
k_i^d	Shift in the total expenditure curve: i
p_i	Internal price of variety: i
P	Price index for the analyzed product
E	Total expenditure
q_i^d	Quantity Demanded: i
q_i^s	Quantity offered from variety: i
t_i	Tarifa (added from anti-dumping margin) to variety i

The simulation considers, from the data of the base scenario, which would be the new pricing and quantities values if some tariff or anti-dumping modification is implemented. The modification of a tariff has the effect of changing the relative prices observed by the consumer and, this way, quantities and prices must be altered towards a new equilibrium, which is commonly named of counterfactual scenario. It is therefore possible to calculate which variations arising from the application or modification of anti-dumping measures on imports of specific origins.

In addition, François (2009) also presents formulas that can be used to approach the variation in the surplus of the consumer and the product. Thus, with the calculation of these two variables and with the calculation of tariff revenue variation, it is possible to calculate the welfare variation resulting from a tariff change.

The variation of the consumer surplus (ΔCS) will be calculated as follows ⁴⁹:

Equation 11: Variation of consumer surplus

$$\Delta CS = E_0 (0,5 \times \eta \times \widetilde{P}^2 \times \text{sign}(\widetilde{P}) - \widetilde{P})$$

In which E_0 is the initial value of the expenditure (at internal prices)

On the other hand, the variation in the surplus of the producer I can be calculated as:

Equation 12: Variation of producer surplus

$$\Delta PS_i = (R_i^0 \times \widetilde{p}_i^*) \left(1 + \frac{\varepsilon_i \times \widetilde{p}_i^*}{2} \right)$$

In which R_i^0 is the initial revenue of the producer

⁴⁹ Variables with \sim represent percentage variations of the original variable.

The variation of government tariff revenue is given by:

Equation 13: Variation of Tariff Revenue

$$\Delta TR = \sum_{i=1}^N t'_i \frac{V'_i}{(1 + t'_i)} - \sum_{i=1}^N t_i \frac{V_i}{(1 + t_i)}$$

In which V_i e V'_i the initial and final values of import at internal prices and t_i and t'_i represent the initial and final values of tariffs, added from anti-dumping law when

Finally, the variation of well-being is given by:

Equation 15: Welfare Variation

$$\Delta W = \Delta CS + \Delta PS_{Brasil} + \Delta TR$$

In addition, it is observed sensitivity exercise in order to verify how the results change with changes in elasticities. It must be noted that both for sensitivity analysis and for the application of the proposed model, the knowledge or estimate of replacement elasticities (σ), Price-demand elasticity (η), Price elasticity in Brazil (ϵ_{Brasil}), and elasticity price-supply of other origins ($\epsilon_{\epsilon_{i \neq Brasil}}$).

As a way to illustrate the application of the proposed simulation, based on the model Armington, follows link (<www.mdic.gov.br/images/REPOSITARIO/secex/decom/Interesse_p%C3%BAblico/modelo_armington.zip>) with example to estimate the effect of a tariff contingent (Trq) on imports (USA, 2018).

6 Public interest questionnaire



Ministry of Economy
Special Secretariat for Foreign Trade and International Affairs
Foreign Trade Secretariat

Undersecretariat of Trade Remedies and Public Interest
Public Interest Test questionnaire

General Instructions

This questionnaire aims to gather information necessary for the evaluation of public interest to be carried out by the Undersecretariat of Trade Remedies and Public Interest ("SDCOM").

In accordance with SECEX parts 13/2020, parties are interested parties in the process of Public interest test those that can be affected by the decision to implement trade remedies measures, provided that they have proxy with specific powers and respond to this questionnaire. In addition, they are automatically considered as interested parties in the evaluation of public interest the parties interested in dumping or subsidies, including the petitioners of trade remedies research may submit, from the protocol of their petition in the digital decom (SDD) system, concerning the evaluation of public interest, according to this questionnaire. Thus, the timing shipment of the completed questionnaire and the proxy with specific powers for purposes of this process is mandatory and necessary for the participation of interested parties in the process of public interest.

Interested parties with specific powers are submitted to submit the response to the questionnaire of the public interest, of the same initial period granted for the refund of the importing questionnaires of the original investigation or sunset reviews ongoing. The term for the answer to the questionnaire begins on the first business day following the date of the publication of the News letter SECEX initiation of trade remedies investigation.

Here, it is worth remembering that for preliminary evaluation, evaluation will take into account the following primordial elements: (1) characteristics, productive chain and product market under analysis; (2) international product supply under analysis; and (3) national product supply under analysis. For the final evaluation, in addition to deepening the elements of the preliminary analysis, the following additional criterion will be analyzed: (4) impacts of the trade remedies measure in the dynamics of the national market.

