* **CIRCULAR No. 39, OF SEPTEMBER 12, 2023**

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**OFFICIAL DIARY OF THE UNION**

Published on : 09/14/2023 | Edition: 176 | Section: 1 | Page: 134

**Body: Ministry of Development, Industry, Commerce and Services/ Secretariat of Foreign Trade**

**CIRCULAR No. 39, OF SEPTEMBER 12, 2023**

THE SECRETARY OF FOREIGN TRADE, OF THE MINISTRY OF DEVELOPMENT, INDUSTRY, TRADE AND SERVICES, under the terms of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade - GATT 1994, approved by Legislative Decree No. 30, of December 15, 1994, and promulgated by Decree No. 1,355, of December 30, 1994, in accordance with the provisions of art. 5th of Decree No. 8,058, of July 26, 2013, and in view of what appears in SEI Processes No. 19972.101887/2022-15 (confidential) and 19972.101886/2022-62 (restricted) and Opinion No. 723, of 22 August 2023, prepared by the Department of Commercial Defense - DECOM of this Secretariat, decides:

1. Terminate, without judging the merits, the review of the anti-dumping measure applied to Brazilian imports of coated paper, commonly classified in subitems 4810.22.90 of the Mercosur Common Nomenclature - NCM, originating in Germany, Belgium, Finland and Sweden, initiated through of SECEX Circular nº 11, of April 5, 2023, published in the Official Gazette of the Union of April 6, 2023 and republished on April 10, 2023, under the terms of item I of art. 74 of Decree No. 8,058, of 2013, since the merit analysis was hampered due to the lack of reliability in the data reported by the domestic industry.

Single paragraph. Given the conclusion of the review without judgment on the merits, the validity of the antidumping duties applied to Brazilian imports of coated paper originating in Germany, Belgium, Finland and Sweden ends, in accordance with art. 112, § 2, of Decree No. 8,058, of 2013.

2. Make public the facts that justified the decision, as per the annex to this Circular.

3. This Circular comes into force on the date of its publication in the Official Gazette of the Union.

**TATIANA PRAZERES**

ANNEX I

1. BACKGROUND

1.1. From the original investigation

1. On April 27, 2010, Stora Enso Arapoti Indústria de Papel SA filed with the Ministry of Development, Industry and Foreign Trade (MDIC) a petition to initiate an investigation into dumping in exports of light coated paper, commonly classified under subitem 4810.22. 90 of the Mercosur Common Nomenclature (NCM), originating in Belgium, Canada, the United States of America (USA), Sweden and Switzerland. Due to the relevant volume of imports from Finland and Germany, as well as the existence of signs of dumping, the Department of Commercial Defense (DECOM) deemed it necessary to include them in the analysis.

2. The investigation was initiated through Circular SECEX nº 57, of December 8, 2010, published in the Official Gazette of the Union (DOU) of December 10, 2010.

3. Pursuant to item III of art. 41 of Decree No. 1,602, of August 23, 1995, the dumping investigation into exports from Switzerland to Brazil was closed, once it was found that the volume of imports from this origin was insignificant, as stated in Annex I of CAMEX Resolution No. 86 , of November 9, 2011, published in the DOU of November 10, 2011.

4. Having verified the existence of dumping in exports of light coated paper to Brazil, originating in Germany, Belgium, Canada, the USA, Finland and Sweden, and damage to the domestic industry resulting from such practice, as per the provisions of art. 42 of Decree No. 1,602, of 1995, the investigation was closed, through CAMEX Resolution No. 25, of April 19, 2012, published in the DOU of April 23, 2012, with the application of the definitive anti-dumping right, in the form of specific rate, according to the following table:

|  |  |  |
| --- | --- | --- |
| Definitive anti-dumping duty | | |
| Country | Producer/Exporter | Definitive Antidumping Law  in (US$/t) |
| USA | Evergreen Packaging Inc. | 179.69 |
|  | Too much | 473.76 |
| Finland | UPM-Kymmene Corporation | 133.74 |
|  | Stora Enso Oyj | 133.74 |
|  | Sappi Finland I Oy. | 133.74 |
|  | Too much | 595.29 |
| Germany | Stora Enso Kabel GmbH | 106.77 |
|  | Norske Skog Walsum GmbH | 45.94 |
|  | Too much | 106.77 |
| Belgium | Sappi Lanaken NV | 96.96 |
|  | Too much | 96.96 |
| Sweden | All | 133.74 |
| Canada | All | 153.28 |
| Source: CAMEX Resolution No. 25, 2012  Elaboration: DECOM | | |

1.2. From the first review

5. On October 31, 2016, BO Paper Brasil Indústria de Papéis Ltda. (hereinafter also BO Paper), successor to Stora Enso Arapoti Indústria de Papel SA, filed, through the DECOM Digital System (SDD), a petition to initiate an end-of-period review with the aim of extending the anti-dumping duty applied to Brazilian imports of light coated paper, commonly classified in subitem 4810.22.90 of the NCM, originating in Germany, Belgium, Canada, the USA, Finland and Sweden, in accordance with the provisions of art. 106 of Decree No. 8,058, of July 26, 2013, hereinafter also called Brazilian Regulation.

