

RESOLUTION 62 of 17 August 2010

THE COUNCIL OF MINISTERS OF THE CHAMBER OF FOREIGN TRADE, pursuant to the decision approved in reunion on 17 August 2010, considering the provisions of Article 2, subsections I, II and IX of the Decree 4732 of 10 June 2003, and of Article 1 of the Decree 3678 of 30 November 2000.

RESOLVES:

Article 1. Condition the official Brazilian support to exportation through financing or refinancing for exports, interest rate equalization, export credit insurance or any other combination of these modalities, to the signature of the Statement of Commitment for Exporters annexed to this Resolution, in attendance to the commitments assumed by Brazil as signatory of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, ratified 15 June 2000 and enacted by Decree 3678 of 30 November 2000.

Article 2. This Resolution comes into force on the day of its publication.

MIGUEL JORGE

STATEMENT OF COMMITMENT FOR EXPORTERS

(Combating Bribery of Foreign Public Officials in International Commercial Transactions)

Exporter: (name)
Subject: export of goods and/or services, in the amount of to (country) ...,
(transaction information for purposes of identification)

..... (name of the reporting exporter), (qualification, National Registry of Legal Persons Number, address), through its undersigned legal representatives, hereinafter the Exporter, having executed (or the intention to execute) a commercial contract with (name of the Importer), hereinafter the Importer, in connection with the above enumerated exports, declares, under penalty of law, for purposes of receiving officially supported export credits (financing for exports/export credit insurance/interest rate equalization), the following:

I) it is aware of Brazil's adhesion to the OECD Convention (Convention on Combating Bribery of Foreign Public Officials in International Commercial Transactions, signed in Paris on 17 December 1997), and enacted into Brazilian law through Decree 3678 of 30 November 2000;

II) it is aware that articles 337-B and following of the Brazilian Penal Code establish crimes against Foreign Public Administration, including corruption of foreign public official and traffic of influence, both in international commercial transactions;

III) it has no knowledge as to the involvement of any person acting on the behalf of the enterprise, in its interest or benefit, in the export transaction abovementioned, which is eligible to receive ... (export financing from the National Economic and Social Development Bank – BNDES¹/Export Financing Program - PROEX run by the Bank of Brazil S/A, in its capacity as agent of the National Treasury/Export Credit Insurance Coverage from the Export Guarantee Fund – FGE²) ..., in promising, giving or intending to give, offering or intending to offer any financial or other material advantage, directly or indirectly, to any foreign public official, including for purposes of obtaining a favorable decision in relation to its business transactions and, by extension, in the commission of the illicit acts related to the offense of bribery of foreign public officials prescribed in the Brazilian Penal Code;

IV) it will comply, at all times, with the applicable anticorruption norms and regulations and communicate any fact or act subject to this Statement to the ... (BNDES/SBCE³/Bank of Brazil)... immediately upon learning of such fact or act, which could affect the situation declared in paragraph III regarding the commission of the illicit acts related to bribery of foreign public officials prescribed in the Brazilian Penal Code;⁴

V) it is aware that in the event the Exporter or any person acting on behalf of the enterprise, in its interest or benefit, is held liable for the commission of the act of promising, offering or giving, directly or indirectly, any undue advantage to a foreign public official in an international commercial transaction, or convicted for practicing any of the crimes against foreign public administration established in articles 337-B and following of the Brazilian Penal Code, the Exporter shall be subject to loss of export financing, from the National

¹ BNDES – Banco Nacional de Desenvolvimento Econômico e Social

² FGE – Fundo de Garantia à Exportação

³ SBCE – Brazilian Export Credit Insurance Agency (Seguradora Brasileira de Crédito à Exportação)

⁴ Código Penal Brasileiro

Economic and Social Development Bank – BNDES, from the Export Financing Program - PROEX run by the Bank of Brazil S/A, in its capacity as agent of the National Treasury and from the Export Credit Insurance Coverage from the Export Guarantee Fund – FGE and for a period of eight (8) years from the sanction judgment regarding new export transactions;

VI) none of the persons involved in negotiating the export transaction is a defendant in a pending criminal proceeding before a Brazilian court for the offense of bribery of a foreign public official or has been convicted in the past five (5) years for a criminal offense against the Foreign Public Administration, in violation of the anticorruption provisions set forth the Convention to which paragraph I makes reference; as well as in violation of specific legislation.

VII) it will, when so requested, identify and specify the persons acting in its name or on its behalf and under its instructions, as well as the existence and amounts of commissions and fees paid to agents involved in the export transaction to which this Statement refers;

VIII) it will implement an internal control system in conjunction with clear and precise accounting standards to ensure internal mechanisms to verify and demonstrate the proportionality and reasonableness of the payments made to representatives, proxies, mandataries and other persons or organizations with which it maintains related business ties, with a view to identifying possible illicit transactions (the maintenance of precise records represents a basis for detecting eventual illicit payments);

IX) it will provide guidance to its employees concerning the classification of the active bribery offense and traffic of influence, both in international commercial transactions, prescribed in articles 337-B and following of the Brazilian Penal Code through the formulation of a Code of Ethics setting out mechanisms to report the commission of any of the crimes against the Foreign Public Administration as established in the Brazilian Penal Code;

X) it will implement, where it has not already done so, internal control practices and systems, including standards of conduct, with a view to combating the commission of the offense of active bribery and traffic of influence, both in international commercial transactions, prescribed in articles 337-B and following of the Brazilian Penal Code;

Note: The items mentioned above describe proceedings to be conducted on the Exporter's own account and under his own responsibility, which may be examined eventually.

Finally, declares to be aware that acting in bad faith regarding the assumption of the commitments described in this Declaration is crime, prescribed in the article 299 of the Brazilian Penal Code.

Place and Date

Signature of the Legal Representative of the Exporter

(identification of the person signing the Statement,

with indication of his or her management position in the legal person of the Exporter)