Table 32: Criteria analyzed in the evaluation of public interest (summary)

Analyzed criteria	Preliminary evaluation of	Final evaluation of
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	public interest	public interest
I. Characteristics of the product, the productive chain and the product market under analysis		
I.1 Product characteristics under analysis	X	X
I.2 Productive product chain under analysis	X	X
I.3 Substitutability of the product under analysis	X	X
I.4. Product market concentration under analysis	X	X
II. International product supply under analysis		
II.1 Alternative origins of the product under analysis	X	X
II.2 Tariff and non-tariff barriers to the product under analysis	X	X
III. National Product Supply under Analysis		
III.1 Apparent national consumption of the product under analysis	X	X
III.2 Risk of shortage and disruption of supply in quantitative terms	X	X
III.3 Risk of restrictions on national supply in terms of price, quality and variety	X	X
IV. Impacts of the trade remedies measure in the dynamics of the national market		
IV.1 Impacts in the domestic industry	-	X
IV. 2 impacts in the upstream chain	-	X
IV.3 Impacts in the downstream chain	-	X
Annex		
Impact Simulation	-	X

Another point that deserves attention is that SDCOM will base your preliminary assessment in the information brought to the proceedings by interested parties until the deadline for submitting the questionnaire of public interest, which must be filed in the same period granted to the importer or the national producer for the restoration of its respective questionnaires in the original dumping or subsidy research and sunset reviews.

In this sense, in cases of period sunset review, where the evaluation of public interest is optional, by lawsuit submitted on the basis of a questionnaire of public interest duly completed or ex officio, at the discretion of SDCOM, the evaluation opening will be admitted when the questionnaire of public interest submitted by interested parties do not present, in the narrative of their facts and grounds, indications of public interest and / or minimum elements of intelligibility, and SDCOM may reject the lawsuit without analysis of the merit. The fulfilled questionnaire and the power of attorney must be directly promoted in the electronic information system of the Ministry of Economy - s.e.i./me, observing the following Guidelines lines on confidentiality of information.

All documentation to be presented to SDCOM must always refer to the product under analysis of the investigation and the number of the trade remedies process, as well as the number s.e.i. of the evaluation process of public interest, if already existing.

All fields of the questionnaire must be filled by interested parties, even if it is to contain the information that the requested data is not available. If there is no answer to numeric fields, enter the number zero; If there is no answer to alphanumeric fields, enter the words "none", "not applicable" or "not available" as the case, explaining the reason.

The answers must be clear and accurate. All information presented must be accompanied by proof, justification and sources and methodologies used. Any information considered relevant or relevant to the process, even if they have not been requested, can also be submitted.

SDCOM may lead spot verification to examine the records and prove the information provided by interested parties. Spreadsheets and auxiliary documents used in the elaboration of the answer to the questionnaire must be preserved for the purposes of any verification in loco.

The electronic files must be presented as follows:

a) In the ".doc" or ".docx" format: two files with questionnaire answered, one with the confidential version and another with the public version.

b) In the format ".xls" or ".xlsx": two files with the worksheets used in the answer to the questionnaire, one with the confidential version and another with the public version.

c) In the format ".pdf": two files containing the answered questionnaire and the worksheets used, one with the confidential version and another with the public version.

In the preparation of the data, especially in tables in the ".xls" or ".xlsx" format, the alphabetical fields must be left aligned and the numeric fields on the measure.

Dates must be formatted as the date field, not as an alphabet, in format 12/34/5678, being: positions 1 and 2 equal to (=) day, positions 3 and 4 equal to (=) Month, positions 5 to 8 equal to (=) year.

Data corresponding to monetary values must be filled by separating thousands by point and cents per comma. Example: 2,550.30.

The worksheets must contain the calculation memory and all the formulas used.

Separate processes will be created for the Protocol of the Confidential and Public Versions in S.E.I .. All documents submitted by interested parties must follow the following standards:

- Confidential version must contain the confidential indication on all your pages, centered high and at the foot of each page, in red color. The confidential version of the process s.e.i.me, as well as all documents in it protocol, must have restricted access level, with the legal hypothesis "trade remedies and public interest.

- Public version must contain the public indication on all your pages, centered on top and foot of each page.

Interested parties must indicate, in their manifestations, which information will be considered confidential. Interested parties who present information classified as confidential will simultaneously provide a confidential version and a public version of the corresponding part, containing public summary that allows understanding of the information provided. The impossibility of submitting public summary must be duly justified. Justifications for confidentiality and public summaries will be part of the public version of the process.

