



**NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 18.5 OF THE AGREEMENT**

BRAZIL

Supplement

The following communication, dated 7 November 2014, is being circulated at the request of the Delegation of Brazil.

**MINISTRY OF DEVELOPMENT, INDUSTRY, AND FOREIGN TRADE
SECRETARIAT OF FOREIGN TRADE**

DIRECTIVE No. 36, DATED SEPTEMBER 18, 2013
(Published in the Government Gazette, September 19, 2013)

THE SECRETARY OF FOREIGN TRADE OF THE MINISTRY OF DEVELOPMENT, INDUSTRY AND FOREIGN TRADE, in the exercise of the duties conferred by Article 15, sub-paragraph VII, of the Annex I to the Decree No. 7096, dated February 4, 2010, and Article 67, paragraph 7, of Decree No. 8058, dated July 26, 2013, resolves as follows:

**CHAPTER I
GENERAL INFORMATION**

Article 1. Price undertaking offers presented by producers or exporters in an anti-dumping investigation shall comply with the provisions set forth in this Directive.

Article 2. Applications which do not comply with the provisions set forth in this Directive shall not be taken into consideration.

Article 3. DECOM may refuse price undertaking offers considered to be ineffective or impracticable, in accordance with Decree No. 8058, dated July 26, 2013.

Article 4. Questions and requests for clarification must be submitted to DECOM at the electronic address of the corresponding investigation.

**CHAPTER II
PRICE UNDERTAKING OFFER**

**Section I
Period of the price undertaking offer**

Article 5. According to Article 67, paragraph 6, of Decree No. 8058, of 2013, producers or exporters may only offer price undertakings during the period comprehended between the data of publication of the affirmative preliminary determination of dumping, injury to the domestic industry, and causal link between the dumped imports and the alleged injury and the end of the period for submitting information.

Article 6. The offer must contain:

- I - information on corporate name, complete address, telephone number and electronic address of the producers or exporters that intend to offer a price undertaking;
- II – name, job position, complete address, telephone number and electronic address of the legal representative at DECOM.
- III – number of the administrative process of the investigation of dumping in the exports of the product subject to the price undertaking and injury due to such practice;
- IV – description of the product subject to the price undertaking;
- V – item(s) of the MERCOSUR Common Nomenclature (MCN) under which the product subject to the price undertaking is classified;
- VI - country of origin of the Brazilian imports of the product subject to the price undertaking;
- VII – CIF export price, or equivalent, offered by the producers or exporters of the product subject to the price undertaking;
- VIII – respective detailed calculations used in the drafting of the offered undertaking;
- IX – elements that prove that the export price offered is sufficient to eliminate the injury caused to the domestic industry by the dumped imports.

Sole Paragraph. The requirements provided for in specific normative act issued by SECEX on legal representation of interested parties in trade remedies processes shall be observed.

Article 7. In case of exports to related parties in Brazil, as provided for in Article 14, paragraph 10, of Decree No. 8058, of 2013, the price undertaking offered by the producer or exporter must contain, in addition to information requested in Article 6:

- I – corporate name of the importer in case such importer is related to the producer or exporter that intend to offer a price undertaking;
- II – price by which the imported product will be sold to the first independent buyer in Brazil already converted to foreign currency;
- III – respective detailed calculations used in the estimative of the respective reselling price aforementioned;

Article 8. Indicate the maximum period for payment of the exports subject to the price undertaking and, in cases where Article 7 is applicable, the maximum period for payment of the sales to the first independent buyer in Brazil.

Section II Price corrections

Article 9. The offer must contain:

- I – the periodicity of corrections of the price undertaking, in order to warrant that the export price continues to eliminate the injury to the domestic industry throughout the duration of the undertaking;
- II – the source that will determine the correction of the price undertaking; and
- III – the mathematical formula of the corrections of the price undertaking, as well as the justifications of such corrections.

Section III Monitoring

Article 10. The offer must inform the periodicity by which the producer or exporter subject to the price undertaking will provide information regarding the fulfillment of the undertaking.

Sole Paragraph. The offer must indicate the period within which the report containing all information to which the caput refers to shall be provided to DECOM, from the last day of the period.

