

DOF: 11/06/2020

**RESOLUTION Final anti-dumping investigation on imports of aluminum discs originating in the People's Republic of China, regardless of the country of origin .**

**In the margin a stamp with the National Shield, which reads: United Mexican States.- Ministry of Economy.**

FINAL RESOLUTION OF DUMPING INVESTIGATION ON IMPORTS OF DISCS OF ALUMINUM ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA, REGARDLESS OF THE COUNTRY OF ORIGIN

Seen to resolve in the final stage the administrative file 08/19 filed in the International Commercial Practices Unit of the Ministry of Economy (the " Secretariat " ), this Resolution is issued in accordance with the following

**RESULTS**

**A. Application**

1. On April 30, 2019, Almexa Aluminio, SA de CV ( " Almexa " or the " Applicant " ), requested the initiation of the administrative investigation procedure in the matter of unfair international trade practices, in its modality of price discrimination, on imports of aluminum discs, including the definitive and temporary ones, as well as those that come under the protection of the Eighth Rule of the complementary ones ( " Eighth Rule " ) for the application of the Tariff of the Law of the General Import Taxes and of Exportation (TIGIE), originating in the People's Republic of China ( " China " ), regardless of the country of origin.

**B. Initiation of the investigation**

2. On August 9, 2019, the Resolution to initiate the antidumping investigation (the " Initiation Resolution " ) was published in the Official Gazette of the Federation (DOF ). The investigation period was set from January 1 to December 31, 2018, and the damage analysis period from January 1 , 2016 to December 31, 2018.

**C. Product under investigation**

**1. General description**

3. The product under investigation are discs with an aluminum content equal to or greater than 97%, diameter equal to or greater than 100 millimeters (mm) and up to 1,100 mm, manufactured with aluminum alloys corresponding to the 1000 and 3000 series ( "aluminum discs" or "product under investigation"). The product under investigation does not include anodized aluminum discs or those manufactured to 5000 and 8000 series specifications.

4. The trade name by which the product under investigation is known is aluminum discs or discs.

**2. Features**

5. The essential characteristics that allow to identify the product under investigation are the material (aluminum), in particular, the series of the alloy and the diameter. The product under investigation is commonly manufactured under the specifications corresponding to the 1000 and 3000 series alloys , which are alloys with an aluminum content equal to or greater than 97%. The 1000 series alloys contain 99% or more aluminum by weight, while in the 3000 series alloys, in addition to aluminum, another important element is manganese.

6. Aluminum discs are manufactured in a variety of sizes at the customer's request (commonly with diameters between 100 and 1,100 mm, as well as thicknesses between 0.7 and 4.0 mm) and can be natural, painted and / or with some non-stick, for example , Teflon.

7. The information on various Internet pages of companies producing aluminum discs in China indicates that they manufacture aluminum discs with a diameter between 100 and 1,100 mm, thickness between 0.7 and 4.0 mm, as well as alloys of the 1000 and 3000 series. (for example; 1050, 1060, 1070, 1100, 1200, 3003, 3004, 3005 and 3105, among others).

**3. Tariff treatment**

8. The product under investigation enters the national market through the tariff section

7616.99.10 of the TIGIE, whose description is the following:

Tariff coding	Description
Chapter 76	Aluminum and its articles
Item 7616	The other articles of aluminum.
	- The others:

Subheading 7616.99	-- The others.
Fraction 7616.99.10	Discs with an aluminum content equal to or greater than 97%; Except what is included in section 7616.99.14.

Source: Tariff Information System Via Internet (SIAVI).

9. The unit of measurement used by the TIGIE is the kilogram, for commercial operations metric tons and pieces are used.

10. According to SIAVI, imports of aluminum discs that enter through tariff section 7616.99.10 of the TIGIE have a 3% tariff, except for those from countries with which Mexico has entered into trade agreements. except in the case of Panama, whose imports have a tariff of 1.2%.

#### 4. Production process

11. The main inputs to manufacture the product under investigation are aluminum, internal aluminum scrap , electricity and gas. The production process basically consists of five stages: i) casting; ii) lamination; iii) cut; iv) heat treatment, and v) packaging:

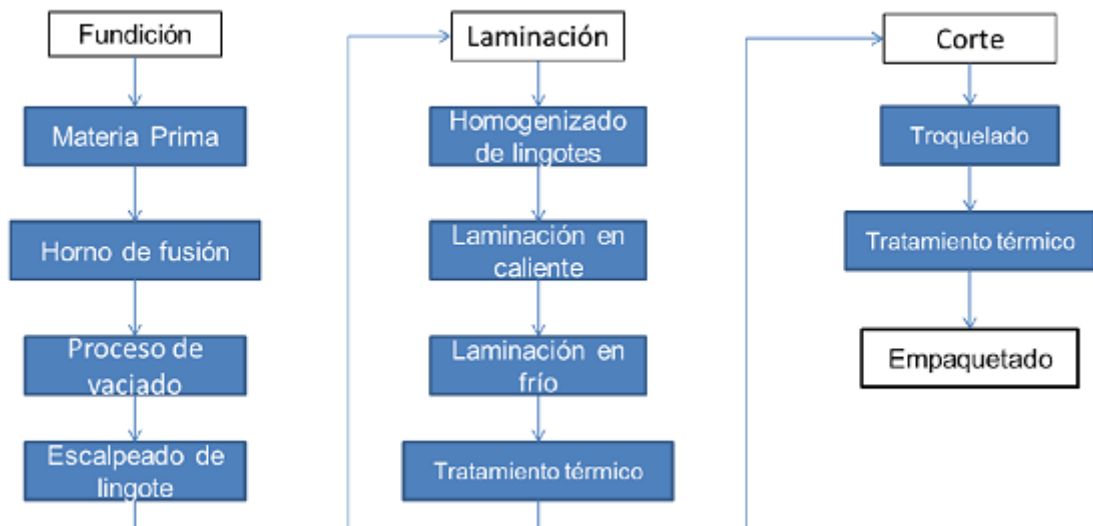
a. foundry: the raw material (aluminum) is melted and alloys are added to achieve the desired chemical composition of the product. The chemical composition is verified with a spectrometer, subsequently, the liquid aluminum is poured into molds to obtain ingots and then the ingot is scalped to eliminate the cortical layer;

b. lamination: the thickness of the ingot is reduced by rollers. First, the structure of the ingot is homogenized in a furnace, then hot rolled and later cold rolled to obtain the required thickness;

c. cutting: the aluminum sheet goes to a die-cutting machine that cuts circles in different diameters depending on the client's requirements; this cut can also be manual using a circulating machine (with circular blades), and

d. heat treatment and packaging: the aluminum discs go through a heat treatment process to obtain the required hardness (temper), depending on the customer's specifications. Finally, the packaging of the product is carried out.

#### Proceso productivo de discos de aluminio en China



Source: Almexa with information from the Internet pages [www.aluminium-circles.com](http://www.aluminium-circles.com) and [www.chalcoaluminum.com](http://www.chalcoaluminum.com), of the aluminum disc companies in China, Signi Aluminum and Henan Chalco Aluminum, respectively.

#### 5. Standards

12. There is no specific international standard that defines the standards with which aluminum discs are manufactured , however, the international standards regarding aluminum sheets apply to these . Including the standard of American Society for Testing and Materials (ASTM stands for English " American Society for Testing and Materials " ) ASTM International Standard B209M "specification standard for sheet and plate aluminum and aluminum alloy" , the European standards of the German Standards Institute (DIN, for the German acronym of " Deutsches Institut für Normung " ) and the European Committee Standardization and other European standardization organizations (EN, by the French acronym of " Norme Européenne " ) DIN EN

485-2 "Aluminum and aluminum alloys. Sheets, strips and sheets", as well as British standards (BS, for stands for " British Standard ") BS EN 573-3 "Aluminum and aluminum alloys . Chemical composition and shape of forged products, aluminum standards and 2013 data" and BS EN 485-3: 2003 "Aluminum and aluminum alloys. aluminum. Sheets, strips and sheets " .

13. ASTM B209M-14 "Standard Specification for Aluminum and Aluminum Alloy Sheets and Plates ", as well as the information contained in the Internet pages of various companies producing aluminum discs in China indicate that aluminum discs Under investigation, they are manufactured mainly under the specifications of the standards mentioned in the previous point.

#### **6. Uses and functions**

14. The product under investigation is typically used to make pots, pans and other cooking items , as well as lamps and luminaires. The information contained in the administrative file, obtained from the Internet pages of various Chinese companies producing aluminum discs, confirms these uses.

#### **D. Call and notifications**

15. Through the publication of the Initiation Resolution, the Secretariat summoned the national producers, importers, exporters and any person who considered to have a legal interest in the result of the investigation, to appear to present the arguments and evidence they deem pertinent .

16. The Secretariat notified the initiation of the anti-dumping investigation to the known parties and to the Government of China. With the notification, they were sent the public version of the request for initiation, the response to prevention and their respective annexes, as well as the official investigation forms, in order to formulate their defense.

#### **E. Interested parties appearing**

17. The accredited interested parties, who appeared in due time and form in this proceeding, are the following:

##### **1. Applicant**

Almexa Aluminio, SA de CV  
Av. Revolución 1267, Floor 19, Office A  
Torre IZA BC Portal San Ángel  
Col. Alpes  
CP 01010, Mexico City

##### **2. Importers**

Artesanías Baja, S. de RL de CV  
Pedregal No. 24, 14th Floor, Virreyes Building  
Col. Molino del Rey  
CP 11040, Mexico City

Articles for the Home and Industria Restaurantera, SA de CV  
Komale Corporation, SA de CV  
Eugenia No. 1164, Apartment 203  
Col. Narvarte Poniente  
CP 03100, Mexico City

Cinsa, SA de CV  
Duero River No. 31

Col. Cuauhtémoc  
CP 06500, Mexico City

JRA Importaciones, SA de CV  
Fray Servando Teresa de Mier No. 1033, Int. 8  
Col. Jardín Balbuena  
CP 15900, Mexico City

Prize Mexico, SA . **CV**  
Marseille No. 570, Office 204  
Modern Col.  
CP 44190, Guadalajara, Jalisco

#### **F. Preliminary Resolution**

18. On March 27, 2020, the Secretariat published in the DOF the Preliminary Resolution, by which it was determined to continue with the investigation procedure and impose a provisional countervailing duty of 37.88% on imports of aluminum discs, including the final and temporary, originating in China.

19. By means of the publication referred to in the previous point, the Secretariat summoned the accredited interested parties to present the arguments and complementary evidence they deem pertinent. The Secretariat notified the Preliminary Resolution to the accredited interested parties.

#### **G. Technical information meetings**

20. The importers Articles for the Home and Industria Restaurantera, SA de CV ( " Articles for the Home " ) and Komale Corporation, SA de CV ( " Komale " ), requested technical information meetings in order to know the methodology that the Secretariat used to arrive at the determination of the Preliminary Resolution . The meetings were held on April 15, 2020. The Secretariat raised the reports of each meeting, which are in the administrative file, in accordance with Article 85 of the Regulations of the Foreign Trade Law (RLCE).

#### **H. Arguments and additional evidence**

21. At the request of Prisem México, SA de CV ( " Prize " ), the Secretariat granted it an extension of ten business days to present its arguments and additional evidence. The deadline expired on May 14, 2020.

22. On April 24 and 28, and May 14, 2020 Artesanías Baja, S. de RL de CV ( " Artesanías Baja " ), Almexa, Articles for the Home, Komale and Prisem, respectively, presented arguments and complementary evidence , which appear in the administrative file of the case, which were considered for the issuance of this Resolution. The importers Cinsa, SA de CV ( " Cinsa " ) and JRA Importaciones, SA de CV ( " JRA Importaciones " ), did not present arguments and complementary evidence .

#### **I. Information requirements**

##### **1. Extension**

23. At the request of Almexa, the Secretariat granted an extension of ten business days to present its response to the request for information made on May 29, 2020. On June 26, 2020, Almexa presented its response.

##### **2. Parties**

##### **to. National producer**

24. On May 29, 2020, the Secretariat requested Almexa to, among other things, prove the source of the data it presented on prices and sales volumes in the United States, which correspond to aluminum discs destined for the market. internal to that country, and that correspond to the investigated period; explain why the difference observed between the average prices presented; clarify the sales volume reported for the alloy 3003 product in the month of December 2018; It will explain in detail the technical characteristics of the quality " DC " and " CC " of the aluminum discs; define the characteristics: " prominent pore " , " parabola " and " orange peel " in aluminum discs, as well as whether these characteristics are present in aluminum discs, or are observed in the manufacture of cooking items aluminum, and explain whether aluminum discs have porous surfaces, irregular curvatures and walls with changing density, as in aluminum cookware. He submitted his response on June 26, 2020.

##### **b. Importers**

25. On May 29, 2020, the Secretariat requested Household Items and Komale to provide, among other things, a methodology that would allow calculating the adjustment for internal freight, considering the transportation of the merchandise in 20-foot containers; specify whether the discs they acquired from national distributors are indeed products manufactured by the national industry; fully explain whether the aluminum discs have porous surfaces, irregular curvatures and walls with changing density, as in aluminum cooking items, as well as to prove that the aluminum discs of national manufacture do not have tempering and thickness treatment uniform, compared to the discs of Chinese origin, and that its customers reject the product of national manufacture, due to its characteristics of tempering, homogeneity in thickness and porosity. Articles for the Home and Komale did not present a response to the request for information.

26. On May 29, 2020, the Secretariat requested Prisem to, among other things, explain in detail the technical characteristics of the " DC " and " CC " quality of aluminum discs, as well as the impact of each one in its production process and in reducing waste; define the characteristics: " prominent pore " , " parabola " and " orange peel " in aluminum discs, as well as whether these characteristics are present in aluminum discs, or It is observed in the manufacture of aluminum cooking articles and it will prove that the aluminum discs originating in China do not present prominent pore, parabola and orange peel. Prisem did not present a response to the request for information.

#### **J. Other appearances**

27. On July 16, 2020, Articles for the Home and Komale appeared, to request this Secretariat not take into account the information presented by Almexa on December 20, 2019 and June 26, 2020, as well as to leave without effects of the information request formulated by the Secretariat on May 29, 2020.

#### **K. Essential facts**

28. On July 22, 2020, the Secretariat notified the accredited interested parties of the essential facts of this investigation, which served as the basis for issuing this Resolution, in accordance with Article 6.9 of the Agreement on the Application of Article VI of the General Agreement on Tariffs and Trade 1994 (the "Anti-Dumping Agreement"). On August 5, 2020, the importing Articles for the Home and Komale, presented statements on the essential facts, which were considered to issue this Resolution.

#### **L. Public hearing**

29. On July 29, 2020, the public hearing of this procedure was held. The Applicant, and the importers Artesanías Baja, Articles for the Home, Komale and Prisem participated, who had the opportunity to present their arguments and reply those of their counterparts, as recorded in the minutes that were drawn up for that reason, which constitutes a document public of full evidentiary effectiveness, in accordance with article 46 section I of the Federal Law of Administrative Litigation Procedure (LFPCA).

30. On August 3, 2020, the Applicant submitted its response to the questions that remained pending at the public hearing.

#### **M. Arguments**

31. On August 5, 2020, only the Applicant and the importers Artesanías Baja, Articles for the Home, and Komale, presented arguments, which were considered to issue this Resolution.

#### **N. Extension of the validity of the provisional countervailing duty**

32. In accordance with Article 7.4 of the Anti-Dumping Agreement and since the Secretariat determined to evaluate the feasibility of establishing a countervailing duty lower than the margin of price discrimination, in an amount sufficient to eliminate the injury to the domestic production, two months, the term of validity of the provisional compensatory quota, which expired on September 28, 2020.

#### **O. Opinion of the Foreign Trade Commission**

33. Based on articles 58 of the Foreign Trade Law (LCE) and 19 fraction XI of the Internal Regulations of the Ministry of Economy (RISE), the draft of this Resolution was submitted to the opinion of the Foreign Trade Commission, which considered it in its session on September 28, 2020. The project received a favorable opinion by the majority.

### **CONSIDERING**

#### **A. Competition**

34. The Secretariat is competent to issue this Resolution in accordance with articles 16 and 34 sections V and XXXIII of the Organic Law of the Federal Public Administration; 1, 2 section A, section II number 7, and 19 sections I and IV of the RISE; 9.1 and 12.2 of the Anti-Dumping Agreement; 5 fraction VII and 59 fraction I of the LCE, and 80 and 83 fraction I of the RLCE.

#### **B. Applicable law**

35. For the purposes of this procedure, the Antidumping Agreement, the LCE, the RLCE, the Fiscal Code of the Federation, the LFPCA supplementally applied, in accordance with the Second Transitory Article of the Decree issuing the LFPCA, and the Federal Code of Civil Procedures, these last three of supplementary application.

#### **C. Protection of confidential information**

36. The Secretariat may not publicly reveal the confidential information that the interested parties presented, nor the confidential information that it disclosed, in accordance with Articles 6.5 of the Anti-Dumping Agreement, 80 of the LCE and 152 and 158 of the RLCE.

#### **D. Right of defense and due process**

37. The interested parties had ample opportunity to present all kinds of arguments, exceptions and defenses, as well as the evidence to support them, in accordance with the Anti-Dumping Agreement, the LCE and the RLCE. The Secretariat assessed them subject to the essential formalities of the administrative procedure.

#### **E. Extension of the term to issue the final Resolution**

38. In accordance with Article 5.10 of the Anti-Dumping Agreement, the Secretariat issues this Resolution within a period of 18 months from the beginning of this investigation, by virtue of the following considerations: i) there were events beyond the control of the Secretariat, as a consequence of an affection in their computer systems, which forced that, in a preventive manner, the isolation of the networks and servers of the same be

carried out, which made it necessary to temporarily suspend the terms of the procedures before this Secretariat; ii) the difficulties derived from the emergency caused by the disease epidemic generated by the SARS-CoV2 virus (COVID-19) in Mexico; iii) the complexity of analyzing the information presented by the parties, and iv) the granting of various extensions during the procedure.

## **F. Responses to certain arguments of the parties**

### **1. General aspects of the procedure**

**39.** Articles for the Home and Komale stated that Almexa presented information corresponding to the prices of aluminum discs in the United States after the deadline granted by the Secretariat for that purpose, therefore, such information should be rejected, as well as the selection of the United States as a substitute country for China for the calculation of normal value, which implies that the present investigation lacks normal value, dumping margin and evidence to continue the investigation. Specifically, they stated the following:

**a.** Almexa did not respond in time to the request for information made by the Secretariat through official letter UPCI.416.19.2917 of November 13, 2019. It also stated that " it was not possible to obtain the information within the time allotted for it " ;

**b.** On December 20, 2019, Almexa presented information regarding the prices of aluminum discs in the domestic market of the United States, however, the Secretariat must discard such information as it was presented 6 business days after the established expiration period ;

**c.** When deriving from the information that must be discarded by the Secretariat, the request for information formulated through the letter UPCI.416.20.1727 of May 29, 2020 and the response to it, presented by Almexa on June 26, 2020, must not be considered in the present investigation;

**d.** When discarding the information presented by Almexa (as indicated in the previous paragraph), the Secretariat must dismiss the United States as a substitute country, since the Applicant did not present or accredit in time and form the prices of the aluminum discs in said country, and

**e.** the determination of the Secretariat, to accept the information presented by Almexa on

December 2019 is unjustified and unfounded, since it cannot be accepted as complementary evidence or in terms of article 164 of the RLCE. Likewise, the justification of the Secretariat's actions in article 82, second paragraph of the LCE , is not applicable , as it exercised its investigative powers with the formulation of a request for information.

**40.** In this regard, the Secretariat considers the arguments of Articles for the Home and Komale inadmissible, for the following:

**a.** In accordance with the provisions of Article 6 of the Anti-Dumping Agreement, the Secretariat granted all interested parties in the investigation the opportunity to present the information and evidence they considered pertinent. Likewise, in compliance with Article 6.13 of the Anti-Dumping Agreement, it took into account the difficulties that the parties may have encountered in facilitating it. In this sense, the Secretariat considered that Almexa had setbacks in obtaining it, as the same company indicated in its letter of December 12, 2019 when stating that " the information requested is not specific to Almexa and is prevented from compelling third parties provide you with information within certain terms although it has not refused to provide it (the producer in the United States). However , Almexa reiterates its desire to cooperate with the authority and will, in due course, request authorization for the presentation of the information in the requested terms " , and that it is about prices in the United States market, which is not information own of Almexa;

**b.** The determination of this Secretariat is appropriate to accept the information presented by Almexa on December 20, 2019, and consider it in the final stage of the investigation as supplementary evidence, based on the following:

**i.** what is presented by Almexa constitutes complementary information to that presented with its application for initiation, response to the official form and response to prevention. That is, it is information related to domestic prices in the substitute country that Almexa supplemented and perfected in the course of the investigation, as observed in points 69 to 74 of the Initiation Resolution and 106 to 115 of the Resolution Preliminary;

**ii.** The information provided by Almexa was presented within the probationary period, that is, before the conclusion of the public hearing. Likewise, the Secretariat considers that since it was presented on December 20, 2019, and transmitted to interested parties on the same day (in terms of article 140 of the RLCE), their counterparts had the opportunity to comment on it in the second period of offering of evidence, which expired on May 14 , 2020 and at the public hearing on July 29, 2020, therefore, consider it for the purposes of the non-violent investigation the principles of hearing, legality and due process, of the parties interested.