6. Considering what was stated in DECOM Opinion No. 13, of April 17, 2017, and having verified the existence of sufficient elements that justified the opening, the review was initiated through SECEX Circular No. 19, of April 19, 2017, published in the DOU of April 20, 2017. At the end of the process, it was concluded that the review of the antidumping measure established by CAMEX Resolution No. 25, of April 19, 2012, published in the DOU of April 23, 2012, was concluded. , without extending the aforementioned measure relating to Canada and the United States of America, since there was no proof of the likelihood of resumption of damage to the domestic industry resulting from the likely resumption of dumping in exports from these countries to Brazil of light coated paper. It was also concluded that the extinction of the anti-dumping duty applied to imports of light coated paper from Germany, Belgium, Finland and Sweden would most likely lead to the resumption of dumping and the resumption of damage to the domestic industry resulting from it.

7. Thus, through CAMEX Resolution No. 25, of April 5, 2018, published in the DOU of April 9, 2018, the application of the definitive anti-dumping duty applied to Brazilian imports of light coated paper, when originating in Germany, was extended. , Belgium, Finland and Sweden, in the form of a specific rate, as follows:

|  |  |  |
| --- | --- | --- |
| Definitive anti-dumping duty | | |
| Country | Producer/Exporter | Definitive Antidumping Law  in (US$/t) |
| Finland | UPM-Kymmene Corporation | 133.74 |
|  | Stora Enso Oyj | 133.74 |
|  | Sappi Finland I Oy. | 133.74 |
|  | Too much | 595.29 |
| Germany | Stora Enso Kabel GmbH | 106.77 |
|  | Norske Skog Walsum GmbH | 45.94 |
|  | Too much | 106.77 |
| Belgium | Sappi Lanaken NV | 96.96 |
|  | Too much | 96.96 |
| Sweden | All | 133.74 |
| Source: CAMEX Resolution No. 25, 2018  Elaboration: DECOM | | |

2. REVIEW

2.1. Previous procedures

8. On June 24, 2022, SECEX Circular nº 28, of June 22, 2022, was published in the DOU, which made public that the term of validity of the anti-dumping right applied by CAMEX Resolution nº 25, of 2018, would end on April 9, 2023. Additionally, it was informed that, as provided for in art. 111 of the Brazilian Regulation, parties wishing to initiate an end-of-period review should file a petition at least four months before the end date of the period of validity of the anti-dumping duty.

2.2. From the petition

9. On October 28, 2022, BO Paper Brasil Indústria de Papéis Ltda, the successor company of the petitioner in the original investigation, as described in item 1.1 above, filed in the Electronic Information System of the Ministry of Economy (SEI/ME) a petition for revision of the antidumping duty applied to imports of light coated paper, commonly classified in subitem 4810.22.90 NCM, originating in Germany, Belgium, Finland and Sweden, based on art. 106 of Decree No. 8,058, of 2013. The aforementioned petition received case numbers SEI/ME 19972.101886/2022-62 (Restricted) and 19972.101887/2022-15 (Confidential).

10. On December 30, 2022, through SEI Letter No. 320126/2022/ME, the petitioner was asked to provide additional information to that contained in the petition, based on § 2 of art. 41 of the Brazilian Regulation. The petitioner timely submitted the requested additional information, within the extended period for response.

2.3. From interested parties

11. In accordance with § 2 of art. 45 of Decree No. 8,058, of 2013, the governments of Germany, Belgium, Finland and Sweden, foreign producers/exporters of the investigated origins and Brazilian importers of the product subject to review were identified as interested parties, in addition to the petitioner.

12. In compliance with what is established in art. 43 of Decree No. 8,058, of 2013 , the companies producing/exporting the product subject to anti-dumping law were identified through detailed data on Brazilian imports, provided by the Brazilian Federal Revenue Secretariat (RFB), of the then Ministry of Economy. . Considering that there were no imports in a volume representative of the origins subject to the antidumping duty during the dumping review period (P5), the companies producing/exporting the product subject to the antidumping duty were identified during the investigation period of continuation/resumption of damage (P1 to P4).

13. The Brazilian importers who purchased the aforementioned product during the period of investigation of continuation/resumption of damage (P1 to P4) were also identified using the same procedure.

and Swedish companies for which there is an individualized anti-dumping duty in force and identified in the previous investigation were considered interested parties.

2.4. From the beginning of the review

15. Having presented sufficient evidence indicating that the abolition of the anti-dumping duty applied to the aforementioned imports would most likely lead to the resumption of the practice of dumping and the resulting injury in relation to exports originating in Germany, Belgium, Finland and Sweden, SEI Opinion No. 37/2023/MDIC, dated April 4, 2023, was prepared, proposing the beginning of the review of the anti-dumping law in force.

16. Based on the aforementioned opinion, through Circular SECEX nº 11, of April 5, 2023, published in the DOU of April 6, 2023 , the on-screen review was initiated. In accordance with the provisions of § 2 of art. 112 of Decree No. 8,058, of 2013, while the review continues, the anti-dumping right referred to in CAMEX Resolution No. 25, of April 5, 2018, published in the DOU of April 9, 2018, remains in force.

