

TRADE DEFENSE INSTRUMENTS

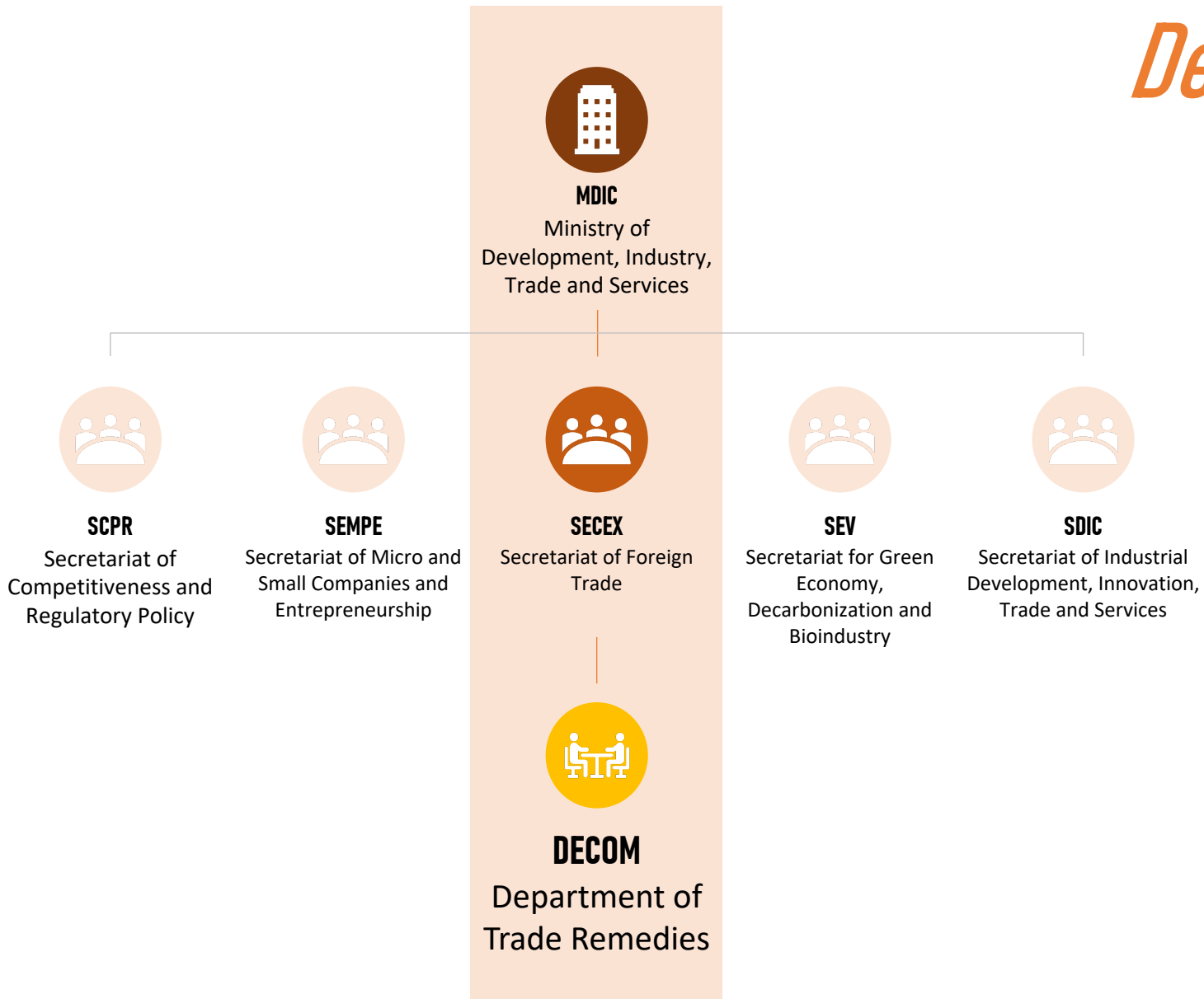
BRAZIL

2023

01

Decision-making Process

Decision Making Process

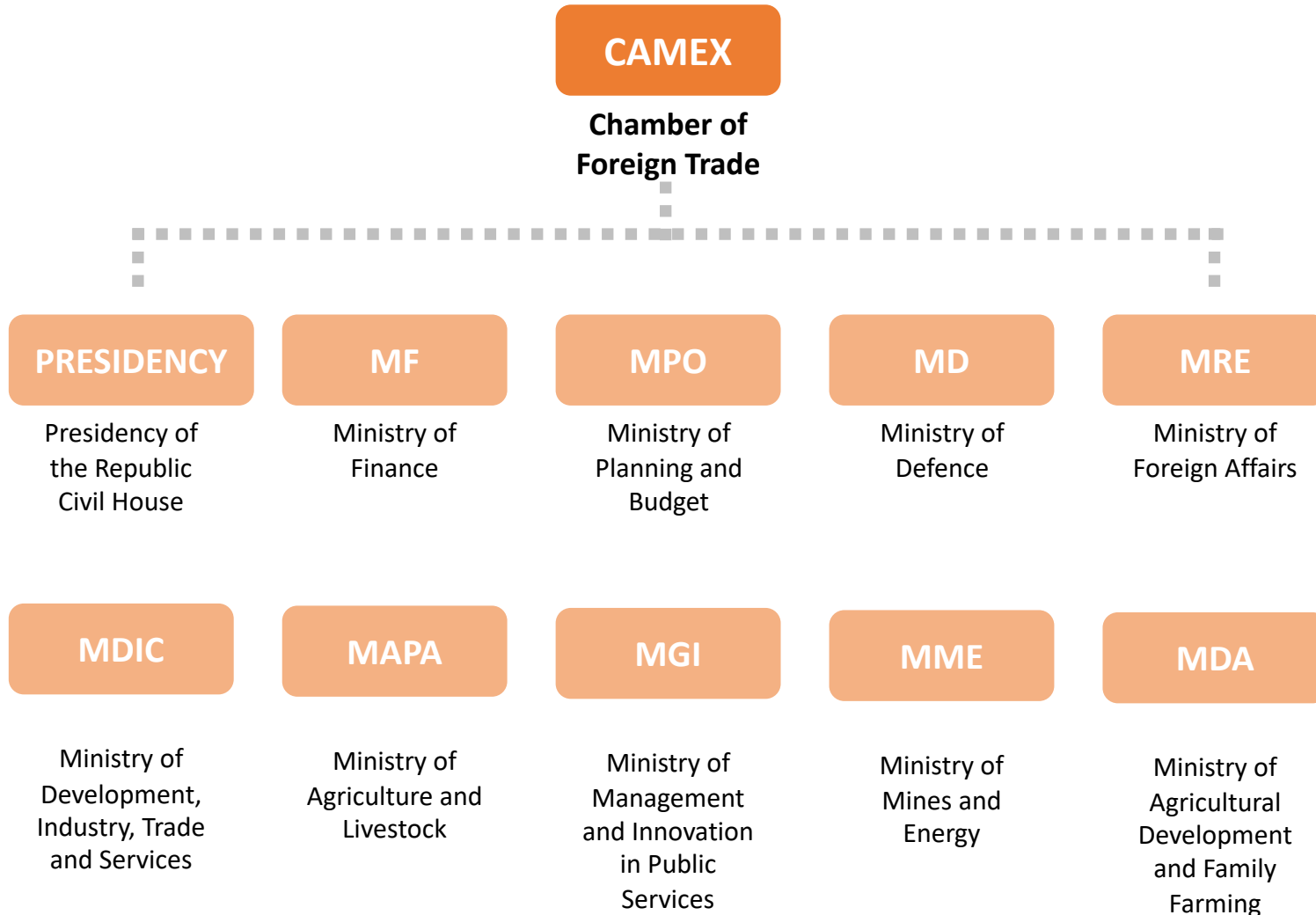


DECOM is the authority responsible for conducting trade remedy investigations and public interest assessment.

In trade remedy investigations, DECOM determines (i) dumping/subsidies; (ii) injury; and (iii) causal link.

In public interest assessment, DECOM analyses factors such as alternative supply sources, barriers on trade, shortage risk, product substitutability; impacts on supply and consumption chain, impacts on well-being etc.