**c.** Finally, in accordance with the provisions of article 82 of the LCE, the Secretariat has the power to agree at all times to carry out or extend any evidentiary diligence, therefore , in use of said power, it accepted the information provided by Almexa, in response to a request for information formulated by this authority, in order

to obtain the best information and have greater means of conviction to know the truth about the controversial facts.

41. Based on the foregoing, the Secretariat confirms that the analysis at this stage of the investigation of the information presented by Almexa in a letter dated December 20, 2019 is appropriate. It should be noted that, contrary to what was stated by Articles for the Home and Komale By means of letters dated January 8, 2020 and July 16, 2020, not taking into account the information presented by Almexa would not in any way distort the selection of the United States as a substitute country for China, since, as stated in subsection bi of the previous point, the Applicant accredited said option for the calculation of normal value from the initial stage of the investigation.

#### **G. Price discrimination analysis**

42. The Secretariat did not have any arguments or evidence from exporting producing companies or the government of China, so it made its determination based on the information and evidence presented by the Applicant and the importing companies Artesanías Baja, Household Items, Cinsa, JRA Importaciones, Komale and Prisem, as well as the information provided by the same Secretariat, in terms of the provisions of Articles 6.8 and Annex II of the Anti-Dumping Agreement and 54 and 64 of the LCE.

##### **1. Export price**

43. Almexa calculated the export price from the import prices of aluminum discs originating in China that entered through tariff item 7616.99.10 of the TIGIE. For this purpose, it provided the import base of the Tax Administration Service (SAT) corresponding to the period investigated.

44. He stated that due to the aforementioned tariff fraction, merchandise entered with descriptions that do not correspond to the product under investigation. Therefore, in order to identify the import operations of the product under investigation, it proposed the purification methodology indicated in point 47 of this Resolution.

45. In the preliminary stage of the investigation, the importing companies provided information on the import operations of aluminum discs that they carried out during the period under investigation.

46. For its part, the Secretariat obtained the list of imports originating in China that entered Mexico through tariff section 7616.99.10 of the TIGIE that it obtained through the Mexican Commercial Information System (SIC-M), as well as import pediments and attached documentation that it requested from various customs agents, and it compared said information with the import base provided by the Applicant without finding differences.

47. The Secretariat determined to calculate the export price based on the SIC-M statistics, by virtue of the fact that the operations contained in said database are obtained after validation of the customs requests that are given in a framework of information exchange. between agents and customs agents, on the one hand, and the customs authority, on the other, which are reviewed by the Bank of Mexico. Based on this information, the Secretariat identified the imports of aluminum discs originating in China. For this, it considered the methodology proposed by Almexa and did the following:

a. By describing the merchandise, it identified those operations corresponding to aluminum discs and excluded products other than the object of investigation, for example: blanks, bells, spacers, supports, rails, helicopter ball joints, fasteners, screws, etc;

b. considered import operations as a product under investigation when the information on the Internet pages of importers and suppliers corroborated that they produce articles for cooking and / or lamps or luminaires, or that they commercialize aluminum discs for such uses;

c. excluded the operations of importing companies that market discs for uses other than those of the product under investigation, for example: heat exchangers, electrical equipment, magnetic and optical media, medical equipment, and

d. Goods with diameters less than 100 millimeters and alloys corresponding to the 5000 and 8000 series, which are outside the coverage of the product under investigation, were excluded.

48. At this stage of the investigation, and based on the review of information provided by various customs agents, the Secretariat had data relating to the aluminum alloy that comprises the product under investigation. Given the availability of information, according to the alloy, the Secretariat decided to calculate the export price considering this characteristic. However, in some cases, the customs agents did not respond to the request for information, and in others the documentation did not allow the alloy to be determined, therefore, for these operations an average price of the discs in which the disc was not identified was estimated. alloy. It should be noted that the latter represented less than 1% of the imported volume during the investigated period.

49. Based on articles 39 and 40 of the RLCE, the Secretariat calculated a weighted average export price in dollars per kilogram for aluminum discs originating in China, considering the alloys included in the product under investigation.

#### **a. Export price adjustments**

50. Almexa proposed adjusting the export price for the concepts of internal freight, as well as freight and maritime insurance from China to Mexico, based on the customs value, reported in the SAT import list. In this regard, it stated that the customs value of the product includes, in addition to the invoice value, the packaging costs, both labor and materials, as well as transportation, insurance and related expenses incurred as a result of the Freight transportation, that is, it is expressed in terms of cost, insurance and freight at the port (CIF, for the acronym in English of " Cost, Insurance and Freight ").

#### **i. Internal freight**

51. Almexa located the plants of various companies that produce and export aluminum discs in China, as well as the sea ports closest to these companies. He noted that the product subject to

Research is generally shipped in 40-foot capacity containers. In this regard, he presented an import petition in which the container's capacity is observed. It stated that it obtained the value of the product from the data reported on the website [www.veritrade.com](http://www.veritrade.com) and, based on that information, it quoted the internal freight on the website [www.worldfreightrates.com](http://www.worldfreightrates.com). Since the prices do not correspond to the period investigated, he proposed to apply the consumer price index of the United States, for which he provided the data obtained from the website [es.inflation.eu](http://es.inflation.eu).

52. At this stage of the investigation, the importing companies Household Goods and Komale argued that the Applicant's estimate is intended to overestimate the margin of dumping, considering a 40-foot container. They stated that their operations corresponded to volumes of 20 feet. In addition, they requested that the Secretariat make the adjustment for internal freight to the export price, based on information on market transactions provided by importers, instead of quotes provided by Almexa. They provided information on the capacities of the 20 and 40 foot containers, obtained from the Internet page [www.deltacargosl.com/tipos-y-capacidad-de-carga-de-contenedores- Marine transport/](http://www.deltacargosl.com/tipos-y-capacidad-de-carga-de-contenedores-Marine-transport/).

53. The Secretariat requested from Household Items and Komale specific information on the internal freight cost corresponding to the 20-foot container, however, the importing companies did not respond to the request for information. In this regard, it is important to note that, in accordance with article 36 of the LCE, when an interested party requests the application of a certain adjustment, it will be incumbent upon him to provide the corresponding evidence. In this sense, in the absence of a response to the information requests formulated by the Secretariat to Household Items and Komale, regarding the internal freight expense of the other importers, and due to the fact that no export producing company appeared, the Secretariat did not count with information on the amount actually paid and determined that the information provided by Almexa was the best information available.

#### **ii. Freight and marine insurance**

54. To estimate the adjustments for freight and maritime insurance, the Applicant proposed to use the information of the maritime ports in China and the value of the product, indicated in point 51 of this Resolution, as well as the location of the ports of destination in Mexico, Manzanillo and Lázaro Cárdenas, which he considered in the quotes obtained on the Internet page [www.worldfreightrates.com](http://www.worldfreightrates.com). Since the prices do not correspond to the period investigated, he proposed to apply the consumer price index of the United States, for which he provided the data obtained from the website [es.inflation.eu](http://es.inflation.eu).

55. However, according to what is stated in point 46 of this Resolution, the Secretariat had information on import requests and attached documentation, which allowed it to identify the freight and maritime insurance expenses corresponding to the exported aluminum discs. to Mexico. For operations in which specific information per transaction was not available, the Secretariat calculated an average freight expense based on the information reported in the import requests.

#### **b. Determination**

56. Based on Articles 2.4 of the Anti-Dumping Agreement, 36 of the LCE, 53 and 54 of the RLCE, the Secretariat adjusted the export price for the concepts of internal freight with the information provided by the Applicant, and maritime freight and insurance with the information from which the Secretariat obtained.

### **2. Normal value**

#### **a. China as a non-market economy**

57. Almexa argued that subsection (d) of paragraph 15 of the Protocol of Accession of China to the World Trade Organization (Protocol of Accession of China to the WTO), indicates that China has the burden of proof to demonstrate that in its economy, market conditions prevail, in accordance with the legislation of the importing country, which in the case of Mexico must be in accordance with article 48 of the RLCE, however, it presented



various arguments and evidence to demonstrate that in China and, specifically, in the In the aluminum sector in that country, characteristics of a non-market economy prevail, in accordance with article 48 of the RLCE.

**58.** Likewise, it stated that the evidence shows that none of the six criteria required by the second paragraph of Article 48 of the RLCE is met to grant market economy treatment to China, with respect to aluminum discs. To do this, it presented an economic analysis of said criteria, as well as a copy of the study prepared by the consulting company King & Spalding, referring to the Chinese aluminum foil industry , which describes the non-market conditions and the distortions that affect to the aluminum industry in China, specifically in factors such as capital, labor and raw materials. He pointed out that the information he presented is what was reasonably available to him. The arguments and evidence are

detailed below:

**a.** The renminbi is not freely convertible, because China maintains strict controls on capital inflows and outflows , in particular, on 11 of the 12 categories of transactions under the capital account that are examined in the Annual Report on Exchange Arrangements and Exchange Restrictions ( AREAER), published by the International Monetary Fund. In this regard, it presented a copy of the AREAER in its 2018 version;

**b.** The KAOPEN index, which measures the intensity of controls on the capital account of the countries surveyed in the AREAER (<http://web.pdx.edu>), indicates that China remains very close to the lower level of the ranking, which indicates that it maintains strict controls on capital inflows and outflows . In addition, Almexa affirmed that the status granted by the International Monetary Fund to the Chinese currency as a reserve currency is irrelevant, since the fact that a currency is freely usable does not mean that it is freely convertible;

**c.** China Federation of Trade Unions (ACFTU by the acronym of " All-China Federation of Trade Unions ") is the only union authorized by law to negotiate and sign collective contracts on behalf of workers, union representatives are in great measure controlled and have no real connection to the workers. The ACFTU is a tool of political authority and not an independent workers 'organization, since, by prohibiting the formation of independent unions or other workers' organizations, the government essentially abdicated all power to capital and allowed employers to impose unilateral decisions on the salary and the conditions of its workforce. In support of the foregoing, the study mentions as a reference the 2016 Annual Report of the Executive Commission of the Congress in China, the China Labor Newsletter , Employment and Wages ([www.clb.org.hk](http://www.clb.org.hk)) and the Research Report of the Bulletin China Labor for February 2014;

**d.** The distortions of the economy in China come, among other reasons, from the interference of the Chinese Communist Party through the 71 five-year plans that direct and administer the national industry , from the 22 sector plans, as well as provincial and local plans, the latter used to implement national industrial plans, which affect the entire Chinese production chain in all sectors. Likewise, industrial associations serve as tools of the State to limit the action of market forces. To support the above, it presented the Executive Summary: Evaluation of the normative legal framework and policies regulating the Chinese economy and its impact on international competition, prepared by the consulting company THINK! DESK China Research & Consulting ("THINK! DESK"), from 2015;

**e.** the Anhui Province Regional Plan (2009-2020), issued by the local government, promotes the non-ferrous metals industry, to which the aluminum industry belongs, the main raw material for aluminum discs. Among the main objectives of the plan are: to revitalize the industry, reorganize companies, accelerate product development, construction of aluminum processing plants , expansion of production capacity and industrial chains for the manufacture of aluminum products;

**F.** The Plan addresses the acceleration of the industry through Chinalco, which is a state- owned company and controlling shareholder of China's leading aluminum producer and one of the largest in the world, Aluminum Corporation of China Limited ("Chalco") . Almexa said that it is clear that the market does not dictate business decisions for investment or capacity expansion, but rather is a state orchestration, both federal and local government. Likewise, in the aluminum industry , state-owned companies operate without budgetary restriction and do not observe profitability criteria, which leads to overproduction and the establishment of prices of sale that does not allow to recover costs or obtain reasonable profits. In this way, the production cost of aluminum discs is affected by upstream distortions;

**g.** In this sense, Chinalco has control of more than 90% of the shares of Henan Chalco Aluminum, a manufacturer of aluminum discs. Being controlled entirely by Chinalco, the government's intervention extends to the producer of aluminum discs, who acts as the arm of the State in making decisions in determining costs and prices. This is clear evidence that the distortions in the aluminum market extend to the production of aluminum discs. To support the above, Almexa provided screenshots of the Henan Chalco Aluminum website, as well as a copy of Chalco's Annual Report to the Stock Exchange Commission and Values of the United States for 2018, in which the relationship of Chinalco with Henan Chalco Aluminum is demonstrated ;

**h.** The five-year plan for the aluminum industry establishes the restriction on industrial entry, price control in electricity and other interventionist measures by the government, which means that the regulation of market entry allows ensuring adequate profitability. On the other hand, price controls and the granting of energy

subsidies distort production costs, which favors Chinese producers and consumer industries that use aluminum as a raw material, as is the case in the record disc industry. aluminum;

i. In the non-ferrous metals industry there is a high level of intervention by the Chinese government that seeks to mold and plan according to the government's industrial objectives, and not through free market forces. Almexa indicated that, in state-owned companies that are dominant in the industry, there are industrial associations led by the government, members of the government co-opted by private companies, explicit state planning, massive granting of subsidies to state-owned aluminum companies, including Chalco and Yunnan Aluminum. He presented the Final Report: Analysis of Existing Market Distortions in China's Non-Ferrous Metals Industry of 2017, prepared by the consulting company THINK! DESK, and

j. There are factors that affect the accuracy and reliability of the financial accounting records of Chinese companies, including the aluminum disc industry, so the criterion that the industry under investigation has a reliable set of record books that are used for all purposes and are audited in accordance with generally accepted accounting principles.

59. Regarding the fact that cost and price structures prevail in the Chinese aluminum disc manufacturing industry that are not determined in accordance with market principles, Almexa provided the following arguments and evidence:

a. factor intensity it is having industry's aluminum discs or it may be calculated in comparison with the intensity factor with other industries. Almexa explained that whether the industry is capital intensive or not is calculated by estimating the relationship between capital and labor that exists in that industry, and that relationship is compared with the capital-labor relationship that exists in other industries. If the capital-labor ratio for that industry is among the highest, the industry in question is said to be relatively capital intensive. To support his argument, he provided an excerpt from the article: One Size Fits All?, by Peter K. Schott, in which he compared the capital-labor ratio in 28 industries, including non-ferrous minerals, which includes the aluminum industry in 34 countries. In this article, it is observed that the non-ferrous minerals industry is one of the most capital intensive;

b. The intervention of the State in the formation of prices in key markets of the productive sector, in particular, labor and energy, is such that, despite the fact that the evidence provided refers to the markets in general, the distortion and affectation caused because of such intervention it exists in all sectors in which labor and energy are used in China. The production costs of aluminum discs, which include factor prices, the cost of energy and the cost of raw material, do not reflect market conditions, due to government intervention, where some distortions are transversal, it is that is, applicable to Chinese industry in general, and others are specific to the aluminum industry, which provides the main input for the manufacture of aluminum discs, according to what was indicated in the study by King & Spalding;

c. The Chinese government keeps the cost of raising capital to finance loans repressed, since it maintains very low ceilings on deposit rates, which are lower than the inflation rate. Although these ceilings were removed in 2015, the deposit rates did not change upwards, but remain at the same level. Given that deposits are the main source of financing for commercial banks and 70% of loans are placed in corporations, such a policy provides banks in China with a cheap source of loans, at interest rates that are lower than the usual ones. that they would have to pay if the deposit fee was not repressed;

d. the cost of raising capital through the issuance of bonds is also distorted, as the setting of risk premiums is extremely lax, given the intervention of the Chinese government in that market. Consequently, the risk premium that is incorporated into the interest rate paid on bonds issued by Chinese industries, including the record industry, is much lower than it would be in the absence of such intervention. The distortion also extends through stocks, as the Chinese government manipulates their prices by routinely supporting local stock prices through its own purchases. In such circumstances, industries Chinese get capital that would not otherwise be available;

e. the Hang Seng China Premium Index (Hang Seng China Premium Index) compares the price of the A-shares listed in China against the price of the identical H-shares listed in Hong Kong. In principle, the prices should be similar, however, this is not the case, due to the intervention of the Chinese government;

F. China's advantage in terms of the cost of unskilled labor is exacerbated by the use of the family registration system, known as Hukou. System that grants various social benefits financed through payroll taxes, therefore, people from rural areas who emigrate to an industrial zone to work, lack the legal power to settle there and do not qualify to receive benefits, which makes the cost of employing migrant workers is lower. Taking into account that migrants make up about a third of the labor force in China, the savings in total labor costs perceived by industries through of this distortion are enormous. In this regard, it provided the IMF publication called "China's Labor Market in the New Normal", of July 2015;

g. China's Constitution stipulates that all rural, urban, and suburban land is owned by the state, however, concessions are given to assign the land to private parties for commercial and industrial use. China's Property Law recognizes the existence of usufruct rights over land, which includes the right to construct buildings and

ancillary facilities, however, the allocation of rights for industrial use land and the fixing of the price paid for such. rights are arbitrarily carried out, so the cost of land for Chinese industry, including the aluminum disc industry, is below market levels;

**h.** According to the article by researchers Li Zhang and Xianxiang Xu titled Land Policy and Urbanization in the People's Republic of China, published by the Asian Development Bank, land for industrial use is generally allocated through agreements that involve private negotiations, whereas Land for commercial and residential use is generally assigned through competitions and auctions, although listing is also used, where the price for the land that is listed corresponds to 60% of the price obtained through an auction;

**i.** In China's Protocol of Accession to the WTO, natural gas and electricity ( main energy sources in the production of aluminum discs) are subject to price controls and, although China has committed to removing such controls, this has not happened. This implies that the energy costs faced by Chinese producers of aluminum discs are anchored at levels below those of the market. Likewise, a report by the Oxford Institute for Energy Studies reports that in 2013 the wellhead price of gas from the Ordos Basin (which provides 20% of consumption in China), represented only a little more than 50% of the price. weighted average of imported gas;

**j.** Raw aluminum and aluminum scrap, the two basic raw materials for the production of aluminum discs, are subject to a de jure export tariff under China's Protocol of Accession to the WTO, or de facto, when canceled by full refund of the value-added tax (VAT), which is charged on export sales. The effect of the tariff is that the market causes an oversupply that takes the domestic price of aluminum below the international price. Almexa added that when a country is a large supplier in the world market and applies an export tariff on a raw material, consumers in that country buy it at a lower price at the international price, while consumers from other countries buy this raw material at a higher international price;

**k.** One of the main legal instruments to regulate foreign direct investment in China is the 2017 Catalog to Guide Foreign Invested Industries, which identifies industries in which foreign investment is encouraged, restricted or prohibited. Investments that are classified as encouraged receive all kinds of incentives, including tax benefits. In this regard, Almexa pointed out that the non-ferrous metal industry is within this category. He added that the fact that China strongly regulates foreign investment in a general plane can also be corroborated by the Regulatory Restriction Index of the Organization for Cooperation and Economic Development (OECD), which ranks China as the second most restrictive investment-receptive country , and

**l.** According to the study by the consulting firm King & Spalding, there are several factors that adversely influence the accuracy and reliability of the accounting records of companies in China, including those of the aluminum disc industry. Among the factors mentioned, is the fact that companies do not record all sales income in the financial statements prepared for the tax authorities, bad practices of accounts receivable records and erroneous statements , which have particular implications for determining the date of sale in anti-dumping proceedings, therefore the Secretariat cannot rely on such records for

determine the accuracy of prices, sales, expenses and costs in anti-dumping investigations.

**60.** Due to the foregoing, Almexa pointed out that the intervention of the Chinese government in production factors , in general, and in the production of primary aluminum, in particular, extends to the aluminum discs and is not eliminated in any way when be marketed in the international market or in Mexico. In order to obtain the price of primary aluminum in China and demonstrate that the prices do not respond to market principles, it carried out an exercise based on the price of imports of Chinese origin, from which the cost of transformation of the disc was discounted.

**61.** To do this, it presented an estimate of the transformation cost, based on its own information, as it was reasonably available to it. He stated that primary aluminum, being a commodity, is traded on the metal exchanges internationally, so he used the prices of the western part of the world, that is, the London Metal Exchange, and presented the monthly prices for the period investigated, obtained from the Argus Metal website (<https://metals.argusmedia.com>).

**62.** Almexa compared the cost of aluminum obtained from the import price in Mexico against the prices of the London Metal Exchange, and found a difference of 49.53%, which means, according to the Applicant, that the price is at that proportion below the international price. He added that the international price of primary aluminum, taken from the London Metal Exchange, reflects its relative scarcity through its high prices and the upward trend, increases that are not observed in the prices of Chinese aluminum discs in the international market.