2.5. Notifications of initiation of review and requests for information from parties

17. In accordance with § 2 of art. 45 of Decree No. 8,058, of 2013, the governments of Germany, Belgium, Finland and Sweden, foreign producers/exporters of the investigated origins and Brazilian importers of the product subject to review were identified as interested parties, in addition to the petitioner.

18. Notifications to governments and producers/exporters and importers were sent on April 10, 2023, through Circular Letters SEI Nos. 80 and 81/2023/MDIC and Letters Nos. 1455, 1457, 1458, 1459 and 1460 /2023/SEI/MDIC, of April 10, 2023. The aforementioned notifications included the electronic address where a copy of SECEX Circular No. 11, of 2023, which initiated the review, could be obtained.

19. The producers/exporters identified by the then Undersecretary of Commercial Defense and Public Interest and the governments of the origins investigated were sent the electronic address where the complete non-confidential text of the petition that gave rise to the review could be obtained, as well as its information complementary, through access using a specific password provided through official correspondence.

20. Based on the analysis of official import data, questionnaires were sent to all producers/exporters of the investigated origins, identified during the dumping review period.

21. It should be noted that the notifications informed that interested parties could present a statement regarding the aforementioned selection, including with the aim of clarifying whether the selected companies would be exporters, trading companies or producers of the product subject to review, within a period of up to ten days , counted from the date of acknowledgment, in accordance with §§ 4 and 5 of art. 28 of Decree No. 8,058, of 2013, and with art. 19 of Law No. 12,995, of June 18, 2014.

22. Furthermore, as provided in art. 50 of Decree No. 8,058, of 2013, the electronic addresses from which the respective questionnaires could be obtained were sent to producers/exporters and importers, in the same notifications, with a refund period of thirty days, counting from the date of acknowledgment , in accordance with footnote 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 contained in the Final Act that incorporated the results of the Uruguay Round of GATT Multilateral Trade Negotiations, promulgated by Decree No. 1,355, of December 30, 1994.

23. Pursuant to § 3 of art. 45 of the Brazilian Regulation, a period of twenty days was granted, counting from the date of publication of the start of the review, for the presentation of requests for authorization from other parties who considered themselves interested. During this period, the Brazilian Association of the Graphic Industry (Abigraf Nacional) filed a request for authorization, which was granted upon regularization by the authority.

2.6. Receiving requested information

2.6.1. From the petitioner

24. BO Paper Brasil Indústria de Papéis Ltda presented its information in the petition initiating this review and when presenting its additional information.

2.6.2. From importers

25. There was no response from importers.

2.6.3. From producers/exporters

26. There was no response from producers/exporters of any of the review origins.

2.7. From on-site verification in the domestic industry

27. As stipulated in art. 175 of Decree No. 8,058, of 2013, DECOM sent Official Letter SEI No. 1613/2023/MDIC, on April 13, 2023, requesting consent for on-site verification, with BO Paper agreeing on April 18, 2023. In On April 27, 2023, SEI Letter No. 2002/2023/MDIC was sent to the company with the on-site verification script, in which it was highlighted that the verification does not occur with the intention of allowing the company to present new data, in accordance with the continue reproduced:

§2 - on-site verification script: "Verification does not occur with the intention of allowing the company to present new data that could substantially alter the numbers contained in the process. New information will only be accepted to make small corrections and as long as it is presented for evaluation by the verification team, prior to the beginning of the analysis of the selected items." (emphasis added)

28. Based on § 3 of art. 52 of Decree No. 8,058, of 2013, the on-site verification was carried out at the BO Paper facilities, in Arapoti - PR, from May 15 to 19, 2023, with the aim of confirming and obtaining greater detail of the information provided by company in the course of the review.

29. The on-site verification report was added to the records of the light coated paper review on June 7, 2023, and the existence of transactions not reported to this Department was highlighted, relating to products under development, as detailed in Section 7 of the on-site verification report and in Section 5 of this Opinion.

3. PRODUCT AND SIMILARITY

3.1. Of the product subject to anti-dumping duty

30. As defined by CAMEX Resolution No. 25, of April 5, 2018, the product subject to review is light weight coated paper (LWC), coated on both sides, with a total weight between 50 and 72 g/ m2, where the weight of the coating does not exceed 15 g/m2 per side, for offset printing, with brightness between 60 and 95%, and the fibrous composition of the support paper must consist of at least 50%, by weight, of wood fibers obtained by mechanical process, hereinafter referred to as light coated paper or simply coated paper, exported by Finland, Sweden, Belgium and Germany to Brazil.

31. Lightweight coated paper is mainly used for printing magazines, catalogs and advertising material, such as inserts, leaflets, tabloids, among others, produced for offset printing, and is commonly classified in subitem 4810.22.90 of the Common Nomenclature of Mercosur (NCM/SH). This same tariff classification, however, also includes rotogravure papers, liner papers and LWC papers weighing more than 72 g/m², all with higher prices and not included in the scope of the anti-dumping measure, implying the existence of volumes, values and average prices, available in official Brazilian statistics, which do not correspond to the product in question. It should be noted that manual debugging was carried out to accurately determine the volumes and values imported exclusively of the light coated paper in question.

