

Yaounde, the 10 JUN 2019

Instruction N° 06/GR/2019

Specifying the terms and conditions for the declaration, domiciliation of exports of goods and services and the repatriation of related revenues to the CEMAC

THE GOVERNOR,

Mindful of the Statutes of the Bank of Central African States in force;

Mindful of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on exchange rate regulation in CEMAC;

Pursuant to articles 60 and 195 of the said Regulations,

HEREBY GIVES THE FOLLOWING INSTRUCTIONS

Article 1 - This Instruction defines the conditions and procedures for the declaration and domiciliation of exports of goods and services outside CEMAC, as well as for the repatriation of the related revenues.

Section 1. Reporting of exports of goods and services.

Article 2 - Any export of goods shall be declared by the exporter or his agent to the customs administration or to the customs administration in its stead, in accordance with the model annexed to this Instruction.

For goods subject to export restrictions, the exporter or his authorised representative shall request authorisation from the competent technical authorities before making a declaration to the customs administration or in its place.

Article 3 - All transactions related to the export of services are reported to the Central Bank. To this end, credit institutions shall collect, on its behalf, import declarations for services, in accordance with the model annexed to this Instruction.

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Article 4 - The credit institution shall maintain a cumulative directory of export declarations for goods and services containing the following information:

- the name or business name of the exporter;
- the exporter's unique identification code;
- the name or company name of the customer and its location;
- the reference and amount of the customer's export invoice;
- the type of operation (X for export);
- the nature of the export (G for goods and S for services);
- the period of the operation;
- the ISO code of the currency.

Article 5 - All external transactions related to services shall be declared by the exporter or his authorised representative to the Central Bank (in accordance with the model attached hereto) or to the customs administration or to the customs administration in lieu thereof in the case of an export of services connected with an export of goods.

All exports of services are evidenced by a contract for the provision of services or any document under the conditions provided for by exchange regulations.

Section 2. Domiciliation of exports of goods and services

Article 6 - Subject to the exemptions provided for in this Instruction, any export of goods and services whose value is at least equal to CFAF 5 million shall be domiciled by the exporter by instructing an approved intermediary of the country of origin to carry out, on his behalf, all formalities and banking operations relating to it, from the initiation to its discharge.

Article 7 - An export is domiciled with a single credit institution. In this respect, the revenue relating to it is collected exclusively by the domiciliary credit institution.

Article 8 - Export domiciliation is an administrative act which does not constitute a commitment of the credit institution towards the exporter's external partners and correspondent banks.

Article 9 - The registration of exports is a prerequisite for the passage of goods through customs.

Article 10 - Prior to the direct debit, the credit institution shall verify that:

- the exporter has an export authorization, if applicable;
- the exporter is registered in the exporters' file, if applicable;
- the object of export is related to the exporter's activity;
- the exporter is not subject to any foreign trade restrictions or has a license or special authorization, if any;

- the goods are not subject to a prohibition or quota measure in the country of origin or destination;
- the legality of the operation with regard to the regulations.

To this end, the exporter or his authorised representative shall provide the credit institution with:

- the export declaration issued by the customs administration or the one in its place in accordance with the model annexed to this Instruction;
- the authorisation of the competent authorities for goods subject to restriction or quota;
- the binding exchange commitment at the end of which it undertakes to transfer the receipts from the export concerned and to transfer the related currencies to the custodian bank within the time limits laid down in this Instruction.

Any failure noted by the credit institution shall result in the refusal of the direct debit for the export in question.

Article 11. The goods are exported on the basis of a document certifying this, in particular the contract, market agreement, purchase order, pro forma or final invoice or any other document in lieu thereof.

- The document proving the export of the goods must include all the information relating to the transaction, in particular: the commercial description of the contracting parties and their addresses;
- the country and delivery address;
- the precise description of the goods;
- the date and place of invoicing;
- the invoicing currency;
- the unit and total price of the goods;
- the method and time of payment;
- the incoterm used.

