

SECRETARY OF ECONOMY

RESOLUTION Final of the anti - dumping investigation on imports of towers of wind originating in the People 's Republic of China, irrespective of the country of origin.

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

FINAL RESOLUTION OF THE ANTI-DUMPING INVESTIGATION ON THE IMPORTS OF WIND TOWERS ORIGINATING FROM THE PEOPLE'S REPUBLIC OF CHINA, REGARDLESS OF THE COUNTRY OF ORIGIN .

Seen to resolve in the final stage the administrative file 19/18 located in the Unit of International Commercial Practices (UPCI) of the Ministry of Economy (the "Secretariat"), this Resolution is issued in accordance with the following

RESULTS

A. Application

1. On December 3, 2018, Arcosa Industries de México, S. de RL de CV and Speco Wind Power, SA de CV ("Arcosa" and "Speco", respectively, or jointly, the "Applicants"), requested the initiation of the administrative investigation for unfair international trade practices, in its price discrimination modality, on imports of wind towers originating in the People's Republic of China ("China"), regardless of the country of origin.

B. Initiation of the investigation

2. On April 16, 2019, the Resolution to initiate the antidumping investigation (the "Initiation Resolution") was published in the Official Gazette of the Federation (DOF). The investigated period was set from August 1, 2017 to July 31, 2018, and the damage analysis period from August 1, 2015 to July 31, 2018.

C. Product under investigation

1. General description

3. The product under investigation is steel structural towers or posts, assembled or unassembled, including their sections ("wind towers").

4. The generic, commercial and / or technical name with which the product under investigation is known is a structural steel tower for wind energy, wind tower, wind tower, structural tower for wind energy or tubular tower for wind energy.

2. Features

5. A wind tower is a hollow conical shaped support structure made of structural steel with high yield strength, made up of sections of rolled and welded steel plate, joined by flanges at the ends of each section on which it is placed. the wind turbine system.

6. Wind towers are manufactured in sections. A section consists of multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise joined) to form a steel shell, regardless of coating, finish, paint, treatment, or manufacturing method.

7. Typically several sections are required to form a complete wind tower. From the union between sections, the desired height is achieved, which varies according to the place, area or region where the

wind farm is going to be built and the power output to be generated. The sections that make up the tower are included in the coverage of the product under investigation.

8. The wind turbine, nacelle (box that houses the gearbox, the electric generator and the control, orientation and brake systems) and the rotor blades are not part of the product under investigation, regardless of whether or not they are attached to the tower wind towers, as well as internal or external components that are not attached to the wind towers or sections thereof.

Wind tower illustration

Source: Arcosa and Speco

3. Tariff treatment

9. The product under investigation enters the national market through tariff section 8502.31.01 of the Tariff of the General Import and Export Tax Law (TIGIE), the description of which is as follows:

Tariff coding	Description
Chapter 85	Electrical machines, apparatus and material, and their parts; sound recording or reproducing apparatus, television image and sound recording or reproducing apparatus, and the parts and accessories of these apparatus.
Item 8502	Electric generator sets and rotary converters.
Subheading 8502.31	- Wind power.
Fraction 8502.31.01	Wind turbines.

Source: Tariff Information System Via Internet (SIAVI)

10. The unit of measure used in the TIGIE and in commercial operations is the piece.

11. According to the SIAVI, imports of wind towers that enter through the tariff section 8502.31.01 of the TIGIE are exempt from tariffs.

4. Production process

12. The main inputs for the elaboration of the product under investigation are: steel for bodies, welding for joining bodies and flanges, connecting flanges, door frame for access to the interior; internal (platforms, ladders, supports known as bolt-on), corrosion protection (internal and external painting), protective tarps to cover entrance and labor for manufacturing.

13. In general, the production process consists of the following stages: i) reception of the raw material (steel plate, flanges, door frames, paint and weldable and screw-in internal parts, among others); ii) quality control of steel plates and other materials; iii) cutting and rolling of the steel plates; iv) formation of the rings or cylinders; v) joining the rings by means of a welding machine to form sections that are in turn joined together to form the wind towers, and vi) paint treatment.

14. The specifications of a tower are determined according to what is indicated in the engineering design of each client, which provides detailed information for the steel plate, thickness, length and width, as well as the cut that must be made to be able to roll and weld the plate to form a ring or cylinder. In congruence with the length of the tower and according to the customer's design drawings, the necessary sections are produced to have the final height, once the sections have been assembled and joined in the wind farm.

15. The aforementioned components must meet technical specifications for which they are designed, that is, the steel used for the bodies and flanges must have chemical and physical elements determined by the designer; The welding must be approved to meet the requirements for joining bodies and flanges, in addition, the painting system must be suitable for the climatic conditions of the area where the product under investigation is installed.

5. Standards

16. There is no standard that applies to wind towers. However, there are general standards that apply for materials, finishes, welding, inspection, and testing. The most common types of steel specification are ASTM (American Society for Testing Materials) A572 and A36 under American standards, and BSI (British Standards Institution) S355 under standard. European. The quality specifications that are met in the manufacture of the product under investigation are those requested by the customers.

17. Both standards refer to similar physical and chemical characteristics of the steel used that allow them to have the same functions and be commercially interchangeable. Each project establishes the technical bases for the manufacture of the tower adopted by the national industry and other manufacturers, and there is no type of restriction in the national market that prevents the acquisition of inputs necessary for its manufacture.

6. Uses and functions

18. The use of the wind towers is to support the weight of the electrical energy wind turbine system (nacelle and the rotor with its blades) and provide the necessary height so that it can capture air for the generation of electrical energy. . In addition, the tower contains the power cables, the transformer and other accessories for the correct operation of the system.

D. Call and notifications

19. By means of the Initiation Resolution, the Secretariat summoned the importers and exporters of the product under investigation 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.

20. The Secretariat notified the Requesters, the importers and exporters known to it, and the Chinese government of the initiation of the anti-dumping investigation. 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

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

1. Applicants

Arcosa Industries de México, S. de RL de CV
Speco Wind Power, SA de CV
Misantla No. 21
Col. Roma
CP 06760, Mexico City

2. Importers

Eólica del Golfo 1, SAPI de CV
Paseo de la Reforma No. 265 PH
Col. Cuauhtémoc
CP 06500, Mexico City

Siemens GESA Renewable Energy, SA de CV
Insurgentes Sur No. 1824, 9th floor
Col. Florida
CP 01030, Mexico City

Vestas WTG México, SA de CV
Boulevard Manuel Ávila Camacho No. 24, floor 7
Col. Lomas de Chapu Itepec
CP 11000, Mexico City

3. Exporters

Chengxi Shipyard Co. Ltd.
Penglai Dajin Offshore Heavy Industry Co. Ltd.
Shanghai Taisheng Wind Power Equipment Co. Ltd.
SuZhou Titan New Energy Technology Co. Ltd.
Martín Mendalde No. 1755, PB
Col. Del Valle
CP 03100, Mexico City

Envision Energy (Jiangsu) Co. Ltd.
Paseo de la Reforma No. 265 PH

Col. Cuauhtémoc
CP 06500, Mexico City

F. Preliminary Resolution

22. On December 27, 2019, the Secretariat published in the DOF the preliminary resolution of the antidumping investigation (the "Preliminary Resolution"), by means of which it was determined to continue with the investigation procedure and impose provisional countervailing duties on imports of towers of wind originating in China, regardless of the country of origin, which enter through tariff section 8502.31.01 of the TIGIE, or by any other, in the following terms:

- to. 41.22% for imports from SuZhou Titan New Energy Technology Co. Ltd. ("Titan New");
- b. of 69.21% for imports from Shanghai Taisheng Wind Power Equipment Co. Ltd. ("Taisheng Wind");
- c. of 66.49% for imports from Penglai Dajin Offshore Heavy Industry Co. Ltd. ("Penglai Dajin"), and
- d. of 143.06% for imports from Chengxi Shipyard Co. Ltd. ("Chengxi") and other exporters from China.

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

G. Technical information meetings

24. The Applicants, the importers Eólica del Golfo 1, SAPI de CV ("EDG1"), Siemens GESA Renewable Energy, SA de CV ("Siemens") and Vestas WTG México, SA de CV ("Vestas"), as well as The exporters Chengxi, Envision Energy (Jiangsu) Co. Ltd. ("Envision"), Penglai Dajin, Taisheng Wind and Titan New, 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 January 15, 16, 20 and 21, 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

25. The Secretariat granted a ten-day extension at the request of Arcosa and Speco, the importers EDG1, Siemens and Vestas, as well as the exporters Chengxi, Penglai Dajin, Taisheng Wind, Titan New and Envision to present arguments and additional evidence . The deadline expired on February 20 , 2020.

I. Information requirements

1. Extensions

26. The Secretariat granted an extension of eleven days to the Requesters and importers Siemens and Vestas to present their response to the request for information. The deadline expired on April 20, 2020.

2. Interested parties

to. Applicants

27. On March 18, 2020, the Secretariat required the Requesters to clarify the quotes for wind towers they presented, to clarify calculations regarding installed capacity, as well as to provide the sales of wind

towers under the services of manufacturing or maquila during the period analyzed. They submitted their response on April 20, 2020.

28. On June 2, 2020, the Secretariat requested the Requesters to clarify the information presented regarding the 136-meter (“m”) high wind towers . They submitted their response on June 9, 2020.

b. Importers

29. On March 18, 2020, the Secretariat requested Siemens to present invoices for land freight. He submitted his response on April 20, 2020.

30. On March 18, 2020, the Secretariat requested Vestas to submit the translation of documents submitted in a language other than Spanish, as well as invoices for freight, insurance and other expenses. She submitted her response on April 20, 2020.

J. Other appearances

31. On June 10, 2020, Speco presented complementary information to clarify its response to the request of April 20, 2020, however, said information was not accepted, in accordance with the provisions of point 47 of this Resolution.

32. On May 6, 2020, Vestas submitted additional information to its response to the request of April 20, 2020 , however, such information was not accepted, in accordance with the provisions of point 48 of this Resolution.

K. Essential facts

33. On May 18, 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 Anti-Dumping Agreement. On June 18, 2020, the Applicants, the importers EDG1, Siemens and Vestas, as well as the exporters Chengxi, Penglai Dajin, Taisheng Wind, Titan New and Envision, presented arguments on the essential facts, which were considered to issue this present Resolution.

L. Public hearing

34. On June 11, 2020, the public hearing in this procedure was held. The Requesters participated; the importers EDG1, Siemens and Vestas, and the exporters Chengxi, Penglai Dajin, Taisheng Wind, Titan New and Envision, who had the opportunity to present their arguments and replicate those of their counterparts, as recorded in the minutes that were drawn up for that purpose which constitutes a public document of full evidentiary effectiveness, in accordance with article 46, section I of the Federal Law of Administrative Litigation Procedure (LFPCA).

M. Arguments

35. On June 18, 2020, the Applicants; the importers EDG1, Siemens and Vestas, and the exporters Chengxi, Penglai Dajin, Taisheng Wind, Titan New and Envision, presented their arguments, which were considered to issue this Resolution.

N. Extension of the validity of the provisional countervailing duty

36. 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 June 28, 2020.

O. Price commitments

1. Penglai Dajin, Taisheng Wind and Titan New

37. On May 22, 2020 Penglai Dajin, Taisheng Wind and Titan New submitted a price compromise proposal. The Secretariat sent the parties appearing to express the opinions they deemed pertinent on the proposal. On June 10, 2020, the Applicants, importers Siemens and Vestas, and exporter Chengxi presented their arguments and comments regarding the merit undertaking.

38. Through official letter UPCI.416.20.2325 of August 5, 2020, the Secretariat notified Penglai Dajin, Taisheng Wind and Titan New that it was not possible to accept the price commitment proposal they presented, for the reasons and grounds indicated in said Official letter, which is considered to be reproduced as if it were inserted in this Resolution. Pursuant to Article 8.3 of the Anti-Dumping Agreement, they were given a period of time to express what was appropriate to their law, however, Penglai Dajin, Taisheng Wind and Titan New did not provide any arguments.

2. Envision

39. On June 9, 2020, Envision submitted a price commitment proposal. The Secretariat sent the parties appearing to express the opinions they deemed pertinent on the proposal. On June 15, 2020 EDG1, June 24, 2020 Vestas and June 26, 2020 the Applicants, Siemens and Chengxi, Penglai Dajin, Taisheng Wind and Titan New, respectively, presented their arguments and comments regarding the merit engagement.

40. By means of official letter UPCI.416.20.2326 of August 5, 2020, the Secretariat notified Envision that it was not possible to accept the price commitment proposal that it presented, for the reasons and grounds indicated in said letter, which is considered reproduced as if verbatim were inserted in this Resolution. Pursuant to Article 8.3 of the Anti-Dumping Agreement, it was given a period to express what was appropriate to its law. She presented her arguments on August 10, 2020.

P . Opinion of the Foreign Trade Commission

41. Based on articles 58 of the LCE and 19 section 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 of August 27, 2020. The project received a favorable opinion by a majority.

CONSIDERING

A. Competition

42. 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

43. For the purposes of this procedure, the Antidumping Agreement, the LCE, the RLCE, the Federal Tax Code (CFF), the LFPCA and the Federal Code of Civil Procedures are applicable, the latter three of which are supplementary.

C. Protection of confidential information

44. The Secretariat may not publicly reveal the confidential information that the interested parties submit to it, nor the confidential information that it collects itself, 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

45. 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

46. In accordance with Article 5.10 of the Anti-Dumping Agreement, the Secretariat issues this Resolution within 18 months from the initiation of this investigation, based on the following considerations: i) the number of interested parties that appeared and the volume of information that each one of them exhibited; ii) the complexity of the analysis of the information presented by the parties, and iii) the granting of various extensions during the procedure.

F. Information not accepted

47. Through official communication number UPCI.416.20.2327 of August 5, 2020, Speco was notified that this authority determined not to admit the information referred to in point 31 of this Resolution, by virtue of the fact that it was not presented within of the term granted for it. In this regard, it was granted a period of time to express what was appropriate to its law, in accordance with paragraph 6 of Annex II of the Anti-Dumping Agreement. He presented his arguments on August 10, 2020.

48. By means of official communication number UPCI.416.20.2328 of August 5, 2020, Vestas was notified that this authority determined not to admit the information referred to in point 32 of this Resolution, by virtue of the fact that it was not presented within of the term granted for it. In this regard, it was granted a period of time to express what was appropriate to its law, in accordance with paragraph 6 of Annex II of the Anti-Dumping Agreement. He presented his arguments on August 10, 2020.

G. Responses to certain arguments of the parties

1. General aspects

49. The Chinese exporters Chengxi, Penglai Dajin, Taisheng Wind and Titan New indicated that the Secretariat did not correct various legal violations such as incurring excessive confidentiality that did not allow an adequate defense of the interested parties, they indicated that in the technical meeting of They requested that general, but specific data be disclosed to them, however, the Secretariat refused to provide the requested data, which included, among others, the number of units per measure or height that had been imported during each year of the damage analysis period. ; the average price level for each tower measure, both imported and domestically produced; aggregate data of economic and financial indicators, and the normal value applicable to the exporters involved for each of the tower measures exported to Mexico during the investigated period, under the argument that if such information is disclosed, it could be reconstructed to arrive at confidential data of the company or person who provided them.

50. In this regard, the Secretariat points out that throughout the investigation the classification of the information presented by the interested parties appearing was verified and, if appropriate, it was required to reclassify various information that was not confidential and where appropriate, not to misuse it, in terms of Articles 6.5 of the Anti-Dumping Agreement and 148, 149, 150, 152, 153 and 158 of the RLCE, as well

as, if applicable, justify the classification of the information confidentiality and, present the corresponding public summaries, in terms of the applicable regulations, therefore, the information found in the administrative file complies with the confidentiality rules, therefore, the confidentiality alleged by the Chinese exporters is non-existent, and at no time were they left in a defenseless state, because they had sufficient information in a timely manner to formulate their defense.

51. Likewise, it is specified that the information requested by the exporters regarding the number of units per measure or height that had been imported during each year of the damage analysis period; the average price level for each tower measure, both imported and domestically produced; Aggregate data of the economic and financial indicators, and the normal value applicable to the exporters involved for each of the tower measures exported to Mexico during the investigated period, it cannot be disclosed by the Secretariat, as it is confidential information and its disclosure may affect the party that provided it, as indicated in point 44 of this Resolution. However, public summaries of all confidential information are available to other appearing parties. In addition to the above, the interested parties can access the confidential information that is in the administrative file of the case as long as they comply with the requirements established in articles 80 of the LCE and 159, 160 and 161 of the RLCE.

2. Quality of national producer of Arcosa

52. EDG1 and Envision argued that Arcosa Inc. through its subsidiaries in Mexico perform manufacturing activities to export the manufactured product to the United States of America (the "United States"). They pointed out that, in its last annual report, Arcosa Inc. stated "we import raw materials to Mexico and we manufacture products in Mexico that are then sold in the United States or elsewhere." They added that Arcosa has stated that they have even been led to close their plant in Mexico, however, in the Arcosa Inc. report it is mentioned that "income for the year ended December 31, 2018 was reduced compared to of the previous year, mainly due to a planned reduction of volumes in our line of towers for wind turbines, which has been partially offset by an increase in income from other production lines".

53. Similarly, EDG1 and Envision indicated that, at the public hearing, Arcosa affirmed that the planned reduction referred to does not involve it. However, he did not provide any evidence to support his statement, but on the contrary, argued that, although Arcosa is a subsidiary of Arcosa Inc., it does not serve as a manufacturing center for other countries and there is no, in the wind tower division, some relationship that binds both countries, in addition to the information in the annual report of Arcosa Inc., refers to their activities as a whole and are not specific to the wind tower business line.

54. Based on the foregoing, EDG1 and Envision point out that the Secretariat should consider this annual report from Arcosa Inc., as it shows that the planned reduction affected the domestic industry and its conclusions are applicable to Arcosa's results.

55. The Secretariat analyzed the annual report of Arcosa Inc., and determined to confirm what was indicated in point 368 of the Preliminary Resolution, since from the results indicated in said report, it is not inferred or verified that this had an effect on the operation and results of its subsidiary in Mexico in the domestic market, so that the statements regarding the statements and the annual report of Arcosa Inc., correspond to the operation of the parent company in the United States, and its statistics and conclusions do not they are applicable to Arcosa in Mexico.

56. The Chinese exporters Chengxi, Penglai Dajin, Taisheng Wind and Titan New indicated that the Secretariat did not correct various legal violations such as the failure to respond on the legitimacy of

Arcosa's attorney and the determination of the calculation of representativeness of the domestic industry , specifically on the exclusion of Windarmex and the non-inclusion of Vestas.

57. The Secretariat considers the arguments of the Chinese exporters unfounded since, in the initiation stage, that is, at the time of the presentation of the investigation request, the legal personality of the legal representatives of the Requesting companies was thoroughly reviewed. , which proved their legal representation in accordance with the provisions of the second paragraph of article 51 of the LCE. In this sense, Arcosa confirmed that its legal representative is duly appointed and accredited before the Secretariat to represent the company, since it complies with the legal requirements established in the legislation on the matter.

58. Regarding the calculation of the domestic industry, in accordance with the provisions of points 194 and 197 of the Preliminary Resolution, the Secretariat determined that the Requesters make up a considerable part of the domestic industry of wind towers, the which had a participation in the domestic production of 69% in the investigated period, for which it was taken into consideration whether said companies are importers of the product under investigation or if they are related to importing or exporting companies.

59. Now, regarding the exclusion of Windarmex from the domestic industry, the Secretariat confirms what is stated in points 196, 198 and 199 of the Preliminary Resolution, since said company is related to the Siemens company, for Thus, the exclusion of Windarmex from the domestic industry is fully justified and complied with the provisions of Articles 4.1 of the Anti-Dumping Agreement, 40 of the LCE and 61 of the RLCE.

60. Likewise, the importing company Vestas argued that the Speco company cannot be considered as a national producer since it carried out maquila operations to the same company Vestas, which is the technologist and who provides the Know How in the production process of wind towers and for this reason Vestas and not Speco should be considered as the national producer of wind towers.

61. For its part, Speco stated that they do not have a contract signed with Vestas for the maquila service, so that their operation is not exclusively maquila. Likewise, Speco clarified that said production should not be considered in the investigation to prove its status as a national producer.

62. In accordance with the provisions of point 205 of the Preliminary Resolution, the Secretariat considers Vestas's argument inadmissible, since in the initial stage the Secretariat excluded the maquiladora operations, for which they had no effect on the representativeness of Speco, in addition to the above, the fact that Speco has carried out part of its production under a maquila service does not disqualify it as a national producer. Lastly, although Speco carried out maquiladora operations for Vestas, the latter is not the one who decides how, when or how much Speco produces, since it produced more wind towers than those manufactured by Vestas.

3. Category of marketer

63. Envision stated that it is not a manufacturer of wind towers, the product under investigation is acquired from Chinese producers through its subsidiary company. He clarified that the merchandise investigated is assembled with the components of a wind turbine (tower, nacelle, blades, rotor and foundation) and is marketed in Mexico as a whole to developers of wind farms, through a subsidiary importer.

64. It explained that its commercial activities with respect to the product under investigation are limited only to the integration of equipment and the generation and sale of electrical energy to third parties. At no time has it produced a single tower or a wind turbine. He added that he does not sell the product under investigation in isolation, but rather sells it assembled together with the rest of the components of the wind turbines, that is, through the sale of complete wind turbines. In this sense, he indicated that the operations carried out are assimilated to a marketer and integrator of wind turbines.

65. Likewise, it presented the export operations that it carried out to Mexico during the investigated period, through a related importer. These exports correspond to complete 120 m high wind turbines. It provided the sales made in the domestic market of China, during the investigated period. He pointed out that for the calculation of the internal price, he considered the wind turbines of a project in Henan province, whose height is the same as that of the wind turbines exported to Mexico. He also provided various invoices and attached documentation.

66. In the Preliminary Resolution, specifically in points 88 to 91, the Secretariat determined that according to Envision's statements, it follows that it is a non-producing exporting company, that is, a trading company, so it is not appropriate to determine a margin of individual price discrimination.

67. In this regard, Envision pointed out that the category of "Non-Producer Exporter" or "Marketer" is not established in the applicable legislation and the fact of treating Envision in this way is a clear and manifest violation of its legal guarantees and human rights, and legal certainty, so the Secretariat must adjust its actions to the legal basis applicable to the specific case, since it does not have powers to determine a category other than those established in article 51 of the LCE.

68. The foregoing, since it has demonstrated that it exports wind towers originating in China to the domestic market, which shows that it is an exporter. For the purposes of granting it the status of exporter, it is irrelevant whether or not it is also a producer, since in a price discrimination investigation only the companies of the national industry must demonstrate that they manufacture the product, but not the exporters.

69. He added that the Secretariat must determine an individual price discrimination margin to Envision, since Article 6.10 of the Anti-Dumping Agreement clearly states that a price discrimination margin must be determined to an exporter or producer. The wording of said Agreement provides for the use of the disjunctive conjunction "or" that is to say that it allows the choice of either of the two alternatives: being an exporter or being a producer.

70. The Secretariat considers Envision's arguments unfounded, since Article 64, first paragraph of the LCE establishes that "the Secretariat will calculate individual margins of price discrimination for those foreign producers that provide sufficient information to do so," which states It is expressly stated that in order to determine an individual price discrimination margin for a company, it must be a foreign producer, the LCE is specific and leaves no room for interpretations, so that article must be interpreted literally. With regard to Article 6.10 of the Anti-Dumping Agreement, it states that "as a general rule, the authorities will determine the margin of price discrimination that corresponds to each exporter or producer." From the interpretation of said article, it is noted that they are It gives the investigating authority the power to determine what margin of price discrimination corresponds to or is applicable to each producer or exporter, which does not mean that it has to determine individual margins of price discrimination for each company.

71. From the foregoing, the Secretariat considers that Envision is not a producer of wind towers, in accordance with the first paragraph of article 64 of the LCE, which indicates that the Secretariat will calculate individual margins of price discrimination for those foreign producers that contribute sufficient

information for this, a situation that is not applicable to Envision as it is a trading company because it does not produce wind towers, therefore, the Secretariat reiterates that it is not appropriate to calculate an individual margin of price discrimination to Envision, since calculating margins of price discrimination to non-producing exporting companies would cause the following:

- to.** If both producer-exporters and traders appear, two price discrimination margins could be calculated, one for the producer-exporter and the other for the trader, from the same transaction, which would be inconsistent;
- b.** It is probable that the circumstances that determine the export price are not attributable to the trading companies, but to the producer-exporter companies, so that, where appropriate, the unfair practice may have its origin in the producer-exporters, which, It would be based on the economic logic that a marketer acquires the product at the price at which the producer-exporters sell it and then resells the product at a price that allows it to recover the general expenses incurred between the acquisition and sale of the merchandise, plus a reasonable utility, but these variables will always be limited, to a greater or lesser extent, to the behavior of the producer-exporters, and
- c.** There is a risk that when calculating an individual price discrimination margin for a marketer and that said margin would be less than that determined for a producer-exporter company, the latter makes exports through the marketer, benefiting from the lower margin calculated at the marketer.

72. For the foregoing determination, the Secretariat considered aspects of the Report of the European Communities-Anti-Dumping Measure Panel on Farmed Salmon from Norway (WT / DS337 / R) of November 16, 2007, as indicated in point 90 of the Preliminary Resolution.

73. The Secretariat conducted an analysis of the arguments and information provided by Envision, and noted the following:

- to.** The information for the calculation of the individual price discrimination margin does not correspond to a production company, in accordance with the first paragraph of article 64 of the LCE, since as Envision pointed out, it is not a manufacturer of wind towers, but rather acquires them from third parties parts;
- b.** The margin of price discrimination estimated by Envision concerns complete and assembled wind turbines, which do not correspond to the product investigated in this investigation. Although this estimate includes the prices of wind towers as a component of wind turbines, this margin of price discrimination cannot be attributed to wind towers, a product investigated in this investigation.
- c.** in the worksheets to estimate the calculation of the export price and normal value, presented by Envision, it is not possible to identify the price concerning only the wind towers;
- d.** From the review of the invoices provided by Envision, it was observed that there are invoices for the purchase of wind towers from Chinese suppliers, among which are: Titan Wind Energy (Suzhou) Co. Ltd., Titan Wind Energy, Penglai Dajin Oceano Industry Heavy, companies related to the appearing producer-exporters. Therefore, the wind towers acquired by Envision could correspond to the wind towers produced by the appearing producer-exporter companies. It was also observed that several purchase invoices are outside the investigated period;

and. Envision stated that it proved that there is no margin of price discrimination in the operations it carried out, which is why the variables limited to the behavior of producer-exporters indicated in point 89 b of the Preliminary Resolution, are irrelevant. In this regard, the Secretariat explains that, by acquiring wind towers from Chinese producers for export to Mexico, Envision would be acquiring the wind towers at the price at which the producers sell them and by reselling the product, as a whole with the wind turbines. , would be recovering the general expenses incurred between the acquisition and sale of the merchandise, plus a reasonable profit, however, the unfair practice has its origin in the Chinese producers, and

F. Envision also argued that the risk alluded to in point 89 c of the Preliminary Resolution, in which a producer-exporter company could benefit from the lower individual price discrimination margin of a trader is not updated, given that Envision imports wind turbines as a whole (tower, nacelle, blades, rotor and foundation), that is, it does not sell towers in Mexico. In this regard, the Secretariat disagrees with said argument, since, when acquiring wind towers from Chinese producers to export to Mexico, it is already considering the margin of price discrimination of the product under investigation corresponding to said producer, as explained in the previous paragraph .

