

**MINISTRY OF LABOR
NATIONAL IMMIGRATION COUNCIL**

NORMATIVE RESOLUTION NR. 72, OCTOBER 10, 2006

*Regulates the employment of foreign
professionals working on a foreign carrier/ship
or platform*

THE NATIONAL IMMIGRATION COUNCIL, instituted through Law nr. 6.815, August 19, 1980, organized according to Law nr. 10.683, May 28, 2003, and empowered by Decree nr. 840, June 22, 1993, determines:

Art. 1. A temporary work permit of up to two years can be granted to a foreign citizen who is not employed in Brazil but enters the Country in order to exercise continuous professional activities on a foreign carrier or platform that is operating or will operate within Brazilian territorial waters. The granting of the visa will take into account Brazilian labor interests and is supported by the provisions of point V, art.13 of Law nr.6.815, 1980.

§ 1. Drilling platforms and geophysics research carriers holding valid contracts of up to six months and are subsequently freighted by other concessionary firms for a new period of activities within Brazilian territorial waters, can be granted work permits for each foreign crew member for a period of up to two years, provided that the provisions in §2 of this article are observed.

§ 2. The requesting party must, fifteen days before the expiration of the freight contract, provide the set of documents mentioned in art.4 of this Normative Resolution. Lack of compliance will lead to the cancellation of previously granted work permits.

Art. 2. The following cases do not require a work permit if the foreign citizen is the holder of a valid seafarer's international identity card or equivalent document, according to the principles established by the International Labor Organization Convention of which Brazil is a member.

1 – the foreign citizen who is a crewmember of a carrier and who enters Brazil during a long course trip, defined as the trip between foreign and Brazilian harbors.

2 – the foreign citizen who works, for a maximum period of thirty days, aboard a carrier that has been authorized for cabotage, defined as a trip between two Brazilian harbors or points within the Brazilian territory.

Art. 3 If a foreign carrier or platform remains under operation within Brazilian territorial waters for a period that is longer than ninety continuous days, it must employ Brazilian seamen and other professionals in the same proportions and observe the following conditions:

1 – carriers used as marine support, defined as operations of logistical support to carriers and installations, and perform research activities and collection of minerals and hydro carbonates:

a) after ninety days of operation one third of the total of permanent professionals working aboard on all technical levels and within all activities must be Brazilians;

b) after one hundred and eighty days of operation half of the of the total of permanent professionals working aboard on all technical levels and within all activities must be Brazilians; and

c) after three hundred and sixty days of operation two-thirds of the total of continuous professionals working aboard on all technical levels and within all activities must be Brazilians;

2 –carriers and platforms used for exploitation and prospecting, defined as fixed or floating installations or structures that are directly or indirectly involved in the research, exploitation and exploration of resources originating from inland or sea waters and their subsoil as well as from the continental platform and its subsoil:

a) after one hundred and eighty days of operation the total work force must consist of one fifth Brazilians;

b) after three hundred and sixty days of operation the total workforce must consist of one third Brazilians; and

c) after seven hundred and twenty days of operation the total work force must consist of two thirds Brazilians.

3 – carriers used for cabotage, defined as the navigation between two harbors or points within the Brazilian territory, using maritime routes or navigable inland routes:

a) after ninety days of operation the work force aboard must consist of one fifth Brazilians working on a permanent basis and on all technical levels (officials, graduate and non-graduate) and branches of activity (decks and machinery). The number of employed Brazilians must be rounded upwards to the next full number if the fraction is equal or superior to five decimal points; and

b) after one hundred and eighty days of operation the work force aboard must consist of one third Brazilians working on a continuous basis and on all technical levels (officials, graduate and non- graduate) and on each branch of activity (decks and machinery). The number of employed Brazilians must rounded upwards to the next full number if the fraction is equal or superior to five decimal points.

Sole paragraph. The Ministry of Labor will regulate the procedures, including consultations with the respective labor union representative(s), related to the evaluation and concession of well justified extensions to the deadlines foreseen in this article.

Art. 4 The request for a temporary work permit must be submitted to the Ministry of Labor and must, in addition to those foreseen in National Immigration Council Resolutions, be accompanied by the following documents:

1 – copy of the freighting contract signed with a Brazilian company, or copy of the service or risk contract signed with a Brazilian company or, if applicable, a copy of the Concession granted by the National Petroleum Agency;

2 – list of names of all carriers and platforms contracted or freighted by the requesting party also containing information on the quantities of Brazilians and foreign citizens employed aboard each carrier or platform; and

3 – letter issued by the requesting party declaring that it assumes full responsibility for the foreign citizen(s), for all purposes and including his/her repatriation and medical expenses incurred during his/her stay in Brazil.

Art. 5 The Ministry of Labor will forward information on granted work permits to the Ministry of Foreign Affairs which will issue the respective visas containing express references to the present Normative Resolution.

§ 1 The visas can be collected in the name of a crewmember by the attorney of the ship owner or of the contracting or freighting company and as long as valid travel documents to Brazil can be presented.

§ 2 In certain exceptions, and at the sole criteria of the State Secretariat of Foreign Affairs, work permits can be granted within Brazil, as foreseen in art. 2 of Normative Resolution nr. 9, November 10, 1997.

Art. 6 The application of the present Normative Resolution must take into account the provisions set on art. 30 of Law nr. 6.815/80.

Sole paragraph. Foreigner Identity Cards can be collected in the name of a crewmember by the attorney of the ship owner or of the contracting or freighting company through the express authorization of the registered foreign citizen and accompanied with a letter containing the responsibility agreement.

Art. 7 The temporary visa/work permit can be extended by the Ministry of Justice after consultations with the Ministry of Labor, but cannot be changed into a permanent visa.

Art. 8 The Ministry of Labor will inform the Ministry of Justice, which will take the necessary measures, regarding Work Permit cancellations.

Art. 9 The transfer of a crewmember to another ship must be communicated to the Ministry of Labor by the contracting party.

Art. 10 If there is a change of employer, the freighting or contracting firm must request an authorization, according to current legislation, from the Ministry of Labor.

Art. 11 This Normative Resolution enters into effect on the date of its publication.

Art. 12 Normative Resolution nr. 58, December 3, 2003 is hereby revoked.

NILTON FREITAS

President of the National Immigration Council