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EXTERNAL RESOLUTION NO. 8 OF  
2000  
(MAY 5)  
PROVIDING A SUMMARY OF THE  
FOREIGN-EXCHANGE REGIME.

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THE BOARD OF DIRECTORS OF THE BANCO DE LA REPÚBLICA,  
IN THE EXERCISE OF ITS CONSTITUTIONAL AND LEGAL POWERS, IN  
PARTICULAR THOSE CONFERRED BY THE CONSTITUTION, ARTICLES 371  
AND 372, AND LAW 31 OF 1992, ARTICLE 16 (H), (E) AND (I), AND IN  
ACCORDANCE WITH DECREE 1735 OF 1993,

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RESOLVES AS FOLLOWS:

PRELIMINARY TITLE  
FOREIGN-EXCHANGE DECLARATION

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Article 1. DEFINITION. Residents of Colombia and overseas residents who carry out a foreign-exchange operation in Colombia must present a foreign-exchange declaration in the terms hereof.

The foreign-exchange declaration for operations carried out through currency-market intermediaries must be presented to these intermediaries. Where the operations are carried out through the settlement mechanism provided for herein, the declaration shall be presented directly to the Banco de la República.

Persons introducing themselves as a legal representative, attorney-in-fact or special agent at the time of presenting the foreign-exchange declaration shall be assumed to be acting in such capacity.

Paragraph. The foreign-exchange declaration may be corrected within fifteen working days after its date of presentation. Upon expiry of that period, the information contained in the foreign-exchange declaration shall be considered as definitive. The corrected foreign-exchange declaration must be presented to the same entity to which the original foreign-exchange declaration was presented. For statistical purposes, the Banco de la República may, in a general manner, authorize clarifications on the foreign-currency declaration.

Article 2. DIFFERENCES. No sums greater or less than the sums actually received may be channeled through the currency market, nor may any transfers be made of amounts different from the overseas obligations.

Any foreign-exchange declaration containing false, wrong, incomplete or disfigured data shall be investigated by the competent authority. The foregoing notwithstanding, differences may be accepted between the value stated in the foreign-exchange declaration and the value of the underlying operation, up to 1% of the latter or up to one thousand United States dollars (US\$1,000) or the equivalent thereof in other currencies, whichever is greater.

Article 3. CONSERVATION OF DOCUMENTS. For exchange-control purposes, without prejudice to the provisions of special rules, residents of Colombia making foreign-exchange operations are required to keep the documents specifying the amount, characteristics and other conditions of the operation and the origin or destination, as the case may be, of the foreign exchange, for a period equal to the lapsing or limitation period of the penalty action for infringement of the foreign-exchange regime.

Such documents shall be presented to the entities responsible for control and oversight of compliance with the foreign-exchange regime that require them, or in the context of administrative actions initiated to determine the commission of currency violations .

Article 4. PENALTIES. A party failing to comply with any obligation established in the foreign-exchange regime, particularly the obligation of correctly presenting the foreign-exchange declaration for the currency operations the party performs, shall become subject to the penalties set forth in the relevant laws and regulations, without prejudice to applicable tax, customs and criminal penalties. Legal liability shall also be incurred if the respective authority or a party concerned discredits the assumption referred to in the fourth paragraph of Article 1 hereof.

Article 5. INFORMATION. Currency-market intermediaries shall be responsible for processing the information contained in foreign-exchange declarations and for sending the

documents required for statistical purposes to the Banco de la República, on such terms as the latter indicates.

The Banco de la República shall likewise be responsible for processing the information contained in foreign-exchange declarations for operations carried out through the settlement mechanism.

The Banco de la República may suspend for up to one month the performance of any or all of its operations with a currency-market intermediary that fails to comply with the obligation set out in this Article. In the event of a second failure, operations may be suspended for up to one year.

## TITLE I

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### CHAPTER I CURRENCY MARKET

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Article 6. DEFINITION. The currency market comprises the entirety of the foreign exchange mandatorily required to be channeled through the intermediaries authorized for the purpose or through the settlement mechanism stipulated herein. Foreign exchange voluntarily channeled through the currency market, despite being exempt from that obligation, shall also form part of said market.

Article 7. OPERATIONS. The following foreign-exchange operations are mandatorily required to be channeled through the currency market:

1. Importing and exporting of goods.
2. Foreign borrowing operations carried out by residents of Colombia, and the financial costs specific thereto.
3. Investments of foreign capital in Colombia, and the returns associated therewith.
4. Investments of Colombian capital abroad, and the returns associated therewith.
5. Financial investments in securities issued abroad and in assets registered abroad, and the returns associated therewith, except where the investments are made with foreign exchange from operations not required to be channeled through the currency market.
6. Foreign-currency sureties and guarantees.
7. Derivative operations.

Article 8. GENERAL PERIOD OF SURRENDER. Except as otherwise provided by special rules, the foreign exchange from currency operations in the currency market must be channeled through the intermediaries authorized for the purpose or through the settlement mechanism stipulated herein, within a maximum period of six months from the date of receipt of the foreign exchange

Article 9. PAYMENT OBLIGATIONS. The foreign exchange for payment of obligations arising from foreign-currency operations in the currency market must be channeled through the intermediaries authorized for the purpose or through the mechanism stipulated herein.

## CHAPTER II GOODS IMPORTS

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Article 10. CHANNELING. Residents of Colombia must channel through the currency market the foreign exchange needed to pay for the value of their imports. Imports may be financed by the supplier of the merchandise, currency-market intermediaries, and external financial entities.

The Banco de la República may request any information it considers relevant for monitoring the financings referred to in this Article.

Article 11. PAYMENT FOR IMPORTS IN COLOMBIAN CURRENCY. Residents of Colombia may pay for imports in Colombian legal tender only through currency-market intermediaries.

Any overseas resident may acquire foreign exchange in the currency market with the proceeds of his exports paid for in Colombian legal tender.

Article 12. LEASING AND FACTORING. Temporary imports may be financed by means of financial leasing, provided the term is longer than twelve months and the goods in question are capital goods as defined by the Board of Directors.

Commercial finance companies not meeting the requirement laid down in Article 59(1) hereof may acquire foreign exchange in the currency market for undertaking import factoring transactions.

Article 13. USE OF DONATIONS TO PAY FOR IMPORTS. Foreign exchange received as donations from foreign governments and their agencies, from multilateral organizations or from entities attached thereto may be directly used abroad to pay for imports.

Article 14. PAYMENTS IN ADVANCE. Residents of Colombia may acquire foreign exchange in the currency market to pay for future imports of goods.

Payments in advance may be financed after making the deposit referred to in Article 26 hereof. No deposit shall be required in the case of payments in advance for imports of capital goods as defined in Article 84 hereof.

Paragraph. The corresponding foreign-exchange declaration must contain the conditions of payment and shipment of the merchandise as agreed with the external seller.

### CHAPTER III GOODS EXPORTS

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Article 15. CHANNELING. Residents of Colombia may channel through the currency market the foreign-exchange proceeds of their exports. Exporters may allow external buyers a period of time to pay for the exports.

Where the period of time allowed to the external buyer is longer than twelve (12) months from the date of the export declaration, the corresponding credit must be reported to the Banco de la República within twelve (12) months from the date of the export declaration if the amount thereof exceeds ten thousand United States dollars (US\$10,000), or its equivalent in other currencies.

It must also be reported if the period of time to pay for the exports is going to exceed twelve (12) months from the date of the export declaration as a result of proceedings before judicial, arbitration or administrative authorities, or where the overseas importer directly disputes the payment with the supplier, or where the extensions granted by the exporter exceed said period.

