

**MINISTRY OF SCIENCE AND TECHNOLOGY**

**BRAZILIAN SPACE AGENCY**

**ADMINISTRATIVE EDICT REGULATION N. 27 OF JUNE 20<sup>th</sup>, 2001**

THE PRESIDENT OF THE BRAZILIAN SPACE AGENCY – AEB using the attribution vested in him by numeral XIII of article 3 of Law n. 8.854, of February 10<sup>th</sup>, 1994, and bearing in mind the provision of article 8 of RESOLUTION N. 51/CSP/AEB, of January 26<sup>th</sup>, 2001, resolves:

Article 1 – To approve the Regulation on procedures and the definition of requirements necessary for the request, evaluation, issuance, control and follow-up of licenses for carrying out space launching activities on the Brazilian territory, as provided for in the enclosure.

Article 2 – The Office for Standards and Licensing may enact complementary instructions aimed at the performance of technical and administrative actions pertaining to the licensing procedures.

Article 3 – The Administrative Edict number 8/AEB of February 14<sup>th</sup>, 2001 has been revoked.

Article 4 – This Regulation shall enter into force on the date of its publication in the Union's Official Gazette.

**LUIZ GYLVAN MEIRA FILHO**

## ENCLOSURE

### REGULATION ON PROCEDURES AND ON DEFINITION OF NECESSARY REQUIREMENTS FOR THE REQUEST, EVALUATION, AND ISSUANCE, FOLLOW-UP AND SUPERVISION OF LICENSES FOR CARRYING OUT LAUNCHING SPACE ACTIVITIES ON BRAZILIAN TERRITORY

#### CHAPTER I

##### GENERAL PROVISIONS

Article 1. The Brazilian Space Agency - AEB, a federal autonomous organisation with a civil nature, established by Law n. 8.854, of February 10th, 1994, has the competence to issue license for carrying out space launching activities on Brazilian territory, as well as the control, follow-up and supervision of the mentioned activities.

Paragraph 1. Space Launching Activities is the set of actions associated with the launching of spacecrafts and other kinds of orbital and sub-orbital payloads, by means of launch vehicles, including the preparation and conduction of the operation, as well as the elaboration of all technical and administrative documentation related to the launching.

Paragraph 2. The provisions of this Regulation do not apply to space launching activities that could ~~may~~ be carried out by Brazilian governmental organisations or bodies.

Article 2. License is the administrative deed, within the competence of AEB, authorised by a Resolution of its Higher Council, granted to a juristic person, single, an association or consortium, for the purpose of carrying out launching space activities on Brazilian territory, in compliance with the terms and conditions established in this Regulation.

Paragraph 1. The license may contain restrictive or conditioning clauses.

Paragraph 2. Each license will be given an identification number for the purposes of control, follow-up and inspection.

Article 3. In order to control, follow-up and supervise the space launching activities of the licensee, AEB is allowed to enter into agreements with public or private organisations or bodies, and, furthermore, to hire third parties to provide specialised technical services, as established in the pertinent legislation.

Article 4. The President of AEB shall appoint representative to supervise the activities dealt with in Article 3, who may:

- I. Request licensees to produce information, data, clarifications, statements, as well as a listing of commitments pledged, by means of reports, forms, awards, terms and other documents deemed appropriate;
- II. Inspect workplaces directly and indirectly related to the space launching activities, as well as the compliance with requirements provided for in specific legislation, where appropriate;
- III. Issue reports, minutes of events occurred and other records of the assessments deriving from its inspection and supervision activities, determining the correction of flaws, omissions or non-compliance with legal or regulatory provisions;
- IV. Propose the application of penalties when irregular procedures, errors or flaws are verified or when conflicts occur with the interests of public order and safety;
- V. Propose the initiation of administrative suits to assess liabilities.

Paragraph 1. The representative of AEB will write down into appropriate records all events pertaining to the activities of the licensee.

Paragraph 2. Decisions or steps taken or to be taken that might go beyond the scope of the competence of the representative shall be proposed to the pertinent authorities, in due time, so that the appropriate measures be taken.

Paragraph 3. AEB shall maintain the confidentiality of information received within the results of its inspection and supervision activities and shall undertake, vis-à-vis the licensee, its members of associations and consortia, proxies and hired parties, not to disclose such information to third parties, neither to authorise any public or private organisation or body having entered into contracts or covenants with it.

Article 5. For the purposes of the provisions of Article 7 of RESOLUTION SCP/AEB/N. 51, of January 26th, 2001, damage will be deemed the loss of life, personal injuries, or other damages to health, loss of State property or of natural or juristic persons' property or damages inflicted to such property.

## CHAPTER II

### DOCUMENTS REQUIRED AND ENABLING PROCEDURES

Article 6. For the purposes of enabling and granting licenses, the applicant will be required, particularly, to present documents pertaining to:

- I. Legal personality;
- II. Technical qualification;
- III. Economic and financial qualification;
- IV. Tax regularity.

Sole Paragraph. Licenses shall only be granted to juristic persons, single as well as associations or consortia, having headquarters or representation in Brazil, deemed legally, technically and financially able, for periods of time established in the deed itself, bearing in mind the period of amortisation of investments to be made by licensee.

Article 7. Documents pertaining to the legal enabling, shall consist, as appropriate, of:

- I. Commercial registration, in the case of individual corporations;
- II. Acts of Incorporation, By-laws or corporate contract in force, duly registered, in the case of commercial corporations, and, in the case of corporations per shares, to be accompanied by documentary evidence of the election of its administrators;
- III. Inscription of the deed of incorporation, in the case of civil corporations, accompanied by evidence of the board of directors in office;
- IV. Decree of authorisation, in the case of foreign enterprise or corporation operating in Brazil;
- V. Documentary evidence that the applicant has legal representation in Brazil with express powers to be subpoenaed and to answer both at administrative and court levels.

