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## PUBLIC CONSULTATION Nº 81

### Introduction

Public Consultation Proposal for approval of the Operational Procedure for the Importation of Telecommunications Products which establishes conditions for the importation of telecommunications products for compulsory approval by ANATEL, with the following purposes:

- Import of approved products for marketing purposes;
- Import of products for own use;
- Import of product samples for conformity assessment purposes; and
- Import of products for demonstration purposes

The Operational Procedure proposal also aims to make Anatel's performance as a consenting body within the Integrated Foreign Trade System (SISCOMEX) feasible.

### DRAFT ACT TO

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**THE SUPERINTENDENT OF GRANTING AND RESOURCES TO THE PROVISION,** in the use of the powers conferred on him by Ordinance No. 419, of May 24, 2013, and

CONSIDERING the competence given by Items XIII and XIV of Article 19 of Law No. 9,472 / 97 - General Telecommunications Law;

CONSIDERING the possibility of sealing the connection of terminal equipment without certification, issued or accepted by the Agency provided for in Article 156 of Law No. 9.472 / 97 - General Telecommunications Law;

WHEREAS ANATEL may establish, by means of Operational Procedures, the cases in which there will be a need for prior approval for the importation of telecommunications products provided for in the Sole Paragraph of Article 55 of the Conformity Assessment Regulation and for the Approval of Telecommunications Products , approved by Resolution No. 715, of October 23, 2019;

WHEREAS, as a consenting body, ANATEL must follow the provisions of Secex Ordinance No. 23, of July 14, 2011, which consolidates the rules and procedures applicable to foreign trade operations and establishes a maximum period of 10 (ten) days for processing of automatic import licensing;

CONSIDERING the provisions of Section I of Article 14 of Secex Ordinance No. 23/2011, which are subject to automatic licensing the products listed in the Administrative Treatment of SISCOMEX; also available at the Ministry of Development, Industry and Foreign Trade (MDIC) website, for simple consultation, prevailing in the aforementioned Administrative Treatment;

WHEREAS the case file of process No. 53500.053865 / 2020-56;

**RESOLVES:**

Art. 1 To approve, in the form of an annex to this Act, the Operational Procedure for the Importation of Telecommunications Products.

Single paragraph. The Operational Procedure referred to in the caput becomes mandatory 180 days after the date of its publication.

Art. 2 Establish that the analysis of Import Licenses registered in SISCOMEX and with administrative treatment by ANATEL will be carried out through SISCOMEX itself, under the conditions defined in the annex to this Act.

Art. 3 This Act enters into force on the first business day of the month following the date of its publication in ANATEL's Electronic Service Bulletin.

**APPENDIX TO ACT No. XXXX, OF XX OF XXXXX OF 2020**[CONTRIBUTING](#)**OPERATIONAL PROCEDURE FOR IMPORTING TELECOMMUNICATIONS PRODUCTS****1.OBJETIVO**[CONTRIBUTE](#)

1.1. This procedure establishes conditions for the importation of products for telecommunications of compulsory approval by ANATEL, with the following purposes:

- a) Import of approved products for marketing purposes;
- b) Import of products for own use;
- c) Import of product samples for conformity assessment purposes; and
- d) Import of products for demonstration purposes.

**2. APPLICATION FIELD.**[CONTRIBUTE](#)

2.1.This procedure applies to importers of telecommunications products.

**3. REFERENCE DOCUMENTS**[CONTRIBUTE](#)

3.1.Regulation of Conformity Assessment and Homologation of Telecommunications Products, approved by Resolution No. 715, of October 23, 2019.

3.2. Telecommunications Products Reference List, approved by Act No. 2222, of April 20, 2020.

3.3. Operational Procedure for Marking the Identification of the ANATEL Approval in Telecommunications Products, approved by Act No. 4088, of July 31, 2020.

3.4. SECEX portaria nº 23, of July 14, 2011, which provides for foreign trade operations.

3.5.Directions regarding product verification for telecommunications regarding the sector's regulation in areas controlled by the Federal Revenue of Brazil (RFB), approved by Ordinance No. 839, of June 12, 2020.

3.6. Normative Instruction RFB No. 1737/2017, which provides for tax treatment and customs control procedures applicable to international shipments, and amends Normative Instruction RFB No. 1,059, of August 2, 2010, which

provides for control procedures customs and tax treatment applicable to traveler goods.

## 4. DEFINITIONS

### [CONTRIBUTE](#)

- 4.1. Product samples for conformity assessment purposes: samples of products for purposes of submission to laboratory tests required by the ANATEL conformity assessment and approval process.
- 4.2. Import License: administrative procedure used in the operation of import licensing regimes that involves the submission of an order or other documentation (other than that required for customs purposes) to the competent administrative body (consenting body), as a precondition for the authorization of imports into the customs territory of the importer.
- 4.3. Mercosur Common Nomenclature (NCM): regional nomenclature for the categorization of goods adopted in all foreign trade operations in Mercosur countries.
- 4.4. Products for demonstration purposes: products for the exclusive purpose of exhibition at fairs, events or for studies of features and market.
- 4.5. Express shipment: product that arrives in the country transported by international express transport companies.
- 4.6. Postal shipment: a product that arrives in the country through the official post offices of the countries, respecting the limits and conditions of international postal legislation.
- 4.7. Integrated Foreign Trade System (SISCOMEX): administrative instrument that integrates the activities of registration, monitoring and control of foreign trade operations, through a single and computerized flow of information.

