

INTERNATIONAL CAPITAL AND FOREIGN EXCHANGE MARKET REGULATION

TITLE : 1 - Foreign Exchange Market

CHAPTER : 16 - Countries Featuring Special Foreign Exchange Provisions

SECTION : 1 - General Provisions

1. This chapter deals with provisions originating in agreements or international organizations in relation to transfers of resources from and to abroad.
2. Transfers of resources processed under the terms of the Reciprocal Payments and Credits Agreement - LAIA -CCR are dealt with in Chapter 17.

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SECTION : 2 - (Revoked) Circular No. 3612/2012

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SECTION : 3 - Cuba

1. Considering the conditions set down in the Framework Agreement signed by the Federative Republic of Brazil and by the Republic of Cuba on September 26, 2003, published in the "Diário Oficial da União", of November 20, 2003, referring to the Memorandum of Understanding of March 04, 1994, the summary of which was published in the "Diário Oficial da União" of March 30, 1994, and in light of the operational system negotiated for purposes of compliance with the provision in the Framework Agreement and Memorandum cited above, exchange operations related to payment of imports of Cuban products and services in the area of health, such as vaccines, other medicines for human use, diagnostic material, medical equipment, the veterinary product "recombinant vaccine against ticks", finished or semi-manufactured lobster fishing boats and other products or services that may be chosen on the basis of an agreement between the two countries for payment of debts indicated in the Framework Agreement, as well as those related to the payment of royalties on sales of pharmaceutical products, are subject to the following specific points without detriment to compliance with all other rules applicable to such questions:
 - a) the value of the merchandise (without incorporating the costs of freight and insurance) must be transferred abroad to Banco do Brasil S.A. – Frankfurt-Germany Branch, with the reference "Framework Agreement of September 26, 2003 referring to the Brazil/Cuba Memorandum of Understanding of March 04, 1994", to be applied as indicated in Article III of the Framework Agreement;
 - b) notification must be issued two days prior to the date of settlement of the exchange operation to Banco do Brasil S.A. / Operational Assets Restructuring Unit/REDEX, by fax (xx) 61 310-2442 or 310-3853, referenced to the "Framework Agreement/Brazil/Cuba Memorandum of Understanding", indicating the date of transfer of the resources abroad ("value date"), the value of the foreign-currency and the Cuban exporter company.
2. The foreign-currency seller bank must examine the invoice submitted to it for purposes of compliance with the provision in the previous paragraph.

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1. The Interbank Arrangement formalized on April 29, 1985 between the Central Bank of Brazil and the Hungarian Foreign Trade Bank Ltd. - Exterbank, Budapest was terminated on June 12, 2002.
2. Since that time, in payments consequent upon operations between Brazil and Hungary, only the general provisions applicable to financial relations with the international community are to be followed.
3. The Arrangement is targeted at registration of payments in United States dollars corresponding to direct operations of any nature whatsoever carried out between Brazil and Hungary, with reimbursement through the Central Bank of Brazil or Exterbank, in the manner, over the periods and with the conditions stated in this section provided that such operations have been initiated prior to June 12, 2002.
4. With respect to commercial operations processed in the framework of the Arrangement, the origin of the merchandise is utilized as the basic reference, while operations among individual persons or corporate entities resident or domiciled in Brazil or Hungary are considered for all other operations.
5. Payments are processed between banks authorized to operate in exchange in the country and Exterbank, by means of the following credit or payment instruments issued in United States dollars:
 - a) letters of credit;
 - b) payment orders, including settlement of charging instruments;
 - c) documentary credits/charging;
 - d) bills of exchange, related to commercial transactions guaranteed by the authorized institution;
 - e) nominal bank checks.
6. Banks authorized to operate in exchange may effect payments in Brazil under the terms of the Arrangement, independently of prior authorization, duly observing the exchange provisions in effect and provided they have followed Exterbank instructions.
7. The banks authorized to operate in exchange are exclusively responsible for verifying the authenticity and implementation of operations carried out under the terms of the Arrangement, while the banks are responsible for normalizing any possible divergences that may arise with Exterbank, in which case it is recommended that an immediate statement of position on the part of Exterbank with regard to the correctness of the documents submitted be requested in the negotiation of documentary letters of credit under the terms of the Arrangement.
8. With respect to issue of credit or payment instruments, the following is required:
 - a) the authenticity of the document or of the bank guarantee must be unmistakable;
 - b) the letter of credit, payment order, documentary credit, bill of exchange or check must contain the declaration: "Reimbursement through the Arrangement Exterbank/Bancentral (or its equivalent), under number ... (reference number indicated by the issuer Bank or guarantor bank)";