74. Due to the foregoing, the non-producing exporting companies (trading companies) would have the price discrimination margin calculated for the producing-exporting companies from which they purchase the product under investigation. Therefore, the Secretariat reiterates that it did not calculate an individual price discrimination margin for Envision in the present investigation.

4. Cost of production of the Chinese production-exporters

75. In points 148 to 155 of the Preliminary Resolution, the Secretariat considered that Titan New, Taisheng Wind, Chengxi and Penglai Dajin (the producer-exporters), did not present the information required in the official form and in the request for information or They presented it incomplete, so the Secretariat was not sure of the figures to calculate the reconstructed value. Thus, based on Articles 54 and 64 of the LCE and 6.8 and Annex II of the Anti-Dumping Agreement, the Secretariat made its determination based on the facts available to it, that is, based on the information of the cost figures. production for the wind towers presented by Arcosa and Speco.

76. In this regard, Titan New, Taisheng Wind and Chengxi, in relation to the observations described in point 150 of the Preliminary Resolution, stated the following:

to. The Secretariat imposed an additional burden on Titan New and Chengxi by requiring all invoices for the purchase of materials for the manufacture of wind towers for each project exported to Mexico, as it involves the presentation and printing of hundreds of invoices for the purchase of materials for each project, in addition to the fact that the collection and translation of the invoices would be onerous, so they are unable to provide all the invoices;

b. in the case of Titan New and Chengxi, they indicated that the Secretariat determined that their invoices are illegible because there are descriptions or specifications of the materials that are not reported in the bill of materials. They requested the Secretariat to explicitly identify the allegedly mismatched materials in order to provide the necessary explanations and details;

c. The Secretariat considers for Titan New, that the quantity or the unit price does not correspond to what is reported in the bill of materials. Therefore, the Secretariat can request from Titan New

the databases of its material inventories in which the stockin and stockout are indicated. It would not be appropriate for the invoice value (stockin value) to be compared with the stockout value directly, as the Secretariat does in the Preliminary Resolution;

d. Regarding scrap consumption, Chengxi said it reported the value of steel scrap that is assigned to the specific project and provided supporting documents. Taisheng Wind indicated that it presented the scrap sales invoices and the accounting records of steel consumption and the steel plate consumption table for each month of the investigated period, as support for the quantity of steel plate, with said documents, the information about scrap can be corroborated and validated;

and. Regarding labor costs and other indirect manufacturing expenses, Titan New and Chengxi indicated that the Secretariat considered that they did not present the documents or methodology to replicate and validate the figures on labor costs and other indirect expenses. manufacturing, being that for both concepts they provided accounting vouchers;

F. Taisheng Wind pointed out that in the request for additional information referred to in point 51 of the Preliminary Resolution, only documentation was requested on the labor costs and the manufacturing costs of the wind towers without mentioning the tower feet. , for which it provided the documents regarding the concepts requested, and

g. They consider that they provided all the required and necessary information in this investigation and the Secretariat should not base its determination on other available information.

77. In this regard, the Secretariat determines the following:

to. Regarding the request for the invoices, the Secretariat analyzed the sample of the invoices for the purchase of materials presented by each Chinese producer-exporter company, as indicated in subsection a of point 150 of the Preliminary Resolution, however, the analysis carried out did not allow to corroborate and validate the figures reported for the cost of production of each of the materials and for the types of wind towers exported to Mexico, because the producer-exporters did not present the complete information of the official form and in the information requirement, therefore, the Secretariat was not certain that the information provided would allow to validate the production cost of each type of wind tower proposed by them;

b. The Secretariat disagrees with the argument of Titan New and Chengxi, since in subsection b of point 150 of the Preliminary Resolution it is not only indicated that the purchase invoices of the companies are illegible, but that the main reason why said information was not Valid refers to the fact that there are descriptions or specifications of the materials that are not reported in the bill of materials, that is, at that point it is clearly indicated that when comparing the information on the purchase invoices with that reported in the bills of materials presented All the information indicated could not be corroborated, due to the fact that there are descriptions or specifications of materials indicated in the invoices that are not reported in the list of materials. On the other hand, with regard to the request to identify the materials of the invoices that do not coincide with the list of materials, the Secretariat considers that it is not appropriate, because in the response to the request they did not present the methodology used and any explanation that would allow to the Secretariat the identification of the materials in the calculation of the cost of production, noting that, in some cases they may differ due to the fact that they have a general description;

- c.** The Secretariat considers inadmissible what was indicated by Titan New regarding its request for its databases of its inventories of materials in which the stockin and stockout are indicated. As indicated in the previous paragraph, in the request for additional information, you were asked to provide the methodology used in calculating the cost of production, which was omitted in your answer, that is, it did not present an explanation that would allow identifying the quantity or the price indicated in the invoices with that reported in the list of materials. Furthermore, in the final stage, Titan New only pointed out that the reported material consumption and consumed value can be reconciled with the value of stockout in its records, without presenting information or the databases that support its argument;
- d.** Regarding the consumption of scrap, the Secretariat reiterates that, although the producer Chengxi reported a consumption of scrap for the project exported to Mexico and presented a worksheet, it did not provide the documentary support to support said worksheet or an explanation methodological that allows corroborating and validating the figures reported for scrap, according to what is indicated in subsection e of point 150 of the Preliminary Resolution. On the other hand, with respect to the producer Taisheng Wind, and as also indicated in subsection e of the same point, the producer presented invoices for the sale of scrap in the investigated period, however, it did not present the documents that support the sheet of work that indicates the amount of plate consumed for each month of the investigated period, which prevented corroborating and validating the information;
- and.** Regarding the allegation of the producers Titan New and Chengxi that they provided accounting vouchers to support the labor costs and other indirect manufacturing expenses, the Secretariat clarifies that they only provided worksheets where it is indicated, among other items, the number of However, they did not provide the documents or the methodology that allows replicating and validating the figures reported for said concepts, as indicated in subsections f and g of point 150 of the Preliminary Resolution;
- F.** Regarding Taisheng Wind's argument that it did not provide the information on the tower feet for labor expenses and manufacturing costs because it was not requested in the request for additional information, the Secretariat points out and places special emphasis on that, derived from the information that the Taisheng Wind company itself provided in response to the request, it stated that the tower feet are part of the labor costs and the manufacturing costs of the wind towers, therefore it was his obligation to provide the information and documentary support corresponding to his statement. Likewise, in point 150 subsection g of the Preliminary Resolution it was stated that "Taisheng Wind did not submit the documents that support the figures reported for manufacturing expenses for the tower feet of said project. Nor were there any documents that support the indirect manufacturing expenses corresponding to the other project, so it was not possible to corroborate and validate the information "so Taisheng Wind was fully aware of the deficiencies in its information, and
- g.** Therefore, the Secretariat considers that Titan New, Taisheng Wind and Chengxi did not provide the means of conviction necessary to consider their own information in the calculation of the cost of production, in addition, that in the final stage of the investigation they did not present the elements that support their claims. For this reason, it reiterates that it is appropriate to use the production cost figures for the wind towers presented by the Arcosa and Speco companies in the initial and preliminary stages, for the appearing Chinese producer-exporter companies. The

foregoing, based on the facts of which it became aware in accordance with Articles 6.8 and Annex II of the Anti-Dumping Agreement, 54 and 64 of the LCE, in accordance with what is described in points 200 to 209 of this Resolution.

78. The producer-exporters also stated that they have cooperated to the extent of their possibilities with the Secretariat, since they have reasonably explained the inconsistencies identified in the Preliminary Resolution and consider that the legislation on the matter does not justify that the Secretariat apply the best information available on production cost.

79. The Secretariat points out that although, in the final stage of the investigation, the producer-exporters presented some clarifications to the observations identified regarding the information they provided on their respective costs of production, they did not provide the evidence to support them. Therefore, the Secretariat reiterates that it did not have the necessary elements to consider its own information in the calculation of the cost of production, so it used the information on the cost of production for the wind towers provided by the Arcosa and Speco companies. as the facts of which it was aware, in accordance with articles 6.8 and Annex II of the Anti-Dumping Agreement and 54 and 64 of the LCE.

80. Similarly, the producer-exporters indicated that they do not agree with the determination of the Secretariat indicated in point 74 of the Preliminary Resolution, since the information they provided is better and more complete than the information presented by the Requesters. . They indicate that they endorse the statement of the Applicants in subsection a) of point 284 of the Preliminary Resolution, which indicates that those provided by the Applicants must prevail, since they come from their own records, which shows that it will be necessary to give greater value evidence to the information that comes from the accounting records of the companies that appear and not to information from third parties that do not correspond to the country under investigation.

81. In addition to the foregoing, the importer Siemens indicated that the Secretariat does not apply the same criteria in the Preliminary Resolution. On the one hand, it uses the information of the Applicants and discards any other without requiring or verifying its relevance and, on the other hand, it rejects the information of the Chinese producer-exporters and gives preference to secondary sources that do not demonstrate or justify being appropriate to reflect the cost of production in China.

82. The Secretariat reiterates what was stated in point 74 of the Preliminary Resolution, considering inadmissible what was argued by the importer Siemens and the Chinese producer-exporters, since the information presented by Arcosa and Speco constitutes the best information available, due to that the Chinese producer-exporter companies did not provide complete information regarding the cost of production of the wind towers they produce, so the Secretariat did not have the evidence to use the information of each producer-exporter.

5. Production costs

83. Titan New, Taisheng Wind and Chengxi pointed out that the steel plate prices published by the specialized magazine CRU International Limited (CRU) do not qualify to be used for the purpose of determining the cost of steel plate in China for the calculation of the reconstructed value, since they are theoretical prices and not actual transactions. To support their argument, they presented the Internet page where the CRU methodology to determine prices in China is indicated.

84. From the aforementioned Internet page, the Secretariat observed that CRU's steel prices reflect the market conditions to which they refer, since in the case at hand, regarding the methodology in China, it is mentioned that the suppliers of Data collectively represents the entire supply chain, which includes

steel producers (steel mills), steel service centers, shareholders / traders, and end users (consumers). It is also noted that, to determine the final reference value, price consultants can use their experience to review various factors: observing the prices of the previous week; Historical short-term price trends and other quantitative market data including prices in other related active markets.

85. Due to the above, the Secretariat considers that the argument of the producer-exporters is inadmissible, since the fact that the CRU methodology considers the experience of the price consultants to determine the final reference value, indicates which are not theoretical prices, since different factors must be analyzed such as observation of previous prices or historical trends, in addition to the fact that data providers collectively represent the entire supply chain, which includes steel producers, steel service centers, shareholders / traders and end users (consumers), so that CRU prices reflect the market situation. Therefore, the Secretariat considers that the prices of the steel plate published by the CRU are a valid reference and can be used to determine the cost of the steel plate in China in this investigation.

86. On the other hand, Siemens, Vestas, Envision and the producer-exporters argued that the Secretariat should have used the information on production costs in the country of origin. To do this, they cited the Report of the Appellate Body of the World Trade Organization (WTO), EU-Biodiesel, which indicates that whatever information or evidence is used to determine the cost of production must correspond to the country of origin.

87. In this regard, the Secretariat clarifies that in this investigation the constructed value was used because there were no sales of a comparable product in the Chinese market, a fact confirmed by the appearing producing-exporting companies themselves, however, it was determined to resort to the facts that it had knowledge to substitute the information on production costs presented by the exporting producers, due to the deficiencies of their information. For this reason, the Secretariat considers that the argument of the appearing parties is not appropriate in the present investigation.

88. In order to strengthen what was indicated in the previous point, the Secretariat considers it appropriate to use the facts of which it had knowledge to make its determination, in accordance with the provisions of Articles 2.2 and 2.2.1.1 of the Anti-Dumping Agreement and the interpretation of the Authority Court of Appeal in the case of the Ukraine - Ammonium nitrate (Russia) dispute (DS 493), since no limitations or exceptions are established, provided that the investigating authority decides to construct normal value, and refers to information on costs of production other than the accounting records of the exporter in question, you must necessarily adapt that information to try to determine what the cost is in the country of origin. Now, these provisions refer to cases where:

- to.** the exporter submits their data on production costs in an adequate, complete, timely manner, without hindering or hindering the investigation, and they are from their accounting records;
- b.** the exporter's accounting records are in accordance with generally accepted accounting principles in the exporting country and reasonably reflect the costs associated with the production and sale of the investigated product, and
- c.** Despite this, the investigating authority determines not to use the information on the exporter's production costs and turns to other sources of information.

89. It is clear that the foregoing is not applicable when the investigating authority determines that it will not take into account the information on production costs of the producer-exporter, because the facts available must be applied.

90. Indeed, if the producer-exporter complies with any of the assumptions indicated by the Anti-Dumping Agreement and / or the LCE for the application of its information to proceed, then it would be facing a totally different situation, in which it would be totally illogical to apply the standard referred to above. The reason for this is that the facts available are the mechanism that allows and obliges the investigating authority to issue a determination based on the best information available, completing the necessary data to do so. While the investigating authority has to observe various guidelines when applying this mechanism, to ensure that information is not misused, these guidelines are much more flexible than the limitations posed for the case where the information on production costs has been presented in a non-misleading way. correct by the producer-exporter and the authority has determined not to use it.

91. Thus, the mechanism of facts available cannot, by its very nature, be tied to such a high standard. In fact, if this were the case, it would be enough for the producer-exporter to decide not to submit its information on costs of production, to generate a very high probability that the investigating authority could not validly determine the existence of a margin of price discrimination. Obviously, that would be unsustainable.

92. Therefore, if the investigating authority validly uses the facts available to supply or supplement information on the producer-exporter costs, the applicable standard is totally different, and derives from Article 6.8 and Annex II of the Anti-Dumping Agreement and article 64 of the LCE. In this regard, it is worth noting that paragraph 7 of Annex II of the Anti-Dumping Agreement establishes that when resorting to the facts available, one must act with special prudence, checking the information in view of other independent sources and of the information obtained from other interested parties during the investigation, it being evident that, in that context, the interested party may obtain a less favorable result than it would have obtained if it had cooperated.

93. On this subject, there are precedents in the WTO that confirm that the standard for the application of facts available is different and, although it also implies important limits to the powers of the investigating authority, it is more flexible than the Agreement Anti-dumping, for example, the Panel Report in Korea - Certain Paper (DS 312) and the Panel Report in the China - GOES dispute (DS 414).

94. On the other hand, with respect to the Appellate Body Report on the European Union - Anti-Dumping Measures on Biodiesel from Argentina (WT / DS473 / AB / R) of October 6, 2016, the Secretariat considers that the argument of the appearing parties is not precise, since in paragraph 6.62. of that Report, it is indicated that the Panel explained the following:

Article 2.2 of the Anti-Dumping Agreement and Article VI: 1 (b) (ii) of the GATT 1994 do not limit the sources of information that can be used in establishing costs of production; however, what they do require is that the authority rebuild the normal value based on the cost of production in the country of origin. Although in our view this would require that the costs of production established by the authority reflect existing conditions in the country of origin, we do not consider that these two provisions prohibit an authority from resorting to sources of information other than the costs of producers in the country of origin. country of origin.

[Own emphasis]

95. Further on, the Appellate Body Report explains that:

6.70. We note that Article 2.2 of the Anti-Dumping Agreement and Article VI: 1 (b) (ii) of the GATT 1994 do not contain additional words or qualifications that specify the type of evidence to be used or limit the sources of information or evidence. only to existing sources within the country of origin. Logically, an investigating authority will seek information on the cost of production in the country of origin from sources within the country. At the same time , these provisions do not exclude the possibility that the authority may also need to seek that information from sources outside the country. However, the reference to in the country of origin indicates that whatever information or evidence is used to determine the cost of production, they must allow a cost of production to be obtained in the country of origin and be appropriate for it. . This, in turn, indicates that the out-of-country information or evidence may need to be adapted to ensure that it is adequate for determining a cost of production in the country of origin.

6.74. In light of our discussion above of the terms cost of production in the country of origin in Article 2.2 of the Anti-Dumping Agreement and cost of production ... in the country of origin of Article: 1 (b) (ii) VI of the GATT 1994, we consider that these provisions do not limit the sources of information or evidence that can be used in establishing the costs of production in the country of origin to existing sources within the country of origin ...

6.1.1.2.5 Conclusions

6.82. In summary, we consider that the terms cost of production in the country of origin in Article 2.2 of the Anti-Dumping Agreement and cost of production ... in the country of origin of Article VI: 1 (b) (ii) of the GATT 1994 they do not limit the sources of information or evidence that can be used in establishing the cost of production in the country of origin to sources within the country of origin. When relying on any out-of-country information to determine the cost of production in the country of origin pursuant to Article 2.2 of the AD Agreement, an investigating authority has to ensure that that information is used to arrive at cost. production in the country of origin, and this may require the investigating authority to adapt such information ...

[Own emphasis]

96. In this regard, the Secretariat observes that the WTO Appellate Body, when interpreting Article 2.2 of the Anti-dumping Agreement , indicates that it does not prohibit an investigating authority from resorting to sources of information other than the costs of producers in the country of origin nor does it exclude the possibility of seeking such information from sources outside the country of origin, although it clarifies that the production costs established by the authority must reflect conditions existing in the country of origin and be appropriate for this. .

97. In this vein, the Secretariat considers that the information provided by the Requesters for the calculation of the constructed value, in particular on production costs, reflects existing conditions in the Chinese market, since, as indicated in the Preliminary Resolution, Most of the information used for the calculation of the normal value corresponds to the Chinese market, that is, for the production costs of the

wind towers, the domestic prices of the carbon steel plate in China were considered, which represents approximately 60% of the cost of materials and supplies used in its production. In addition, general expenses and profit were obtained from the financial information of the producing-exporting companies appearing in this investigation.

98. On the other hand, the producer-exporters argued that the margins of price discrimination are excessively high, artificial and the product of illegal calculations. In this regard, they pointed out that the reconstructed value for each type of wind tower is disproportionate and unacceptable. If the height of the wind towers is the factor that affects the cost of production, it should increase proportionally with the increase in height, however, according to their estimates, there are several unusual or unreal data on the cost of production.

99. In this regard, they indicated that they reached three conclusions: i) the 80 m tower has a lower normal value than the 78 m tower ; ii) the normal value of the 90 m tower is 87% higher than that of the 80 m tower , and iii) the normal value of the 112 m tower is 6% higher than that of the 120 m tower . This shows that the calculation of normal value proposed by the Applicants lacks reasonableness. In addition to the above, they also pointed out that, for wind towers with the same height, but with different specifications, for example, steel plate thickness (which affects raw material consumption) and diameter, the cost of production also differs significantly.

100. The Secretariat considers that, as the parties to the investigation stated, the wind tower is a custom-made product and varies according to the technical requirements of the demand, so that each project is an independent cost center, it is In other words, the material costs of a project are different from other projects.

101. In this order of ideas, when reviewing the information on the cost of production provided by each of the producer-exporters, the Secretariat observed similar conclusions, that is:

- to.** the production cost of the 80 m high wind tower is higher than the production cost of the 90 m high wind tower;
- b.** the cost of producing 112 m high wind towers is higher than the cost of producing 120 m high wind towers , and
- c.** the cost of production for wind towers of the same height is different.

102. Based on the foregoing, the Secretariat considers that the argument of the producer-exporters is inadmissible, since the same conclusions are reached with the information from the same producer-exporters, which is why its argument that the margins of price discrimination they are tall, artificial and the product of illegal calculations, it lacks support.

103. Likewise, Titan New, Taisheng Wind and Chengxi stated that it is inappropriate to take the height of the wind towers as the only indicator when determining the cost of production. Weight is a more significant factor in the cost of production of wind towers, since it directly reflects the consumption of steel plate, flanges and other inputs.

104. In this regard, the Secretariat observes that Titan New, Taisheng Wind and Chengxi did not provide the technical elements that demonstrate that weight is a relevant factor, to the point that it significantly affects the cost of production. Additionally, in response to the official form, Titan New and Chengxi stated that while the core specifications include height, weight, engine designed capacity, and base diameter of the wind tower, it is valued as a whole, but not by weight or height value, furthermore,

they exemplified that, if two projects have different consumption of steel plates and flanges, the steel plates and flanges are valued per ton, and the authority may consider adjusting the difference in tons.

105. The companies Vestas and Envision stated that the methodology applied by the Secretariat to estimate normal value is incorrect, since the reconstructed value has information on the production costs of Mexican companies, without justifying why it is appropriate, or without request the information it deems necessary from the parties involved.

106. In this regard, the Secretariat considers that the companies' argument is not appropriate, since in points 148 to 155 of the Preliminary Resolution it was clarified why in this investigation information on production costs of domestic production was considered, that is to say, these points explain the deficiencies in the information of the producer-exporters, as well as their lack of cooperation, for which the Secretariat had to resort to the facts that were known. Likewise, in points 68 to 71 of the Preliminary Resolution it was clarified that since the wind towers are a product designed according to the needs and characteristics of the plaintiffs, it is practically impossible for the national production to provide specific information on all the materials acquired in the production of wind towers in China, being that said information belongs to the producer-exporters, since they are the owners of this information, therefore it is not reasonably available to the Requesters, for which the Secretariat considered that The information provided by the Requesters met the criteria of Article 5.2 of the Anti-Dumping Agreement.

107. In addition, in the preliminary stage, it was up to the exporting-producing companies to accredit, based on their own information, the production costs of the wind towers, a situation that did not happen, since the Secretariat did not have the necessary elements to corroborate and validate the information reported on the production costs contributed by each of the producer-exporters, as described in points 190 to 198 of this Resolution.

108. For its part, Siemens pointed out that the calculation of normal value is distorted and is in violation of the legislation on the matter, since it does not reflect the cost of production in the country of origin and does not correspond to the period investigated, therefore Given this situation, it is clear that the calculation of normal value does not reflect the normal course of trade in China.

109. In this regard, the Secretariat considers the importer's argument inadmissible, as explained in points 86 to 97 of this Resolution, the Secretariat determined to resort to the facts of which it had knowledge, the foregoing, given the deficiencies in the information provided by the producer-exporters on their respective production costs, preventing the Secretariat from being certain about the figures they provided based on their own information.

110. Furthermore, it is erroneous to consider that the prices of various materials for the calculation of the cost of production do not correspond to the period investigated, that although, as indicated in points 159 and 160 of the Preliminary Resolution, the information for several of the materials is outside the investigated period, it is also indicated that the Applicants presented the necessary information to bring the prices to the investigation period, and that such determination is corroborated in points 202 and 203 of this Resolution.

111. For its part, Envision mentioned that the information presented in the Preliminary Resolution was not exhaustively analyzed, since:

- to.** It was proposed to reconstruct the normal value of the merchandise from various sources of information that do not correspond to the Chinese market, taking into account the costs reported by the exporters;

- b.** It was based mainly on quotes submitted by the Applicants, which are not necessarily binding or cause legal obligations between their issuer or recipient and may even be documents with commercial, technical or financial information without being voluntary agreements (that is, excluding any content mandatory);
- c.** information that does not correspond to the market of origin of the goods was considered, and
- d.** various information provided by the Applicants is outside the investigated period.

112. In this regard, the Secretariat considers that Envision's statements are inadmissible and have been addressed in this Resolution, in accordance with the following:

- to.** It is reiterated that given the deficiencies in the information provided by the producer-exporters on their respective production costs, the Secretariat was not certain of the figures they provided, so it decided to resort to the facts available to it, which correspond to the information provided by the national production;
- b.** Although some costs of materials in the cost of production do not correspond to the market of origin, the Secretariat reiterates that it considers that the information provided by the domestic production does reflect existing conditions in the Chinese market, since, as indicated in the Preliminary Resolution , for the production costs of the wind towers, the domestic prices of carbon steel plate in China were considered, which represents approximately 60% of the cost of the materials and supplies used in its production, and
- c.** Contrary to what was indicated by the company, the Requesters presented the necessary information to bring the prices to the investigation period, and this determination is corroborated in points 202 and 203 of this Resolution.

113. Envision added that there are costs that the Secretariat did not consider in the Preliminary Resolution, for example: direct investment costs, mainly of turbines; turbine installation costs; capital costs; Operation and maintenance costs; other development and planning costs; electricity production costs and energy losses, which are part of the total costs in the development of a wind turbine.

114. In this regard, the Secretariat observes that the information indicated by Envision corresponds to the total costs in the development of a wind turbine, as indicated by the company itself, which is why they cannot be considered as part of the cost of the tower. wind, which corresponds to the product investigated, and not the cost of production of the other parts that make up a wind turbine.

115. Vestas indicated that it submitted purchase invoices to Chinese companies for materials required in the production of a wind tower, and a worksheet that includes a summary of the information contained in those invoices, demonstrating that this information is available when investigative work is requested or done. The purchase invoices correspond to: flanges, steel cannel (steel channel), parts (sections), swing gate welded (welded swing gate), alu for platform (aluminum for platform), floor alu (aluminum floor), door (door) and alu for add (aluminum to add).

116. The Secretariat considers Vestas' argument inadmissible, since from the review of the invoices and the worksheet that it provided, it observed that said invoices were outside the investigated period, and the height of the wind tower was not indicated either. to which they correspond, so considering these purchase invoices would not be making a fair comparison with the export price, since the height of the wind tower was considered for this.

117. Vestas also indicated that the Secretariat should have made the pertinent adjustments to the constructed value values presented by the Requesters related to the differences between the Mexican market and the Chinese market, it indicated that the Secretariat should have verified in the World Bank the indicators related to the productivity of labor in Mexico and China, and these indicators are susceptible to being adjusted in relation to the production process of wind towers.

118. The Secretariat reiterates that the information provided by the Requesters corresponds to the best information available and that, in addition, the estimate of the reconstructed value provided by the Requesters corresponds to ex-factory level, therefore, the normal value is compared with the export price, at the same commercial level. Regarding the information that the importer presented from the World Bank, in order to support the adjustment to the reconstructed value for the productivity of labor in Mexico and China, the Secretariat observed that the information presented does not correspond to the manufacturing sector of towers of wind, but refers to the industry in general, which includes construction, in addition to the indicators presented do not correspond to the period investigated. Therefore, there are not enough indications that the importer's proposal may be applicable to the reconstructed value of the wind towers in China, during the investigated period.

6. Fair comparison

119. Siemens stated that the Secretariat did not make a fair comparison between the normal value and the export price. Specifically, the comparison of 78 m high wind towers , which according to the importer were not exported, and towers of varied heights without considering their particular specifications depending on the destination project.

120. The Secretariat considers that Siemens' argument is inadmissible, since, from reading point 157 of the Preliminary Resolution, it is clearly observed that the Secretariat required Arcosa and Speco to provide the cost of production of the 78 wind towers. m , 90 m , 112 m and 120 m in height in China, as they are the heights of the wind towers in the projects exported to Mexico by the producer-exporters during the investigated period. In addition, point 167 of the same Resolution indicates that the Secretariat calculated a normal value for wind towers of 78 m , 80 m , 90 m , 112 m and 120 m in height, for each producer-exporter.

121. Due to the foregoing, Siemens is not right, since the Secretariat compared the normal value of the 78 m high wind towers with the export price of the wind towers of the same height, being a comparison equitable, since the height of the wind tower was considered for this.