**63.** He argued that the foregoing creates an oversupply of final goods at low prices, whose prices do not follow signals from the international market, since, as previously stated, the Chinese government restricts its exports and stimulates the production of aluminum products. Provided the export volume of subheading for the aluminum disks are exported for the period from 2016 to 2018, obtained from the International Trade Center (ITC stands for the " International Trade Center " ), where It is observed that China represented 27.70% of the world supply. He stated that, although the China's behavior in terms of volume is on the rise, its prices do not reflect the increase in costs, contrary to what happens in the rest of the world.

64. In the final stage of the investigation, Prisem argued that both the Preliminary Resolution and the Initiation Resolution were issued in contravention of the provisions of article 2 of the LCE and point 15 subsection a), romanita ii), in relation to subparagraph d) of China's Protocol of Accession to the WTO. He cited articles 33 of the LCE and 48 of the RLCE, and affirmed that, from the systemic and harmonious interpretation of the aforementioned precepts, it is evident that China should be treated in a market economy and that the normal value must be based on internal prices or costs in that country.

65. He stated that the fact that the Chinese government and producing companies were not involved in the anti-dumping investigation is not a sufficient reason to stop considering China as a market economy. It pointed out that the foregoing does not authorize the Secretariat to ignore and stop applying point 15 paragraph d) of the Protocol of Accession of China to the WTO, because an international agreement cannot be ignored by the authority or internal unit of a country. He added that, by violating an international legal norm, the arguments and evidence are totally innocuous, in the sense that with them it can not be considered that China has a market economy. He noted that the final Resolution should resolve that the normal value of the aluminum discs was not proven.

66. For its part, Almexa pointed out that no counterpart presented objective evidence against China's determination as a non-market economy, for which reason the Secretariat must confirm that non-market conditions prevail in the Chinese aluminum disc industry, in accordance with article 48 of the RLCE, based on the best available information that appears in the file.

67. In this regard, the Secretariat considers that Prisem's interpretation of China's Protocol of Accession to the WTO is incorrect, as well as its request to consider China as a market economy. The foregoing, since as indicated in points 48 to 51 of the Initiating Resolution, in accordance with subsection d) of paragraph 15 of China's Protocol of Accession to the WTO, only subsection a) romanita ii) expired in December 2016, however, subparagraph a) and Romanita i) of paragraph 15 of said instrument remain as the current text, which establishes the possibility of applying a methodology that is not based on a strict comparison with domestic prices or costs in China. So, The Secretariat considers that the mere expiration of the validity of subparagraph a) romanita ii) of paragraph 15 of the Protocol of Accession of China to the WTO, does not mean that the possibility of using a methodology that is not based on a comparison has ceased to exist strict with domestic prices or costs in China.

68. For its part, Romanite (i) points out that, when the investigated producer can clearly demonstrate that in the industry that produces the product like the one under investigation, market economy conditions prevail, with respect to manufacturing, the production and sale of such a product, domestic prices or costs in China should be used. However, regardless that romanita s or points out the consequence that the investigated producers demonstrate that operate in conditions of a market economy, there is no evidence in the administrative record to demonstrate that prevail in the industry producing discs aluminum in China, conditions of a market economy.

69. Due to the foregoing, the interpretation of Prisem on point 15 subparagraph a), romanita ii), in relation to subparagraph d) of the Protocol of Accession of China to the WTO, as well as its argument regarding that the Secretariat did not observe the international legal norm, since China's Protocol of Accession to the WTO establishes the possibility of applying a methodology that is not based on a strict comparison with domestic prices or costs in China and, although it establishes the possibility for producers under investigation to demonstrate that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of such product, in order for its prices or costs to be used to determine price comparability, there are no elements in the administrative record of this investigation that demonstrate that, in the market for aluminum discs in China, economic conditions of market in regards to the manufacture, production and sale of such a product.

#### **b. Determination**

70. As indicated in points 48 to 53 of the Initiating Resolution, the Secretariat considers that the expiration of the validity of subparagraph a) romanita ii) of paragraph 15 of China's Protocol of Accession to the WTO does not mean that there is The possibility of using a methodology that is not based on a strict comparison with domestic prices or costs in China no longer exists. Likewise, Romanita i) points out that when the investigated producer can clearly demonstrate that in the industry that produces the like product, market economy conditions prevail with regard to the manufacture, production and sale of such product, domestic prices or costs in China should be used.

71. However, and considering that the government of China or exporting production companies did not appear in this investigation, which will clearly demonstrate that market economy conditions operate in the market for aluminum discs with regard to manufacturing, production and sale of aluminum discs, the Secretariat confirms its determination, indicated in point 58 of the Initiation Resolution, to use a methodology that is not based on a strict comparison of the prices and costs of aluminum discs in the domestic market of China, in accordance with the provisions of articles 33 of the LCE and 48 of the RLCE, as well as subparagraph a) romanita i) of paragraph 15 of the Protocol of China's accession to the WTO, by virtue of the fact that the Secretariat found that the arguments and evidence provided by Almexa indicate government interventions that

affect macroeconomic variables, as well as the performance of the aluminum industry, the main input, as indicated below :

**a.** the renminbi is not freely convertible, due to the government's strict controls on capital inflows and outflows. The Secretariat noted that, in the AREAER, published by the International Monetary Fund for 2018, it is mentioned that China eased restrictions on some capital accounts, such as cross-border financing in foreign currency, in particular, took measures to facilitate capital transactions. In part, to further internationalize the use of its currency, however, it continues to maintain controls in most transactions;

**b.** foreign investment is restricted. The Secretariat reviewed the Catalog to guide industries with foreign investment in 2017, and confirmed that the government "encourages" the aluminum industry, through incentives and tax benefits. In contrast, the OECD Regulatory Restriction Index qualifies China as the second most restrictive recipient of foreign investment in the world, however, the Secretariat observed that in said index the "Metals, machinery and other minerals" sector for 2018 , is not restricted;

**c.** in China the cost of capital is distorted by various factors. The government maintains a lax setting of the risk premium in the market, manipulates share prices through its own purchases where it induces investors to keep said shares in their investment portfolios , as well as through low-cost loans, issuance bonds and stocks, since the cost of attracting banks is repressed. Low deposit rates, lower than the inflation rate for the consumer, prevent the exit of savings abroad to obtain better returns. The Executive Summary: Evaluation of the normative legal framework and the policies that regulate the Chinese economy and its impact on international competition, prepared by the company

consulting firm THINK! DESK, points out that prices in Chinese capital markets are subject to distortions induced by the government, mainly due to the depression in interest rates and a manipulation of the exchange rate;

**d.** the labor force in China does not receive the payment of benefits, by virtue of the fact that it is subject to a residence permit, due to the Hukou labor system. The Secretariat observed that, according to the article "Factor Market Distortion and the Current Account Surplus in China" by Yiping Huang and Kunyu Tao, such a system lowers the cost of labor at the expense of migrant workers for Chinese industries. Likewise, it is estimated that this family registration system reduces the cost of employing migrant workers in urban areas by up to 40%;

**e.** the cost of land is distorted, because the rental price in China is arbitrarily set and is below market levels. The Secretariat identified in the article Land Policy and Urbanization in the People's Republic of China that, although local governments determine the supply of land, annual construction land quotas are controlled by the central government of China. In particular, after 2003, the allocation of land for construction was reconfigured as a political tool. Also, according to the assessment of distortions in China by the consulting firm THINK! DESK, the prices of the rights of commercial land use are pushed up by local governments to generate a higher profit on land sales, while land for industrial use falls in price;

**F.** Regarding the cost of energy used in the aluminum industry, the Final Report: Analysis of Existing Market Distortions in China's Non-Ferrous Metals Industry in 2017, indicates that various companies in the aluminum sector, in which Chalco highlights, they received government support for this area. The analysis mentions that between 2011 and 2015, 65 SOEs in the non-ferrous metals sector received a total aid of 2,083 million RMB for electricity;

**g.** Regarding government intervention in the aluminum industry, the main raw material of the product under investigation, the Secretariat observed that, through regional plans, such as the Regional Plan of the Province of Anhui (2009-2020), as well as Of the five-year plan for the aluminum industry , the Chinese government seeks to expand the production capacity of primary aluminum and expand industrial chains for the manufacture of aluminum products, such as aluminum discs. Similarly, the five-year plan establishes restrictions on entry into the industry. It can also be seen that government interventions in the sector of non - s aluminum or This is observed in regional and five-year plans, but through various instruments such as direct cash donations and capital contributions;

**h.** In companies in the aluminum and non-ferrous metals industry, it was observed that they benefit from various fiscal stimuli and support from the Chinese government. According to the information contained in the Final Report: Analysis of Existing Market Distortions in China's Non-Ferrous Metals Industry of 2017, the Secretariat corroborated that the report contains a specific analysis of the aluminum industry in which it is stated that the advantage in the sector is due to factors such as, supports and loans that allow significant capital investments in large-scale production plants and advanced technology, low operating costs that the industry has because land, electricity, water and raw materials have a lower than market value, government support identified in the integration of mining and power generation, and excess power in western China, as well as differentiated prices in electricity rates, and

**i.** According to the information provided, the Secretariat found that trade policy strongly discourages the export of raw materials and primary aluminum, but encourages sales of higher value-added products. The Final Report: Analysis of Existing Market Distortions in China's Non-Ferrous Metals Industry of 2017, prepared by

the consulting company THINK! DESK, indicates that there are export tariffs and refund of Value Added Tax for primary aluminum . At this point, the report points out that exporting by-products instead of crude aluminum means that exporters can avoid paying a 30% tariff and claim a 15% refund of the Value Added Tax.

**72.** Based on the foregoing, and in view of the fact that there is no information in the administrative record that distorts the evidence provided by Almexa, the Secretariat considers that the evidence described proves that cost and price structures prevail in the aluminum sector in China. that are not determined

in accordance with market principles, due to various government interference, such as public policy programs, delivery of support, restrictions on foreign trade, capital and energy costs , as well as restrictions on labor mobility. Similarly, if the distortion that may exist in the aluminum disc production chain is considered , as the state-owned company Chinalco, controlling shareholder of Chalco, the main aluminum producer in China, and Henan Chalco Aluminum, a company that produces aluminum discs.

**73.** On the other hand, the government policy of promoting the manufacture of aluminum products with higher added value could lead to distortions in the prices of primary aluminum and its derivatives, which is relevant in the present case, since it is the matter main premium of aluminum discs.

**74. Based** on the foregoing, it can be inferred that the intervention of the Chinese government affects the industry that produces aluminum discs in China, as it does not reflect market conditions, while the cost of production of discs could be affected by distortions. " upstream "and, based on the evidence provided by the Applicant, the Secretariat considers that there are sufficient elements on how the distortions alleged by Almexa affect the costs and prices of the companies producing aluminum discs.

**75.** Based on the information available in the administrative record, the Secretariat considers that there are sufficient elements to determine that in the companies that produce aluminum discs in China, cost and price structures prevail that are not determined according to the conditions of an economy. market. Consequently, in accordance with the provisions of articles 33 of the LCE and 48 of the RLCE, as well as clause a) romanite i) of paragraph 15 of the Protocol of Accession of China to the WTO, the Secretariat decided to use a country with an economy China substitute market for purposes of calculating normal value.

#### **c. Surrogate country**

**76.** Almexa proposed the United States as a substitute country for China. It stated that it is a market economy in accordance with article 48 of the RLCE and by virtue of the fact that the member countries of the WTO are market economies, as long as the contrary is not indicated in their accession protocols or in trade policy reviews carried out. by said organization.

**77.** To accredit the foregoing, he presented a summary of the Central Intelligence Agency in which a description of the domestic market of the United States is developed, the participation of private companies in economic decision-making and the role it plays the government within the market, as well as the level of competitiveness that exists within the national market against imported products . He also presented a report from the USA online portal (<http://www.theusaonline.com>), on the economic system of the United States, which describes the United States market and indicates that it is governed by the freedom of producers consumers, while prices are determined with based on the laws of supply and demand.

**78.** Likewise, it provided a report from the United States Aluminum Association for 2018 that proves that the aluminum sector is a key industry in that country, which is private in nature and develops without government intervention. In addition, it is made up of companies that have the obligation to comply with competition laws for the proper functioning of the free market.

#### **i. Similarity in the production process**

**79.** The Applicant provided information to prove that aluminum discs are produced under similar production processes in both the United States and China . He explained that the production process consists mainly of aluminum smelting, lamination, cutting and packaging, for which he presented a technical sheet of product specifications and capabilities, a diagram of the production process and a process report obtained from the SAP accounting system. for an aluminum disc manufacturing company in the United States.

**80.** Regarding aluminum discs, he presented information on the physical characteristics of the product manufactured by Henan Chalco Aluminum and a diagram of the production process of the Chinese production company, Signi Alluminium, as well as a comparison of the products manufactured, both in the United States. United as in China, from which it was observed that both products have similar characteristics.

#### **ii. Availability of inputs**

**81.** Almexa indicated that there is a wide availability of aluminum, the main input for the manufacture of discs, both in the United States and in China, as well as electricity and labor. With respect to aluminum production, he presented a report from the United States Geological Survey on mineral production, where production figures and production capacity are observed aluminum in both countries by 2018.

**82.** Likewise, it provided data on electricity production and consumption in China and in the United States, corresponding to 2017, obtained from the Enerdata Internet page (<https://www.enerdata.net/>), in which it is observed that both countries are important producers and consumers of electrical energy. With regard to labor, it presented labor force statistics for 2017, obtained from the website of the Central Intelligence Agency. In this regard, it stated that it is pertinent to use the figures provided for production and consumption of electricity, as well as labor for the United States and China, because there are no elements on radical changes that cause these figures to have a significant variation during 2018. As proof of the above, he pointed out that the Gross Domestic Product of these countries did not have significant changes and presented the historical annual figures of the Gross Domestic Product for both countries, obtained from the Internet page <https://datamacro.expansion.com/pib>.

**83.** At the preliminary stage of the investigation, the Household Goods importers and Komale stated that the United States should not have been considered at the beginning of the investigation as a substitute country for purposes of calculating normal value, as it is a country with scarce competitiveness in the aluminum manufacturing industry. To support the above, they provided an analysis of the Revealed Comparative Advantages Index (CRVI) that they calculated from the main exporting and importing countries with information obtained from the ITC and Trade Map, in which, according to the importing companies, the States United has the smallest comparative advantage.

**84.** In this regard, the Secretariat considered the importers' argument incorrect because the analysis they presented was carried out based on information from subheading 7616.99, which corresponds to a very general level of aluminum manufactures, which includes various non-investigated products. While the determination of the Secretariat is based on a comprehensive analysis that includes other elements such as the similarity of the production processes, wide availability of the necessary inputs, such as aluminum and electricity, and the cost structure of the factors used intensively in the production of aluminum discs as indicated in point 102 of the Preliminary Resolution.

**85.** In the final stage of the investigation, Articles for the Home and Komale stated that, despite the fact that the information provided is not specific to the product under investigation, the IVCR analysis is correct and is consistent with the fact that, during the period 2016-2018, the United States or what had imports of aluminum discs, while exports did not. To support the above, they provided statistics from the Trade Map portal (<https://www.trademap.org/>) of the tariff section 7606913075, uncovered unalloyed aluminum circles and discs with a thickness of 6.3 mm or less ( " Circles And Discs Of Aluminum Not Alloyed Not Clad With A Thickness Of 6.3 Mm Or Less " ), which they expressed is a description similar to that of the product under investigation.

**86.** They added that the absence of aluminum disc exports in the United States raises doubts about the United States' determination as a surrogate country for China, and that its selection is aimed at maximizing the margin of dumping to obtain a high countervailing duty. They also stated that the fact that the United States is not a country that appears among the main exporters and manufacturers of aluminum discs, means that it is a country that is not competitive in said industrial activity for various reasons, such as high costs. of production compared to highly exporting countries .

**87.** They indicated that the machinery and technology may be similar, but there are no factual elements to suppose that they are used on the same scale in the countries identified as main exporters and / or producers, as well as that the main inputs used in the production of the good or service are high due to their lower availability in the domestic market of the United States. In this regard, they argued that, if there were a similarity in the cost structure of the factors used intensively in the production of aluminum discs, the United States would export aluminum discs in similar quantities to China.

**88.** On the other hand, in relation to the producer of aluminum discs for which the Applicant used the prices to estimate those corresponding to aluminum discs in the United States and which is part of The Alluminium Association, they stated that on the portal of said association , the aluminum disc industry is not mentioned , which coincides with the fact that there were no exports of the product under investigation in the period analyzed.

**89.** They concluded that the determination to choose the United States is based solely on the possible similarity between production processes and the use of analogous inputs, and not on the competitiveness of producers that comply with the formal elements in countries with market structures. and similar levels of competitiveness, and such selection is intended to maximize the margin of dumping to obtain a high countervailing duty. Furthermore, the normal value cannot be approximated on the basis of the domestic price in the substitute country, in this case the United States, so the provisions of the third paragraph of Article 48 of the RLCE are not complied with.

**90.** In this regard, the Secretariat points out that article 33 of the LCE establishes that it will be taken as normal value

of the merchandise, the price of the identical or similar merchandise in a third country with a market economy, which can be considered as a substitute for the country with a non-market economy for the purposes of the investigation. Likewise, article 48 of the RLCE indicates that, for the purposes of selecting the substitute country, economic criteria such as the similarity of the production processes and the cost structure of the factors that are used intensively in said process should be considered, among others. However, it does not stipulate

that the substitute country must be competitive in the manufacture of the merchandise. In this sense, the Secretariat reiterates that the criteria for selecting a substitute country are defined in the third paragraph of the Article 48 of the RLCE and its objective is to have a third country with a market economy similar to the exporting country with a non-market economy, in this case China. The similarity between the surrogate country and the exporting country must be defined in a reasonable way, such that the normal value in the exporting country can be approximated on the basis of the domestic price in the surrogate country.

91. Regarding the assertion that the United States did not export aluminum discs, the Secretariat reviewed the imports that entered by the tariff section through which the investigated merchandise entered (7616.99.10), and observed that during the period investigated the United States it ranked second in terms of volume, after China. The import statistics corresponded to the SIC-M.

92. Due to the foregoing, the Secretariat reiterates that the arguments presented by the importing companies do not distort the selection of the substitute country. For its part, Almexa provided information for both China and the United States regarding the similarity of both countries in relation to production processes, availability of aluminum, labor, as well as the production and consumption of electricity, so the The Secretariat was able to reasonably infer that the technology and cost structure of the factors that are used intensively in the production of aluminum discs are similar.

93. Additionally, the Secretariat clarifies that in the information in the administrative file and presented by Almexa, from the Internet page of The Aluminum Association, (<https://www.aluminum.org/about-association/producer-members>), shows the members of said association, among which is the US company from which the prices used for the calculation of normal value in the substitute country were provided, as indicated in point 97 of this Resolution.

### **iii. Determination**

94. The third paragraph of article 48 of the RLCE states that a substitute country shall be understood as a third country with a market economy similar to the exporting country with a non-market economy. It adds that the similarity between the substitute country and the exporting country will be defined in a reasonable way, such that the normal value in the exporting country can be approximated on the basis of the domestic price in the substitute country, considering economic criteria.

95. Pursuant to the foregoing, the Secretariat carried out a comprehensive analysis of the information provided by the Applicant to consider the United States as a substitute country for China for the calculation of normal value. It found that similar aluminum discs are produced in both the United States and China and that both countries have similar production processes. Likewise, they have wide availability of the necessary inputs, aluminum and electrical energy, in this way, it can be reasonably inferred that the intensity in the use of production factors is similar in both countries, since they are capital intensive .

96. Based on the analysis described in the previous points and in accordance with articles 33 of the LCE and 48 of the RLCE, the Secretariat confirms the selection of the United States as a market economy substitute for China for purposes of calculating the normal value.

### **d. Prices in the domestic market of the United States**

97. To calculate the normal value, Almexa provided information on the prices of aluminum discs in the domestic market of the United States, for each of the months of the investigated period. According to the statements made by the Applicant, the price references presented constitute a reasonable basis to determine normal value, by virtue of the fact that they have physical characteristics similar to discs of Chinese origin, follow the same production process and have the same uses and functions. He added that the prices are representative of the domestic market of the United States, since the manufacturing company from which it obtained them is a member of "The Aluminum Association", which is a member of the most important manufacturers of aluminum products in that country, information that was reasonably available to him.

98. Since prices were reported in dollars per pound, Almexa applied a conversion factor to obtain prices per kilogram. Furthermore, it stated that prices were reported at the ex-factory level, therefore it did not propose adjustments to the proposed normal value.

99. At the preliminary stage, the importing company Artesanías Baja stated that since it did not know the amount considered to determine the normal value for each type of alloy and it was not clear about the alloys contemplated in the calculation, there is no consistency in calculating the normal value. In order to

To obtain more detail about the information regarding the normal value that Almexa presented, the Secretariat made a request for information. However, for the reasons indicated in point 36 of the Preliminary Resolution, the information is considered at this stage of the investigation.

100. At this stage of the investigation, the Secretariat reviewed the information provided by Almexa, and found data on the volume of sales and alloys comprised within the merchandise object of this investigation, however, it did not indicate the source of the information. In response to the request, the Applicant submitted a letter from the aluminum disc manufacturer, referred to in points 70 and 107 of the Initiation and Preliminary Resolution, respectively. The letter states that the prices and sales volumes made in the United States



correspond to the company's accounting records. He clarified that the accounting records are from the American company that contributed its prices, and that it did not have the possibility of Obtain impressions of the accounting records as it is a company outside of Almexa.

