

BRAZILIAN BIOFUEL POLICY DOCUMENTS
SOCIAL SUSTAINABILITY - I

Legislation relating to the Social Fuel Seal

DECREE N°5.297, DECEMBER 6, 2004

Relating to the reduction coefficients to be applied to the PIS/PASEP Contribution and the COFINS tax rate with respect to the production and commercialisation of biodiesel, and relating to the terms and conditions for the establishment of differential tax rates, and other stipulations.

**Ministry of Mines and Energy
President of the Republic**

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Towards a green energy pact between
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Note: Names of Brazilian institutions and their abbreviations are put between square brackets and are kept in the original language.

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Relating to the reduction coefficients to be applied to the PIS/PASEP Contribution and the COFINS tax rate with respect to the production and commercialisation of biodiesel, and relating to the terms and conditions for the establishment of differential tax rates, and other stipulations.

THE PRESIDENT OF THE REPUBLIC, by means of the authority conferred to him by art. 84, section IV of the Constitution, and drawing on the stipulations of section XXIV of art. 6 and section XVI of art 8. of Law N° 9.478 of August 6 1997 and on §1 of art. 1 of Law N° 9.847 of October 26 199 and on articles 1 and 5 of the Provisional Measure N° 227 of December 6, 2004,

DECREES:

Art. 1. The definitions of the terms “Biodiesel” and “Producer or Importer of Biodiesel” as used in this Executive Order, are the following:

I – **Biodiesel**: renewable and biodegradable fuel for internal combustion engines with compression ignition, obtained from vegetable oils or animal fats, that can fully or partially replace diesel oil obtained from fossil fuels; and

II – **Producer or Importer of Biodiesel**: juristic person a juristic person operating as a company under Brazilian laws, having its administrative seat in the country, and granted the authorisation by the National Agency of Petroleum, Natural Gas and Biofuels [Agencia Nacional de Petróleo, Gás Natural e Biocombustíveis] to produce the biofuel, and recognized by the Special Register for Biodiesel Producers and Importers [Registro Especial de Produtor ou Importador de Biodiesel] , which is part of the Secretariat of the Federal Ministry of the Treasury.

Art. 2. A “Social Fuel” seal will be instituted that will be granted to a biodiesel producer who:

I — promotes the social inclusion of family farmers who are the subject of the framework of the National Program for the Enhancement of Family Agriculture [Programa Nacional de Fortalecimento da Agricultura Familiar] (PRONAF), from whom he sources raw materials; and

II — on a regular basis proves his activities before the Unified Cadastral System of Suppliers [Sistema de Cadastramento Unificado de Fornecedores] (SICAF)

§ 1. In order to promote the social inclusion of family farmers, the biodiesel producer must:

I — source a percentage of the raw materials not smaller than the percentage that will be fixed by the Ministry of Rural Development [Ministério do Desenvolvimento Agrário], from family farmers;

II — honor contracts with the family farmers, that specify the commercial conditions that guarantee incomes and revenues compatible with the activity, and conform to the regulations to be established by the Ministry of Rural Development; and

III — guarantee and provide technical assistance and training to the family farmers

§ 2. The percentage as referred to in section I of § 1:

I — will be differentiated on a regional basis

II — it will be fixed in relation to the annual acquisition of raw materials by the biodiesel producer

§ 3. The Social Fuel Seal will give the biodiesel producer:

- I — the right to benefit from public policies aimed specifically at promoting the production of renewable fuels strengthening social inclusion and regional development
- II — the right to use the seal for commercial marketing purposes

Art. 3. The reduction coefficient to be applied to the PIS/PASEP Contribution and the COFINS tax rate as foreseen in the caption of art. 5 of the Provisional Measure N° 227 of December 6 2004, has been fixed at 0.670.

Single paragraph. By applying the reduction coefficient referred to in this article, the aliquot of the PIS/PASEP Contribution and the COFINS, which is levied on the gross revenues made by the producer or importer from the sale of biodiesel, is fixed at, respectively R\$39.65 (thirty nine Reals and sixty five cents) and R\$182.55 (one hundred and eighty two Reals and fifty five cents) per cubic meter of biodiesel.