## 5. GENERAL CONDITIONS

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- 5.1. Homologation is a prerequisite for use and commercialization, in the country, of telecommunications products, with the need for prior approval for importation for those listed in the Reference List of Telecommunications Products, except for the following hypotheses:
  - a) samples for testing purposes for conformity assessment;
  - b) non-radio frequency emitting products, in transit or temporarily in the country, intended for demonstration, exhibition, survey of characteristics or other purposes.
  - c) products covered by authorizations for Temporary Use of the Spectrum; or
  - d) products covered by authorizations for Special Service for Scientific and Experimental Purposes.
- 5.2. Imported products not approved may be subject to retention by the competent authority, with their release conditional on obtaining and presenting the respective Certificate of Approval.
- 5.3. The products listed in Appendix I of this Operating Procedure require prior approval from ANATEL for their import, in the form of item 10, except as otherwise indicated in this document.

## 6. IMPORTS OF APPROVED PRODUCTS FOR PURPOSES OF COMMERCIALIZATION

### [CONTRIBUTE](#)

- 6.1. The importation of products approved for marketing purposes may only be carried out by the applicant for approval or by his authorized legal representative.
- 6.2. The homologation identification, characterized by the posting or recording of the ANATEL homologation identification seal on the product, must be provided in advance of its entry into the Country, except for the exceptions provided for in the Operational Procedure for Marking the ANATEL Homologation Identification in Telecommunications Products .

## **7.IMPORTS FOR OWN USE**

### CONTRIBUTE

7.1.The importation of products in quantity and frequency that are compatible with its purpose and that do not characterize trade is considered for its own use.

7.2.The importation of a telecommunications product for own use through postal or express delivery may be subject to verification as per the regulation in accordance with Ordinance No. 839, of June 12, 2020.

## **8.IMPORTS OF PRODUCT SAMPLES FOR PURPOSE OF CONFORMITY ASSESSMENT**

### CONTRIBUTE

8.1.The quantity of imported samples must be consistent with the technical requirements and test procedures established by ANATEL to assess product conformity.

8.1.1. If the quantity imported is greater than that required for conformity assessment, the excess quantity, after subtracting the samples, will remain retained by the competent authority, with their release conditional on obtaining and presenting the respective Certificate of Homologation.

8.2.The importation of product samples for the purposes of conformity assessment through postal or express delivery may be subject to verification as to the regulation according to Ordinance No. 839, of June 12, 2020.

## **9.IMPORTS OF RADIO FREQUENCY ISSUING PRODUCTS FOR PURPOSES OF DEMONSTRATION**

### CONTRIBUTION

9.1.The import of products for demonstration purposes is exempted from prior consent by ANATEL

9.2.If the radio frequency emitting product is not approved, its use in the country for exclusive demonstration purposes depends on prior authorization from Anatel through the processes mentioned in items 5.1.c), 5.1.d) or by another defined in specific regulations from Anatel.

## **10. IMPORT LICENSE TO**

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10.1.The telecommunications products subject to ANATEL's approval listed in Annex I of this Operating Procedure are classified as automatically licensed in the import process, and are therefore subject to ANATEL's consent.

10.2.The request for the import license must be made by the importer through the Import Module of the SISCOMEX Portal, providing the information as defined in this Operating Procedure.

10.3.The importer is responsible for the veracity and correct completion of the Import License application form, including the classification of the product through the appropriate selection of the NCM code and / or Product Catalog, identification of the manufacturer and model of the product.

10.4.The information required in item 10.5 and in the observation column of the Table in Appendix I must be provided through the "Complementary Information" field on the "Basic" tab of the "LI Request" module.

10.5. To grant the Import License for telecommunications products, the following information must be provided:

I - Import for marketing purposes:

a) Homologation Certificate number.

II - Import for conformity assessment purposes:

a) Identification of the contract or proposal signed with the Designated Certification Body (OCD) responsible for conducting the product's conformity assessment, or with the testing laboratory, in the case of approval by Declaration of Conformity.

III - Import for own use:

a) Number of the Product Approval Certificate for use by the importer himself.

## 11. FINAL PROVISIONS

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11.1. The cases not covered by this Operating Procedure will be dealt with administratively by the competent Management of ANATEL based on the current national regulations relevant to the assessment of the conformity of products for telecommunications and imports.

11.2. The import, commercialization and use of unapproved telecommunications products, in cases where this is required, are subject to sanctions as established in Article 83 of the Regulations for Conformity Assessment and Homologation of Telecommunications Products.

## ANNEX I

### [CONTRIBUTE](#)

LIST OF TELECOMMUNICATIONS PRODUCTS CLASSIFIED AS AUTOMATIC LICENSING IN THE IMPORT PROCESS

NCM	DESCRIPTION	COMMENTS
8544.70	Fiber Optic Cables	

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