

Statute No. 12546 OF DECEMBER 14, 2011.

THE PRESIDENT OF THE REPUBLIC I hereby make known that the National Congress has decreed and I sanction the following Statute:

Article 28. The rules of origin provided for in the Agreement on Rules of Origin of the 1994 General Agreement on Tariffs and Trade (GATT), approved by the Legislative Decree N° 30 of December 15th, 1994, and promulgated by Decree N° 1355 of December 30th, 1994, shall be applied exclusively to instruments of non-preferential trade policies in a consistent, uniform, and impartial manner.

Article 29. Trade remedies investigations under the direction of the Trade Remedies Department (Departamento de Defesa Comercial – DECOM) of the Foreign Trade Secretariat (Secretaria de Comércio Exterior – SECEX) of the Ministry of Development, Industry, and Foreign Trade (MDIC) shall be based on the declared origin of products.

§ 1. The application of trade remedies measures shall be imposed through a specific act of the Foreign Trade Chamber (Câmara de Comércio Exterior – CAMEX), for which purpose no additional investigation shall be conducted beyond that provided for in the heading.

§ 2. Notwithstanding the fulfillment of the requirements established in this Statute, the application of trade remedies measures prescribed in article 10-A of Law N° 9019 of March 30th, 1995, may be extended to products of origin distinct from that on which the trade defense measure referred to in § 1 of this article is based.

Article 30. Where the application of trade remedies measures is established through a specific CAMEX act on the basis of product origin, the amount owed shall be collected by the Brazilian Federal Revenue Secretariat (Secretaria da Receita Federal do Brasil), pursuant to the rules of non-preferential rules prescribed in articles 31 and 32 of this Statute.

Article 31. Based on the criteria provided for in international acts to which Brazil is a party, country of origin of a good means the country in which such good is produced or, in the case of a good manufactured using materials or labor from more than one country, the country in which substantial transformation of such good is performed.

§ 1. For the purpose of articles 28 to 45 of this Law, produced goods are defined as follows:

I – products wholly obtained, herein understood as:

- a) plant products extracted within the territory of the country;
- b) living animals born and raised within the territory of the country;
- c) products obtained from living animals within the territory of the country;
- d) goods obtained from hunting, trap capture, or fishing activities performed within the territory of the country;
- e) minerals and other natural resources not included in itens “a” to “d” extracted or obtained within the territory of the country;
- f) fish, crustaceans, and other marine species obtained from the ocean outside the country of origin’s exclusive economic zone by vessels registered or enrolled therein and authorized to fly the country’s flag or by vessels leased or freighted by companies based within the territory of the country;
- g) goods produced on factory ships, for the products identified in “d” and “f” of this subsection, provided such floating factories are registered or enrolled in the country of origin and authorized to fly such country’s flag or are operated on vessels leased or freighted by companies based within the territory of the country;

h) goods obtained from the seabed or marine subsoil by a legal entity from the country, provided the country exercises rights over exploration of the corresponding seabed or marine subsoil; and

i) goods obtained from outer space, provided such goods are obtained by a legal entity or natural person from the country;

II – products fully manufactured within the territory of the country, where the manufacture of such products is based solely and exclusively on materials originating from the said country.

§ 2. For the purpose of articles 28 to 45 of this Statute, substantial transformation means production processes using materials not originating in the country that result in a new and different good, defined as their classification in a different tariff position (first four [4] digits of the Harmonized System of Designation and Codification of Goods – HS) than the respective materials, except as provided for in § 3 of this article.

§ 3. Products resulting from operations or processes performed in a country's territory through which such products acquire their final form, for commercialization, shall not be deemed to have originated in the exporting country when the respective operations or processes involve the use of materials or inputs not originating from the said country and consist solely in the assembly, packaging, fractioning in lots or volumes, selection, classification, marking, composition of assorted goods, or simple dilution in water or another substance that does not alter the characteristics of the original products or other equivalent operations or processes, even where such operations lead to changes in the product classification up to the 4th digit level.

Article 32. The Executive Branch shall determine all specific non preferential origin criteria.

Sole Paragraph. The specific requirements established pursuant to the heading shall prevail over those prescribed in article 31 of this Statute.

Article 33. The Brazilian Federal Revenue Secretary and SECEX shall verify, within the scope of their jurisdictional authority, non preferential origin based on the authenticity, veracity, and compliance with the specifications provided for in article 28 to 45 of this Statute or its regulations.

Article 34. Proof of origin shall be verified through presentation of the required information by the exporter/producer or the importer, including:

I – location of the producer's establishment;

II – operating capacity;

III – manufacturing processes;

IV – underlying raw materials; and

V – percentage of non originating inputs used in the obtainment of the product.

§ 1. Presentation of the information referred to in the heading does not exclude the possibility of investigations or inspections in the producer's or exporter's establishment.

§ 2. The Executive Branch may establish additional proof of origin procedures or requirements, as well as the manner, deadline for submission, and content of the pertinent documents required for verification of origin.

Article 35. The importer is jointly liable for the information submitted by the exporter/producer in connection with the specific products imported thereby.

Article 36. SECEX exercises authority to verify non-preferential origin following a complaint or notification submitted during the import licensing phase.

Article 37. Failure to provide proof of the declared origin will result in rejection of the import license by SECEX.

§ 1. Following the rejection of the import license for a given good, SECEX shall extend the respective measure to the imports of identical goods from the same exporter or producer until compliance with the rules of origin is duly shown.

§ 2. SECEX shall extend the respective measure to the imports of identical goods from other exporters or producers from the same country or other countries found to be in noncompliance with the applicable rules of origin.

Article 38. Import licenses for products subject of verification shall only be granted following completion of investigation procedures duly demonstrating the declared origin.

Article 39. The Brazilian Federal Revenue Secretary exercises authority to verify non preferential origin in the course of customs clearance procedures or during the performance of customs enforcement activities initiated following customs clearance and to impose, where applicable, the monetary fines prescribed in this Statute.

Article 40. In the case of imported products submitted to quantitative restrictions, where the declared origin is not attested, the importer is required to return the respective products abroad.

Sole Paragraph. The importer shall bear the costs from the restitution abroad of the products referred to in the heading.

Article 41. Without prejudice to the determination of abandonment, pursuant to article 23, subsection II, of Decree-Law No. 1455 of April 7, 1976, during customs clearance the import of products subject to quantitative restrictions shall be subject, where the declared origin is not attested, to a fine in the amount of five thousand Brazilian reais (R\$ 5,000.00) per day, counted from the date of registration of the Import Declaration through the date of effective restitution abroad of the products in question.

Article 42. Except as provided for in article 41 of this Statute, failure to provide proof of non preferential origin shall subject the importer to a fine of thirty percent (30%) of the declared customs value of the goods in question.

Article 43. The application of penalties relating to proof of origin does not affect the temporary or permanent collection of antidumping or countervailing measures or, further, safeguard measures by the Brazilian Federal Revenue Secretary.

Article 44. SECEX and the Brazilian Federal Revenue Secretary shall notify each other in writing of the establishment and completion of all investigations of non preferential origin, ensuring, furthermore, such investigations are conducted in a coordinated manner.

Sole Paragraph. In case a public agency initiates an investigation of a particular product and company previously subject to investigation by another public agency, the information obtained by the latter agency and its conclusions shall be taken into consideration for purposes of the current investigation.

Article 45. SECEX and the Brazilian Federal Revenue Secretary shall issue, within the scope of their jurisdictional authority, the complementary regulations required for execution of articles 28 to 44 of this Statute.