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EXPORT CREDIT INSURANCE

*Comparing the Brazilian
and American Models*

*Fernando Augusto Coimbra Gomes
Advisor: Prof. Robert Dunn*

TABLE OF CONTENTS

1. Introduction	4
2. Objective	11
3. Export Credit Insurance – The International Experience	12
4. Export Credit Insurance in Brazil – 1960 to 1992	14
5. The new model of the Brazilian Export Credit Insurance.....	16
5.1 The creation of the Exports Guarantee Fund	16
5.2 The Chamber of Foreign Trade – Main functions	17
5.3 The Council of Financing and Guarantee – Representatives and Responsibilities	17
5.4 The Brazilian Export Credit Insurance Agency (SBCE)	18
5.4.1 Risks Covered	19
5.4.2 Characterization of the Risks	19
5.4.3 Types of Policy	20
5.4.4 Guaranteed Percentage	21
5.4.5 Premium	21
6. The American Export Credit Insurance Model	22

6.1 Overview	22
6.2 The Export Import Bank	23
6.3 The Export Credit Insurance Program	25
6.4 The Loan Guarantee Program	28
6.5 The Working Capital Program	28
6.6 The Credit Guarantee Facility Program	29
7. Conclusion -The Brazilian Model and the American Model – A comparative approach	30
8. Appendix A - Bibliographic References.....	37
9. Appendix B - Sites of Interest	38
10. Legislation	39
10.1 Law 6.704, of 10.26.1979.....	39
10.2 Decree 2.049, of 10.31.1996	41
10.3 Law 9.818, of 08.23.1999.....	45
10.4 Decree 3.937, of 09.25.2001	48
10.5 Decree 4.993, of 02.18.2004	54

1 – Introduction

The integration process among countries has been growing at a faster pace, helped by the technological improvements in fields such as Information and Telecommunications and also by the growth of economical and financial transactions.

Participating in this process actively means the country must be prepared for hard international competition. As the international market becomes more open, the countries, on one hand, have the opportunity to sell their products and services abroad, if they have international quality standard and competitive prices, but, on the other hand, they will have their economy opened to the products and services incoming from other countries, competing with the national companies in equal level and conditions.

When a country starts to do business with the rest of the world by importing and exporting, receiving foreign direct investments, investing abroad, or applying for loans in banks and international entities, it will need foreign currency to pay out the debts made through the referred transactions.

The developing countries, including Brazil, have been showing a stable deficit on their Balance of Payments in the last years, originated, mainly, by the Services Account results, which reflects the country's entries and exits with the external debt interest payments and expenditures with transportations, insurances and traveling.

Moreover, Brazil has shown deficits in its Trade Balance account since 1994 until 2000, as shown in the table below. This has been contributing to a larger increase in the Balance of Payments deficit.

Brazilian Exports / Imports – 1990 to 2003

YEARS	EXPORTS (FOB)		IMPORTS (FOB)		BALANCE
	US\$ bi	Var.	US\$ bi	Var.	US\$ bi FOB
	(B)	%	(D)	%	(B - D)
1990	31.4	-8.6	20.7	13.1	10.8
1991	31.6	0.7	21.0	1.8	10.6
1992	35.8	13.2	20.6	-2.3	15.2
1993	38.6	7.7	25.3	22.9	13.3
1994	43.5	12.9	33.1	31.0	10.5
1995	46.5	6.8	49.8	50.5	-3.3
1996	47.7	2.7	53.3	7.1	-5.6
1997	53.0	11.0	59.7	12.0	-6.8
1998	51.1	-3.5	57.7	-3.4	-6.6
1999	48.0	-6.1	49.3	-14.7	-1.3
2000	55.1	14.7	55.8	13.3	-0.7
2001	58.2	5.7	55.6	-0.4	2.6
2002	60.4	3.7	47.2	-15.0	13.1
2003	73.1	21.1	48.3	2.1	24.8

Source: Ministry of Development, Industry and Foreign Trade

In 2001, the situation started to change when the country achieved a surplus of US\$ 2.6 billion in its Trade Balance account. In 2002, Brazil accomplished a surplus of US\$ 13.5 billion, a growth of 419% in relation to 2002.

This growth occurred in spite of several problems that Brazil faced due to the slow growth of world economy, the Argentina crisis, one of Brazil's main trade partners, and the economic effects from the September 11th terrorist attacks.

In 2003, the country achieved a record trade surplus of US\$ 24.8 billion, a growth of 89% in relation to 2002, which helped to eliminate the necessity from external resources and to achieve a surplus in its external accounts.

Nevertheless, in 2004 it is projected that the surplus will fall and probably achieve something around US\$ 15 billion and US\$ 18 billion, taking into account the imports growth, which shall occur with the revival of internal economical growth.

