



# Anti-counterfeiting - New Interpretation of Brazilian IRS Reduces Costs, Increase Predictability, and Strengthens Enforcement

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*New guidance standardizes procedures, reduces costs, and prevents the improper release of counterfeit goods.*

For years, anti-piracy efforts in Brazil were hindered by an internal divergence within the Federal Revenue Service (RFB). When faced with suspicious shipments, some customs auditors applied the administrative procedure, while others required the trademark owner to file a lawsuit in order to maintain the detention of the goods.

These two coexisting, uncoordinated interpretations created an environment of deep unpredictability. For sectors facing large-scale counterfeiting, the lack of uniformity resulted in significant operational losses and widened the competitive advantage of criminal groups exploiting systemic gaps.

The publication of Interpretative Declaratory Act No. 3/2025 — symbolically released on Brazil's National Day Against Piracy and Biopiracy — resolves this distortion. The Act states that counterfeiting harms legally protected interests of a public nature and that, therefore, the Federal Revenue may carry the administrative procedure through to forfeiture even without judicial intervention, provided that the rights holder submits technical evidence indicating the infringement.

For victims of this crime and for professionals working in the field, the change is historic. It made little sense for anti-piracy enforcement to depend on the victim's financial ability to sustain judicial measures that should be the exception, not the rule.

The new Act also responds to a longstanding demand from the legal community dedicated to intellectual property protection. Brazil needed a uniform interpretation capable of treating identical situations consistently and providing legal certainty to importers, rights holders, and to the State itself.

This modernization brings Brazil closer to models adopted in the European Union and the United States, where customs authorities conduct most seizures administratively, relying on technical reports and information provided by rights holders. This approach is more efficient, less costly, and prevents dangerous products from entering the market.

By standardizing procedures, the Federal Revenue eliminates an interpretative asymmetry that previously benefited operators of counterfeit goods. And by recognizing the public-interest relevance of counterfeiting, it modernizes the State's position and aligns it with international best practices.

Brazil now stands before a reform that lowers costs, increases effectiveness, and restores rationality to the oversight process. In sectors such as electronics, toys, and auto parts — highlighted by the National Forum Against Piracy as leaders in seizures — the resulting procedural predictability is expected to have an immediate impact on reducing the flow of illegal goods.

Ultimately, the Act marks a new era of coordinated action between the private sector and the State. A change that arrives late, but certainly at the right moment.

### **Montaury Pimenta, Machado & Vieira de Mello** - David Fernando Rodrigues

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