7. China as a non-market economy

122. Titan New, Taisheng Wind and Chengxi stated that with the expiration of paragraph 15 (a) (ii) of China's Protocol of Accession to the WTO, it is no longer the responsibility of exporting companies to demonstrate that market conditions prevail in the investigated industries, on the contrary, the burden of proof falls on the Requesters, who did not comply with their burden of proof, in addition, the Secretariat made the mistake of making its determination without a sufficient legal basis, and illegally imposing the burden of the test to the Chinese production-exporters.

123. In accordance with the provisions of points 80 to 83 of the Preliminary Resolution, the Secretariat disagrees with the opinion of Titan New, Taisheng Wind and Chengxi, since the expiration of section (a) (ii) of Section 15 of China's Protocol of Accession to the WTO does not exempt them from their obligation or responsibility to prove, based on their own information, that in the manufacture, production and sale of wind towers, market economy conditions prevail.

124. The foregoing is corroborated in accordance with Article 15 (a) (i) of the Protocol of Accession of China to the WTO, which indicates that said responsibility falls on the Chinese producer-exporter companies, by indicating that it corresponds to the producers subject to The investigation clearly demonstrate that market economy conditions prevail in the industry under investigation, with regard to the manufacture, production and sale of the product. Situation that did not occur in the present investigation.

8. Description of the product under investigation

125. In accordance with points 84 and 85 of the Preliminary Resolution, Vestas argued that the description of the product under investigation is neither precise nor clear, since the characteristics relating to materials, specifications, thicknesses, shapes, types of paint were not established. and technology of the wind towers being investigated; height is not the only criterion to define the product; and they have very specific characteristics that depend on the type of project. So, he said that should define the scope of research s or what to wind towers that were manufactured in Mexico and with the same characteristics.

126. A from the analysis of the information in the administrative record, the Secretariat determined in the Preliminary it was not correct to state Vestas, as in accordance with the requirements of the regulations of the matter, he identified the product under investigation by means of a complete description of the merchandise, its characteristics, standards, specifications, production process and uses, as well as its corresponding tariff classification according to the TIGIE. These criteria together define the scope of the wind towers in the present investigation.

127. At the final stage of the investigation, Vestas did not present additional arguments. For its part, Siemens indicated that technical specifications that are essential to identify the operation, productivity, uses and functions of the investigated product were omitted, which does not allow the market and its prices to be explained with precision, in addition to the fact that coverage is not adequately defined. of product. In the same sense, EDG1 and Envision indicated that the product under investigation is not adequately defined, because the Secretariat omitted technical specifications that are essential to identify the operation, productivity, uses, and functions.

128. In this regard, the Secretariat confirms what is stated in point 87 of the Preliminary Resolution, in which it is indicated that the product under investigation was identified through a complete description of the merchandise, its characteristics, standards, specifications, production process and uses, as well as its corresponding tariff classification according to the TIGIE. Likewise, the observations of the parties in the final stage of the investigation lack support, since they do not provide technical elements or means of proof that demonstrate that the description of the product under investigation is not complete, sufficient and in accordance with the requirements established in the Articles 5.2, Romanita ii) of the Anti-Dumping Agreement and 75 section VII of the RLCE. Consequently, it concluded that the delimitation and scope of the product under investigation are correct according to the characteristics and aspects indicated in points 3 to 18 of this Resolution.

H. Price discrimination analysis

1. Export price

to. Methodological considerations

129. From the analysis of the information provided by the producer-exporters, the Secretariat corroborated that, since the wind towers are merchandise that are designed based on the industrial needs of the developers or builders of wind farms, the characteristics of the projects must meet the requirements

of the plaintiff. The companies determine the requirements and negotiate the conditions of the transaction through contracts. Within these it is established that the price will be in accordance with the purchase order issued.

130. The Secretariat reviewed both the purchase orders of the producing-exporting companies and the export invoices they issued. He contrasted the information on the purchase order and what was reported in the export price database to confirm that it coincided. He noted that the wind towers were indeed shipped and billed in parts, but the purchase orders include the total for each project.

131. In this regard, s or what Taisheng Wind and Chengxi reported some bills out of the investigation period (August 2018), the latter operations which belong to the purchase order that is within the period of investigation , so the Secretariat included in the calculation of the export price, as indicated in points 92 to 95 of the Preliminary Resolution.

b. Titan New

132. At the final stage of the investigation, Titan New did not present arguments or additional evidence regarding the calculation of the export price and its adjustments, described in points 96 to 107 of the Preliminary Resolution. In this regard, the Secretariat reiterates the analysis and methodology described below.

133. Titan New claimed to be a producer and exporter of the product under investigation. It indicated that during the investigated period, it directly exported the investigated merchandise to Mexico through unrelated Mexican importers.

134. Titan New presented the export sales of wind towers to Mexico for the investigated period corresponding to six projects, which include 80 m , 112 m and 120 m high wind towers . It indicated that it does not use product codes in its production records, accounting system and sales documents. He noted that reported prices are net of rebates and rebates.

135. It provided twelve sales invoices, with their purchase orders and payment vouchers, covering the entire volume of the product under investigation that it exported during the period under investigation. The Secretariat compared the information in the documents presented with the information registered in the list of exports to Mexico provided by Titan New without finding differences.

136. Titan New stated that, during the investigated period, its clients also requested components or tools for the wind towers that it exported to Mexico, for which the corresponding expenses are included in the total amount of the commercial invoice. In this regard, he indicated that the export price for the wind towers is the price stipulated in the purchase order, which corresponds to the price of the wind tower without the components or tools.

137. The Secretariat calculated a weighted average export price in United States dollars ("dollars") by type of product, considering the height of each tower, that Titan New exported to Mexico, in accordance with Articles 39 and 40 of the RLCE.

i. Export price adjustments

138. Titan New indicated that the sale term is at the FAS level (Free Alongside Ship), for which it presented adjustments for credit, handling and port expenses, internal freight and charges. banking. He explained that the exchange rate used corresponds to the first business day of each month published by the State Administration of Foreign Exchange of China.

(1) Credit

139. Regarding the credit adjustment, Titan New indicated that it does not have short-term liabilities in dollars, so it used the interest rate reported by the United States Federal Reserve (FED, for the acronym in English of Federal Reserve System). To support the adjustment, he provided information obtained from the FED website.

(2) Handling and port expenses

140. The company reported handling and port expenses in renminbi, which includes expenses for the service of intermediaries for customs declaration and customs broker fees, among others. He indicated that the expenses are reported according to the project management expenses invoice and are assigned to each sale based on the amount invoiced. He presented invoices for handling and port expenses corresponding to each of the projects exported to Mexico during the investigated period.

(3) Internal freight

141. Titan New provided its freight costs in renminbi. He indicated that he reported the adjustment according to the internal freight invoice for each project. It assigned an internal freight to each sale based on the amount invoiced. To support the adjustment, it presented a copy of the internal freight invoices corresponding to each of the projects exported to Mexico during the investigated period.

142. It also provided information on the transport companies that it obtained from the China National Business Credit Information Publicity System, since these companies do not have an Internet page. In the information presented, it can be seen that they have experience in the transport of goods. The Secretariat entered the Internet page of the Information Publicity System and corroborated the information presented by Titan New.

(4) Bank charges

143. Titan New reported the amount of bank charges in dollars. He noted that bank charges are reported according to the bank receipt for each commercial invoice. If a bank voucher consists of the value of two or more commercial invoices, the bank charges are assigned on the basis of the commercial invoice value.

ii. Determination

144. In accordance with articles 2.4 of the Anti-Dumping Agreement, 36 of the LCE and 53 and 54 of the RLCE, the Secretariat adjusted the export price for each type of wind tower for the concepts of credit, handling and port expenses, freight internal and bank charges, according to the information and methodology that Titan New presented.

c. Taisheng wind

145. In the final stage of the investigation, Taisheng Wind did not present arguments or additional evidence regarding the calculation of the export price and its adjustments, described in points 108 to 121 of the Preliminary Resolution. In this regard, the Secretariat reiterates the analysis and methodology described below.

146. Taisheng Wind stated that its main activity or business is the production and sale of wind towers. He mentioned that in the investigated period he exported the investigated merchandise to Mexico through unrelated Mexican clients. It clarified that the product under investigation was exported directly from China to Mexico.

147. Taisheng Wind provided the list of exports it made to Mexico from August 2017 to August 2018, which corresponds to two projects, which include 112 m and 120 m high wind towers . He stated that he does not have a product code system and that the prices reported are net of rebates and rebates.

148. It also provided twelve sales invoices with its purchase orders and payment vouchers, which correspond to the total volume that it exported of the product under investigation in the period from August 2017 to August 2018. The Secretariat compared the information from the documents presented with the information registered in the list of exports to Mexico presented by Taisheng Wind, without finding differences.

149. The Secretariat, in the calculation of the export price, considered the wind towers sent to Mexico in August 2018, in accordance with what is indicated in points 129 to 131 of this Resolution.

150. Similarly, Taisheng Wind pointed out that the price reported in the sales invoices includes the price of the feet of the wind towers, which are a necessary part for the transport of the wind towers to Mexico and that should be considered as part of the export price.

151. In the regard, the Secretariat considered not include the price of the feet of wind towers as part of the price of wind towers, since according to the statement by the producer-exporter, s or are used for transport of the investigated product, in addition, he observed that the price reported in the purchase order does not include the price of the feet of wind towers, the above, according to the table that he prepared as an example to reconcile the values of sales invoices and invoices feet of wind towers, so at this stage of the investigation, the Secretariat determined to consider the price reported in the purchase order as the basis for calculating the export price.

152. The Secretariat calculated an average export price weighted in dollars by type of product, considering the height of each tower, that Taisheng Wind exported to Mexico, in accordance with articles 39 and 40 of the RLCE.

i. Export price adjustments

153. Taisheng Wind pointed out that the sale term is FOB (Free on Board) level, for which it presented adjustments for credit, port handling expenses, internal freight, insurance internal and bank charges. He explained that the exchange rate used corresponds to the beginning of each month reported by the Chinese People's Bank.

(1) Credit

154. Regarding the credit adjustment, the producer-exporter presented the interest rate of the short-term liabilities contracted by the company itself, corresponding to the investigated period. Provided a loan agreement from a Chinese bank.

(2) Port handling expenses

155. Taisheng Wind reported port handling expenses in renminbi. To calculate the adjustment, he presented the invoices for handling expenses for each operation. He clarified that if the invoice for handling charges corresponds to several commercial invoices, the handling expenses are assigned based on the number of sections of wind towers reported in each commercial invoice.

(3) Internal freight

156. Taisheng Wind reported its internal freight costs in renminbi. He indicated that he reported the adjustment in accordance with the internal freight invoice for each project. The internal freight was

assigned based on the number of wind towers indicated on each bill of sale. To support said adjustment, it presented a copy of the internal freight invoices corresponding to the two projects exported to Mexico.

(4) Internal insurance

157. Taisheng Wind reported the cost of insurance in renminbi. To support the adjustment, he presented the insurance policy and the payment invoice. The insurance policy shows the rate applied to the sales invoice value, for each operation.

(5) Bank charges

158. The producer-exporter explained that the bank charges are the general commissions charged by the bank for each transfer at a specific rate. She reported the amount for said concept in dollars. She noted that bank charges are reported in accordance with the bank receipt for payment. She clarified that, if the bank commission covers various sales invoices, the bank charges are assigned based on the value of each commercial invoice.

ii. Determination

159. In accordance with articles 2.4 of the Anti-Dumping Agreement, 36 of the LCE and 53 and 54 of the RLCE, the Secretariat adjusted the export price for each type of wind tower for credit, handling expenses, internal freight, insurance internal and bank charges, according to the information and methodology provided by Taisheng Wind.

d. Chengxi

160. In the final stage of the investigation, Chengxi did not present arguments or additional evidence regarding the calculation of the export price and its adjustments, described in points 122 to 132 of the Preliminary Resolution. In this regard, the Secretariat reiterates the analysis and methodology described below.

161. Chengxi indicated that it is a producer and exporter of wind towers. It noted that during the investigation period it exported the product under investigation directly to Mexico through unrelated importers.

162. To prove the export price, it provided the sales made to Mexico, during August 2017 to August 2018, corresponding to a single project of 90 m high wind towers. He clarified that he does not use product codes in his production record, accounting and sales system. He indicated that the prices reported are net of refunds and bonuses.

163. It also provided five sales invoices with its purchase orders and payment vouchers, which represent the entire volume of the investigated product that it exported from August 2017 to August 2018. The Secretariat corroborated the information in the documents presented with the list of exports to Mexico provided by Chengxi, without presenting differences.

164. The Secretariat, in calculating the export price, considered the wind towers sent to Mexico in August 2018, in accordance with what is indicated in points 129 to 131 of this Resolution.

165. The Secretariat calculated an average export price weighted in dollars by type of product, considering the height of the wind towers, which Chengxi exported to Mexico, in accordance with articles 39 and 40 of the RLCE.

i. Export price adjustments

166. Chengxi indicated that the sale term is at the FAS level, so it presented adjustments for credit and port handling expenses. He explained that the exchange rate used corresponds to the rate published by the Bank of China on the last business day of each month.

167. He clarified that he did not adjust for internal freight because the company has its own transport port, since it is also engaged in the construction of ships, their repair and processing businesses. As a documentary support, he presented a map showing the location of the production plants and the port of shipment.

(1) Credit

168. Regarding the credit adjustment, the company mentioned that it does not have short-term liabilities in dollars, so it used the interest rate reported by the FED. To support the adjustment, it provided information obtained from the FED's website.

(2) Handling and port expenses

169. Chengxi reported handling and port expenses in renminbi. He indicated that the expenses for this concept are reported in accordance with the bill for project management expenses and are assigned to each sale based on the amount invoiced. In this regard, he presented invoices for handling and port expenses corresponding to the project that he exported to Mexico.

(3) Bank charges

170. The Secretariat observed that the bank vouchers for the sales invoices for wind towers exported to Mexico reflect a bank charge, for which it determined to adjust the export price for this concept.

i i. Determination

171. In accordance with articles 2.4 of the Anti-Dumping Agreement, 36 of the LCE and 53 and 54 of the RLCE, the Secretariat adjusted the export price for the concepts of credit, port handling expenses and bank charges, in accordance with the information and methodology that Chengxi provided.

and. Penglai Dajin

172. In the final stage of the investigation, Penglai Dajin did not present arguments or additional evidence regarding the calculation of the export price and its adjustments, described in points 133 to 140 of the Preliminary Resolution. In this regard, the Secretariat reiterates the analysis and methodology described below .

173. Penglai Dajin stated that it is a producer and exporter of the investigated merchandise. It indicated that during the investigated period, it directly exported the investigated product to Mexico, through a marketer who entered into a contract with a Mexican importer. Penglai Dajin is not related to the trader or importer.

174. Penglai Dajin provided the export sales to Mexico of the product under investigation that it made during the investigation period. He indicated that he does not use product codes, but instead records sales and costs in his project accounting system. Prices reported are net of discounts, rebates, and bonuses.

175. The company provided the sales invoice, with its purchase order and proof of payment, which covers the entire volume of wind towers exported to Mexico during the investigated period. The Secretariat compared the information in the documents presented with the information registered in the list of exports to Mexico presented by Penglai Dajin, without finding differences.

176. The Secretariat calculated an average export price weighted in dollars by type of product, considering the height of the wind towers, that Penglai Dajin exported to Mexico, in accordance with articles 39 and 40 of the RLCE.

i. Export price adjustments

177. Penglai Dajin mentioned that it delivered the merchandise to the Mexican importer under the FAS sale term, for which it adjusted the export price for handling and internal freight expenses. He explained that the exchange rate used corresponds to the first day of each month, which he obtained from the People's Bank of China.

(1) Handling expenses

178. The producer-exporter reported handling expenses in renminbi, and indicated that the expenses recorded correspond to the actual handling charge incurred in the transaction. To support the adjustment, she presented a copy of the corresponding invoice.

(2) Internal freight

179. For the domestic freight adjustment, Penglai Dajin reported its costs in renminbi. He noted that he reported the actual internal freight incurred in the transaction. He presented the corresponding internal freight invoice.

ii. Determination

180. Based on Articles 2.4 of the Anti-Dumping Agreement, 36 of the LCE and 53 and 54 of the RLCE, the Secretariat adjusted the export price for the concepts of expenses for handling and internal freight, in accordance with the information and methodology that Penglai Dajin presented.

2. Normal value

to. Methodological considerations

i. Internal sales and exports to third countries

181. In the final stage of the investigation, Titan New, Taisheng Wind, Chengxi and Penglai Dajin did not present arguments or additional evidence regarding the analysis of domestic sales and exports to third countries, described in points 141 to 147 of the Resolution Preliminary. In this regard, the Secretariat reiterates the analysis described below.

182. The producing-exporting companies indicated that the sales of the wind towers are based on specific projects, therefore they differ in their technical properties between projects. Therefore, they consider that each wind tower is a unique product and that the variables and differences in the technical specifications would affect an adequate comparison, so it is not possible to precisely adjust the prices in the Chinese market to make them comparable with the prices. export to Mexico, under such circumstances they consider it appropriate to calculate the reconstructed value for each type of wind tower exported to Mexico.

183. In this regard, the Secretariat required each producer-exporter to provide evidence that each type of wind tower is a unique product, to provide all the sales of wind towers made in the domestic market and in the markets. of export to third countries during the investigated period, as well as the elements to determine whether, even though they are not identical to those exported to Mexico, an adjustment to the normal value could be made due to physical differences, in accordance with the provisions of article 56 of the RLCE . The foregoing, in order for the Secretariat to have the necessary elements to determine

whether in the domestic market sales of merchandise comparable to that exported to Mexico were made, before considering any other option for calculating normal value in accordance with Articles 2.2. of the Antidumping Agreement and 31 and 32 of the LCE.

184. In response to the request made by the Secretariat, each of the companies provided a comparative table of the technical specifications of each type of wind tower sold in the domestic markets, export markets to Mexico and third countries, as well as the sales made in each of its markets, during the investigated period. Titan New, Taisheng Wind and Chengxi also provided documents corresponding to a wind tower project sold in the domestic market, exported to a third country and the cost of production of projects sold in the domestic market. Penglai Dajin did not present additional documentary support.

185. In this sense, the producer-exporters argued the following:

- to.** Given the technical specifications of the wind towers, the products sold in the domestic and export markets to third countries are not identical or comparable to those exported to Mexico. The foregoing, in accordance with the comparative table of technical specifications that they provided;
- b.** The wind tower is a custom-made product and varies according to the actual condition and technical requirements of the demand, so the wind tower is not a standard product, it is an assembled product that includes several different parts;
- c.** Wind Towers are products that consist of multiple steel plates rolled into cylindrical or conical shapes and welded together, and feature flanges, paint, doors, internal or external components. The wind towers have the same inputs, similar end uses, similar end users and are aimed at general markets. Furthermore, the wind tower production process is similar in general aspects. Titan New, Chengxi and Penglai Dajin, presented a diagram of the wind tower production process;
- d.** the production cost of the wind tower cannot be valued monthly for all projects and must be recorded for each one. Each project is an independent cost center. The material costs of a project are different from other projects. Materials are purchased and consumed specifically for each project;
- and.** The products sold in the domestic markets and to third countries are not comparable in price with the products exported to Mexico, and no adjustments can be made to the prices of the wind towers of a project for a fair comparison, due to the different standards of consumption, prices of materials, technical specifications and units of measurement of materials for each project, so these prices should not be used as normal value in this investigation;
- F.** the wind towers have been investigated by various authorities. In the United States, for example, normal value is constructed using surrogate country price and cost factor standards. In Australia, normal value is determined using constructed value, and
- g.** Based on article 31 of the LCE, they provided the reconstructed value of the merchandise exported to Mexico, as there were no sales of identical or comparable merchandise in the domestic market or because such sales did not allow a valid comparison.

186. Based on the information and arguments provided by the producer-exporters, the Secretariat considers that the wind towers are products that are manufactured according to the technical specifications required by the developers. For this reason, and as demonstrated by the producer-

exporters, it considers that there were no sales of wind towers in the Chinese market or to third countries that were comparable to those exported to Mexico, during the investigated period.

187. Similarly, the Secretariat considers that it is not relevant to adjust domestic prices for physical differences due to the different technical specifications of the wind towers, since, as has been stated throughout the investigation, the product subject to research is a custom-made merchandise that has its own characteristics according to each project and geographical area to which it is intended. Consequently, it is redundant to determine whether the sales on the Chinese market were made in the ordinary course of trade or whether, due to a special market situation, such sales do not allow a proper comparison, in accordance with Articles 2.1 and 2.2 of the Antidumping Agreement and 31 and 32 of the LCE.

188. Based on the foregoing, the Secretariat determined that, in this investigation, it is appropriate to use the constructed value as a normal value option, based on Articles 2.2 of the Anti-Dumping Agreement and 31 of the LCE.

ii. Constructed value proposed by producer-exporters

189. At the final stage of the investigation, the producer-exporters presented arguments, however, they did not provide additional evidence regarding their constructed value, described in points 148 to 155 of the Preliminary Resolution. In this regard, the Secretariat reiterates the analysis described below.

190. In the preliminary stage of the investigation, the producer-exporters presented the reconstructed value for each type of wind tower exported to Mexico during the investigated period.

191. The Secretariat required the companies Titan New, Taisheng Wind and Chengxi to provide the information to determine that the purchase prices of each of the materials used to manufacture the wind towers correspond to normal commercial operations and market prices. . In response, the producer-exporters argued that all materials are purchased in open markets and some materials are imported from other countries. Consequently, the Secretariat observed that the sample of invoices for the purchase of materials presented by the producer-exporters correspond to Chinese suppliers, so its argument that some materials are imported from other countries does not correspond to the evidence presented, therefore The Secretariat did not have the necessary elements or information to determine that the prices at which inputs are purchased in the domestic market correspond to normal commercial operations and market prices.

192. The Secretariat also analyzed the information and documents provided by Titan New, Taisheng Wind and Chengxi to support the reconstructed value of the wind towers exported to Mexico. In this regard, it noted the following:

- to.** They presented a sample of invoices for the purchase of materials for the manufacture of the wind towers, despite the fact that all the invoices were required for each of the projects exported to Mexico. That although, according to what was expressed by two producer-exporters, there are hundreds of invoices for each type of material, the sample of invoices they contributed did not allow the Secretariat to corroborate and validate the figures reported for the cost of production of each one of the materials and for the types of wind towers exported to Mexico;
- b.** In accordance with the provisions of point 150 subsection b of the Preliminary Resolution, the Secretariat when comparing the information presented in response to the request for information, regarding purchase invoices with that reported in the lists of materials presented by Titan New and Chengxi did not All the information indicated can be corroborated, because there are

descriptions or specifications of materials indicated in the invoices that are not reported in the list of materials. Also, the invoices of both companies are illegible;

c. additionally, with regard to Titan New invoices, in several descriptions, the quantity or unit price does not correspond to what is reported in the bills of materials. In addition, in the list of materials, quantities are reported for some inputs in internal equipment without indicating the corresponding unit price and total amount. It also included a freight charge in the cost of producing the steel plate, without explanation. Similarly, the unit consumption and the unit price obtained from the list of materials for most of the inputs does not correspond to the one reported in its reconstructed value annex;

d. for Chengxi, negative quantities and values are reported for various materials in the bill of materials, without providing an explanation. The amount of total consumption of the flanges obtained from your bill of materials does not correspond to that reported in your reconstructed value annex;

and. In production costs, Titan New, Taisheng Wind and Chengxi reported a consumption for scrap, which is subtracted in the calculation of the cost of production of the wind towers, however, Titan New and Chengxi did not present the documentary support nor a methodological explanation that allows corroborating and validating the figures reported for scrap, in addition, Chengxi reported scrap sales in months outside the investigated period. For its part, Taisheng Wind, although it presented invoices for the sale of scrap metal in the investigated period, did not present the documents supporting the amount of plate consumed, so it was not possible to corroborate and validate the information;

F. Regarding labor, Titan New and Chengxi did not present the documents or the methodology that allows replicating and validating the figures reported for this concept, being that they only indicated that the labor costs are assigned to each project. For its part, Taisheng Wind provided documents regarding labor costs for the wind towers of one of the two projects that include the wind towers exported to Mexico, however, it failed to present the documents that support the figures reported for labor costs. In addition, the documents supporting the labor concepts corresponding to the other project were not available for the tower foot of that project, so it was not possible to corroborate and validate the information, and

g. Regarding the concepts that make up the indirect manufacturing costs, Titan New and Chengxi did not provide the documentation and methodology that allows corroborating and validating the figures reported in each of the concepts that make up the indirect manufacturing costs, being that only They indicated that manufacturing overhead is allocated to each project. For its part, Taisheng Wind provided documents regarding the manufacturing expenses for the wind towers of a project, however, it did not present the documents that support the figures reported for manufacturing expenses for the tower feet of that project. Nor were the documents available to support the indirect manufacturing costs corresponding to the other project, so it was not possible to corroborate and validate the information.

193. In this regard, in the final stage of the investigation, Titan New, Taisheng Wind and Chengxi made the following clarifications, without providing evidence:

to. the information that they reported on their production costs is extracted directly from their respective financial records and is reconcilable with the corresponding cost of each project;

b. in the case of Titan New and Chengxi, the invoices presented cover the materials consumed and correspond to the bill of materials, although in some cases they may differ due to the fact that they have a general description, however, the description of the product matches the input consumed , since it belongs to the same category, and

c. Chengxi commented, regarding the negative quantities and values for various materials indicated in its bill of materials, that the negative data reflects the displacement and correction of quantities and values of materials consumed and does not affect the total consumption quantity. He also explained that the bill of materials measures flanges by set, while in his rebuilt value annex he reported the actual weight of the flanges.

194. Regarding general expenses and profit for Titan New, Taisheng Wind and Chengxi, in the preliminary stage, the companies provided their respective monthly reports of the Income Statement and Balance Sheet for the investigated period, as well as the audited reports for 2017 and 2018.

195. With regard to the Penglai Dajin company, the Secretariat requested it both in the official form and in the request for additional information, that in case of resorting to the reconstructed value methodology (production costs, general expenses and profit) Present the documentary support including purchase orders, sales invoices and the corresponding payment vouchers. In response to the request for information, the company only presented worksheets on the cost of production and the reconstructed value of the wind towers that it exported to Mexico, without presenting the documents that support the reported figures, so the Secretariat did not have the necessary tests to corroborate and validate the information presented by the company.

196. In accordance with what is described in the previous points, and considering the arguments provided by the producer-exporters in the final stage of the investigation described in points 76 and 77 of this Resolution, the Secretariat did not have the necessary elements to calculating a specific normal value for each of the companies, thus reiterating its determination that Titan New, Taisheng Wind, Chengxi and Penglai Dajin did not provide the required information during this investigation or submitted it incompletely. As a result, the Secretariat was not certain of the figures they provided to calculate the reconstructed value, based on the information of each producer-exporter, limiting its capacity for analysis.

197. Consequently, as established in Articles 6.8 of the Anti-Dumping Agreement and 54 and 64 of the LCE, if an interested party denies access to the necessary information, does not provide it within a reasonable period of time or significantly hinders the investigation, determinations may be made Preliminary or definitive, positive or negative, based on the facts available, in the present case, it turns out to be the information provided by the Applicants.