It is important to have in mind that Brazil has a double goal concerning the growth of exports. The first goal is to support the growth of imports by buying capital goods abroad in order to modernize the country's industry, and import the raw materials necessary to produce export goods. The second goal is to get a sustainable trade surplus to balance Brazil's external accounts.

Thus, in order to cover deficits in their Balance of Payments, countries have some options as to attract foreign direct investments, to get loans at banks and international organizations, to substitute imports and to achieve surplus in its trade balance.

To take loans abroad to cover deficits in the Balance of Payments would be one of the last alternatives because the external debt's increase implies a raise in the external interest payments, contributing to the deficit growth at medium and long term.

Receiving Foreign Direct Investments (FDI) is a great option, taking into account the incoming foreign currency necessary to help cover such deficits and the effects in the country's economy such as:

- Job or employment offer increases;
- Improvement and development of the internal framework, which is fundamental and necessary to the country's sustained growth;
- Investments may transfer high technology and retain qualified labor;
- Factory installations in areas where Brazil faces constant deficits in its trade balance, such as electronics and chemistry.

Besides the importance of Foreign Direct Investments to the country, we must remember that the dependence of foreign capital makes the country vulnerable when external crises occurs, leading investors to avoid investing in emergent countries, as is the case of Brazil.

Also, such investments, after the period of maturation, implies the remittance of profits and dividends abroad, that will contribute to the worsening of the result of the external accounts.

In the last years, Brazil received great amounts of foreign direct investments in its economy, which helped to reduce the deficit in the Balance of Payments. It was verified that US\$ 28.5 billion entered Brazil in 1999, US\$ 32.7 billion in 2000 and US\$ 22.6 billion in 2001, making Brazil the second largest receptor of FDI in the world among the developing countries, as the table below shows:

Foreign Direct Net Investment Flow at Developing Countries from 1997 to 2002							
Year / Developing Countries	1997	1998	1999	2000	2001	2002	TOTAL
China	44.237,0	43.751,0	40.319,0	40.772,0	46.846,0	52.700,0	268.625,0
Brazil	18.993,0	28.856,0	28.578,0	32.779,0	22.457,0	16.566,0	148.229,0
Mexico	14.160,0	12.170,0	12.826,0	15.484,0	25.334,0	13.627,0	93.601,0
Argentina	9.160,0	7.291,0	23.988,0	11.657,0	3.206,0	1.003,0	56.305,0
Chile	5.271,0	4.628,0	8.761,0	3.639,0	4.477,0	1.603,0	28.379,0
India	3.619,0	2.633,0	2.168,0	2.319,0	3.403,0	3.449,0	17.591,0

Source : UNCTAD, WIR 2003

The imports substitution process also is desirable as an alternative for reducing the Brazilian External Account's deficit. However, this process must be done in an efficient and selective form to avoid compromising the development of the national industry, which needs to import machines and industrial goods, nor the export companies, which needs, in many cases, to import raw materials necessary during the production process.

Acknowledging this, we notice that one of the most viable options for the country to balance its external accounts, besides the benefits that the export process brings in terms of creating jobs and competitiveness, is to achieve a surplus in its Trade Balance.

It is the government's responsibility, in partnership with the private sector, to undertake the necessary efforts, through the elaboration and implementation of policies of foreign trade that, on one hand, have as an objective to increase the national

exports of goods and services and, on the other hand, through one adequate industrial policy, to promote the competitive substitution of imports in some sectors of the economy.

However, there is still much to be done in the country in terms of commercial promotion, improvement of financing mechanisms, internal spreading of the lines of support offered by the government, growth of the participation of the companies which already act in the international market and the insertion of new companies, small and medium, and the development of an exporting culture in the country.

The exporting activity is still excessively concentrated in a small number of companies in Brazil. According to data divulged by the Ministry of Development, Industry and Foreign Trade, there are about 4 million companies in Brazil. Of these, only 14 thousand had exported in 1999, 0.35% of the total and only 84 companies had been responsible for approximately 50% of the exported total value.

The Brazilian sales to the international market represents about 1% of the world-wide exports, which means a very small number taking into account the possibilities of the Brazilian economy.

Despite such difficulties, the federal government looks forward to doing its job of improving exports, through several actions and programs directed to create and to master mechanisms that can support the Brazilian exporters, amongst which:

- a) **Export Financing Program (PROEX)** – A Program created by the Federal Government which aims to provide Brazilian exporters with financing conditions equal to the ones practiced in the international market, through two modalities: Financing and Tax Equalization. The Program has been contributing decisively to

the development of Brazilian exports, having been responsible for about 14% of the national exports in the year 2000, according to data from the Bank of Brazil, the government agent that operates this program.

b) **International Business Generation Program (PGNI):** The PGNI was implemented in 11 Brazilian states, which are responsible for more than 90% of the Brazilian total exports. The Program was created by the Bank of Brazil with the objective to extend the base of exporters through the installment of personalized attendance to the companies which still had not participated in the exporting activity but present potential for it.