Decision Making Process



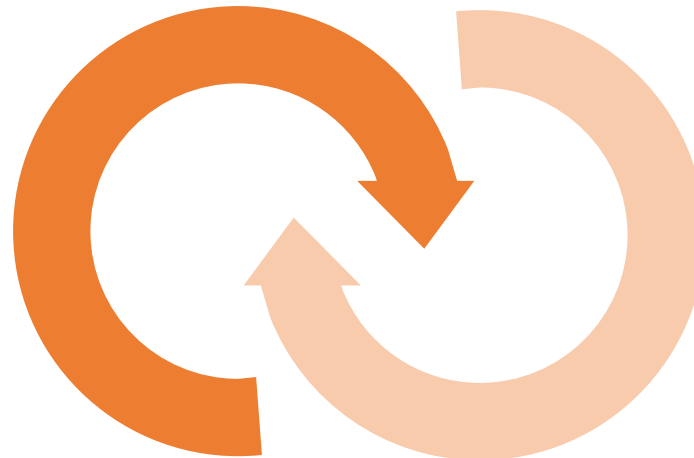
- DECOM's conclusions and proposals are forwarded to the Chamber of Foreign Trade (CAMEX), which is composed of 10 ministries.
- CAMEX is responsible for applying trade remedy measures.
- The Chamber also has the power to intervene or not in trade remedy measures (not to apply/suspend/modify) on grounds of public interest.

Decision Making Process

TRADE REMEDIES

Dumping/subsidies, injury and causal link: DECOM's exclusive competence.

CAMEX cannot analyze or decide differently from DECOM.



PUBLIC INTEREST

Technical recommendation by DECOM.

Political assessment by CAMEX.

CAMEX has the final say on public interest.



Public Interest Regulation in Brazil

2019/2020

- Analyses realized by trade remedies investigating authority
- Public Interest analyses in parallel to trade remedies investigations
- Very complex analyses focused specially on the economic impacts of trade remedies measures
- PIA take 12-18 months
- Competition Brazilian Authority Participation
- Public Interest Analyses mandatory in all trade remedies investigations

Diagnosis

Before 2019	VS	After 2019
<ul style="list-style-type: none">✓ Stronger trade remedies system✓ Lower burden on interested parties✗ Lack of metrics or generic ones for PIA✗ Opposing views (MDIC x MF)		<ul style="list-style-type: none">✓ Clearer metrics for PIA✓ Centralized analysis (TR and PI)✗ Analysis too complex✗ Higher burden on interested parties (simultaneous processes)✗ Weaker trade remedies system

Working on New Public Interest Regulations

Simplification

Start after the AD/CVD measure is imposed/reviewed

Not mandatory

Objectivity

Process procedures designed to last for a short period of time.

Strengthening

Highlighting the exceptional nature of the public interest analysis

02

Market *distortion*

Multilateral provisions - *hypotheses*



WTO accession protocols

The accession protocols of China and Vietnam to the WTO allow the calculation of normal value based on prices and costs not obtained from their respective domestic markets if it can be demonstrated that market economy conditions do not prevail in the industry producing the like product.

In subsidy investigations, benchmarks from outside these countries can be used to calculate the benefit.



PMS

If there is a particular market situation impairing a proper comparison between the normal value and the export price, alternative methodologies can be used to calculate normal value (ADA, article 2.2).