198. Due to the foregoing, the Secretariat reiterates that it is appropriate to use the production cost figures for the wind towers presented by the Arcosa and Speco companies in the initial and preliminary stages, for the producer-exporters. The foregoing, based on the facts of which it became aware in accordance with Articles 6.8 and Annex II of the Anti-Dumping Agreement and 54 and 64 of the LCE, in accordance with what is described in points 200 to 210 of this Resolution.

b. Constructed value proposed by the Applicants

199. In accordance with points 182 to 188 of this Resolution, the Secretariat determined that there were no sales of wind towers in the Chinese market or to third countries that were comparable to those exported to Mexico, during the investigated period, therefore which calculated normal value according to the constructed value methodology. The Secretariat determined to calculate the cost of production for Titan New, Taisheng Wind, Chengxi and Penglai Dajin, based on the facts available to it, that is, based on the information provided by the Requesters, which is described below.

200. In the preliminary stage of the investigation, the Secretariat required Arcosa and Speco to provide the cost of production (cost of direct materials and components, cost of direct labor and indirect manufacturing expenses) of the towers wind of 78 m , 90 m , 112 m and 120 m in height in China, the above, because they are the types of wind towers exported to Mexico by the producer-exporters, during the investigated period. For the 80 m high wind towers , the Secretariat used the information provided by the Requesters in the initiation stage, as described in points 52 to 62 of the Initiation Resolution.

201. To calculate the cost of production of the 78 m , 90 m , 112 m and 120 m high wind towers , Arcosa and Speco used carbon steel plate (raw material used in the production of the towers of wind), the export prices in dollars per ton that they obtained from the CRU, for the period investigated. The Secretariat observed that the information reported by the CRU also includes domestic prices of steel plate in China, so it decided to use the latter for calculation purposes, as was done in the initial stage. To estimate the price of the supplements in dollars per ton, the Requesters used the figures obtained from a steel company in Mexico, which is their supplier, since they did not obtain the value of the supplements in China. They explained that supplements are the chemical aggregates that are introduced into the production process of carbon steel plate to give it the degree of hardness that is required for the manufacture of wind towers.

202. To document the above, they presented a database that integrates the information from the CRU, on the amount of steel plate necessary to manufacture each of the sections of each wind tower, as well as the calculation provided by Altos Hornos de México, SA de CV, who is its supplier, which is outside the investigated period, so the Requesters presented the methodology to bring prices to the investigated period, considering the inflation index obtained from Banco de México.

203. Similarly, in calculating the cost of production of the wind towers, the Applicants used for the materials (flanges, bolt-on trim, door frame, weldable trim, welding, paint, metallization, and canvas), prices in Dollars acquired by one of the national production companies, supplier companies from China, Spain and Mexico, as well as the amount required of each input for the manufacture of each wind tower. Given that the information, for several of the materials, is outside the investigated period, the Applicants presented the methodology to bring the prices to the investigated period, considering the inflation index for Spain and China that they obtained from the Worldwide inflation website. data (world inflation data), from the World Bank and for Mexico, the inflation index reported by the Bank of Mexico.

204. Regarding the concepts that make up manufacturing (maintenance expenses, payroll and related expenses, depreciation, fixed expenses and energy consumables), they used the costs for each concept corresponding to one of the Requesters. They argued that the cost of labor was calculated considering that the manufacturing method is similar in China and Mexico, because in both cases there is technology and equipment that must meet the technical characteristics required by the designer.

205. The cost of production was obtained as follows:

to. the price of each input (raw material and materials) was multiplied by the amount used in the production of a wind tower, and

b. the number of hours required in the production of each wind tower was multiplied by the cost of each hour in dollars involved in the manufacture of the towers.

206. Regarding general expenses (selling, administrative and financial expenses) and profit, as indicated in points 194 and 195 of this Resolution, the Secretariat calculated these concepts for Titan New, Taisheng Wind and Chengxi, respectively, based on the information in the Income Statements, for the investigated period, provided by each of the companies. For Penglai Dajin, it made an average of the general expenses and the profit presented by Titan New, Taisheng Wind and Chengxi, 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 second paragraph and 64 last paragraph of the LCE.

207. The Secretariat determined not to use the financial expenses reported by the Taisheng Wind and Chengxi companies in their financial statements, since this figure is negative, which would imply that by using the excess of income over financial expenses as a kind of credit, this would have the effect of absorbing other expenses and costs actually incurred by the company, in accordance with the provisions of sections VII and VIII of article 46 of the RLCE. In addition, for the Chengxi company, it determined not to take into account the selling expenses, because said expenses were reported negatively, which contravenes accounting practice, as these are, among others, the expenses incurred to promote and market products.

208. The foregoing is contrary to the very purpose of resorting to the reconstructed value, since this refers to the price at which all costs and expenses are fully recovered, generating a profit margin, therefore, underestimating said expenses would result in a reconstructed value lower than that corresponding in terms of legislation on the matter. In addition, an explanation was required of how they calculated the benefits of the operation from their operational income to the producer-exporters, without having a clear answer.

209. Additionally, the Secretariat included in the calculation of Chengxi's general expenses those that it identified in its financial statements as research and development expenses. The foregoing in accordance with the provisions of section II of article 46 of RLCE.

c. Determination

210. Based on the description of the previous points and in accordance with articles 2.1 of the Anti-Dumping Agreement, 31 section II of the LCE and 39 and 40 of the RLCE, the Secretariat calculated a normal value for the wind towers of 78 m, 80 m, 90 m, 112 m and 120 m in height, for each producer-exporter, in dollars per tower.

3. Margin of price discrimination

211. In accordance with the provisions of Articles 2.1, 6.8 and paragraphs 1 and 7 of Annex II of the Anti-Dumping Agreement, 30, 54 and 64 last paragraph of the LCE and 38, 39 and 40 of the RLCE, the Secretariat compared the normal value with the export price and determined, at this stage of the investigation, that the imports of wind towers originating in China were carried out with the following price discrimination margins:

to. 41.22% for imports originating in China and coming from Titan New;

b. 69.21% for imports originating in China and originating from Taisheng Wind;

c. of 66.49% for imports originating in China and from Penglai Dajin, and

d. of 143.06% for imports originating in China and coming from Chengxi and for the other exporters of that country.

I. Damage and causation analysis

212. The Secretariat analyzed the arguments and evidence that the parties provided, in order to determine whether the imports of wind towers originating in China, carried out under conditions of price discrimination, caused material injury to the domestic industry of the like product. . This evaluation includes, among other elements, an examination of:

to. 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

b. the impact of the volume and price of these imports on the economic and financial indicators of the domestic industry of the like product.

213. The analysis of the economic and financial indicators of the domestic industry corresponds to the information provided by Arcosa and Speco, since these companies constitute the domestic industry of the product like the one under investigation, as confirmed in point 231 of this Resolution. To this end, the Secretariat considered data from the periods August 2015-July 2016, August 2016-July 2017 and August 2017-July 2018, which constitute the period analyzed. Unless otherwise indicated, the behavior of economic and financial indicators in a given year or period was analyzed with respect to the immediately previous comparable.

1. Product similarity

214. 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 information and evidence in the administrative file to determine whether the nationally manufactured wind towers are similar to the product subject to investigation.

215. At the preliminary stage, Vestas questioned the determination of similarity between the investigated wind towers and those of national manufacture, considering that they do not have the same characteristics and are not commercially interchangeable. On the contrary, Siemens and three of the producer-exporters (Chengxi, Taisheng Wind and Titan New) agreed in the sense that both products do not present great differences and may even be identical, since in some projects they used the investigated and national product with the same technical specifications, in addition to the fact that all wind towers consist of multiple steel plates rolled into cylindrical or conical shapes and welded together, and have flanges, doors and internal or external components.

216. In accordance with the results described in points 172 to 193 of the Preliminary Resolution, the Secretariat determined that the nationally manufactured wind towers are similar to the product under investigation.

217. At the final stage of the investigation, Vestas did not submit any additional elements on product likeness. For their part, the exporting-producing companies pointed out that the height of the wind towers is determined by the conditions of the wind farms, the wind generation capacity, and aspects such as the length of the blades, wind pattern, type of turbines, rotor diameter and height of the hubs, so that only towers with the same heights could be considered commercially interchangeable, according to the following:

- to.** Even though Chinese wind towers and those produced in Mexico compete in the same market, are supplied to the same type of consumers and industries, participate in the same supply chain and share clients, this does not necessarily imply that both products are commercially interchangeable;
- b.** Although Titan New recognized that the wind towers investigated and those of national manufacture do not have great differences and may have the same technical specifications, this does not mean that all the wind towers are similar to each other;
- c.** The wind towers are made according to the order and requirements of each client, therefore, there may be some that are similar and others that are not, but it is one thing that the described characteristics of the investigated merchandise are met and, quite another, is that they are similar towers or are commercially interchangeable, a fact that the Secretariat recognized;
- d.** the analysis of consumers and distribution channels is incomplete because it ignores the height of the towers, which deviates from commercial practice and industrial common sense, and
- and.** an arbitrary switch between towers of different heights would result in unnecessarily high energy costs, serious technical problems, and even risks to human life.

218. For their part, the Applicants reiterated that there are sufficient elements in the present investigation to consider that the national wind towers are similar to the product under investigation and commercially interchangeable.

219. The Secretariat considers that the allegations of the producer-exporters are inadmissible according to the following:

- to.** In relation to the aspects that determine the height of the wind towers and other specifications , the Secretariat considers that these are common to all wind towers, regardless of the manufacturer and their origin, which are taken into account by the client or technologist in accordance with the conditions and requirements of the wind farm or project to which they will be destined, as indicated by Vestas, in the preliminary stage of the investigation (point 177 of the Preliminary Resolution). In this sense, the Secretariat confirms what is described in subsection c of point 180 of the Preliminary Resolution, that it is the client who determines the characteristics and specifications that will be required from the manufacturer of wind towers to choose, whether national or Chinese;
- b.** Insofar as the height is defined by the client for specific wind projects, and not by the tower manufacturer , it is evident that these will have the same characteristics, including the height, regardless of the supplier or manufacturer chosen. that both the investigated and national product will be commercially interchangeable for the same project or even others, if the client so requires. In this way, it is meaningless to point out that the analysis of consumers and channels is incomplete because it has supposedly ignored said characteristic, and
- c.** Additionally, the Secretariat observed that the producer-exporters did not provide technical elements to support their claims, however, they recognized, as indicated in points 174 and 176 of the Preliminary Resolution, that the wind towers that they exported to Mexico and of manufacturing national, they do not have great differences between them, and present a similar composition, so their arguments at this stage are contradictory and lack reasonableness.

220. A from the results of the above, the analysis described in paragraph Similarity product of the Preliminary and information in the administrative record, the Secretariat concluded that the wind towers

manufactured locally are similar to the product under investigation, in terms of the provisions of articles 2.6 of the Anti-dumping Agreement and 37 section II of the RLCE, by virtue of having similar physical characteristics and composition, they are manufactured with the same inputs and through production processes that show no differences substantial; Likewise, they serve the same markets and consumers, which allows them to fulfill the same functions and be commercially interchangeable, so that they can be considered similar.

2. Branch of national production and representativeness

221. 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 wind towers, taking into account whether the manufacturing companies are importers of the product under investigation or if there are elements that indicate that they are linked to importing or exporting companies.

222. As indicated in points 195 to 199 of the Preliminary Resolution, the Secretariat requested additional information from Windarmex in order to clarify the differences observed in its production figures from the initiation stage, and had the recognition of the importer Siemens, on its relationship with said producer and two other Spanish companies. Having better information, the Secretariat recalculated the Requesters' participation in the total domestic production of the like product and confirmed the presumption of the initiation stage regarding Windarmex's relationship with one of the importing importers and the appropriateness of defining the domestic industry only with producers Arcosa and Speco.

223. In the preliminary stage, the producer-exporters questioned the difference between the percentage of participation in the domestic industry indicated by the Requesters and that obtained by the Secretariat in the Initiation Resolution.

224. For its part, Vestas presented arguments and evidence in order to discredit the nature of the Applicants as domestic producers and their representativeness in the domestic industry, in accordance with the following: i) the Applicants are simple maquiladoras whose activity depends of the clients or technologists, who are the owners of the wind towers and, therefore, it is the latter who make up the national production of wind towers; ii) The Panel in the case of the European Communities-Anti-Dumping Measures on Farmed Salmon from Norway, indicated that the companies that intervene in making the investigated goods exist are part of a domestic industry, whatever their intervention. in the production process; iii) various documents of the wind energy market recognize Vestas and other technologists as manufacturing companies of wind towers in Mexico, and iv) there are other national manufacturers of the similar product that were not considered in the investigation.

225. In accordance with points 200 and 205 of the Preliminary Resolution, the Secretariat analyzed the arguments and evidence presented by the parties, and considered that they did not demonstrate that the Requesters were not national producers of wind towers and representative of the branch. of national production, according to the following:

- to.** The Secretariat clarified that the apparent discrepancy in the Requesters' participation percentages in national production in the Initiation Resolution was due to the fact that they corresponded to different periods;
- b.** the fact that one of the Applicants has carried out a part of its wind tower production under a manufacturing or maquila service contract does not disqualify it as a producer and member of the domestic industry;

- c. From the inception stage, production and sales operations corresponding to manufacturing or maquila services were excluded, so this had no effect on the representativeness of the Applicants, or on other indicators of the domestic industry, as it was indicated in points 204 and 205 of the Preliminary Resolution;
- d. The fact that the investigated industry operates under the order, design and requirements set by its clients, does not make the latter manufacturers of the product under investigation, even if they are suppliers of inputs and raw materials, and
- and. From the review of the evidence presented by Vestas and from the information provided by the Secretariat itself, it was found that none of the companies identified as possible producers manufactured wind towers similar to those investigated during the period analyzed.

226. In the final stage of the investigation, Vestas did not present additional or contrary elements regarding the character of domestic producers and the representativeness of the Applicants in the domestic production.

227. For their part, the producer-exporters indicated that there is a discrepancy between the percentage of participation in the national production of the Applicants in the Initiation Resolution and in the Preliminary Resolution. They also noted the following:

- to. the simple relationship between Windarmex and one of the importers of the investigated merchandise does not justify its exclusion from the domestic industry, and the Secretariat was unable to analyze how said relationship implies behavior and interests different from those of the Requesters;
- b. The Requesters are maquiladoras and not manufacturers of the domestic product, since Vestas is the owner of the inputs, technology and design to manufacture the wind towers, so the Secretariat must apply the same criteria followed in the anti-dumping investigation on imports. of polyester staple fibers originating in China, in which it considered that the company that owns the raw material and orders the production, is the national producer, and
- c. assuming that the maquiladora Applicant had its own production and sales, the Secretariat would have to recalculate the Applicants' participation in national production, including Vestas as a national producer.

228. The Secretariat considers that the allegations of the producer-exporters are unsupported and, consequently, are inadmissible due to the following:

- to. there is no discrepancy in the Requesters' participation in domestic production. The difference between the two resolutions is due to the fact that, in the initial stage, the Requesters estimated Windarmex production, while, in the preliminary stage, the Secretariat had direct information on the production of said manufacturer, for which reason the Participation of the Requesters in the national production, as explained in points 197 and 198 of the Preliminary Resolution;
- b. The fact of considering the rest of the national wind tower producers other than Windarmex in the analysis of the national industry is fully justified and complied with the provisions of Articles 4.1 of the Anti-Dumping Agreement, 40 of the LCE and 61 section VI of the RLCE. As indicated in point 199 of the Preliminary Resolution, Siemens recognized the existence of its relationship or connection with Windarmex and did not object to its exclusion from the domestic industry. Likewise, Windarmex's different behavior and interests with respect to the Requesters

are evident and are derived from its own lack of interest in the present investigation and its results, since at the beginning of the investigation it did not clearly indicate its support or opposition to the same;

c. Even if one of the Applicants has carried out a part of its wind tower production under the modality of manufacturing or maquila services, this does not disqualify it as a producer and member of the domestic industry, as already indicated in subsection a of point 205 of the Preliminary Resolution;

d. As regards the investigation on imports of polyester staple fiber originating in China to which the producer-exporters allude, their conclusions cannot be extrapolated by inference or analogy to the present investigation, as they are different circumstances and conditions , Y

and. The claim to consider customers or importers as manufacturers of the product under investigation is not supported, since they do not have the productive capacity to transform the product and make it exist, since, otherwise, they would not have resorted to third parties to obtain the product, regardless of the contracted production modality or service. Consequently, a recalculation of the Requesters' share of domestic production is not warranted.

229. EDG1 and Envision indicated that there is no certainty regarding the Requesters' participation in national production, as it is contradictory that the Secretariat has requested information from the Mexican Wind Energy Association (AMDEE) and the National Chamber of the Iron Industry and del Acero (CANACERO), and at the same time indicate that it did not have information on national production, in addition to the fact that there are other national manufacturers that were not considered, according to the document entitled Renewable Energy Sector in Mexico, issued by PROMEXICO.

230. In this regard, the Secretariat considers that such allegations are unsupported. On the one hand, the reason for the difference in the participation percentages of the Applicants in the Initiation Resolution has already been clarified. There is no contradiction in the information presented by AMDEE and CANACERO, since according to point 99 of the Initiation Resolution, it was indicated that these organizations do not have figures for the total national production of wind towers. From the review of the means of proof presented by the parties, including the PROMEXICO document, there is no evidence in the administrative file of other possible national manufacturers of the similar product that had not been considered, since, according to the Sector report de Energías Renovables in Mexico, Acciona WindPower and Postensa Wind Structures manufacture concrete towers, and according to the companies' Internet pages, Tubac produces carbon steel pipe with spiral seams for water conduction and storage, Enertech is A Spanish civil engineering company, dedicated to wind foundations and CS Wind, although it manufactures wind towers, it is a company based in Korea, as indicated in paragraphs c and d of point 205 of the Preliminary Resolution.

231. A from the results described in the above, the Secretariat concluded that the applicants are representative of national production of wind towers, making up the domestic industry in accordance with the provisions of Articles 4.1 and 5.4 of the Antidumping Agreement, 40 and 50 of the LCE and 60, 61 and 62 of the RLCE, since, in the investigated period, its aggregate production represented 60% of the total national production. Additionally, in the administrative record there are no elements that indicate that the Applicants are related to exporters or importers of the product under investigation.

3. International market

232. The Requesters indicated that they do not have specific international market information for the product under investigation, since it is a product that is part of wind turbine systems. By virtue of the foregoing, and as indicated in points 208 to 211 of the Preliminary Resolution, the Secretariat analyzed the behavior of the international market based on the information provided by the Applicants and the appearing parties.

233. According to the statistics of the Global Wind Energy Council (GWEC), which includes the main wind energy producing countries and, consequently, wind towers, the Secretariat confirmed that China ranked first in the world in 2017 for wind power generation, with a share of 37%, followed by the United States (13%), Germany (12%), United Kingdom and India (8%).

234. Based on information from the United Nations Commodity Trade Statistics Database ("UN Comtrade") for subheadings 8502.31 (wind power generators) and 7308.20 (towers and towers, cast iron or steel), the following was confirmed :

- to.** The main importing countries of China of subheading 8502.31 in the investigated period were: Spain with a 33% share, followed by Australia and French Polynesia (9%) respectively, and Oman (8%), and
- b.** The main markets for China's exports of subheading 7308.20 in the investigated period were: Pakistan and Myanmar (12%), followed by the Philippines (10%) and Laos (7%).

235. Siemens, Vestas and Penglai Dajin agreed with the Applicants that the main producer and exporter of the product under investigation is China, along with other countries such as the United States, Korea, India, Vietnam, Germany, Denmark and Spain. Likewise, Siemens and Penglai Dajin indicated that the main consuming countries are also the importers of wind towers, among which are China, India, the United States, Germany, Australia, Finland, Sweden, Argentina and Chile.

236. According to GWEC and World Wind Technology publications, Vestas noted that in 2018 the countries with the highest growth in their wind power generation capacity and, consequently, in the consumption of wind towers were China, the United States , Germany, India and Brazil. Also, in the investigation "Utility Scale Wind Towers from China and Vietnam", Nos. 701-TA-486 and 731-TA-1195-1196 (Review), Publication 4888 of April 2019, of the International Trade Commission of the States United, it was noted that the main exporting countries of wind towers are China, Turkey, Germany, Denmark and Spain.

4. National market

237. The Secretariat evaluated the behavior of the domestic market based on the national production and export figures presented by Arcosa and Speco, as these are representative of the domestic industry, as well as those provided by Windarmex of its production, and of those that were gathered, related to imports made through tariff section 8502.31.01 of the TIGIE, obtained from the list of import operations of the Mexican Commercial Information System (SIC-M), as indicated in points 244 and 245 of this Resolution.

238. Based on the above information, the Secretariat observed that the national market for wind towers, measured through Apparent National Consumption (CNA), calculated as total national production plus imports less exports, decreased 62% in the year. August 2016-July 2017 period and increased 4.5 times in the investigated period, which meant a cumulative increase of 71% in the analyzed period.

239. National production registered an increase of 61% in the period August 2016-July 2017, but decreased 17% in the investigated period, thereby accumulating an increase of 33% in the period analyzed.

240. National production oriented to the domestic market, calculated as national production minus exports, decreased 43% in the period August 2016-July 2017 and increased 2.7 times in the investigated period, which meant a cumulative increase of 54% in the period analyzed.

241. Total imports had a 76% decrease in the August 2016-July 2017 period and an increase of 7.7 times in the investigated period, which represented a cumulative growth of 84% in the analyzed period. The national supply of the product under investigation in the analyzed period came from four countries: China with an average participation of 74%, the United States (10%), Spain (9%) and Indonesia (7%).

5. Analysis of imports

242. 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 and in relation to national production or consumption.

243. In accordance with the provisions of points 220 to 227 of the Preliminary Resolution, EDG1, Siemens, Vestas and Envision presented various questions in relation to the calculation and analysis of imports described in the Initiation Resolution, in particular, regarding the behavior of the imports investigated in the analyzed period, the information required by the Secretariat, the volume and low presence of exports and imports made by two of the interested parties, as well as the selection of the investigated and analyzed period proposed by the Requesters. In this regard, the Secretariat analyzed the arguments of the parties and responded to the points mentioned above, thus confirming its determination to the elements presented by the parties in all their terms.

244. In the preliminary stage of the investigation, as described in point 228 of the Preliminary Resolution, the importers appearing provided information on the imports of wind towers that represent 100% of the imports originating in China and other countries. in the period analyzed. The Secretariat reviewed and collated the databases, pediments and invoices submitted by importers, against the import operations reported in the list of import operations of the SIC-M that entered through the tariff section 8502.31.01 of the TIGIE. Based on this information, the Secretariat calculated the volume and value of imports of wind towers in the period analyzed.

245. At the final stage of the investigation, the appearing parties did not provide additional elements on the methodology applied by the Secretariat for the quantification of the imports under investigation and from other countries. Consequently, the Secretariat confirmed its calculations of the volumes and values of the investigated product and of other countries, as well as the results of its observed behavior and trends.

246. Considering the above information, the Secretariat observed that total imports decreased 76% in the period August 2016-July 2017 and increased 7.7 times in the investigated period, which represented a cumulative increase of 84% in the period analyzed. , which is basically explained by the increase in investigated imports.

247. In effect, the investigated imports, although they fell 73% in the period August 2016-July 2017, increased 12 times in the period investigated and, with this, accumulated an increase of 3.2 times in the period analyzed. Said imports showed a growing share in the total imported, going from 51% in the August 2015-July 2016 period to 57% in the August 2016-July 2017 period and 89% in the investigated period, which meant an accumulated increase of 38 percentage points in the analyzed period.

248. In the final stage of the investigation, Vestas pointed out that it is incorrect for the Secretariat to consider only the investigated period as a reference for the injury analysis, since it is obliged to consider changes throughout the analyzed period. In the connection, he indicated that the import growth was 220% in the analyzed period, and not of 1.100% when or what is considered the period investigated, as provided ADA and LCE. The foregoing taking into account that there was even a significant drop in the imports investigated in the period August 2016-July 2017, so the denominator for calculating the increase in the period investigated is abnormally small, a situation that distorts the observed growth.

249. In this regard, the Secretariat considers that the analysis of the investigated imports meets the requirements established in the regulations on the matter, since it does not omit any period, which was even recognized by the importer itself. Likewise, despite the fall in investigated imports in the period August 2016-July 2017, which is explained by the fall in the CNA in the same period, this does not change the fact that imports originating in China increased both in the period investigated and in the analyzed period, which was reflected in a market loss for domestic production.

250. With regard to imports originating in countries other than China, these decreased 79% in the period August 2016-July 2017, and although they increased 100% in the period investigated, they registered an accumulated fall of 58 % in the period analyzed. This was reflected in a lower participation in total imports of 38 percentage points throughout the analyzed period, going from 49% in the August 2015-July 2016 period to 43% in the August 2016-July period. 2017 and 11% in the investigated period.

Behavior of wind tower imports

Source: SIC-M and importing companies.

251. In terms of the domestic market, imports from China increased their participation in the CNA, going from 29% in the August 2015-July 2016 period to 21% in the August 2016-July 2017 period and 55% in the investigated period, which meant an increase of 34 and 26 points in the investigated and analyzed period, respectively; On the contrary, the share of imports from other origins decreased their share in the

CNA by 21 percentage points in the analyzed period, from 28% in the August 2015-July 2016 period to 15% in the August 2015 period. 2016-July 2017 and 7% in the investigated period.

National market of wind towers

Source: SIC-M, national producers and importing companies.

252. In relation to domestic production, the investigated imports represented 60% in the period August 2015-July 2016, 10% in the period August 2016-July 2017 and 144% in the period investigated.

253. For its part, national production oriented to the domestic market decreased its participation in the CNA by 5 percentage points in the analyzed period, from 43% in the August 2015-July 2016 period to 64% in the August 2015 period. 2016-July 2017 and 38% in the investigated period.

254. Consequently, the domestic market-oriented production of the domestic industry decreased its participation in the CNA in the analyzed period, from 43% in the August 2015-July 2016 period to 64% in the August period 2016-July 2017 and 23% in the investigated period, which implied a loss of 41 and 20 percentage points in the investigated and analyzed period, respectively, attributable practically to the investigated imports under conditions of price discrimination, because the presence of import volumes from other sources decreased in the analyzed period, while production of other producers (Windarmex), s or what was recorded during the investigation period.

Share of imports in the CNA

Concept	August 2015- July 2016	August 2016- July 2017	August 2017- July 2018	Var. Pts.		
	to	b	c	ba	cb	AC
	Part. %					
Prod. Nal. Mdo. Int. / CNA	43	64	38	22	-26	-5
Prod. Mdo. Int. RPN / CNA	43	64	2. 3	twenty-one	-41	-twenty
Ms China / CNA	29	twenty-one	55	-8	3. 4	26

Ms Other origins / CNA	28	fifteen	7	-13	-8	-twenty-one
Ms China / Prod. Nal.	60	10	144	-fifty	134	84

Source: SIC-M, national producers and importing companies.

255. The producer-exporters indicated that the investigated imports did not have a significant increase in relation to the CNA and the national production, since most of the 26% share that they gained during the analyzed period, 21% corresponded to imports from other origins or what the remaining 5% to domestic production, so the imports under investigation replaced imports from other sources, but not to domestic production. For their part, the Requesters reiterated that the imports under investigation registered an increasing behavior in absolute terms, as well as in relation to the CNA and the domestic production during the period analyzed, while the domestic industry lost its share compared to these imports.

