



Organisation for Economic Co-operation and Development

**C/MIN(2019)4/FINAL**

**Unclassified**

**English/French**

**22 May 2019**

**COUNCIL**

**Meeting of the Council at Ministerial Level, 22-23 May 2019**

**REVISION OF THE CODES OF LIBERALISATION**

**(Adopted by the Council at Ministerial Level on 22 May 2019)**

**JT03447884**

## DECISION OF THE COUNCIL ADOPTING THE CODE OF LIBERALISATION OF CAPITAL MOVEMENTS

[OECD/LEGAL/0002]

### 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 14 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 27 December 1945;

**HAVING REGARD** to the European Monetary Agreement of 5 August 1955, and the Protocol of Provisional Application of that Agreement of the same date;

**HAVING REGARD** to the Report of the Investment Committee on the Codes of Liberalisation of Current Invisibles and of Capital Movements of 28 October 1961, and the Comments by the Executive Committee on that Report of 8 December 1961 [OECD/C(61)37; OECD/C(61)73];

#### DECIDES:

#### *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*

### **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 international 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**

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 rates of exchange prevailing therein.
- d. The Organisation shall consider the notifications submitted to it in accordance with the provisions of paragraphs (a), (b) and (c) with a view to determining whether each Member is complying with its obligations under this Code.

*Article 12*

**Notification and examination of reservations lodged under article 2(b)**

- a. Each Member lodging a reservation in respect of an item specified in List B of Annex A to the Code shall forthwith notify the Organisation of its reasons therefor.
- b. Each Member shall notify the Organisation within a period to be determined by the Organisation, whether it desires to maintain any reservation lodged by it in respect of an item specified in List A or List B of Annex A to this Code, and if so, state its reasons therefor.
- c. The Organisation shall examine each reservation lodged by a Member in respect of an item specified in:
- i) List A at intervals of not more than eighteen months;
  - ii) List B within six months of notification, and at intervals of not more than eighteen months thereafter;
- unless the Council decides otherwise.

d. The examinations provided for in paragraph (c) shall be directed to making suitable proposals designed to assist Members to withdraw their reservations.

### *Article 13*

#### **Notification and examination of derogations made under article 7**

a. Any Member invoking the provisions of Article 7 shall notify the Organisation forthwith of its action, together with its reasons therefore.

b. The Organisation shall consider the notification and reasons submitted to it in accordance with the provisions of paragraph (a) with a view to determining whether the Member concerned is justified in invoking the provisions of Article 7 and, in particular, whether it is complying with the provisions of paragraph (e) of that Article.

c. If the action taken by a Member in accordance with the provisions of Article 7 is not disapproved by the Organisation, that action shall be reconsidered by the Organisation every six months or, subject to the provisions of Article 15, on any other date which the latter may deem appropriate.

d. If, however, in the opinion of a Member other than the one which has invoked Article 7, the circumstances justifying the action taken by the latter in accordance with the provisions of that Article have changed, that other Member may at any time refer to the Organisation for reconsideration of the case at issue.

e. If the action taken by a Member in accordance with the provisions of paragraph (a), (b) or (c) of Article 7 has not been disapproved by the Organisation, then if that Member subsequently invokes paragraph (a), (b) or (c) of Article 7 of the Code of Liberalisation of Current Invisible Operations, or, having invoked one paragraph of Article 7 of this Code, invokes another paragraph of that Article, its case shall be reconsidered by the Organisation after six months have elapsed since the date of the previous consideration, or on any other date which the latter may deem appropriate. If another Member claims that the Member in question is failing to carry out its obligations under paragraph (e) of Article 7 of this Code or paragraph (e) of Article 7 of the Code of Liberalisation of Current Invisible Operations, the Organisation shall consider the case without delay.

f. i) If the Organisation, following its consideration in accordance with paragraph (b), determines that a Member is not justified in invoking the provisions of Article 7 or is not complying with the provisions of that Article, it shall remain in consultation with the Member concerned, with a view to restoring compliance with the Code.

ii) If, after a reasonable period of time, that Member continues to invoke the provisions of Article 7, the Organisation shall reconsider the matter. If the Organisation is then unable to determine that the Member concerned is justified in invoking the provisions of Article 7 or is complying with the provisions of that Article, the situation of that Member shall be examined at a session of the Council convened by its Chair for this purpose unless the Organisation decides on some other procedure.

