

:: EXCHANGE REGULATIONS | ITS NEGATIVE IMPACT IN FOREIGN TRADE::

In spite of the declarations made by important representatives of the National Executive Branch and of the Argentine Central Bank itself (who repeat that the exchange regulations “do not in any way affect foreign trade”), the restrictions issued on the subject as from last September 1st are having a negative impact in local foreign trade, noticeably hampering export and import transactions. In the first place, the regulations on exchange control that were implemented must be put into context. The Argentine Republic has been steadily losing reserves, since the financial crisis and devaluation of mid 2018, and said loss has grown exponentially as from the primary elections (PASO), of last August 11. Nowadays, the nominal reserves amount to USD 43,000 millions roughly, but the net reserves barely reach USD 12,000 millions, reflecting a very high external vulnerability. Within this context on last September 1st the National Executive Branch issued decree 609/19 whereby it decided (in principle, temporarily up to December 31, 2019) the compulsory inflow and negotiation of the equivalent currency value of exports of goods and services from our country, under the conditions and terms to be specified by the Central Bank of the Argentine Republic (*Banco Central de la República Argentina -BCRA-*), while on the other hand it also delegated to the BCRA (always within the powers contained in said Entity’s charter) to set the cases in which natural and legal persons shall have access to the local exchange market, in order to acquire foreign currency bills, specifying the requirements thereof. As regards Foreign Trade, the BCRA had to fix the terms in which exporters should inflow the currency generated by their exports and, once notified on the arrival of the payment order they should settle them in Argentine Pesos in the exchange market. With respect to imports, the BCRA would set forth in which conditions importers would have access to the acquisition of currency, in the local exchange market, for the payment thereof abroad. I.- EXPORTS: as regards exports, the BCRA issued through Communiqué “A” 6788 a set of regulations, known as “SECOEXPO” (acronym of “*Seguimiento de Cobros de Exportaciones*” (Monitoring of Exports Collections), necessary to control the performance of the obligations to locally negotiate currency, imposed upon exporters. The existence of this set of regulations should not necessarily affect the development of international trade, provided that the terms to inflow and settle the currency generated by the sales abroad are reasonable and proper according to the exported goods, the usual conditions of its transactional market and the geographical location of the intended recipient. However, as a result of the greed for currency the BCRA has set too short terms for the inflow of currency for the group of goods that constitute the bulk of Argentine exports. Hence, the exports of cereals, oilseeds and soybean oil have only 15 running days, as from the formalization of the local shipment abroad, to inflow and settle the generated currency; mineral fuels and food industry waste have only 30 days and the exports of metal ores only 60 running days (the latter term is imposed also as a maximum period to inflow and settle currency to the exporters to foreign “affiliated” companies, if not a shorter period, depending on the exported goods, as specified above). Such terms are not enough. Only by way of example, let us imagine exports of bulk cereal (usually transported by sea) to faraway destinations (China for example, one of our main customers in this item): the local exporter is required to inflow and settle the currency that it should pay to the foreign buyer, within 15 days following shipment, when probably the foreign

buyer has not received the goods yet, and has not had the chance to verify if the received goods match its order; if there are eventual missing goods or shortages, etc. The situation of exporters who have to inflow and settle currency within 30 or 60 days following shipment is not better, a situation suffered by a huge number of local manufacturers who export goods to foreign affiliated companies. There were cases also in which exporters have had problems to use the currency generated by their sales of goods to make payments abroad, advance payments o exports pre-financing, which at present are almost impossible to obtain, because their inflow and settlement in the country is required also and, of course, with the current uncertainty existing with respect to imminent economic and exchange measures to be adopted by the new government, the possibility of finding financing abroad to remit funds to the country practically does not exist. II.- IMPORTS: as regards imports, the BCRA has regulated, through Communiqué "A" 6818, the procedures to control payments abroad for this item. Said set of regulations is known with the acronym "SEPAIMPO" "*Seguimiento de Pagos de Importaciones*" (Monitoring of Imports Payments), and have been designed to: a) impose conditions (information and documentation to be gathered) to provide access to currency to Argentine importers that must make payments abroad for already made imports and b) set the cases in which advance payments for imports are authorized and, then, monitor that the goods acquired abroad enter into the country within a certain term (a maximum term of 90 running days from the payment abroad was provided for). In connection with the payment of imports, several problems have appeared as a result of the regulations that came into force (the "SEPAIMPO"): (i) on one hand, the excessive amount of documentation, information and declarations that importers must submit to the bank involved in the transaction, so that it may accept to sell them currency and transfer it to them to pay imports; (ii) on the other hand, the maximum term of 90 days to bring goods into the country which acquisition abroad has been paid in advance is too short in many cases which are marked, precisely, by the requirement of advance payments. Advance payments of imports are typical of the purchase of industrial goods abroad, manufactured or assembled depending on the technical features or specifications furnished to the foreign manufacturer by the local importer. In these cases, in which the manufacturing of goods abroad or their assembling following guidelines given by Argentine importers exists, the term of 90 days running days proves to be extremely short. All of the foregoing hinder or renders impracticable many of the imports made by our country, which industry is not sufficiently developed and depends on industrial imports for local production. But the most serious problem that Argentine importers face at present does not arise from the mandatory regulations issued by the BCRA, even if the same are very demanding already. The worst problem is that importers have begun to suffer the arbitrary refusal from many banks, to have access to currency, even when they comply with the regulations and requirements imposed by the BCRA. This proves to be an irregularity that, unfortunately, has begun to spread through almost all the entities in the banking system; its cause seems to lie in the fact that the availability of reserves of the B.C.R.A. is so low, that this Entity –according to rumors, more or less discreet, in certain financial market coteries - has "virtually intervened" the Foreign Trade Managements of several banks, ordering them to reject as many payments abroad as possible, even with minimum excuses, and arbitrarily in many cases, based on insignificant issues, that do not fail to comply with any regulations at all. Whether said rumor is true or

false, the fact is that we objectively checked in our daily practice that there exist unfounded and arbitrary rejections by the banks regarding the sale of foreign currency to importers. For example: a) the refusal to pay foreign invoices –for imports already credited to the banks- one or two years after their issuance, justifying the refusal in the fact that “the invoice is old” what “would be an inconsistency” that gives rise to the rejection of the intended transfer, failing the bank to analyze that there is no regulation whatsoever that prevents the payment of such invoices, due to their issuance date, and ignoring – maybe- that in the case of affiliated companies the flexibility of the foreign creditor is the main source of financing of the local manufacturer; b) the refusal to pay “triangular imports” (quite common transactions, namely when the foreign seller, of country A, sends the sold good to Argentina from a third country (country B) where the factory is located); in this case the grounds for refusing payment are that the seller/supplier of the good is different from the “shipper”, what according to the regulations of the BCRA is not an obstacle at all, but sets the grounds for the refusal by certain banks to make payments abroad.

Basically, a great number of cases appear in which the banks –whether following instructions or not, and without regulations, from the BCRA- delay, hamper or directly reject payments of imports abroad without any justifications whatsoever, while in other cases, they forcibly impose the settlement of the inflow of currency (that could be credited locally in foreign currency accounts, without having to be settled). This is a serious obstacle to the normal development of Argentine Foreign Trade, since it prevents the proper flow of collections and payments abroad, even under an exchange control system.

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