256. The Secretariat considers that the argument of the producer-exporters is partial, since they omit that in the investigated period the investigated imports increased their participation by 34 percentage points in the CNA, while the domestic production oriented to the domestic market lost 26 points. In this sense, domestic production was the one that was most affected by the increase in investigated imports in said period, since imports from other origins decreased their participation by 8 percentage points in the CNA.

257. The results described in the previous points, allow the Secretariat to conclude that the imports under investigation registered an increasing behavior in absolute terms, as well as in relation to the CNA and the national production during the analyzed period, in particular, in the period investigated, while the domestic industry lost participation in the CNA in a context of market growth, attributable to the increase in imports originating in China under conditions of price discrimination. Consequently, the growth of the market did not translate into a benefit for the domestic industry, as imports of the product under investigation and its share increased, while production oriented to the domestic market decreased its share in the market. CNA.

6. Effects on prices

258. In accordance with 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 investigated imports entered the Mexican market at prices considerably lower than those of the similar domestic product, or Well, if the effect of these imports was to depress domestic prices in another way or to prevent the increase that, in another case, would have occurred, and if the price level of imports was decisive to explain their behavior in the domestic market.

259. The Requesters argued that Chinese wind tower import prices were below national prices during the period under analysis. In the investigated period, the highest margin of undervaluation of prices of the product under investigation was registered in relation to the prices of the domestic like product, a situation that caused its displacement with respect to the imported one, as indicated in point 239 of the Preliminary Resolution. In accordance with the provisions of point 240 of the Preliminary Resolution:

to. The Requesters proposed that the price analysis be carried out by height ranges of the wind towers in order to make fair and objective comparisons between the prices of the domestic product and the product under investigation. They indicated that said proposal was not due to a

categorization or segmentation of the price analysis, or damage due to tower height, but to an indicator or reference to make the comparison in prices;

- b.** For purposes of evaluating the undervaluation of the imported product in the 80 and 90 m wind towers , the Requesters proposed the sales prices actually made by the national industry that were located in the same range during the period analyzed. For wind towers 125 m imported from China, provided quotations presented to customers, but not manufactured to not being selected as suppliers, and
- c.** The Requesters indicated that the behavior in the prices of the wind towers under investigation from 80 m to 90 m and 125 m generated an effect of suppression of the national price during the analyzed period, as well as of containment motivated by the significant undervaluation of prices of the investigated imports, affecting the profits and operating margins that prevented an adequate recovery of their investments.

260. In accordance with the provisions of points 242 to 244 of the Preliminary Resolution, Siemens, Vestas and the producer-exporters presented various questions to the price analysis described in the Initiation Resolution. However, Siemens and the producer-exporters agreed with the Applicants in the sense that in the comparison of prices between the national and investigated product, height is relevant, since it is logical that the taller wind towers require greater inputs , impact on prices. The Secretariat analyzed and responded to the observations of the parties in point 246 of the Preliminary Resolution. It also clarified that it did not segment the product under investigation, and that the maquila operations carried out by one of the Applicants were not considered for the purposes of price comparison, nor in the production and sales of the domestic industry.

261. As described in points 247 to 261 of the Preliminary Resolution, the Secretariat determined that the depression in domestic prices during the period analyzed and the levels of undervaluation registered by imports originating in China with respect to domestic prices and from other sources of supply, are associated with the practice of price discrimination in which they incurred and, given that the price constitutes the main factor that determines the purchase, explains their increasing volumes and their greater participation in the national market, a situation that is It has been reflected in the negative performance of the profits and operating margin of the domestic industry.

262. In the final stage of the EDG1 investigation, Siemens, Envision and the producer-exporters questioned the price analysis carried out according to the height of the towers. Specific signs are indicated in the following points.

263. Siemens pointed out that the Secretariat did not offer an explanation that establishes that the height of the towers is the determining characteristic for the uses, functions and clients, so it is possible that it has made comparisons between dissimilar goods. In particular, it indicated the following:

- to.** if the Secretariat to continue with the approach of analyzing only certain heights of towers, the injury analysis should be performed s or so on such heights and let those outside the research could not compare;
- b.** The Secretariat recognized that during the analyzed period it did not have national import or sale operations for all the heights of the wind towers that competed in the national market, so there are heterogeneous baskets of goods that are not necessarily comparable throughout. weather;

- c. The price analysis reflects a static examination of the arithmetic difference produced by the undervaluation, since it occurs only in isolated imports at certain times of the period analyzed, which would be partial and in favor of the domestic industry, by not considering the complete behavior of import prices, and
- d. the Secretariat should conduct a dynamic assessment to determine whether or not undercutting in prices exists and whether price trends are going in the opposite directions, as recommended by the WTO Appellate Body in the case "China - Measures by which impose anti-dumping duties on high-performance stainless steel seamless (seamless) tubes from Japan and China - measures imposing anti-dumping duties on high-performance stainless steel seamless (seamless) tubes from Japan and China European Union.

264. For their part, EDG1 and Envision indicated that the Secretariat had to explain in detail the reasoning for making a price comparison for certain heights. However, they also recognized that, due to the different composition of the investigated and national product, transactions of all heights were not carried out in the periods that make up the analyzed period, which implies a partial price analysis, the result and implications of which cannot be generalize. In the same sense, Vestas pointed out that there were no purchases of all heights during all periods, so it was not possible to calculate the percentage change of the periods in all cases.

265. The producer-exporters indicated that the Secretariat considered it appropriate to carry out a more specific price effects analysis considering the reasonably comparable heights among themselves, which shows that, recognizing that not all the heights of wind towers are similar to each other, even if they all correspond to the definition of the product under investigation.

266. In this regard, the Secretariat considers that the appearing parties did not provide technical elements and means of proof to substantiate their arguments, that is to say that the comparison in prices by height level made in the Preliminary Resolution was incorrect.

267. Likewise, it is important to note that the Anti-Dumping Agreement does not establish any specific methodology to determine the effect of dumped imports on prices, so that the investigating authority has some discretion to do so, as long as an examination is carried out. objective based on positive evidence as set out in Article 3.1 of the Anti-Dumping Agreement, and price comparability is ensured, as found by the WTO Appellate Body in Korea - Pneumatic Valves from Japan:

5,323. ... The second sentence of Article 3.2 does not prescribe specific methods as to how the investigating authorities should consider whether prices have been undervalued or reduced or their rise significantly contained. The second sentence of Article 3.2 also does not expressly state whether an investigating authority must ensure comparability of the prices being compared. As stated above, "the failure to ensure price comparability" cannot be considered consistent with the requirement of Article 3.1 which provides that "the injury determination is based on 'positive evidence' and include an 'objective examination' of the effect of subject imports on the prices of like domestic products, inter alia . " Therefore, to the extent that an investigating authority relies on price comparisons in its consideration of the price effects of subject imports, it is necessary to ensure price comparability. Therefore, an investigating authority's failure to ensure price comparability in price

comparisons between dumped imports and the domestic like product undermines its price effects findings under Article: 2 3, to the extent that it is based on such price comparisons.

[Emphasis added]

268. In accordance with the foregoing, the Secretariat considers that the allegations made by EDG1, Siemens, Vestas, Envision, and the producer-exporters lack support and are inadmissible, as it complied with the provisions of Article 3.1 of the Anti-Dumping Agreement and the recommendation of the WTO Appellate Body in Korea - Pneumatic Valves, since it conducted an objective examination based on positive evidence and ensured price comparability, as follows:

- to.** In point 248 of the Preliminary Resolution, the Secretariat explained in detail the reasons why it is appropriate and fully justified to make the comparison in prices by comparable height level, but it does not follow or imply a strictly based similarity analysis in height, as Siemens incorrectly claims;
- b.** As indicated in points 242 and 243 of the Preliminary Resolution, both Siemens and the producer-exporters recognized that the height of the wind towers is relevant for the comparison of prices between the national and investigated product, in particular, Siemens indicated that even though it is logical that the height of the wind towers, by requiring greater inputs, impacts their prices, it is contradictory for the importer to express its objection in the price analysis considering the comparable heights of the wind towers;
- c.** The Secretariat reiterates that carrying out a price analysis by height level is fully justified, since doing it in another way would precisely lead to the error of obtaining biased results that do not reflect the real behavior of the imports under investigation and domestic production. In this case, the methodology by height level should be understood precisely as a necessary and indispensable resource before the dispersion or mixture of the heights that entails a significant difference in prices between the towers of lower height with respect to those of higher heights;
- d.** It is wrong to pretend that from the analysis of prices by height level it is inferred that the investigated and domestic product are not similar, as the exporting-producing companies wrongly claim, because according to the analysis described in points 171 to 193 of the Preliminary Resolution and 214 to 220 of this Resolution, both goods are similar, because they have similar physical characteristics and composition, they are manufactured with the same inputs and through production processes that do not show substantial differences, they serve the same markets and consumers and comply with the same functions, which allows to be commercially interchangeable;
- and.** It is incorrect that in the absence of figures or prices that prevent comparing the prices of certain heights of wind towers, it is intended to exclude products from the present investigation. The absence of the national product at such heights implies, on the contrary, the displacement caused by imports originating in China that prevented the process of manufacturing and selling the national product from being detonated, and
- F.** the Secretariat analyzed fully the information in the administrative record, however, as indicated in paragraphs 248 and 249 of the Preliminary and reiterated in this resolution, trend analysis and undervaluation of prices or It is carried out in accordance with the periods in which information

was available on import or national sale operations and at the levels that were reasonably comparable. In such a way, that what is argued by the parties is meaningless, that the analysis is partial or partial for certain periods, since it is not possible to make a reasonable and economically valid comparison if there were no import or domestic sales operations in the periods supposedly omitted.

269. In regard to the report of the Appellate Body of the WTO in the case of China - high performance tubes from Japan and the European Union, the Secretariat noted that 5,159 and 5,160 points the following:

5,159. In this regard, we further note that the term "price undercutting" in Article 3.2 is used in the past participle, which implies that the inquiry under Article 3.2 concerns pricing behavior that continues over time. Accordingly, Article 3.2 does not ask the question whether an investigating authority can identify an isolated case in which dumped imports are sold at prices lower than those of like domestic products. Rather, it follows from a correct interpretation of the term "price undercutting" under Article 3.2 that the inquiry requires a dynamic assessment of price developments and trends in the relationship between prices of dumped imports and domestic like products throughout the investigation period. Examination of these developments and trends includes assessing whether import prices and domestic prices are moving in the same or opposite directions, and whether there has been a sudden and substantial increase in domestic prices.

[Emphasis added]

5,160. We note that the Panel stated that the obligation of the investigating authority to consider whether there has been price undercutting consists of "a simple factual question - is there price undercutting or not? - which can be answered, as paragraph 2 indicates. of Article 3, through a comparison of the prices of the domestic product and the imported product ". The Panel also found that an investigating authority must "simply examine whether the subject imports are 'sold at prices below comparable domestic products". In our view, the Panel appears to assume that price undercutting, within the meaning of Article 3.2, relates only to the question of whether there is a mathematical difference, at any time during the period under review. investigation, between the prices of dumped imports and comparable domestic products. We disagree. As discussed above, although price undercutting involves situations where imports are being sold at prices lower than domestic like products, the inquiry into undercutting under Article 3.2 is not satisfied by by means of a static examination of whether there is a mathematical difference at some point during the period under investigation, without assessing whether or how these prices interact over time. Rather, as noted above, Article 3.2 requires a dynamic assessment of price developments and trends in the relationship between the prices of dumped imports and those of domestic like products at the same time. throughout the entire period under investigation.

[Emphasis added]

270. In this regard, the Secretariat fully agrees with the WTO Appellate Body in relation to the recommendation on the “dynamic” evaluation of the analysis of trend and price undercutting throughout the period analyzed. However, it reiterates that it is not possible to carry out such an analysis for the periods in which there were no operations of reasonably comparable heights, a fact that was even recognized by EDG1, Vestas and Envision. However, the dynamic evaluation was carried out in cases where it was possible for tower heights of 80 m , 84 m and 93 m of national production and 80 m of Chinese product. Situation that is illustrated by the following table.

National product			
Tower height (meters)	August 2015- July 2016	August 2016 - July 2017	August 2017 - July 2018
Towers 80 m	X	X	X
Torres 84 m		X	X
Torres 93 m	X	X	X
Imports investigated			
Towers 80 m		X	X
Torres 84 m	X		
Torres 92 m	X		
Torres 112 m			X
Towers 120 m			X
Torres 125 m			X

Note: Empty cells are due to the lack of national production or imports.

Source: Applicants, SIC-M import statistics, and information from the importing companies.

271. In relation to the comparison of prices of the investigated and domestic product, as well as the observed undervaluation levels of the investigated product, EDG1, Siemens, Vestas, Envision and the producer-exporters presented different observations, which are addressed in the following points .

272. Siemens argued that the price analysis of the Preliminary Resolution lacks impartiality, systematicity and is biased, according to the following:

- a.** Secretariat or revised four of the eight towers heights imported during the study period as there was information towers 78 m , 84 m , 90 m and 112 m in height;
- b.** The decrease in the prices of imports of Chinese towers of 80 m does not allow to conclude a generalized impact on the totality of imported heights, nor that it is the reason for the increase in the imports investigated in the period analyzed; In addition, their prices were 27% and 20% above the national price in the August 2016-July 2017 period and the investigated period, respectively;
- c.** Despite the decrease of only 6% in the price of 8 0 m towers in the investigated period, this was found 20 percentage points above the national price, therefore, the increase in imports is not a consequence of the supposed suppression of the price of said towers;

d. Secretariat determined the existence of undercutting in the subject imports of 80 m, 120 m and 125 m , although s or what was presented in the last two and minimum levels of 8% and 3%, respectively, while Most of the investigated imports the price was above the national price. This cannot be considered as representative of the situation of the investigated imports of all heights;

and. The Secretariat did not explain the reasons and the rationale for making conclusions solely on the basis of the results that apparently harm the national industry, in addition to segmenting the analysis based on the height of the towers, and

F. Price is not a decisive factor in the choice of supplier, since the Secretariat itself determined that during the period analyzed there were imports whose prices were above national prices.

273. The producer-exporters indicated that the Secretariat's price analysis was not impartial, sufficient, or exhaustive, according to the following:

to. the price at which the investigated imports were introduced to the domestic market cannot be the cause or explanatory force for the increase in said imports, much less the negative performance of the indicators of the domestic industry;

b. the undervaluation of the product under investigation occurred in an isolated manner in some transactions during the investigated period, while the Secretariat failed to assess and explain the prices of the wind towers that did not record undervaluation margins;

c. The Secretariat's price comparison analysis was a mixture of inferences and is not objective, since it lacks evidence that allows observing the behavior of the prices of the investigated imports, undervaluation or suppression of domestic prices throughout the period analyzed. therefore, the price of the investigated imports could not have a negative impact on the domestic prices of the domestic industry;

d. towers 80 m and 93 m national level were not undercutting margins, plus their price levels are significantly above national, as s or what 38% of the imports under investigation showed undercutting margins, while that the remaining 62% was at higher prices;

and. The Secretariat made comparisons of prices by height in an erroneous way, since the 92 m and 112 m wind towers investigated are not comparable with the national 93 m towers and the 117 m price , respectively;

F. Throughout the analysis of the effects on prices and causality, it should always be considered that only towers with the same heights are comparable to each other, since there is no direct competition between towers of different heights due to the characteristics of the product and the market, and

g. the height of the towers significantly affects comparability, so they requested that the Secretariat's analysis be more in-depth to comply with the comparability requirements established by the Anti-Dumping Agreement and the criteria adopted in the WTO Panels and Appellate Body , attending at least two product categories, for towers less than 100 m and greater than that height. Finally, they indicated that the price comparisons in towers of different heights are useless because competition s or what happens between towers of the same height.

274. EDG1 and Envision indicated that there are errors regarding the calculation and determination of undervaluation of prices in the wind towers analyzed by height in the Preliminary Resolution. On the one

hand, they pointed out that the participation of the 80 m towers in the investigated imports was not indicated, however, the Secretariat established a depression in the prices of the 80 m and 93 m towers of national production. They indicated that the Secretariat had to explain in detail the reasoning for transferring the impact to towers of different heights, as well as the criteria applied to generalize the impacts of the behavior of the prices of the product under investigation on national prices in periods for which no imports were recorded. Chinese. For its part, Vestas pointed out that the 84 m and 92 m high wind towers should be excluded from the investigation, because they were not included in the price discrimination analysis, there were no imports and sales in equivalent periods, in addition that the prices of the 92 m high towers presented prices above the national price.

275. The Requesters reiterated that the depression in domestic prices registered in the analyzed period and the levels of undervaluation of imports originating in China explain their increasing volumes and greater participation in the domestic market, a situation that has been reflected in the negative performance of the profits and operating margin of the domestic industry.

276. The Secretariat analyzed the arguments presented by the appearing parties regarding the comparison in prices and undervaluation, as well as the results obtained in the Preliminary Resolution, based on which it considered the following:

- to.** The existence of undervaluation is a factor to take into account, but it is by no means the determining or only factor to determine the damage. In this regard, the WTO Panel in China - Cellulose Pulp from Canada noted the following:

7.64. ... The examination of the effects of the dumped imports on prices is a logical step toward a determination of whether injury is caused by the dumped imports. However, even significant price undercutting, significantly lowering or significantly suppressing prices may not, by itself, be sufficient to demonstrate that dumped imports are causing material injury to the domestic industry. The impact of these price effects throughout the period of investigation on the state of the domestic industry will have to be considered before that question can be finally answered. However, even if the examination of the effects of the dumped imports on prices does not show any price undercutting or reduction or suppression of their price rise, or does not show them to a significant extent, this does not mean that a determination that the dumped imports are causing material injury is excluded.

[Emphasis added]

- b.** Regarding Siemens' argument, regarding the minimum levels of undervaluation of 8% and 3% in the 120 m and 125 m towers, which cannot be considered representative, the Secretariat considers that these percentages are relevant since, in the In this case, due to the magnitude of the product, small differences in prices have a significantly greater impact, to the extent of displacing the national producer in the domestic market. In this regard, the WTO Panel in the case of European Communities - Salmon from Norway, indicated the following:

7.638 It is clear that the text of Article 3.2 does not provide any methodological guidance on how the investigating authority should "take into account" whether there has been significant price undercutting. It is also clear that, while the issue of significant price undercutting must be taken into account, its finding is not

necessary to find that the dumped imports have had an effect on prices. In our view, it is possible to demonstrate price undercutting by comparing the prices of the like product of the domestic industry with the prices of the dumped imports, as the EC did in this case. When the prices of imported products are lower than the prices in the domestic market, it seems clear to us, as a matter of fact, that there is an undercutting of prices. The importance of such price undercutting would depend, in our opinion, on the magnitude of that price difference, bearing in mind the other relevant information on competition in the domestic market between imported and domestic products, the nature of the product and other factors. This is the context in which the issue of a premium may be relevant.

[Emphasis added]

- c. Siemens' marking regarding the 78 m , 84 m , 90 m and 112 m high towers is not correct . On the one hand, the 78 m and 90 m towers correspond to the information that the Requesters submitted for the reconstructed value methodology indicated in point 158 of the Preliminary Resolution. Regarding the 84 m and 112 m towers , the Secretariat clarified in point 249 of said Resolution that it did not have information on prices in comparable periods;
- d. Although the average prices of Chinese imports of 80 m were located above the national price in the period August 2016-July 2017 and in the period investigated, as it is an arithmetic mean, it includes values that are located above and below the intermediate point or price. In this regard, it is convenient to clarify that 13% of imports of that height presented undervaluation levels of 14% below the national price in the investigated period. Likewise, the average prices of said towers decreased 6% in the investigated period, which is a factor that contributed to the increase in investigated imports in the investigated period;
- and. The levels of undervaluation observed in the preliminary stage for the 80 m , 120 m and 125 m high towers is a fact that appears in the administrative file, which does not change even when there are import operations that were carried out at prices above of the nationals. In this regard, the Secretariat considers that the factor that explains the depression on domestic prices and the displacement of domestic production and sales is caused precisely by the operations that were carried out with undervaluation levels;
- F. The undervaluation in the three heights indicated (80 m , 120 m and 125 m) in the Preliminary Resolution, is not the only factor considered by the Secretariat to prove the negative impact of the investigated imports, since it also took into account that said imports were carried out under conditions of price discrimination, the increase in the volume of imports associated with the decrease in their prices, the reduction or depression in national prices in the 80 m and 93 m towers, which represented 79% of the internal sales of the Applicants, as well as the loss of sales due to quotes that did not materialize in effective production;
- g. Contrary to what the appearing parties point out, the investigated imports of 120 m and 125 m high, as well as their prices, caused a negative impact that is explained by the substitution of the national product offered through the prices, which are not translated into real and effective production;
- h. The producer-exporters did not present elements that demonstrate that the comparison of the prices of the Chinese towers of 92 m with the national ones of 93 m in height is erroneous . In

the same vein, neither justified nor reasonable elements presented evidence demonstrating that s or what would be appropriate comparison groups in prices for tall towers and lower than 100 m . On the other hand, at no time did the Ministry compare the prices of the 112 m towers under investigation , since in the preliminary stage there was no national price for a comparable height, so such a statement is meaningless, and

- i. Regarding the questioning of the criterion or justification to generalize the impact of the price analysis and undervaluation to all the imports under investigation, the Secretariat reiterates that, although it made the comparison of prices by height level, it did not This implies a segmentation of the product under investigation, the market or the analysis, which was justified in detail in accordance with the provisions of point 248 of the Preliminary Resolution.

277. At this stage of the investigation, the Secretariat obtained the prices of imports originating in China and other countries, in accordance with the information indicated in points 244 and 245 of this Resolution, which represents the total of the operations of imports carried out during the period analyzed.

278. According to the above information, the Secretariat observed that the average price of imports of the investigated product decreased 17% in the August 2016-July 2017 period, however, it increased 49% in the investigated period, which represented an accumulated increase of 24% in the period analyzed. Regarding the behavior of the price considering the height of the wind towers, it was observed that the price of the 80 m wind towers decreased 6% in the investigated period, and registered an increase in their import volume of 90% in said period. As regards wind towers of 84 m and 92 m height, s it or it imported in the period from August 2015 to July 2016, while the wind towers of 112 m , 120 m and 125 m only in the investigated period, therefore, it is not possible to make an analysis of the price trend for wind towers of these heights.

279. A from the behavior observed in prices for height imports from China, reiterated Secretariat that the trend in average price is not representative of being biased by dispersion and change in the composition of the height of the towers of wind. Likewise, it confirms that the decrease in prices of imports originating in China of 80 m , is a factor that contributed to the growth in the volume of the imports investigated in the investigated period.

280. Regarding the price of imports from other countries, the price of 80 m high wind towers increased 38% in the analyzed period, derived from an increase of 35% in the August 2016 period -July 2017 and 2% in the investigated period. As for the wind towers of 93 m s will or what operations are recorded in the period from August 2015 to July 2016.

281. The average selling price to the domestic market of the domestic industry, measured in dollars, decreased 6% in the August 2016-July 2017 period and increased 3% in the investigated period, which meant a cumulative reduction in the 4% in the period analyzed. However, when considering the prices by height level of the wind towers, a different behavior was observed, as a consequence of the significant volumes of the investigated imports and the behavior of their prices, which was reflected in a depression in prices. of the 80 m and 93 m high wind towers , which represented 79% of the domestic sales of the domestic industry during the period analyzed. In this sense, the Secretariat observed that the price of 80 m wind towers decreased 4% in the analyzed period, derived from a 4% decrease in the August 2016-July 2017 period and 0.4% in the investigated period, while that of the 93 m wind towers decreased in the same periods 10%, 2% and 9%, respectively. Meanwhile, the price of 84 m wind towers increased 5% in the investigated period, which had a 21% contribution to the branch's internal sales in the analyzed period.

282. In order to assess the existence of undervaluation and in accordance with the price information indicated in point 277 of this Resolution, the Secretariat compared the price of the product subject to price discrimination and those originating in other countries at the border level. , plus admission expenses (customs broker expenses and customs processing fees), with the national sale price to the domestic market of the domestic industry. This, according to the information in the administrative records or so for tall wind towers and periods were reasonably comparable with each other during the period analyzed.

283. In accordance with the above, the Secretariat compared the average prices of the investigated imports and of the similar domestic product in the period analyzed with the following results: i) in the period August 2016-July 2017, the Chinese wind towers of 80 m were located on average 27% above the national price of 80 m wind towers and for the investigated period said differential was reduced to 20%; ii) the price of the 84 m wind towers was not compared because they were not imported and there were no domestic sales in equivalent periods, and iii) the price of the 92 m high Chinese wind towers was located by above the national price of 93 m wind towers .

284. In the final stage of the investigation, Siemens and the exporting-producers indicated that the investigated towers of 80 m and 93 m did not register levels of undervaluation with respect to the national price, that is, the prices of the towers below 100 m were higher than national prices. Additionally, EDG1 and Envision indicated that the Secretariat omitted the participation of the 80 m towers in the investigated imports. In this regard, in the case of the 80 m towers , the Secretariat considers it convenient to clarify that there is no undervaluation at the average price level, since it is an arithmetic mean. However, according to the information in the administrative file, it was found that 13% of the import operations of the Chinese towers of 80 m , presented undervaluation levels of 14% with respect to the national price.

285. In accordance with the provisions of points 255 and 256 of the Preliminary Resolution, for the comparison of prices of the investigated 120 m and 125 m wind towers , the Requesters provided the following: i) two 125 m quotations that the Secretariat compared with imported 125 m towers ; ii) a 117 m quote that was compared to the 120 m tower , and iii) a 136 m quote that was not used due to the fact that no investigated imports of comparable height were identified. The price of the 112 m towers investigated was not analyzed either , because there was no information on national prices of a reasonably comparable height.

286. In the final stage of the investigation, the producer-exporters indicated that the quotations presented by the Requesters are not objective and valid evidence according to the following:

- to.** The Secretariat should not give price quotations the same probative value that is given to production and sale records, which do generate costs and losses or profits, since a quotation does not generate costs, sales or losses or profits, not even it is recorded in the Income Statements and in the Balance Sheet of a company;
- b.** The quotes do not represent sales prices on actual transactions and are normally not the final price at which the seller is willing to sell their product, and there is no legal interpretation in the Preliminary Resolution that justifies the use of quotes instead of national prices ;
- c.** Following the general rule of interpretation provided in Article 31 of the Vienna Convention on the Law of Treaties, the Anti-Dumping Agreement does not authorize an authority to use prices for the undervaluation analysis;
- d.** the comparison of prices in the 125 m towers is inappropriate due to the period between the quotation and its delivery, coupled with the fact that the price is not valid because the quotation

was not accepted by the turbine producers, whereas in the case of the 112 m towers , no analysis was performed, and

and. In short, for towers over 100 m , the Secretariat found apparent undervaluation margins of between 3% and 8% in import prices against the prices of towers that were never produced or sold, so its results are misleading.

287. For its part, Siemens questioned the Secretariat has based baseless, the determination of undervaluation in the towers of 125 m , s or so in one of two quotations presented the applicants.