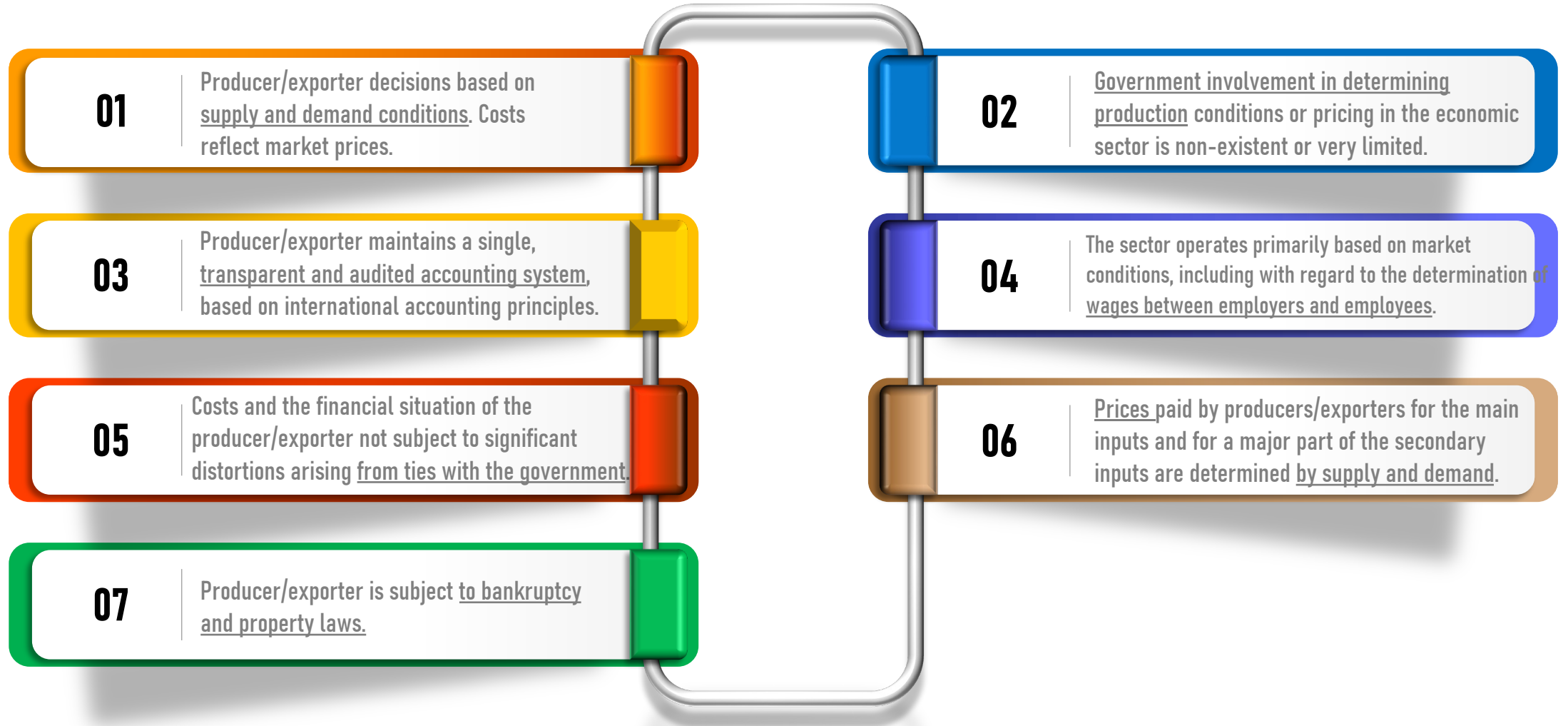
No similar provision in the ASCM.