C) Guarantee Fund for the Competitiveness – FGPC : The FGPC is an instrument of guarantee, operated by the Brazilian Development Bank(BNDES), with the purpose of complementing the guarantees demanded in financing for the production of exported goods , which is destined exclusively for medium and small companies. Such mechanism seeks to divide the risk of the credit with Commercial banks, making the reduction in the requirements of guarantees possible.

D) Simplified Exportation Exchange Program – SIMPLEX : The program was implemented by the Federal Government in order to simplify operational procedures of exchange and foreign commerce, to allow exports under the limit of US\$ 10,000.00 to be effected with a signature of the exporter in the corresponding document, collaborating, this way, to avoid bureaucracy and simplify procedures.

E) Brazilian Development Bank - BNDES : BNDES offers credit lines to companies to finance the production and exportation of Brazilian goods and services, specially those that contain high aggregate value.

F) Export Credit Insurance: The Export Credit Insurance was reactivated in Brazil in 1998 with the creation of the Exports Guarantee Fund, through Law 9.818, that also created the Council of the Exports Guarantee Fund, which is responsible for the management of the Fund and the guarantees granted for the federal government.

2. Objective

Considering the importance of Brazilian exports continuing to grow in a sustainable form in order to both permit imports of inputs and capital goods and to contribute to achieving a balance in the external accounts, it's very important to use all available mechanisms to support exports, including export credit insurance.

The new insurance model launched in Brazil in 1998 is still new, needing improvements that will result in its greater use by exporters, especially small and medium companies. Thus, it is necessary to study mechanisms to make the insurance more efficient and attractive for Brazilian exporters.

In this context, this paper will compare the Brazilian model and the American model, managed by the Ex-Im Bank, to identify and to present some alternatives that can improve the use of the export credit insurance by national companies, thus contributing to a reduction of costs, an improvement of competitiveness, an increase in exports of new products, and the penetration of new markets.

First, the paper will present an overview of the export credit insurance on the world, underlining common parameters among the main exporter countries.

The second part will present the situation of export credit insurance in Brazil since its creation in the 60s until the beginning of the 90s, addressing the difficulties faced by the model in the 80s.

After that, the current model in Brazil will be presented, including its main characteristics, its operational structure, its regulating legislation and its modalities of coverage.

The next part of the paper will analyze the American model, searching to identify points that can be used in Brazil. Finally, will be presented proposals for improving the Brazilian model.

3. Export Credit Insurance – The International Experience

Export Credit Insurance is used in all countries with substantial worldwide commerce. The systems of these countries present distinct characteristics that reflect the legal form of the agency insurer, the operational system, the modalities of coverage offered, and the tariffs charged.

On the other hand, such systems have a relative homogeneity with regards to the percentage of covered risks and participation of the insured (which can be an exporter or a financing bank). Such criteria would have some international standardization because the majority of the insurance companies in the main trading countries are associated with the International Union of Credit Insurance and Investments - Bern Union.

The insurance companies' form of organization in the majority of countries shows that the State is responsible for driving the business in this type of activity. The forms can be of governmental companies, mixed companies, or private companies acting in partnership with governments. The last is the case in Brazil nowadays.

The forms of coverage are basically the same: **The global policies**, which means that all the exports of one exporter can be covered inside of a limit of credit defined for the Insurer, and **The Specific policy**, which provides coverage for one specific operation.

Normally, exports with short-term financing are covered by global policies while exports with medium and long term financing are covered by specific policies. Beyond these modalities, some countries with a better developed system have coverage for investments abroad and for performance risk, among others.

The percentage of coverage also is, in certain form, homogeneous, ranging between 85% and 90% for commercial risks, and between 90% and 95% for political and other risks.

Actually, in most of the systems, the governments take all of the political risks and the commercial risks in the operations with medium and long-term financing (up to 2 or 3 years), which is the case in Brazil.

There is no obligation in the countries observed to contract the Export Credit Insurance. Exporters and banks are free to contract the insurance, as one of the guarantees that can be presented to ensure the loans.

4. Export Credit Insurance in Brazil - 1962 to 1992

The Export Credit Insurance was instituted in Brazil in 1962 by Decree n° 736, published in 06.13.1962, but it came to be implanted only when Law 4,678, of 06.16.1965 was published and regulated by Decree n° 57,286, of 01.18.1965.

The Brazilian government tried for more than 30 years to make the export credit insurance model work well. However, the exporters and the banks chose to use other types of guarantees because the export credit program had multiple requirements. The application process was complicated and the some others conditions were required to receive the payments.