32. There is relevant evidence that woodfree paper for self-adhesive labels, made from cellulose and not mechanical pulp, has been mistakenly classified in the NCM mentioned above. It is also suspected that traditional coated paper is being sold using subitem 4810.22.90 of the NCM/SH, despite having its own NCM.

33. In addition to the products previously indicated as not similar, the petitioner stated that the present review also does not include light coated paper in strips or rolls with a width of less than 15 cm, or in sheets, when, on neither side, it exceeds 360 mm and when not folded, as these products are classified in subitem 4810.22.10 of the NCM/SH.

34. The production process uses three main raw materials: pine wood, eucalyptus wood and bleached cellulose. The wood is received at the wood yard, where it undergoes a peeling process and is transformed into chips used using chippers. The chip is used in the thermomechanical pulp production process and in the production of boiler steam (biomass). After passing through the chip washer, they are treated with steam and temperature.

35. In the next stage, refining, the chip is transformed into fibers. After each refining stage, the fibers pass through latency tanks and dewatering presses. The material is separated into waste and accepted in the purifiers and goes to the thickening filter. From then on, the bleaching process begins, with the application of hydrogen peroxide. Next, the fiber goes through a final refining adjustment and is stored to feed the paper machines. This fibrous material is called thermomechanical paste (TMP) and constitutes a differentiating element from light coated paper, as its short fibers allow aggregation, giving greater opacity to the base paper.

36. Parallel to this process, the bleached cellulose, received in bales, is disaggregated, cleaned of impurities and refined, followed by being mixed with the pulp, a process necessary to form the ideal mix for the paper recipe.

37. This last phase is divided into pressing and drying. In the wet part, the dough passes through forming screens and presses between suction rollers through felts. After pressing, the already formed sheet then goes to the dry part, which contains heated drying cylinders. The paper machine produces the base paper that goes to the other production stages, or online coating. Upon leaving the dry part, the paper passes through the machine's calender and winder forming jumbo rolls. Next step, the defects from the previous steps are eliminated in order to apply the paint.

and additive preparation sector has the function of receiving, preparing and storing additives, for use in the paper machine and for preparing the ink, which will later be used to coat the paper. The basic raw materials that make up the paint formulation are fillers, pigments, binders and additives. After applying the ink, the paper goes through a new process to eliminate defects.

39. The jumbo roll, already coated, is then subjected to the calendering process, when it is passed through nips at high pressure and high temperature to obtain shine and smoothness (temperature and pressure act on the kaolin to obtain shine and smoothness). The winder then unwinds the roll for cutting into coils, according to the formats requested by customers. The coils are then packaged, registered, labeled and sent for shipping. There are steps that are not part of the main paper production line, but that provide support so that there is no compromise in any of the manufacturing steps, as is the case with part of the energy consumed in the industrial process, which comes from two boilers , which use biomass as fuel.

3.2. Product manufactured in Brazil

40. The product manufactured in Brazil is lightweight coated paper, with characteristics similar to those described in item 3.1.

41. According to information presented in the petition, light coated paper manufactured in Brazil has the same characteristics and applications and the same technological route as light coated paper imported from origins for which anti-dumping duties apply.

42. Lightweight coated paper (LWC) manufactured in Brazil has high-yield fibers obtained through the Thermo Mechanical Pulp - TMP or thermomechanical pulp process. The base paper is composed of approximately 60% thermomechanical pulp and approximately 30% bleached wood cellulose, in addition to approximately 10% mineral filler. The coating of the similar national product is made up of mineral components and synthetic and natural binders to ensure the fixation of pigments to the base paper, with the coating being composed of approximately 55% kaolin, 35% carbonates and 10% natural and synthetic litigants.

43. The two main characteristics that differentiate types of light coated paper are weight and brightness. Grammage is the mass of paper expressed in grams per square meter - the weight of a 1 m² sheet. Whiteness refers to the white color of the paper perceived by the naked eye by the client/consumer and is measured in degrees, obtained using the ISO or GE method. In addition to these two main characteristics, coated paper has secondary characteristics, which differentiate it from different types of paper, such as whiteness, opacity, roughness/smoothness and gloss . Whiteness is the degree of paper reflection in light and is measured in the laboratory. Opacity is the property of the sheet to not allow light to pass through, or, in other words, it is the paper's ability to retain light rays. Roughness/smoothness refers to the degree of uniformity of the paper surface, while gloss indicates the amount of direct light that the paper reflects in a certain direction, since the higher the gloss, the better the quality of the image reproduced. In summary, the characteristics of whiteness and opacity are directly related to the whiteness of the paper. Thus, the greater the whiteness, the greater the whiteness and the lower the opacity of the paper. The roughness/smoothness characteristic is directly related to the gloss of the paper, as the higher the gloss, the greater the smoothness and the lower the roughness of the paper.

44. The petitioner stated that it should be mentioned that uncoated light coated paper was considered as support paper. This support paper is composed of wood fibers obtained by mechanical or chemical processes, in addition to containing a smaller percentage of other substances. Thus, for a given type of light coated paper to have a fibrous composition consisting of at least 50% by weight of wood fibers obtained by a mechanical process, it is sufficient that this paper contains a quantity by weight of wood fibers obtained mechanically equal to or higher than that of fibers obtained by chemical processes.