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- c) in the case of checks, they must be nominal, devoid of the clause "to the order of", specify their objective and contain the declaration "non-endorsable", aside from the declaration indicated in the previous line;
 - d) in the case of operations with bank guarantees, aside from the dated and signed declaration of guarantee, the bill of exchange must contain the declaration "Sole copy of a bill of exchange" on the front side and, on the back, the declaration "Reimbursement through the Arrangement Exterbank/Bancentral (or its equivalent), under number ... (reference number indicated by the guarantor bank). This bill of exchange derives from export of ... (merchandise) ... /value US ...".
9. With regard to the execution of the operations or negotiation of the credit or payment instruments, it is required that, in the case of a banking agreement, the executor or negotiator bank that remitted the respective charging instrument, be authorized to operate in exchange in the country and, in Hungary, Exterbank.
10. Carrying out of operations under the terms of the Arrangement subordinates the bank authorized to operate in exchange to the conditions set down in this section and, more specifically, to the commitment to reimburse the Central Bank of Brazil, in the amount in United States dollars as determined by it, corresponding to:
- a) the payment effected abroad through the letter of credit issued under the terms of the Arrangement, even in the case of payments effected without compliance with the conditions of the cited credit;
 - b) the payment order or any other document that has issued or guaranteed payment to Hungary;
 - c) the amount reimbursed by the Central Bank of Brazil as a result of an operation processed under the terms of the Arrangement in which the payment effected by an authorized bank in the country is rejected in Hungary;
 - d) the interest rates due through the reimbursement refund cited in the previous line, or as a result of a possible delay in effecting the reimbursement to the Central Bank of Brazil for which the bank authorized to operate in exchange is responsible, while in such situations the reimbursement may be effected in Brazilian real, according as preferred by the Central Bank of Brazil.
11. The letters of credit issued in the country must contain instructions to Exterbank in the sense that, on the same day as payment to the exporter, it will notify this fact to the Brazilian bank that instituted the credit, with the data and information required for the corresponding and opportune reimbursement to the Central Bank of Brazil.
12. For purposes of payment to the exporter at maturity and simultaneous reimbursement under the terms of the System, bills of exchange corresponding to purchases/sales of merchandise guaranteed by the institutions authorized to operate in exchange or by Exterbank do not require payment orders or any other type of transfer, while the commissions and banking fees of the institution granting the guarantee will be the responsibility of the importer, in which case this should be made explicit in the instructions from the grantor bank on remitting the bill abroad.

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13. The letter of remittance of the guarantee granted to bills of exchange must contain the following declaration: "Please take note that upon maturity of these bills of exchange we shall automatically reimburse the amounts thereof through the Exterbank/Bancentral Arrangement".
14. With respect to the guarantees granted by Exterbank on bills of exchange referring to Brazilian exports, it should be noted that:
 - a) upon maturity of the bill and after settlement of the corresponding export exchange purchase has been processed, the Brazilian bank requests the Central Bank of Brazil to effect the respective reimbursement of the amount in United States dollars, in which case reception of any notification or payment order from abroad related to the payment of the bill by the importer is not required;
 - b) the credit request indicated in the previous line must be effected according to the terms of appendix 17 to this title, indicating the acronym "LA", equivalent to the guaranteed bill, in the space provided, in which case the stated credit requests must include copies of the letter of remittance of the bill abroad.
15. With respect to the guarantees granted by Brazilian institutions on bills of exchange referring to Brazilian imports, the following must be observed:
 - a) the bill of exchange guaranteed by a Brazilian institution must be paid to the foreign exporter automatically and independently of any order or notification on the part of the Brazilian bank, which consequently is not responsible for seeing to any transfer abroad in this regard;
 - b) the value of the guarantees granted by the Brazilian bank under the terms of the Arrangement is calculated normally within the general limits set down for the granting of bank guarantees, as stated in Central Bank of Brazil instructions in this regard.