Article 11. The offer shall include express authorization for on-the-spot investigation by DECOM, in the producers or exporters as well as in eventual related parties.

Section IV Violation of the undertaking

Article 12. Producers or exporters and their related parties that offer price undertaking shall commit explicitly to, among others:

- I – not granting discounts, rebates or any other benefit to its clients, directly or indirectly linked to sales of the product subject to the undertaking, that result in a price lower than the price agreed;
- II – not paying commission that results in a price lower than the price agreed;
- III – not presenting deceitful or false descriptions of the quantities, characteristics or quality of any sale of the product subject to the undertaking;
- IV – not providing deceitful or false statements on the tariff classification of the product subject to the undertaking;
- V – not providing deceitful or false declarations of the origin of the product subject to the undertaking or of the identity of the producer or exporter;
- VI – not exporting goods under this undertaking that are not manufactured by the producers listed in sub-paragraphs I of Articles 6 and 7;
- VII – not carrying out settlement of payments related to any operation of export to Brazil through any compensatory arrangement, through direct exchange, or any other form of payment other than cash or equivalent method;
- VIII – not issuing sales or resales invoices whose net prices are not in conformity with the agreed prices;
- IX – not issuing sales or resales invoices to which the financial transaction underlying (for instance, the value effectively received from the purchaser after any adjustment of the credit and debit notes and alike) is not in conformity with the nominal value of the invoice;
- X – not involving themselves in circumvention practices.

DANIEL MARTELETO GODINHO

**MINISTRY OF DEVELOPMENT, INDUSTRY, AND FOREIGN TRADE
SECRETARIAT OF FOREIGN TRADE**

DIRECTIVE No. 42, DATED OCTOBER 17, 2013
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THE SECRETARY OF FOREIGN TRADE OF THE MINISTRY OF DEVELOPMENT, INDUSTRY AND FOREIGN TRADE, in the exercise of the duties conferred by Article 15, sub-paragraph VII, of the Annex I to the Decree No. 7096, dated February 4, 2010, and Article 99 of Decree No. 8058, dated July 26, 2013, resolves as follows:

**CHAPTER I
GENERAL INFORMATION**

Article 1. The applications for anti-circumvention reviews provided for in Article 121 of Decree No. 8058, of 2013, filed as of October 1, 2013, shall be drafted in the form presented in this Directive.

Article 2. The application must contain evidence of the practice of circumvention, as provided for in Article 121, sub-paragraphs I, II and III, of Decree No. 8058, of 2013.

Article 3. Applications which do not comply with the provisions set forth in this Directive shall not be taken into consideration.

Article 4. DECOM may conduct on-the-spot investigations to examine the information provided. Auxiliary documents used during the drafting of the application must be preserved, in case of a possible on-the-spot verification.

Article 5. All information provided shall be accompanied by evidence, reasoning, sources and methodologies.

Article 6. The application must contain:

I - information on corporate name, complete address, telephone number and electronic address of the petitioner(s);

II – name, job position, complete address, telephone number and electronic address of the legal representative at DECOM.

Article 7. Questions and requests for clarification must be submitted to DECOM at decom@mdic.gov.br.

**CHAPTER II
GENERAL INSTRUCTIONS**

**Section I
Period of the anti-circumvention review**

Article 8. Indicate the considered period for the anti-circumvention review, which shall comprehend the closest 12 (twelve) months possible to the date of the lodging of the application.

**Section II
Classification of the circumvention practices**

Article 9. Indicate to which of the following hypothesis, as provided for in Article 121 of Decree No. 8058, of 2013, the practice of circumvention corresponds:

I – import of parts, pieces or components originating or coming from the country subject to the anti-dumping measure destined for the manufacturing, in Brazil, of the product subject to the anti-dumping measure;

II – import of a product from third countries whose manufacture, using parts, pieces or components originating or coming from the country subject to the anti-dumping measure, results in the product subject to the anti-dumping measure; or

III – import of a product originating or coming from the country subject to the anti-dumping measure which includes marginal modifications with respect to the product subject to the anti-dumping measure but that do not alter its final use or purpose.

Article 10. Describe, in details, the alleged circumvention practice.

Article 11. Indicate all countries involved in the circumvention practice and, whenever possible, the companies that produce or export, the importing companies and/or responsible for manufacturing.