Paragraph. These financings shall not be subject to the deposit requirement referred to in Article 26 hereof.

Article 16. PAYMENTS IN ADVANCE AND EXPORT PREFINANCING. Exports may be financed by payments in advance from the overseas buyer, or by means of export prefinancing loans in foreign currency provided by currency-market intermediaries or external financial entities.

1. Payments in advance. Foreign exchange received from overseas buyers for future exports of goods do not constitute an interest-earning financial obligation, nor do they create any obligation for the exporter other than delivery of the merchandise.

Exporters will have a period of four (4) months, from the date of channeling of the foreign exchange through the currency market, to make the corresponding exportation.

In the event that the period for making the exportation is longer than the period specified in the preceding sentence, the financing becomes a foreign-debt operation, and the deposit referred to in Article 26 hereof must be made, subject to the provisions of Chapter IV of this Title, within four (4) months from the date of channeling of the foreign exchange through the currency market.

Exporters unable to make the exportation for exceptional reasons beyond their control may be authorized by the Banco de la República to acquire foreign exchange in the currency market in an amount equal to the sums surrendered as payment in advance, in order to return them abroad, and, where applicable, to obtain advance restitution of the deposit according to the discount table referred to in Article 26 hereof. No authorization shall be required from the Banco de la República where the sums in question do not exceed fifteen percent (15%) of the surrendered value or where the deposit stands at 0%.

2. Export prefinancing. The disbursement and channeling of foreign-currency loans provided by currency-market intermediaries and external financial entities to prefinance exports shall require that a deposit be made at the Banco de la República on the conditions and in the amount and period determined in a general manner by the Board of Directors.

The exporter providing evidence that the exportation has been carried out may request advance restitution of the deposit in accordance with the procedure and the discount table established for the purpose by the Banco de la República.

The principal of the credit must be paid from the proceeds of the exportation. Nevertheless, if as a result of having financed the credit partly or wholly from the proceeds of the loan the value of the exportation is less than the value of the loan, the exporter may acquire foreign exchange in the currency market up to the financed value of the deposit, in order to complete the repayment value of the loan.

At all events, the exporter may acquire in the currency market the foreign exchanged needed to pay the corresponding principal and interest.

Paragraph 1. The foreign-exchange declaration must contain the conditions agreed on with the overseas buyer regarding payment and shipment of the merchandise.

Paragraph 2. The deposit referred to in Article 26 hereof shall not be required to be made in the case of exportation of the capital goods specified in Article 84 hereof.

Article 17. INFORMATION. The Banco de la República may request any information it considers relevant for monitoring the financings referred to in this Chapter.

Article 18. EXPORTS IN COLOMBIAN LEGAL TENDER. Residents of Colombia may receive payment for their exports in Colombian legal tender only through the currency-market intermediaries.

Article 19. NET SURRENDER. Residents of Colombia may use the foreign exchange from their exports to make direct payment of freight, insurance and other foreign-currency costs associated with the exportation.

Article 20. SALE OF PAYMENT INSTRUMENTS TO FINANCIAL ENTITIES. Residents of Colombia may sell, with or without liability on their part, to external financial entities or to currency-market intermediaries the foreign-currency payment instruments received from the overseas buyer for their exports, channeling the proceeds of the sale through the currency market.

They may also sell them in Colombian legal tender to commercial finance companies not meeting the requirement laid down in Article 59(1) hereof. Commercial finance companies must channel the foreign-exchange proceeds of these operations through the currency market.

Article 21. FOREIGN-EXCHANGE REFUNDS. Residents of Colombia must channel through the currency market the foreign exchange acquired under guarantees provided for their exports.



Where the foreign importer rejects all or part of the merchandise, or reduces the price thereof because of quality defects or failure to meet any of the conditions agreed on, the foreign exchange to be used for refunding the sums channeled through the currency market for goods exports must also be channeled through the currency market.

Article 22. MINIMUM SURRENDER PRICE FOR COFFEE EXPORTS. Without prejudice to the provisions of Article 2 hereof, for foreign-exchange purposes the minimum surrender price for green-coffee exports shall be the value stated in the Export Declaration.

The foreign-currency value of exports of non-caffeine green coffee, roasted coffee, soluble coffee, liquid coffee extracts and other types of coffee different from prime-quality green coffee shall be the effective selling price, which must be stated in the corresponding Export Declaration.

For purposes of the provisions of Law 9 of 1991, Article 19, the technical equivalencies for determining the fresh prime-quality green-coffee content of industrialized coffee exports shall be established by the National Committee of Coffee Growers, valued at the minimum surrender price indicated in the first sentence of this Article.

#### CHAPTER IV EXPTERNAL BORROWING

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Article 23. CHANNELING. Foreign-exchange receipts and payments in respect of foreign-currency credit obtained or provided by residents of Colombia must be channeled through the currency market. The Banco de la República may, by means of regulations of a general nature, specify exceptions to the foregoing obligation. Where it is intended to discharge the debtor's obligations by means of payment in kind, express authorization from the Banco de la República shall be required in each case.

Paragraph. The declarant must present evidence to the currency-market intermediary with whom he is making the operation that the deposit referred to in Article 26 has been made. Said intermediary shall verify the making of the deposit and the nature of currency-market intermediary or external financial entity on the part of the creditor, in such terms as the Banco de la República may specify.

Article 24. AUTHORIZATION, CREDIT DESTINATION AND CREDITORS. Residents of Colombia may obtain, from the external financial entities specified by the Banco de la República, foreign-currency credit, irrespective of the period and destination of the foreign exchange.

Residents of Colombia may also provide foreign-currency credit to overseas residents, irrespective of the period and destination of the foreign exchange.

Residents of Colombia and overseas residents may obtain foreign-currency credit from currency-market intermediaries directly or from the resources of public-sector rediscount entities, irrespective of the period and destination of the foreign exchange.

Article 25. PLACING SECURITIES IN THE INTERNATIONAL MARKET. The credit authorized by this Chapter may be obtained by placing securities in international capital markets, after making the deposit referred to in Article 26 hereof.

Article 26. DEPOSIT. The disbursement and channeling of foreign-currency credit obtained by residents shall require that before each disbursement a deposit be made at the Banco de la República, on such conditions and for such amount and period as the Board of Directors may specify in a general manner.

The deposit referred to in this Article shall be made through currency-market intermediaries, who shall deliver the respective sums to the Banco de la República within twenty-four (24) hours after they have been deposited. Where the disbursement is channeled through clearing current accounts, proof of the deposit shall be given in the foreign-exchange declaration to be presented together with the report of movements in the current account. Where, as provided by Article 23 hereof, disbursement of the credit is not channeled through the currency market, proof of the deposit must be given when the operation is reported to the Banco de la República.

The Banco de la República shall issue to the deposit holder a non-negotiable receipt indicating the term for return of the deposit, as determined by the Board of Directors.

The deposit may be divided into segments at the holder's request. In this case, the due date of the segmented deposit shall be the same as the original's.

The Banco de la República may only return the deposit before its due date subject to the discount table that it sets for this purpose.

Residents of Colombia and currency-market intermediaries who provide foreign-currency loans to overseas residents, directly or from the resources of public-sector rediscount entities, shall not have to make the deposit referred to in this Article but must report the loans to the Banco de la República.

Paragraph 1. The Banco de la República may request such information as it considers relevant for monitoring the loans.