Although created to function as a mechanism to support exports, the old model of export credit insurance imposed on the insured many obligations – legal, administrative and financial - some of them incompatible with Brazilian policies to improve exports. Thus, the system acted as a bottleneck for operations and discouraged exporters from applying to the system.

The Export Credit Insurance system at that time was essentially operated by the government. Although it seemed to be a private system, composed by a consortium, this consortium was actually managed by a state company - The Brazilian Reinsurance Institute (IRB), that controlled all operations. The national private insurance companies were simply agents and intermediaries for the operations.

Besides that, the National Treasury, represented by the IRB, covered almost all the operation risks in that system, which means that it carried all political and

more than 90% of commercial risks, without having effective control and accompanying its assumed responsibilities.

Obviously, export credit insurance in Brazil did not work in a satisfactory form, causing damages for the involved segments, including:

- a) Brazilian exporters did not have an effective guarantee that was agile, trustworthy and easy to use;
- b) The Brazilian Reinsurance Institute (IRB) had a bad image and its main activities deviated from its main function, i.e., reinsurance;
- c) The banks could not finance significant amounts of manufactured exports, because of the lack of adequate guarantees;
- d) The National Treasury incurred serious damages because it took improper risks and could not collect debts due to failures in the system; and
- e) The country lost the opportunity to use an important mechanism to boost its exports.

The country created, in 1998, a new model of Export Credit Insurance to correct the mistakes made in the past and to introduce a new concept of insurance based on a partnership between the government and a private insurance company.

The idea was to have, through this partnership, the agility and experience of a private company, with enough experience to achieve a unique goal – to boost Brazilian exports and to expand the participation of small and medium businesses in this process.

5. The New Model of the Brazilian Export Credit Insurance

5.1 The creation of the Exports Guarantee Fund

The current model of Export Credit Insurance was designed and implemented in 1998 as a way to correct the failures of the old Brazilian model that was operated by The Brazilian Reinsurance Institute (IRB), as an agent of the government.

The current Export Credit Insurance model has four important players:

- The Chamber of Foreign Trade (CAMEX) - The coordinating board responsible for defining all of the Brazilian foreign trade policies;
- The Council of Financing and Guarantee (COFIG) – responsible for managing the activities of financing and export credit insurance;
- The Exports Guarantee Fund (FGE) – covers the guarantees given by the Union to improve the Brazilian exports of goods and services; and
- The Brazilian Export Credit Insurance Agency (SBCE) - a private company that acts, on one side, covering operations with its own resources, and, on the other side, analyzing and contracting operations as an agent of the federal government .

The Exports Guarantee Fund – FGE was created by Law 9.818, of 08.23.1999, with the objective to cover the guarantees given by the Brazilian government in operations of Export Credit Insurance. The main purpose of the FGE is to provide resources for covering those guarantees against commercial risks and political and others risks.

5.2 The Chamber of Foreign Trade – Main functions

The Chamber of Foreign Trade, board of the Presidency of the Republic, composed of the Ministers of the Development, Industry and Foreign Trade, who is its President, Finance, Planning and Budget, Foreign affairs, Agriculture, and Civil House of the Presidency of the Republic, is responsible for the creation, implementation and coordination of the policy related to the Brazilian foreign trade.

The Chamber has the responsibility, in terms of Export Credit Insurance, of defining, based in proposal presented by the Council of Financing and Guarantee, the guidelines, criteria, parameters and conditions, as well as the countries and global limits for concession of guarantee.

5.3 The Council of Financing and Guarantee (COFIG) – Representatives and Responsibilities

The COFIG was created by the Government through Decree 4,933 of 02.18.2004, in order to regulate the activities of financing and guarantees and to put together the functions of the Council of the Export Guarantee Fund (CFGE) and Committee of Export Financing (CCEX).

The board is composed by one representative and one substitute of the Ministries of Development, Industry and Foreign Trade, Finance, Planning and Budget, Foreign affairs, Agriculture, Civil House of the Presidency of the Republic and National Treasury.

The COFIG has, among others, the following tasks:

- a) to establish the operational competences for the agent;
- b) to present proposals to improve the system, as a whole, for the Chamber of Foreign Trade;
- c) to decide the coverage by the government in situations, events and unforeseen risks;
- d) to establish the criteria for the constitution of the liquidity reserve of the FGE;
- e) to approve operations that exceed the operational competence of the agent – SBCE; and
- f) to define the percentages of commissions charged for guarantees given by the Union;

5.4 The Brazilian Export Credit Insurance Agency – SBCE

The SBCE is a private company that was created in June of 1997. The major shareholders are Bank of Brazil, BNDES, Bradesco, Sul América Seguros, Minas Brasil, UniBanco Seguros, and the Compagnie Française d'Assurance pour le Commerce Extérieur (COFACE).