288. In this regard, the Secretariat considers that the use of prices of reasonably comparable height to the towers that were imported originating in China and that did not materialize in actual production, is fully justified and are acceptable means of proof in the absence of real prices or effective for the aforementioned heights, due to the following:

- to.** There is no impediment to the use of quotes, as the importers and producer-exporters erroneously argue. On the contrary, as the final report of the WTO Panel in the Mexico - Steel Pipes case points out, there is no basis to argue that a price quote, by not representing a completed transaction, is inherently invalid as proof. On this point, the Secretariat is aware that the Panel's determination in that case concerned a quotation used as a test of normal value. However, the Panel's determination does not specify that a quote is valid only when it comes to gathering evidence of normal value, but rather, in general, analyzes whether a quote can constitute evidence of the price level in question. . Furthermore, there is no reason why, in a price comparison aimed at determining the existence of price discrimination, the quote could be valid and in a price comparison aimed at determining the existence of undervaluation, the quote would not be valid. In general terms, the Secretariat considers that these are analogous cases (price comparisons), therefore, if a quote is relevant for one of them, it is necessarily so for the other;
- b.** Contrary to what was stated by the producer-exporters, the Secretariat considers that the quotations presented by the Requesters, in the absence of effective sales of the national product, do have probative value, since they represent the product offer that did not materialize in production precisely because of competition from investigated imports at unfair prices. This explains the reason why they are not directly reflected in the financial results of the Applicants. However, indirectly, they represent sales and income that the domestic production did not receive, given the presence in the domestic market of investigated imports under conditions of price discrimination;
- c.** At no time has the Secretariat substituted the prices of real or effective operations of the national product for the use of quotes during the period analyzed. É stas represent an option as evidence before the movement itself caused by the imports under investigation which prevented materialize in orders for product manufactured, sold and invoiced;
- d.** In the absence of effective sales prices in the period analyzed for towers of comparable height, the prices represent a reasonable approximation given that, due to the characteristics of the product that operates under the order mode, the price competition between the Chinese product and national happens from the first moment in which the client requests quotes from his possible suppliers and not when the product has been finalized;

and. Regarding the interpretation of Article 31 of the Vienna Convention on the Law of Treaties, the Secretariat considers the interpretation of the producer-exporters incorrect, since said article is not about authorizing or not authorizing certain interpretations, which indicates the The aforementioned article is that the interpretation of the Treaties and their Annexes must be carried out in good faith, following the usual practice, while the applicability must be carried out in accordance with the object and purpose of the Treaty, Agreement or Annex that is applicable. In this sense, the Secretariat is complying with the regulations since it is applying the information that is within its reach and that it was able to corroborate (use of quotes in the absence of real prices) to formulate its determination and fulfill the purpose of carrying out its price analysis in the present investigation;

F. The Secretariat observed that the 125 m quotation that presented undervalued prices is dated at the beginning of the investigated period, therefore it is considered valid for the price comparison analysis ;

g. It is inappropriate to state that the levels of undervaluation observed in the preliminary stage for the investigated 120 m and 125 m towers are misleading, as indicated by the producer-exporters, since these are fully accredited in the information in the file administrative, and

h. There is no reason or basis for not having considered in the analysis the two quotes provided by the Requesters for the 125 m towers , since it is information that is in the administrative file. In this regard, the Secretariat was clear in indicating the results of both prices when comparing them with the prices of the investigated imports of that height.

289. For their part, the Requesters indicated that at the beginning stage they were not aware of Chinese imports of 112 m wind towers , until the Preliminary Resolution, for which they presented an additional quotation for towers of that height corresponding to the period August 2016-July 2017, in order to be able to make a price comparison with the investigated imports of that height.

290. The Secretariat requested additional information from the Requesters on the quotations they submitted in the initial stage of 117 m , 125 m and 136 m , as well as the 112 m quotation . Additionally, the Secretariat requested information on other offers or quotes presented to national clients for the manufacture of towers taller than 100 m that had not been specified in purchase orders during the period analyzed.

291. In response, the Requesters provided the following: i) an explanation of the application process that led to the submission of these quotes to their potential clients and email communications for the 112 m , 117 m , 120 m and 125 m high, and ii) three additional quotes for the 112 m towers corresponding to the period investigated with the respective electronic communications between the Applicants and the client in question. The Secretariat reviewed said information and confirmed what was indicated by the Requesters.

292. Regarding the quotation for the 136 m high wind towers , the Requesters clarified that it actually refers to 120 m towers . In this regard, they pointed out that this is due to a printing error, since the number 136 corresponds to the model of the wind turbine and not to the height of the tower. To prove the above, they provided the quote they presented to the client in question; a detailed explanation of how the product code or key is integrated to identify both the model of the wind turbine and the height of the wind tower, and electronic email communications between the national producer and its client. The Secretariat

reviewed this information and found that, indeed, it corresponds to an offer for 120 m towers presented in the period under investigation.

293. Based on the above information, the Secretariat obtained the following results:

- to.** the total of investigated imports of 112 m towers registered prices 6% below the price of the national quotation of the same height in the investigated period;
- b.** 85% of Chinese imports of 120 m towers presented prices 13% lower than the national price of the same height in the investigated period, and
- c.** the total volume of investigated imports of 125 m was located at prices 3% below the national price in one of the 125 m prices in the investigated period, while in another price the import price was above the national price .

294. In accordance with the results indicated in points 284 and 293 of this Resolution, the Secretariat observed that the investigated imports that presented undervaluation of 80 m , 112 m , 120 m and 125 m in height had a participation of 76% in the volume of said imports in the investigated period, while in the total volume of investigated imports they represented 67% in the same period. Likewise, it was observed that the prices of the 112 m shares indicated in points 289 and 291 of this Resolution, registered a decrease of 16% in the investigated period. The foregoing confirms that the undercutting margins recorded by the investigated imports contributed to the growth recorded by imports originating in China in the investigated period.

295. In the final stage of the investigation, Siemens and the exporting-producing companies questioned that the Preliminary Resolution had not indicated the price level at which the investigated imports were located that did not present levels of undervaluation, that is, those whose Prices were higher than national prices, as well as their participation within the investigated imports. In particular, Siemens indicated the following:

- to.** The prices of the 80 m towers were located above the national prices, however, the Secretariat did not indicate in what percentage, however, this is relevant, to ensure that a partial analysis is not carried out in favor of the branch of national production and that the behavior of the price of the investigated imports is considered in a comprehensive manner, and
- b.** the Secretariat's determination is not precise with regard to the 120 m and 125 m towers , given that most imports are not undervalued, so they did not negatively affect the price of the national production of towers of the same height, given that there was not even national production, so damage cannot be alleged from them, in addition to the fact that the Secretariat failed to indicate in what percentage above the national price the prices of the investigated towers of 120 m and 125 were located m .

296. The producer-exporters indicated that the investigated wind towers with heights of 80 m , 120 m and 125 m that registered prices higher than the national price represent 51% of the volume of said imports in the investigated period, while in relation to the total volume imported from China accounted for 62% in the same period. In other words, both in volume and in averages, it is unquestionable that most of the investigated imports had a price significantly higher than the domestic product.

297. In this regard, the Secretariat considers that the fact that transactions have been carried out where the prices of the investigated imports were not lower than the national prices does not prevent the sales of imported product that were made at lower prices could actually cause Damage to the domestic

wind tower industry, due to the effects of price discrimination. In this regard, the WTO panel in the case of European Communities - Pipe Fittings from Brazil noted the following:

7.277 We note the view shared by the parties that "the Panel should grant the investigating authorities broad powers to choose a methodology that will produce a meaningful result without prejudice to fairness". One of the purposes of a price undercutting analysis is to assist the investigating authority in determining whether dumped imports have caused material injury to a domestic industry through the effects of dumping. In this part of an anti-dumping investigation, the investigating authority is trying to elucidate whether the prices of the dumped imports have had an impact on the domestic industry. The interaction of two variables would fundamentally determine the extent of the impact of price undercutting on the domestic industry: the quantity of sales at undervalued prices; and the margin of undervaluation of such sales. Sales at undervalued prices could affect the domestic industry (for example, through loss of sales) regardless of whether other sales may be made at prices higher than those of the domestic industry. The fact that certain sales may have taken place at "non-undervalued prices" does not eliminate the effects on the importing market of sales that were made at undervalued prices. Therefore, forcing the investigating authority to base its analysis of price undercutting on a methodology that counteracts undervalued prices with "overpriced" prices would have the effect of forcing the investigating authority to conclude that there was no undercutting of prices. when, in fact, there may have been a considerable number of sales at undervalued prices that could have injurious effects on the domestic industry.

[Emphasis added]

298. In accordance with the recommendation of the WTO Panel, the Secretariat considered the following:

- to.** The investigated import operations that registered prices higher than those of the domestic product do not eliminate the negative effects caused by the transactions at undervalued prices in the investigated period, and
- b.** The Secretariat is not obliged to contrast transactions at undervalued prices with transactions that were carried out at prices higher than national prices, as wrongly claimed by the appearing parties.

299. However, the Secretariat identified the import operations that were carried out at prices higher than the national one. In this regard, as already indicated in points 291 and 292 of this Resolution, in the final stage of the investigation the Secretariat had more information to make the price comparison for the investigated towers of 112 m and 120 m, according to with the quotes presented by the Applicants for towers of the same heights in the investigated period. This resulted in the modification of the share of imports with and without undervaluation observed in the preliminary stage, as is supported by the analysis described in point 294 of this Resolution.

300. In accordance with the above, and with the results of the price comparison analysis, the Secretariat observed that the investigated imports of 92 m high did not show undervaluation, while in the

case of those of 80 m and 120 m high s or what some operations had higher prices than national. As a whole, the import operations of the described towers of the Chinese product presented prices 15% on average above the national prices during the analyzed period and had a participation of 35% in the total imports investigated.

301. With regard to the prices of imports originating in other countries in relation to the prices of the investigated and domestically manufactured imports, the following was observed:

- to.** the price of wind towers from China, 80 m high, was 36% and 41% below the price of wind towers from other origins of the same height, in the period August 2016-July 2017 and the investigated period, respectively. Likewise, the price of the 92 m Chinese wind towers was 31% below the price of the 93 m wind towers from other origins in the period August 2015-July 2016, and
- b.** the price of wind towers of other origins 80 m high was 42% above the national price of wind towers of the same height in the period August 2015-July 2016, 98% in the period August 2016-July 2017 and 103% in the investigated period. Regarding the 93 m high wind towers, the price from other sources was also 79% higher in the period August 2015-July 2016.

302. On the other hand, EDG1, Siemens, Vestas and Envision reiterated the importance of geographical location in the choice of supplier, as this has an impact on freight costs and associated expenses (flagging, transit permits and crossings in urban areas, etc.) to move the wind towers from the plant of the national producer or the port of entry in the case of imported product, to the place of installation of the wind farm or project. In particular, they noted the following:

- to.** Siemens indicated that the Secretariat did not analyze the evidence it presented on the expenses related to the delivery of the towers due to their geographic location, nor did it make requests or review the information presented by the other interested parties that demonstrate that said expenses impact on the choice of provider, and
- b.** Vestas indicated that the cost of land freight in Mexico should be considered when comparing the price between foreign and domestic merchandise. In this regard, it pointed out that the location of the Applicants' factories and the wind projects shows that the towers purchased from Chinese producers were at higher prices than the national towers. He indicated that for a buyer of the investigated merchandise it is of utmost importance to evaluate the freight, insurance and maneuvering expenses as part of the total costs to receive the wind towers at the installation site, given that these represent a significant percentage of the price total.

303. To substantiate its claims, Siemens provided information consisting of a sample of freight invoices in Mexico for the investigated and domestic product. For its part, Vestas reiterated that the information it provided in the preliminary stage regarding an estimate of the increase in total cost should be considered when considering transportation costs from the pier in China to the site of the wind project in Mexico, as well as a estimate of the price increase for transportation and insurance costs for a wind project.

304. In order to assess the impact of freight costs as part of the final price, the Secretariat requested additional information from Vestas, Siemens and the Applicants on freight costs (maritime and land) and associated expenses (insurance, product handling, transit permits, crossings in urban areas, legal assistance or others) that they incurred in order to transfer the investigated and national product to the site where the project or wind farm is located.

305. A from the information provided by the parties, the Secretariat noted that during the period under investigation imports and domestic product almost did not go to the same parks or wind projects to supply wind towers in the same or reasonably comparable heights each other . Of the 22 wind farms identified, only one coincided with the Chinese and national product in 80 m towers . The Secretariat considers that this low coincidence does not allow an economically reasonable and representative comparison of the prices of Chinese towers and nationally manufactured towers at the installation site or wind farm, that is, at a price level that includes the costs of freight and associated expenses, as indicated by the importers.

306. However, in order to assess the impact of the costs of moving the wind towers, the Secretariat calculated the share of the expenses for freight, insurance and other associated costs to move the product under investigation from China to the place of installation or geographical location of the wind farm in Mexico. In accordance with the foregoing, the Secretariat observed that external expenses (ocean freight and insurance) represented an average of 20% of the implicit import price during the analyzed period, while internal expenses (ground freight and associated expenses) of the port of entry into Mexico to the installation site of the wind farm, represented 10% on average of the implicit import price in the same period. As regards the national product, internal expenses represented 6% on average in the period analyzed.

307. Based on the results indicated above, the Secretariat determined the following:

- to.** the main part of the total cost of the wind towers lies in the manufacture of the same and not in the costs of transport or transfer to the site of the wind farm. In this way, it is reasonable for the client or developer of the wind farm to consider the price offered by the manufacturer as the first factor in their purchase decision and not the costs of moving the product that occur until the finished product exists and is ready for shipment. ;
- b.** Freight and transportation expenses in Mexico is a cost that buyers of wind towers must incur , whether imported or manufactured locally. However, in the case of the investigated product, they charge an additional expense of 20% on average for shipping the product from China, and
- c.** no significant difference in internal freight charges was observed between the investigated and domestic product. In fact, the displacement of the national product was 4 percentage points on average less than in the case of the product under investigation. Consequently, the importers' claim that higher transportation costs of the domestic product were the main reason for acquiring the imported product instead of domestically manufactured towers is not confirmed.

308. Due to the results presented in the previous points, given that it is not possible to make a price comparison between the product under investigation and the domestic product at the location of the wind farm, the Secretariat decided to make the price comparison at the manufacturer's plant level Chinese, which would be the commercial level comparable to the price at the LAB (Free on Board) plant level of the national product. To this end, in accordance with the provisions of the "Export price" section of the "Price discrimination analysis" of this Resolution, the Secretariat considered the export price of the producer-exporters obtained for the investigated period, with the adjustments corresponding.

309. In accordance with the above information, the Secretariat compared the price of Chinese exports to Mexico with the LAB price of the national plant, at those points where information was available in the period investigated. Based on this analysis, the Secretariat observed that the average price of the Chinese product towers was below the average price of the national product by 7%, 28%, 5%, 29% and 7% in

the 80 m towers. , 93 m , 112 m , 120 m and 125 m high, respectively. This implied an undervaluation of 11% on average in the investigated period.

310. A From the above results, the Secretariat considered that the levels of undercutting up to 29%, are a determining factor in the decision to purchase the product under investigation, and that é hese would be enough to cover a significant proportion of the external costs for freight and insurance, as these were on average 20%, as indicated in point 306 of this Resolution. Even in the case of the height of 120 m, they would practically cover the expenses of the internal freight (10%) in Mexico to move the Chinese towers from the port of entry to the wind farm. The foregoing confirms that the levels of undervaluation of the Chinese product due to the effects of price discrimination are the main factor that explains the growth of the imports investigated in the Mexican market.

311. The results described above allow the Secretariat to consider that the decreasing trend in import prices under conditions of price discrimination and the levels of undervaluation that they observed with respect to domestic prices, had a negative impact on the period analyzed. in revenues from sales to the domestic market (measured in pesos) with a decrease of 23%, a decrease in operating profits of 1.01 times and a decrease in the operating margin of 13.2 percentage points, as indicated in points 360 , 362 and 363 of this Resolution.

312. On the other hand, as described in point 260 of the Preliminary Resolution, the Secretariat pointed out that the decreasing trend in import prices under conditions of price discrimination and the levels of undervaluation that they observed with respect to the national prices, had a negative impact on the income from sales to the domestic market in the analyzed period. Regarding the Requesters' indication of the existence of contention in prices, the Secretariat indicated that it would gather more elements in the final stage of the investigation.

313. In the final stage of the investigation, Siemens and the producer-exporters questioned the absence of a price containment analysis in the Preliminary Resolution. In particular, Siemens indicated that the Secretariat must obtain accurate information on prices and unit costs to carry out the price containment assessment. For their part, the producer-exporters indicated that the Secretariat did not show any analysis on the existence of price suppression that has reflected a negative performance of the profits and operating margin of the domestic industry. For wind towers less than 100 m , given their price level, could not be containment, and for exceeding this height, an alleged s containment or it can exist in wind towers imaginary product quotations not offer value probative.

314. In this regard, the Requesters presented higher elements with respect to the unit operating costs per height produced than they recorded during the period analyzed. Based on this information, the Secretariat analyzed the price of the product sold in the domestic market, in comparison with the performance recorded by unit operating costs during the period analyzed.

315. Based on the above information, and with the purpose of assessing the existence of contention in prices, the Secretariat made a comparison in Mexican pesos between the domestic market price of nationally manufactured merchandise with respect to unit operating costs. of the domestic industry.

316. In this regard, it was observed that the price decreased 17% in the August 2016 – July 2017 period and increased 0.56% in the investigated period, which meant an accumulated decrease of 16% in the analyzed period; while, unit operating costs increased 11% in the August 2016-July 2017 period, and decreased 5% in the investigated period, which meant a cumulative increase of 5% during the analyzed period.

317. In accordance with the foregoing, the Secretariat observed that unit prices increased 0.56% in the investigated period; however, they ended the period analyzed at a lower level than they had at the beginning of the same period. The unit operating costs of the domestic industry decreased 5% in the investigated period, but accumulated a growth of 5% in the analyzed period, and ended at a higher level than they showed at the beginning of the same period. The foregoing indicates that the growth of the price in the investigated period was not sufficient to match the increase in unit operating costs and, therefore, the Applicants showed negative operating results and operating margin in the investigated period.

Unit costs vs average prices of the domestic industry

Source: Own elaboration based on information from the Applicants.

318. In accordance with the results described in the previous points, the Secretariat concluded that, given the depression and containment in domestic prices during the analyzed period, as well as the levels of undervaluation registered by imports originating in China with respect to prices national and other sources of supply, which are associated with the practice of price discrimination in which they incurred and given that the price is the main factor that determines the purchase, explains their growing volumes and their greater participation in the national market, a situation that it has been reflected in the negative performance of the profits and operating margin of the domestic industry, as explained in the next section.

7. Effects on the domestic industry

319. 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 wind towers originating in China, on the economic indicators and financials of the domestic industry of the like product.

320. The Requesters indicated that the combination of the significant volumes of the investigated imports and their low prices, negatively and significantly affected the main indicators of the domestic producers, since, in a context of growth of the domestic market, é stas caused the downward trend of domestic sales prices and lower production growth and domestic sales, as well as high installed capacity idle, fall in employment, deterioration of productivity and damage business, among other damages to the industry national production of wind towers.

321. In this regard, they stated that, in a context of CNA growth, national production oriented to the domestic market fell 15% in the period analyzed as a result of a 42% drop in the period August 2016-July 2017 and subsequent growth of 47% in the investigated period, while the CNA grew 74%, while the investigated imports increased 121% in the same period. The above resulted in the national production

losing market presence significantly, going from 55% in the CNA in the August 2015-July 2016 period, to 27% in the investigated period.

322. In accordance with the provisions of points 265 to 268 of the Preliminary Resolution, the producer-exporters, EDG1, Siemens, Vestas and Envision presented various arguments to sustain that the investigated imports did not cause injury to the domestic industry. The Secretariat analyzed and responded to the observations of the parties in points 271 to 276 of said Resolution in accordance with the following:

- to.** The positive performance recorded by some of the economic and financial indicators in certain periods is not a conclusive factor to determine that the investigated imports were not the cause of the injury, since as provided in Article 3.4 of the Anti-Dumping Agreement, the injury analysis does not require effects on each and every one of the economic and financial indicators, but rather a joint examination of them to reach a final determination;
- b.** According to Article 3.1 of the Anti-Dumping Agreement, the determination of the existence of injury comprises an examination of the total volume of the investigated imports subject to price discrimination and their impact on the domestic industry, therefore it is not appropriate to examine the imports made individually by company, and
- c.** Due to the fact that the product under investigation operates under orders or purchase orders that could be generated before the period August 2015-July 2016, and that the time elapsed from the beginning of manufacture to the sale and invoicing of the finished product may lengthening 11 months or even longer, the Secretariat ensured, by comparing the purchase orders and sales invoices provided by the Requesters, that the analysis of the effects on the economic and financial indicators of the domestic industry, corresponded only to wind towers actually completed and sold to the domestic market and for export, during the period analyzed.

323. In the final stage of the investigation, the producer-exporters indicated that in the Preliminary Resolution, the Secretariat determined that the export price of the wind towers is set from the purchase order; however, the analysis of effects on the domestic production or what corresponds to the wind towers completed and sold in the period under review. In this regard, they indicated that the analysis of the effects on the domestic industry should only be carried out with the wind towers whose purchase order had been generated within the period analyzed and not with those towers that were completed in said period.

324. The Secretariat determined that the indication of the producer-exporters is inadmissible. The request to consider only the purchase orders of the analyzed period entails a methodological error, because it implies omitting a volume of production and sales that took place within the analyzed period and that competed in the domestic market with imports of the investigated product, even though are the result of purchase orders prior to the period analyzed, that is, before the period August 2015-July 2016. This implies underestimating the behavior of these indicators and, therefore, a bias in the damage analysis, which is not acceptable.

325. On the other hand, EDG1, Siemens, Vestas, Envision and the producer-exporters argued the following:

- to.** Siemens indicated that in accordance with the provisions of points 310 and paragraph b of point 374 of the Preliminary Resolution, the Secretariat carried out an end-to-end analysis, which is not appropriate, since it should examine the changes that occurred throughout the period,

including the trends of the intervening years. In this regard, it cited the recommendation of the Argentina-Footwear WTO Panel. For its part, Vestas agreed with this statement;

- b.** EDG1 and Envision pointed out that in most cases the alleged impairments in the domestic industry are presented in the end-to-end analysis for the period analyzed, however, the determination of injury requires an impact on the investigated period, in particular, in terms of production and national production oriented to the domestic market, and
- c.** Siemens and producers-exporters indicated that they would conduct a verification visit to the Applicants, because there are inconsistencies in the behavior of some of its indicators, to ensure that these correspond to similar goods intended for the domestic market as well as exclusion of operations carried out by maquila services.

326. In this regard, the Secretariat determined that said allegations have no basis in accordance with the following:

- to.** manifestations of EDG - 1, Siemens, Vestas and Envision regarding the Secretariat did not conduct a thorough analysis of the reporting period and the periods it are wrong, as are partial to the extent that s or point out paragraphs isolated from the Preliminary , but they omit the entire analysis of the effects on the domestic industry carried out in points 262 to 371 of said Resolution, which considers the behavior of the economic and financial indicators that was recorded in each of the periods that make up the period analyzed, a situation that is confirmed by the analysis described in points 319 to 414 of this Resolution, and
- b.** The request to carry out a verification visit to the Applicants is not appropriate, since during the procedure the Applicants provided the documentary information and means of proof that support the figures and behavior of the economic and financial indicators of the domestic industry . In cases where it was necessary, the Secretariat requested additional information and the corresponding clarifications, which were presented by the Requesters as requested.

327. In order to evaluate the arguments of the appearing parties, the Secretariat considered the volumes and values of wind towers originating in China and other origins, calculated as described in points 244 and 245 of this Resolution, and the data of the economic and financial indicators of the Applicants corresponding to the similar product, as well as their audited financial statements, since, according to the determination described in point 201 of the Preliminary Resolution, a situation that is confirmed in point 231 of this Resolution , are representative of the national production of wind towers, therefore they constitute the national industry.

328. The information in the administrative file indicates that the CNA decreased 62% in the period August 2016-July 2017, while it increased 4.5 times in the investigated period, which meant an increase of 71% in the period analyzed. . In this context of market growth, the production of the domestic industry increased 61% in the period August 2016-July 2017, while in the period investigated it decreased 50%, thus accumulating a decrease of 19% in the period analyzed.

329. On the other hand, the production oriented to the domestic market of the domestic industry decreased 43% in the period August 2016-July 2017 and increased 62% in the investigated period, thus accumulating a reduction of 7% in the period analyzed, which translated into a decrease in its participation in the CNA, going from 43% in the period August 2015-July 2016, to 64% in the period August 2016-July 2017 and 23% in the investigated period, which meant a loss of 41 and 20 percentage points in the investigated and analyzed period, respectively.

330. At this stage of the investigation, Siemens, Vestas and the producer-exporters questioned the behavior observed in the national production with respect to the CNA, for which they presented the following arguments:

- to.** Siemens pointed out that the loss of participation of the national production to the domestic market in the CNA in the investigated period, seems to be largely determined by the expansion of the market, since in said period a new national producer entered, so the assumption injury is not caused by the investigated imports;
- b.** Vestas pointed out that the decrease in the participation of national production is a consequence of the greater change in the CNA in the investigated period, and that it is incorrect to stop analyzing the fall in demand in the period August 2016-July 2017, since affected all industry participants, which cannot be related to the investigated imports, and
- c.** The producer-exporters indicated that the domestic industry registered an increase in its production during the period analyzed, despite the fact that the investigated imports increased their market share, from which it follows that the increase in production is due not only to the growth of the CNA, but also to the fact that the investigated imports do not replace the domestic production.

331. The Secretariat considers that the parties' allegations are unsupported, since the investigated imports were those that were favored by the growth of the market in the analyzed period, and not the domestic industry, according to the following:

- to.** Although the growth of the market in the investigated period allowed an increase in absolute terms of the production to the domestic market of the domestic industry, this only accounted for 11% of the increase in the CNA, while the investigated imports absorbed 65 %, which was reflected in a decrease in the participation of the domestic market production of the domestic industry in the CNA by 41 percentage points, while the investigated imports gained 34 points in said period;
- b.** It is incorrect to indicate that the loss of participation of the domestic industry in the investigated period is due to greater market growth, since in said period the CNA increased by 4.5 times while the imports investigated by 12 times and the production to the domestic market of the industry s domestic production or the 1.6 times;
- c.** The fall recorded by the market in the period August 2016-July 2017 in absolute terms is explained by 29% by production oriented to the domestic market, 35% by imports from China and 36% by imports from other origins. In this regard, it was observed that all market participants were affected by the market contraction, and
- d.** It is incorrect to indicate by the exporting-producing companies that the production of the domestic industry increased in the period analyzed , since it decreased by 19%, the same trend as the domestic market production with a 7% reduction.

332. Regarding the total sales of the domestic industry (to the domestic and foreign markets), they decreased 19% in the period analyzed: they increased 61% in the period August 2016-July 2017, but decreased 50% in the period investigated. This performance is explained by the behavior of both sales to the domestic market and exports:

to. Sales to the domestic market of the domestic industry followed the same behavior as its domestic production oriented to the domestic market, as they decreased 43% in the August 2016-July 2017 period and increased 62% in the investigated period, which was translated into an accumulated decrease of 7% in the period analyzed. The value of this indicator (measured in dollars) had a similar performance, since in the same periods it observed a fall of 46%, increased 67% and decreased 11%, respectively, and

b. The exports of the domestic industry increased 8 times in the period August 2016-July 2017, while in the period investigated there were no operations. It stands out that they represented an average of 36% of the total sales of the domestic industry in the analyzed period: 13%, 69% and 0% in the periods August 2015-July 2016, August 2016-July 2017 and the investigated period, respectively; the same shares represented in the production of the domestic industry.