Paragraph 2. Without prejudice to the special provisions of this Resolution, no deposit shall be required to be made under this Article in the following cases:

1. Where foreign-currency loans are to be used to finance the making of Colombian investments abroad.
2. Where foreign-currency loans are intended to pay for personal expenses through the system of international credit cards.
3. Where foreign-currency loans are provided for financing exports, with a maturity of one (1) year or less, by currency-market intermediaries from the resources of the Foreign Trade Bank –BANCOLDEX–, up to a total amount of five hundred and fifty million dollars (US\$550,000,000) or its equivalent in other currencies.
4. Where concessionary loans with an aid component are made by foreign governments.
5. Where external loans are obtained to finance the initial margin or security and the maintenance margin or security required in overseas futures and options exchanges, as provided for in Article 45 hereof.
6. Where foreign-currency funding is obtained by public-sector rediscount entities for the purpose of making loans to residents under Article 81 hereof.

Article 27. LOAN AMENDMENTS. Amendments to the conditions of loans must be reported to the Banco de la República in such form and within such periods as this entity may establish.

Article 28. EXTERNAL PUBLIC-SECTOR BORROWING. Foreign-currency loans obtained by the Nation, the sub-national jurisdictions and their respective decentralized entities, whatever their nature, shall be subject to the obligations laid down in this Chapter including the deposit referred to in Article 26 of this Resolution. Entities that are currency-market intermediaries are exempt from the deposit.

The interest rate stipulated in the foreign-currency loans referred to in this Article must reflect market conditions and shall not exceed the applicable maximum rate that the Banco de la República specifies in a general manner. Determination of applicable maximum rates shall take into account the liquidity premium, the country risk and other risks associated with the project.

Where default interest has to be paid on overdue obligations under foreign-currency loans, the rate agreed on shall not exceed the applicable maximum rate by more than two points.

In the case of foreign-currency loans provided by currency-market intermediaries to the entities referred to in this Article, which loans have been rediscounted as provided by Article 81, the specified limits shall be applicable only to the loans obtained by the rediscount entities from external financial entities.

Interest-rate limits shall not be applicable to foreign-currency loans obtained by public-sector intermediaries in the currency market.

The interest-rate limits established herein are applicable to financing through placement of securities in international markets, except where the securities are governed by special laws and regulations, as in the case of external public-debt securities issued by the Nation.

Article 29. TERMS AND CONDITIONS. Under Law 9 of 1991, Article 11, the Banco de República's Board of Directors may lay down, in a general manner, the terms, interest rates, purpose, quantitative limits and other conditions for public- and private-sector external borrowing, in order to avoid any undesirable or undue pressure on the currency market from such borrowing.

## CHAPTER V FOREIGN CAPITAL INVESTMENTS

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Article 30. CHANNELING AND REGISTRATION. The foreign exchange to be used for making foreign capital investments in Colombia must be channeled through currency-market intermediaries or clearing accounts, and their registration at the Banco de la República must be carried out in accordance with general regulations issued by this entity, by presenting documentary evidence that the investment has been made.

In the case of investments requiring authorization or a prior opinion, the number, date and conditions of the authorization or opinion must be stated.

Article 31. ACQUISITION OF FOREIGN EXCHANGE. Payments in a freely convertible currency in respect of the following items arising from a foreign-capital investment in Colombia registered at the Banco de la República must be channeled through the currency market:

1. Verified net profits periodically generated by foreign capital investments in Colombia, in accordance with the applicable rules.
2. Any sums obtained in respect of disposal of the investment inside Colombia, portfolio liquidation, winding up of the company, reduction of its capital or the investment additional to the allocated capital, subject to compliance with the provisions laid down in the Code of Commerce for each operation.

The corresponding foreign-exchange declaration must be submitted to the Banco de la República, together with such information as the Bank specifies in a general manner, containing all the essential data for determining the amount of the permitted transfers and payment of the corresponding taxes.

Article 32. TRANSFER OF FOREIGN EXCHANGE BETWEEN A FOREIGN COMPANY AND ITS BRANCH IN COLOMBIA. Foreign-exchange transfers between a foreign company and its branch in Colombia may only be made in respect of the following :

1. Transfer of allocated or additional capital.
2. Reimbursement of profits and allocated or additional capital
3. Payment in respect of reimbursable operations of foreign trade in goods, in accordance with the customs and tax rules.

Article 33. NON-FORMALIZED INVESTMENTS. Where the investment has not been formalized, foreign exchange may be transferred abroad in an amount equal to the local-currency sums obtained from surrender of foreign exchange for the purpose of making foreign investments in Colombia. To this end, the deposit referred to in Article 26 hereof is required to be made before the respective transfer is effected.

The foregoing notwithstanding, the transfer abroad may be made without meeting the deposit requirement in the following cases:

1. Where the period for requesting registration of the investment has not expired.
2. Where the registration has been obtained, and the sums in question are the foreign-exchange differential generated by trading of the surrendered foreign exchange and the actual capital contribution to the recipient company, not to exceed five percent (5%) of the value in pesos originally channeled through the currency market.

The Banco de la República may, for justified reasons, authorize the transfer abroad without the deposit requirement being met.

## CHAPTER VI COLOMBIAN INVESTMENTS ABROAD

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### SECTION 1 COLOMBIAN CAPITAL INVESTMENTS

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Article 34. COLOMBIAN CAPITAL INVESTMENTS ABROAD. Residents of Colombia must channel through the currency market the foreign exchange intended for making Colombian capital investments abroad, within the limits and on the conditions established by the Government.

Article 35. REGISTRATION. Operations under this Section must be registered at the Banco de la República in accordance with such general regulations as the Bank may issue.

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SECTION II  
OVERSEAS FINANCIAL AND ASSET INVESTMENTS

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Article 36. OVERSEAS FINANCIAL AND ASSET INVESTMENTS. Residents of Colombia must channel the following operations through the currency market, except where these operations are made abroad with foreign exchange that does not have to be channeled through said market:

1. Purchase of securities issued abroad or assets located abroad.
2. Purchase abroad at a discount of all or part of private external obligations, public external debt, and bonds or securities of public external debt. This authorization does not cover external loans obtained or refinanced under the provisions of Monetary Board Resolutions 33 of 1984 and 36 of 1985.

The debt instruments referred to in this point (2) may be converted to domestic debt on such terms as the parties may voluntarily agree on.

3. Transfers abroad arising from the placement with residents of Colombia of securities issued by overseas companies and foreign governments or guaranteed by the latter, on the part of the issuer or its agents in Colombia, provided the respective placement is authorized by the Securities Superintendency.

Article 37. REGISTRATION. The operations referred to in this Section must be registered at the Banco de la República in accordance with the general regulations issued by the Bank, where the accumulated amount thereof is equal to or greater than five hundred thousand United States dollars (US\$500,000) or the equivalent thereof in other currencies.

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CHAPTER VII  
FOREIGN-CURRENCY SURETIES AND GUARANTEES

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Article 38. SURETIES AND GUARANTEES PROVIDED BY RESIDENTS OF COLOMBIA. Residents of Colombia may provide foreign-currency sureties and guarantees to back any obligation arising from a foreign-exchange operation, and the respective foreign-exchange receipts and payments must be channeled through the currency market.

Article 39. SURETIES PROVIDED BY OVERSEAS RESIDENTS. Foreign-exchange receipts and payments in respect of sureties and guarantees provided by external financial entities and other overseas residents on behalf of residents of Colombia, to back the fulfillment of obligations arising from foreign-exchange operations and domestic operations, must be channeled through the currency market.

Paragraph 1. The operations referred to in this Article must be registered at the Banco de la República before total or partial maturity of the secured or guaranteed obligation, on such terms as said entity may specify.