The answer to the questionnaire and their confidential information must be filed simultaneously, each referring to their respective process. The dissemination of confidential information by document classification error is the exclusive responsibility of the interested party that submitted it. Documents protocol without the "confidential" indication will be treated as public. Confidential information provided without summary may be disregarded when the process analysis. The public summary concerning numerical information liable to summarize must be submitted in numerical format in the form of numbers-index or another indicator that allows understanding about the nature of information.

I. Measure of trade remedies object of evaluation of public interest

Lawsuit SDD (defesa comercial): [number]
Lawsuit S.E.I. (public interest): [number]
Subject: Evaluation of public interest on the measure (s)s <i>[ntidumping and / or countervailing]</i> applied on imports of [Product under investigation analysis]
Type of measurement: <i>[antidumping and / or countervailing, provisional or final]</i>
Intended modification: <i>[sdefinitive measurement suspension; Modification of definitive measurement; Do not apply temporary measurement]</i>
Measure period: [YEARS]
Tariff classification: [NCM/SH]
Imports current: [%]
Form of measurement, when fit: <i>[by country, companies and by measure in ad valorem]</i>

Countries investigated by Brazil in the evaluation of public interest: [countries]
Other Countries where there are trade remedies measures applied by Brazil: [countries]
Lawsuits: MDIC/SECEX: S.E.I. [number]
Rules:
a) Investigation [<i>Antidumping and / or subsidies</i>]
b) Opinion of SDCOM [Number, date and type of opinion]
Trade remedies measure (s): [name]
Analysis period: [provided over the period of application of the trade remedies measure dividing each period of 12 (twelve months)]
P1 – MONTH of YEAR to MONTH and YEAR
P2 – MONTH of YEAR to MONTH and YEAR
P3 – MONTH of YEAR to MONTH and YEAR
P4 – MONTH of YEAR to MONTH and YEAR
P5 – MONTH of YEAR to MONTH and YEAR
[Indicate as many periods as necessary for inclusion of the first application of the trade remedies measure, when appropriate. Such periods of analysis must be identical to the periods delimited in trade remedies investigations. If there is a need to delimit periods not used in the process of trade remedies, presenting justification for inclusion.]

II. Party interested in the evaluation of public interest

General data on the interested party

Interested party:
Company name:
CNPJ:
Complete address:
Telephone:
E-mail:
Electronic page:
Nature of the interested party: [Company; class entity; YEARther (specify)]
Occupation area: [transformation industry; Trading Company; local distributor / reseller; final costumer; YEARther (specify)].
The person participates in class entity: [Yes or no] and indicate which is and the entity's name, telephone and electronic mail.
Entities (associations): Specify the name and e-mail of associated companies, as well as submit a list of supporters, when appropriate.

General data from the legal representative

Company name:
CNPJ:
Legal representative and focal point:
Name
Function:
Address:

Telephone:
E-mail:
Other legal representatives
Name
Function:
Address:
Telephone:

Interested Party / Legal Representative Term

[it must be completed by the legal representative of the interested party or responsible for the part interested in the information on this questionnaire]

Interested party:
Legal Representative / Responsible for Information:
Cargo / function of the legal representative:
Telephone:
Address:
E-mail:

I certify the veracity of the information contained in this questionnaire and I am aware that this information is subject to on-site verification by SDCOM.

I authorize SDCOM to use the information presented in this questionnaire.

I am aware that the information presented in a confidentiality, since substantiated, will be treated as such and will not be disclosed without express authorization from the part which represents, observed the relevant legal provisions.

III. Public interest Test questionnaire in trade remedies

Table 33: Criteria analyzed in the evaluation of public interest

Analyzed criteria	Preliminary evaluation of public interest	Final evaluation of public interest
I.1 Product characteristics under analysis <i>Exemplary and non-exhaustive list of elements:</i> <ul style="list-style-type: none"> • <i>Definition of the product under analysis in terms of trade remedies</i> <i>Uses / product functionalities under analysis in terms of trade remedies</i>	X	X