Article 12 - A credit institution shall open, for each transaction related to an export of goods or services, a direct debit file bearing the name or business name of the exporter and a reference assigned in a continuous series in the format "unique identification code - bank code - transaction type - nature number - month - year - currency code", described below:

- the exporter's unique identification code (NIF, NIU...) issued by the competent administration;
- the "bank code" is a five-digit numeric code issued by COBAC;
- the "type of transaction" indicates that it is an "X" export;
- the "number" is a chronological number of files opened during the period and consists of five numeric characters;
- the "nature" indicates the nature of the import to an alphabetical character: "G" for goods and "S" for services;

- the "month" is represented by two figures relating to the month concerned;
- the "year" is represented by four figures relating to the year in question;
- the "currency code" indicates the three-character ISO code of the currency concerned.

Example: XXXXXXXXXXXXXXXXXXXX-10001-X-00001-B-02-2019-EUR

Article 13 - The direct debit file shall include the following elements:

a) For exports of goods:

- the export declaration;
- a copy of the commercial contract or any other document in its place;
- the firm exchange commitment, in accordance with the model attached as an appendix to this Instruction;
- the tax identification number or any other document in its place;
- the required administrative authorisations, in the case of goods subject to restrictions.

b) For the export-of-services:

- a copy of the service contract;
- the invoice, debit note, expense statement, fee statement or any other supporting document;
- the firm exchange commitment, in accordance with the model attached as an appendix to this Instruction;
- the tax identification number or any other document in its place.

Article 14 - The credit institution shall issue to the exporter a certificate of domiciliation or any document in lieu thereof, indicating the references of the domiciliation of the export of goods or services.

Article 15 - At the exporter's request, the custodian bank may pay the export commissions provided for in a representation, brokerage or factoring contract, up to a maximum rate of 10% of the value of the exports.

The payment of export commissions is made by the approved intermediary on the basis of the following supporting documents:

- a copy of the agency agreement or any other document from the foreign contracting partner specifying the amount of commissions;
- the customs export declaration and the certificate of actual export;
- proof of payment of taxes due, related to export, if applicable.

Article 16 - At the exporter's request, the receiving bank may proceed with the payment of returns of goods relating to exports, on presentation of the following supporting documents:

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- a copy of the invoice issued in the name of the non-resident customer;
- the exporter's agreement to be refunded (debit note);
- the letter of complaint from the non-resident importer indicating the reason(s)
- proof of return of goods;
- supporting documents for the repatriation of export earnings.

Article 17 - Any reduction in the amount of the export product to be repatriated following a withholding tax on intermediation costs or any other costs related to the basic transaction, which does not exceed 10% of the total amount of the transaction, shall be justified by the economic agents at the time of repatriation of their revenues. To this end, economic agents shall provide the authorised intermediaries with the relevant supporting documents for the purpose of post-clearance checks by the competent authorities.

For any reduction of more than 10% and not justified by expenses other than those referred to in the first paragraph of this article, the difference shall be considered as not repatriated and shall give rise to the application of the penalties provided for by the exchange regulations.

Article 18 - The following operations are exempt from direct debit, subject to their justification by the exporter:

- refuelling of foreign aircraft and ships with petroleum products and ship's supplies;
- shipment of samples or small quantities of promotional items not intended for sale;
- shipment of reusable packaging to be re-imported or whose value is not included in the value of the goods. However, where such packaging is not consigned, its value must be indicated on the export declaration;
- sending personal belongings of diplomats at the end of their stay;
- sending donations to a foreign country;
- sending goods from an inheritance;
- permanent move out of CEMAC.

Section 4. Repatriation of revenues from exports of goods and services

Article 19 - Repatriation is the operation by which the foreign currency due to economic agents is collected through the intermediary of bank correspondents of CEMAC or Central Bank credit institutions and credited to their accounts in CFA Franc or in foreign currency for those authorised to hold foreign currency accounts.