45. Just like the product subject to anti-dumping duty, the similar national product is intended for offset printing, which is an indirect printing process, since an intermediate element is used between the form and base, responsible for transferring the graphic elements from the form to the base. The image is transferred using a rubber roller called a blanket.

46. Lightweight coated paper manufactured in Brazil is predominantly used for printing magazines, catalogs and advertising material, such as inserts, leaflets, tabloids, books, among others. The company sells the papers directly to publishers, printers and cosmetics industries, with use in the latter segment being used in advertising campaigns and sales materials.

3.3. Classification and tariff treatment

47. Products subject to antidumping duties are commonly classified under subitem 4810.22.90 of the NCM.

48. The Import Tax rate of 14% of subitem 4810.22.90, in force at the beginning of the investigation period into the probability of continuation/resumption of damage, was established by GECEX Resolution No. 125/2016, of December 15, 2016.

49. Subsequently, GECEX Resolution No. 269/2021, of November 4, 2021, reduced the rate to 12.6%, coming into force on November 12, 2021 and expected to be valid until December 31, 2022.

50. GECEX Resolution No. 272/2021, of November 19, 2021, maintained the previous 10% cut in the rate.

51. GECEX Resolution No. 318/2022, of March 24, 2022, revoked GECEX Resolution No. 269/2021, but the reduction to 12.6% remained in force due to GECEX Resolution No. 272/2021.

52. GECEX Resolution No. 353/2022, of May 23, 2022, amended GECEX Resolution No. 272/2021, further reducing the rate (to 11.2%) and extending the reduction period until December 31, 2023.

53. GECEX Resolution No. 391/2022, of August 23, 2022, incorporated Decision No. 08/22 of the Mercosul Common Market Council, reducing the Common External Tariff applicable to the tariff subitem, definitively, to 12.6% . However, until December 31, 2023, the reduction of GECEX Resolution No. 353/2022 (with II of 11.2%) remains in force.

54. Light coated paper, when intended for printing books, catalogues, newspapers and other periodical publications of general interest, enjoys tax immunity. Likewise, such treatment is given to light coated paper (LWC), when imported by journalistic companies, publishers or importers that act on behalf of third parties and that are direct users, accredited by the competent Brazilian authorities. In these cases, Import Tax is not due.

55. Regarding tariff preferences, check the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| Tariff preferences | | | |
| Country/Block | Legal base | NCMs | Tariff Preference |
| Egypt | Mercosur-Egypt FTA | 4810.22.90 | Ad valorem preference on 09/01/2020: 50%  Ad valorem preference on 09/01/2021: 62.5%  Ad valorem preference on 09/01/2022: 75%  Ad valorem preference on 09/01/2023: 87.5%  Ad valorem preference on 09/01/2024: 100%  Ad valorem preference on 09/01/2025: 100%  Ad valorem preference on 09/01/2026: 100% |
| Israel | Mercosur-Israel FTA | 4810.22.90 | 100% |
| Uruguay | ACE 02 - Uruguay | 4810.22.90 | 100% |
| Argentina - Paraguay - Uruguay | ACE 18 - Mercosur | 4810.22.90 | Ad valorem preference (%): 100 |

3.4. Of similarity

56. Paragraph 1 of art. 9th of Decree No. 8,058, of 2013, establishes a list of objective criteria based on which similarity must be evaluated. § 2 of the same article establishes that such criteria do not constitute an exhaustive list and that none of them, alone or together, will necessarily be able to provide a decisive indication about the similarity between the product subject to the measure and the similar product.

57. As noted not only in the original investigation, but also in the information obtained in the petition, the product subject to the right and the product produced in Brazil have the same physical characteristics, are produced from equivalent raw materials and according to similar production processes . They have the same chemical composition, have the same uses and applications (used for printing magazines, catalogs and advertising material, such as inserts, leaflets, tabloids, among others, through offset printing) and supply the same market, therefore being , considered competitors with each other.

58. Therefore, in view of the above, it was concluded, for the purposes of starting the review, that the product manufactured in Brazil is similar to the product subject to the anti-dumping measure under the terms of art. 9th of Decree No. 8,058, of 2013.

4. DOMESTIC INDUSTRY

59. Art. 34 of Decree No. 8,058, of 2013, defines domestic industry as all producers of similar domestic products. In cases where it is not possible to bring together all of these producers, the term domestic industry will be defined as the set of producers whose joint production constitutes a significant proportion of the total national production of the similar domestic product.

60. Ibá - Brazilian Tree Industry, the association responsible for the institutional representation of the planted tree production chain, indicated that BO Paper would be the only national producer of the similar national product. In this context, BO Paper corresponds to all producers of the similar domestic product, which was defined, in item 3.2 of this Opinion, as light weight coated paper (LWC), coated on both sides, with a total weight of between 50 and 72 g/m2, where the weight of the coating does not exceed 15 g/m2 per side, for offset printing, with brightness between 60 and 95%, and the fibrous composition of the support paper must also be made up of , at least 50%, by weight, of wood fibers obtained by a mechanical process, hereinafter referred to as light coated paper or simply coated paper.

