

Yaounde, the 10 JUN 2019

## **Instruction N°07/GR/2019**

### ***Specifying the conditions and procedures for the declaration, registration, domiciliation and payment of the importation of goods and services***

#### **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 64, 74, 75 and 195 of the said Regulations,

#### **HEREBY GIVES THE FOLLOWING INSTRUCTIONS**

**Article 1-** the following instruction specifies the conditions and procedures for the declaration, registration, domiciliation and payment of the importation of goods and services.

#### **Section 1 - Reporting of imports of goods and services.**

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

The import declaration is separate from the accounting required for the actual import of the good or service.

For goods subject to import restrictions, the importer 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 import 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.

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

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

**Article 5** - Any import of services subject to direct debit is governed by a service contract, duly registered with the tax authorities or those in lieu of the country of destination of the service.

Service contracts relating to imports of services linked or related to an import of goods shall be registered with the customs administration or the administration in place thereof.

## **Section 2 - Domiciliation of exports of goods and services**

**Article 6** - Subject to the exemptions provided for in this Instruction, any import of goods and services whose FOB value, determined in accordance with the provisions of the Regulation establishing the CEMAC Customs Code, is at least equal to CFAF 5 million shall be domiciled by the importer 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** - Domiciliation is a prerequisite for any transfer, commitment and customs clearance related to the import of goods or services. It is carried out with a single credit institution.

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

**Article 9** - Prior to the import domiciliation, the credit institution shall verify that:

- the importer has an import authorization, if applicable;
- the importer is registered in the importers' file, if applicable;
- the object of import is related to the importer's activity;
- the importer 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
- The legality of the operation with regard to the regulations.

- Where applicable, for the import of services, the operation complies with the provisions of the exchange regulations.

Any failure noted by the credit institution shall result in the refusal of the import domiciliation in question.

**Article 10** - A credit institution shall open, for each transaction related to an import of goods or services, a direct debit file bearing the name or business name of the importer 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 importer'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 "M" import;
- 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 : XXXXXXXXXXXXX-10001-M-00001-B-02-2019-EUR.

**Article 11** - The direct debit file shall include the following elements:

*a) For the imports of goods:*

- the proforma invoice;
- the contract, if applicable;
- the export declaration;
- The tax identification number or any other document in its place.
- Authorisation for restricted products, where applicable.

*b) For the import-of-services:*

- the pro forma invoice or purchase order;
- the duly registered service contract;
- The tax identification number or any other document in its place.
- The declaration of import of services to the Central Bank in accordance with the model defined in the Annex.

**Article 12** - The credit institution shall issue to the importer a certificate of domiciliation or any document in lieu thereof, indicating the references of the direct



debit for import of goods or services. **Article 13** - The importer shall ensure that the references of the direct debit are mentioned on the documents relating to the import.

**Article 14** - The following import operations of goods are exempt from the obligation of direct debit:

- purchases of goods under customs control;
- donations to CEMAC States;
- consignments sent to international humanitarian organisations based in CEMAC, directly and without intermediaries, admitted duty-free;
- personal effects imported by foreigners permanently settling in a CEMAC country or nationals of a CEMAC Member State in permanent return;
- returned goods or reimported goods not giving rise to payment;
- furniture used and equipment imported as a result of relocation or inherited, including animals, motor vehicles and all other items as well as duly justified donations received abroad;
- original works of art imported by their artists;
- spare parts provided free of charge by foreign manufacturers to replace faulty parts
- goods admitted duty-free under cover of the immunity and privileges accorded to members of the diplomatic corps and assimilated;
- imports by diplomats of CEMAC countries accredited outside their countries of origin, when these do not give place to a payment from an account domiciled in CEMAC;
- imports from States paid for from Treasury accounts and public accountants domiciled at the Central Bank.

### **Section 3 - Payment for the importation of goods and services**

**Article 15** - The payment for the importation of goods and services may only be made by the domiciliary credit institution.

**Article.16** - A credit institution shall ensure that the importer has sufficient provision or credit authorisation to cover the payment relating to the transaction.