Section III Product, part, piece or component subject to circumvention

Article 12. Specify the procedure that originated the imposition or the last extension of the measure in force.

Article 13. Describe, in detail, the product, part, piece or component subject to the review, specifying, as necessary: raw material(s); chemical composition; model; size; capacity; power, manner of presentation, uses and applications, and distributions channels. Provide any other characteristics deemed relevant to identification of the product subject to the review.

Article 14. Indicate the item(s) of the MERCOSUR Common Nomenclature (MCN) under which the product subject to the review is classified.

Sole paragraph. In cases involving parts, pieces and components, inform the respective MCN item(s).

Section IV Circumvention practice

Article 15. In the hypothesis foreseen in Article 9, sub-paragraph I, provide evidence that:

I – the resale, in Brazil, of the product subject to the anti-dumping measure manufactured with parts, pieces or components originating or coming from the country subject to the anti-dumping measure was carried out at values lower than the normal value calculated to the product subject to the anti-dumping measure;

II – parts, pieces or components originating or coming from the country subject to the anti-dumping measure do not present different use of the manufacturing of the product subject to the anti-dumping measure;

III – the beginning or substantial increase in the manufacturing in Brazil occurred after the investigation that resulted in the anti-dumping measure was initiated.

IV – the parts, pieces or components originating or coming from the country subject to the anti-dumping measure account for sixty percent (60%) or more of the total value of the parts, pieces or components of the product manufactured in Brazil;

V – the added value in the manufacturing operations is lower than thirty-five percent (35%) of the manufacturing cost of the product.

Sole Paragraph. For the purpose of sub-paragraph V, the manufacturing cost shall not include:

- a) depreciation costs;
- b) packaging costs; and
- c) costs and expenses not directly related to manufacture of the product.

Article 16. In the hypothesis foreseen in Article 9, sub-paragraph II, provide evidence that:

I – the export of the product to Brazil was made at prices below the normal value determined for the product subject to the anti-dumping measure;

II – the export of the product to Brazil corresponded to a significant proportion of the total sales of the producer or the exporter;

III – the export of the product to Brazil began or substantially increased following initiation of the investigation which gave rise to the anti-dumping measure; and

IV – the parts, pieces or components originating or coming from the country subject to the anti-dumping measure account for sixty percent (60%) or more of the total value of the parts, pieces or components of the product exported to Brazil.

Article 17. In the hypothesis foreseen in Article 9, sub-paragraph III, provide evidence that:

I – the export of the product with marginal modifications to Brazil was made at prices below the normal value determined for the product subject to the anti-dumping measure;

II – the export of the product with marginal modifications to Brazil corresponded to a significant proportion of the total sales of the producer or the exporter; and

III – the export of the product with marginal modifications to Brazil began or substantially increased following initiation of the investigation which gave rise to the application of the anti-dumping measure.

Article 18. In the hypothesis foreseen in Article 9, sub-paragraph III, inform:

I – possible differences between the product subject to the review and the product subject to the anti-dumping measure;

II – marginal modifications introduced in the product subject to the review, in comparison with the product subject to the anti-dumping measure;

III – use and final purpose of the modified product; and

IV – estimative of the additional cost of the marginal modification, in case there is one.

Section V Modifications in the trade flow

Article 19. Inform the evolution of trade flows, indicating modifications occurred following the initiation of the procedure that originated the imposition or the last extension of the measure in force, including the period of the review, as applicable:

I – Brazilian imports of the product subject to the review;

II – Brazilian imports of parts, pieces or components originating or coming from the country subject to the anti-dumping measure;

III – imports, of third countries, of parts, pieces or components originating or coming from the country subject

Article 20. Whenever possible, provide information on the existence of installed capacity and production volume of the product subject to the review incompatible with the volume exported to Brazil.

Section VI Neutralization of the effects of the measures

Article 21. Provide evidence of the neutralization of the remedial effects of the measure in force, including data on volume and average importing price of the product subject to the review, or of the parts, pieces or components of the product subject to the measure in force, given the period of the review.

Section VII Export price

Article 22. In the case of Article 9, sub-paragraph I, inform the name of the Brazilian importers of the parts, pieces or components, as well as the name of the companies responsible for the manufacturing of the parts, pieces or components.

