

**RESOLUTION ANP No. 38, DATED 11.13.2007**

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The DIRECTOR-GENERAL of the NATIONAL AGENCY OF PETROLEUM, NATURAL GAS AND BIOFUELS – ANP, exercising the powers vested in him by law and in view of deliberation pursuant to Board Resolution no. 656, dated November 9<sup>th</sup>, 2007, referring to Local Content Clause in Concession Agreements for Exploration, Development and Production of Oil and/or Natural Gas, entered into the ANP and the concessionaires from 2005 on, and

Whereas from Brasil Round 7 – which was held in 2005 – on, the ANP introduced new rules and requirements for the fulfillment of the contractual Local Content;

Whereas the clause from aforementioned agreement establishes that concessionaires' commitment as for the local acquisition of goods and services shall be proved with the ANP upon presentation of Local Content Certificates;

Whereas the clause from aforementioned agreement establishes that concessionaires shall request suppliers of goods and services to provide due certificates of their products and suppliers may, in addition and on its own initiative, seek certification for their products beforehand;

Whereas the clause from aforementioned agreement establishes that certification activities shall be executed by entities duly qualified and accredited by the ANP, based on previously defined criteria by the Agency itself;

Whereas the clause from aforementioned agreement establishes that the ANP shall implement a Local Content Certification system and shall carry out periodical auditing in accredited entities, decides:

**Art. 1.** Regulation ANP no. 8/2007, which establishes the criteria and procedures for Audit in Certifying companies for Local Content of goods and services.

**Art. 2.** The following documentation is part of this Resolution:

- a) Regulation for Audit of Local Content Certification
- b) Annex I – Notification of Beginning of Audit
- c) Annex II – Auditor's Opinion
- d) Annex III – Warning Notice

**Art. 3.** This Resolution comes into force 150 (one hundred and fifty) days after its publication.

*HAROLDO BORGES RODRIGUES LIMA*

## ANNEX

REGULATION ANP No. 8/2007

### REGULATION FOR AUDIT OF LOCAL CONTENT CERTIFICATION

#### 1. OBJECT

1.1 This document establishes criteria and procedures to be observed in audits to be executed by the ANP in accredited companies that certify Local Content of goods and services.

#### 2. AIM

2.1 To complement Regulation of Local Content Certification and provide the ANP with mechanisms to effectively and properly execute the control over certification activities and, consequently, assessment of Local Content, established in concession agreements entered into between the ANP and Concessionaires, from the Brasil Round 7 on.

#### 3. DEFINITIONS

3.1 For the purposes of the provisions of the present Regulation, the terms are defined as follows:

**“Accreditation”**: act through which an entity is accredited by the ANP to execute Local Content Certification of goods and services used in activity areas within the accredited scope, upon compliance with all required documentation and inspections performed.

**“Accredited Representative”**: individual with employment relationship with, and power-of-attorney from the entity to represent it in every act or document in the relationship with the ANP, involving the activities of Local Content registration, accreditation, certification and auditing.

**“Accredited Scope”**: set of goods and services that comprise one or more activity areas for which the entity obtained accreditation with the ANP to perform activities of Local Content Certification.

**“Auditor Opinion”**: document through which the auditor expresses his/her opinion in a clear, objective way, about the activities and inspections performed in the auditing.

**“Certifier”**: entity duly registered and accredited by the ANP to perform activity of Local Content Certification.

**“Commercialization Value”**: amount of the operation (sale, rent, lease, etc) of the product after tax deduction (ISS, IPI and ICMS).

**“Compliance”**: fulfillment of a requirement.

**“Component, Piece or Part”**: elementary part (element or portion) of some equipment or machine. Part or piece of an indivisible whole. Each one of the parts or elements of an assembly, a mechanism, a machine or equipment.

**“Consumables”**: all materials which are not incorporated to the product, such as fuels, explosives and lubricants.

**“Cost of Use of Local Labor in Services Index (ILs)”**: percentage which corresponds to ratio between the total cost of own or outsourced local labor necessary or effectively used in the execution of the service in relation to the total cost of own or outsourced local labor necessary or effectively used in the execution of the complete service;

**“Critical Non-Compliance”**: unfulfillment which implies absence of, or failure to implement and keep one or more required elements for the execution of activity of Local Content Certification, or a situation which may, based on available evidence, generate material doubt as for the credibility of documents sent for the purposes of accreditation.

**“Effectively Used Labor”**: it is the labor effectively used to execute a certain service;

**“Evaluation”**: measurement procedure to effect control, through comparison between the amounts observed and correspondent established by law or contract.