Paragraph 2. Where the secured or guaranteed operation is not subject to deposit, the channeling of foreign exchange through the currency market for reimbursing monies paid by the provider of the surety or guarantee shall require that the deposit referred to in Article 26 hereof be made.

## CHAPTER VIII DERIVATIVE OPERATIONS

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### SECTION I COMMODITY DERIVATIVES

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Article 40. AUTHORIZATION. Residents of Colombia, other than currency-market intermediaries, may enter into derivative transactions on commodity prices with overseas agents who engage in transactions of this kind professionally. The Banco de la República shall, by means regulations of a general nature, specify the characteristics and requirements to be met by said agents

Article 41. SETTLEMENT OF CONTRACTS. The contracts shall be settled in United States dollars or in the reserve currencies specified in Article 72 hereof and in legal tender of Venezuela and Ecuador.

### SECTION II FINANCIAL DERIVATIVES

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Article 42. AUTHORIZATION. Currency-market intermediaries and other residents may enter into transactions of interest-rate or exchange-rate financial derivatives traded with currency-market intermediaries or with overseas agents professionally engaged in transactions of this type. The Banco de la República shall, by means regulations of a general nature, specify the characteristics and requirements to be met by said agents.

Currency-market intermediaries may enter into transactions of exchange-rate financial derivatives with non-residents having a foreign investment registered at the Banco de la República.

These transactions may only be used with respect to the reserve currencies specified in Article 72 hereof and the legal tender of Colombia, Venezuela and Ecuador.

Article 42. SETTLEMENT OF CONTRACTS. Where the contract has been signed between residents or currency-market intermediaries and external agents professionally engaged in financial-derivative transactions, settlement of the contracts referred to in this Section shall be made in the currency stipulated.

Where the contract has been signed between currency-market intermediaries and non-residents having a foreign investment registered at the Banco de la República, settlement of the contracts referred to in this Section may be made in Colombian legal tender or in the currency stipulated.

Settlement of contracts signed between residents and currency-market intermediaries, or between the latter, must be made in Colombian legal tender at the benchmark rate agreed on or in the absence thereof at the representative market exchange rate prevailing on the day of payment, unless they have a pending external obligation and delivery of the foreign exchange has been agreed on between the parties. Payments of premiums, fees, margins, collateral deposits and other receipts and expenditures associated with derivative transactions must be made in Colombian legal tender, at the benchmark rate agreed on or in the absence thereof at the representative market exchange rate prevailing on the day of payment.

### SECTION III

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Article 44. AUTHORIZED OPERATIONS. The authorized operations include, among others, futures contracts, forwards, swaps, options contracts, any combination of the foregoing, and the products called caps, floors and collars.

Paragraph. In accordance with Article 70 hereof, the operations authorized by this Chapter are understood to be operations with an agreed maturity after the immediately following two (2) working days.

Article 45. MARGIN FINANCING. The deposit referred to in Article 26 hereof shall not be required in obtaining external credit from overseas financial entities or the currency-market intermediaries for financing the initial margin or security or the maintenance margin or security required by overseas futures and options exchanges.

Article 46. PROVIDING INFORMATION. The Banco de la República may request from residents and currency-market intermediaries information on the derivative operations under this Chapter, in such form and terms as the Bank may specify.

Article 47. LIMITATION. In derivative operations under this Chapter, the total purchase and sale of foreign exchange by authorized parties must not exceed the original amount of the operation plus the net result of the derivative operation.

## CHAPTER IX HYDROCARBON AND MINING SECTORS

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Article 48. SURRENDER OF FOREIGN EXCHANGE. Foreign exchange may not be surrendered to the currency market when it represents the proceeds of foreign-currency sales made by companies that have foreign capital and are engaged in exploring for and exploiting oil, natural gas, coal, ferronickel or uranium or are exclusively engaged in providing technical services for oil exploration and exploitation under Law 9 of 1991, Article 16, Decree 2058 of 1991 and related laws and regulations, as amended or supplemented.

Article 49. EXPENDITURES ABROAD AND IN COLOMBIA. The companies referred to in the previous Article may not acquire foreign exchange in the currency market for any purpose, and they must surrender to the currency market the foreign exchange they need to meet expenses in Colombian legal tender.

Article 50. REGIMES. The companies referred to in Article 48 that do not wish to take advantage of the special provisions laid down in the preceding Articles must inform the Banco

de la República thereof and shall become exempt from the application of said provisions for an unchangeable period of at least ten years from the date of presentation of the respective communication. Consequently, all foreign-exchange operations that they carry out shall be subject to the ordinary provisions of the foreign-exchange regime, including those regarding the use of clearing mechanisms.

Article 51. AUTHORIZATION FOR FOREIGN-CURRENCY PAYMENTS. The provisions of Article 79 hereof notwithstanding, Colombian companies that have foreign capital and are engaged in exploring for and exploiting oil, natural gas, coal, ferronickel or uranium, and companies exclusively engaged in providing technical services for oil exploration and exploitation under Law 9 of 1991, Article 16, Decree 2058 of 1991 and related laws and regulations, as amended or supplemented, may enter into and make payments under foreign-currency contracts among themselves, inside Colombia, provided the respective foreign exchange comes from resources generated by their operation.

Furthermore, payment may be made in foreign currency for the purchase and sale between residents of Colombia of fuel for ships and aircraft on international routes, and the purchase and sale of domestically produced crude oil and natural gas by ECOPETROL and other entities engaged in the industrial activity of oil refining.

Residents of Colombia may make foreign-currency payments for domestically produced natural gas sold by companies that have foreign capital and are engaged in oil and natural-gas exploration and exploitation.

Article 52. BUDGET OF EMPRESA COLOMBIANA DE PETRÓLEOS. The Empresa Colombiana de Petróleos -ECOPETROL- must submit for approval by the Banco de la República's Board of Directors, no later than December 31<sup>st</sup> of each year, a budget that includes all its foreign-currency receipts and payments projected for the following year.

In addition, ECOPETROL shall submit to the Banco de la República's Board of Directors, within the first twenty (20) working days of each quarter, a report that includes all its foreign-currency receipts and payments for the immediately preceding quarter, highlighting the changes that have occurred relative to the budget originally approved.

## CHAPTER X INDUSTRIAL FREE ZONES

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Article 53. USE OF FOREIGN EXCHANGE. The industrial users of goods installed within the perimeter of industrial free zones are not required to surrender to the currency market the foreign exchange they obtain from exports or other foreign-currency operations. Said companies may, however, channel through the currency market the foreign exchange they need for meeting their expenses in Colombian or foreign legal tender.

Paragraph. Users installed within the perimeter of industrial free zones of goods may obtain financing from their suppliers, currency-market intermediaries and external financial entities, for the purchase of merchandise, without being required to make the deposit referred to in Article 26 hereof.

The Banco de la República may request such information as it considers relevant for monitoring the financings referred to in this Article.

Article 54. OPERATIONS WITH RESIDENTS OF COLOMBIA. Payment may be made in foreign exchange or in Colombian legal tender for imports and exports of goods and services between residents of Colombia and industrial users of goods installed in industrial free zones.

## CHAPTER XI FOREIGN-CURRENCY CURRENT ACCOUNTS

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Article 55. AUTHORIZATION. Residents of Colombia may freely deposit in overseas current accounts the foreign exchange acquired in the currency market or from residents of Colombia who are not required to channel it through the currency market.

The deposits made in these accounts may be used for any foreign-exchange operation other than those required to be channeled through the currency market under Article 7 hereof. The returns on investments or deposits made from these accounts may also be used for the same purposes.