*Article 14*

**Examination of derogations made under article 7: Members in process of economic development**

- a. In examining the case of any Member which it considers to be in the process of economic development and which has invoked the provisions of Article 7 the Organisation shall have special regard to the effect that the economic development of the Member has upon its ability to carry out its obligations under paragraph (a) of Articles 1 and 2.
- b. In order to reconcile the obligations of the Member concerned under paragraph (a) of Article 2 with the requirements of its economic development, the Organisation may grant that Member a special dispensation from those obligations.

*Article 15*

**Special report and examination concerning derogations made under article 7**

- a. A Member invoking the provisions of paragraph (c) of Article 7 shall report to the Organisation, within ten months after such invocation, on the measures of liberalisation it has restored or proposes to restore in order to attain the objective determined in sub-paragraph (d)i) of Article 7. The Member shall, if it continues to invoke these provisions, report to the Organisation again on the same subject - but with reference to the objective determined in sub paragraph (d)ii) of Article 7 - within sixteen months after such invocation.
- b. If the Member considers that it will not be able to attain the objective, it shall indicate its reasons in its report and, in addition, shall state:
- i) what internal measures it has taken to restore its economic equilibrium and what results have already been attained, and
  - ii) what further internal measures it proposes to take and what additional period it considers it will need in order to attain the objective determined in sub paragraph (d)i) or (d)ii) of Article 7.
- c. In cases referred to in paragraph (b), the Organisation shall consider within a period of twelve months, and, if required, of eighteen months from the date on which the Member invoked the provisions of paragraph (c) of Article 7, whether the situation of that Member appears to justify its failure to attain the objective determined in sub paragraph (d)i) or (d)ii) of Article 7 and whether the measures taken or envisaged and the period considered by it as necessary for attaining the objective determined, appear acceptable in the light of the objectives of the Organisation in the commercial and financial fields.
- d. If a Member invokes the provisions of both paragraph (c) of Article 7 of this Code and paragraph (c) of Article 7 of the Code of Liberalisation of Current Invisible Operations, the periods of twelve and eighteen months referred to in paragraph (c) shall run from the date of the earlier invocation.
- e. If following any of the examinations provided for in paragraph (c) the Organisation is unable to approve the arguments advanced by the Member concerned in accordance with the provisions of paragraph (b), the situation of that Member shall be examined at a session of the Council convened by its Chair for this purpose unless the Organisation decides on some other procedure.



*Article 16***Reference to the Organisation – Internal arrangements**

- a. If a Member considers that the measures of liberalisation taken or maintained by another Member, in accordance with Article 2(a), are frustrated by internal arrangements likely to restrict the possibility of effecting transactions or transfers, and if it considers itself prejudiced by such arrangements, for instance because of their discriminatory effect, it may refer to the Organisation.
- b. The Secretariat may also bring to the attention of the Committee cases where it deems that compliance with the Code is not assured and may be prejudicial to Members.
- c. If, following the consideration of a matter referred to it under paragraphs (a) or (b) the Organisation determines that internal arrangements introduced or maintained by the Member concerned have the effect of frustrating its measures of liberalisation, the Organisation may make suitable suggestions with regard to the removal or modification of such arrangements.

*Article 17***Reference to the Organisation – Retention, introduction or reintroduction of restrictions**

- a. If a Member considers that another Member which has not invoked the provisions of Article 7 has retained, introduced or reintroduced restrictions on capital movements or the use of non-resident-owned funds contrary to the provisions of Articles 1, 2, 9 or 10, and if it considers itself to be prejudiced thereby, it may refer to the Organisation.
- b. The fact that the case is under consideration by the Organisation shall not preclude the Member which has referred to the Organisation from entering into bilateral conversations on the matter with the other Member concerned.

*Part III***TERMS OF REFERENCE***Article 18***Investment Committee - General tasks**

- a. The Investment Committee shall consider all questions concerning the interpretation or implementation of the provisions of this Code or other Acts of the Council relating to the liberalisation of capital movements and the use of non-residents owned funds and shall report its conclusions thereon to the Council as appropriate.
- b. The Investment Committee shall submit to the Council any appropriate proposals in connection with its tasks as defined in paragraph (a) and, in particular, with the extension of measures of liberalisation as provided in Article 1 of this Code.