333. As described in points 281, 283 and 284 of the Preliminary Resolution, the Requesters indicated the following: i) the behavior of exports does not respond to decisions of domestic producers, but occurs due to occasional operations or atypical, so it is not a normal market situation; ii) the drop in exports in the investigated period does not discredit the damage caused by imports of Chinese wind towers under unfair conditions; iii) the share of its exports in total sales averaged 35% during the analyzed period, which reflects that the domestic industry depends on the domestic market, and iv) the evidence presented by the importers is worthless probative, therefore the figures presented by the Requesters should prevail, since they come from their own records.

334. As indicated in point 282 of the Preliminary Resolution, Siemens and Vestas argued that the Secretariat did not consider the exporting nature of the Requesters and that the exports had a negative effect on the performance of the domestic industry, since They were not isolated or atypical, but part of their daily operations and normal business practice. To accredit the foregoing, they provided an authorization from the IMMEX program, export statistics and the 2018 annual report of Arcosa Inc.

335. The Secretariat responded to the importers' arguments in points 285 to 292 of the Preliminary Resolution. In this regard, it considered that the performance and export profile of the domestic industry cannot be assessed based on the arguments and evidence presented by Siemens and Vestas, but rather in accordance with the export figures presented by the Applicants themselves, as this is the best available information that is in the administrative file. It also obtained the following results:

to. the growth of exports registered in the period August 2016-July 2017 and zero volume in the period investigated, shows that the behavior of exports was atypical and not a normal market situation, otherwise they would have maintained their growth from the previous period, or at least a significant volume;

b. the export performance of the domestic industry had an impact on the behavior of total production and sales, however, sales to the domestic market were affected by the investigated imports, mainly in the investigated period;

c. In the investigated period, when the investigated imports increased considerably, sales to the domestic market represented the total of total production and sales, which denotes that the domestic industry was totally oriented to the domestic market where it competes with imports in conditions of price discrimination, and

d. By isolating the effects of export activity, the relevant economic and financial indicators of the domestic industry, mainly those oriented to the domestic market, registered a negative behavior,

since the behavior of domestic production oriented to the domestic market of the industry domestic market, or its sales to the domestic market, resulted in a loss of participation of the domestic industry in the domestic market to the benefit of investigated imports, which largely absorbed the relative growth registered by the market in the period analyzed.

336. In the final stage of the investigation, the appearing parties reiterated that the exports made by the Requesters did have a negative impact on their indicators according to the following: i) EDG1, Siemens and Envision agreed that the 742% increase in exports in August 2016-July 2017 and subsequent fall to a zero level in the investigated period, generated a negative impact on both production and domestic production oriented to the domestic market and the rest of the national indicators, and ii) The producer-exporters indicated that the Secretariat itself recognized that the export activity had a negative impact on the behavior of the national production.

337. In particular, Siemens pointed out that the Secretariat did not analyze the existence of Exports of the Requesters in the August 2015-July 2016 period, which is part of the period analyzed. It also indicated that the Secretariat did not consider that both Requesters had an authorization from the IMMEX program and even PROSEC, which is relevant, as this confirms that the Requesters' exports are not atypical and that they are required to export the equivalent of 10% of your total sales in order to stay in those programs. Likewise, it requested that the authenticity of the Applicants' export information be verified, since it is questionable that they have authorizations in said programs without having carried out exports in the investigated period.

338. On the one hand, the Secretariat observed that the appearing parties did not provide additional elements or means of evidence that distort what was stated in points 285 to 292 of the Preliminary Resolution and what was confirmed in point 335 of this Order, in the sense that the behavior of exports during the period analyzed was atypical and not a normal market situation. Likewise, it reiterates that the effect of the increase and decrease in exports on the total production and sales of the domestic industry during the analyzed period is neutralized when conducting an analysis isolating said variable, that is, specifically considering the economic and financial indicators oriented to the domestic market, which registered a negative behavior as a consequence of the growth of imports under conditions of price discrimination.

339. Regarding Siemens' statement that the existence of exports in the period August 2015-July 2016 was not analyzed, it is incorrect, since the analysis implicitly considers the growth of exports corresponding to the period August 2016-July 2017, in addition to indicating that these represented 13% of total sales in the first period of the analyzed period. On the other hand, the fact that the Applicants have authorizations in the IMMEX or PROSEC programs does not change the fact that exports showed atypical behavior in the analyzed period and that these were null in the investigated period. Regarding the doubt about the Applicants' export figures, the Secretariat confirmed their veracity according to the review of the purchase orders and sales invoices submitted by the Applicants, as indicated in point 276 of the Preliminary Resolution.

340. Additionally, the Secretariat observed that the arguments of the appearing parties are contradictory. On the one hand, they pointed out an impact on the domestic industry caused by an alleged export vocation of the Applicants based on an atypical growth of exports in the period August 2016-July 2017, but at the same time, they also argued an impact when said exports were null in the investigated period. The Secretariat considers that arguing and sustaining the same affectation under two diametrically opposed situations is not logical and lacks economic reasonableness.

341. According to the information on sales to clients provided by the Requesters and the list of import operations of the SIC-M by the tariff fraction through which the product under investigation enters, indicated in point 293 of the Resolution Preliminary, the Secretariat observed that in the period analyzed, the clients of the Requesters that made imports of the investigated product decreased their purchases from the domestic industry by 7%, while their imports from China increased by 3 times. This behavior confirmed that the volumes of investigated imports substituted purchases of the similar domestic product and that, in order to face the conditions of competition, the Requesters had to decrease their selling price to the domestic market, a situation that is supported by the analysis described. at point 281 of this Resolution, which allowed the domestic industry to avoid a greater loss of sales and, therefore, of the market.

342. As described in points 295 and 296 of the Preliminary Resolution, the Requesters indicated that in the investigated period they presented quotes to various developers and builders of wind farms, however, they chose to import wind towers originating in China at significantly lower prices. For their part, the producer-exporters indicated that the wind towers consigned in the aforementioned prices could not have been displaced by the investigated imports in the investigated period due to the date of the listing and the materialization of the sale.

343. In this regard, the Secretariat observed that the quotations were submitted within the investigated period, which is why, if they had been accepted, the manufacturing process would have been triggered, therefore they imply a potential production volume that is not specified and that would have allowed maintaining a greater use of installed capacity, as well as a greater participation in the CNA and internal sales volume.

344. According to the updated information on the prices for 112 m , 120 m and 125 m high wind towers that were compared with the Chinese towers of the same height, indicated in points 291 to 293 of the present Resolution, the Secretariat observed that the total volume imported from said wind towers represented 40% of the CNA in the investigated period and was 72% higher than the domestic sales recorded by the domestic industry in the same period. Regarding installed capacity and investigated imports, they represented 40% and 73%, respectively.

345. Likewise, the Secretariat considered that the absence of national production at certain heights implies in itself that the domestic industry was not considered as a supplier of wind towers of the referred heights, due to the levels of undervaluation observed in Chinese wind towers of 80 m , 112 m , 120 m and 125 m high, which is mainly explained by prices which entered the Mexican market.

346. On the other hand, the Secretariat confirmed that the national wind tower industry does not present inventories, which is explained by the nature of the wind towers, since they are manufactured until the order and sale is confirmed at the client, a situation that applies to both the nationally manufactured product and the one under investigation. This fact was not disputed by the parties appearing during this investigation. Additionally, in the final stage of the investigation, EDG1 and Envision indicated that the absence of inventories explains the commercial nature of the product under investigation in the sense that it is manufactured once the sale of the same is agreed.

347. The Requesters indicated that, in the context of the expansion of the domestic market, they more than doubled their installed capacity, sufficiently to supply domestic demand during the period analyzed. In general, they estimated their annual installed capacity based on the monthly production that can be reached by the laminating machines available to produce national merchandise.

348. In the final stage of the investigation, Vestas questioned the calculation of the installed capacity of the domestic industry, for which it presented the following arguments: i) it indicated that one of the Applicants manufactures products for the energy sector other than those wind towers under investigation, so these products would have to be subtracted from the available installed capacity, and ii) the installed capacity calculations become incorrect if the makeup operations were not considered, since they occupy the same resources in terms of storage space, time spent in the laminating machine, labor and electricity, so they should in no way be eliminated from the analysis.

349. The Secretariat determined that there are no errors in the estimation of the installed capacity of the domestic industry in accordance with the methodology indicated in point 169 of the Initiation Resolution, since it replicated the calculations made by the Requesters without finding differences. Regarding the indications regarding the manufacture of other products in the Applicants' plants and the maquila production carried out by one of the Applicants, the Secretariat clarifies that there is no error or omission according to the following:

- to.** According to the information in the administrative file, both in the application form for the initiation of one of the Applicants, as well as the response to the request in the final stage of the investigation, the Applicants confirmed that the plants for the manufacture of The national merchandise is destined exclusively to the elaboration of wind towers and due to the high specialization of the manufacturing process, it is not technically or economically possible to substitute or change the production lines towards other products;
- b.** The methodology provided by the Requesters to obtain the installed capacity did not include an express differentiation, exclusion or adjustment derived from the ownership regime of the inputs used in the manufacture of the wind towers, so implicitly the installed capacity for maquila services is included in it. The foregoing is confirmed by the Applicant's statement that it carried out said process, since it stated that the installed capacity reported was also used for the manufacture of wind towers for maquila services;
- c.** The Secretariat considers that the calculation of installed capacity is a technical aspect that depends on the machinery and / or equipment to carry out the production process of the wind towers, which is independent of the ownership of the inputs used in the manufacture of the product under investigation, so there is no reason why its calculation would be affected or distorted by said cause, and
- d.** as regards the use of installed capacity, reiterates Secretariat excluded production performed under tolling services for calculating the capacity used, which s or the occupied 2% on average of the installed capacity domestic industry during the period analyzed, so its exclusion did not have an impact that modified the trends and results obtained.

350. In accordance with the above, the Secretariat observed that installed capacity increased 29% in the August 2016-July 2017 period and 10% in the investigated period, which translated into a cumulative increase of 42% in the period analyzed.

351. As a result of the performance of installed capacity and national production, the use of the first indicator decreased 17 percentage points in the analyzed period, going from 40% in the period August 2015-July 2016 (50% in the August 2016-July 2017 period) to 23% in the investigated period, so that although it increased 10 points in the August 2016-July 2017 period to the next comparable period, it decreased 27 points in the investigated period.

352. The Secretariat noted that the increase in capacity utilization of the domestic industry in the period August 2016-July 2017 is explained by the atypical increase in demand for exports and the low presence of imports, both originating in China and other origins, while in the investigated period, the fall in the use of installed capacity (unused capacity of 77%) would be largely attributable to the displacement of domestic sales by the investigated imports, which increased 12 times compared to the previous comparable period, reaching a volume 44% greater than the national production.

353. For their part, Siemens and Vestas questioned the behavior of the installed and used capacity during the period under analysis in accordance with the following:

- to.** Vestas indicated that the installed capacity of the domestic industry is not enough to supply market demand and, therefore, when the CNA increases, it is unable to meet it, as happened in the August 2017-July period. 2018. This is coupled with the fact that the national production subsequently refused to supply it with product, and
- b.** Siemens pointed out that the greatest increase in installed capacity was observed in the period August 2016-July 2017, even though the national market contracted by 62%, while its use coincides more with the behavior of national production and not with production oriented to the domestic market.

354. Regarding Vestas' indication, the Secretariat considers that the regulations on the matter do not establish as a requirement to prove the damage that the domestic industry must have sufficient capacity to supply the entire market demand. However, it was observed that, in the investigated period, the domestic industry had sufficient capacity to cover market demand, which it was not possible to occupy sufficiently, since due to the displacement caused by the investigated imports, it operated with underutilization levels of 63% on average during the period analyzed.

355. Regarding the Siemens statement, the Secretariat observed that the increase in the use of installed capacity in the period August 2016-July 2017 is explained by the increase in exports in said period, for which reason Even though installed capacity grew, this did not have a negative effect in that period. The foregoing while taking into account that the increase in the installed capacity of the domestic industry is reasonable given the positive expectations of the market that are reflected in the increase in the CNA in the period analyzed.

356. On the other hand, the Secretariat observed that the average employment of the domestic industry increased 19% in the August 2016-July 2017 period, but decreased 15% in the investigated period, which meant that it remained basically constant. in the period analyzed. Salaries had a downward trend with decreases of 16% in the period August 2016-July 2017, 34% in the period investigated and 44% in the period analyzed.

357. The productivity of the domestic industry followed a trend similar to the performance observed in production, since it increased 36% in the August 2016-July 2017 period and decreased 41% in the investigated period, thereby accumulating a reduction of 20% in the period analyzed. In this regard, the Secretariat confirms that the drop in productivity in the investigated period is related to the reduction in production (50%) compared to employment (15%), due to the displacement caused by competition from imports originating in China in conditions of price discrimination.

358. In accordance with the provisions of point 306 of the Preliminary Resolution, the Secretariat carried out the evaluation of the financial situation of the domestic industry based on the audited financial statements of the Applicant companies that correspond to the fiscal years of 2015, 2016 and 2017, as

well as in the statements of costs, sales and profits of similar merchandise destined for the domestic market for the periods August 2015-July 2016, August 2016-July 2017 and August 2017-July 2018. It also considered the information on unit operating costs corresponding to the sales made in the domestic market provided by the Requesters. The Secretariat updated said information for its financial comparability, through the method of changes in the general price level, based on the National Consumer Price Index published by the National Institute of Statistics and Geography.

359. Based on what is described in point 307 of the Preliminary Resolution, the Secretariat also considered additional information from the Applicants consisting of sales invoices and purchase orders for the period analyzed, as well as more detailed information on the wind projects, number of wind towers by project, height of the wind towers, number of sections, date of issuance of sales invoices and payment date, income received, cost of merchandise sold and operating expenses corresponding to each section of tower sold, from which it observed that, in some cases, there was a lag between the costs of the merchandise sold and the income in each period.

360. The Secretariat observed that the behavior of volumes and prices was reflected in a cumulative decrease in income from sales to the domestic market (measured in pesos) of 23% in the period analyzed: in the period August 2016- July 2017 decreased 51%, and increased 57% in the investigated period.

361. The operating costs of sales to the domestic market accumulated a decrease of 13% during the period analyzed: they fell 49% in the period August 2016-July 2017 and increased 74% in the period investigated.

362. The behavior of income and operating costs translated into a negative performance of operating profits, which accumulated a decline of 1.01 times during the period analyzed, decreased 0.64 times in the period August 2016-July 2017 and 1.04 times in the investigated period.

363. Consequently, the operating margin decreased 3.4 percentage points in the August 2016-July 2017 period and again decreased 9.8 percentage points during the investigated period, thus accumulating a decrease of 13.2 percentage points, that is, this indicator passed from a 13% margin to a -0.2% margin.

364. During the investigated period, the Secretariat observed a growth in revenue from sales to the domestic market of 0.57 times, while the growth in operating costs was 0.74 times, which was reflected in a decrease of 1.04 times in the operating results, and a deterioration in the operating margin of 9.8 percentage points in said period. The foregoing meant operating, during the investigated period, with negative results and operating margin. In other words, the growth recorded in the operating costs of the domestic industry was at a higher rate than the growth recorded in income from sales to the domestic market. In the same sense, during the analyzed period, it was observed that income from sales to the domestic market decreased 0.23 times, while operating costs decreased only 0.13 times during the same period. This meant a 1.01-fold decrease in operating profits, and a deterioration of the operating margin of 13.2 percentage points.

365. In relation to the variables Return on Investment in Assets (ROA, for its acronym in English for Return of the Investment in Assets), cash flow and ability to raise capital, as described in articles 3.6 of the Agreement Anti-dumping and 66 of the RLCE, the effects of the investigated imports were evaluated considering the production of the most restricted group or range of products that include the like product. In this regard, the ROA of the domestic industry, calculated at an operational level, decreased 4.6 percentage points from 2015 to 2017.

Return on investments

Concept	2015	2016	2017
Return on investment	8.7%	7.0%	4.1%

Source: Financial statements of the Applicants

366. As regards operating cash flow from 2015 to 2017, it accumulated a decrease of 18% in the period analyzed.

367. The ability to raise capital measures the ability of a producer to obtain the financial resources necessary to carry out his productive activity. The Secretariat analyzed this indicator through the behavior of the solvency, leverage and debt indices, in this regard, the following behavior was observed:

Solvency ratios

Concept	2015	2016	2017
Current ratio	1.53	1.50	1.77
Acid test	0.90	0.83	0.99

Source: Financial statements of the Applicants

368. Regarding the information presented in the previous table, in general, a ratio between current assets and short-term liabilities is considered adequate if it has a 1 to 1 ratio or higher, so it was observed that the liquidity levels of the company The domestic industry had adequate levels between 2015 and 2017, since the ratio between current assets and short-term liabilities was greater than 1 during the entire period analyzed, however, when performing a stricter analysis (acid test), and Discounting the inventories of the domestic industry, there was a decrease in its capacity to meet its short-term obligations.

369. With regard to the level of leverage, a ratio of total liabilities to equity less than 100% is considered manageable. In this case, it was observed that the level of leverage of the domestic industry registered adequate levels throughout the period analyzed. With regard to the ratio of total liabilities to total assets, it also remained at convenient levels and with a downward trend, from end to end.

Leverage ratios

Leverage Ratios	2014	2015	2016
Total liabilities to Stockholders' equity	52%	60%	41%
Total Liabilities to Total Assets	3. 4%	38%	29%

Source: Financial statements of the Applicants

370. A from the results described in the above, the Secretariat concluded that in the period under review, particularly in the investigation, the concurrence of imports of the product under investigation in terms of price discrimination, negative impact indicators economic and financial factors of the domestic industry, in such a way that they caused pecuniary damage to it.

371. The main effects were observed in the following economic and financial indicators: production, production oriented to the domestic market, market share, sales to the domestic market, income from sales to the domestic market, use of installed capacity, wages, productivity, benefits operating and operating margin. It should be noted that the domestic industry registered relatively low levels of use of its installed capacity (40% in the period August 2015-July 2016, 50% in the period August 2016-July 2017

and 23% in the period investigated). Additionally, the price measured in pesos, despite the fact that it increased 0.56% in the investigated period, did not recover to the level it had at the beginning of the analyzed period; while the unit operating cost decreased 5% in the investigated period, but accumulated a 5% growth in the analyzed period, which meant ending with a unit operating cost at a higher level than that shown at the beginning of the analyzed period. This places the domestic industry in a vulnerable situation.

372. Likewise, the impact on these variables by the concurrence of imports of wind towers originating in China, contributed to not allowing the domestic industry to register growth, in a context of favorable market development, nor does it allow to infer expectations Favorable for this, given the entry of imports under conditions of price discrimination, which registered a growing trend during the period analyzed with undervaluation margins.

373. At the initiation stage, the Requesters provided arguments and projections to support the probability that in the immediate future there will be a worsening or deepening of the damage observed in the period analyzed. In accordance with the provisions of point 333 of the Preliminary Resolution, the Secretariat considered that it was not necessary to re-examine these elements.

374. In the final stage of the investigation, the Requesters requested the inclusion in the analysis of said projections, since they are intended to demonstrate that the damage can be continuous and aggravated without the imposition of countervailing duties. In this regard, the Secretariat confirms that said request is inadmissible, given the final determination of pecuniary injury to the domestic industry caused by the investigated imports under conditions of price discrimination in the Mexican market.

8. Other damage factors

375. 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 material damage to the domestic wind tower industry.

376. The Applicants indicated that there are no factors other than imports under conditions of price discrimination that harm the domestic industry. The arguments that they used to support their assertion are indicated in point 191 of the Initiation Resolution.

377. As indicated in points 337 to 366 of the Preliminary Resolution, EDG1, Siemens, Vestas, Envision and the exporting-producers argued that there are factors other than the investigated imports that explain the injury to the domestic industry. and that were not considered in the Initiation Resolution, in particular: exports, freight costs and other expenses, failures in product quality, supply capacity, changes in energy policy, fall in domestic demand, global environment or international and plant stoppages. For their part, the Requesters presented arguments and means of proof in order to disprove said allegations, as indicated in points 339 to 367 of the Preliminary Resolution.

378. Based on points 340 to 371 of the Preliminary Resolution, and as a result of the analysis of the arguments and evidence presented by the parties, the Secretariat determined that the information in the administrative file does not indicate the concurrence of other factors other than imports originating in China under conditions of price discrimination that, at the same time, could be the cause of the pecuniary injury to the domestic wind tower industry during the period analyzed.

379. In the final stage of the investigation, the applicants indicated that EDG - 1, Siemens, Vestas, Envision and producing-exporting s or so said that there were other factors as the cause of the damage without testing. They also noted that the Secretariat carried out a non-attribution analysis consisting of knowing whether causes other than the investigated imports contributed to the injury to the domestic industry. Finally, they reiterated that there is no evidence, information or arguments in the administrative record that confirm the existence of other factors of injury to the domestic production.

380. For their part, EDG1, Siemens, Vestas, Envision and the producer-exporters, questioned the analysis and results of the Preliminary Resolution on the concurrence of other injury factors different from the imports under investigation, in particular, they reiterate the behavior of exports and the absence of a non-attribution analysis; location of wind farms and their relationship with freight costs and associated expenses for product transfer; supply, storage and loading capacity; national product quality and certifications, and add the absence of national production of wind towers greater than 100 m . The specific arguments presented by the parties are indicated in the following points.

381. In accordance with the provisions of points 336 and 337 of this Resolution, EDG1, Siemens, Envision and the producer-exporters reiterated that the exports made by the Applicants did have negative effects on the indicators of the domestic industry. . They also questioned the absence of a non-attribution analysis of the damage caused by the drop in exports in the period under investigation. In this sense, they argued the following:

- to.** Siemens noted that the Secretariat s or it considered that exports were atypical, and even though in the Preliminary Determination indicated that domestic production to the domestic market, capacity utilization, revenue and operating profit declined in the period under review, the simple description results does not translate into a non-attribution analysis;
- b.** EDG1, Siemens and Envision agreed that the rise and fall of exports generated a negative impact on both production and national indicators that should not be attributed to the imports under investigation, and
- c.** producing-exporting noted that in the Preliminary not observed that the Secretariat had conducted the review of non - attribution demonstrating that managed to isolate the negative effects of the fall in export activity, as the Secretariat s or so said the performance of the domestic industry is highly dependent on domestic sales.

382. In this regard, as described in point 338 of this Order, the Secretariat considered that the appearing parties did not provide new or additional elements that prove that the effect observed in the economic and financial indicators oriented mainly to the domestic market is attributable to the behavior of exports and not to the imports under investigation. Likewise, their arguments turn out to be contradictory, since they indicated both an impact due to the increase in exports in the period August 2016-July 2017, as well as their fall or null presence in the investigated period, which is inconsistent and without economic reasonableness. .

383. According to the WTO Appellate Body report in the European Communities-Pipe Fittings from Brazil case, the investigating authority has the power to choose the methodology to carry out the non-attribution analysis and is not required to carry out an analysis on the collective effect of the other factors in all cases. Specifically, the other factors could be identified, evaluated individually and determined that the contribution of each factor to the injury is not significant, or that a specific factor is insufficient to break

the causal link between the price discriminated imports and the injury. This is confirmed by the report of the WTO Appellate Body in the following paragraphs:

189. However, in US-Hot Rolled Steel, we emphasized that the Anti-Dumping Agreement does not prescribe the methodology to be used by an investigating authority to avoid attributing injury due to other causal factors to dumped imports...

Thus, as long as the investigating authority does not attribute injury due to other causal factors to the dumped imports, it is free to choose the methodology it will use in examining the "causal relationship" between the dumped imports and the injury.

[Emphasis added]

...

191. By contrast, we do not find that the non-attribution requirement of the Anti-Dumping Agreement necessarily requires an examination of collective effects. In particular, we are of the opinion that Article 3.5 does not require an assessment of the collective effects of the other causal factors in all cases, because such an assessment is not always necessary to reach the conclusion that the damages attributed to the dumped imports were actually caused by those imports and not by other factors.

[Emphasis added]

...

193. We now turn to the facts of this case in order to examine whether the European Communities breached its Article 3.5 non-attribution obligation by failing to undertake an examination of the collective impact of the other factors. We will begin by noting that the European Commission expressly identified in this investigation the proper attribution of damages as one of the purposes of its causal link analysis, stating that it "examined whether the material injury suffered by the Community industry was due to the dumped imports and whether other factors could have caused or contributed to such injury so as not to attribute the possible injury caused by those other factors to the dumped imports. " First, the European Commission identified other factors that could cause injury to the domestic industry. Then, evaluating each of the "other factors" individually, it determined that the contribution of each factor to injury was not significant (or, in the case of one factor, insufficient to break the causal link between the dumped imports and the damage). As a result, the European Commission concluded that the dumped imports were causing material injury to the domestic industry, without examining whether the collective effects of the other causal factors weakened the causal relationship between the subject imports. dumping and injury.

384. Taking the foregoing into account, the Secretariat considers that the allegations of the appearing parties regarding the absence of a non-attribution analysis lack support, since in the preliminary stage it

identified and separated the effects of exports and evaluated the performance of indicators that do not consider the effects of the external market. In this sense, it confirmed that the indicators oriented to the domestic market registered a negative behavior as a consequence of the growth registered by imports under conditions of price discrimination, because during the period analyzed the production oriented to the domestic market of the branch of domestic production registered a 7% decrease, domestic sales decreased 7%, capacity utilization decreased 17 percentage points, revenues and operating profits derived from sales to the domestic market decreased 23% and 1.01 times, respectively, and operating margin associated with sales to the domestic market fell 13.2 percentage points.

385. On the other hand, EDG1 and Envision reiterated that Arcosa Inc. issued a report in the United States recognizing a reduction in the production of turbines for wind towers, which had an impact on its operations in Mexico and represents a factor to consider. in the absence of damage, as this affected its subsidiary in Mexico to export the manufactured product to that country.

386. The Secretariat reviewed the report that Arcosa Inc., presented before the National Securities Market Commission of the United States corresponding to September 27, 2018, which EDG1 and Envision offered as evidence to accredit their observations in the preliminary stage. In this regard, it was observed that there is a relationship between Arcosa Inc. and its subsidiary in Mexico, the latter as a supplier of raw materials. It was also observed that Arcosa Inc., had a decrease in its income in December 2018 in relation to the previous year due to the planned reduction of volumes in its line of towers for wind turbines.

387. In this regard, the Secretariat considers that from the results indicated in the Arcosa Inc. report, it does not appear or prove that this had an effect on the operation and results of its subsidiary in Mexico in the domestic market. In any case, the affectation alleged by EDG1 and Envision due to the reduction in the production of turbines that could have impacted on the exports of Arcosa wind towers, is an aspect that has already been considered by the Secretariat, since as already indicated, No exports were recorded in the investigated period, an effect that was also separated from the impact on the indicators for the domestic market of the domestic industry. Consequently, the Secretariat reiterates its determination of point 368 of the Preliminary Resolution in the sense that the conclusions of said annual report are not applicable by extension or analogy to the results of Arcosa in the domestic market.

388. In the final stage of the investigation, EDG1, Siemens, Vestas and Envision, reiterated the importance of geographic location in the choice of supplier and purchase decision, due to the costs involved in moving the wind towers from the plant to the domestic producer or the port of entry in the case of imported product from China, to the wind farm where they will be installed.