Its objective is to offer the market an instrument of guarantee to the Brazilian exports against commercial risks of up to 2 years (short term operations), acting with its own resources. Also, acting as an agent of the Brazilian government, it covers exports against political and other risks and commercial risks in periods that exceed 2 years (Medium and Long Term Operations), by analyzing, issuing policies and accompanying the operations.

Utilizing the COFACE framework, the SBCE has at its own disposal an international network of agencies, on-line, with financial and commercial information about more than 35 million registered purchasers.

The SBCE also can use COFACE's vast worldwide network of credit recovery, with more than 170 law offices around the world seeking to recover credits in both administrative and judicial ways.

5.4.1 Risks Covered

Commercial Risks - Characterized by the default of the importer due to bankruptcy, concordat or another commercial reason.

Political and Other Risks - Characterized by the default of the export operation, due to specific events obstructing the transfer of the payment to the exporter, including moratorium, war, confiscation, catastrophes and others.

5.4.2 Characterization of the Risks

Pre-credit Risk (Manufacturing) – A manufacturing risk is the inability of the insured to manufacture the goods or execute the services contracted by the importer, as a result of facts that are caused by the importer or by the countries. Coverage given during this period is related to the costs incurred by the exporter up until the contractual breakdown.

Credit Risk (Post-shipment) – A credit risk is characterized after the shipment of the merchandise or after the fulfillment of the exporter's contractual obligations (services).

5.4.3 Types of Policy

Multi-Buyer Policy - provides consolidated coverage for all exports of the insured where payment risks may be involved.

The coverage of all of the buyers of the insured under an annual multi-buyer policy with rotating credit, benefits the exporter at a cost which is inversely proportional to the volume insured. The greater the volume involved, the further the risk is diluted and, consequently, the cheaper the premium.

Individual Policy – Short term operation (up to 2 years) - This is a policy that provides a cover to one specific operation, against commercial, political and other risks. The coverage against commercial risk is supported by SBCE, with its own resources while coverage against political risk is supported by FGE.

Individual Policy - Medium and Long Term Operations (2 Years and Longer) - This is a policy that provides coverage to one specific operation, against commercial, political and other risks. The coverage against commercial risks and against political risks is supported by the FGE. SBCE acts as a government agent for these operations that are generally related to projects and businesses involving capital goods, studies and services or contracts with special characteristics.

According to the beneficiary the policy can be :

Supplier's Credit - The policy is issued with the exporter as the named beneficiary. The exporter may request refinancing transferring the right to the coverage by the insurance policy to the financing bank.

Buyer's Credit - The policy is issued with the banks as the named beneficiaries. The exporters receive the payment for the export from their buyers, who obtain financing from the financing banks

5.4.4 Guaranteed percentage

The guaranteed percentage varies depending on the risks involved and can be:

- Commercial Risks - up to 90%;
- Commercial Risks with bank guarantee - up to 95%; and
- Political Risks - up to 95%

5.4.6 Premium

Premiums are calculated on a case-by-case basis depending on:

- the amount of the principal financed under the operation;
- the financial capacity of the debtor;
- the country of the debtor;
- the type of risk (commercial, political, manufacturing or post-shipment); and
- the duration of the risk.

6. The American Model

6.1 Overview

The American structure of public support for its exports is very segmented, involving not only direct support to improve exports, but also support for foreign direct investment and instruments of aid to developing countries.

In some cases there is more than one board working on the same activity. The activities of insurance and guarantee, for example, are carried out by three institutions: Ex-Im Bank, CCC (Commodity Credit Corporation) and OPIC (Overseas Private Investment Corporation), whose goals, respectively, are: to support exports of goods and services, exports of commodities and foreign direct investment.

The Ex-Im is the government agency that has a greater interface with other institutions, mainly because its main function, which is to support exports, is part of the activities of other agencies. Besides that, other activities carried out by such agencies include supporting foreign direct investment and aiding developing countries which can result in American exports.

The coordination of the American agencies activities is carried out by the **National Advisory Council on International Monetary and Financial Policy - NAC**. This Committee is composed of members of the Department of Treasury, Department of State and Commerce, Ex-Im Bank, Chamber of Commerce, Federal Reserve and IDCA (an agency composed of the OPIC, TDA, US Trade and Development Agency, and US AID - US Agency for International Development).

Both NAC and the Department of Agriculture are under the coordination of the **United State Trade Representative - USTR**, a branch of the American Executive which is in charge of the development and coordination of the U.S.A international trade policy as well as foreign direct investment and commodities.

6.2 The Export Import Bank

The Ex-Im Bank was created in 1934 and its main objective was the improvement of commerce between the U.S.A and the Soviet Union. Indeed, The EX-Im was established as a government agency only in 1945, with statutory authority coming from the Export-Import Bank Act. Basically, the Ex-Im Bank provides loan guarantees and credit insurance to finance exports.