**101.** In this regard, the Secretariat considers it important to mention that no producer- exporter company appeared in this investigation to present information on their prices. No However, in order to cleave greater evidence regarding domestic prices in the surrogate country in course of the investigation required further information on reference prices for calculating normal value to the importing companies, however, such companies did not provide information in this regard.

**102.** Consequently, since it did not have price information other than that provided by Almexa, the Secretariat made its determination based on the facts available to it, in accordance with the provisions of Articles 6.8 and Annex II of the Anti-Dumping Agreement, and 54 and 64 of LCE. Based on the information provided by the Applicant, the Secretariat identified the prices of aluminum discs, as well as the alloys included in said merchandise, and considered this characteristic in its calculation.

**103.** In accordance with Articles 2.1 of the Anti-Dumping Agreement, 31 of the LCE, and 39 and 40 of the RLCE, the Secretariat calculated an average price in dollars per kilogram from the price references in the United States provided by Almexa, considering the alloys included in the merchandise investigated.

### **3. Margin of price discrimination**

**104.** In accordance with the provisions of Articles 2.1 of the Anti-Dumping Agreement, 30 of the LCE and 38 of the RLCE, the Secretariat compared the normal value with the export price, and determined that the imports of aluminum discs originating in China were made with a price discrimination margin of \$ 1.41 per kilogram.

### **H. Damage and causation analysis**

**105.** The Secretariat analyzed the arguments and evidence that the appearing parties provided, in order to determine whether the imports of aluminum discs originating in China, carried out under conditions of price discrimination, caused material injury to the domestic industry of the product. Similary.

**106.** The analysis includes, among other elements, an examination of: i) the volume of imports under conditions of price discrimination, their price and the effect of these on the domestic prices of the like domestic product , and ii) the impact of the volume and price of these imports in the economic and financial indicators of the domestic industry of the like product.

**107.** The analysis of the economic and financial indicators includes the information provided by Almexa, since this company constitutes the domestic industry of the product similar to the one under investigation, as determined in point 138 of this Resolution. For this purpose, the Secretariat considered data corresponding to the periods January-December 2016, January-December 2017 and January- December 2018, corresponding to the period analyzed. Unless otherwise indicated, the behavior of economic and financial indicators in a given year or period is analyzed with respect to the immediately preceding comparable.

#### **1. Product similarity**

**108.** In accordance with the provisions of Articles 2.6 of the Anti-Dumping Agreement and 37 section II of the RLCE, the Secretariat evaluated the arguments and evidence in the administrative record to determine whether the domestically manufactured aluminum discs are similar to the product subject to investigation.

**109.** In the preliminary stage of the investigation, the importing companies Household Items , Komale, Prisem and JRA Importaciones questioned the similarity of the aluminum discs originating in China and those of national manufacture, as they considered that they are not commercially interchangeable, since that have different characteristics, and therefore uses.

**110.** As described in points 120 to 146 of the Preliminary Resolution, the Secretariat determined that the aluminum discs originating in China and those of national manufacture have similar characteristics , they are manufactured with the same inputs and through production processes that do not they show substantial differences, they serve the same consumers, which allows them to fulfill the same functions and be commercially interchangeable, so that they can be considered similar.

**111.** In the final stage of the investigation, Articles for the Home, Komale and Prisem expressed their disagreement with this determination. Articles for the Home and Komale stated that in the previous stage of the investigation, the Secretariat did not assess certain information that they provided in their response to the official form , which is related to the similarity analysis. For its part, Prisem reiterated that the aluminum discs originating in China and those of national manufacture are not similar, since they have different characteristics , in particular, it indicated that there are differences in the quality of these products.

**112.** For its part, Almexa stated that, in accordance with Article 2.6 of the Anti-Dumping Agreement, during the proceeding it provided evidence to demonstrate that the aluminum discs originating in China and those of domestic manufacture are similar, since they have similar characteristics. They have similar production processes , are manufactured based on the same international norms and standards, fulfill similar

uses and functions and are intended for the same consumers. Likewise, it pointed out that no counterpart provided objective and sufficient evidence to distort the determination of product similarity.

**to. characteristics**

**113.** In the preliminary stage of the investigation, Household Goods, Komale, Prisem and JRA Imports indicated that the discs originating in China differ from those of national manufacture by tempering and homogeneity in thickness; besides that they do not present quality problems (porosity, parabola and orange peel) like the discs of national manufacture. The Secretariat evaluated the arguments and evidence presented by the parties and determined that the differences indicated by the importing companies do not compromise the similarity in terms of the provisions of articles 2.6 of the Anti-Dumping Agreement and 37 section II of the RLCE.

**114.** In the final stage of the investigation, Articles for the House and Komale argued that the Secretariat did not assess all the information they presented in relation to the similarity analysis in the preliminary stage, in particular, their responses to questions 16 and 30 of the official form, where differences between the merchandise imported from China and the national merchandise are indicated, as well as the uses they give to the discs of each origin. In this regard, the Secretariat clarifies that in the preliminary stage it analyzed all the information provided by the importers, including what they stated in their response to the official form, as can be seen from what is described in points 124 and 125 of the Preliminary Resolution, on account of the next:

124. Housewares and Komale argued that they imported aluminum discs from China for technical and commercial reasons. They indicated that the characteristics of tempering and homogeneity in the thickness of the aluminum discs originating in China allow them to operate without having rejections from their customers (due to porous surfaces, an irregular curvature, or walls with a changing density), in contrast with national records. They added that they cannot use discs originating in China and those of national manufacture interchangeably, since the latter are more porous. Therefore, it is it or use it to make national records certain cooking items (trays and lids).

125. Articles for the Home and Komale explained that the aluminum series, the temper, as well as the homogeneity of the discs are important characteristics for their production process:

a. The alloy (or series) of the aluminum discs has to do with their hardness, which must be adjusted to the production process and the technology used by the company. Manufacturers cookware of aluminum s or occupy the 1000 series, since the discs of the 3000 series by their hardness are used for lamps manufactured;

b. quenching is a process of sudden heating and cooling of aluminum to increase its hardness. The tempering of aluminum discs is relevant, in particular, for the manufacture of covers; For this application, more resistant discs are sought, such as those of the 1000 series and H14 temper, and

c. Regarding the homogeneity of the material, it is required that the tempering treatment and thickness of the discs be uniform, in order to avoid imperfections

in aluminum cooking items, including; porous surfaces, undulations and edges (whose thickness changes in different sections of the part).

**115.** Likewise, in point 134 of the Preliminary Resolution, in accordance with the assessment of the arguments and evidence presented by the appearing parties, the Secretariat indicated the following:

134. The Secretariat valued the information presented by the parties at this stage of the investigation, in addition to that provided by the Applicant in the initial stage. Based on this information, it was observed that both imported Chinese and domestically manufactured aluminum discs have the same essential characteristics, alloy (or series) and diameter. They also have the characteristic of tempering. In terms of the homogeneity in the thickness and porosity claim importing, the evidence indicates that are characteristic of the final product (items features cooking), which relate to its production process, but not necessarily with characteristics of the input (aluminum discs). Indeed, the information provided by the Applicant indicates that the aforementioned defects arise in the cooking items when the appropriate input for the production process is not used; manual or stamping on press.

**116.** In their response to point 30 of the official form, Articles for the Home and Komale also stated that they preferentially acquire the product under investigation, because sometimes its price tends to decrease, in accordance with the behavior of its main input (aluminum). The Secretariat clarifies that it analyzed these arguments in the section on effects on prices in the Preliminary Resolution. Based on this analysis, it concluded that the prices at which the product under investigation enters are a determining factor for its greater demand. This is in contrast to the assertion of importers that they purchase discs originating from China for technical reasons rather than price.

**117.** It should be mentioned that, although in the preliminary stage Household Items and Komale stated that aluminum discs originating in China and those of domestic manufacture are not commercially interchangeable products in the production of aluminum items for cooking, because the products made With national aluminum discs they present porous or curved surfaces, as well as walls with a changing density, the importers did not provide evidence to support their statements.

**118.** On the other hand, Prisem reiterated that aluminum discs originating in China and those made domestically have different characteristics. In this regard, it stated that it requires materials with three specific characteristics: free of prominent pores, without parabola and without orange peel, characteristics that the Applicant does not offer. It indicated that it has material from Almexa where it is shown that it does not meet those characteristics.

**119.** Prisem also reiterated that 5 of the 6 samples of Almexa discs, indicated in the previous stage of the investigation, broke in the embossing process, proving the deficiency of the material. In this sense, even when Almexa stated that the DC quality (for the acronym in English of " Direct Chill Casting " ) is not appropriate for its production process (embossing), this quality allowed it to reduce to practically zero the waste per pore . He added that it would be impossible for him to use the Almexa material since he would need a different production process for the application of Teflon; you currently spray non-stick and would need to change it to a roller process.

**120.** Finally, Prisem pointed out that, in January 2020, the Commercial Director of Almexa visited its facilities and realized that the conditions of the Almexa material were not optimal and, although he agreed to return to test the materials, that has not happened.

**121.** At the public hearing, the Applicant stated that, although Prisem stated in its supplementary evidence brief that Almexa cannot provide the discs it requires, the importer has just accepted an order for Almexa's discs because it is in accordance with its standards. In this regard, Prisem stated that the provisional countervailing duty makes it unable to import from China, which is why it was forced to accept an order from Almexa.

**122.** In the final stage of the investigation, the Secretariat requested information from the companies Household Articles , Komale, Prisem and Almexa, to corroborate whether the characteristics of tempering, homogeneity in thickness, porosity, parabola and orange peel compromise the Interchangeability of domestically manufactured aluminum discs with those from China.

**123.** In this regard, it requested Articles for the Home and Komale to support their assertions that the discs of national manufacture do not have a tempered treatment and uniform thickness, compared to discs of Chinese origin. Likewise, it required them to prove that their clients reject the product of national manufacture due to its characteristics (related to tempering, homogeneity in thickness and porosity). However, none of the importers submitted their response

to the request for information made by the Secretariat, so there was no evidence to confirm their arguments.

**124.** Furthermore, the Secretariat requested Prisem to indicate whether the characteristics pore prominent, parabola and orange peel, are present in aluminum disks or, where appropriate, if s or what is observed in cookware of aluminum. Likewise, it required him to sustain that the discs originating in China do not present prominent pore, parabola and orange peel. However, Prisem did not present its response to the request for information made by the Secretariat, so there was no evidence that confirm their arguments.

**125.** Similarly, the Secretariat requested Almexa to clarify whether the characteristics pore prominent, parabola, orange peel and porous surfaces, irregularly curved walls and density changing, are present in aluminum disks or s or the seen in aluminum cookware.

**126.** Almexa said he does not know what the term refers " prominent pore " and explained that, according to the publication " visual characteristics of quality aluminum sheet and plate " , issued by the Aluminum Association, the " parable " It is a defect associated with excessive deformation processes, while " orange peel " is a problem that is generated in the solidification process, due to not complying with the ideal grain size. He noted that both defects s or so can be seen in the process transformation of the material, given that, when suffering elastic deformations, they reflect these defects, so there is no way to see them on the disc.

**127.** On the other hand, it stated that aluminum discs can have defects such as porous surfaces, irregular curvatures and walls with changing density. In this regard, he pointed out that he keeps a permanent control of these defects, which indicates that the external rejection levels for these defects are approximately 1%. He added that, in Mexico, in many cases the process of manufacturers of aluminum cooking items is artisanal and dependent on the operator's skill, so the deformation processes of the discs are generally not controlled, and it is frequent that the material undergoes excessive stretching and deformation, causing the defects noted above, but due to the process productive for making cooking items, and not because of the properties of the aluminum disc itself.

**128.** The Secretariat assessed the arguments and evidence presented by the parties during the investigation and determined that there is no evidence that indicates that the characteristics indicated by the importers (temperate, homogeneity in thickness, porosity, parabola and orange peel) compromise interchangeability. between aluminum disks originating in China and domestically produced, because of that:

**a.** The information in the administrative file indicates that both the aluminum discs originating in China and the nationally manufactured ones have the characteristic of tempering;

**b.** None of the importing companies provided evidence indicating that the aluminum discs originating in China do not present porous surfaces, irregular curvatures and walls with changing density, due to their homogeneity in thickness. Likewise, they did not provide evidence to support that, when manufacturing cooking articles with aluminum discs originating in China, the final product does not present defects such as porosity, parabola and orange peel;

**c.** the importing companies did not provide reliable evidence of rejection of the nationally manufactured discs due to defects, since the information they provided refers to defects in a product other than the object of investigation (aluminum cooking items);

**d.** The information in the administrative record indicates that the demand for aluminum discs originating in China is due, more than to their characteristics, to their price. Indeed, Articles for the Home and Komale indicated that one of the reasons they buy records from China is because of their prices. In the same sense, at the public hearing Prisem pointed out that the provisional countervailing duty prevents it from importing from China, which confirms that its price was the determining factor for its imports, and

**e.** There is evidence that aluminum discs originating in China and those of national manufacture are interchangeable, since importing companies such as Artesanías Baja and Cinsa affirmed that they use them interchangeably in their production processes. It highlights that Cinsa, like Komale, Housewares, and Prisem, make cooking items.

**129.** The Secretariat determined that the arguments and evidence provided by the appearing parties do not distort what was established in points 123 to 135 of the Preliminary Resolution, since the aluminum discs

originating in China and those of national manufacture have the same essential characteristics, alloy (or series) and diameter, so they are commercially interchangeable. Likewise, the differences indicated by the importing companies do not compromise the similarity in terms of the provisions of articles 2.6 of the Anti-Dumping Agreement and 37 section II of the RLCE.

#### **b. Productive process**

**130.** Based on what is described in points 136 and 137 of the Preliminary Resolution, the Secretariat determined that both the production process and the inputs used to manufacture the product under investigation are similar to those used to manufacture the merchandise. national, since they are manufactured from the same inputs and through similar production processes through the stages described in point 11 of this Resolution. In this regard, in the final stage of the investigation the appearing parties did not provide arguments or evidence that would disprove it, for which reason the Secretariat confirms its determination.

#### **c. Rules**

**131.** In accordance with the provisions of point 138 of the Preliminary Resolution, the Secretariat determined that aluminum discs are manufactured in accordance with international standards relating to aluminum sheets, mainly in accordance with the ASTM B209M standard. The Almexa technical information sheets, as well as the information on the Internet pages of various companies that produce aluminum discs in China, confirm that the product under investigation and the similar product of national manufacture are produced under specifications of the same standards. None of the importers that appeared provided evidence that would disprove this determination in the final stage of the investigation.

#### **d. Uses and functions**

**132.** As described in points 139 to 143 of the Preliminary Resolution, both aluminum discs originating in China, as well as those of national manufacture, are normally used as an input to make pots, pans and other items for cooking, in addition to lamps and luminaires. During the investigation, the importing companies did not provide elements that would distort the uses and functions of the aluminum discs originating in China and those of domestic manufacture. Therefore, the Secretariat confirms that both products have the same uses and functions.

#### **and. Consumers and distribution channels**

**133.** Based on what is described in points 144 and 145 of the Preliminary Resolution, the Secretariat confirmed that the aluminum discs manufactured locally and those imported from China supply the same consumers and are marketed through the same distribution channels. Throughout the national territory; mainly aluminum cookware manufacturers and wholesale distributors.

**134.** In this regard, according to the list of sales to Almexa's main clients, as well as the official list of import operations of the SIC-M, the Secretariat confirmed that three of Almexa's main clients imported aluminum discs originating in China (two producers of articles for cooking and a marketing company that uses the discs for both manufacturers of lighting fixtures and cooking articles). Likewise, Cinsa and Artesanías Baja stated that, during the period analyzed, they used imported and nationally manufactured aluminum discs indistinctly in their production processes. The above confirms that both products are intended for the same consumers and use the same marketing channels.

## **F. Determination**

**135.** Based on the results described in the previous points and the information available in the administrative file, the Secretariat determined that the aluminum discs of national manufacture are similar to the product under investigation, in terms of the provisions of articles 2.6 of the Antidumping Agreement and 37 section II of the RLCE, because they have similar characteristics, are manufactured with the same inputs and through production processes that do not show substantial differences, they serve the same consumers, which allows them to fulfill the same functions and be commercially interchangeable, so they can be considered similar.

### **2. Branch of national production and representativeness**

**136.** In accordance with the provisions of Articles 4.1 and 5.4 of the Anti-Dumping Agreement, 40 and 50 of the LCE and 60, 61 and 62 of the RLCE, the Secretariat identified the domestic industry of the product similar to the one investigated, as a proportion of the total national production of aluminum discs, taking into account whether the manufacturing companies are importers of the product under investigation or if there are elements that indicate that they are related to importing or exporting companies.

**137.** According to the analysis described in points 90 to 94 of the Initiation Resolution and 147 to 149 of the Preliminary Resolution, the Secretariat determined that Almexa is representative of the domestic industry that manufactures aluminum discs similar to those investigated. , since it produced more than 50% of the national production of these products, while Azinsa Aluminio, SAPI de CV ("Azinsa"), which supports the investigation, represents the rest of the national production of this merchandise. The foregoing, coupled with the fact that there were no elements indicating that Almexa is linked to exporters or importers and, although it imported aluminum discs from other origins, its volume was insignificant (approximately 1% of total imports during the period analyzed).

**138.** In the final stage of the investigation, no information was submitted to disprove this determination, for which reason the Secretariat determined that Almexa constitutes the domestic industry, since it represents a significant proportion of the domestic production of aluminum discs, since that in the investigated period it produced more than 50% of the total national production of said product and has the support of Azinsa, which constitutes the rest of the national production of said merchandise, so that it satisfies the requirements established in articles 4.1 and 5.4 of the Antidumping Agreement, 40 and 50 of the LCE and 60, 61 and 62 of the RLCE. Additionally, there are no elements in the administrative file that indicate that Almexa is linked to exporters or importers of the product under investigation.

### **3. International market**

**139.** As described in points 150 to 160 of the Preliminary Resolution, the Secretariat analyzed the behavior of the international market for aluminum discs, based on the statistics of world exports and imports corresponding to subheading 7616.99 (Manufactures of aluminum , ncop) of the ITC, where aluminum discs are classified, as there is no specific information on aluminum discs in the international market.

**140.** The importing companies Cinsa, Artesanías Baja, Articles for the Home and Komale confirmed that there are no official sources that report specific information on aluminum discs, for which they also provided statistics on world exports and imports corresponding to subheading 7616.99, which they obtained UN Comtrade and ITC.

**141.** Additionally, the importing companies appearing provided information on aluminum production and consumption worldwide. Artesanías Baja provided information from the website [https:// es.statista.com](https://es.statista.com), while Articles for the Home and Komale provided information obtained from the website [www.world-aluminum.org](http://www.world-aluminum.org), as well as from the publication "Aluminio . Characterization and analysis of the international mineral market in the short, medium, and long term with effect from the year 2035 ", from the consulting firm CRU Consulting (" CRU ").

**142.** At the final stage of the investigation, Articles for the Home and Komale argued that the Secretariat did not value all the information they presented in relation to the analysis of the international market in the preliminary stage, in particular their response to question 37 of the form official. In this regard, the Secretariat clarifies that in the preliminary stage it analyzed all the information provided by the importers in their response to the official form. In fact, the aspects related to the answer to question 37 of the official form were addressed in points 155, 158 and 159 of the Preliminary Resolution.

**143.** It is worth mentioning that much of the information provided by the importers in their response refers to the primary aluminum market; However, this product is not the most restricted group or range of merchandise that includes the product under investigation, as in the case of aluminum manufactures. Therefore, the Secretariat reiterates that such information would not adequately reflect the behavior of the aluminum disc market.

**144.** In the final stage of the investigation, the Secretariat did not have additional information to that indicated in the previous points, therefore it analyzed the behavior of the international market for aluminum discs based on the information on exports and imports of manufactured goods from aluminum, which are the most restricted group or range of merchandise that includes the product under investigation.

**145.** Based on this information, the Secretariat observed that between 2016 and 2018 world exports of manufactured aluminum increased 5%, from 1.9 to 2.0 million tons. In that period, the main exporting countries were China (26.7%), Italy (11.5%), Germany (5.9%), Poland (4.9%), Austria (4.8%) and France (3.7%); Mexico participated with 3.1% of total exports.

**146.** For their part, world imports of aluminum manufactures grew 3% between 2016 and 2018, from 1.36 to 1.40 million tons. The main importing countries in said period were Germany (12.7%), France (6.4%), Mexico (5.8%), Poland (3.8%), Thailand (3.6%) and the United Kingdom (3.5%); China participated with 1.9% of total imports.

**147.** According to ITC statistics, during the investigated period, China was the main exporter of aluminum manufactures with a 28% share of world supply. The behavior of the average price of China's exports stands out, since it was 44% below the price of exports from other origins in the same period.