The foregoing is without prejudice to compliance with applicable tax laws and regulations.

Article 56. CLEARING MECHANISM. In addition to the provisions of the previous Article, residents in Colombia who use overseas current accounts for operations required to be

channeled through the currency market must register them as clearing current accounts at the Banco de la República.

Registration of clearing accounts must be made no later than within the month following the date of opening thereof or the date of making an operation required to be channeled through the currency market.

The opening and maintaining of clearing accounts is subject to the following rules:

1. Foreign-exchange declaration. From the date of registration of the clearing accounts referred to in this Article, the holders thereof must submit to the Banco de la República, within each calendar month following said date, the foreign-exchange declaration corresponding to the operations carried out and a list of the operations performed through said accounts during the previous month, including the report on investments of their balances and on the origin of the deposited foreign exchange not obtained from the currency market.
2. Sale and use of foreign exchange. Foreign exchange from the accounts may be sold to currency-market intermediaries and to holders of other clearing current accounts and may be used to pay for any operation whether or not required to be channeled through the currency. Sales of foreign exchange to currency-market intermediaries must be recorded as having been made from a clearing account balance.
3. Prohibition. The opening and maintaining of registration of clearing accounts is conditional on the holder thereof not having been penalized for infractions of the foreign-exchange regime, for administrative customs infractions or for violation of control regulations on asset laundering, and not having become subject to suspension of the tax benefit provided by Tax Refund Certificates – CERT.

The Banco de la República shall be responsible for ordering, in each case, that the respective registration be cancelled or not made, if it establishes that the accounts have not been managed properly, or if the holders thereof do not make available to the State the information required under the foreign-exchange regime within the time prescribed therefor. Cancellation of the registration obliges the holder to sell the account balances to the currency market. The foregoing notwithstanding, the Banco de la República may, exceptionally and after analyzing the nature and extent of the fault committed and the requesting party's record, authorize or maintain the clearing account's registration.

The provisions of this Point 3 are understood to be without prejudice to any penalties that may be imposed by the entities in charge of control and oversight of compliance with the foreign-exchange regime.

Article 57. MANAGEMENT OF THE NATIONAL COFFEE FUND'S FOREIGN-CURRENCY RESOURCES. The National Coffee Fund may keep resources in a Foreign-Currency Fund to meet overseas payments in respect of investments and costs of coffee commercialization, advertizing, running offices, and foreign-currency loans, in accordance with an annual budget to be submitted for approval of the National Committee of Coffee Producers and the Banco de la República's Board of Directors, no later than December 31<sup>st</sup> of the immediately preceding year.

The National Federation of Coffee Producers shall present the foreign-exchange declaration to the Banco de la República on a monthly basis in accordance with the provisions of the above Article.

## CHAPTER XII CURRENCY-MARKET INTERMEDIARIES

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### SECTION I

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ARTICLE 58. AUTHORIZED INTERMEDIARIES. The currency-market intermediaries are: commercial banks, mortgage banks, investment banks, commercial finance companies, Financiera Energética Nacional -FEN-, Banco de Comercio Exterior de Colombia S.A. - BANCOLDEX-, financial cooperatives, stock-brokerage firms and foreign-exchange firms.

In their capacity as currency-market intermediaries the aforementioned entities shall be subject to the rules and obligations laid down in this Resolution.

### SECTION II

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Article 59. AUTHORIZED OPERATIONS. Currency-market intermediaries may carry out foreign-exchange operations in accordance with the following classification:

1. Commercial banks, mortgage banks, investment banks, as well as commercial finance companies and financial cooperatives whose paid-up capital and legal reserve amount to the minimum required for setting up an investment bank may carry out the following foreign-exchange operations:
  - a. Acquire and sell foreign exchange and instruments representing foreign exchange that is required to be channeled through the currency market, as well as foreign exchange that, despite being exempt from that obligation, is voluntarily channeled through said market.
  - b. Enter into transactions of purchase and sale of foreign exchange and instruments representing foreign exchange with the Banco de la República and currency-market intermediaries, as well as purchase and sale of clearing-account balances.
  - c. Obtain foreign-currency financing from external financial entities or currency-market intermediaries or through placement of securities abroad, for the purpose of carrying out the following activities:
    - i. To carry out expressly authorized active foreign-currency credit operations, with a maturity equal to or less than that of the financing obtained.
    - ii. To carry out active foreign-currency operations to cover derivatives positions, with a maturity equal to or less than that of the financing obtained.

This financing shall be exempt from deposit at the Banco de la República and may not be used for any purpose other than specified in this point.

- d. To receive foreign-currency deposits from companies located in free zones, international transport companies, travel and tourist agencies, duty-free warehouses and depots, entities providing harbor and airport services, individuals and legal entities not residents of Colombia, diplomatic and consular missions accredited to the Government of Colombia, and multilateral organizations and their staff. These deposits shall not require registration at the Banco de la República.

To receive deposits also in Colombian legal tender from individuals and legal entities not residents of Colombia, which shall be used subject to the currency regulations. These deposits shall not require registration at the Banco de la República either.

- e. To provide sureties guarantees to back obligations arising from foreign-exchange operations required to be channeled through the currency market, and also for the following purposes:
    - i. To provide bid and performance bonds to Colombian and foreign companies in competitive biddings or merit-based selection processes organized by public- or private-sector companies resident in Colombia or abroad.
    - ii. To back the fulfillment of obligations incurred by residents of Colombia under contracts for exporting goods or providing non-financial services overseas.
    - iii. To back obligations of overseas residents.
  
  - f. To provide foreign-currency loans to residents of Colombia and to overseas residents on the terms authorized by Chapter IV of this Title. These loans must be reported to the Banco de la República, regardless of their maturity, within the terms specified by this entity.
  
  - g. To carry out capital investments abroad in accordance with the applicable laws and regulations and make temporary financial investments and investments in financial assets issued by overseas banking entities other than their affiliates and subsidiaries, or in bonds and securities issued by foreign governments that allow returns to be obtained in foreign currency on the liquidation thereof
  
  - h. To send or receive foreign-currency payments and make foreign-exchange remittances to or from overseas, and arrange for collection or similar banking services.
  
  - i. To manage and administer international credit and debit card systems, according to the operations authorized for each class of intermediary.
  
  - j. To carry out derivative operations in accordance with the provisions of Chapter VIII of this Title hereof.
2. Commercial finance companies and financial cooperatives whose paid-up capital and legal reserve amount to less than the minimum required for setting up an investment bank, and stock-brokerage firms and foreign-exchange firms whose capital exceeds three and a half billion pesos (Col\$3,500,000,000) may carry out the following foreign-exchange operations:



- a. Sending or receiving foreign-currency transfers for operations of importation, exportation, foreign investment, and Colombian overseas investment.
- b. Buying and selling foreign exchange for operations of goods importation and exportation, foreign capital investment, and Colombian overseas investment.
- c. Managing and administering international credit and debit card systems, according to the operations authorized for each class of entity
- d. Buying and selling foreign exchange to and from currency-market intermediaries and balances of clearing current accounts.
- e. Sending or receiving transfers and remittances of foreign exchange not required to be channeled through the currency market.
- f. Buying and selling foreign exchange or instruments representing same for operations not required to be channeled through the currency market.
- g. Carrying out capital investments abroad in accordance with the applicable laws and regulations and making temporary financial investments and investments in financial assets issued by overseas banking entities other than their affiliates and subsidiaries, or in bonds and securities issued by foreign governments that allow returns to be paid in foreign currency on the liquidation thereof.