Article 23. In the case of Article 9, sub-paragraph II, inform the name of the Brazilian importers of the product subject to the review, as well as the name of the companies responsible for the manufacturing in the third country.

Article 24. In the case of Article 9, sub-paragraph III, inform the name of the Brazilian importers of the product subject to the review, as well as the name of the companies responsible for the marginal modification.

Article 25. In the case of Article 9, sub-paragraphs I and II, indicate the exporting country (countries) of the product subject to the review.

Article 26. Inform the name and address of the foreign producer or exporter.

CHAPTER III
FINAL PROVISIONS

Article 27. The requirements provided for in specific normative act issued by SECEX on legal representation of interested parties in trade remedies processes shall be observed.

Article 28. This Directive shall enter in force on the date of its publication.

DANIEL MARTELETO GODINHO

**MINISTRY OF DEVELOPMENT, INDUSTRY, AND FOREIGN TRADE
SECRETARIAT OF FOREIGN TRADE**

DIRECTIVE No. 37, DATED SEPTEMBER 18, 2013
(Published in the Government Gazette, September 19, 2013)

THE SECRETARY OF FOREIGN TRADE OF THE MINISTRY OF DEVELOPMENT, INDUSTRY AND FOREIGN TRADE, in the exercise of the duties conferred by Article 15, sub-paragraph VII, of the Annex I to the Decree No. 7096, dated February 4, 2010, resolves as follows:

**CHAPTER I
GENERAL INFORMATION**

Article 1. The applications for assessment of scope provided for in Article 147 of Decree No. 8058, of 2013, filed as of October 1, 2013, shall be drafted in the form presented in this Directive.

Sole Paragraph. Assessments of scope may be initiated by the Department of Trade Remedies (DECOM), based on information provided by the Secretariat of the Federal Revenue of Brazil of the Ministry of Finance.

Article 2. Applications which do not comply with the provisions set forth in this Directive shall not be taken into consideration.

Article 3. DECOM may conduct on-the-spot investigations to examine the information provided.

Article 4. All information submitted shall be accompanied by evidence, reasoning, sources and methodologies.

Article 5. Results and conclusions of the assessments of scope may be used to instruct investigation or reviews conducted by DECOM.

Article 6. Assessments of scope are of interpretative nature and shall not alter the scope of anti-dumping measures in force.

Article 7. Questions and requests for clarification must be submitted to DECOM at decom@mdic.gov.br.

**CHAPTER II
APPLICATION CONTENT**

Article 8. The application for assessment of scope must contain:

I – information on corporate name, complete address, telephone number and electronic address of the petitioner(s);

II – name, job position, complete address, telephone number and electronic address of the legal representative at DECOM;

III – the Resolution of the Council of Ministers of the Chamber of Foreign Trade (CAMEX) that determined the application of the anti-dumping measure to which the application for assessment of scope refers.

IV – description, in details, of the product to be assessed, specifying, as applicable: raw material; chemical composition; physical characteristics, technical standards and specifications, production processes, uses and applications and interchangeability and channels of distribution.

V – any other characteristics considered relevant to the identification of the product to be assessed;

VI – detailed explanation of the reasoning that leads to the understanding that the product is, or is not, subject to the anti-dumping measure in force to which this application refers;

VII – indication of the item(s) of the MERCOSUR Common Nomenclature under which the product to be assessed is commonly classified;

VIII – literature, catalogue, advertising material or other documents with technical information on the product to be assessed, where available;

IX – indication of whether the product to be assessed is subject to technical standards or regulations. In the event that the product to be assessed is subject to technical standards or regulations, indicate the pertinent standards-setting or regulatory agency and submit an exhaustive list of the relevant standards/regulations.

X – the names of the foreign manufacturer and Brazilian importer(s) of the product to be assessed.

Sole Paragraph. In the event other products are described in the same MCN item(s) as the product to be assessed, this should be indicated and elements enabling their identification provided.

Article 9. In the event the product under consideration is not homogenous and/or is classified under more than one tariff line of the MCN, this shall be explained and elements enabling the definition of the product shall be provided.

DANIEL MARTELETO GODINHO