*Article 19*

**Investment Committee – Special tasks**

a. The Investment Committee shall:

- i) determine the periods within which the information provided for in paragraphs (a) and (c) of Article 11 and the reasons provided for in paragraph (b) of Article 12 should be notified to the Organisation by the Members concerned;
- ii) subject to paragraph (c) of this Article, consider, in conformity with paragraphs (c) and (d) of Article 12, each reservation notified to the Organisation in accordance with paragraphs (a) and (b) of that Article and make, where appropriate, suitable proposals designed to assist Members to withdraw their reservations;
- iii) determine, in accordance with the provisions of Article 12, the date on which any reservation should be re-examined, if the reservation has not been withdrawn in the meantime;
- iv) consider, in accordance with the provisions of paragraph (d) of Article 11, the notifications submitted to the Organisation;
- v) consider reports and references submitted to the Organisation in accordance with the provisions of Article 13 or paragraphs (a) and (b) of Article 15 where a Member has invoked the provisions of Article 7, or submitted in accordance with the provisions of Article 16 or Article 17;
- vi) determine the date on which the case of a Member which has invoked Article 7 should be reconsidered in accordance with the provisions of paragraph (c), paragraph (e) or paragraph (f)ii) of Article 13;
- vii) transmit to the United States Government, with any comments it considers appropriate, notifications received from Members in accordance with paragraph 2(a) of the Decision in Annex C to the Code; and
- viii) consider information received from the United States Government in accordance with paragraph 2(b) of the Decision in Annex C to the Code.

b. When examining the reservations notified in accordance with paragraph (b) of Article 12, the Committee may, at its discretion, consider together either all reservations made by the same Member or all reservations made in respect of the same item specified in Annex A to this Code.

c. The Committee shall, however, not consider any reservations notified to the Organisation in accordance with paragraph (b) of Article 12 by a Member which, at the time of the examination in respect of the item subject to that reservation, is invoking the provisions of Article 7 or is enjoying a dispensation in accordance with paragraph (b) of Article 14.

d. In the cases provided for in sub-paragraphs ii), iv), v) and viii) of paragraph (a), the Committee shall report to the Council, except in cases of notifications under Article 11 (b) on which the Committee shall report only if it considers this appropriate.

e. The Committee shall, whenever it considers it necessary:

- i) consult other Committees of the Organisation and/or other relevant international organisations on any questions relating to the liberalisation of capital movements; and, in particular,
- ii) request other Committees of the Organisation and/or the International Monetary Fund (IMF) to give their views on any questions relating to the balance of payments and the state of the international reserves of a Member.

*Part IV*

**MISCELLANEOUS**

*Article 20*

**Definitions**

In this Code:

- i) “Member” shall mean a country which adheres to this Code;
- ii) “Domestic securities” shall mean securities issued or to be issued by a resident;
- iii) “Foreign securities” shall mean securities issued or to be issued by a non-resident;
- iv) “Recognised security market” shall mean a stock exchange or security market in a Member country (including an over the counter market organised by a recognised association of security dealers);
  - which is officially recognised in the country where it operates;
  - on which the public can buy and sell securities; and
  - on which dealings take place in accordance with fixed rules;
- v) “Securities quoted on a recognised security market” shall mean securities which have been granted an official quotation or are officially listed on such a market or for which dealing prices on such a market are published not less frequently than once a week;
- vi) Security dealing on a “spot basis” shall mean dealing with payment and delivery to be made immediately the transaction is concluded or on the next periodic settlement date of the stock exchange where the transaction takes place;
- vii) “Money market securities” shall mean securities with an original maturity of less than one year;
- viii) “Collective investment securities” shall mean the share certificates, registry entries or other evidence of investor interest in an institution for collective investment which, irrespective of legal form, is organised for the purpose of managing investments in securities or in other assets, applies the principle of risk spreading, issues its own securities to the public on demand either continuously or at frequent intervals and is required on the request of the holder to redeem such securities, directly or indirectly, within a specified period and at their net asset value;

ix) “Financial institutions” shall mean banks, savings banks, bodies which specialise in the granting of credits, insurance companies, building societies, investment companies, and other establishments of a similar nature;

x) “Deposit” shall mean a sum of money paid on terms: a) under which it will be repaid, with or without interest or premium, and either on demand or at a time or in circumstances agreed by the person making it or receiving it or by his order, and b) which are not referable to the provision of property or services or to the giving of security;

xi) “Official channels” shall mean foreign exchange markets in which an officially established rate or officially established rates apply and in which spot transactions take place at rates which are free to fluctuate within the official margins;

xii) “Blocked funds” shall mean funds owned by residents of other Member countries in accordance with the laws and regulations of the Member where the funds are held and blocked for balance of payments reasons;

xiii) “Unit of account” shall mean the sum in the national currency of a Member which is equal to a unit of value of special drawing rights as valued by the International Monetary Fund.