Article 8. Documents pertaining to technical qualification shall consist of:

- I. Registration or inscription in the appropriate trade association, where appropriate;
- II. Presentation of the summary of the project to be carried out;
- III. Documentary evidence of being apt to perform the intended space launching activities, as well as of the qualification of the members of the technical team to be in charge of the activities;
- IV. Statement by the party concerned informing to be acquainted with the local conditions, including the Security Regulations and Procedures established by AEB or by the Launch Center and about its obligation to fulfil them in the execution of the space launching activities proposed;
- V. Term of undertaking of commitment for the safeguard of the technology transfer, as determined by the pertinent authority of the Brazilian Government.

Sole Paragraph. The documentary evidence of aptitude referred to in numeral III of the heading of this article may be done through certificates, official statements or any other bona-fide documents compatible with the object of the license.

Article 9. Documents pertaining to the economic and financial qualification shall consist of:

- I. Asset balance sheet and accounting statements of the last corporate fiscal year, already required and presented as provided by law, verifying the financial health of the applicant, its replacement by partial balance sheets or provisional balance sheets being prohibited, and such documents may be updated according to official indexes when they have been closed over three (3) months before the date of filing;
- II. Negative certificate of bankruptcy or termination of business due to insolvency issued by the Judge Distributor of the district where the corporation has its headquarters;
- III. Purchase of insurance to cover possible damages to third parties, according to the degree of risk of the activities to be carried out by applicant, where appropriate, in the value previously established by AEB.

Paragraph 1. As an objective datum of the economic and financial qualification of applicant, AEB may require the verification of minimum capital or of net assets, as a function of the volume of space activities intended.

Paragraph 2. In the case of very recently created corporations, the verification dealt with in numeral I of this Article may be done through the presentation of their opening balance sheets.

Article 10. Documents pertaining to tax regularity shall consist of:

- I. Proof of inscription at the General Registry of Taxpayers (CGC);
- II. Proof of inscription at the State or Municipality Taxpayer Registry, if any, pertaining to the domicile or headquarters of corporations relating to the object of the license;
- III. Proof of regularity pertaining to social security and to the FGTS (Guarantee Fund per Tenure), demonstrating a regular situation in the compliance with law-determined social charges.

Article 11. In the case of participation of corporations in associations or consortia, the following aspects shall be noted:

- I. Documentary evidence of public or private pledge to establish the association or consortium, subscribed by the members of the associations or consortia;
- II. Appointment of the leading corporation of the consortium or association;
- III. Presentation, by each member of consortia or associations, of the documents required in Articles 6 through 10, and it shall be admitted, for the purpose of assessing technical and operational qualifications, the set of specific experiences and, for the purposes of financial capability, the sum of values verified by members of the consortia or associations.

Sole Paragraph. The corporation leading the association or consortium is the one in charge of the fulfilment of obligations deriving from the issuance of license, without prejudice for the joint liability of the other members of the association or consortium.

Article 12. When AEB deems appropriate, previous consultation may be carried out to the respective organisations or bodies within the Federal Public Administration as to the existence of conflict with the interests of security and foreign policy concerning the space launching activities proposed by applicant.

Article 13. Documents necessary for the enabling procedures may be presented, in original form, by any process of copy, authenticated by the relevant public notary office or by AEB officials, or by publication in vehicles of the official press.

Article 14. Foreign corporations or organisations, as far as possible, shall meet the requirements for enabling procedures through the presentation of equivalent documents.

Paragraph 1. Foreign corporations or organisations shall present statements by their respective home countries as to their being licensed to perform the launching activities intended.

Paragraph 2. Documents shall be presented in their original language, duly authenticated, accompanied by translations made by sworn translators.

Paragraph 3. So that licenses be issued to foreign corporations or organisations, AEB may establish, as an additional condition, the existence of safeguard agreements relating to technology transfer between the Government of their home countries and the Brazilian Government.

### CHAPTER III

#### ENABLING PROCEDURES

Article 15. The procedures for issuing licenses shall be started by the initiation of an administrative process, duly assessed, registered and numbered, containing the application and the documents filed by the applicant, to which shall be eventually enclosed all other relevant deeds and documents.

Paragraph 1. The party concerned shall register its application at AEB's Office for Administration and Planning - DAP.

Paragraph 2. The application of the party concerned shall contain a brief description of the object of the license intended.

Article 16. Enabling shall be processed and judged by a Special Enabling Commission made up of at least three ( 3) members, appointed by the President of AEB, and at least two (2) of them should be qualified officials belonging to AEB personnel or to the staff of another organisation or body within the Federal Public Administration.

Sole Paragraph. The members of the Commission shall be jointly accountable for all acts practised, except if an individual divergent position is duly grounded and recorded in the minutes drawn of the meeting in which the decision has been made.

Article 17. It befalls the Special Enabling Commission:

- I. To examine and evaluate the documents filed with the application by the party concerned;
- II. To carry out diligence meant to clarify or supplement the information of the case, at any stage of the procedures;
- III. To request technical or legal opinions, whenever appropriate;
- IV. To submit the case to the President of AEB, after evaluation of the application for enabling.

Paragraph 1. Incumbents of the AEB's Offices shall lend full support to the Commission's activities.

Paragraph 2. It shall befall the Office for Standards and Licensing to act as Technical Secretariat to the Commission.

Paragraph 3 . If within ninety (90) days, following the notification of diligence such notification is not complied with, the case shall be automatically filed, and the applicant shall be allowed, at any time, to register and submit a new application for license.