**148.** In this regard, Almexa stated that the distortion in prices caused by China has serious consequences on world trade, including the aluminum associations of the Western world and Japan, including the Instituto Mexicano del Aluminio, AC ("IMEDAL"), They urged G20 government representatives to take measures to stop China's unfair practices, to avoid oversupply, price distortion, and to stop the damage it inflicts on aluminum industries around the world.

#### **4. National market**

**149.** The information in the administrative file confirms that Almexa and Azinsa are the only national producers of aluminum discs, while the rest of the market participants are wholesale distributors, who import or purchase discs from national manufacturers .

**150.** According to Almexa, the market for aluminum discs does not show seasonal patterns, however, this industry is very sensitive to changes in the prices of its main raw material, aluminum, which is subject to changes in international prices. , which recently show an increasing behavior.

**151.** With regard to the distribution channels of aluminum discs, both the product under investigation and the similar product of national manufacture reach the same geographic markets, which is practically the entire national territory, and customers, through direct sales. from national manufacturers or wholesale distributors.

**152.** Articles for the Home and Komale argued that in the Opening and Preliminary Resolutions it was omitted to mention the vertical integration of Almexa, which represents more than 85% of national production and is part of Grupo Vasconia, a company that produces, among other manufactures: aluminum, aluminum discs and aluminum items for the table and kitchen. They considered that this is relevant since the same business group produces the aluminum discs, transforms them and finally markets them into consumer goods . Therefore, if a countervailing duty is imposed on aluminum discs originating in China, the cookware manufacturers would depend on Almexa's disc sales and would also have to compete with the aluminum cooking items that Grupo Vasconia sells. In this regard, the Secretariat clarifies that competition issues related to final consumption items, such as aluminum cooking items, are not the subject of this proceeding.

**153.** As in the previous stage of the investigation, based on the information in the administrative file, including the import figures from the SIC-M, the Secretariat analyzed the behavior of the national market for aluminum discs through the consumption national Aparente (CNA), calculated as the total domestic production plus imports minus exports, and confirmed that é ste recorded a positive performance between 2016 and 2018. Indeed, the domestic market grew 11.5% during the period under review: 10.3 % in 2017 and 1.1% in the investigated period. The performance of each component of the CNA was as follows:

**a.** total imports grew 31% in the analyzed period, decreased 11% in 2017, but increased 46% in the investigated period;

**b.** highlights that during the analyzed period aluminum discs were imported from 7 countries; In particular, in 2018 the main supplier was China, which represented 89% of the total imported volume, followed by Thailand with 5%, Costa Rica 2% and Hong Kong 1.9%, among others;

**c.** National production registered a 10% drop in the analyzed period, increased 4% in 2017, but decreased 13% in the investigated period, and

**d.** Total exports accumulated a 46% drop in the analyzed period, decreased 14% in 2017 and 37% in the investigated period, during the analyzed period they represented on average 29% of the total national production.

**154.** On the other hand, national production oriented to the domestic market, calculated as the volume of national production minus exports, increased 13% in 2017 and decreased 4% in the investigated period , for which accumulated growth of 9% in the analyzed period.

#### **5. Analysis of imports**

**155.** In accordance with the provisions of Articles 3.1 and 3.2 of the Anti-Dumping Agreement, 41 section I of the LCE and 64 section I of the RLCE, the Secretariat evaluated the behavior and trend of imports of the product under investigation during the period analyzed, both in absolute terms

as in relation to national production or consumption.

**156.** Almexa requested to consider the imports of aluminum discs that enter through the definitive and temporary regimes under tariff section 7616.99.10 of the TIGIE, as well as those that enter under the Eighth Rule. However, as indicated in point 11 of the Commencement Resolution, it did not present information related to imports made under Rule Eight, so they were not included in the analysis.

**157.** Almexa stated that imports of aluminum discs originating in China, under conditions of price discrimination, registered significant growth during the analyzed period, particularly in 2018, both in absolute terms and in relation to the CNA, which was reflected in a displacement of the domestic industry and imports from other origins. To support his affirmation, he presented the SAT import database, corresponding to tariff section 7616.99.10 of the TIGIE, for the period from January 2016 to December 2018, to obtain the value and volume of imports of aluminum discs.

**158.** It indicated that due to said tariff fraction, in addition to the product under investigation, other merchandise also entered, which is why it estimated imports from the SAT database, in accordance with the methodology described in points 31 of the Resolution of Initiation, and 42 and 43 of the Preliminary Resolution. This methodology allowed it to identify 90% of the import operations carried out during the period analyzed by the referred tariff fraction, on the basis of the SAT.

**159.** In the preliminary stage of the investigation, the importing companies Prisem, Cinsa, Artesanías Baja, Articles para el Hogar and Komale questioned the reliability of the calculation of imports, since they considered that the Almexa methodology overestimates the imported volume, since it includes transactions of products other than the one investigated and import operations of companies whose business line is unknown.

**160.** In accordance with what is described in points 179 and 182 to 184 of the Preliminary Resolution, the Secretariat corroborated Almexa's estimate based on the list of import operations of the SIC-M that was compiled, since it is the official source to quantify the investigated product. In addition to following the criteria that Almexa used to debug the database, the Secretariat sought the turn of the importer on the Internet and included those of the volume of those in which he observed that manufactured cookware, lamps and luminaires. Therefore, the Secretariat clarified that the calculation of imports is reliable and is not overestimated.

**161.** On the other hand, in the preliminary stage of the investigation, Artesanías Baja requested to exclude temporary imports (IMMEX), as well as those that enter under the Eighth Rule, since it considered that these do not cause injury to the industry national, since these are products that will be transformed for export and will not be used for national consumption.

**162.** The Secretariat considered inadmissible the request made by Artesanías Baja to exclude temporary imports, since the injury analysis considers the total volume of imports made under conditions of price discrimination, which include both definitive and temporary imports. Likewise, in point 181 of the Preliminary Resolution, it clarified that the analysis of imports did not consider those that enter under the Eighth Rule.

**163.** In the final stage of the investigation, Artesanías Baja reiterated its request to exclude imports made by means of Rule Eight, as well as temporary ones. In this regard, he stated the following:

**a.** Almexa did not provide information on the import operations in due time and form by means of the Eighth Rule, for which reason the imposition of countervailing duties on said imports is not appropriate;

**b.** International anti-dumping provisions do not consider temporary imports as operations that must be subject to countervailing duties, since such operations do not result in unfair practices for the national industry. He added that Article VI of the GATT states that any importation that caused injury or threat of injury to the national production will be condemnable, however, given that temporary imports do not compete directly with the domestic market, it is not possible that they cause injury or threat of damage to national production;

**c.** The merchandise imported under the temporary regime will not be destined for sale in the national territory, since, in accordance with the provisions of Article 108 of the Customs Law, the main objective of the temporary importation of merchandise by maquiladora companies is to return the final good abroad, after a transformation process has been carried out on the temporarily imported merchandise, and

**d.** The Secretariat's determination, indicated in point 180 of the Preliminary Resolution, is incorrect, since Article 9.2 of the Anti-Dumping Agreement does not refer to import regimes, but to the origin of the merchandise under investigation, regardless of its origin. In this sense, the WTO Appellate Body report in DS397 European Communities Fixing Elements (China) concluded that non-discrimination refers to provenance and not to the import regime of the investigated merchandise.

164. In this regard, Almexa pointed out that Artesanías Baja's allegations lack legal basis, since the antidumping legislation does not prohibit the inclusion of temporary imports. In addition, these imports also compete in the domestic market with the product similar to the one investigated, since they are used as an input and transformed into different goods, and in that sense they also displace the domestic product, although the final products are not intended for consumption within the National market. Additionally, the customs law in its article 104 establishes that temporary imports will be subject to the payment of countervailing duties, so there is no legal impediment to consider them. within the product under investigation.

165. In relation to the arguments of Artesanías Baja, the Secretariat reiterates that the imports that enter under the Eighth Rule were not analyzed in this investigation, therefore they would not be subject to the payment of the compensatory duty, as indicated in points 167 and 181 of the Preliminary Resolution.

166. Regarding temporary imports, the Secretariat does not share the reasoning of the importer in the sense that such imports do not enter the market or compete with the like product. In fact, as Artesanías Baja argued, temporary imports return abroad after a process of transformation. I.e. temporary imports entering the market nationally as an input, at which displace the domestic like product, yes or so after entering or turned into goods other than the product under investigation are for market export.

167. Likewise, the Secretariat differs from the interpretation that Artesanías Baja makes on the meaning and scope of both Article 9.2 of the Anti-Dumping Agreement, and the report of the WTO Appellate Body in the case of the European Communities Fixing Elements (China) case. Once the importer argues that this article obliges not to discriminate the application of anti-dumping duties based on origin and that, by not mentioning anything about discriminating based on import regimes, then the Secretariat cannot apply those duties to temporary imports.

168. The foregoing is inadmissible because Article 9.2 of the Anti-Dumping Agreement expressly provides the following:

" **[w] hen an anti-dumping duty has been established with respect to a product, that duty will be collected in the appropriate amount in each case and without discrimination on imports of that product, whatever their origin, declared dumped and causing of injury, except for imports from sources from which price undertakings have been accepted by virtue of the provisions of this Agreement.** "

169. In this sense, if temporary or definitive imports are subject to price discrimination and cause injury, the corresponding anti-dumping duty must be levied regardless of who is the supplier of those products. Likewise, the WTO report noted by Artesanías Baja clearly establishes that an investigating authority must collect antidumping duties in the appropriate amount, without discrimination on imports from all sources (that is, from all suppliers).

3 54. Accordingly, we conclude that Article 9.2 of the AD Agreement requires that, where multiple suppliers are involved, the investigating authority specify an individual duty for each supplier, unless doing so is impossible in practice. We reach this conclusion by interpreting the first sentence of Article 9.2 in conjunction with the second sentence of the same paragraph. **The first sentence requires the investigating authority to collect anti-dumping duties in the appropriate amount in each case and without discrimination on imports from all sources - that is, suppliers -** while the second phrase requires the investigating authority to designate the supplier or suppliers of the

product in question. We also consider that the exception provided in the third sentence of Article 9.2 does not allow the imposition of a single anti-dumping duty for the entire country in investigations involving non-market economies when it is alleged that the imposition of individual duties it is "ineffective" even though it is not "impossible in practice".

170. Thus, since it was determined that the temporary imports were subject to price discrimination, caused injury to the domestic industry, and there is no price commitment, the Secretariat reiterates that it is not appropriate to exclude them from the investigation or of the payment of the corresponding anti-dumping duties.

171. In the preliminary stage of the investigation, and in order to specify the value and volume of the imports of discs under analysis, the Secretariat requested import requests, with their corresponding invoices and other documents of admission to customs agents. It also considered the information provided by the importing companies appearing.

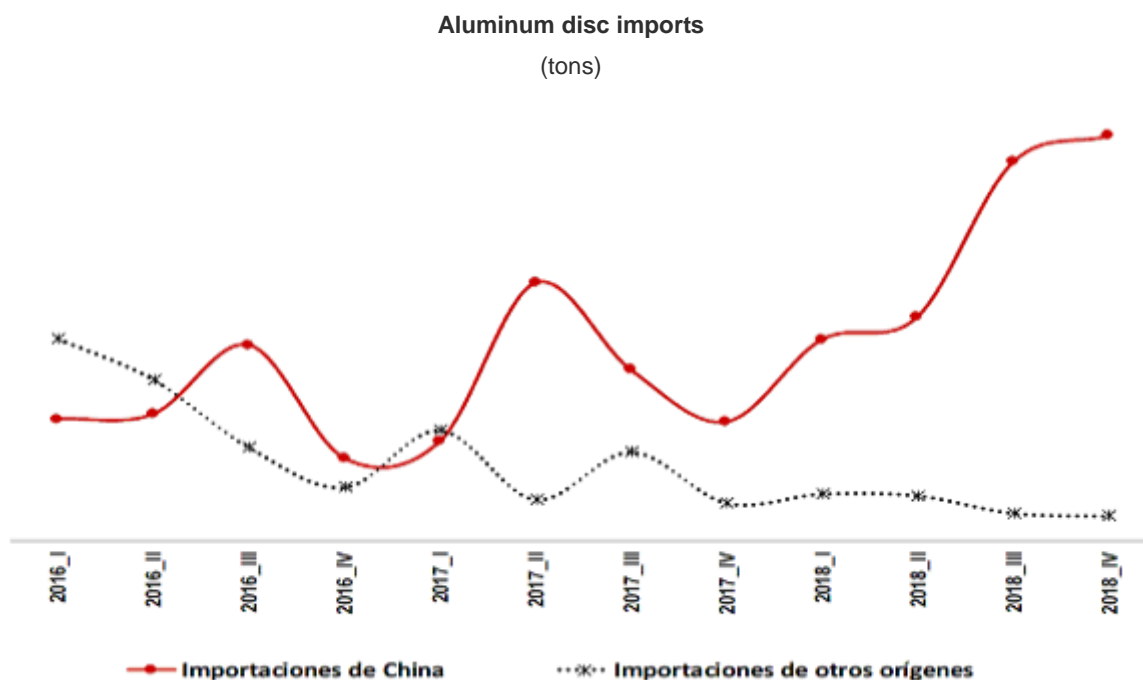
172. At the final stage of the investigation, none of the appearing parties questioned the Secretariat's calculation. Consequently, as in the previous stage of the investigation, based on the methodology described in points 54 and 55 of the Preliminary Resolution, the Secretariat calculated the values and volumes of imports of aluminum discs from China, as well as of the other origins from the official list of import operations of the SIC-M by the tariff section 7616.99.10 of the TIGIE and confirmed the behavior and trend of imports of aluminum discs.

173. Based on the information described in the previous point, the Secretariat confirmed that total imports of aluminum discs grew 31% in the period analyzed: they decreased 11% in 2017 and increased 46% in the investigated period. This performance is fundamentally explained by the growth of imports originating in China.



174. Indeed, imports originating in China registered an increase of 1.3 times in the period analyzed: they increased 23% in 2017 and 87% in the period investigated; It stands out that in this last period they contributed 89% of total imports, which meant an increase of 38 percentage points in relation to 2016, when they registered a contribution of 51%.

175. For their part, imports from other origins decreased 45% in 2017 and 48% in the investigated period, which translated into a 72% decrease during the analyzed period. In consequence, they lost 38 percentage points of share in total imports during the review period, to the passing of a stake of 49% in 2016 to 11% during the investigation period.



Source: SIC-M.

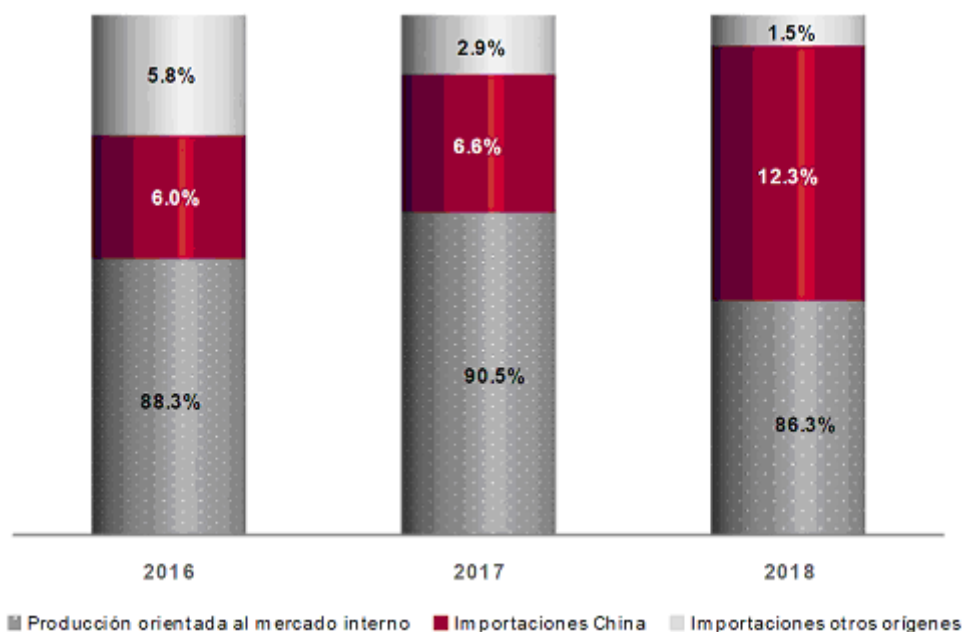
176. In terms of participation in the domestic market, the Secretariat observed that total imports increased their participation in the CNA by 2 percentage points during the analyzed period, going from 11.7% in 2016 to 13.7% in the investigated period (9.5% in 2017). The foregoing is mainly explained by the participation of imports from China:

a. imports originating in China represented 6% of the CNA in 2016, 6.6% in 2017 and 12.3% in the investigated period, so that they increased their participation in the domestic market by 6.3 percentage points in the period analyzed. In relation to the volume of national production, these imports represented 4%, 5% and 11%, respectively, in the same periods, and

b. Imports from other origins reduced their participation in the CNA by 4.3 percentage points in the analyzed period, going from 5.8% in 2016 to 1.5% in the investigated period (2.9% in 2017).

177. On the other hand, the national production oriented to the domestic market decreased its participation in the CNA by 4.2 percentage points in the investigated period and 2 points during the analyzed period, since it went from 88.3% in 2016 to 86.3% in 2018, derived from the increase of imports originating in China.

#### National market for aluminum discs (CNA)



Source: SIC-M and Almexa.

178. Additionally, the information on sales to Almexa's main clients confirms that during the period analyzed there was a substitution of domestic aluminum discs by imports from China, particularly in three of its clients. These customers' imports represented 2% of the total volume of imports originating in China in 2016, 2% in 2017 and 23% in the investigated period. Therefore, during the investigated period, their purchases of aluminum discs originating in China increased 20 times, while their domestic purchases decreased 18%.

179. As described in the previous points of this Resolution, the Secretariat determined that the imports under investigation, under conditions of price discrimination, registered an increasing trend both in absolute terms, as well as in relation to consumption and domestic production during the analyzed period, particularly in the investigated period, while the domestic industry lost market share, attributable to the increase in imports originating in China. In this sense, the growth recorded by the domestic market as described in point 152 of this resolution confirms that it is or what benefited imports from China, as both Imports from other origins such as national production oriented to the domestic market decreased their participation in the CNA in the period analyzed.

## 6. Effects on prices

180. Based on the provisions of Articles 3.1 and 3.2 of the Anti-Dumping Agreement, 41 section II of the LCE and 64 section II of the RLCE, the Secretariat analyzed whether the imports originating in China entered the domestic market at prices considerably lower than those of the like domestic product, or whether the effect of these imports was to depress domestic prices or prevent the increase that, otherwise, would have occurred, and if the price level of imports was decisive to explain its behavior in the domestic market.

181. Almexa argued that China is the main supplier of aluminum discs in the international market (27.7% of the world supply), which gives it an important influence on the prices of these products. He explained that during the period analyzed, their low prices, related to the practice of price discrimination, were a determining factor in increasing their presence in the domestic market. In this regard, he pointed out that the increase in the price of imports from China was not only lower than the national price, but was even lower than the increase in Almexa's production costs.

182. In this context, it indicated that during the period analyzed, imports originating in China registered prices well below the national ones, a trend that was accentuated in the investigated period. The undervaluation with respect to the national price maintained a growing trend; it went from 16.9% in 2016 to 24.2% in the investigated period.

183. In the preliminary stage of the investigation, Household Goods and Komale argued that the undervaluation indicated by the Applicant is due to the fact that domestic prices increased above the trend of the prices of its main input (aluminum). They also stated that Almexa did not prove the existence of price suppression due to imports originating in China. Their arguments in this regard are described in points 195 to 197 and 210 of the Preliminary Resolution.

184. In the final stage of the investigation, Articles for the House and Komale stated that the Secretariat did not assess all the arguments and evidence they presented in the preliminary stage, to support that the behavior

of the prices of the investigated imports was not the cause of the undervaluation, nor of the contention of prices that Almexa pointed out.

**185.** In particular, they indicated that the Secretariat did not carry out an exhaustive analysis of the relationship between the prices of primary aluminum (London Metal Exchange), as well as the prices of domestically produced aluminum discs and the investigated imports. They noted that in this analysis it is important to consider the cyclical behavior of primary aluminum prices (which depends on economic activity). In this regard, they pointed out that the Preliminary Resolution does not explain how the difference between the London Metal Exchange and the price of sales to the domestic market went from 110.8% in 2016 to 124.2% in 2018 (which is equivalent to 13.4%) and the fact that national prices continued to increase despite that, since May 2018, the prices of the London Metal Exchange remained down.

**186.** In this regard, Komale reiterated that prices are adjusted to domestic industry or what to increases in the price London Metal Exchange, not when it presents reductions. To support his assertion, he provided a correlation analysis between the prices of the London Metal Exchange (primary aluminum), the prices of his purchases of domestic records, as well as the prices of his imports originating in China, during the period analyzed.