389. Vestas pointed out that the Applicants' plants are in the north of the country, Speco in Monclova (Coahuila) and Arcosa in Tijuana (Baja California), that is, both in the north of the country, and there are projects that have been developed in the southeast, as is the case of Progreso (Yucatán) where, due to simple logic, risks and transportation costs, the Requesters cannot supply the towers that are required in the times they are needed.

390. In relation to the location of the Requesters' plants and wind farms, as well as the freight costs and associated expenses, the Requesters indicated the following:

- to.** the freights provided by the Applicants are not a determining factor influencing the importers' decision to acquire towers from China, as importers repeatedly requested the transfer service of wind towers originating from China to one of the Applicants on the site boarding to your

destination or point that the customer wants. Consequently, transportation is not an obstacle or an obstacle in the decision to purchase the product;

- b.** The importers' decision to purchase the Chinese product was not based on freight costs or other expenses, but on the price of the product under investigation and on the particular ways in which the acquisition is negotiated, since the wind towers are imported not in isolation. not individually, but together with various elements and accessories that make up the wind turbine system, which allows us to infer a kind of cross-subsidy on the part of Chinese producers, even more so considering that the United States government imposed compensatory measures on their exports ;
- c.** Freight costs, or expenses such as flagging, transit permits and crossings in urban areas and legal assistance, affect both domestically manufactured wind towers and those imported from China. However, the purchase of the former or the product under investigation will depend fundamentally on the price of the wind towers, placed at an appropriate commercial level of comparison;
- d.** the transport is not part of the terms and conditions of sale, nor does it influence the terms and conditions of the negotiation between the offeror and the demander of the product, and
- and.** None of the companies appearing provided any supplementary element to prove the claim that transportation is the causal element of the pecuniary damage inflicted on the domestic industry. Lastly, they indicated that Vestas' indication regarding the location of the Arc osa plant is incorrect, since it is located in Huehuetoca, State of Mexico and not in Baja California.

391. On the one hand, the Secretariat observed that the appearing parties did not present evidence proving that the location of the facilities where the national wind towers are manufactured represents a physical barrier, an impediment or technical difficulty to allocate and supply projects in any part of the country. As regards, Vestas' indication of the location of the Arcosa plant is incorrect, in addition to the fact that it did not present evidence to substantiate its statement, because according to what Arcosa itself stated, its plant and fiscal domicile is located in Huehuetoca in the State of Mexico, that is, in the center of the country, so the argument of distance presented as a difficulty in serving wind projects in the center and south of the country lacks support.

392. Likewise, based on the information provided by the parties in the final stage of the investigation, it was observed that one of the Requesters provided logistics and transportation services to move its own wind towers, as well as for other national manufacturers and even , for imported product originating from China and even from other origins, to wind farms located in the north, center and south of the country, such as Tizimin, Juchitan, La Bufa, Palo Alto, Vientos del Altiplano, La Amistad, Pier IV, La Esperanza, Peñoles or San Jacinto.

393. Additionally, and in accordance with what is indicated in points 304 to 307 of this Resolution, the Secretariat analyzed the impact of the expenses associated with the transfer in Mexico of the national wind towers and investigated to the location of the wind farm or project . Based on the results obtained, the Secretariat observed that freight expenses are a cost that the clients of the wind towers must incur, regardless of whether it is a national or imported product. The difference between both expenses is inclusive, favorable to the national product by 4 percentage points, since the average cost in the analyzed period was 6%, while in the case of the investigated product it was 10% on average. However, in both

cases, internal freight expenses represent a smaller proportion in the price of national wind towers, while in the case of investigated imports, said expense increases when considering external costs for the concept of maritime freight from China to the Mexican port, which were 20% on average during the period analyzed.

394. In accordance with the foregoing, the Secretariat considers that there are no elements in the administrative record that prove that freight costs and other expenses for moving the product are an impediment or a disadvantageous factor for the national product compared to the investigated towers. . Consequently, the Secretariat determined that the allegation of the appearing parties that the internal costs of transferring to the development of the wind farm are the main reason that explains the presence and increase of the imports investigated during the period analyzed is not supported.

395. EDG1, Vestas, Envision and the producer-exporters indicated that the Applicants are not competitive, since their installed capacity is limited to supply the market, so they often cannot satisfy the needs of domestic customers.

396. Vestas argued that not all relevant elements of the analysis of installed and available capacity have been considered during the period analyzed, which results in the latter being overestimated. In this regard, it indicated that the limitations in storage and loading or transportation capacity presented by the Applicants should also be considered, since these factors affect the delivery of the wind towers to the installation sites, as follows:

- to.** In one of the projects in which Vestas was involved, it had to build several storage fields because one of the Applicants could not store the required towers in its factory. This implied an increase in expenses that were not absorbed by the Applicant and that clearly make it less competitive in the market;
- b.** the transport capacity is restricted by the number of cranes that the Applicants have, as well as the loading or maneuvering time required of up to 5 hours to load a single tower. This is relevant depending on the speed and immediacy required by the market according to the delivery schedule agreed in the contracts, and
- c.** To support the foregoing, it provided the following: i) information from Speco's website indicating that it only has storage capacity for 100 towers of 80 m , which is not exclusive to the towers that Vestas requests, rather, it is combined with the product that it can manufacture for other clients or importers; ii) a calendar with the product delivery commitment dates in the projects in which Vestas participates, and iii) a copy of the contract entered into with one of the Requesters establishing the obligations for quantities to be supplied and penalties in case of non-compliance.

397. For their part, the producer-exporters indicated that the Secretariat must take into account the inability and restrictions in the processing capacity faced by the Requesters to supply the Mexican market and satisfy the needs of the original equipment manufacturers, therefore the only option for companies like Vestas is to depend on Chinese imports.

398. The Secretariat determined that the allegations regarding the lack of supply capacity or limitations in the same due to factors external to the installed capacity for the manufacture of the national product have no basis, and are inadmissible according to the following:

to. In accordance with the provisions of point 352 of this Resolution, the domestic industry registered an unused capacity of 77% in the investigated period compared to a 12-fold increase in investigated imports in relation to the August 2016 period. -July 2017. Said increase represented in absolute terms 50% of the installed capacity and 65% of the available capacity in the investigated period. This shows that the domestic industry had sufficient capacity to meet the volume demanded by domestic customers in the investigated period, however, they resorted to imports of the Chinese product under conditions of price discrimination;

b. Regarding the indications on the possible limitations regarding the storage capacity and transport or load of the product, the Secretariat considers that these are factors implicit in the industry under investigation, given the magnitude of the product that is the object of this investigation. . In this sense, the evidence presented by Vestas exemplifies this situation, but in themselves they do not prove that the domestic industry is at a disadvantage or has particular restrictions unlike the Chinese producers, since it has sufficient installed capacity to meet market demand;

c. The Secretariat considers that the argument about space limitations to store product by one of the Requesters is not reasonable, in the case of an industry that operates on demand, that does not accumulate inventories and taking into account that the production and delivery scheduling of the product is carried out under precise dates agreed with the supplier and penalties in case of non-compliance, as indicated by the importer itself, and

d. the arguments and evidence on the limitations in installed capacity, storage and loading presented by Vestas, refer s or so to one of the applicants, so can not be considered extended to the whole of the domestic industry.

399. Additionally, Vestas indicated that it is aware that one of the Requesters has sold the national product since 2013 to another client that is its main commercial partner in Mexico and the United States, so it is clear that its installed capacity is compromised. with other companies that limit the available capacity to supply other customers. In this way, the price of the product is irrelevant, since the real reason why Vestas has not accepted the quotations of the Applicants, is because of the limited capacity of the Applicants to supply in the times, conditions and needs of the projects in the who participates.

400. In this regard, the Secretariat observed that the importer did not present elements to support that the Requesters did not have the available capacity to meet their demand for the product within the period analyzed, while, on the contrary, the evidence in the administrative file shows that the domestic industry s or so occupied 23% of its installed capacity during the investigation period, reflecting that it had installed capacity sufficient to meet demand made companies importing the product under investigation.

401. The producer-exporters indicated that the low utilization of installed capacity and the drop in the participation of national production in the CNA is a consequence of not having achieved the certification of the three main turbine producers in the national market, Siemens, Vestas and Acciona WindPower ("Acciona"), to supply wind towers, in accordance with the following:

to. Applicants did not pass their clients' auditing standards due to quality issues. Siemens rejected a quote due to this situation, while Vestas did not establish long-term cooperation with the Applicants because they did not meet the requirements for certification, in addition to the fact that Siemens requires towers of 120 m high and a maximum diameter of 5 m , which cannot be manufactured by Mexican producers;

- b.** In the case of Acciona, the Mexican wind farm projects that were built and operated between 2016 and 2018 required towers of more than 100 m , which were not supplied by the Applicants, as their quote was never accepted;
- c.** the increase in investigated imports is the result of the Requesters not being able to meet demand without neglecting the quality and specifications required by the developers of the wind farms. Thus, there is no direct competitive relationship between the investigated imports and the domestic towers, so they can hardly be considered as the cause of injury to the domestic industry, and
- d.** to prove their claims, they provided the electronic link on the Internet page related to the "El Cortijo" wind farm built by the company Acciona; a report from the 2016 and 2017 Global Wind Report published by the GWEC, and the article "Why three European turbine manufacturers dominate Mexico's wind energy sector" from the magazine "The Clean Energy Review".

402. The Secretariat considers that the arguments of the producer-exporters regarding the quality problems of the domestic product have no basis, since the evidence they presented does not support their assertions, basically reiterating the arguments presented by Siemens in the preliminary stage. In accordance with the provisions of points 358 and 359 of the Preliminary Resolution, the Secretariat reviewed the information provided by Siemens and the Requesters, from which it determined the absence of elements that support that the quality was the cause of the damage to the branch. of national production. In this regard, it should be noted that, at the final stage of the investigation, the importer itself did not present additional or contrary elements regarding said determination.

403. It is incorrect to state that Siemens and Vestas have not selected the Applicants as qualified or certified suppliers of wind towers, since the importers themselves presented information that proves that they acquired the national product during the period analyzed for different wind projects. In addition, these companies indicated in the preliminary stage that they resorted to the Applicants to acquire product after the investigated period, as stated in point 360 of the Preliminary Resolution. Consequently, it is not reasonable to state that, if the Applicants do not comply with the certification requirements, the importers appearing have reiterated their interest in acquiring their product, even after the period analyzed.

404. With regard to the statements and means of evidence relating to the Acciona company, the Secretariat determined that they are not supported either. According to the information on the website of said company, the "El Cortijo" wind project is made up of concrete or concrete wind towers, a product that is not the object of this investigation. The above, in addition to the fact that the Secretariat had already indicated in point 205 of the Preliminary Resolution that Acciona is a manufacturer of towers of said material. In the same sense, the report and article submitted by the producer-exporters, s or what includes references to the importance of Acciona in the national wind industry as turbine manufacturer, but it does not follow that either consumer or customer of the type of towers that are the object of this investigation, which is why it did not participate as an interested party in this investigation.

405. Siemens and the producer-exporters indicated that the wind towers greater than 100 m were not the cause of the damage to the domestic industry because they were not produced during the period analyzed. In particular, they argued the following:

- to.** Siemens indicated that the 120 m and 125 m towers should be excluded from the investigation, as there is no basis in the legislation to include products that are not manufactured by domestic production, and injury caused by imports of that height cannot be alleged. , Y

- b.** The producer-exporters indicated that the increase in the participation in the CNA of Chinese imports in the investigated period was mainly due to the demand for towers over 100 m , in which the domestic industry does not participate, since in In no case can they be replaced by smaller towers, such as those of 80 m and 93 m .

406. The Secretariat determined that the absence of national production of towers higher than 100 m demonstrates the displacement caused by the investigated imports carried out under conditions of price discrimination, because even when the Requesters presented quotations to their potential clients, and These did not materialize in formal orders that triggered the manufacturing process.

407. Likewise, in accordance with the provisions of points 291 and 292 of this Resolution, the Secretariat considers that the quotations provided by the Applicants for the 112 m , 117 m, 120 m and 125 m towers , by themselves, they are evidence of the ability to produce towers greater than 100 m . However, in order to have more information, the Secretariat asked the Requesters for more information on other offers that they had presented to their clients that had not been formalized in purchase orders during the analyzed period. In response, provided e - mail communications and quotes towers 114 m for tolling services. Due to the foregoing, the Secretariat determined that the means of proof provided by the Applicants prove that they have the capacity to manufacture towers greater than 100 m , at the heights required by their clients according to market needs, since in no case At the time, a refusal to offer the requested product was observed, which would allow presuming the existence of some technical limitation or of capacity to manufacture them.

408. According to the analysis of the results described above, the Secretariat did not find elements in the administrative file that prove that factors such as exports, freight costs and associated expenses for the transfer of the product, failures in the quality of the product and certifications, supply capacity, drop in domestic demand, and lack of domestic production at certain tower heights, have been the cause of damage to the domestic industry.

409. On the other hand, in accordance with point 365 of the Preliminary Resolution, the Secretariat confirms that recent or future changes in the energy policy of the Mexican government, the international environment and the drop in demand in the middle of the period analyzed , do not change the evidence in the administrative record, which shows that consumption in the domestic market increased in the investigated period, growth that benefited the investigated imports, which increased 12 times in said period and concurred under conditions of price discrimination, at decreasing prices and with levels of undervaluation, which was reflected in a loss of participation of 41 percentage points of the production oriented to the domestic market of the domestic industry in the investigated period.

410. In this regard, Vestas reiterated that fluctuations in national demand were caused by changes in the national energy policy, according to the following:

- to.** It is illegal to leave energy policies out of the analysis as a cause of damage based on the journalistic articles indicated by the Requesters in point 364 of the Preliminary Resolution. The fact that a journalistic note outside the analyzed period says that wind capacity will be increased in 2019 in no way can be reason enough to stop noticing that during the first and second years of the analyzed period there were few projects for wind development, which explains the fall of the ANC in the period August 2016-July 2017, and
- b.** On the one hand, the Secretariat rejects electronic communications regarding the inability of one of the Applicants to attend a purchase order due to being outside the period analyzed, while, on

the other hand, it takes into account the newspaper article of 2019 to prove that the Changes in energy policy do not compromise the investments already made by the companies that win the auctions. In this sense, it is clear that in 2019 there are new wind projects and, therefore, demand for wind towers, but this was not the case during the period analyzed.

411. The Secretariat reiterates that the events subsequent to the period analyzed are not the subject of this investigation, including the emails presented by Vestas and the 2019 journalistic note provided by the Requesters on changes in energy policy, by virtue of the determination preliminary and final material damage caused by the imports investigated under conditions of price discrimination that entered the Mexican market in said period. In this sense, the Secretariat confirms that there is no contradiction whatsoever, since both elements (the emails and the journalistic note) do not change the facts observed during the period analyzed, in accordance with the provisions of points 362 and 365 of the Preliminary Resolution.

412. As regards the fall of the CNA in the period August 2016-July 2017, this aspect has been analyzed in the preceding paragraphs of this Resolution, so there is no omission on the part of the Secretariat in that sense. Likewise, it is reiterated that a contraction in demand was not observed that affected the national market, since the CNA increased 4.5 and 1.7 times in the investigated and analyzed period, respectively.

413. The Secretariat also assessed factors other than the investigated imports that at the same time could affect the domestic industry, and confirmed the following:

- to.** Imports from other countries decreased 58% in the analyzed period, which meant a loss of participation in the CNA of 21 percentage points and were made at higher prices with respect to the national price;
- b.** The information in the administrative record does not indicate the presence of variations in the consumption structure that affected the performance of the domestic industry;
- c.** In relation to the behavior of productivity, although it accumulated a fall of 20% during the analyzed period, this is explained by the equivalent decrease in the industry's production in the same period compared to employment, which remained practically constant , Y
- d.** There was no information available to indicate the existence of technological innovations or restrictive business practices of foreign and domestic producers, as well as competition between them, that affected the performance of the domestic industry.

414. In accordance with the results described above, the Secretariat concluded that the information available in the administrative record does not indicate the concurrence of factors other than imports originating in China, carried out under conditions of price discrimination that, at the same time , could be the cause of the material damage to the domestic wind tower industry during the period analyzed.

9. Additional elements

415. Based on the information indicated in point 372 of the Preliminary Resolution, and in the absence of elements to the contrary presented by the appearing parties, the Secretariat confirmed the following:

- to.** The United States Department of Commerce, in relation to the first sunset review of China's countervailing duty order, confirmed that the revocation of the duties would result in the continuation or recurrence of the subsidies. The Secretariat considers that the continuation of

this measure makes it possible to foresee that Chinese exporters would have an incentive to place their exports in other countries, such as the Mexican market, and

- b.** According to information from UN Comtrade of subheading 7308.20 of the TIGIE, for the period from 2015 to 2018, it was observed that, although exports from China decreased 37% from 521 to 330 thousand tons, it stands out that its participation in world exports increased 13 percentage points to spending 30% in 2015 to 43% in 2018. also, according to the same source, it was observed that China's exports of wind towers to Mexico during the investigation period represented s or what 0.3% of what it allocated to the rest of the world, which is indicative of China's significant export potential in relation to the domestic market.

416. A From the above results, the Secretariat concluded that China has an export potential considerable wind towers in relation to domestic production and the size of the Mexican market of the like, which together with the growth recorded imports investigated absolute and relative terms, and the decrease in prices during the period analyzed, as well as the market restrictions imposed by the United States, constitute sufficient elements to support that there is a well-founded probability that they will continue to increase in the immediate future and aggravate the damage that The domestic industry registered in the performance of its economic and financial indicators during the analyzed period.

J. Conclusions

417. Based on the results of the comprehensive analysis of the arguments and evidence described in this Resolution, the Secretariat concluded that during the investigated period, the imports of wind towers originating in China were carried out under conditions of price discrimination and caused pecuniary damage to the domestic industry of the like product. Among the main elements evaluated in a comprehensive way, which support this conclusion, without being considered exhaustive or limiting, the following stand out:

- to.** Imports of wind towers originating in China were made with price discrimination margins of between 41.22% and 143.06%. Said imports increased their participation in total imports by 38 percentage points, going from a contribution of 51% in the August 2015-July 2016 period to 89% in the investigated period.
- b.** The investigated imports increased in absolute and relative terms. During the period analyzed, they registered a growth of 3.2 times (they decreased 73% in the period August 2016-July 2017, but increased 12 times in the period investigated) and increased their participation in the CNA by 26 percentage points, going from one contribution of 29% in the period August 2015-July 2016 to 55% in the period investigated. In relation to national production, they increased their participation by 84 percentage points in the analyzed period, going from a contribution of 60% in the August 2015-July 2016 period to 144% in the investigated period.
- c.** In relation to the prices of the investigated imports and the similar domestic product, according to the periods in which information was available on import operations or national sale of wind towers, at heights that were reasonably comparable, the following was observed.
 - i.** the prices of imports of the 80 m high wind towers originating in China decreased 6% in the investigated period and registered an increase in their import volume of 90% in said period; 13% of the towers of that height were 14% below the national price;

- ii. Regarding the 112 m high towers , the total of the investigated imports registered prices 6% below the national price of the quotation of the same height in the investigated period;
 - iii. Likewise, the national prices of the 112 m shares registered a decrease of 16% in the investigated period, as a result of the undervaluation levels of 6% of the Chinese towers;
 - iv. 85% of Chinese imports of 120 m towers presented lower prices by 13% with respect to the national price of the same height in the investigated period;
 - v. the total volume of imports of 125 m high wind towers , originating in China, was 3% below the national price in one of the 125 m high prices ;
- saw.** The investigated imports of wind towers with a height of 80 m , 112 m , 120 m and 125 m that registered prices lower than the national price, are representative of the investigated imports that correspond to the wind towers of the heights described, since together they contributed 76% of the volume of said imports in the investigated period, while in relation to the total imported volume originating in China they accounted for 67% in the same period, and
- vii. the price of nationally manufactured 80 m high wind towers decreased 4% in the analyzed period, derived from a 4% decrease in the August 2016-July 2017 period and 0.4% in the investigated period; On the other hand, the price of 93 m high wind towers decreased 10%, 2% and 9%, respectively, in the same periods. The sales volume of the 80 m and 93 m high wind towers represented 79% of the domestic sales of the domestic industry during the period analyzed.
- d.** In the investigated period, the average export price at the plant level of the producer-exporters was below the average price at the LAB plant level of the national product by 7%, 28%, 5%, 29% and 7% for the 80 m , 93 m , 112 m , 120 m and 125 m high wind towers , respectively. This implied an undervaluation of 11% on average in said period.
- and.** The Requesters were forced to decrease their prices during the analyzed period in order to face the unfair competition conditions of the investigated imports; in a context where its production costs grew, so there are sufficient elements to support that the domestic industry faces a situation of deterioration and price suppression. The foregoing indicates that the growth of the domestic price in the investigated period was not sufficient to match the increase in unit operating costs and, therefore, the Requesters showed negative operating results and operating margin in the investigated period.
- F.** In the period analyzed, particularly in the investigated period, the concurrence of the investigated imports had adverse effects on the performance of the relevant economic and financial indicators of the domestic industry; Among the main economic indicators affected are the following: production, production oriented to the domestic market, market share, sales to the domestic market, income from sales to the domestic market, utilization of installed capacity, wages, productivity, operating profits and profit margin. operation. It should be noted that the domestic industry registered relatively low levels of use of its installed capacity (40% in the period August 2015-July 2016, 50% in the period August 2016-July 2017, but 23% in the period investigated), a situation that makes her vulnerable.

g. There are sufficient elements that support the well-founded probability that in the immediate future imports of wind towers originating in China will increase to a level that, given their participation in the domestic market and the prices at which they participated, will increase their participation in the domestic market and further displace the domestic industry, which would aggravate or deepen the damage observed in the period analyzed.

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

K. Compensatory fee

418. In the preliminary stage of the investigation, the Secretariat determined it appropriate to apply provisional countervailing duties to imports of wind towers originating in China, equivalent to the margins of price discrimination. This, on the grounds that it reached a preliminary affirmative determination on the existence of price discrimination and pecuniary injury caused to the domestic industry of wind towers, and considered them necessary to prevent them from continuing to cause injury to the industry during the investigation, in accordance with the provisions of Article 7.1 of the Anti-Dumping Agreement.

419. In the final stage of the investigation, EDG1, Siemens, Vestas, Envision and the producer-exporters expressed their opposition to the imposition of definitive countervailing duties, for the following reasons: i) low production and supply capacity of the domestic market of national producers; ii) there are not enough suppliers of the domestic and imported product; iii) the wind tower industry operates without inventories to meet the future needs of consumers; iv) Countervailing duties imply a barrier to entry into the domestic market, price setting for domestic producers, monopolistic or oligopolistic practices, price distortion, increases in electricity prices, impact on consumers, obstacles to goals and commitments international organizations in Mexico on clean energy production, climate change, sustainable development, and public interest in the environmental factor.

420. The Secretariat considers that the arguments of the appearing parties regarding the negative effects that the application of countervailing duties could cause in the domestic market are inadmissible, since the eventual imposition of countervailing duties is only intended to restore fair conditions of competition and correct the distortion in prices generated by the concurrence of imports to the domestic market under conditions of price discrimination and not for other purposes.

421. EDG1, Siemens, Vestas, Envision and producers-exporters pointed out that if the Secretary determines appropriate to impose compensatory quotas definitivas, éstas should be or what to heights that made domestic production and imported in the analyzed period, which must be less than the price discrimination margins. They indicated that this is justified for the following reasons: i) in the analyzed period, no import or domestic sales operations were recorded for all the heights of the wind towers that competed in the domestic market, and ii) the compensatory quotas should not be excessive or have a negative impact on the consumer and the generation of renewable energy. Therefore, the producer-exporters proposed a margin of price discrimination between 3% and 8%.

422. For their part, the Requesters indicated that the countervailing duties must be confirmed at the levels of the price discrimination margins of each producer-exporter in China, in order to safeguard the domestic production plant from unfair practice. They indicated that the global pandemic caused by the COVID - 19 coronavirus has generated an inventory crisis in the Chinese market in its steel sector, which has impacted on the investigated product that uses steel as the main raw material and pressured Chinese exporters to increase its exports of wind towers, which will exacerbate the unfair practice in the

future and will eventually eliminate the remedial effect of countervailing duties lower than the margins of price discrimination.

423. To support the foregoing, the Requesters provided the following: i) an estimate of the effect of a compensatory fee lower than the price discrimination margins, considering the undervaluation levels indicated in the Preliminary Resolution for the 80 m towers , at From which, they indicated that inadequate profit margins would persist and below those observed before the period investigated; ii) a letter from Arcosa Inc., indicating its profit margins in the wind tower segment in the United States market, and iii) two articles from the Southeast Asian Iron and Steel Institute (SEAISI South East Asia Iron and Steel Institute) and Worldsteel on the problem of excess steel production in China and the global effects of the global pandemic caused by the Coronavirus.

424. The Secretariat reviewed the estimate submitted by the Requesters to support their request for countervailing duties not less than the margins of price discrimination , and considered that it is inadmissible and lacks support for the following reasons: i) it is based solely on the 80 m high towers , so it does not cover the entire universe of domestically manufactured towers in the period analyzed, and ii) the sole manifestation of the profit margins of its parent company in the United States, by itself, does not it can be considered as representative of normal profit margins in the wind tower industry.

425. In this regard, the Secretariat considers that the purpose of the countervailing duties is not to inhibit competition in the domestic market, but to correct the harmful effects of imports under conditions of price discrimination and to reestablish fair conditions of competition; Therefore, in accordance with the provisions of Articles 9.1 of the Anti-Dumping Agreement and 62, second paragraph of the LCE, the Secretariat evaluated the feasibility of applying a countervailing duty lower than the price discrimination margins, in an amount sufficient to restore the fair conditions of competition and eliminate the injury to the domestic industry.

426. For this purpose, the Secretariat considered the average normal value validated in the final stage of the investigation to calculate the price discrimination margin as a non-injurious price, and compared it with the average price at which the investigated imports were made during the investigated period, to calculate the amount of the compensatory fee.

427. Consequently, the Secretariat determined that the application of a final countervailing duty of 21% would be sufficient to eliminate the injury faced by the domestic industry from the concurrence of imports of wind towers originating in China, in accordance with provided for in articles 9.1 of the Anti-Dumping Agreement and 62 second paragraph of the LCE.

428. 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

429. The investigation procedure in matters of unfair international trade practices, in its modality of price discrimination, is declared closed and a definitive compensatory quota of 21% is imposed on imports of wind towers originating in China, regardless of the country of origin. origin, entered through tariff section 8502.31.01 of the TIGIE, or any other .

430. Based on article 87 of the LCE, the compensatory fee will be applied to the customs value declared in the corresponding petition.

431. It is the responsibility of the Ministry of Finance and Public Credit to apply the compensatory quota referred to in point 429 of this Resolution throughout the national territory.

432. 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 it 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 establishing the rules for determining the country of origin of imported merchandise and the provisions for its certification, in the matter of countervailing duties) published in the DOF on August 30, 1994, and its modifications published in the same broadcasting body November 11, 1996, October 12, 1998, July 30, 1999, June 30, 2000, March 1 and 23, 2001, June 29, 2001, September 6, 2002, May 30, 2003 , July 14, 2004, May 19, 2005, July 17, 2008 and October 16, 2008.

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

434. Communicate this Resolution to the SAT for the corresponding legal effects.

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

Mexico City, September 21, 2020.- The Secretary of Economy , **Graciela Márquez** Colín.- Signature .