#### *Article 21*

#### **Title of decision**

This Decision, referred to in the present text as the “Code”, shall be known as the “Code of Liberalisation of Capital Movements”.

#### *Article 22*

#### **Withdrawal**

Any Member may withdraw from the Code by transmitting a notice in writing to the Secretary General of the Organisation. The withdrawal shall become effective twelve months from the date on which such notice is received.

## DECISION OF THE COUNCIL ADOPTING THE CODE OF LIBERALISATION OF CURRENT INVISIBLE OPERATIONS

[OECD/LEGAL/0001]

### PREAMBLE

#### THE COUNCIL,

**HAVING REGARD** to Articles 2d) and 5a) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

**HAVING REGARD** to the Code of Liberalisation of Capital Movements;

**HAVING REGARD** to the Articles of Agreement of the International Monetary Fund of 27 December 1945;

**HAVING REGARD** to the European Monetary Agreement of 5 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 28 October 1961, and the Comments by the Executive Committee on that Report of 8 December 1961 [OECD/C(61)37; OECD/C(61)73];

#### DECIDES:

### *PART I*

## UNDERTAKINGS WITH REGARD TO CURRENT INVISIBLE OPERATIONS

### *Article 1*

#### General undertakings

a. Members shall eliminate between one another, in accordance with the provisions of Article 2, restrictions on current invisible transactions and transfers, hereinafter called "current invisible operations". Measures designed for this purpose are hereinafter called "measures of liberalisation".

b. Where Members are not bound, by virtue of the provisions of this Code, to grant authorisations in respect of current invisible operations, they shall deal with applications in as liberal a manner as possible.

c. Members shall 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. "Member" shall mean a country which adheres to this Code.

*Article 2*

**Measures of liberalisation**

- a. Members shall grant any authorisation required for a current invisible operation specified in an item set out in 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 Annex A to this Code;
  - ii) obligations relating to an item in that Annex are extended; or
  - iii) obligations relating to any such item begin to apply to that Member.

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

*Article 3*

**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; or
- 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 current invisible operations 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 current invisible operations and shall co-operate, if necessary, to attain such simplification.

---

*Article 6***Execution of transfers**

a. 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.

b. The provisions of paragraph a) do not preclude Members from demanding payment of maritime freights in the currency of a third State, provided that such a demand is in conformity with established maritime practice.

*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 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 international 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), current invisible operations 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, in particular current invisible operations relating to tourism if, in whole or in part, their authorisation has been suspended; 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 commercial 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**

A Member shall not discriminate as between other Members in authorising current invisible operations 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 modification of such measures.

b. The Organisation shall consider the notifications submitted to it in accordance with the provisions of paragraph a) with a view to determining whether each Member is complying with its obligations under this Code.



*Article 12***Notification and examination of reservations lodged under article 2 (b)**

- a. Each Member shall notify the Organisation within a period to be determined by the Organisation, whether it desires to maintain any reservation lodged by it in respect of an item specified in Annex A to this Code, and, if so, state its reasons therefore.
- b. The Organisation shall examine each reservation lodged by a Member in respect of an item specified in Annex A to this Code at intervals of not more than eighteen months, unless the Council decides otherwise.
- c. The examination provided for in paragraph b) shall be directed to making suitable proposals designed to assist Members to withdraw their reservations.