61. For this reason, BO Paper's light coated paper production line was defined as a domestic industry, which represented 100% of the national production of the similar domestic product from July 2017 to June 2022.

5. INCONSISTENCIES FOUND DURING ON-LOC VERIFICATION IN THE DOMESTIC INDUSTRY

5.1. Product under development

62. The on-site verification procedure aims to "examine the original documents that supported the information provided in the response to the questionnaire and in the additional information and accounting records, as well as obtain other clarifications that may contribute to the conclusion of the aforementioned process", as stated in Official Letter SEI No. 1613/2023/MDIC, dated April 13, 2023, sent to BO Paper. Therefore, it is very important that the company provides, during verification, all the information and proof required by DECOM.

63. On April 27, 2023, SEI Letter No. 2002/2023/MDIC was sent, confirming that the on-site verification would be carried out from May 15 to 19, 2023 in Arapoti-PR, as agreed by the petitioner on April 18 2023.

64. The on-site verification was carried out as agreed between the parties and included a team of DECOM analysts who were accompanied by representatives from BO Paper.

65. During the verification, it was noted, in the company's product list, the existence of two product codes that, according to the description, were similar products (that is, they should have been reported to DECOM in the respective appendices). The above codes - hereinafter referred to as "[CONFIDENTIAL] product" - are: [CONFIDENTIAL]

66. The company's accounting system verified the existence of sales invoices issued referring to such products, and such invoices were even issued with CFOP for "establishment production sales".

67. When asked about the fact that this product had not been reported to DECOM in the sales appendix filed in the case file, the company presented initial explanations. It was informed by the company that the product had not been reported due to the fact that it was a "product under development".

68. The DECOM team highlighted the sensitivity of the situation considering that, apparently, according to the characteristics of this product, it should have been reported in the respective appendices. Therefore, it was agreed that BO Paper would collect all the evidence it deemed necessary and present it later, during the verification procedure.

69. Two days later, the company presented a document containing a complete explanation about these sales. He claimed that these were not "normal" transactions, but rather shipments of a product under development, in partnership with [CONFIDENTIAL], and a confidential contract between the companies for such a project was displayed.

70. The project would have started then "[CONFIDENTIAL]". The product produced at BO Paper would differ from the one produced [CONFIDENTIAL] by using TMP, and [CONFIDENTIAL]. It is noted that it was expressly informed by the company that the product resulting from these unreported sales would have the same characteristics as the product investigated (that is, it should be included in the respective appendices, especially in the one for sales to the domestic market).

71. The company displayed several emails with negotiations between BO Paper and [CONFIDENTIAL], with the document "Quality Plan" being relevant, as described by the company:

|  |
| --- |
|  |
| Figure 1 - Excerpt from written explanations provided by the company [CONFIDENTIAL] |

72. According to BO Paper, this document describes the specific characteristics of the product. In fact, the document is extremely detailed, and describes production step by step. There is an excerpt in it that specifies the fibrous composition:

|  |
| --- |
|  |
| Figure 2 - Description of the fibrous composition of the paper [CONFIDENTIAL] |

73. As noted, this document expressly states that [CONFIDENTIAL] % of the fibrous composition of [CONFIDENTIAL] paper is thermomechanical wood fiber. Considering this characteristic, the product is part of the scope of this review.

74. In the explanations given by the company about the peculiarity of the sales operations relating to this product, it was highlighted that [CONFIDENTIAL] was maintained throughout the entire development of the product, to reinforce that it was not a "normal sale", in the understanding from BO Paper. Sales of the product [CONFIDENTIAL] represented around [CONFIDENTIAL]% of sales in each period in which they occurred (P2 and P3).

75. The company also made a point of highlighting that the same product [CONFIDENTIAL] was [CONFIDENTIAL], which is considered another sign that the product was, in fact, similar to the product investigated, and that it should have been reported.

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| Figure 3 - Final section of the quality plan about the product [CONFIDENTIAL] |

76. Finally, the company expressly informed, even during the on-site verification procedure, that the only difference between the product [CONFIDENTIAL] and BO Paper [CONFIDENTIAL] was the ink. It is recorded that all sales of paper [CONFIDENTIAL], made by BO Paper were reported. It is also noteworthy that in the internal price spreadsheet, the price of the paper [CONFIDENTIAL] is the same as the product [CONFIDENTIAL], which reinforces the information that they would have the same composition.

5.2. From the notification sent by DECOM

77. Considering all the evidence collected by the DECOM team and all the information provided by BO Paper during the on-site verification procedure, DECOM understood that sales of the [CONFIDENTIAL] product should have been reported to the Department as it is similar product. Therefore, the company was notified, on June 15, 2023, through Official Letter SEI No. 3140/2023/MDIC, that:

"3. As stated in the Verification Report, the existence of transactions not reported to this Department was verified, relating to a product under development, as detailed in Section 7 of the on-site verification report attached to the files of this investigation (SEI 34723717).

4. Regarding such transactions, I inform you that this DECOM concluded that these transactions were unreported sales of the similar product, taking into account that they used the establishment's production sales CFOP (6101) and that the other characteristics of the operation, such as the accounting record, are similar to the company's other sales.