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1. Delivery of the amounts in United States dollars corresponding to reimbursement of transactions carried out under the terms of the Arrangement - in the benefit of the Central Bank of Brazil or an authorized bank - is processed on the basis of the balance resulting from the clearing of operations of this type as calculated on the day by the authorized bank.
2. The banks must conduct, through their exchange departments in Rio de Janeiro/RJ or São Paulo/SP and at their discretion, the relations with the External Debt and International Relations Department (Derin) of the Central Bank of Brazil in respect to reimbursements of operations carried out under the terms of the Arrangement, delivering the reimbursement requests to which they are entitled or reimbursing the Central Bank of Brazil.
3. Reimbursements due to the Central Bank of Brazil must observe the following deadlines:
 - a) up to the business day following that of the negotiation of the letters of credit issued by the banks, in the case of immediate payment;
 - b) at the respective maturities of the letters of credit and guaranteed bills, in the case of installment payment;
 - c) up to the business day following that of settlement of the exchange contract, in all other cases.
4. Within the time periods indicated above, the banks must seek to deliver correspondence to the External Debt and International Relations Department (Derin), in the form indicated in appendix 15 of this title, demonstrating the value of the operations effected on the day and the resulting balance, for purposes of reimbursement, observing that:
 - a) should the balance be positive for the bank, the correspondence must contain a request for transfer of the respective amount in United States dollars to its credit with the banker indicated for this purpose;
 - b) should the balance be positive for the Central Bank of Brazil, the correspondence must declare that the respective value in United States dollars will be the object of a credit operation with the banker indicated by the Central Bank of Brazil.
5. With respect to delivery of the foreign currency:
 - a) the credit must be effected with the banker indicated according to the terms of the previous paragraph, on the business day (abroad) following delivery of the correspondence cited therein, and the respective parties should not charge the costs of the messages transmitted among themselves;
 - b) should a restricted holiday occur in the locality of the department indicated for centralized carrying out of the operation with the Central Bank of Brazil, the correspondence related to the operations on that holiday must be delivered by the centralizing department to the Central Bank of Brazil on the subsequent business day.
6. Should a delay occur in delivery of the foreign currency, the debtor entity must instruct its correspondent to back value the credit in the account to the adjusted date.
7. Alternatively, at the option of the creditor entity or when valuation is seen to be unfeasible, the debtor party will pay interest for the period of arrears, calculated according to the prime rate in

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effect on the date on which the payment was due at the bank with the largest assets in the city of New York, plus a margin of two percentage points per year.

8. Reimbursements due to the Central Bank of Brazil are to include a declaration of reimbursement according to the terms of appendix 16 of this title, signed by the centralizing department, configuring all of the operations of the bank carried out in the framework of the Arrangement, stating the following in the space "date of reference" of the Reimbursement Declaration:
 - a) in cases involving letters of credit with immediate payment - the date of negotiation;
 - b) in cases involving letters of credit and a guaranteed bill with installment payment - the date of the respective maturity;
 - c) in all other cases - the date of settlement of the corresponding exchange contract.
9. The banks are dispensed from appending the documents corroborating the dates referred to in the previous paragraph to the Reimbursement Declaration.
10. Should divergences for which the banks are liable be found to exist through the balancing of accounts between Exterbank and the Central Bank of Brazil, the Central Bank of Brazil will be entitled to levy the charges stated in subsection 4, with interest due for the period of arrears.