In the postwar period, Ex-Im was also an administrating agency during the Marshall Plan. Since then, Ex-Im must be continually renewed by the President and Congress every five years. On June, 14,2002 President Bush extended the life of the bank by signing a bill that provides a five-year authorization for the bank's continuation until 2008.

The rules to be followed by Ex-Im regarding the use of budgetary resources and maximum limits of exposition are in the Federal Credit Reform Act, of 1990.

The last big change that occurred in the Ex-Im Bank was in 1992 when it started to operate the Export Credit Insurance. Before that, this activity was managed by a private company called the Foreign Credit Insurance Association – FCIA, and the Ex-Im Bank was responsible for the reinsurance of the operations.

Currently, the Ex-Im activities can be divided into two different branches: the commercial activities and the activities of aid to developing countries. The resources for commercial activities come from three sources: its own resources (spread of loans, collection of prizes and commissions), loans of the National Treasury, and budgetary resources called subsidy appropriation and resources for administrative costs.

The operation's risks are calculated based on its characteristics, such as the export's industrial sector and country destination. The Ex-Im model has 11 categories of risk, different from the OCDE and Brazil model, which works with 7 categories of risk.

By law, the Ex-Im must provide at least 10% of its resources to the support of small and medium companies. Actually, the participation of these companies in the Ex-Im Bank budget has been larger, between 15% and 20% during the last years.

In 2002, out of a total US\$ 10.1 billion in Ex-Im Bank authorizations last year, including loans, guarantees and export insurance, US\$ 1.8 billion went to small businesses, representing about 18% of authorizations. However, the number of authorizations to small businesses represented about 86% of the total transactions according to Ex-Im data.

Tools to help small and medium companies have been developed, including a special section in the website of the institution, toll-free regional access, offices and local partners. However, there is no special staff in the Ex-Im that exclusively takes care of small and medium companies.

The Ex-Im main goal is to supply the market with insurance and guarantee, stimulating the exports firms to get financing in the private market. Thus there

are two main lines of programs: Direct Financing Credit and Financing involving intermediates.

Concerning Credit for Financial Intermediate, The Ex-Im grants loans for banks that will use those resources to finance American exports. Normally, it is used in operations of high value, only for medium and long-term operations, where the bank needs co-funding.

6.3 The Export Credit Insurance Program

The goal of the program is to offer coverage against credit risk for the exporters and banks. There is no insurance for transport, contractual obligations and performance.

The coverage offered can cover both commercial risks and political and other risks or just cover political and other risks. Commercial risks are not exclusively covered by Ex-Im.

The Ex-Im model does not have a credit limit for countries nor for a value of transaction. However, it has a list of conditions that must be fulfilled in order to get coverage for some countries. This list – the Country Limitation Schedule - determines, for example, maximum stated periods of financing for determined countries.

The monetary depreciation risk is not covered by the Ex-Im. However, it can be considered as a political risk if the importer deposits the corresponding amount in

the local currency in a bank and the depreciation occurs at the moment of the transference of resources.

The Ex-Im Insurance Model has two types of policies basically:

- i) **Multibuyer Policy (multiple purchasers):** covers a great number of purchasers in many countries. Applicable only for short term operations, the policy requires that the insured compromises the total or the biggest part of its operations with the purpose to mitigate the risk and avoid an adverse selection. This means that the exporter could just bring the “bad operations” to the insurance. This policy typically covers non-capital goods, components, raw materials, spare parts, and most services.
- ii) **Single Buyer Policy (one purchaser) :** covers just one export or many exports for only one purchaser. The operations can be short, medium or long-term operations. It allows the insured to decide which could be covered.
- iii) **Medium term Insurance (one purchaser):** covers long-term financing to international buyers of capital equipment or related services. Financings under these policies can extend up to five years and for amounts of up to US\$ 10 million. A 15% down-payment of the net contract value from the international buyer is required.

There are other types of policies that take care of the specific operations, as is the case's of services, leasing and banks. The policies for financial institutions are: Bank Letter of Credit Policy, Financial Institution Buyer Credit Policy and Financial Institution Supplier Credit Policy.

Beyond these types of coverage, the Ex-Im model presents special models of support to small and medium companies who have exported less than US\$ 5 million, on average, during the last two years.

The policies to cover these operations are: Small Business Policy, Small Business Environmental Policy and Umbrella Policy, which can be approved by Ex-Im automatically. There is no minimum prize for the operations.

The Guaranteed Percentages are as follows:

Multibuyer – Policy: Provides coverage against commercial risks and political and other risks together, up to 90%, 95% or 98% in cases of short term operations, depending on the type of policy and product.

Single Policy: In short term operations, the coverage can be different for political and other risks (up to 100%) and commercial risk (up to 90%, 95% or 98% depending on the product and policy).