Paragraph 1. The foreign-exchange purchase and sale operations that stock-brokerage firms are authorized to perform may be carried out by debiting their own position or under fee contracts.

Paragraph 2. Currency-market intermediaries may not use their foreign-exchange liquidity for carrying out operations that they are not expressly authorized to perform.

Without prejudice to the provisions of this Article's point 1.c.ii, intermediaries may not incur foreign-exchange debt for the purpose of carrying out foreign-currency purchase and sale operations.

Stock-brokerage firms may not incur debt in Colombian legal tender or any foreign currency for the purpose of carrying out authorized foreign-exchange operations.

Paragraph 3. The capital amounts specified in this Article shall be adjusted annually in the same direction and percentage as the variation in the consumer price index reported by the National Statistics Office (DANE). The resulting value shall be rounded up to the next multiple of a million pesos. The first adjustment shall be made in January 2001 on the basis of the consumer price index recorded for 2000.

Paragraph 4. Without prejudice to the provisions on capital requirements laid down in this Article, financial cooperatives may act as currency-market intermediaries on being authorized to do so by the Banking Superintendency. Said entity must assess the technical and operating conditions that allow the financial cooperative to manage properly and exercise due control over all the authorized foreign-exchange operations.

Article 60. OBLIGATIONS. Currency-market intermediaries shall be obliged to:

1. Require presentation of a foreign-exchange declaration for each operation they perform, and to check the declarant's identification against the identification stated on the foreign-exchange declaration. Where appropriate, they must ask for the documents specified by the foreign-exchange regime. For operations requiring a deposit, they must verify that evidence has been provided of fulfillment of said obligation as a prior condition for channeling the foreign exchange through the currency market.
2. Provide the Banco de la República with information on the foreign-exchange operations they have carried out, in such form and within such terms as this entity may decide.
3. Report every day to the Banking Superintendency and the Securities Superintendency, as appropriate, in such terms as these entities may specify, the rates of exchange at which they make their operations of purchase and sale of foreign exchange or of instruments representing same.
4. Make quarterly reports to the Banking Superintendency or the Securities Superintendency, as appropriate, on movements in their overseas current accounts.

5. Make quarterly reports to the Banking Superintendency and the Banco de la República on accounts opened in a foreign currency or Colombian legal tender by individuals and legal entities not residents of Colombia and on movements in said accounts.

6. Provide information and cooperation required by the competent authorities, in particular the State Prosecutor's Office or the Financial Information and Analysis Unit, for the purpose of preventing criminal and asset-laundering activities.

Paragraph. Under Law 9 of 1991, the Fundamental Statute of the Financial System, and Law 27 of 1990, and related laws and regulations, failure to fulfill all or part of these obligations and, in general, this Resolution's provisions on currency-market intermediaries, shall lead to penalties being imposed by the Banking Superintendency or the Securities Superintendency, according to their authority, both on the entity and on the responsible employees who fail to comply with these provisions.

Article 61. SPECIAL OBLIGATIONS OF STOCK-BROKERAGE FIRMS. Without prejudice to fulfillment of the obligations laid down for currency-market intermediaries, stock-brokerage firms must provide evidence of compliance with the technical or operating conditions set in a general manner and within the framework of their authority by the Securities Superintendency's General Board or the Securities Superintendency. These bodies may set credit or counterparty risk control limits and impose on such firms the obligation of using electronic foreign-exchange trading systems in their operations.

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### SECTION III FOREIGN-EXCHANGE FIRMS

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Article 62. DEFINITION. Foreign-exchange firms are legal entities organized according to the provisions of this Resolution for the exclusive purpose of performing the foreign-exchange operations authorized by Article 59(2).

Foreign-exchange firms become legally established once the respective public notarial instrument has been signed but may not perform the activities constituting their authorized operations until they have obtained the authorization certificate issued to them by the Banking Superintendency.

Article 63. AUTHORIZATION OF FOREIGN-EXCHANGE FIRMS. Under Article 53 of the Fundamental Statute of the Financial System, as amended or supplemented, foreign-exchange firms must have the prior authorization of the Banking Superintendency.

The authorization shall be given by means of a reasoned resolution issued by the Banking Superintendency, once it has been verified that the requirements laid down in this Resolution have been met and the applicants have provided satisfactory evidence of the character, reliability, suitability and financial solvency of the parties participating in the operation, including the conduct shown by said parties in performing activities connected with managing, making use of or investing resources obtained from the public.

Paragraph. All stock transactions of foreign-exchange firms, regardless of the percentage, shall require, on pain of invalidity, prior authorization from the Banking Superintendency according to the terms of Article 88 of the Fundamental Statute of the Financial System.

Article 64. REQUIREMENTS. To obtain from the Banking Superintendency the authorization certificate referred to in the previous Article, foreign-exchange firms must provide said entity with evidence of the following requirements of:

- a. Being organized as corporations.
- b. Having a capital of over three and a half billion pesos (Col\$3,500,000,000). This amount shall be readjusted annually in the same direction and percentage as the variation in the consumer price index reported by the National Statistics Office (DANE). The resulting value shall be rounded up to the next multiple of a million pesos. The first adjustment shall be made in January 2001 on the basis of the consumer price index recorded for 2000.
- c. Possessing an infrastructure that allows all their operations to be properly managed and duly controlled by the Banking Superintendency.

Paragraph. The minimum capital amount laid down in point (b) of this Article must be held permanently by foreign-exchange firms that are authorized and in operation. The Banco de la República shall indicate in a general manner the capital accounts that shall be taken into account in calculating the capital.

Article 65. CANCELLATION. The Banking Superintendency may cancel a foreign-exchange firm's authorization in any of the following cases:

1. At the request of the legal representative.
2. In the event of the firm's liquidation.
3. Failure to meet the minimum capital requirement laid down in the previous Article.
4. Failure to carry out its corporate purpose for one (1) year or longer.
5. Where any information or documents presented in order to obtain the operating authorization and all other approvals specified in this Resolution prove to be incomplete or contrary to the facts.
6. Failure to fulfill any of the obligations established in the foreign-exchange regime, the Fundamental Statute of the Financial System where applicable, and the instructions given by the Banking Superintendency.
7. As a penalty, in the cases contemplated by the governing laws and regulations.

Article 66. OBLIGATIONS. Foreign-exchange firms and their administrators are subject to compliance with the following special obligations:

1. To perform exclusively the foreign-exchange operations allowed to them by the foreign-exchange regime, strictly subject to the requirements and conditions laid down in the relevant provisions, and in particular to comply with tax provisions on the withholding tax.
2. To cooperate actively with the entities responsible for oversight and monitoring of compliance with the foreign-exchange regime, and with such other entities as are authorized to request information from them. In performing this obligation they must:
  - a. Report to the Banking Superintendency the transactions made in carrying out their activities, within such time limits, in such form and on such conditions as said entity may establish for the purpose.
  - b. Allow and facilitate the inspection at any time by the Banking Superintendency of the books, vouchers, journal entries, supporting documents, bank statements and, in general, all documents connected with their activity.

