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**Regional Instruments**



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**CODE OF LIBERALISATION OF CAPITAL MOVEMENTS**\*

The Code of Liberalisation of Capital Movements was adopted by the Council of the Organisation for Economic Co-operation and Development on 12 December 1961. The Code has been amended on several occasions. The text of the Code reproduced in this volume incorporates the most recent amendments. Annexes B, C, D and E to the Code have not been reproduced in this volume.

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\* **Source:** Organisation for Economic Co-operation and Development (1995). *Code of Liberalisation of Capital Movements*, (Paris: OECD) [Note added by the editor].

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Movements

**PREAMBLE**

THE COUNCIL,

Having regard to Articles 2 (d) and 5 (a) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Having regard to the Code of Liberalisation of Current Invisible Operations;

Having regard to the Articles of Agreement of the International Monetary Fund of 27th December 1945;

Having regard to the European Monetary Agreement of 5th August 1955, and the Protocol of Provisional Application of that Agreement of the same date;

Having regard to the Report of the Committee for Invisible Transactions on the Codes of Liberalisation of Current Invisibles and of Capital Movements of 28th October 1961, and the Comments by the Executive Committee on that Report of 8th December 1961 [OECD/C(61)37; OECD/C(61)73];

DECIDES:

**CODE OF LIBERALISATION  
OF CAPITAL MOVEMENTS**

**Articles**

**PART I**

**UNDERTAKINGS WITH REGARD TO CAPITAL MOVEMENTS**

**Article 1**

**GENERAL UNDERTAKINGS**

a. Members shall progressively abolish between one another, in accordance with the provisions of Article 2, restrictions on movements of capital to the extent necessary for effective economic co-operation. Measures designed to eliminate such restrictions are hereinafter called "measures of liberalisation".

b. Members shall, in particular, endeavour:

i) to treat all non-resident-owned assets in the same way irrespective of the date of

their formation, and

- ii) to permit the liquidation of all non-resident-owned assets and the transfer of such assets or of their liquidation proceeds.

c. Members should use their best offices to ensure that the measures of liberalisation are applied within their overseas territories.

d. Members shall endeavour to extend the measures of liberalisation to all members of the International Monetary Fund.

e. Members shall endeavour to avoid introducing any new exchange restrictions on the movements of capital or the use of non-resident-owned funds and shall endeavour to avoid making existing regulations more restrictive.

## **Article 2**

### **MEASURES OF LIBERALISATION**

a. Subject to the provisions of paragraph (b)(iv), Members shall grant any authorisation required for the conclusion or execution of transactions and for transfers specified in an item set out in List A or List B of Annex A to this Code.

b. A Member may lodge reservations relating to the obligations resulting from paragraph (a) when:

- i) an item is added to List A of Annex A to this Code;
- ii) obligations relating to an item in that List are extended;
- iii) obligations relating to any such item begin to apply to that Member; or
- iv) at any time, in respect of an item in List B.

Reservations shall be set out in Annex B to the Code.

c. Whenever the liquidation proceeds of non-resident-owned assets may be transferred, the right of transfer shall include any appreciation of the original assets.

d. Whenever existing regulations or international agreements permit loans between residents of different Members otherwise than by issuing marketable domestic securities or by using, in the country in which the borrower resides, funds the transfer of which is restricted, the repayment obligation may be expressed or guaranteed in the currency of either of the two Members concerned.

## **Article 3**

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## PUBLIC ORDER AND SECURITY

The provisions of this Code shall not prevent a Member from taking action which it considers necessary for:

- i) the maintenance of public order or the protection of public health, morals and safety;
- ii) the protection of its essential security interests;
- iii) the fulfilment of its obligations relating to international peace and security.

### **Article 4**

#### OBLIGATIONS IN EXISTING MULTILATERAL INTERNATIONAL AGREEMENTS

Nothing in this Code shall be regarded as altering the obligations undertaken by a Member as a Signatory of the Articles of Agreement of the International Monetary Fund or other existing multilateral international agreements.