Multilateral Provisions – *accession protocols*

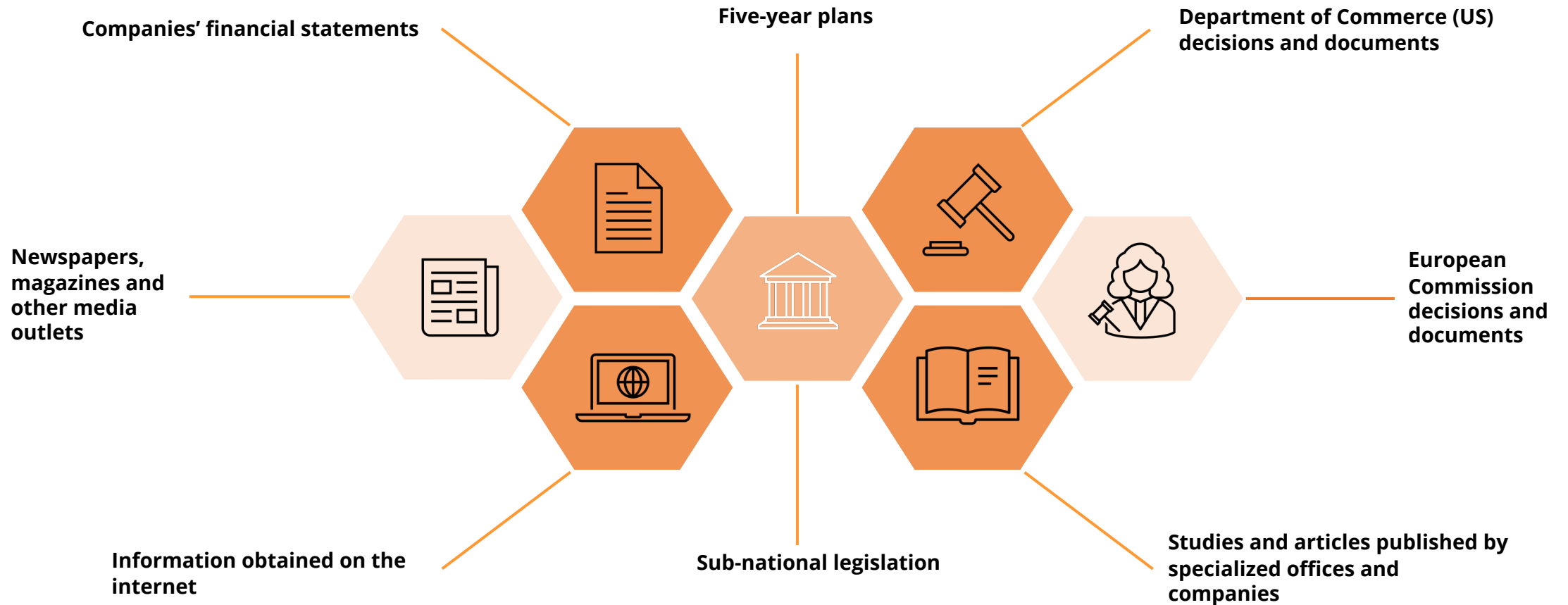


- Currently, Brazil does not adopt *juris et de jure* presumption of market distortion for any country.
- However, for countries whose WTO accession protocol provided for different treatment, the domestic industry can prove the existence of market distortions in the specific industrial sector producing the PUI/like product.
- In this case, Brazil can use alternative methodologies to calculate the normal value or the subsidy benefit.