**“Extension of Accreditation”**: act by which the ANP, upon request by interested party, includes one or more activity areas to the accredited scope of a certain certifier, after necessary analysis and inspection process.

**“Goods for temporal use”**: goods used upon rent agreements, charter party, tenancy, or operational or financial leasing (Commercial Lease), etc.

**“Inspection”**: set of activities carried out by the ANP, during accreditation process, to verify “*in loco*” if applicant entity operates in compliance with submitted and required documentation and facilities.

**“Investments Related to Development Operations”**: amounts expended in goods and services necessary for the development of oil & natural gas production activities, comprising items owned by the concessionaire, acquisitions, chartering and commercial lease.

**“Investments Related to Exploration Operations”**: amounts expended in goods and services necessary for the exploration of a concession, comprising items owned by the concessionaire, acquisitions, chartering and commercial lease.

**“Limitation to Accreditation”**: act through which the ANP unilaterally reduces the areas of accredited scope of a given Certifier.

**“Local Content Certificate”**: document issued by Certifier, according to template made available by the ANP, stating the percentage of Local Content of the good or service hired for measurement.

**“Local Content Certification”**: set of activities developed by an entity dully accredited by the ANP, regardless of commercial relationship aiming at publicly certify, through issuance of a certificate, that a given good or service is in compliance with the requirements established in the Regulations of Local Content Certification.

**“Local Content in Development Phase”**: definition pursuant to concession agreement of respective round.

**“Local Content in Exploration Phase”**: definition pursuant to concession agreement of respective round.

**“Local Content of Goods (CLb)”**: percentage that corresponds to a ratio between:

-the difference between the total commercialization value of a product (excluding IPI and ICMS) and the value of its respective imported portion; and

-its total commercialization value (excluding IPI and ICMS), calculated according to methodology in Local Content Primer.

**“Local Content of Goods for Temporal Use (CLa)”**: for the purposes of evaluation of Local Content related to goods for temporal use, the percentage amount of CLb of the product shall be used, applied to the value of respective contract for use of the product, calculated according to methodology in Local Content Primer.

**“Local Content of Services (CLs)”**: for the purposes of evaluation of Local Content related to Services, ILs shall be applied over the total value of hired service, excluding ISS, calculated according to methodology in Local Content Primer.

**“Local Labor”**: labor deriving from the employment of Brazilian citizens (according to applicable law), or foreigners with a Permanent Visa, employed by service providers, by its subcontractors (which must be enrolled in the CNPJ), or autonomous labor. Foreign individuals, even those with Temporary Visa or Work Permit for Foreigners, as well as those arising out of non-legalized jobs in the Country, shall not be regarded as local labor;

**“Loss of Accreditation”**: penalty imposed to Certifier by the ANP, to be applied in case of recurrence of penalty of suspension, characterized by the interruption of all relationship with the Agency and the resulting impossibility to perform new certifications, pursuant to Auditing Regulations for Local Content Certification.

**“Material”**: set of objects which comprise a work, construction, etc.

**“Necessary Labor”**: estimated or budgeted labor for the execution a certain service;

**“Non-Compliance”**: unfulfillment of a requirement.

**“Reaccreditation”**: act through which an entity, at the end of accreditation effective time, obtain the renewal of the accreditation, resulting from a new and complete evaluation of updated and re-submitted documentation and requirements necessary for the accreditation of the entity as a Certifier.

**“Registration”**: act through which any legal entity may register with the ANP requesting to obtain accreditation in one or more oil & gas exploration and production activity areas to perform Local Content Certification.

**“Replacement Part”**: spare part.

**“Set of Systems”**: the concept of systems (see definition for system) may be extended to larger sets in the universe of activities related to oil and natural gas sectors, without prejudice to the concept of interdependence and chaining of an operation. For instance, when local contents of a platform are aggregated to a drilling/exploration system of one or more wells, the Local Content of a field can be obtained.

**“Software”**: computer program or set of computer programs necessary for the functioning of a product or management and execution of services.

**“Subsystem”**: a system which is an integral part of a larger system. It corresponds, for instance, to offshore platform, tanker or tender vessel modules, among others;

**“Suspension”**: it is the penalty imposed to Certifier, applied in cases of non compliance, as a whole with the requirements in the Notice sent by the ANP to Certifier. The suspension prohibits Certifier to enter into new Local Content Certification Agreements for the time defined in the Auditing Regulations for Local Content Certification.

**“System”**: coordinated and logical union of a group of equipments, machines, independent materials and associated services that, altogether, comprise an intimately related set that works as an organized structured intended for performing specific functions. It corresponds, for instance, to offshore platform, tanker or tender vessel as a whole.