**187.** According to the results of its analysis, the price of its imports has a high correlation with the price of the London Metal Exchange (79.9%) as opposed to the null correlation it has with the prices of the aluminum discs that it acquired in national territory (-5.3%). Komale considered that the negative correlation between domestic prices and prices London Metal Exchange confirms that the selling prices of the domestic industry adjust to or so before the price increases in London Metal Exchange.

**188.** In this regard, Almexa stated that in the Preliminary Resolution the Secretariat confirmed that there are high levels of undervaluation of the imported product with respect to the national product. Likewise, at the public hearing, Almexa indicated that the statistical correlation exercise provided by the importer is inadmissible as evidence, since Komale bases its conclusions solely on the prices of its imports and domestic purchases. In contrast, the price analysis carried out by the Secretariat is based on the cumulative imports that enter the country, as well as the Applicant's prices. Furthermore, as noted in point 201 of the Preliminary Resolution, the Secretariat observed that the prices of Imports investigated, as well as those of the domestic industry followed the behavior of the international reference price of aluminum.

**189.** Regarding the arguments of Household Goods and Komale, the Secretariat clarifies that in the preliminary stage it analyzed all the information they provided on the price behavior of the investigated imports. Indeed, the relationship between the prices of primary aluminum (London Metal Exchange), as well as the prices of domestically manufactured aluminum discs and the investigated imports were analyzed in points 193 to 206 of the Preliminary Resolution. As described in point 201 of said Resolution, the Secretariat reiterates that the analysis provided by the importers was

incorrect, for the following reasons:

**a.** The London Metal Exchange reference price figures indicate that a growth of 7.2% was registered in 2018 compared to the previous year, contrary to the decrease of 13.1% estimated by Housewares and Komale;

**b.** The price of imports of aluminum discs originating in China, during the investigated period, does not register the 5.3% drop estimated by Household Items and Komale either, since according to the statistics of the list of import operations of the SIC- M, grew 5% in said period;

**c.** the behavior of the London Metal Exchange reference price is not the only factor in determining the price of aluminum discs, but costs of other inputs as well as other expenses and a reasonable profit margin are also considered, and

**d.** both the prices of the investigated imports and those of the domestic industry followed the behavior of the international reference price for aluminum.

**190.** In relation to the increase in the difference between the price of the London Metal Exchange and the national prices that, according to Household Goods and Komale, was recorded during the period analyzed (13.4%), the Secretariat clarifies that, given which is based on the comparison of Komale's purchases in the domestic market with reference prices, lacks probative value on the price behavior of the domestic industry. The same is true of his statement that domestic prices continued to rise, despite the fact that prices on the London Metal Exchange have remained down since May 2018.

**191.** Regarding the correlation analysis carried out by Komale, the Secretariat considers that it does not support its arguments on the behavior of the prices of the investigated and domestic imports in relation to aluminum (London Metal Exchange), for the following reasons:

**a.** is based on what their record imports from China, so it is not relevant to support the behavior of total imports investigated, and

**b.** It uses as a reference of the national price the one obtained from the records it acquired in the national market. However, it did not provide reliable evidence that these discs are indeed manufactured by the domestic

industry, so there is no certainty about the absence of correlation between the price of the London Metal Exchange and the domestic discs that it estimates.

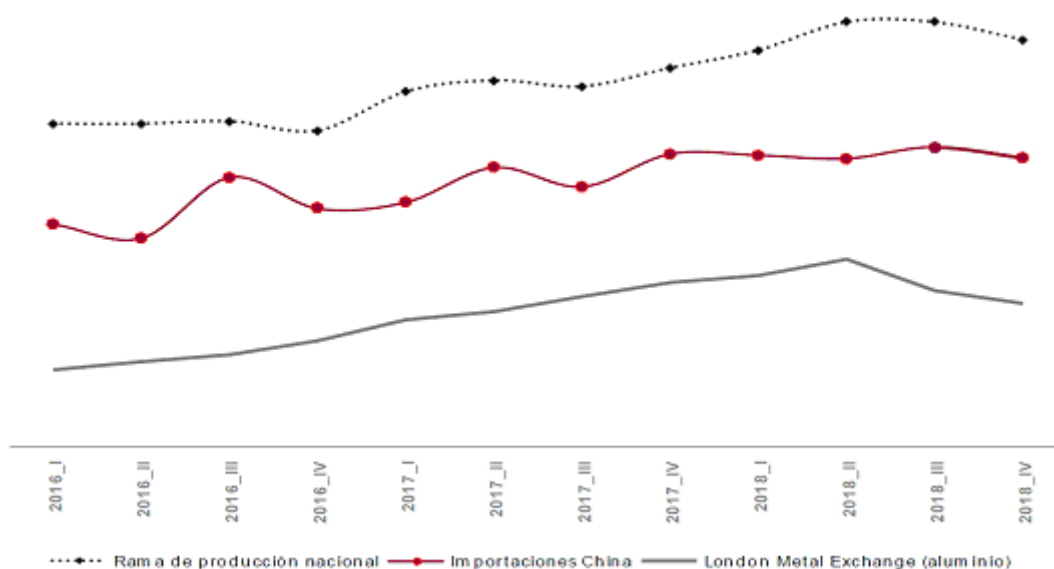
192. On the other hand, although the importers indicated that the price analysis should consider that the prices of primary aluminum have a cyclical behavior (which depends on the economic activity), they did not provide information that would allow the Secretariat to assess how the The economic cycle influenced the behavior of aluminum disc prices during the analyzed period.

193. Consequently, the Secretariat analyzed the behavior and trend of prices based on the information available in the administrative file. Based on this information, it confirmed that both the prices of the investigated imports and those of the domestic industry followed the behavior of the international reference price for aluminum.

194. According to the quarterly price information, aluminum prices maintained an upward trend during most of the analyzed period, until the second quarter of 2018, when a drop in said prices was observed. Both the prices of the investigated imports and those of the domestic industry followed the trend of aluminum prices, which as of the second quarter of 2018 show a decreasing trend. It is worth mentioning that Articles for the Home and Komale pointed out that during the period analyzed there was a growing gap between the prices of nationally manufactured aluminum discs and those of the London Metal Exchange, however, the information available does not support such claim.

Domestic market prices of primary aluminum (London Metal Exchange 1 ) and aluminum discs (domestic industry 2 and imports from China 3 )

(Dollars per ton)



1 London Metal Exchange International Price.

2 Price at plant level.

3 Price at customs level.

Source: SIC-M, Almexa, Articles for the Home and Komale.

195. As in the previous stage, in order to evaluate the arguments of the appearing parties, the Secretariat calculated the average implicit prices of imports originating in China and the rest of the countries, based on the values and volumes calculated as described in point 17 2 of this Resolution.

196. The Secretariat confirmed that the average price of imports originating in China increased 14% in the analyzed period, derived from an increase of 8% in 2017 and 5% in the investigated period. For its part, the average price of imports from other origins fell 2% in 2017, but grew 15% in the investigated period, thus accumulating an increase of 13% during the analyzed period.

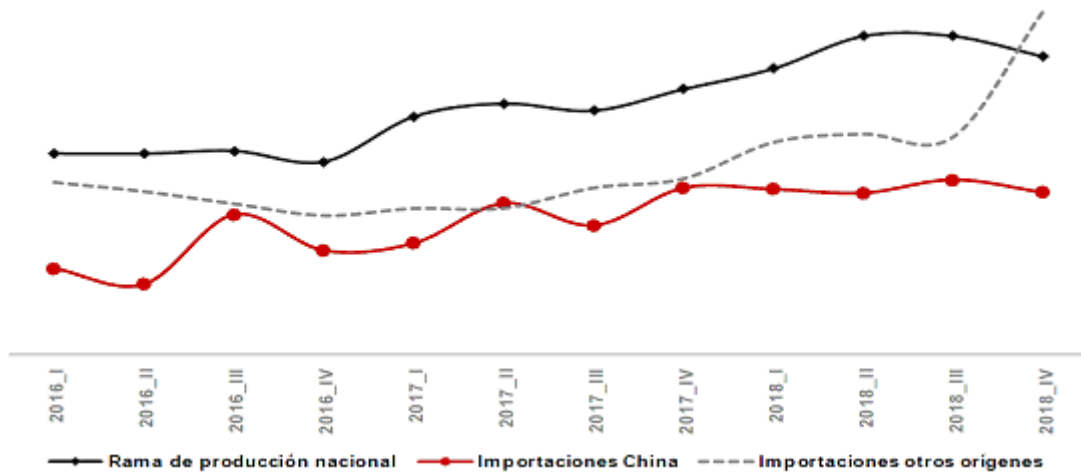
197. Regarding the average price of sales to the domestic market of the domestic industry, measured in dollars, it registered a cumulative growth of 20% in the analyzed period: 9% in 2017 and 10% in the investigated period.

198. To assess the existence of undervaluation, the Secretariat compared the Free on Board (FOB, for the acronym in English of " Free on Board " ) in plant of the sales to the domestic market of the domestic industry with the price of imports originating in China, for this, adjusted the latter with the corresponding tariff , indicated in point 10 of this Resolution, customs broker expenses and customs processing fees .

199. As a result, the Secretariat confirmed that the price of the investigated imports was lower than that of the domestic industry throughout the period analyzed; 17% in 2016, 18% in 2017 and 21% in the investigated period. In relation to the average price of imports from other origins, the price of the product originating in China was lower by 11% in 2016, 3% in 2017 and 12% in the investigated period .

#### Prices in the national market of aluminum discs

(Dollars per ton)



Source: SIC-M and Almexa.

200. Almexa stated that the price at which the imports originating in China attended also led to a containment of the domestic price, which had an adverse effect on its profitability. In this regard, it argued that despite the upward trend in the domestic market sales prices of the domestic industry during the analyzed period, it could not offset the increase in the cost of raw materials. He highlighted that the prices of the product under investigation do not reflect the increase in the costs of its main input (aluminum) during the period analyzed, since while the price of primary aluminum grew 43%, the price of China's aluminum discs or it grew 9%.

201. To support its assertion on price containment, the Applicant provided price references for primary aluminum in the international market, which it obtained from the London Metal Exchange and the Midwest (PM), as well as the costs of its main inputs to manufacture discs. aluminum during the period analyzed (for example; aluminum, aluminum scrap, electricity, gas, among others). Additionally, it presented a unit statement of costs, sales and profits of the merchandise similar to the one investigated, in pesos per kilogram.

202. In the preliminary stage of the investigation, Housewares and Komale argued that the Almexa data does not demonstrate price suppression due to imports originating in China. The Secretariat analyzed their arguments and evidence, and determined that they did not disprove the existence of price suppression .

203. In the final stage of the investigation, Articles for the Home and Komale stated that the Applicant intends to prove the price containment, by adding to the London Metal Exchange, the Midwest price, supplies, utilities and travel expenses, but incurs a double accounting. They also pointed out that the 20% increase in Almexa's prices during the analyzed period does not prove price containment . On the other hand, they argued that they observed inaccuracies in the Preliminary Resolution, in relation to Almexa's arguments and evidence, including:

a. the scope of the Midwest award, as it is not for " the western world " , as the Platts website indicates that "Midwest Premium" is not a "fee" for "storage and transportation", it is simply a term for the regional aluminum price in the Midwest of the United States;

b. the practical utility of the Midwest Award, as, according to a Platts note, aluminum consumers in the United States (specifically the brewing industry) claim it is " artificially inflated " ;

c. Almexa did not provide evidence to support the assertion described in numeral 200 of the Preliminary Resolution , relative to the fact that it is false that its prices deviate from the London Metal Exchange trends , since to determine them it considers said reference price, as well as other factors , Y

d. The incorporation of the cost of inputs other than aluminum, such as electricity, gas and labor , does not provide an economic explanation on the part of the Applicant, regarding the arguments and evidence provided by Articles for the Household and Komale, in the sense of that the difference between the prices of the London Metal Exchange and the sale price to the domestic market, increased from 110.8% in 2016

to 124.2% in 2018, that is, an increase of 13.4 percentage points.

**204.** Additionally, Household Items and Komale reiterated that the price containment alleged by the Applicant is not proven. To support their assertion, they provided a partial equilibrium model for dumping prices, called the Commercial Policy Analysis System (COMPAS). They explained that, unlike what was observed in the graphs of numerals 201 and 206 of the Preliminary Resolution, the results of the COMPAS are point estimates of eight possible scenarios calculated based on price and demand elasticities, based on information from the Resolution Preliminary and of the industrial division of Grupo Vasconia.

**205.** Articles for the Home and Komale argued that the results of the COMPAS model support that there was no containment of the national price derived from the imports investigated during the period analyzed, due to the following:

**a.** the average impact of imports from China on the price and national production was practically nil (0.4%);

**b.** the investigated imports did not exert pressure on the income of the national industry (0.8%);

**c.** the estimated impact of dumping on the price of Chinese aluminum disc imports was -22.17%, and

**d.** the alleged dumping increased the volume of imports of aluminum discs originating in China by 45.40%.

**206.** In the final stage of the investigation, Almexa stated that its financial results were affected due to unfair competition from Chinese products, at prices that do not even cover the production costs of the raw material, which prevented it from increasing its prices. He pointed out that the increase in operating costs was the result of the increase in the cost of aluminum, the main input to manufacture discs, which grew 53% in the period analyzed. However, due to the prices recorded by the investigated imports, this increase in costs was not adequately reflected in their prices.

**207.** The Secretariat analyzed the information and arguments provided by Household Goods and Komale to sustain that the behavior of the prices of the investigated imports did not cause a price suppression of the domestic industry. In this regard, he observed the following:

**a.** Although the prices of the domestic industry have increased by 20% in the analyzed period, this does not undermine the existence of price suppression, since the increase in the cost of its main input was much higher (53%);

**b.** the statement that the difference between the prices of the London Metal Exchange and the selling price to the domestic market went from 110.8% in 2016 to 124.2% in 2018, does not support that the national price does not follow the trend set by the London Metal Exchange, since the variations were calculated only with information on imports and national purchases made by Komale during the period analyzed. In this sense, the importer did not verify that its national purchases are indeed of national manufacture, since it may well be imported discs marketed by distribution companies. Therefore, it is not relevant to determine the behavior of sales prices to the domestic market;

**c.** the arguments of the importers seem to suggest that the price of aluminum discs should be determined solely on the basis of the international reference price (London Metal Exchange). However, it is unreasonable, economically, the selling price of disks aluminum determine s or so for the cost of one of its inputs, but this is the one that has a major contribution to the final price of the product;

**d.** In an analysis of pecuniary injury, as in the present case, the use of estimates to determine the effect of the investigated imports on the domestic industry is not relevant, since the result of an estimate does not replace the observed behavior of prices of the investigated imports, supported by positive and objective evidence of the actual performance of said prices in the market. Consequently, the results of the estimation with the COMPAS model do not disprove the existence of price containment, and

**e.** Household Goods and Komale used information that makes their estimate not correctly reflect the impact that the investigated imports had on the domestic industry. In particular, they considered the amount of the quota as a margin of price discrimination

provisional compensation, which was lower than the margin determined in the Preliminary Resolution (37.88% instead of 48.27%). Likewise, to determine the national content parameter required by the COMPAS model, they used information from the industrial division of Grupo Vasconia, which is not specific for the product under investigation.

**208.** Based on the foregoing, the arguments and supplementary evidence presented by Household Articles and Komale do not disprove the existence of contention in domestic prices as a result of the behavior of the prices of the investigated imports.

**209.** According to the information available, which considers the behavior of the costs of all inputs to manufacture aluminum discs, and not only the behavior of primary aluminum (London Metal Exchange), the

Secretariat confirmed that during the period analyzed there was a lag in sales prices to the domestic market compared to the behavior of its costs:

a. the cost of the main inputs to manufacture aluminum discs (expressed in dollars) grew 16% in the investigated period and 32% in the analyzed period, while sales prices to the domestic market increased 10% and 20% in those periods, respectively. In particular, the cost of aluminum, the main input to manufacture discs, grew 23% in the investigated period and 53% in the analyzed period;

b. The Secretariat reviewed the structure of the total operating unit costs and observed that, during the analyzed period, the variable unit operating costs (they are related to the volume of production and sale) represented 88%; which makes sense, since as it or as the raw material represented 72% of total operating unit cost, including the cost of aluminum, main component manufacturing costs. The fixed unit operating cost represented the remaining 12%, and

c. unit costs of merchandise similar to the one investigated (expressed in constant pesos), registered a 16% growth during the analyzed period; 3.1% in 2017 and 12.5% in the investigated period. For their part, national prices, expressed in constant pesos, grew 10.5% in the analyzed period, 3.5% in 2017 and 6.8% in the investigated period.

210. This behavior contrasts with the lower growth in prices of imports originating in China, especially if the increase in international aluminum prices is considered. According to the London Metal Exchange, the Secretariat observed that while the price of aluminum grew 31% in the period analyzed; the price of imports originating in China increased 14% (both prices in dollars).

211. In accordance with the results described in the previous points, the Secretariat concluded that there are elements that support that, during the period analyzed, imports originating in China registered margins of undervaluation with respect to the national price and other sources of supply, which they are associated with the practice of price discrimination in which they incurred, as indicated in point 104 of this Resolution. In addition, the low price level of imports originating in China with respect to the national price and from other sources of supply, explains the increasing volumes of said merchandise and its greater participation in the national market, a situation that is reflected in a containment of the domestic price, as well as the negative performance in the profits of the domestic industry, as explained in the following section of this Resolution.

#### **7. Effects on the domestic industry**

212. Based on the provisions of Articles 3.1 and 3.4 of the Anti-Dumping Agreement, 41 section III of the LCE and 64 section III of the RLCE, the Secretariat evaluated the effects of imports of aluminum discs originating in China on economic indicators and financials of the domestic industry of the like product.

213. Almexa argued that, during the analyzed period, particularly in the investigated period, imports of aluminum discs originating in China increased considerably and were carried out under conditions of price discrimination, as well as at lower prices than the national ones, which caused material injury to the domestic industry. He added that the volumes of these imports and the conditions in which they were made, was reflected in the impact of indicators of the domestic industry, such as: production, sales to the domestic market, market share, employment, productivity and use of the installed capacity. Likewise, they caused a containment in the prices of the national production, which had a negative impact on its profitability.

214. In the previous stage of the investigation, Prisem, Cinsa, Housewares and Komale, argued that the investigated imports did not cause injury to the domestic industry. Prisem argued that its volume of imports was not significant and therefore did not cause injury to the domestic industry. For its part, Cinsa indicated that the growth of the investigated imports was due to the increase in the CNA during the analyzed period, thus complementing the needs of a growing market and did not displace domestic production. Finally, Household Goods and Komale stated that the investigated imports did not have a negative effect on the industry indicators. national. As described in points 215 to 254 of the Preliminary Resolution, the Secretariat analyzed the arguments and evidence of the importers, and considered that they do not support that the investigated imports did not cause injury to the domestic industry, since their arguments are based on a partial reading of the injury analysis that the Secretariat carried out at the beginning of the investigation, as well as information that is not pertinent, for which it did not consider them appropriate.

215. In the final stage of the investigation, Prisem reiterated that its imports did not cause injury to the domestic industry, as it imported 20 tons of aluminum discs between 2018 and 2020.

216. For their part, Articles for the Home and Komale reiterated that the behavior of the indicators of the domestic industry do not prove the injury that the Applicant alleges, due to the following:

a. nine of the indicators of the domestic industry do not show a deterioration: installed capacity, inventories, wage bill, income from sales to the domestic market, cash flow, working capital ratio, acid test, total liabilities to stockholders' equity and total liabilities to total assets;

b. three are not attributable to imports originating in China: operating costs, volume and revenue from Almexa's exports, and

c. ten indicators show a downward trend: domestic production oriented to the domestic market, utilization of installed capacity, employment, productivity, operating profit, operating margin, return on investment (ROA), contribution to ROA, domestic production and market sales internal. However, its behavior cannot be linked to the imports investigated due to the absence of price suppression.

**217.** Housewares and Komale argued that there is no price containment; however, the Secretariat's injury determination is intended to be based on the undervaluation margin, ignoring that the price of discs originating in China is also higher than the reference price of aluminum ingots, but not between three and four times greater than in the national market, whose difference the Applicant intends to prove by adding inputs, utilities and the Midwest premium, when in reality it is the inefficiency and / or monopoly power of Almexa.

**218.** Articles for the Household and Komale added that, although the Commencement Resolution and the Preliminary Resolution cite all the variables of Article 3.4 of the Anti-Dumping Agreement, there is no explanation on how they could have contributed to the injury of the domestic industry for example: the levels of total liabilities reasons to total stockholders and debt capital to total assets, s or what were described as " not satisfactory " and " unacceptable levels " , which, if it is true, does not explain how went from high levels at the beginning of the investigated period towards equilibrium in the investigated period and their relationship with their income and costs in the period analyzed; or, the relationship between operating costs that increased 7.1% in the investigated period, while national production oriented to the domestic market decreased 4%. Likewise, how is it explained that, given the fall in national production oriented to the domestic market, employment grew 12% and the wage bill 8%. The Preliminary Resolution does not explain the impact of the cost on operating profits, operating margin and ROA, nor how the volume and sales income contributed to the damage , as well as prices, which had a positive behavior.