*Article 13***Notification and examination of derogations made under article 7**

- a. Any Member invoking the provisions of Article 7 shall notify the Organisation forthwith of its action, together with its reasons therefor.
- b. The Organisation shall consider the notifications and reasons submitted to it in accordance with the provisions of paragraph a) with a view to determining whether the Member concerned is justified in invoking the provisions of Article 7 and, in particular, whether it is complying with the provisions of paragraph e) of that Article.
- c. If the action taken by a Member in accordance with the provisions of Article 7 is not disapproved by the Organisation, that action shall be reconsidered by the Organisation every six months or, subject to the provisions of Article 15, on any other date which the latter may deem appropriate.
- d. If, however, in the opinion of a Member other than the one which has invoked Article 7, the circumstances justifying the action taken by the latter in accordance with the provisions of that Article have changed, that other Member may at any time refer to the Organisation for reconsideration of the case at issue.
- e. If the action taken by a Member in accordance with the provisions of paragraphs a), b) or c) of Article 7 has not been disapproved by the Organisation, then, if that Member subsequently invokes paragraphs a), b) or c) of Article 7 of the Code of Liberalisation of Capital Movements, or, having invoked one paragraph of Article 7 of this Code, invokes another paragraph of that Article, its case shall be reconsidered by the Organisation after six months have elapsed since the date of the previous consideration, or on any other date which the latter may deem appropriate. If another Member claims that the Member in question is failing to carry out its obligations under paragraph e) of Article 7 of this Code or paragraph e) of Article 7 of the Code of Liberalisation of Capital Movements, the Organisation shall consider the case without delay.
- f.
  - i) If the Organisation, following its consideration in accordance with paragraph b), determines that a Member is not justified in invoking the provisions of Article 7 or is not complying with the provisions of that Article, it shall remain in consultation with the Member concerned, with a view to restoring compliance with the Code.

ii) If, after a reasonable period of time, that Member continues to invoke the provisions of Article 7, the Organisation shall reconsider the matter. If the Organisation is then unable to determine that the Member concerned is justified in invoking the provisions of Article 7 or is complying with the provisions of that Article, the situation of that Member shall be examined at a session of the Council convened by its Chair for this purpose, unless the Organisation decides on some other procedure.

#### *Article 14*

### **Examination of derogations made in accordance with article 7: Members in process of economic development**

a. In examining the case of a Member which it considers to be in process of economic development and which has invoked the provisions of Article 7, the Organisation shall have special regard to the effect that the economic development of that Member has upon its ability to carry out its obligations under paragraph a) of Articles 1 and 2.

b. In order to reconcile the obligations of the Member concerned under paragraph a) of Article 2 with the requirements of its economic development, the Organisation may grant that Member a special dispensation from those obligations.

#### *Article 15*

### **Special report and examination concerning derogations made under article 7**

a. A Member invoking the provisions of paragraph c) of Article 7 shall report to the Organisation, within ten months after such invocation, on the measures of liberalisation it has restored or proposes to restore in order to attain the objective determined in sub paragraph d) i) of Article 7. The Member shall, if it continues to invoke these provisions, report to the Organisation again on the same subject – but with reference to the objective determined in sub paragraph d) ii) of Article 7 – within sixteen months after such invocation.

b. If the Member considers that it will not be able to attain the objective, it shall indicate its reasons in its report and, in addition, shall state:

i) What internal measures it has taken to restore its economic equilibrium and what results have already been attained; and

ii) What further internal measures it proposes to take and what additional period it considers it will need in order to attain the objectives determined in sub paragraphs d) i) or d) ii) of Article 7.

c. In cases referred to in paragraph b), the Organisation shall consider within a period of twelve months and, if required, of eighteen months from the date on which the Member invoked the provisions of paragraph c) of Article 7, whether the situation of that Member appears to justify its failure to attain the objective determined in sub paragraph d) i) or d) ii) of Article 7, and whether the measures taken or envisaged and the period considered by it as necessary for attaining the objective determined, appear acceptable in the light of the objectives of the Organisation in the commercial and financial fields.

d. If a Member invokes the provisions of both paragraph c) of Article 7 of this Code and paragraph c) of Article 7 of the Code of Liberalisation of Capital Movements, the periods of twelve and eighteen months referred to in paragraph c) shall run from the date of the earlier invocation.

e. If, following any of the examinations provided for in paragraph c), the Organisation is unable to approve the arguments advanced by the Member concerned in accordance with the provisions of paragraph b), the situation of that Member shall be examined at a session of the Council convened by its Chair for this purpose, unless the Organisation decides on some other procedure.

