

FINANCE MINISTRY

FEDERAL REVENUE SERVICE SECRETARIAT OF BRAZIL

REGULATORY INSTRUCTION No. 1.181 OF AUGUST 17th, 2011

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Establishing the procedure for the verification of customs conformity applied to foreign operator.

THE SECRETARY OF FEDERAL REVENUE SERVICE OF BRAZIL, in the use of the allocation which gives him the [item III of article 273](#) of Federal Revenue Service Secretariat of Brazil bylaw, approved by [Finance Ministry Ordinance no. 587 of December 21st, 2010](#), and with a view to the provisions of [articles 568 and 578 of Decree no. 6.759 of February 05th, 2009](#), determine:

Article 1º - It is set up the procedure for the verification of customs conformity applied to foreign operator, aiming at exemption of the application of special procedures for import control.

Article 2º - For the effects of this Regulatory Instruction, understand that:

I – verification of customs conformity: is the administrative procedure whereby Federal Revenue Service Secretariat of Brazil (RFB) proceeds to product analysis and production process and recognizes the attending, by the foreign operator, of the criteria and requirements related to the import control for goods which can be submitted to special control procedures, including those established in [Regulatory Instruction RFB no. 1.169 of June 29th, 2011](#);

II – foreign operator: is the producer, the manufacturer or the exporter grounded in other countries, member of the imported goods supply chain; and

III – product analysis and production process: is the procedure whereby RFB assess the production process of the foreign operator in order to check the conformity of criteria and rules from origin, tax classification of goods, customs valuation, technical norms and other requirements for the importation of goods.

§ 1º - Membership is voluntary in nature.

§ 2º - The no-membership or the rejection of the application request does not prevent the foreign operator to export goods to Brazil.

Article 3º - The verification of customs conformity for dealing with this Regulatory Instruction may include, among others, the following aspects:

I – proof of existence in fact and law of the foreign operator and recognition of their controllers and administrators;

II – proof of productive capacity declared itself or its suppliers;

III – proof of production process for the purpose of compliance with origin rules of exported goods;

IV – assessment of production costs, expenses and adding value margin;

V – identification of raw materials and other goods aspects in order to allow the correct tax classification of goods exported to Brazil; and

VI – specification of commercial brands and legitimate copyright used in the goods exported to Brazil.

Single Paragraph – All information and documents received by RFB for purpose of verification process will be treated as confidential and will be used only and exclusively for the purposes specified in this Norm.

Article 4º - The foreign operator membership may be requested through any of its importers in Brazil provided that request being accompanied by following documents:

I – formal request identifying establishments, products and production processes related to goods you intend to include in verification of customs conformity;

II – nominating persons provided a focal point of the foreign operator in the country of location of the establishment in order to receive and reply communications from RFB;

III – instrument granting powers to brazilian importer to represent foreign operator before the RFB;

IV – copy of incorporation instrument of the company of producing country or exporter and copy of the official registry in accordance with its legislation;

V – list of members or controllers and their addresses;

VI – company's organization chart and identification of its administrators;

VII – identification of the responsible for the request and his qualification (position or function) for the foreign operator;

VIII – list of production and storage facilities (own or third-party), with their addresses, identification of geographic location, pictures and movies, including production lines and its capacity;

IX – if existing, copy of licenses and certificates issued by the competent entities or public agencies in the country for the operation of production facilities;

X – approval term by foreign operator, allowing RFB to carry out visits to storage and manufacturing establishments, own or its suppliers for the purpose of knowledge of production process and facilities;

XI – term of commitment to support RFB representatives in obtaining a visa to enter the country that will be visited;

XII – term of commitment to provide:

a) interpreter for the RFB representatives during the time of stay in the country;
and

b) transportation, in the country to be visited, to shift back and forth between the local host and local facilities as well as to visit entities and public agencies;

XIII – commitment to get approval of suppliers to RFB representatives be visiting their facilities;

XIV – list of commercial brands used in goods exported to Brazil, per product; and

XV – list of copyrights related to goods exported to Brazil and their authors or agents of those who acquired.

§ 1º - The foreign written documents must be translated to portuguese language by official translator and, if issued in the country, must also be stamped by brazilian diplomatic representation.

§ 2º - The requirement this *head* referred to must be presented in RFB unit referred in article 5º.

Article 5º - Analysis and decision about the verification referred in this Regulatory Instruction must be held by RFB unit which is responsible for overseeing tax on foreign trade under jurisdiction over the domicile of the importer that submit the requirement, or by another unit designated by Superintendent of Federal Revenue Service of Brazil in the fiscal region of the same jurisdiction.

§ 1º - Analysis referred in this *head* must contemplate the following steps:

I – preparation and possible reorganization of the process with regard to their proper instruction;

II – evaluation of information and documents;

III – preparation of final report about customs conformity of the foreign operator;
and

IV – communication to the importer and the foreign operator about decision of their requirement.

§ 2º - In the evaluation process of the requirement, the customs supervision may request directly to foreign operator the following additional information:

I – description of the production process and raw materials used;

II – description of raw materials, parts and original packaging, identification of suppliers, their addresses or locations of their areas or production units;

III – description of raw materials, parts and packaging not from the country and identification of its countries; and

IV – Schedule of costs, expenses and prices in the form of the Single Attachment of this Regulatory Instruction.

§ 3º - In case of positive compliance, the head of customs unit shall declare the compliance of the foreign operator through the Executive Declaratory Act (ADE) that will be valid throughout the national territory, specifying:

I – the country of origin of goods;

II – locations of production areas, production and storage plants documented in the process;

III - locations of production areas, production and storage plants subject to verification on site, if this is the case;

IV – products under analysis, tax classifications and their descriptions; and

V – commercial brands used and holders of copyrights, if applicable.

§ 4º - The findings, in consultation with the customs system “RADAR import/export registration” about the involvement of the foreign operator in irregularities related to fraud in import operations registered in Brazil, prevents the compliance declaration.