

DECREE NUMBER 94-2000
THE CONGRESS OF THE REPUBLIC OF GUATEMALA

WHEREAS:

That according to articles 132 and 133 of the Political Constitution of the Republic of Guatemala it is exclusive right of the state to formulate and make the policies which tend to create and maintain favorable exchange conditions for the development demanded by the national economy; and the Monetary Board is the entity in charge, among others, of the attributes of determining the exchange policy of the country.

WHEREAS:

That the country should participate efficiently in the new international exchange order, so as to not remain behind or at a disadvantage with regard to its main commercial partners, particularly with the countries of the region, therefore it is necessary to count on a juridical frame of exchange order that is current and flexible.

WHEREAS:

That the experience of other countries indicates that, in a stable macroeconomic environment, the legalization of financial intermediation in foreign currency has contributed to eliminating transaction costs in usual foreign commercial and tourism operations, as well as, facilitating the diversification of the investment and savings decisions of the economic agents.

THEREFORE

In the exercise of the attributions literally conferred in article 171 a) of the Political Constitution of the Republic of Guatemala:

DECREES:

The following:

LAW OF FREE NEGOTIATION OF FOREIGN CURRENCY

ARTICLE 1. Exchange System. It is free to bequest, possess, contract, remittance, transfer, purchase, sell, charge and pay in and pay with foreign currency and it will be on account of the individual or juridical person, national or foreign, the utilities, losses and the risks derived of the operations of that nature made.

It is equally free to have and manage deposits and accounts in foreign currency, as well as operations of financial intermediation, in national as well as foreign banks. The assets, liabilities, confidential and related with obligations by third party account operations that are made in foreign currency in the banks of the system and private financial companies, will be obligated, in the applicable, by the proposed in the Organic Law of the *Banco de Guatemala*, in the Monetary Law, in the Banking Law, in the Savings and Housing Loan Law, in the laws specific to the banking and financial institutions, in the Law of Private Financial Companies, Financial Products Law and in the proposals dictated by the Monetary Board and by the Superintendence of Banks.

Notwithstanding the proposed in the previous paragraph, the issue of titles of credit or values credits expressed in foreign currency that are made by banks or private financial companies, require prior authorization from the Monetary Board. In the resolution issued by said Board in which the authorization is consigned, the conditions will be established, in such a way, that they will be applicable to the issue of those titles.

The Government of the Republic, the decentralized institutions, autonomous and semi-autonomous and, in general, all entities and offices of the State, will

effectuate all their purchases, sales, remittances, transfers and other transactions of foreign currency, inside the country as well as abroad through the *Banco de Guatemala*. The purchase and sale of foreign currency will be exempt of the payment of the Added Value Tax and of the Revenue Stamp tax and of the Official, Sealed Paper for legal documents.

ARTICLE 2. Institutional Market of Foreign Currency. The Institutional Market of Foreign Currency is constituted by the *Banco de Guatemala* and by the banks, the private financial companies, the stock market, the exchange houses referred to in Article 3 of the present decree, as well as by other institutions that the Monetary Board deem fit. For statistical control purposes, said entities must report the operations of exchange made daily to the *Banco de Guatemala*, in the manner determined by the Monetary Board.

ARTICLE 3. Exchange Houses. For the effects of this law, the exchange houses are those non-banking stock companies that operate in the institutional market of foreign currency. The exchange houses to operate in said market must be authorized by the monetary board and will adhere to the regulations that the board dictate for that effect.

The Superintendence of Banks will exercise the surveillance and inspection of the exchange houses, as to exchange operations, and must observe the layout that for the effect the Monetary Board dictates. The cost of the surveillance and inspections of the exchange houses will be determined and covered by said entities.

ARTICLE 4. Reference Exchange Rate. For the effect of the determination of the applicable exchange rate for the liquidation of the tributary obligations and others that require payment from the state or to the state and its entities, as well as for the resolution of conflicts in the administrative and jurisdictional environment, the exchange rate of reference applied will be the rate of

the Quetzal regarding the United States dollar, that the *Banco de Guatemala*, calculate and publish daily.

The methodology of the calculation for the exchange rate of reference as well as the exchange rates regarding other foreign currencies must be approved by means of a resolution by the Monetary Board based on criteria that reflects market behavior.

ARTICLE 5. Gold Transactions. The importation, exportation, layout, possession, purchase, and sale of gold, in coins or in bars, in the national territory are to be made freely.

ARTICLE 6. Article 8 of Decree Number 203 of the Congress of the Republic, Monetary Law is to be reformed; from now on it will be as follows:

‘**Article 8.** Only if the parties involved expressly and conventionally decide the contrary, the quetzal will be the only means of payment and the currency employed in every transaction or negotiation of monetary content, and will have the power to free debts; in any case, the jurisdictional and administrative branches must respect and obligate the fulfillment of the convened by the parties.

Any person, individual or juristic, can of mutual accord freely agree to the payment in foreign currency of fees, salaries, wages or commissions that they are entitled to for the rendering of services or labor, whatever the case may be.’

ARTICLE 7. Transitory. The exchange houses constituted under and authorized according to the declared in Decree number 22-86 of the Congress of the Republic, Transitory Law of the Exchange Regimen, can continue to operate under the sanctuary of the present decree. The exchange houses that decide to continue operating under the present decree must make it known to the Monetary Board in writing, through the Superintendence of Banks, within the ten days following the enforcement of this decree, therefore they will automatically be authorized to operate in the Institutional Market of Foreign Currency. The exchange operations that were begun under the protection of the propositions prior

to the enforcing of the present decree must be concluded according to said propositions.

ARTICLE 8. Transitory. The Monetary Board must issue the norms and regulations necessary to exercising the control and security measures that must be upheld by the financial institutions constituted or represented in the country for the realization of the confidential operations, financial intermediation, management of deposits and foreign currency accounts thirty days prior to the enforcing of the law.

ARTICLE 9. Annulment. Articles 2 and 3, from 14 to 34 and from 37 to 80 of Decree Number 203 of the Congress of the Republic, Monetary Law; Decree Number 22-86 of the Congress of the Republic of Guatemala, as well as those propositions which are incompatible, oppose or contradict the present decree are annulled.

ARTICLE 10. Current. The present decree was approved and declared of national urgency with a favorable vote of more than two thirds of the total number of congress persons that integrate the Congress of the Republic, approved in two debates, will be enforced as of May first, two thousand one and will be published in the official newspaper.

**PASS ON TO THE EXECUTIVE BRANCH FOR ITS SANCTION,
PROMULGATION AND PUBLICATION.**

**GIVEN IN THE LEGISLATIVE BRANCH PALACE, IN THE CITY OF
GUATEMALA, ON DECEMBER NINETEENTH, TWO THOUSAND**

**JOSE EFRAIN RIOS MONTT
PRESIDENT**

CARLOS WOHLERS MONROY
SECRETARY

SULEMA FRINE PAZ DE RODRIGUEZ
SECRETARY

SANCTION DECREE OF CONGRESS NUMBER 94-2000
NATIONAL PALACE Guatemala, January twelfth, two thousand one.

PUBLISH AND ENFORCE
PORTILLO CABRERA

MARCO ANTONIO VENTURA
VICE-MINISTER OF INTEGRATION
AND FOREIGN COMMERCE.
PERSON IN CHARGE OF THE OFFICE

Lic. J. Luis Mijangos C.
SECRETARY GENERAL.
PRESIDENCY OF THE REPUBLIC

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