In short-term operations, the coverage considers the value of the commercial invoice, which can include freight and insurance. In medium and long-term operations, the coverage considers the financing value, deducting 15% of the down payment.

6.4 The Loan Guarantee Model:

The Ex-Im Guarantee Program offers protection of repayment for loans given by the private banks. Different from the insurance policies, which do not establish values, the guarantees are available only for operations over US\$ 10 million and for financial institutions. In the case of export credit insurance, both banks and exporters can be covered.

The standard guarantee covers up to 100% of the financing value, including the interests (fixed or floating). The minimum percentage required is a 15% down payment on the exported value.

The credit lines for guarantees are established for a period of one year and, in case of default, Ex-Im covers the losses. Loans in currencies other than the dollar also are eligible for the guarantee, but the currency of the contract must be convertible.

6.5 The Working Capital Guarantee Program

This program offers a guarantee for the private banks financing the production of goods that must be exported. Ex-Im Bank assumes 90 % of the credit risk. The pre-qualified commercial lender partners have delegated authority to process the loan and the guarantee without prior approval.

Typically, loan terms are for one year, but can go up to three years. These guaranteed working capital loans are secured by exported-related accounts receivable and inventory tied to an exporter order.

There are some key qualifications to apply for this program: Exporters should have a one year operating history and a positive net worth and the products must be shipped from the United States and have at least 50% U.S. content. This program does not support exports of military products and services.

For companies that sell goods and services as a supplier or sub-supplier to an exporter, Ex-Im can cover financing sales between U. S. companies for items that will ultimately be exported. These sales may be from a U.S. company to a trading company or from a domestic sub-supplier to a main contractor. This program is called Indirect Exports

6.6 The Credit Guarantee Facility Program

This is a program for medium and long-term operations with the purpose to guarantee one bank in The United States the financing payment for the importer' foreign bank .

This way, the foreign bank guarantees the importer payment and the Ex-Im guarantees the foreign bank payment, in case of importer default. Once the credit facility between the foreign bank and the American bank is established, the operations can be processed without previous approval of Ex-Im.

The Ex-Im Bank will support up to 85% of the contract amount after a cash payment of at least 15%. The guarantee covers principal and interest rates on any amount and is generally used for financing capital goods and infrastructure projects.

To qualify for the guarantee, the buyers must meet certain credit criteria according to the size of the transaction, its nature and the exported item.

As with the Working capital guarantee, there are some basic rules to be followed to apply for the guarantee:

- Items must be shipped from the U.S. and military/defense items are not eligible.
- Certain countries and certain terms are not covered (see Country Limitation Schedule (CLS) at www.exim.gov);
- For long-term financing and over determined value, the goods must be transported on a U.S. flag vessel if they are shipped by sea.

Prior to approving any transaction, the Ex-Im takes into account the beneficial and adverse environmental effects and economic impact of the good or service that will be exported.

7. Conclusion - The Brazilian and the American models – A comparative approach

Comparing the American and the Brazilian models we find some similarities in the frameworks of policy-making and regulatory boards and some differences regarding the operational agents.

In Brazil, the Chamber of Foreign Trade is the government board responsible for defining the international trade policy, including the financing and guarantee policies. In the United States, the USTR is the office responsible for the coordination and development of the international trade policy as well as the policies concerning foreign direct investment and commodities.

In both countries there is a board composed of representatives of many ministries and government agencies, which is responsible for coordinating, regulating and accompanying the policies designed by the policy-making boards (Camex and USTR). Those boards are, in Brazil's case, The Council of Financing and Guarantee (COFIG), and in the United States' case, the National Advisory Council of International Monetary and Financial Policy (NAC).

Concerning the operational agents, we find the first difference between the two countries. In the United States the agency in charge of operating the export credit insurance, as well the Guarantee Program is a government agency - the Export Import Bank. In Brazil, the board in charge of these operations is The Brazilian Export Credit Insurance Agency (SBCE), a private company, although the government is one of the company's shareholders through the Bank of Brazil and the Brazilian Development Bank.

The SBCE works, on one hand, as an export credit insurance private company, covering operations against commercial risk for up to two years, with its own resources. On the other hand, it works as a government agent analyzing, accompanying and issuing policies against commercial risks in operations over two years, and against all political risks. These types of coverage are supported by resources of the Exports Guarantee Fund (FGE).

When comparing the modalities of coverage between the U.S and Brazil basically there is no difference between the models. Both cover operations against commercial and political risks and provide coverage against risks of manufacturing (pre-shipment) and credit (post-shipment).

Regarding the types of policies, there is no difference either. Both Brazilian and American models present basically two types of policies: global policy, which covers all the exports of one exporter during a certain period of time, usually one year, and individual policy, which provides coverage for one specific operation in the short, medium or long term.