Article 20 - Exporters of goods and services shall, within a maximum period of 150 days from the effective date of export, collect and repatriate the revenue from their exports to CEMAC through domiciliary credit institutions.

Article 21 - The currencies to be repatriated are those relating in particular to export earnings from goods and services, loans, current account advances, income, donations, direct or portfolio investments and transfers without counterpart.

Article 22 - The exporter must justify the non-repatriation of export earnings caused by non-compliance, damage or loss.

Section 5. Clearance of direct debit files for exports of goods and services

Article 23 - The clearance consists in gathering, within 15 days following the repatriation of the export product to the CEMAC, the various documents necessary for the closure of the latter.

Article 24 - Credit institutions shall monitor the clearance of the direct debit files of exports opened in their books. To this end, for the clearance of the export direct debit file:

a) *The exporter provides:*

- the bill of lading, the ETA, The Letter of Intent;
- the final invoice;
- the voucher to be taken.

b) *The credit institution produces:*

- the credit notice of the exporter's account in the books of the domiciliary credit institution;
- the credit notice received from BEAC following the retrocession.

Article 25.- The credit institution shall maintain a cumulative directory of export domiciliations containing the following information:

- the name of the exporter;
- the date and reference number of the export direct debit;
- the reference and amount of the final invoice for the export or the commercial contract relating to the export;
- the amount of the export payment;
- the reference and the amount of the voucher to be shipped;
- the reference and amount of the receipt for payment of customs duties and taxes due in connection with the export;
- the nature of the export (good or service);
- the date the file was opened;
- the expiry date of the export contract;
- the actual date of export;
- the date of actual repatriation of export earnings;
- the date on which the credit institution retrocedes the foreign currency to the BEAC;
- the date of clearance of the direct debit file.

Article 26 - The clearance is carried out by affixing the words “cleared”, with an indication of its date, to the direct debit file and, where applicable, in the directory, after the credit institution has established that all the revenue from the export concerned has been repatriated through it and that the corresponding currencies have been transferred to the Central Bank in accordance with the provisions relating to the transfer of the currency.

Where the credit institution is unable to have all the information necessary for the complete clearance of the file, for any reason whatsoever, it may close the file, with the words “partially discharged”, subject to prior formal notice to its customer which has remained ineffective. The reason for the impossibility of full clearance is also indicated in the file.

Where it is impossible for the economic agent to discharge all debts due to him, the penalties laid down for failure to discharge shall apply.

Section 6. Miscellaneous and final provisions

Article 27 - Splitting exports to circumvent the direct debit threshold is prohibited.

Article 28 - The customs administration may make any further export of goods or services by the same economic agent subject to the prior production by the same economic agent of any document certifying the clearance of its previous export.

Article 29 - The exporter shall provide the credit institution with supporting documents as and when they become available.

Article 30 - Domiciliary credit institutions shall keep import direct debit files in accordance with the legal deadlines in force.

Article 31 - Credit institutions shall communicate to the Central Bank, 15 days after the end of each month, the directory of export domiciliation.

Article 32 - Credit institutions and the customs administration shall, where necessary, transmit to each other by any means guaranteeing their traceability, documents, documents and information of all kinds relating to exports carried out by an economic agent.

Article 33 - The customs administration shall communicate to the Central Bank, 15 days after the end of each month, information on imports of goods and services.

Article 34 - Documentary and on-the-spot checks shall be carried out by the Central Bank and COBAC to ensure compliance by authorised intermediaries with the provisions of this instruction.

The control of other economic agents carrying out operations with the outside world is carried out by the Ministry in charge of currency and credit and the Central Bank

Article 35 - Any failure to comply with the provisions of this Instruction exposes the offender to the penalties provided for by the regulations in force.

Article 36.- This instruction may be amended by the central bank It can be specified by means of its Circular Letter.

Article 37 - This Instruction, which repeals any previous provision relating to the same subject matter, shall enter into force on the date of its signature. /-

ABBAS MAHAMAT TOLLI