5. I emphasize that the discovery of unreported sales results in the lack of reliability of the data submitted to the Department. In this sense, given the conclusion of the lack of accuracy and inadequacy of the data contained in the initiation petition, there would not be sufficient reliability to reach a final determination of the resumption of damage to the domestic industry within the scope of the present process, since, according to the provisions in art. 180 of Decree No. 8,058, of 2013, the investigating authority will take into account, when preparing its determination, verifiable information that has been presented in a timely and appropriate manner and, therefore, capable of being used in the investigation. Therefore, the lack of validation of the data reported by the petitioner may lead to the termination of the review without judging the merits and the consequent extinction of the measure currently in force.

6. For all of the above, under the terms of art. 181 of Decree No. 8,058, of 2013, I inform you that, in order to allow the exercise of contradictory and broad defense, explanations regarding the elements indicated in this letter may be presented by the petitioner, until July 3, 2023, in the System This Ministry's Electronic Information System - SEI, whose operation is set out in SECEX Ordinance No. 162, of January 6, 2022."

5.3. The manifestation of the domestic industry regarding Official Letter SEI No. 3140/2023/MDIC

78. On July 11, 2023, BO Paper timely filed its response and stated that "[CONFIDENTIAL ] . ".

79. BO Paper's main argument, in its response to the letter, was that the percentage of TMP in the product sold would have been, in reality, less than 50%, and, therefore, below the percentage required for its characterization as a similar product to the investigated.

80. The company also informed that the TMP percentage would not have been fixed, which would reflect the attempt to adapt the paper manufactured by BO Paper to the standards required by [CONFIDENTIAL].

81. At this point, it is worth repeating that BO Paper stated that it did not report to DECOM the operations of supplying this paper to [CONFIDENTIAL] primarily because it is a product under development, a product under test, which would not fit within the portfolio of papers manufactured and marketed by the company.

82. In addition to this aspect, the company pointed out that the fact that the paper in question, in its opinion, does not even comply with the requirement of having at least 50% paper fibers obtained by a mechanical process would reinforce (and even justify) its non-inclusion as a national similar product.

83. In order to supposedly prove this fact, I brought screenshots of Microsoft Excel produced by the company itself and system screens [CONFIDENTIAL].

84. The standard technical list presented in response to the letter sent would show that the fibrous composition would be divided into [CONFIDENTIAL]% of chemical fibers and mechanical fibers (which are equivalent to [CONFIDENTIAL]% each of the total paper), this being what reconciles with the Quality Plan displayed during verification. It should be noted that, with this composition, it would be a similar product.

85. The company stated that the actual composition of the paper was different from that presented in the document provided during the on-site verification, with the percentage of TMP significantly lower, varying between [CONFIDENTIAL] %, outside the scope:

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| Figure 5 - Composition of the paper, as reported by BO Paper [CONFIDENTIAL] |

86. Considering the documents presented in response to the letter sent on June 15, BO Paper considers that the aforementioned product should not have been reported as it does not present the characteristics of the similar product.

87. It is noted that meetings were held between the company and DECOM in order to present their arguments.

5.4. From DECOM's comments regarding the domestic industry's statement on SEI Letter No. 3140/2023/MDIC

88. Considering what was verified directly at the company's facilities and the fact that the company had ample time, during the on-site verification, to organize its response regarding the product [CONFIDENTIAL], DECOM was surprised to find that the written response from company in the face of Official Letter No. 3140/2023 was significantly different from that reported, by itself, during the verification, as consolidated in the table below:

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| Reported/Collected during on-site verification | Company response dated July 11, 2023 |
| The only reason for not reporting sales of [CONFIDENTIAL] paper would be because these sales did not occur under normal conditions, as they were test sales as part of the development of a new product. | The two reasons for not reporting sales would be: i) in addition to not being "normal" sales (development); ii) the fact that it was not even the product being investigated: "it is worth repeating that BO Paper did not inform the supply of this paper [CONFIDENTIAL], primarily because it was a product under development, a product being tested, which did not fit within the paper portfolio manufactured and sold by the company. In addition to this aspect, the fact that the paper in question does not even meet the requirement of having at least 50% paper fibers obtained by a mechanical process reinforces (and would even justify) its non-inclusion as a similar product national." |
| The product [CONFIDENTIAL] would be LWC, included in the investigation. It is reiterated that it was not reported just because it is under development: "the BO Paper product is an LWC product, with NCM (Mercosur Common Nomenclature) classification in this category". | The product under development [CONFIDENTIAL] is not an LWC included in the investigation. |
| New product development project: "[CONFIDENTIAL]". | Improvement/Adjustment Project for existing paper [CONFIDENTIAL], product duly reported. |
| Product [CONFIDENTIAL] came from this project [CONFIDENTIAL]: "[CONFIDENTIAL]." | [CONFIDENTIAL] already existed and they are totally different products.  DECOM comment: Even though, in fact, before the development of the [CONFIDENTIAL] product there were already sales of [CONFIDENTIAL], as can be seen from the company's express text during the verification (transcribed in the column on the side), the information passed during the procedure was that the role [CONFIDENTIAL] was entirely the result of the partnership (new composition/same name). |
| The only difference between the unreported [CONFIDENTIAL] paper and the reported [CONFIDENTIAL] paper was the ink.  All emails presented about product changes were about ink improvements. | Changes beyond the paint. Sensitive differences in the composition between the two papers, especially in the percentage of TMP.  DECOM comment: no email or internal document regarding such change in composition was presented, neither during the on-site verification, nor in the response to Official Letter No. 3140/2023. |
| The quality plan contains the step-by-step instructions required for manufacturing ("cake recipe"), and therefore would express the final composition of the product (including fibrous composition, which would include it in the similar product). | According to the company, in the real product the percentage of TMP would reach a maximum of [CONFIDENTIAL]% of the fibrous composition, less than 50% and outside the similar product, with a significant difference in terms of quality.  DECOM comment: the document brought in the demonstration, which would apparently prove what the company claimed, is a non-verifiable table made in Excel®, prepared manually by the company. |
| The quality plan presented would be the final document produced before the test batches. | The product was developed after this document, with a consequent reduction in the TMP percentage, not reflected in the text.  DECOM comment: No documentation of such changes was presented. |
| Product information [CONFIDENTIAL]. | [CONFIDENTIAL].  DECOM comment: the documents collected during the on-site verification do not match this company's claim. |