**219.** Due to the foregoing, Household Goods and Komale considered that the Secretariat did not comply with the provisions of Article 3.4 of the Anti-Dumping Agreement. They argued that the 2009 WTO report indicates that in an anti-dumping investigation, a reasoned analysis and detailed assessment of the state of the domestic industry must be carried out, where the authorities have to explain how and why, in light of the positive trend of some damage factors can be affirmatively pronounced, and that the determination of the damage must be made in light of the global evolution and the interaction of the damage indicators, taken together, among other points.

**220.** In this regard, they presented the following arguments related to the behavior of the financial indicators of the domestic industry:

a. The Secretariat did not describe or value the information provided by the importers regarding the improvement in the levels of leverage of the Applicant during the period analyzed and the

effects of the contraction of its exports on the economic and financial indicators of the national industry;

b. due to the absence of price suppression, as argued by the Applicant without presenting evidence confirming his statement, in paragraph 251 of the preliminary determination does not explain what way the " current assets and short - term liabilities showed unsatisfactory levels " since the indicators followed an upward trend from 2016 to 2018. The foregoing, due to the fact that the Secretariat's analysis was not exhaustive;

c. so does the level of leverage, in paragraph 252 of the Preliminary Determination, which are marked " unacceptable levels " , but indicators also show an upward trend during the period under review, a situation that does not prove in any way the alleged containment prices since no arguments in the Applicant or the Preliminary an explanation of why were not affected, it s or so we have the expressions " not satisfactory " and " unacceptable levels " ;

d. Regarding the operating costs of Almexa, the importers indicate that, in point 237 of the Preliminary Resolution, it is indicated that these increased 37.2% throughout the period analyzed, especially, in 2017 they registered a growth of 28.1%, but this resolution is not what was explained the cause of the growth in a scenario where domestic production oriented to the domestic market s or the increased 9%, ie 19.1 percentage points lower;

and. in point 238 of the Preliminary Resolution, the decrease in operating benefits is attributed to income from sales to the domestic market and to operating costs as follows: " As a result of the behavior of income and operating costs, operating benefits from sales to the domestic market decreased 33% in the analyzed period: they grew 17.1% in 2017, but decreased 42.8% in the investigated period. Consequently, the margin of operation of the domestic industry accumulated a fall of 4.5 percentage points in the analyzed period, going from 9.2% to 4.7% (decreased 0.7 percentage points in 2017 and 3.8 percentage points in the investigated period) " ;

F. In point 237 of the Preliminary Resolution, it is indicated that revenues from sales to the domestic market increased 37.2% in the analyzed period, so the only factor that could have negative effects on operating benefits is operating costs, but its Positive or negative variations cannot be attributed to imports of aluminum discs originating in China, and the causes of their increase are not indicated in the aforementioned Resolution, which is why Komale and Household Articles lack elements that explain their trajectory in the period



analyzed. They indicated that, consequently, it is also applicable to the operating margin, whose fall would have its origin in the increase in operating costs, on which the imports object of this investigation have no incidence because the costs depend on the price of the factors in the Mexican market, the international price of aluminum that is not set by the exporters of aluminum discs from China, as well as the Applicant's business strategies;

**g.** Without economic or financial explanation, on the way in which the increase in the Applicant's operating costs had an impact on the operating results, it was indicated that this was due to the imports of aluminum discs originating in China; specifically, in point 245 of the Preliminary Resolution it is stated: " the Secretariat observed that ... there is evidence that imports of aluminum discs originating in China do not allow the recovery of the operating results of the domestic industry " ; in point 246 of the Preliminary Resolution it is stated: "in addition ... during the period analyzed, a price suppression was observed " , and in point 254 of said Resolution, it is stated: " based on the performance of the economic and financial indicators of the domestic industry ... they caused an impact, among others, in operating profits and operating margin (derived from the effect of price containment);

**h.** From the results of the statistical correlation analysis and the partial equilibrium model (COMPAS), as well as the information contained in operating costs, it is observed that imports of aluminum discs originating in China had no impact on operating costs. , operating profit or operating margin of the Applicant. They added that the Secretariat's analysis was not exhaustive and neither did it explain how and why the referred variables and indicators were affected by the concurrence of the imports under investigation;

**i.** The Secretariat did not assess the arguments and information in the Preliminary Resolution, regarding:

**i.** information on the financial performance of Grupo Vasconia in 2018, including the division of consumer products where Almexa is located;

**ii.** The increase in the Applicant's costs due to the increase in the price of aluminum and the alleged price containment is not credited, in any case, the costs that may have increased are the company's operating costs, but this fact does not justify the initiation of an investigation;

**iii.** the supposed displacement of Almexa's sales in the domestic market was accompanied by higher profits. In this regard, the Secretariat did not assess the equilibrium point model, also known as cost-volume-profit, which determines that the Applicant suffers deterioration due to production costs and not due to investigated imports;

**iv.** The fact of not being able to offset the increase in the cost of raw materials with the price, according to Almexa's argument, would imply negative operating margins, something that did not happen, since in the Starting Resolution, point 153, it is indicated that in the market Internal operating margins were 9.2% and 4.7%, both positive, while in point 156 of said Resolution, positive operating margins of 10% and 4.8% are indicated for the export market , so that in both markets it is observed a drop in operating margins, but not the existence of a negative margin that proves the Applicant's argument, in the sense that the sale price to the domestic market does not cover operating costs;

**v.** The reduction in Almexa's operating profits, and its impact on the company's ROA, is due to other factors, such as the reduction in its exports, and

**vi.** Almexa's liquidity and leverage levels improved steadily during the period from 2016 to 2018, so the supposed deterioration in these indicators must be caused by another situation and not by the investigated imports.

**j.** At the public hearing, they questioned Almexa about how it is possible to manifest a financial deterioration , when the levels of leverage improved in the analyzed period, and how the increase in production costs influenced the deterioration of the operating results of similar merchandise. A respect, Almexa noted that for the first case, improvement in levels of leverage was due to new capital contributions from shareholders, while that for the second case, the deterioration of non - s operating results or what is originates from the increase in production costs, as there are other factors such as sales volumes and domestic prices, which also have an impact on operating results and, in the latter case, are influenced by the discriminated prices of the investigated imports;

**k.** There is no economic explanation for the interaction of the variables with the alleged damage, for example, the improvement in Almexa's levels of leverage in relation to the first year, and its relationship with income and costs throughout the period analyzed. In the regard, the Secretariat s or described it as " not satisfactory " and " unacceptable levels " , but not told how their high levels at the beginning of the investigation period, to the balance of the period of investigation; Or, the relationship that exists between operating costs that increased 7.1% in the investigated period while the national production oriented to the domestic market decreased 4%. In addition, they questioned the Applicant's assertion that the decrease in leverage is due to the increase in stockholders' equity, but there is no evidence in the record to substantiate this saying;

l. Likewise, in the Preliminary Resolution there is also no explanation of the impact of the increase in costs on other variables where the damage is intended to be based: operating benefits (-42.8%), operating margin (4.7%) and ROA (3.1%) , Y

m. the volume and income of similar merchandise exports decreased 37% and 31.6%, respectively, in the investigated period, aspects that cannot be attributed to the investigated imports . Furthermore, the criterion used by the Secretariat to consider that 35% is not decisive is not explicit , in the case of the fall in sales in the export market, when undervaluation levels of 17% to 21% are significant.

**221.** In this regard, Almexa reiterated that, in accordance with the provisions of Article 3.4 of the Anti-Dumping Agreement , the determination of injury will include an evaluation of all the economic factors and indices and none of these factors in isolation nor several of them together will suffice to obtain decisive guidance , which means that for an injury determination it is not necessary that all the economic and financial indicators of the domestic industry be affected by imports in

conditions of price discrimination, but there is evidence that, as a whole, the performance of the domestic industry was affected by such imports.

**222.** Almexa added that, both in the Initiation Resolution and in the Preliminary Resolution, it was demonstrated that, as a whole, the performance of the domestic industry was affected by the investigated imports since: a) there was an increase significant of imports in the period analyzed and investigated; b) the share of said imports in the CNA grew, displacing the domestic industry and imports from other origins, and c) there were high levels of undervaluation and price suppression that affected some economic and financial indicators of the domestic industry.

**223.** In relation to the arguments of the importing companies Household Goods and Komale, the Secretariat reiterates that they are based on a partial reading of the damage analysis that the Secretariat carried out, both of the Initiation Resolution and the Preliminary Resolution, as well as information that is not pertinent.

**224.** The Secretariat considers that, although during the investigation the importers argued that there is no price suppression of the domestic industry, and consequently it is not argued that the deterioration in the indicators of the domestic industry is due to the investigated imports , did not present valid and conclusive evidence to demonstrate their assertion. In this sense, they intend to support their assertions through estimates (such as the COMPAS model and the correlation analysis), which are based on information that is not relevant to determine the behavior of the investigated imports , due to what is stated in points 190 and 206 sections d and e of this Resolution. To the In this regard, it highlights that the real data does not support its allegations.

**225.** On the other hand, although the importers question the determination of undervaluation because the prices of the investigated imports are higher than the international reference price, which is logical because the price of aluminum discs includes other costs, this does not distort that the prices of the investigated imports were lower than the prices of the domestic industry during the period analyzed.

**226.** Additionally, the Secretariat clarifies that the comprehensive reading of the Preliminary Resolution shows that a detailed analysis was carried out of the impact of the investigated imports on the economic and financial indicators of the domestic industry, contrary to what they maintain Items for the Home and Komale. To this end, as established in Article 3.4 of the Anti-Dumping Agreement, the Secretariat evaluated all relevant economic factors and indices that influence the state of the domestic industry, including the decline in sales, profits, production volume, the market share, productivity, return on investments , capacity utilization, factors affecting domestic prices, the magnitude of the dumping margin, actual or potential negative effects on cash flow, inventories, employment, wages, growth, the ability to collect capital or investment.

**227.** Regarding the behavior of the financial indicators, the Secretariat emphasizes that it valued each and every one of the arguments and evidence presented by the importers Household Goods and Komale. Likewise, it considers that they are not appropriate and valid because of the following:

a. In the case of the improvement in the levels of leverage of the Applicant, although it is true that they improved during the period analyzed, they are still above 100% with respect to stockholders' equity , which the Secretariat considers as " unacceptable " or not very manageable . Articles for the Home and Komale suggest that it is not enough to use terms such as " unsatisfactory or unacceptable " in the evaluation of this indicator, and that it must be demonstrated how the investigated imports had an impact on this factor; however, importers forget that this indicator It was calculated with figures from audited financial statements, which include the range of products where the product similar to the one under investigation is included, and which, in accordance with Articles 3.6 of the Anti-Dumping Agreement and 66 of the RLCE, allow the Secretariat to conclude in this regard. Now , as Almexa pointed out, leverage levels improved because shareholders in 2017 and 2018 made contributions that increased the stockholders' equity of the national industry. The Secretariat was able to collate in the statements of changes in stockholders' equity and in the notes to the financial statements, which are in the case file, significant contributions, which evidently they reduced the ratio of liabilities to stockholders' equity, and also the ratio of debt, since cash increased according to the cash flow statements for those years;

**b.** Importers make an erroneous assessment of the variables provided for in Article 3.4 of the Anti-Dumping Agreement, since they consider the financial indicators of leverage (total liabilities / capital), level of debt (liabilities / assets), and levels of solvency and liquidity ( measured through working capital ratios and acid test) as individual factors and, therefore, importers suggest an improvement in these financial indicators that shows that no

there is deterioration or damage to the national industry, which is not the case. In this regard, Article 3.4 of the Anti-Dumping Agreement indicates evaluating the " capacity to raise capital " , which is measured precisely by the behavior of said financial indicators. In this sense, the Secretariat maintains that these indicators show limited or unacceptable levels of having the capacity to raise capital, in accordance with what is observed in the financial statements as a whole, and under the same administrative practice that the Secretariat has followed in all anti-dumping investigations, where leverage in producing companies, greater than 100%, is considered unacceptable, while the solvency and liquidity levels, below one, are considered insufficient to cover short-term liabilities;

**c.** Regarding the statement of Household Goods and Komale, referring to the fact that the Secretariat was not exhaustive in its analysis of financial variables (mainly, the effect of the increase in production costs on the operating benefits of the national industry), the Secretariat confirms that its analysis, evaluation and conclusion was carried out in accordance with the applicable legislation. The importers maintain, without providing any proof, that Almexa's operating costs were increased by an accounting management in which costs of other products and / or cost centers are transferred to aluminum discs, without considering that income, costs of operation, Profits and operating margins correspond only to information related to similar merchandise , and not to other products. Furthermore, importers want the behavior in all variables to be in the same proportion and direction (they compare the growth of costs by 37.2%, with the 9% increase in national production oriented to the domestic market in the period analyzed), when cost accounting is influenced by various factors, such as the increase in the cost of raw materials, the use of installed capacity and the use of fixed costs, indirect factory expenses, higher employment and wage bill, among others, that they did not take into account;

**d.** the importers maintain that it is not explained in the Preliminary Resolution why current assets and short-term liabilities showed " unsatisfactory " levels . The foregoing, without considering that the Secretariat evaluates whether current assets, which can be easily converted into cash, are sufficient to cover short-term debts (in one year); that is, if they are solvents and liquids, or if the company has a peso for each peso owed. Describe in detail which accounting accounts of the audited financial statements increased and / or decreased (in the case of current assets: cash, accounts receivable, inventories, others and, on the other hand, the short-term liabilities: suppliers, creditors, documents payable, etc.), does not add any additional element to the conclusion. However, if the importers need to know how the investigated imports affected the aforementioned accounting accounts, it is not possible to determine this directly, since the audited financial statements are not exclusive to like merchandise. Even so, the legislation on the matter allows evaluating levels of liquidity and solvency with information on the range of production where the similar merchandise is found, in this case financial statements;

**e.** Regarding the effects of Almexa's exports on the financial indicators of the domestic industry, the Secretariat carried out its analysis in points 239 and 240 of the Preliminary Resolution. It analyzed separately the statements of costs, sales and profits of similar merchandise exported by the Applicant. The importers suggest that the alleged damage to income, costs, profits, operating margins, ROA and contribution to the ROA of similar merchandise is mainly caused by the contraction of export activity, when 65% of the company's total sales Similar merchandise was made in the domestic market during the period analyzed. Furthermore, it is important to point out that the contribution to the ROA refers only to the contribution to the profits generated in the domestic market, without the export market having interference with respect to this last indicator;

**F.** Komale and Articles for the House intend to assimilate significance between the undervaluation margins with the participation of export sales, with respect to the total market of Almexa. In this sense, the Secretariat analyzed separately the statements of costs, sales and profits in the different markets, without noting that the export market was not significant, but rather that it was not decisive, since, where unfair imports compete, It is in the domestic market, where Almexa's sales represent 65%, therefore, it is the market influenced by the unfair prices of the investigated imports; in addition, to contain the greater effects on the financial statements with which the ROA and the ability to raise capital were calculated ;

**g.** The importers argued that the increase in the Applicant's operating costs and the

The effects of the contraction of its export activity cannot be attributed to the investigated imports , however, the Secretariat considers the increase in costs as a fundamental part to evaluate a price suppression, since it cannot affect it in national prices , derived from the existence of imports at discriminated prices in the domestic market . In the case of the contraction of Almexa's exports, its analysis was carried out separately, through statements of costs, sales and profits of similar exported merchandise, and at no time was it indicated that the cause of its behavior was a consequence of the investigated imports;

**h.** Regarding the financial information provided by the importers and supposedly not valued in the Preliminary Resolution, the Secretariat indicates that it was taken into consideration, as indicated in points 220, 224, 260 and 264 of the Preliminary Resolution. In the final stage of the investigation, the evaluation was deepened, considering the final arguments on the analysis of indicators such as leverage and liquidity, price containment and operating benefits (income and costs) of similar merchandise, and

**i.** The Secretariat carried out a comprehensive evaluation of each economic and financial variable with the information presented by the Almexa company, which corresponds to the similar merchandise or more restricted range of products that the similar merchandise contains, which corresponds to real information for the period analyzed and not so to estimates; Likewise, it is reasonable and was presented in accordance with the possibilities of the national industry, including particular information on national prices, unit production costs, income, total production and operation costs, as well as audited financial statements, information in the that the Secretariat based its conclusions on operating profit and margins, cash flow, ROA, contribution to ROA and the ability to raise capital as established in Article 3.4 of the Anti-Dumping Agreement.

**228.** In the final stage of the investigation, in order to evaluate the arguments of the appearing parties as well as the effects of the investigated imports on the domestic industry, the Secretariat considered the data from Almexa's economic and financial indicators, corresponding to the like product, since this company is the one that makes up the domestic industry, except for those factors that for accounting reasons it is not feasible to identify with the same level of specificity (cash flow, ability to raise capital and return on investment). For these last variables, the audited financial statements presented by the domestic industry corresponding to the fiscal years 2016, 2017 and 2018.

**229.** The information corresponding to the financial statements, including the statements of costs, sales and profits, was updated using the method of changes in the general price level, using the National Consumer Price Index calculated by the National Institute of Statistics and Geography (INEGI).

**230.** The information in the administrative file confirms that the national market for aluminum discs, measured through the CNA, grew 11.5% in the analyzed period (10.3% in 2017 and 1.1% in the investigated period). In the same period, the share of imports originating in China in the CNA increased 6.3 percentage points (from 6.0% in 2016 to 12.3% in the investigated period), while imports from other origins lost 4.3 percentage points and production oriented to the domestic market 2 percentage points.

**231.** For its part, the share of domestic production oriented to the domestic market of the domestic industry increased 2 percentage points in the period analyzed; grew 3.5 percentage points in 2017, but lost 1.5 percentage points in the investigated period. These results indicate that imports from China were those that benefited from the relative growth of the domestic market.

**232.** In this context of market growth, the production of the domestic industry accumulated a fall of 10% during the period analyzed; Although it increased 4% in 2017, it decreased 13% in the investigated period. On the other hand, the total sales of the domestic industry (to the domestic and foreign market) decreased 10% in the analyzed period; increased 7% in 2017, but decreased 15% in the investigated period. The performance of total sales is explained to a greater extent by the performance of sales destined for the domestic market:

**a.** sales to the domestic market of the domestic industry increased 18% in the period analyzed; grew 23% in 2017, but decreased 4% in the investigated period. It should be noted that, in absolute terms, sales to the domestic market represented 65% of total sales during the analyzed period and 74% in the investigated period;

**b.** the exports of the domestic industry decreased 46% in the analyzed period; decreased 14% in 2017 and 37% in the investigated period, and

**c.** Despite the drop in sales to the foreign market, their behavior was not decisive for the performance of the domestic industry, given that it is more oriented to the domestic market (they contributed 35% of the total sales of the domestic industry in the period analyzed and 26% in the period investigated).

**233.** Almexa indicated that the behavior of sales to the foreign market is also due to the distortions caused by the prices of Chinese aluminum discs in the international market, given that China is the main supplier of this product worldwide.

**234.** Regarding the behavior of sales at the customer level, Almexa pointed out that during the analyzed period and, in particular, in the investigated period, some of its customers decreased their domestic purchases, substituting it for the product under investigation. Indeed, as indicated in point 177 of this Resolution, during the investigated period three companies decreased their domestic purchases by 18%, at the same time that they increased their purchases of aluminum discs from China by 20 times. It should be noted that these three companies accounted for 23% of the total imports originating in China in the investigated period.

**235.** On the other hand, the installed capacity of the domestic industry increased 4% during the analyzed period: 2% in 2017 and 1% in 2018. This increase in capacity was due to improvements made by the Applicant in the cuts and productive processes by calibrations and adjustments in the machinery.

**236.** As a result of the performance of the installed capacity and the total production of the domestic industry, the use of the first indicator decreased 11 percentage points in the analyzed period, from 82% in 2016 to 71% in the investigated period (83% in 2017).

**237.** On the other hand, the average inventories of the domestic industry accumulated a 10% drop in the analyzed period, although they increased 13% in 2017, they decreased 21% in the investigated period.

**238.** Regarding employment in the domestic industry, a 13% drop was observed in the period analyzed, derived from a decrease of 0.3% in 2017 and 12% in 2018. In the same period, the wage bill increased 4%, decreased 4% in 2017, but increased 8% in the investigated period.

**239.** The performance of production and employment resulted in an increase in productivity (measured as the ratio of these indicators) of 3% in the period analyzed; increased 4% in 2017 and decreased 1% in the investigated period.

**240.** The Secretariat had a statement of costs, sales and profits of the similar product, both the one corresponding to total sales, export sales and the exclusive one for sales to the domestic market. This information relates to 2016, 2017 and 2018. Because the ratio of sales to the external market in relation to total sales (35% in the analyzed period and 26% in the investigation), no s or the analyzed effects of imports under dumping conditions on sales of similar merchandise in the domestic market, but also the results of operations by export activity.