#### *Article 16*

##### **Reference to the organisation - Internal arrangements**

a. If a Member considers that the measures of liberalisation taken or maintained by another Member in accordance with Article 2 a) are frustrated by internal arrangements likely to restrict the possibility of effecting current invisible operations, and if it considers itself to be prejudiced thereby, it may refer to the Organisation.

b. The Secretariat may also bring to the attention of the Committee cases where it deems that compliance with the Code is not assured and may be prejudicial to Members.

c. If, following the consideration of a matter referred to it under paragraphs (a) or (b) the Organisation determines that internal arrangements introduced or maintained by the Member concerned have the effect of frustrating its measures of liberalisation, the Organisation may make suitable suggestions with regard to the removal or modification of such arrangements.

#### *Article 17*

##### **Reference to the organisation - Retention, introduction or reintroduction of restrictions**

a. If a Member considers that another Member which has not invoked the provisions of Article 7 has retained, introduced or re-introduced restrictions on current invisible operations, contrary to the provisions of Article 1, paragraph a) of Article 2, or Article 9, and if it considers itself to be prejudiced thereby, it may refer to the Organisation.

b. The fact that the case is under consideration by the Organisation shall not preclude the Member which has referred to the Organisation from entering into bilateral conversations on the matter with the other Member concerned.

*PART III*

**TERMS OF REFERENCE**

*Article 18*

**Investment Committee - General tasks**

The Investment Committee shall consider all questions concerning the interpretation or implementation of the provisions of this Code or other acts of the Council relating to the liberalisation of current invisible operations and shall report its conclusions thereon to the Council as appropriate.

*Article 19*

**Investment Committee - Special tasks**

a. The Investment Committee shall:

- i) Determine the periods within which the information provided for in paragraph a) of Article 11 and the reasons provided for in paragraph a) of Article 12 should be notified to the Organisation by the Members concerned;
- ii) Subject to paragraph c) of this Article, consider, in conformity with paragraphs b) and c) of Article 12, each reservation notified to the Organisation in accordance with paragraph a) of that Article and make, where appropriate, suitable proposals designed to assist Members to withdraw their reservations;
- iii) Determine, in accordance with the provisions of Article 12, the date on which any reservations should be re-examined, if the reservation has not been withdrawn in the meantime;
- iv) Consider, in accordance with the provisions of paragraph b) of Article 11, the notifications submitted to the Organisation;
- v) Consider reports and references submitted to the Organisation in accordance with the provisions of Article 13 or paragraphs a) and b) of Article 15 where a Member has invoked the provisions of Article 7, or submitted in accordance with the provisions of Article 16 or Article 17;
- vi) Determine the date on which the case of a Member which has invoked Article 7 should be reconsidered in accordance with the provisions of paragraph c), paragraph e) or paragraph f) ii) of Article 13;
- vii) Transmit to the United States Government, with any comments it considers appropriate, notifications received from Members in accordance with paragraph 2 a) of the Decision in Annex C to the Code; and
- viii) Consider information received from the United States Government in accordance with paragraph 2 b) of the Decision in Annex C to the Code.

b. When examining the reservations notified in accordance with the provisions of paragraph a) of Article 12 the Committee may, as it deems fit, consider together either all reservations made by the same Member or all reservations made in respect of the same item specified in Annex A to this Code.

c. The Committee shall, however, not consider any reservations notified to the Organisation in accordance with the provisions of paragraph a) of Article 12 by a Member which, at the time of the examination in respect of the item subject to that reservation, is invoking the provisions of Article 7 or is enjoying a dispensation in accordance with paragraph b) of Article 14.

d. In the cases provided for in sub paragraphs ii), iv), v) and viii) of paragraph a) the Committee shall report to the Council.

e. The Committee shall, whenever it considers it necessary:

i) consult other Committees of the Organisation and/or other relevant international organisations on any questions relating to the liberalisation of current invisible operations; and, in particular,

ii) request other Committees of the Organisation and/or the International Monetary Fund (IMF) to give their views on any questions relating to the balance of payments and the state of the international reserves of a Member.

#### *PART IV*

### **MISCELLANEOUS**

#### *Article 20*

#### **Title of decision**

This Decision, referred to in the present text as the "Code", shall be known as the "Code of Liberalisation of Current Invisible Operations".

#### *Article 21*

#### **Withdrawal**

Any Member may withdraw from the Code by transmitting a notice in writing to the Secretary General of the Organisation. The withdrawal shall become effective twelve months from the date on which such a notice is received.

#### *Article 22*

#### **Definition of the unit of account**

"Unit of account" shall mean the sum in the national currency of a Member which is equal to a unit of value of special drawing rights as valued by the International Monetary Fund.