**“Total Cost of Labor”**: it is the total cost arising out of the use of labor directly related to the execution of a service, through salaries and taxes;

**“Total Cost of Local Labor”**: it is the total cost arising out of the use of local labor directly related to the execution of a service, through salaries and taxes.

**“Warning”**: penalty imposed to certifier, applied in case irregularities are verified in the documentation and procedures adopted by Certifier, but that shall not affect the results obtained in the verification of Local Content and which may be remedied.

#### 4. GENERAL PROVISIONS

4.1 Every Certifier must inform and keep updated, with the ANP, complete identification of the following representatives:

- a) Representative of entity with the ANP;
- b) Representative in charge of signature of official documents issued by the entity, such as Local Content Certificate and Quarterly Certification Report;
- c) Representative in charge of signature of certification agreements with the client,
- d) Technical representatives in charge of certification works.

4.2 The ANP keeps at its website updated list of entities registered as Certifiers of goods and services, describing the respective accredited areas.

#### 5. KINDS OF AUDIT

5.1 The ANP shall execute audits in Certifiers aiming at:

- a) Check the regularity and conformity of documentation, procedures and internal processes adopted in certification activities;

- b) Check conformity of documentation and procedures related to certification of a certain product;
- c) Make sure this resolution and Regulation of Local Content Certification are being correctly applied.

#### 5.2 Audits shall be executed:

- a) At any time, observing a minimum of 30 (thirty) calendar days from the date of notification of Certifying entity;
- b) To check compliance with "Warning Notice", according to template of Annex III and item 6.3 in this regulation;
- c) In all completed agreements of Certifying entity which is suspended according to item 6.4 of this regulation,
- d) Whenever there is accusation of irregularity.

### 6. PENALTIES

6.1 The penalties are applied due to non-compliance with certification procedures and unfulfillment of necessary requirements to issue Local Content Certificate and are imposed on Certifying Entity.

6.2 The penalties imposed on Certifying Entity are: warning, suspension and loss of accreditation.

#### 6.3 Warning

6.3.1 Penalty applied in cases where non-compliance is verified in documentation and procedures adopted by Certifying Entity which have no negative results in the assessment of local content and may be remedied.

6.3.2 The warning occurs upon issuance of "Warning Notice", which shall explicitly include measures to be taken by Certifying Entity to correct non-conformities to be corrected.

6.3.3 When warned, entities shall have 30 (thirty) days to execute all corrections required in the Warning Notice. At the end of the term the ANP shall execute new audit pursuant to item 5.2. (b), to check the fulfillment of the requirement and the regular remediation of the non-conformities.

#### 6.4 Suspension

6.4.1 It is the penalty that determines the suspension of Certifying Entity to enter into new certifying activities for a period of 120 (one hundred and twenty) days.

6.4.2 The suspension is applied upon issuance of Assessment Notice in the following cases:

- a) Non-compliance, in its totality, of requirements in the "Warning Notice",
- b) When the non-conformities identified in the "Audit Report" directly affect the results obtained in the certification, that is, the value of Local Content measured by the entity for a certain product results in a different amount from the one measured by the audit.

6.4.3 The charged party bears the right to present defense with the ANP, within 20 (twenty) days from the report. The ANP shall pronounce within 30 (thirty) days.

6.4.4 The suspension is executed upon notification from the ANP, followed by publication of respective act in the Federal Official Gazette. In this case, the ANP shall inform the concessionaries about suspension of Certifying Entity.

6.4.5 During suspension period of Certifying Entity, the agreements in effect shall be fulfilled, without prejudice to the execution of audit by the ANP.

## 6.5 Loss of Accreditation

6.5.1 Loss of accreditation is the penalty imposed on Certifying Entity in case of recurrence of penalty of suspension.

6.5.2 Loss of accreditation is applied upon issuance of Notice de Infraction The charged party bears the right to present defense with the ANP, within 20 (twenty) days from the report. The ANP shall pronounce within 30 (thirty) days.

6.5.3 Loss of accreditation is executed upon notification from the ANP, followed by publication of respective act in the Federal Official Gazette. In this case, the ANP shall inform the concessionaries about suspension of Certifying Entity.

6.5.4 In case of loss of accreditation or extinction of Certifying Entity, all documents related to certifications already executed shall be made available to the ANP, which may appoint another Certifying Entity as depository.

6.5.5 The ongoing agreements at the occasion of Loss of Accreditation shall be extinct, and the contracting company shall execute new agreement with accredited Certifying Entities.