89. It appears, therefore, that the company presented, in response to the Department's letter that notified it about the non-validation of the data, information that contradicts that presented during the on-site verification procedure.

90. Furthermore, the allegations presented in response to Official Letter No. 3140/2023, as they differ and contradict those presented during the verification, lack the means to allow the Department to attest to their veracity.

91. The company intends to disqualify the information that was presented by itself, at an opportune moment (on-site verification), and there is no way for the Department to certify the veracity of the allegations brought after the verification and disqualify the data and information measurement procedure carried out by the servers and recorded in the case records.

92. In relation to the arguments raised, that it was a product under development, this circumstance does not prevent, per se, its sale on a commercial basis, which remains largely characterized by proof of financial consideration on the part of the customer, in addition to the use of tax codes relating to sales. The concept of "normal commercial operation" is relevant, within the scope of commercial defense procedures, especially with regard to the determination of normal value, not exempting its finding (if ID so understands) from due reporting to the investigating authority, under penalty of subsumption of the hypothesis provided for in art. 50, § 3, of Decree No. 8,058, of 2013, and the incidence of consecrations established in Chapter XIV of the same diploma.

93. Regarding the allegation that it was not a similar product, this allegation is based on evidence presented out of time and, therefore, unverifiable. The elements brought in the manifestation are not sufficient to mischaracterize the similarity, considering what was collected during the verification procedure.

5.5. DECOM's conclusion regarding on-site verification

94. Decree No. 8,058, of 2013, in its art. 52, states that DECOM will seek, during the course of the investigations, to verify the correctness of the information provided by interested parties, and on-site verification may be carried out, which was done in the above case.

95. It should be noted that the on-site verification procedure is an opportunity for the verified company to have ample opportunity to present all the elements it deems necessary. This opportunity was granted to BO Paper, which presented, through its representatives, all the elements it deemed relevant at the time of the verification, as detailed in the on-site verification report, attached to the review records on screen.

96. Furthermore, the information filed by BO Paper after the on-site verification does not have the necessary probative force to indicate that the [CONFIDENTIAL] product would effectively not have the characteristics of the similar product, as it is not verifiable and is not accompanied by evidence robust devices that can counter the information and documents collected during the on-site verification. Remember that art. 180. Decree No. 8,058 of 2013 establishes: "DECOM will take into account, when preparing its determinations, verifiable information that has been presented in a timely and appropriate manner, and, therefore, capable of being used in the investigation." .

97. Thus, DECOM concluded that, during the on-site verification, a sale was found that was not reported in the petition or in the additional information, as the product [CONFIDENTIAL], as reported during the verification, qualifies as a similar product that should have had their sales previously reported to the Department.

98. The existence of unreported sales raises doubts regarding the reliability of the company's database, causing uncertainty that all the data has actually been reported and that, therefore, the scenario explained is in fact reflected in the data presented in the petition or in the additional information.

6. RECOMMENDATION

99. For all of the above, it is recommended that the review of the anti-dumping measure applied to Brazilian imports of light coated paper, commonly classified in subitem 4810.22.90 of the NCM, originate in Germany, Belgium, Finland and Sweden be terminated immediately. , subject of SEI/ME Processes 19972.101886/2022-62 (restricted) and 19972.101887/2022-15 (confidential), initiated through Circular SECEX nº 11, of April 5, 2023, published in the Official Gazette of the Union of 10 April 2023, without analysis of merit, under the terms of Art. 74, I, with the caput of art. 94 of Decree No. 8,058, of 2013, since it was concluded that the data contained in the initiation petition and in the complementary information were lacking in accuracy and inadequacy, with there not being sufficient reliability in the data to allow analyzes to be carried out with the aim of reach a final determination of the likelihood of continuation or resumption of damage to the domestic industry within the scope of this process.

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