Art. 4. The differential reduction coefficient for the PIS/PASEP Contribution and the COFINS, foreseen in § 1 of art. 5 of the Provisional Measure N° 227 of 2004, is fixed at:

- I — 0.775 for biodiesel produced from *Jatropha curcas* oil, castor oil or palm oil produced in the North and Northeast of the country and in semi-arid regions
- II — 0.896 for biodiesel produced from raw materials sourced from family farmers who are part of the PRONAF framework
- III — one, for biodiesel produced from *Jatropha curcas*, castor or palm oil produced in the North and Northeast and the semi-arid regions, by family farmers who are part of the PRONAF framework

§ 1. Using the coefficients referred to in sections I, II and III of this article, the aliquot of the PIS/PASEP Contributions and COFINS, which levied on the gross revenues made by the producer from the sale of biodiesel, is fixed at:

- I — R\$ 27.03 (twenty seven Reals and three cents) and R\$ 124.47 (one hundred and twenty four Reals and forty seven cents) respectively, per cubic meter of biodiesel produced from *Jatropha curcas*, castor or palm oil produced in the North and Northeast and the semi-arid regions.
- II — R\$ 12,49 (twelve Reals and forty nine cents) and R\$ 57.53 (fifty seven Reals and fifty three cents), respectively, per cubic meter of biodiesel produced from raw materials sourced from family farmers who are part of the PRONAF framework; and
- III — R\$ 0.00 (zero), per cubic meter of biodiesel produced from *Jatropha curcas*, castor or palm oil produced in the North and Northeast and the semi-arid regions, sourced from family farmers who are part of the PRONAF framework.

§ 2. In order to benefit from the differential reduction coefficients described in sections II and II of § 1 of this article, the biodiesel producer must be a legal holder of the permission to use the Social Fuel Seal, which is described in art. 2 of this Decree.

§ 3. In the case of the acquisition of raw materials to which the differential tax rate on the gross revenue made from the sales of biodiesel is applied, the aliquot referred to in § 1 of this article must be applied proportionally and in relation to the costs of the raw materials incurred over the same period.

§ 4. In case the producer sources his raw materials from a third party, then, taking into account the effects of § 3 of this article, the value of the raw materials will be equated to the average price of raw materials sourced from the third party during the tax verification period.

§ 5. The rates referred to in this article do not apply to the revenues made from the sales of imported biodiesel.

Art. 5. Incumbent on the Ministry of Rural Development:

- I — the establishment of procedures and criteria for the concession, renewal and cancellation of the permission for biodiesel producers to use the “Social Fuel Seal”
- II — carrying out the evaluation and qualification of biodiesel producers to determine their eligibility for the permission to use the Social Fuel Seal
- III — organising the concession of the Social Fuel Seal to biodiesel producers, by relying on its own

administration; and

IV — fiscalising the biodiesel producers who have obtained the permission to use the Social Fuel Seal, in order to conform to the stipulations presented in this Decree.

Single paragraph. The Ministry of Rural Development has the authority to create accords and contracts needed to accomplish the procedures and requirements described in section II and IV of this article.

Art. 6. The Social Fuel Seal will be valid for a period of five years, starting on the 1st of January of the year following the date of its concession.

Single paragraph. The biodiesel producer can file a request for the renewal of the concession of the permission to use the Social Fuel Seal with the Ministry of Rural Development. This request must be filed at least five months before the concession expires.

Art. 7. The Ministry of Rural Development will have the opportunity to edit and amend the stipulations made in this decree during a period of ninety days and within the framework of its competences.

Art. 8. This Decree enters into force on the date of its publication.

Brasília, December 6, 2004, the 183rd year of our Independence and the 116th year of our Republic

LUIZ INÁCIO LULA DA SILVA

Antonio Palocci Filho
Dilma Vana Rousseff
Miguel Soldatelli Rosseto