- c. Present to the Banking Superintendency the financial statements in the form and within the time limits set by this entity.
  - d. Provide the Banking Superintendency with information on the foreign-exchange purchase and sale transactions referred to in Articles 102 to 107 of the Fundamental Statute of the Financial System, as amended, supplemented or complemented.
  - e. Provide such information and cooperation as may be required by the State Prosecutor's Office under Articles 102 and 107 of the Fundamental Statute of the Financial System, as amended, supplemented or complemented, and by the Financial Information and Analysis Unit under Law 526 of 1999.
3. Perform regular accounting of their businesses in accordance with Banking Superintendency regulations.
  4. Where appropriate, apply the withholding tax to the foreign-exchange operations they carry out.
  5. Have an internal auditor, as stipulated by Article 79 of the Fundamental Statute of the Financial System and other legal provisions, to certify their financial statements and the vouchers and reports periodically required by the Banking Superintendency.
  6. Fully identify the party with whom the transaction is being made, and the party's characteristics, in such form and quantities as the Banking Superintendency may decide. Said information is to be presented to the Superintendency and to all other authorities that so require in the performance of their functions.
  7. Their directors, legal representatives and internal auditors must, before taking up the respective posts, be formally instated in them by the Banking Superintendency, which shall accord the instatement once the applicants have provided satisfactory evidence of their character, reliability, suitability and financial solvency in such manner as to inspire confidence in it about how they will participate in the firm's management, administration and control. At all events, the Superintendency shall assess the previous records of the persons concerned as regards matters of foreign exchange and customs and in relation to the Banking and Securities Superintendencies

8. To report any opening, relocation or closing of their business establishments within such time and in such form as the Banking Superintendency may direct.
9. Require the presentation of a foreign-exchange declaration in all the foreign-exchange operations they perform, and provide such information on these operations as is stipulated by the Banco de la República, within the terms specified by this entity and, at all events, within the next three days after the operation has been carried out.

Article 67. FOREIGN-EXCHANGE DECLARATION FOR SALE OF FOREIGN EXCHANGE TO CURRENCY-MARKET INTERMEDIARIES. Foreign-exchange firms must present a foreign-exchange declaration in all sales of foreign currency that they make to other currency-market intermediaries, together with a certificate issued by the firm's internal auditor certifying that all applicable legal provisions have been complied with in respect of the foreign exchange being sold.

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#### SECTION IV FINAL PROVISIONS

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Article 68. OVERSEAS CURRENT ACCOUNTS. Currency-market intermediaries may possess and manage overseas current accounts for the normal performance of their activities. These accounts shall not be subject to registration at the Banco de la República.

Article 69. REPORT OF CONTINGENCY LOANS. Contingency loans or guarantees provided by currency-market intermediaries authorized to do so in favor of their respective overseas affiliates or subsidiaries must be reported to the Banco de la República, in such form and at such times as this entity may specify.

Intermediaries making contingency loans must undertake to provide to the Banking Superintendency, with such regularity as the latter may specify, all such information on the operations of its affiliate as said entity may require.

Article 70. INTERMEDIARIES' EXCHANGE RATES. The exchange rates for purchase and sale of foreign currency shall be such as are freely agreed between the parties to the transaction, and no fees shall be charged, except in the case of operations carried out by stock-brokerage firms under fee contracts.

Intermediaries may enter into spot operations for the purchase and sale of foreign exchange, to be executed within the next two working days, and shall announce on a daily basis the purchase and sale rates they offer the public for over-the-counter operations.

In foreign-exchange purchase and sale operations carried out under fee contracts, the rates offered must include the corresponding fees.

Paragraph 1. The foreign exchange required for payment of overseas personal expenses through international credit and debit card systems administered by currency-market intermediaries shall be paid for in Colombian legal tender at the exchange rate they announce to the public.

Paragraph 2. The Banking and Securities Superintendencies, as appropriate, shall establish the form in which the foreign-exchange purchase and sale rates referred to in this Article must be published.

Article 71. PAYMENT AND SURRENDER CURRENCIES. Currency-market intermediaries may comply with requests for sale of any currency needed to pay for overseas obligations stipulated in a different currency. Similarly, residents of Colombia may channel through the currency market a currency different from the one originally stipulated

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### CHAPTER XIII ON THE BANCO DE LA REPÚBLICA

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Article 72. RESERVE CURRENCIES. The Banco de la República may perform its operations in Special Drawing Rights and the following currencies and shall publish on a daily basis their rates of conversion to the United States dollar: Swedish crowns, Danish crowns, Austrian shillings, euros, Dutch guilders, Belgian francs, French francs, Swiss francs, pounds sterling, Italian lira, Deutsche mark, Spanish pesetas and Japanese yen.

Article 73. MARKET INTERVENTION. The Banco de la República may intervene in the currency market to prevent undesirable fluctuations both in the exchange rate and in the amount of the international reserves, in accordance with guidelines set by the Bank's Board of Directors, through direct or indirect, spot or future purchase or sale of foreign exchange from or to commercial banks, mortgage banks, investment banks, commercial finance companies, financial cooperatives, Financiera Energética Nacional -FEN-, Banco de Comercio Exterior de



Colombia S.A. -BANCOLDEX-, and the Nation represented by the Ministry of Finance and Public Credit.

The Banco de la República may buy and sell foreign exchange at market rates.

Furthermore, the Banco de la República may issue and place instruments representing foreign exchange, in accordance with regulations issued by the Board of Directors.

Paragraph. The Banco de la República may carry out the operations referred to in this Article by means of the various systems and mechanisms through which interbank foreign-exchange operations are performed.

Article 74. FOREIGN-CURRENCY PAYMENTS. The foreign-currency payments that the Banco de la República has to make in the normal course of its activities shall be debited from the international reserves, subject to such quantities and limits as may be set by the Board of Directors.

## TITLE II COMPLEMENTARY PROVISIONS

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### CHAPTER I HOLDING, POSSESSING AND TRADING IN FOREIGN EXCHANGE

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Article 75. PROHIBITION. Save as otherwise provided by special provisions of this Resolution, it is not allowed to make deposits or any other financial operations in a foreign currency or, in general, any contract or agreement between residents of Colombia in a foreign currency through use of the foreign exchange referred to in this Title.

Residents of Colombia may buy and sell foreign exchange professionally. Said activity may be performed after enrollment in the official registry of commercial concerns. The parties performing this activity must provide such information and cooperation as may be required by the competent authorities, in particular the State Prosecutor's Office or the Financial Information and Analysis Unit, for the purpose of preventing criminal and asset-laundering activities.

Article 76. USE OF FOREIGN EXCHANGE. Foreign exchange received by residents of Colombia from operations not required to be channeled through the currency market may only be used for being sold to other residents and, where appropriate, for paying in Colombia for international freight and transport tickets, personal expenses made through international credit cards, premiums of foreign-currency denominated insurance contracts under Decree 2921 of 1991 and related provisions, and for payment of obligations under external reinsurance contracts or for making payments abroad or in Colombia of the value of claims that insurance companies established in Colombia have to cover in foreign currency, in accordance with government decisions under Law 9 of 1991, Article 14. They may also be used to make overseas financial and asset investments, and any other operations different from those required to be channeled through the currency market, or to channel them voluntarily through said market.

Article 77. PURCHASE OF FOREIGN EXCHANGE FROM TOURISTS. Tourist agencies and hotels receiving foreign exchange from selling goods and services to foreign tourists must fully identify the party they make the transaction with and must keep the information regarding said party's name and address, number and type of foreign identity document, amount and date of the operation and form of payment of the transaction.

Currency-market intermediaries buying foreign exchange from tourist agencies and hotels must require certification from the respective establishment's public accountant or internal auditor that the provisions of this Article have been complied with.

Persons entering or leaving Colombia with foreign exchange in cash or instruments representing foreign exchange in an amount exceeding ten thousand United States dollars (US\$10,000) or its equivalent in other currencies must present the corresponding Customs Declaration.

