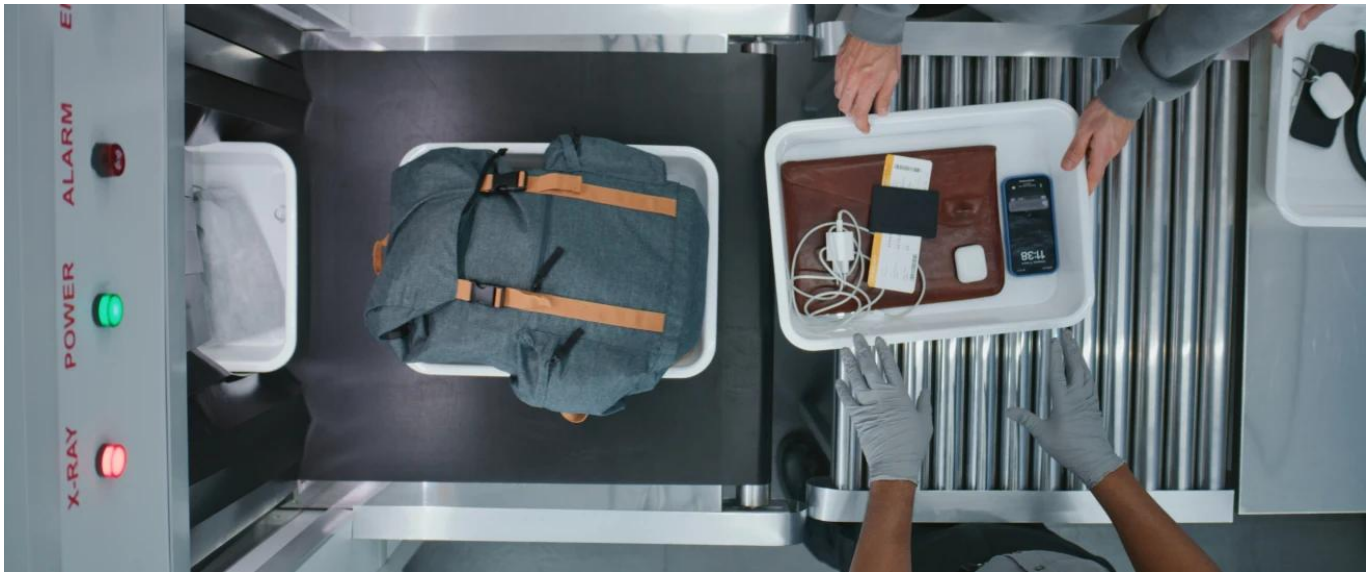
Brazil's Federal Revenue Service Steps Up Its Fight Against Counterfeit Goods

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The entry of counterfeit and pirated goods through Brazil's ports and airports has long posed a significant challenge to effective intellectual property enforcement. Although Decree 6.759/2009 (the "Customs Regulations") provides mechanisms under which suspected infringing goods can be held by customs and ultimately forfeited, uncertainty remained regarding how those provisions should be applied in practice. In particular, it was unclear whether Brazil's Federal Revenue Service (RFB – Receita Federal do Brasil) could carry out the procedure on its own authority or whether a court order was required.

The resulting uncertainty increased costs, encouraged unnecessary litigation, and undermined the effectiveness of border enforcement measures against counterfeit and pirated goods, where speed is often critical.

To address this uncertainty, in December 2025 the RFB issued an interpretation bulletin, ADI 3/2025 (Ato Declaratório Interpretativo), stating that customs authorities may, on their own initiative, hold goods suspected of being counterfeit and then notify the trademark owner to submit evidence establishing a prima facie infringement. Once the violation is confirmed, the customs authorities may declare the goods forfeit without the need for an order by the courts.

At first glance, the change may appear to be merely interpretive. In practice, however, ADI 3/2025 standardizes and strengthens the RFB's enforcement powers while formally moving Brazil toward a model more closely aligned with that adopted in jurisdictions such as the United States, where administrative action serves as the primary tool for preventing the entry of counterfeit goods.

Six months after its publication, the practical effects of ADI 3/2025 are becoming apparent.

The most significant is a shift in enforcement strategy for rights holders. In

the past, efforts often focused on obtaining court orders to maintain customs holds on suspected infringing goods, which increased costs and contributed to the litigation of disputes that could potentially have been resolved through administrative procedures. Today, court orders play a much more limited role, and administrative enforcement has moved to the forefront. Rights holders are increasingly expected to provide technical evidence capable of demonstrating, prima facie, that goods are counterfeit or pirated, including trademark registration certificates, comparative analyses, authentication guides, and official catalogues. These materials now play a central role in shaping customs authorities' assessment of suspected infringements.

The changes in customs enforcement practices also require the private sector to adapt. Companies with well-established brand protection programs now have even greater incentives to organize and maintain evidence that can support administrative enforcement efforts. Importers and logistics operators, meanwhile, will need to strengthen compliance and traceability measures so that the origin and authenticity of goods can be demonstrated promptly.

Although this new approach is still taking shape and will depend on continued coordination between public authorities and the private sector, the first months following the issuance of ADI 3/2025 already point to a meaningful shift in the enforcement of intellectual property rights at Brazil's borders.

More than simply standardizing the interpretation of the Customs Regulations, the new rule strengthens border enforcement against counterfeit and pirated goods by placing greater reliance on the RFB's expertise and experience and reducing the need for court involvement in matters that can be resolved at the administrative level. In doing so, it brings Brazil closer to international best practices.

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