**Article 17** - The payment for an import of goods and services may not exceed the amount in foreign currency indicated at the time of its direct debit.

However, an overrun is tolerated within the limit of 10% of the amount declared at the time of the import's direct debit, subject to justification by the importer.

Where the excess is more than 10% of the amount declared at the time of the initial direct debit, the importer shall make an import declaration and a direct debit for the excess amount.

**Article 18** - The payment for imports of goods and services by the credit institution shall be made on the basis of the documents referred to in Article 11 of this Instruction and the following supporting documents:

a) *For the imports of goods:*

- the transfer order;
- an undertaking to provide proof of clearance of the direct debit file.

b) *For the import-of-services:*

- the transfer order;
- an undertaking to provide proof of clearance of the direct debit file.
- proof of the effectiveness of the service;
- proof of payment of taxes due, related to export, if applicable.
- The invoice

**Article 19** - In the event of cancellation of an import operation for goods or services settled through the Central Bank, the credit institution shall immediately return all the corresponding currencies to the Central Bank.

#### **Clearance of direct debit files for import of goods and services**

**Article 20** - The clearance consists in gathering, within the time limits set by this Instruction, the various documents necessary for the closure of the import operation.

**Article 21** - The deadlines for the clearance of import files are set as follows, from the date of payment:

- three (03) months for imported goods and related services;
- one (01) month for the import of services.

**Article 22** - 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 import clearance file, the importer of goods or services shall provide the following documents to the domiciliary credit institution, as and when they become available:

- the accounting statement issued by the customs administration or the one in its place;
- the receipt for payment of customs duties and taxes due in connection with the import concerned;
- the bill of lading, airway bill or consignment note;
- the final invoice, debit note, expense statement, fee statement or any other supporting document;
- where applicable, any document justifying the actual performance of the import of the service, in particular the provisional or final acceptance report, the study report.

In the event of cancellation of the import operation for which the Central Bank has supplied the credit institution with foreign currency, the file shall also include proof of the transfer back to the credit institution of the corresponding foreign currency.

**Article 23** - The clearance is carried out by affixing the words "discharged", with an indication of its date, to the import direct debit file and, where applicable, in the register of import direct debit files.

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.

**Article 24.-** The credit institution shall maintain a cumulative directory of export direct debits containing the following information:

- the name of the importer;
- 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 payment;
- the reference and amount of the customer' import invoice;
- the reference and amount of the receipt for payment of customs duties and taxes due in connection with the export;

#### **Section 4 - Miscellaneous and final provisions**

**Article 25** - Credit institutions shall send the following documents to the Central Bank each year and at the end of each technical assistance contract between a resident and a foreign entity:

- the statement by type of expense prepared by the foreign company specifying all expenses and revenues recorded;
- The special account statement opened for this purpose;
- declarations for the payment of taxes due relating to the technical assistance contract.

**Article 26** - Splitting exports to circumvent the direct debit threshold is prohibited.

**Article 27** - For any import subject to direct debit, the customs administration shall reject any accounting statement without direct debit.

**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 import.

**Article 28** - Domiciliary credit institutions shall keep import direct debit files in accordance with the legal deadlines in force.

**Article 29** - Credit institutions shall communicate to the Central Bank, 15 days after the end of each month, the directory of domestic importation

In the case of domiciled imports prior to the date of entry into force of this Instruction, only unclaimed records shall be transmitted to the Central Bank.

**Article 30** - Credit institutions and the customs authorities shall, where necessary, transfer to each other, by any means ensuring their traceability, all documents, records and information of all kinds relating to imports carried out by an economic agent.

**Article 31** - 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 32** - 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 is carried out by the Ministry in charge of currency and credit and the Central Bank

**Article 33** - Any failure to comply with the provisions of this Instruction exposes the offender to the penalties provided for by the regulations in force.

**Article 34** - This instruction may be amended by the central bank It can be specified by means of its Circular Letter.

**Article 35** - This Instruction, which repeals any previous provision relating to the same subject matter, shall enter into force on the date of its signature. /-

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