**241.** The Secretariat confirmed that income from direct sales to the domestic market of aluminum discs (measured in pesos) increased 30.7% in the period analyzed; 27.1% in 2017 and 2.9% in the investigated period. On the other hand, the operating costs of sales to the domestic market increased 37.2% in the analyzed period, 28.1% in 2017 and 7.1% in the investigated period.

**242.** As a result of the behavior of income and operating costs, operating benefits from sales to the domestic market decreased 33% in the period analyzed: they grew 17.1% in 2017, but decreased 42.8% in the investigated period. Consequently, the operating margin of the domestic industry accumulated a fall of 4.5 percentage points in the period analyzed, going from 9.2% to 4.7% (it decreased 0.7 percentage points in 2017 and 3.8 percentage points in the investigated period).

**243.** Regarding the merchandise that Almexa allocates to the foreign market, the Secretariat confirmed that income from export sales decreased 40.7% during the analyzed period: -13.3% in 2017 and -31.6% in the investigated period. On the other hand, operating costs were reduced 37.3% during the analyzed period: -10.3% in 2017 and -30.1% in the investigated period.

**244.** In this regard, the performance of income and operating costs associated with sales to the export market caused operating results to decrease 71.8% during the analyzed period: -40.1% in 2017 and -53% in the investigated period. Consequently, the operating margin accumulated a fall of 5.2 percentage points during the analyzed period, going from 10% to 4.8% (it decreased 3.1 percentage points in 2017 and 2.1 percentage points in the investigated period).

**245.** The Secretariat reviewed the evolution of the unit costs of merchandise similar to the one investigated (expressed in constant pesos), observed that they registered a growth of 16% during the analyzed period; 3.1% in 2017 and 12.5% in the investigated period. On the other hand, national prices, expressed in constant pesos, grew 10.5% in the analyzed period, 3.5% in 2017 and 6.8% in the investigated period.

**246.** The Secretariat observed that although there was a financial deterioration in the operating results of the domestic industry due to sales in its foreign market, in the domestic market (where imports of aluminum discs of Chinese origin compete under dumped conditions) there is also a negative behavior, and since the volume of sales in the domestic market represented on average 65% of total sales during the period analyzed and 74% in the investigated period, there is evidence that imports of aluminum discs originating in China do not allow the recovery of the operating results of the domestic industry.

**247.** In addition, as indicated in points 130 to 136 of the Commencement Resolution and 207 to 214 of the Preliminary Resolution, and according to the information on the status of costs, sales and unit profits of the merchandise similar to the one investigated In the final stage of the investigation, the Secretariat confirmed a suppression in the prices of the domestic industry during the period analyzed, due to the increase in imports originating in China, which had a negative impact on its operating profits.

**248.** In relation to the variables of ROA, contribution of the product similar to ROA, cash flow and ability to raise capital, in accordance with the provisions of Articles 3.6 of the Anti-Dumping Agreement and 66 of the RLCE, the effects of imports of the product The subject of investigation in the domestic industry were evaluated based on the audited financial statements of the domestic industry, which consider the production of the more restricted group or range of products that include the like product.

**249.** The Secretariat confirmed that the ROA of the domestic industry, calculated at the operational level, showed a decreasing trend in the period analyzed; with a fall of 2.2 percentage points from 2016 to 2018. The contribution of the like product in the return on investment of the domestic industry, calculated at the

operating level, showed a trend similar to the ROA in the analyzed period; decreased 1.3 percentage points between 2016 and 2018, as shown in the following table.

Index	2016	2017	2018
Return on assets	5.3%	3.5%	3.1%
Contribution to ROA	2.5%	2.4%	1.2%

Source: Almexa financial statements.

**250.** Based on Almexa's cash flow, the Secretariat observed that cash flow at the operating level decreased 1.2 times in the period analyzed; decreased 1.48 times in 2017 and grew 0.57 times in 2018.

**251.** On the other hand, with regard to the ability to raise capital, which measures the ability of a producer to obtain the financial resources necessary to carry out the productive activity, the Secretariat analyzed said ability through the behavior of the producers. working capital, acid test, leverage and debt ratios . Solvency and liquidity levels are normally considered adequate if the ratio of current assets to current liabilities is one to one or greater. Regarding the level of leverage, it is considered that a proportion of total liabilities with respect to stockholders' equity of less than 100% is manageable.

**252.** The Secretariat observed that the domestic industry had a limited capacity to raise capital , mainly due to poor levels of solvency, liquidity and leverage in the years 2016 to 2018, as shown in the following table. Additionally, it was observed that leverage limits the ability to raise capital, since the indicator reported a percentage structure greater than 100%. For its part, the debt ratio remained at acceptable levels.

Index	2016	2017	2018
<b>Solvency</b>			
Currency Ratio 1 /	0.45	0.60	0.71
Acid Test 2 / (ratio)	0.33	0.42	0.55
<b>Leverage and debt</b>			
Leverage 3 / (times)	3.44	1.36	1.47
Debt 4 / (%)	77%	58%	59%

Source: Almexa financial statements.

1 / Current assets / short-term liabilities

2 / Current Assets - Inventory value / short-term liabilities

3 / Total Liabilities / Stockholders' Equity

4 / Total Liabilities / Total Assets

**253.** Based on the performance of the economic and financial indicators of the domestic industry described in the previous points of this Resolution, the Secretariat concluded that there are sufficient elements to determine that, in the period analyzed, particularly in the investigated period , the significant increase registered by the investigated imports, both in absolute and relative terms , and the low price levels at which they attended, affected relevant economic and financial indicators of the domestic industry, including: sales to the domestic market , market share, production, domestic production oriented to the domestic market, use of installed capacity, employment, productivity, operating profits and operating margin (derived from the price containment effect).

## 8. Other damage factors

**254.** In accordance with Articles 3.5 of the Anti-Dumping Agreement, 39 last paragraph of the LCE and 69 of the RLCE, the Secretariat examined the concurrence of factors other than imports originating in China under conditions of price discrimination, which at the same time could be cause of damage to the domestic aluminum disc industry.

**255.** Almexa stated that there are no factors other than imports originating in China in conditions of price discrimination that affect the performance of the economic and financial indicators of the domestic industry.

**256.** In the preliminary stage of the investigation, Prisem, Cinsa, Housewares and Komale argued that there were other factors that caused injury to the domestic industry that should not be attributed to the investigated imports, including; technical smuggling (undervaluation and triangulation) and the lack of competitiveness of the national industry; the negative behavior of exports; economic activity, in particular the stagnation of manufacturers of aluminum cookware and producers of ornamental lamps. Their arguments are described in points 257 to 261 of the Preliminary Resolution.

**257.** In accordance with the results described in points 255 to 271 of the Preliminary Resolution, the Secretariat analyzed the arguments and evidence provided by the appearing parties and determined that there were no factors other than the imports of aluminum discs originating in China, carried out under conditions of price discrimination, which at the same time could be the cause of injury to the domestic industry.

**258.** In the final stage of the investigation, Articles for the Home and Komale stated that it is important not to attribute to the investigated imports the effect of the drop in Almexa's exports. Therefore, in terms of Articles 3.5 of the Anti-Dumping Agreement, 39 of the LCE and 69 of the RLCE, they requested a detailed separation of the effects of the fall in exports of the national industry on its economic variables and indicators, since they considered that the 35% share of exports in total sales is a significant level. They considered that, by not removing the effect of the drop in exports, the alleged damage to the national industry was overestimated. They added that it should not be attributed to Imports investigated the effect of exports on variables such as: production, utilization of installed capacity, employment, productivity, operating profit, operating margin, ROA and contribution to ROA.

**259.** Regarding the non-attribution analysis requested by Household Goods and Komale, the Secretariat clarifies that, both in the Initiation Resolution and in the Preliminary Resolution, the effect of the behavior of exports on the performance of the branch was analyzed. of national production. In particular, the complete reading of the Preliminary shows that because the proportion of the sales to the external market in relation to total sales (35% in the analyzed period and 26% in the investigation), no s or what is analyzed the effects of dumped imports on the sales of similar merchandise in the domestic market, but also the results of operations by the activity exporter.

**260.** It is worth mentioning that, although Articles for the Home and Komale requested a detailed separation of the effects of the fall in exports of the national industry on their variables and indicators

They did not propose or present any methodology to separate the effects, so the Secretariat analyzed the effect of exports on the indicators of the domestic industry with the information available to it.

**261.** As indicated in point 245 of the Preliminary Resolution, the Secretariat observed that although there was a financial deterioration in the operating results of the domestic industry due to sales in its foreign market, in the domestic market (where they compete imports of aluminum discs of Chinese origin under dumping conditions) there is also a negative behavior, and since the volume of sales in the domestic market represented on average 65% of total sales during the period analyzed and 74% in the investigated, there is evidence that imports of aluminum discs originating in China did not allow the recovery of the operating results of the domestic industry, due to the price containment effect they exerted on it.

**262.** The effects of Almexa's exports on the financial indicators of the domestic industry were identified in points 239 and 240 of the Preliminary Resolution, as the Secretariat analyzed separately the statements of costs, sales and profits of similar exported merchandise by the Applicant. Importers suggest that the alleged damage to revenues, costs, profits, operating margins, ROA and contribution to the ROA of similar merchandise is mainly caused by the contraction of export activity, when 65% of total merchandise sales similar was carried out in the domestic market during the period analyzed. Furthermore, the contribution to ROA refers only to the contribution to the profits generated in the domestic market and the export market has nothing to do with this last indicator.

**263.** Komale and Articles for the Home try to assimilate significance between the undervaluation margins with the participation of export sales, with respect to the total market of Almexa. In this sense, the Secretariat analyzed separately the statements of costs, sales and profits in the different markets, without noting that the export market was not significant, but rather that it was not decisive, since, where unfair imports compete, it is in the domestic market, where Almexa's sales represent 65% during the analyzed period and 74% in the investigated period, therefore, it is the market influenced by the unfair prices of the investigated imports; in addition, to contain the greater effects on the financial statements with which the ROA and the ability to raise capital were calculated.

**264.** The Secretariat reiterates that, although exports contributed to the performance of the domestic industry, it was not a determining factor in the deterioration recorded, since sales to the domestic market, which compete directly with dumped imports, accounted for 74 % in the investigated period . In this sense, the relevant economic and financial indicators of the domestic industry, corresponding to the domestic market, registered a negative behavior as a consequence of the growth of imports under conditions of price discrimination. Indeed, during the investigated period, the domestic market-oriented production of the domestic industry registered a decrease of 1%, internal sales decreased 4%, capacity utilization decreased 12 percentage points, operating profit and operating margin derived from sales to the domestic market decreased 42.8% and 3.8 percentage points, respectively.

**265.** On the other hand, in the same way as in the previous stages of the investigation, the Secretariat evaluated the factors of which it had knowledge, other than the investigated imports and exports of the national industry (which was previously analyzed), that could have contributed to the damage to the national industry and found that:

a. the demand for the product under investigation, in terms of the CNA, registered an accumulated growth of 11.5% in the analyzed period; 10.3% in 2017 and 1.1% in 2018. Therefore, market behavior did not affect the performance of the domestic industry. In this context, during the investigated period, the domestic production oriented to the domestic market registered a loss of market share of 4.2 percentage points, attributable to imports from China, which gained 5.6 percentage points in said period;

b. Imports from other origins could not be the cause of the injury to the domestic industry, as their volume decreased 72% in the period analyzed, derived from a decrease of 45% in 2017 and 48% in 2018. Although a decrease was registered undervaluation of the prices of imports from other origins, in relation to the prices of the domestic industry, during the period analyzed their participation in the CNA went from 5.8% in 2016 to 1.5% in 2018, that is, they had a loss of 4.3 percentage points (2.9 percentage points in 2017 and 1.4 percentage points in 2018);

c. Although productivity showed a negative behavior in the investigated period, said

This behavior is associated with the drop in production, as a result of the increase in imports from China, and

d. The information in the record does not indicate that technological innovations or changes in the consumption structure had occurred, or restrictive commercial practices that affected the performance of the domestic industry.

266. Consequently, based on what is described in the previous points of this Resolution, the Secretariat concluded that the available information does not demonstrate the concurrence of factors other than the imports of aluminum discs originating in China in conditions of price discrimination, that could break the causal link between the imports subject to price discrimination and the pecuniary injury to the domestic industry.

#### **I. Conclusions**

267. Based on the comprehensive analysis of the arguments and evidence described in this Resolution, the Secretariat concluded that there are sufficient elements to support that, during the investigated period, the imports of aluminum discs originating in China were made under conditions of price discrimination and caused pecuniary injury to the domestic industry of the like product. Among the main elements evaluated in a comprehensive manner that support this conclusion, without these being considered exhaustive or limiting of aspects that were indicated throughout this Resolution, the following stand out:

a. Imports of aluminum discs originating in China were made with a price discrimination margin of \$ 1.41 per kilogram. In the period analyzed, the investigated imports increased their participation in total imports by 38 percentage points, going from a contribution of 51% in 2016 to 89% in the investigated period.

b. Imports of aluminum discs originating in China increased in absolute and relative terms. During the analyzed period they registered a growth of 1.3 times; grew 23% in 2017 and 87% in the investigated period. Likewise, during the analyzed period their participation increased 6.3 percentage points in relation to the CNA, going from 6.0% to 12.3%. In relation to the volume of national production, they represented 4% in 2016, 5% in 2017 and 11% in the investigated period.

c. In the periods January-December 2016, January-December 2017 and January-December 2018, the average price of imports of aluminum discs originating in China was below the sales price to the domestic market of the industry national (in percentages of 17%, 18% and 21%, respectively) and of the average price of imports from other origins (in percentages of 11%, 3% and 12%, respectively). This behavior indicates that the low prices of the investigated imports constitute a relevant factor to explain the increase and the participation of imports originating in China in the domestic market.

d. There are elements that support that the domestic industry faces a price suppression derived from the conditions of unfair competition in which imports from China entered, because while in the period investigated unit costs grew 12.5%, their sales prices at domestic market increased 6.8% (both expressed in constant pesos).

e. The concurrence of imports originating in China, under conditions of price discrimination, had a negative impact on relevant economic and financial indicators of the domestic industry, in the analyzed period, particularly in the investigated period, among them: sales to the domestic market, participation market, production, domestic production oriented to the domestic market, utilization of installed capacity, employment, productivity, operating profits and operating margin.

F. No injury factors other than imports originating in China under conditions of price discrimination were identified.

#### **J. Compensatory fee**

268. In the preliminary stage of the investigation, in accordance with the provisions of Articles 9.1 of the Anti-Dumping Agreement and 62 second paragraph of the LCE, the Secretariat evaluated whether a



countervailing duty lower than the price discrimination margin would be sufficient to eliminate the injury to the domestic industry. To do this, it considered the average normal value calculated for the discs of

aluminum. Based on said price, it determined that the amount of the countervailing duty, necessary to correct the price distortion caused by the investigated imports and eliminate the injury to the domestic industry of the like merchandise would be 37.88%.

**269.** In the final stage of the investigation, Almexa asked the Secretariat to impose a definitive countervailing duty equal to the calculated dumping margin, since determining a countervailing duty less than the price discrimination margin is not sufficient to eliminate the injury caused to the domestic industry according to Article 90 of the RLCE, and would be inadmissible as provided for in Article 9.1 of the Anti-Dumping Agreement.

**270.** For its part, Artesanías Baja stated that the Secretariat also has the duty to protect the export industry, so that the processed goods can be competitive in the international market. In this sense, he argued that, derived from the high prices and quality of aluminum discs in Mexico, it was necessary to import discs from other countries, subject them to a production process and make the final good competitive in other countries' markets. The foregoing, since it has an IMMEX program, whose main objective is to promote the Manufacturing, Maquiladora and Export Services Industry. It considered that, since temporary imports are not introduced to the market national, the Secretariat must protect the export market by not applying countervailing duties to temporary imports.

**271.** Artesanías Baja requested that, in the event that a definitive countervailing duty is imposed, it be less than the dumping margin, based on a reference price to identify the products that are imported at prices that are harmful to the products that do not cause injury to national production. For this purpose, he proposed taking into account an average of normal values to identify the range of values that is considered harmful compared to the values that do not cause any type of damage.

**272.** In the final stage of the investigation, Articles for the Home and Komale argued that Almexa has successively requested the imposition of countervailing duties on products such as: aluminum items for cooking, aluminum foil, pressure cookers and aluminum discs. It should be noted that Almexa maintains a participation of more than 50% in these markets and competes with the consumers of its inputs in the final goods markets through its consumer goods division. Therefore, if it is determined to impose a countervailing duty on aluminum discs originating in China, the manufacturers of cooking items would depend on Almexa's disc sales and, in addition, would have to compete with the aluminum articles for cooking that Grupo Vasconia sells.

**273.** They added that, should it be determined to impose a countervailing duty on aluminum discs originating in China, manufacturers of cooking items would depend on Almexa's disc sales and, furthermore, would have to compete with aluminum items to cooking that Grupo Vasconia sells.

**274.** In the same sense, Prisem indicated that, the fact that there is a compensatory quota on aluminum equipment originating in China and, now also, Almexa promotes the imposition of a quota on aluminum discs from the same country, both belonging to Turning to the same industrial group will cause an economic distortion, consisting of a monopoly and a captive market without any competition, so you can control prices at your convenience.

**275.** In this regard, the Secretariat differs from the argument that the countervailing duty could generate monopolistic competition conditions for Almexa, since, in the investigation at hand, in addition to other domestic producers, there are also other external suppliers that compete in the market Mexican, which would prevent the Applicant from setting prices. Furthermore, this authority is not competent to analyze and determine whether any appearing party maintains or intends to maintain a monopoly position.

**276.** On the other hand, the Secretariat clarifies that, contrary to the appreciation of Artesanías Baja, the compensatory quota is not a protection mechanism for the national industry, but rather is a commercial remedy measure that does not seek to prevent the entry of imports, nor to restrict the supply of merchandise, but to correct the harmful effects of imports that enter under conditions of unfair practices and reestablish fair conditions of fair competition in the domestic market.

**277.** Likewise, with respect to the argument of the non-application of countervailing duties to temporary imports, the Secretariat considers said request inadmissible and reiterates what is stated in point 180 of the Preliminary Resolution and 166 of this Resolution, in the sense that the Injury analysis considers the total volume of imports made under conditions of price discrimination, which include both definitive and temporary imports. As well as the fact that Article 9.2 of the Anti-Dumping Agreement expressly provides not to discriminate imports, when it comes to the collection of countervailing duties on imports declared subject to price discrimination and causing injury.

**278.** In the final stage of the investigation, in accordance with the provisions of Articles 9.1 of the Anti-Dumping Agreement and 62, second paragraph of the LCE, and taking into account the conditions of competition in the Mexican market, the Secretariat evaluated the feasibility of applying countervailing duties

lower than the price discrimination margins, in an amount sufficient to restore fair conditions of competition and eliminate injury to the domestic industry.

**279.** For this purpose, the Secretariat considered as a non-injurious price the average normal value calculated for aluminum discs in the final stage of the investigation, since it would place the price of imports of aluminum discs originating in China at a level that allows them to compete on fair terms in the national market. In accordance with the provisions of Articles 9.1 of the Anti-Dumping Agreement and 62 of the LCE, the Secretariat determined that a countervailing duty of 1.17 dollars per kilogram would allow the prices of imports of aluminum discs originating in China to be brought to the level of the non-injurious price for the domestic industry.

**280.** Due to the above and based on articles 9.1 of the Anti-dumping Agreement and 59 section I and 62 second paragraph of the LCE, it is appropriate to issue the following

#### **RESOLUTION**

**281.** The investigation procedure regarding unfair international trade practices is declared closed, in its modality of price discrimination, and definitive countervailing duties of \$ 1.17 per kilogram are imposed on imports of aluminum discs, including definitive and temporary ones, that enter through tariff item 7616.99.10 of the TIGIE, or any other, originating in China, regardless of the country of origin.

**282.** The Ministry of Finance and Public Credit is responsible for applying the compensatory quota referred to in the previous point of this Resolution throughout the national territory.

**283.** In accordance with the provisions of article 66 of the LCE, importers who, according to this Resolution, must pay the final compensatory fee, will not be obliged to pay the same if they verify that the country of origin of the merchandise is different from China. The verification of the origin of the merchandise will be carried out in accordance with the provisions of the Agreement that establishes the rules for determining the country of origin of imported merchandise and the provisions for its certification, for non-preferential purposes (previously Agreement by the that establish the rules for determining the country of origin of imported goods and the provisions for their certification, in terms of quotas compensatory) published in the DOF on August 30, 1994, and its modifications published in the same broadcasting agency on November 11, 1996, October 12, 1998, July 30, 1999, June 30, 2000, 1 and March 23, 2001, June 29, 2001, September 6, 2002, May 30, 2003, July 14, 2004, May 19, 2005, July 17, 2008, and October 16, 2008.

**284.** Notify this Resolution to the interested parties of which it is known.

**285.** Communicate this Resolution to the SAT for the corresponding legal effects.

**286.** This Resolution will enter into force the day after its publication in the DOF.

Mexico City, on October 23, 2020.- The Ministry of Economy, **Graciela Marquez Colín** .- Signature.

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