6.5.6 The Certifying Entity that lost accreditation shall not apply for new accreditation for 3 (three) years from the date of publication in Federal Official Gazette.

## 7. AUDIT PROCEDURES

7.1 The audit motivated by any of the reasons described in Item 5.2 of this Regulation shall begin upon delivery of "Notice of Beginning of Audit", according to template in Annex I. This document shall be issued and signed by ANP relevant authority, and it shall contain the scope of audit and its auditors in charge.

7.2 The audit shall begin 30 days after receipt of "Notice of Beginning of Audit".

7.3 The scope of audit shall comprise:

- a) Local Content Certification Contracts, pursuant to item 3 of Regulation of Local Content Certification;
- b) Documentation required for technical qualification, according to Annex III to Regulation for Registration of Entities for Local Content Certification;
- c) Documentation required for legal qualification, according to Annex IV to Regulation for Registration of Entities for Local Content Certification;
- d) Documentation required for financial qualification, according to Annex V to Regulation for Registration of Entities for Local Content Certification,
- e) Update of identification of items 3.6.4 of Regulation for Registration of Entities for Local Content Certification.

7.4 Every audit shall be executed by at least two auditors, permanent members of ANP staff.

7.5 The Certifying Entity is obliged to deliver all documents requested, in the course of the audit, provided that they are pertaining to the scope of audit, and under no circumstance shall auditee hamper the works.

7.6 During checking of procedures and pertaining documentation, in case auditors deem necessary the verification "*in loco*" of any document, process, third-party procedures, or even material, component, part, equipment, machine or services, the Certifying Entity shall make the necessary means available for the execution of such verification, upon previous written notice within 10 (ten) days.

7.7 At the end of audit, the auditors in charge shall prepare the "Audit Report", according to annex II, which shall be sent to auditee within 30 (thirty) days.

7.8 The "Audit Report" without exceptions shall indicate compliance with applicable law, and auditee shall be able to continue developing its activities.

7.9 O "Audit Report" with exceptions shall list the unconformities observed during audit and their respective penalties.

7.10 The "Audit Report" with exceptions listing the unconformities which do not affect the Local Content measured for a certain product shall impose penalty of Warning to Certifying Entity through issuance of "Warning Notice", according to template in Annex III. This document shall clearly and objectively describe the measures to be taken for the remediation of unconformities observed. The "Warning Notice" shall be followed by new "Notice of Beginning of Audit" to be carried out within 30 (thirty) days, to check if unconformities were remedied.

7.11 The "Audit Report" resulting from verification of provisions in item 5.2 (b), certifying the complete remediation of the unconformities observed shall allow auditee to keep on performing its activities.

7.12 The "Audit Report" resulting from verification of provisions in item 5.2 (b), certifying non-remediation of the unconformities observed in an auditee which had not been suspended in the effective term of its accreditation with the ANP, imposes "Assessment Notice of Suspension" to Certifying Entity, resulting in the opening of administrative proceedings. The charged entity may present defense in writing to the National Agency of Petroleum, Natural Gas and Biofuels – ANP, at the Coordinating Department of Local Content, located at Avenida Rio Branco, 65/18º andar - Centro – Rio de Janeiro/RJ - CEP: 20090-004, within 20 (twenty) days from the receipt of Assessment. The defense shall be signed and followed by due proof of competence of the subscriber to execute or grant powers for representation (copy of Articles of Association), under penalty of removal of document from the records and enactment of default. The ANP shall pronounce within 30 (thirty) days.

7.13 The "Audit Report" which indicates unconformities that directly affect the Local Content measured for a certain product of a Certifying Entity which had not been suspended in the effective term of its accreditation with the ANP shall impose "Assessment Notice of Suspension" to Certifying Entity, resulting in the opening of administrative proceedings. The charged entity may present defense in writing to the National Agency of Petroleum, Natural Gas and Biofuels – ANP, at the Coordinating Department of Local Content, located at Avenida Rio Branco, 65/18º andar - Centro – Rio de Janeiro/RJ - CEP: 20090-004, within 20 (twenty) days from the receipt of Assessment. The defense shall be signed and followed by due proof of competence of the subscriber to execute or grant powers for representation (copy of Articles of Association), under penalty of removal of document from the records and enactment of default. The ANP shall pronounce within 30 (thirty) days.