Domestic provisions – *There is no market distortion when*



Experience - *Distortion evidences*



Distorted sectors – previous decisions

Citric Acid

Steel Sector



Optical Cables



Distorted sectors – previous decisions

Steel Sector

Tyres



Citic Acid



Distorted sectors – previous decisions

Tyres

Optical Cables

Steel Sector



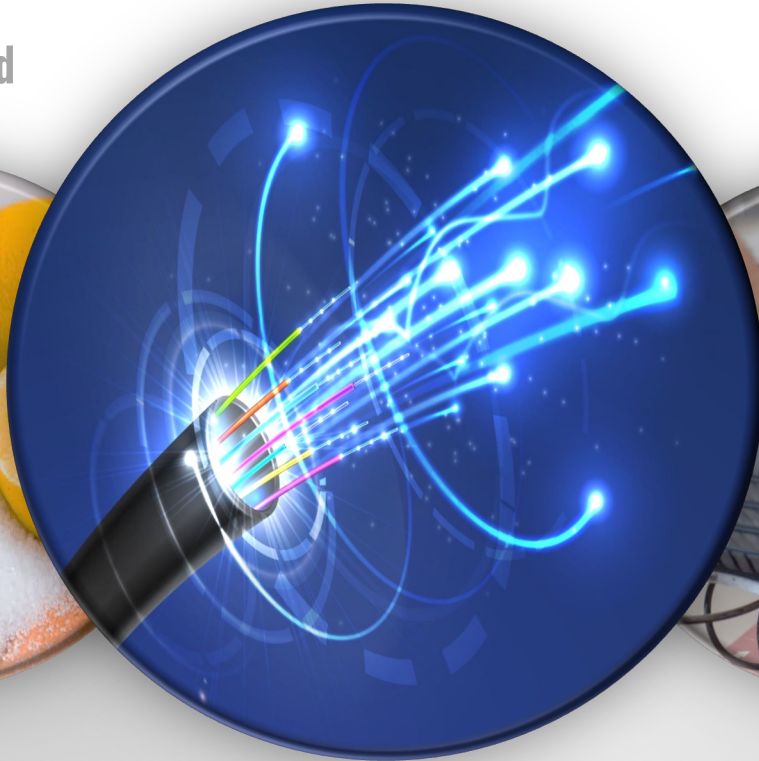
Distorted sectors – previous decisions

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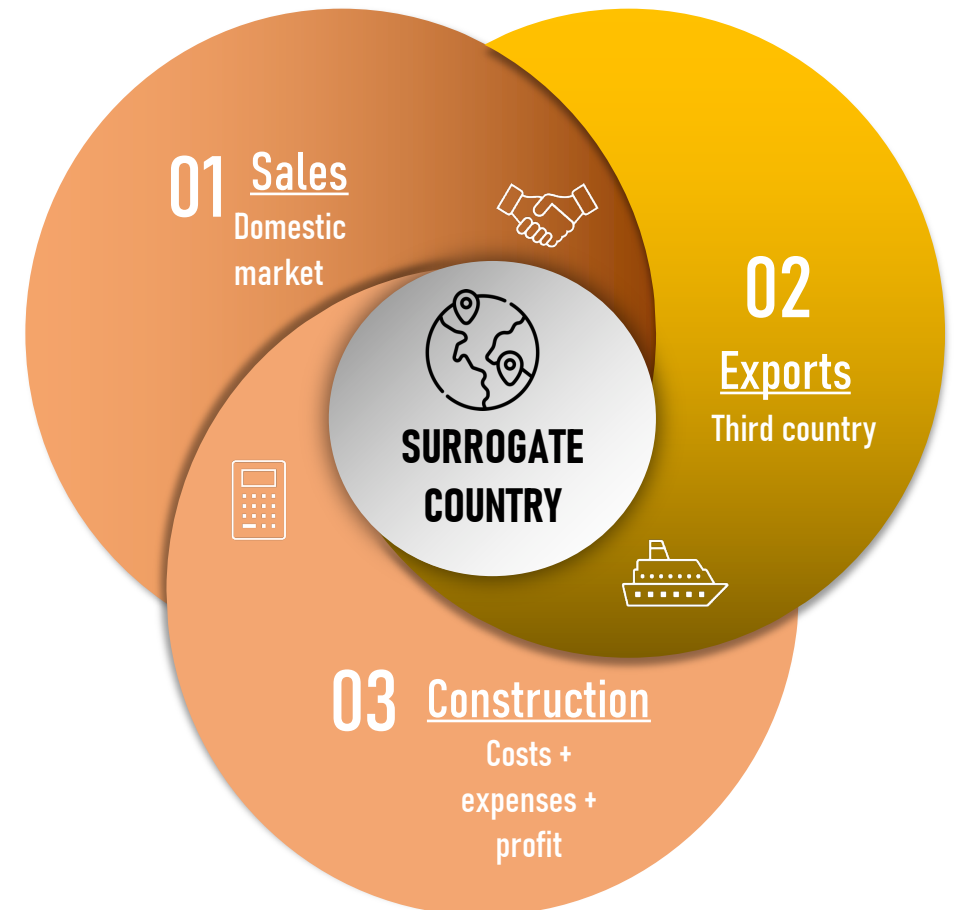
Tyres



Domestic provisions – *NME treatment*

If the domestic industry can prove that market economy conditions do not prevail in the specific industrial sector producing the PUI/like product, normal value can be calculated according to one of the following methodologies:

- I. the sale price of the like product in the surrogate country;
- II. the constructed value of the like product in surrogate country;
- III. the export price of the like product from the surrogate country to other countries, except Brazil; or
- IV. where none of the cases above is feasible and provided it is duly justified, any other reasonably determined price, including the price paid or to be paid for the like product in the Brazilian domestic market, properly adjusted, if necessary, to include a reasonable profit margin.



Domestic provisions – *surrogate country*



Exports

Volume of exports to Brazil and to main consumer markets



Sales

Sales in the domestic market of the surrogate country



Similarity

Between the PUI and the like product sold by the surrogate country



Data

Availability and breakdown of the statistics necessary for the investigation



Adequacy

Of the information presented in relation to the characteristics of the investigation

Particular market situation



Lack of Experience

Brazil has not used PMS in a lot of cases.



Observation

Brazil has been closely observing how other members have been using this possibility.



New World Scenario

Considering new ways of market distortions that have been emerging, PMS has been seen as an option to deal with it.



Alleged PMS

Several situations have been treated as PMS: wars, crossed subsidies, export restrictions, Government influence

THANK YOU!

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