Article 78. PAYMENT FOR FOREIGN EXCHANGE. Payment by currency-market intermediaries for the purchase of foreign currency in an amount equal to or greater than ten thousand United States dollars (US\$10,000) or the equivalent thereof in other currencies shall be made in the following manner:

Payment shall be made by issuing a check payable to the foreign-exchange beneficiary, with a clause limiting its free negotiability and "for deposit only". But in the case of transfers through commercial banks and mortgage banks, payment may only be made by means of a deposit to a current account or savings account.

Paragraph. In the case of foreign-exchange firms the amount established in this Article shall be three thousand United States dollars (US\$3,000) regarding the acquisition of foreign exchange or receipt of transfers from abroad.

## CHAPTER II

### STIPULATION OF FOREIGN-CURRENCY OBLIGATIONS

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Article 79. FOREIGN-CURRENCY OBLIGATIONS. Obligations stipulated in a foreign currency and not pertaining to foreign-exchange operations shall be paid in Colombian legal tender at the representative market exchange rate prevailing on the date they were incurred, unless a different date or benchmark rate has been agreed on by the parties.

Obligations stipulated in a foreign currency and pertaining to foreign-exchange operations shall be paid in the currency stipulated.

Paragraph 1. Where obligations pertaining to foreign-exchange operations are stipulated in a foreign currency, and for legal purposes they are required to be liquidated in Colombian legal tender, the representative market exchange rate prevailing on the date of payment shall be applied.

Paragraph 2. Operations by the entities subject to Banking Superintendency inspection and oversight may not be stipulated in a foreign currency, except for expressly authorized foreign-exchange operations, import leasing contracts, life insurance, or the procurement of such insurance as the Government may determine under Law 9 of 1991, Article 14.

Paragraph 3. In the case of obligations stipulated in a foreign currency other than the United States dollar, the conversion rate determined according to Article 72 hereof shall be used for purposes of the present Article.

Paragraph 4. To calculate the amount of the coffee levy paid abroad in United States dollars, on authorization from the Government, the representative market exchange rate certified by the Banking Superintendency for the date of payment must be used.

Paragraph 5. Residents of Colombia may make and receive foreign-currency payments in discharge of obligations arising from domestic operations, if so agreed, by means of transferring or receiving foreign currency to or in clearing current accounts opened for the purpose.

These operations are subject to the following conditions:

a. The accounts through which foreign exchange is transferred for payment of obligations between residents may only be created with funds from operations mandatorily required to be channeled through the currency market.

Such foreign exchange must be used to make payments for obligations between residents. The balances may be sold to currency- market intermediaries or to holders of other clearing accounts.

b. The funds in the accounts through which foreign exchange is received from payment of obligations between residents may only be used for operations mandatorily required to be channeled through the currency market. These balances, too, may be sold to currency-market intermediaries or to holders of other clearing accounts.

c. The accounts referred to in this Paragraph 5 shall be subject to the obligations laid down in Article 56 hereof.

Paragraph 6. Residents of Colombia providing airport operation services under concession contracts may receive payments in foreign currency from other residents in respect of runway charges for international flights.

Article 80. REPRESENTATIVE MARKET EXCHANGE RATE. For purposes hereof, “representative market exchange rate” shall mean the exchange rate for foreign-currency purchase and sale operations that is calculated and certified by the Banking Superintendency on the basis of available information, in accordance with the methodology laid down by the Banco de la República. Over-the-counter and derivative operations shall not be taken into account in calculating said rate.

Until such time as the Banco de la República lays down the regulations under this Article, use shall be made of the methodology set forth in External Resolution 21 of 1993, Article 96.

Article 81. AUTHORIZATION. The country’s public-sector rediscount entities may obtain credit from external financial entities for the purpose of making loans to residents of Colombia either through rediscounting to currency-market intermediaries or directly, with a maturity equal to or less than that of the financing obtained from abroad.

Credit obtained from external financial entities by public-sector rediscount entities shall be exempt from deposit at the Banco de la República only if the credit is used for the above purpose. If credit obtained by public-sector rediscount entities is not used for providing or rediscounting loans to residents of Colombia, said entities must make the deposit referred to in Article 26 hereof before disbursing the credit.

The ultimate users of the funds must make the deposit referred to in Article 26 hereof as a requirement for disbursement and channeling of the loans referred to in this Article, unless the public-sector rediscount entity has done so by that time.

The loans made or rediscounted under this Article by public-sector rediscount entities may be stipulated in a foreign currency. Nevertheless, at the creditor’s choice, their disbursement and repayment may be agreed to be made in the stipulated foreign currency or in Colombian legal

tender at the representative market exchange rate prevailing on the date of the respective operations.

### CHAPTER III FINAL PROVISIONS

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Article 82. INFLOW OR OUTFLOW OF COLOMBIAN LEGAL TENDER. Except for operations performed by the Banco de la República, inflows or outflows of Colombian legal tender into or out of Colombia must be made solely through currency-market intermediaries.

Travelers leaving or entering Colombia may take with them Colombian legal tender in bills up to a maximum amount equivalent to ten thousand United States dollars (US\$10,000) calculated at the representative market exchange rate on the day of leaving or entering the country.

People leaving or entering the country with Colombian legal tender in bills in an amount greater than that specified above must present the respective Customs Declaration.

Article 83. FINAL PROVISIONS. In accordance with External Resolution 6 of 2000, the deposit on external borrowing referred to herein shall be zero percent (0%).

External loans registered at the Banco de la República before the entry into force of External Resolution 5 of 1997 shall remain subject to the rules set forth in Article 2 thereof. In that case, where applicable, a deposit must be made at the Banco de la República, in legal tender equivalent to 10% calculated at the representative market exchange rate prevailing on the date of deposit for a period of six (6) months in accordance with the rules laid down for the purpose in External Resolution 21 of 1993, Article 30. The deposit obligation does not apply to loans registered before External Resolution 5 of 1997 where their financial conditions are amended as a result of restructuring agreements provided for by Law 550 of 1999.

Article 84. CAPITAL GOODS. For purposes of this Resolution capital goods shall mean machinery and equipment classified as such in the lists issued by the Tax and Customs Administration and by the High Council on Foreign Trade.

The provisions of External Resolution 7 of 1994 shall continue to apply to books, magazines, serial pamphlets or collectibles, all of a scientific or cultural nature, included under customs tariff number 49.01 and daily publications included under number 40.02.

Article 85. TRANSITORY REGIME. Foreign-exchange firms not meeting the minimum capital requirements specified in Article 64 hereof upon entry into force of this Resolution must, within a period of one (1) year from said date, make the respective capital adjustments in order to be able to perform the operations authorized for currency-market intermediaries by the provisions of said Article.

During that period of transition said entities may perform only the following exchange operations:

1. Buying and selling foreign exchange or instruments representing same in operations not required to be channeled through and currency market.
2. Buying and selling foreign exchange to and from currency-market intermediaries.
3. Sending or receiving foreign-exchange transfers in operations not required to be channeled through the currency market.

Paragraph. Foreign-exchange firms failing to provide evidence of the adjustment referred to in this Article within the specified period must be wound up or make the necessary changes to their corporate name and corporate purpose.

Article 85. ENTRY INTO FORCE. The present Resolution comes into effect from its date of publication and overrides External Resolution 21 of 1993 except for Article 30 and 96 thereof which shall remain in effect for purposes of Article 80 and 83 hereof. The provisions regarding stock-brokerage firms shall not come into effect until July 1, 2000.

Done in Santa Fe de Bogotá, D.C., on the fifth (5<sup>th</sup>) of May in the year Two Thousand (2000).

JUAN CAMILO RESTREPO SALAZAR

President

GERARDO HERNÁNDEZ CORREA

Secretary