<p>I.2 Product Supply chain under analysis <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>As the product under analysis is produced (inputs, productive route, etc.)</i> • <i>As the product under analysis is used in the following links (including, including how many links there are subsequent in terms of "thread")</i> • <i>List of consumers in the following links and associations</i> <p><i>Distinctive commercial practices of supply and distribution contracts, as well as other market functioning information</i></p>	X	X
<p>I.3 Substitutability of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Substitutability by the optics of the supply</i> • <i>Substitutability by demand optics</i> 	X	X
<p>I.4. Product market concentration under analysis</p> <ul style="list-style-type: none"> • Exemplary and non-exhaustive list of elements: • • Calculation of market concentration indexes, in particular HHI, considering national production (in terms of trade remedies), imports and substitutes, if applicable • • Barriers at the entrance (input cost, entries history, etc.) • Concentration Acts (History and Prospective, if applicable) 	X	X
<p> </p>		
<p>II.1 Alternative origins of the product under analysis <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>World production data from product under analysis (market concentration analysis, economic groups, if applicable)</i> • <i>World export data from product under analysis (volume and price)</i> • <i>Trade Balance Data for World Exporters of the Product under Analysis</i> • <i>Brazilian import data from the product under analysis (volume and price), both recorded and non-recorded origins</i> <p><i>Installed capacity (and eventual excess capacity) of the product under analysis or its substitute in alternative origins</i></p>	X	X

<p>II.2 Tariff and non-tariff barriers to the product under analysis</p> <p><i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>II of the product under analysis</i> • <i>Comparison of the II of Brazil with a Global Aviation of II of the WTO countries, with the largest world producers and with the world's largest exporters.</i> • <i>Exceptions to the II of the product under analysis (eg, former tariff, LETEC, LEBIT, etc.)</i> • <i>Tariff preferences</i> • <i>Foreign Trade Instruments (eg Drawback)</i> • <i>Other non-tariff barriers (government and private, such as approval, technical standards, etc.)</i> • <i>Trade remedies measures applied by Brazil to the product under analysis (including temporality analysis, behavior of economic groups, etc.)</i> • <i>Other trade remedies measures applied by Brazil to correlated products and / or the same domestic industry</i> <p><i>Trade remedies Measures applied by the world</i></p>	X	X
<p>III.1 Apparent national consumption of the product under analysis</p> <p><i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Brazilian market data and apparent national consumption</i> • <i>Representativeness of the domestic industry supply (sales, excluding captive consumption) in the Brazilian market</i> <p><i>Representativeness of the supply of imports in the Brazilian market</i></p>	X	X
<p>III.2 Risk of shortage and disruption of supply in quantitative terms</p> <p><i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>National production data in terms of installed (nominal and effective), idle and inventory capacity, in terms of trade remedies compared to the Brazilian market. Include analysis of eventual interruption of national production.</i> • <i>Shreddy risks in terms of market prioritization (foreign market vs domestic market vs Captive consumption vs sales for related)</i> <p><i>Discrimination of customers</i></p>	X	X

<p>III.3 Risk of restrictions on national supply in terms of price, quality and variety <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>indicators of any restrictions on national supply in terms of price</i> <p><i>The evolution of the price of the product under analysis with cost of domestic industry (detachment analysis cost vs product price under analysis)</i></p> <p><i>The evolution of the price of the product under analysis with other prices / indexes (comparison with other market parameters, such as price indexes, other chain links, international prices, etc.)</i></p> <ul style="list-style-type: none"> • <i>indicators of any restrictions on national supply in terms of quality and variety</i> <p><i>The representativeness of returns on domestic industry sales, in terms of trade remedies (%)</i></p> <p><i>Evidence of product technology delays under analysis of domestic industry compared to imported products</i></p> <p><i>Evidence of product quality differences under domestic industry analysis compared to imported products (eg existence of customer productive plant adaptation costs)</i></p> <p><i>Coordinated and unilateral anti-suppliers</i></p>	X	X
<p>IV.1 Impacts in the domestic industry <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Domestic industry investments in productive and research and development / innovation capability</i> • <i>Level of employment / productivity and regional development elements</i> <p><i>Evolution of domestic industry indicators along the measure validity (applicable only to review cases), in terms of trade remedies</i></p>		X
<p>IV.2 Impacts in the upstream chain <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Investments of the amounting link in productive and research and development / innovation capacity</i> • <i>Level of employment / productivity and regional development elements</i> • <i>Degree of dependence on the amounting link in relation to the supply to the domestic industry</i> <p><i>Market conditions in the upstream link which may undermine duplicity the downstream links (eg existence of other amounting trade remedies measures)</i></p>		X

<p>IV.3 Impacts in the downstream chain <i>Exemplary and non-exhaustive list of elements:</i></p> <ul style="list-style-type: none"> • <i>Investments of the downstream link in productive and research and development / innovation capacity</i> • <i>Level of employment / productivity and regional development elements</i> • <i>Degree of downstream link in relation to domestic industry distribution</i> • <i>Representativeness of the cost of the product under analysis in the downstream link</i> • <i>Risks of increased prices, or reduction of production, or the reduction of options to consumers, or loss of competitiveness (national and / or international), with the consequent reduction of sales volume, billing and financial results of Next link.</i> <p><i>Development data-demand price</i></p>		X
Impact simulation		X

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