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1. Requests for reimbursement involving operations carried out under the terms of the Arrangement must be formulated through utilization of appendix 17 of this title, informing the payment instruments utilized, as well as the commissions and outlays, when suitable.
2. The numbers for reimbursement indicated by Exterbank must be entered exclusively in the column "No. Indicated for reimbursement" of the form mentioned above, and will be utilized for purposes of reconciling entries.
3. The reimbursement requests dealt with herein must have their own sequential numbering system to be renewed annually and included by the centralizing department in the space "Credit Request no.", in which case the numbering of the Department of origin may be indicated in the upper right margin of the printed sheet, and the banks must maintain a copy of these requests for a minimum period of five years.
4. Reimbursement requests referring to export exchange contracts settled must be submitted in the following time periods:
 - a) for operations with immediate payment, supported by irrevocable letters of credit negotiated without discrepancies: as of the date of the negotiation of the documents by the bank, including a copy of the letter of remittance of such documents to Exterbank;
 - b) for operations with installment payment, supported by irrevocable letters of credit with no discrepancies pending solution: as of the maturity date foreseen in the letter of credit, including a copy of the letter of remittance of such documents to Exterbank;
 - c) for transactions with immediate payment or installment payment, in the charging modality, including those operations which, although there is a letter of credit, have discrepancies that are only resolved after remittance of the documents (operation with immediate payment) or after the scheduled maturity (operation with installment payment); once the respective notification or payment order referring to settlement of the export by Exterbank is received by the bank, the reimbursement request must include a copy of the notification of liquidation or a copy of the payment order, in the latter case, also including a copy of the notification to Exterbank of the respective payment to the beneficiary;
 - d) for operations supported by a bill guaranteed by Exterbank; as of the maturity of the bill, including a copy of the lesser of remittance of the bill to Exterbank.
5. In the case of financial purchases, reimbursement requests must be submitted as of the day of the settlement of the respective exchange purchase, including a copy of the corresponding payment order or check that was negotiated and a copy of the notification to Exterbank of the respective payment to the beneficiary.

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SUBSECTION : 4 - Restitution of Undue Reimbursement

1. Should an undue reimbursement be effected by the Central Bank of Brazil, the respective amount must be refunded up to the day following the corresponding notification sent to the bank, which will also be accountable for payment of the following to the Central Bank of Brazil:
 - a) interest calculated on the basis of the prime rate of the bank with the largest assets in the city of New York, in effect on the date on which the refund is effected, plus a margin of two percentage points per year calculated in foreign currency for the period of the original reimbursement date to the date of refund;
 - b) a fee equivalent in Brazilian real to US\$25.00 (twenty five United States dollars), as refund of administrative costs including outlays on communications with Exterbank.
2. Should the refund to the Central Bank of Brazil not occur within the forecast time., the intervening institution will be subject to payment of interest on the corresponding value, calculated according to the terms of line "a" of the preceding paragraph, and will be calculated as of the original due date to that on which the refund is effected.
3. In the case of an undue refund already effected to the Central Bank of Brazil, the corresponding amount in United States dollars will be refunded to the institution without any additional amount or updating and the interest paid in the reimbursement operation will also be refunded, should that occur.
4. The request for return of the undue refund to the Central Bank of Brazil must be made by the centralizing department of the institution to the External Debt and International Relations Department (Derin), on the basis of a letter containing the facts related to the case.
5. The amounts referring to interest and expenses due to the Central Bank of Brazil and dealt with in this subsection are to be included in transfers of funds to the Central Bank of Brazil.

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SECTION : 5 - Countries which do not apply the recommendations of the Financial Action Group against Money Laundering and Financing of Terrorism – GAFI (NR)

1. The institutions authorized to operate in the foreign exchange market, at the time of operations with individuals and corporate entities, including financial institutions and companies, located in countries which do not apply or apply insufficiently the recommendations of the Financial Action Group against Money Laundering and Financing of Terrorism (FATF), must register in a report the analysis of such operations and, in the case of not being clearly characterized in their legal and economic foundations, communicate to the Council for Financial Activities Control (COAF) in the manner determined by the Central Bank of Brazil.