### **Article 5**

#### CONTROLS AND FORMALITIES

- a. The measures of liberalisation provided for in this Code shall not limit the powers of Members to verify the authenticity of transactions or transfers nor to take any measures required to prevent evasion of their laws or regulations.
- b. Members shall simplify as much as possible all formalities connected with the authorisation or verification of transactions or transfers and shall co-operate, if necessary, to attain such simplification.

### **Article 6**

#### EXECUTION OF TRANSFERS

A Member shall be deemed to have complied with its obligations as regards transfers whenever a transfer may be made:

- i) between persons entitled, by the exchange regulations of the State from which and of the State to which the transfer is to be made, respectively, to make and/or to receive the said transfer;
- ii) in accordance with international agreements in force at the time the transfer is to be made; and
- iii) in accordance with the monetary arrangements in force between the State from

which and the State to which the transfer is to be made.

### **Article 7**

#### **CLAUSES OF DEROGATION**

- a. If its economic and financial situation justifies such a course, a Member need not take the whole of the measures of liberalisation provided for in Article 2(a).
- b. If any measures of liberalisation taken or maintained in accordance with the provisions of Article 2(a) result in serious economic and financial disturbance in the Member State concerned, that Member may withdraw those measures.
- c. If the overall balance of payments of a Member develops adversely at a rate and in circumstances, including the state of its monetary reserves, which it considers serious, that member may temporarily suspend the application of measures of liberalisation taken or maintained in accordance with the provisions of Article 2(a).
- d. However, a Member invoking paragraph (c) shall endeavour to ensure that its measures of liberalisation:
  - i) cover, twelve months after it has invoked that paragraph, to a reasonable extent, having regard to the need for advancing towards the objective defined in sub-paragraph (ii), transactions and transfers which the Member must authorise in accordance with Article 2(a) and the authorisation of which it has suspended, since it invoked paragraph (c); and
  - ii) comply, eighteen months after it has invoked that paragraph, with its obligations under Article 2(a).
- e. Any Member invoking the provisions of this Article shall do so in such a way as to avoid unnecessary damage which bears especially on the financial or economic interests of another Member and, in particular, shall avoid any discrimination between other Members.

### **Article 8**

#### **RIGHT TO BENEFIT FROM MEASURES OF LIBERALISATION**

Any Member lodging a reservation under Article 2(b) or invoking the provisions of Article 7 shall, nevertheless, benefit from the measures of liberalisation taken by other Members, provided it has complied with the procedure laid down in Article 12 or Article 13 as the case may be.

### **Article 9**

#### **NON-DISCRIMINATION**

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A Member shall not discriminate as between other Members in authorising the conclusion and execution of transactions and transfers which are listed in Annex A and which are subject to any degree of liberalisation.

### **Article 10**

#### **EXCEPTIONS TO THE PRINCIPLE OF NON-DISCRIMINATION SPECIAL CUSTOMS OR MONETARY SYSTEMS**

Members forming part of a special customs or monetary system may apply to one another, in addition to measures of liberalisation taken in accordance with the provisions of Article 2(a), other measures of liberalisation without extending them to other Members. Members forming part of such a system shall inform the Organisation of its membership and those of its provisions which have a bearing on this Code.

### **PART II PROCEDURE**

### **Article 11**

#### **NOTIFICATION AND INFORMATION FROM MEMBERS**

- a. Members shall notify the Organisation, within the periods which the latter may determine, of the measures of liberalisation which they have taken and of any other measures which have a bearing on this Code, as well as of any modifications of such measures.
- b. Members shall notify the Organisation forthwith of any cases in which they have by virtue of remark (ii) against Section I of List A of Annex A to this Code imposed restrictions on specific transactions or transfers relating to direct investments and shall state their reasons for doing so.
- c. Members shall submit to the Organisation, at intervals determined by the Organisation, but of no more than eighteen months, information concerning:
  - i) any channels, other than official channels, through which transfers are made, and any rates of exchange applying to such transfers, if they are different from the official rates of exchange;
  - ii) any security money markets and any premiums or discounts in relation to official

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