7.14 The "Audit Report" which indicates penalty of suspension to a Certifying Entity which had already been suspended within the same effective term of its accreditation with the ANP imposes auditee issuance of "Assessment Notice of Loss of Accreditation" to Certifying Entity, resulting in the opening of administrative proceedings. The charged entity may present defense in writing to the National Agency of Petroleum, Natural Gas and Biofuels – ANP, at the Coordinating Department of Local Content, located at Avenida Rio Branco, 65/18º andar - Centro – Rio de Janeiro/RJ - CEP: 20090-004, within 20 (twenty) days from the receipt of Assessment. The defense shall be signed and followed by due proof of competence of the subscriber to execute or

grant powers for representation (copy of Articles of Association), under penalty of removal of document from the records and enactment of default. The ANP shall pronounce within 30 (thirty) days.

7.15 In case defense mentioned in items 7.12, 7.13 are 7.14 is judged to have merit, the Assessment Notice shall be extinct and auditee shall continue to execute its activities.

7.16 In case defense mentioned in items 7.12 and 7.13 is judged to have no merit, the Assessment Notice shall prevail and auditee shall receive the penalty of "Suspension" followed by Notification to interrupt its activities, upon act published in the Federal Official Gazette. The suspended Certifying Entity shall be prohibited to execute its accredited activities for 120 (one hundred and twenty) days from the date of publication of penalty in the Federal Official Gazette. In this case, the ANP shall inform the concessionaries about suspension of Certifying Entity. After this time the suspension shall cease and the entity may return to its normal activities.

7.17 The ANP shall randomly appoint a second Certifying Entity to execute examination and determination of actual Local Content for products certified by penalized entity pursuant to item 7.16. The penalized Certifying Entity shall bear the costs of such examination and may legally respond for its acts.

7.18 In case defense mentioned in item 7.14 is judged to have no merit, the Assessment Notice shall prevail and the charged entity shall receive the penalty of "Loss of Accreditation" followed by Notification to interrupt its activities upon act published in the Federal Official Gazette. The entity that lost accreditation shall be prohibit to apply for new accreditation for 3 (three) years, from the date of publication of loss of accreditation in the Federal Official Gazette. In this case, the ANP shall inform the concessionaries about loss of accreditation of Certifying Entity.

## 8. ANNEXES

Annex I: Notice of Beginning of Audit.

Annex II: Audit Report.

Annex III: Warning Notice.

ANNEX I – NOTICE OF BEGINNING OF AUDIT

 <p>anp Associação Nacional de Empresas de Turismo e Recreio Cultural</p>	NOTICE OF BEGINNING OF AUDIT	No.  -----
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Company:.....  
Trade Name.....  
CNPJ: ..... State Enrollment .....

Address: .....

Accreditation Code: ..... Accredited Areas: .....

The qualified company above is hereby notified of beginning of Local Content Certification Audit, to be held on \_\_/ \_\_/\_\_, pursuant to Technical Regulation No. ....

Scope of Audit

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....
7. ....
8. ....
9. ....
10. ....


The audit shall be executed by:

1. ....
2. ....

Date,

\_\_\_\_\_  
representative

ANNEX II: AUDIT REPORT

 <p><b>anp</b> Associação Nacional de Instituições de Ensino de Pós-Graduação</p>	<p><u>AUDIT REPORT</u></p>	<p>Report no.: -----</p> <hr/> <p>Rev.</p>
<p>Company:..... Trade Name..... CNPJ: ..... State Enrollment .....</p>		
<p>Address: .....</p>		
<p>Accreditation Code: ..... Accredited Areas: .....</p>		
<p>Representative:</p>		
<p>Scope of Audit:</p>		
<p>Procedures used:</p>		
<p>Opinion:</p>		
<p>Date and Venue Signature:</p>		

ANNEX III – WARNING NOTICE

 <b>anp</b> <small>Agência Nacional de Petróleo, Gás Natural e Bioetanol</small>	<u>WARNING NOTICE</u>	No.  ----- -----
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Pursuant to item 6.3 of Regulation of Local Content Certification Audit, the company \_\_\_\_\_,  
accredited by the ANP as Certifying Entity under no. \_\_\_\_\_, is  
WARNED, due to the following unconformities:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_,  
characterizing breach of rules established by Regulation of Local Content  
Certification, being subject to applicable penalties pursuant to item 6 of Audit  
Procedure in the same Regulation. Therefore, the qualified company above is  
hereby equally NOTIFIED to remedy the unconformities described in the present  
document within 30 (thirty) days.

\_\_\_\_\_, \_\_\_\_\_  
(Venue / Date)

\_\_\_\_\_  
(Signature)

Informed on \_\_\_ / \_\_\_ / \_\_\_

\_\_\_\_\_  
(Signature)