Concerning the percentages of coverage, we can notice greater flexibility in the American model. In the Brazilian model the coverage is up to 90% against commercial risks and can reach up to 95% if there is a bank guarantee, or up to 95% against political risks. In the American model, the coverage against commercial risks are up to 90%, 95% or 98%, according to the product or service that is exported, and up to 100% against political risks.

In the Brazilian model, the agency can only cover operations against political risks up to 100%, if events in the world economy can be proven to affect a specific sector of the Brazilian economy, and thus justify the integral coverage. Nevertheless, the operations must be analyzed by the Ministers of the Chamber of Foreign Trade, which is in charge of taking the decisions about such concession.

The payment periods in each country vary according to the products and services that are being exported. The Brazilian model considers short-term operations to last up to two years, and the American Model up to one year. The Brazilian model

considers medium-term operations to be between two years up to five years, and the American from more than one year up to seven years.

Both operational agencies ask for a down payment of 15% of the exported value, but according to the product or service exported, this rate can be reduced or not even considered.

One basic and important difference we found between the models is the segment that uses the export credit insurance. In the United States private banks finance the majority of the exports, including medium and long-term operations, and the Ex-Im Bank provides coverage for them.

In Brazil, only public banks finance the medium and long-term operations (Brazilian Development Bank and Bank of Brazil), and, for the most part these operations the coverage is provided by the Export Guarantee Fund.

According to data from SBCE, considering the period from 2000 to 2003, the Export Guarantee Fund provided coverage for US\$ 2.551 billion, which US\$ 2.523 billion were financed by BNDES and US\$ 28.28 million were financed by Bank of Brazil-PROEX.

In the same period, SBCE provided coverage, with its own resources, for US\$ 1.918 billion, showing that the company has been taking a considerable part of the risk. This means 42% of the total amount of coverage given.

Another difference between the models is the support that Ex-Im Bank provides to medium and small businesses, through better rates of premium. The small business insurance authorizations totaled, in 2002, US\$ 910 millions, 37% of all the authorizations.

In the Brazilian model there is no preferential rate of premium charged for the small and medium companies. Actually, the small and medium companies pay more, as the majority of them do not have tradition and experience in the international market as big companies have.

Besides the export credit insurance, The Ex-Im Bank provides the Guarantee Program, which can be operated directly by a partner banks, following pre-established rules, by which the private bank finances the operation and the Ex-Im provides the coverage automatically, without previous approval.

In some aspects, the Brazilian model is more advanced than the American model. Whereas in the United States all the coverage is provided by a government agency, in Brazil there is a private company, working with its own resources and taking some part of the risks.

One way to improve the Brazilian system would be to create conditions to enlarge the participation of SBCE on the market. This growth could be through flexibility on the percentages of coverage, which could be improved to 95% or 98% of the commercial risk, according to the product or service and collateral guarantee presented.

Another point that could be improved is the enlargement of the coverage periods. Nowadays the coverage period that can be provided by SBCE is up to two years. This term could be enlarged to up to three years, which is the case in France. We must keep in mind that the main shareholder of SBCE is the COFACE, a French insurance agency, and that SBCE work is often grounded on COFACE working knowledge. This could make this measure easier.

One more important measure that could be done is to create incentives to stimulate private banks to finance medium and long term exports. One option could be to release part of the compulsory deposit held at the Central Bank to finance Brazilian exports. The financing could be given to the importer, for paying the Brazilian exporter in national currency. This kind of operation must be interesting for many private banks.

This measure could greatly enhance the participation of the private banks in financing medium and long-term exports, diminishing the demand for public resources that could be used in other government programs or investments. The measure will also avoid the use of both government programs, financing and export credit insurance, to support the same operations, as happens in some operations financed by Brazilian Development Bank and Bank of Brazil-PROEX.

Another measure could be to study the establishment of preferential rates of premium in small and medium businesses. As the market is not interested in operating with those companies at glance, the risk could be taken by the government, through FGE, and the support for the company could be given for no more than three years. After this period the company would have to search for support on the market, as any other company would.

The measures suggested above could create incentives to increase the participation of the private sector (Banks and Insurance Agency) in an effort to improve Brazilian exports. Considering that the government has scarce resources to support other programs, its participation would be only in the part of the market which the private sector does not have interest and, in which public resources are needed.

Fernando Augusto Coimbra Gomes is an economist, with an MBA in International Trade and Business and currently occupies the position of Senior Advisor at the Chamber of Foreign Trade. He before held the positions of Advisor of the Foreign Affairs Department and Manager of the Exports Financing Department at the Minister of Finance. He also represented the Minister of Finance on the fiscal council of some state-owned-companies and worked as a Senior Advisor and Coordinator of the International Department of Bank of Brazil.

Apendix A – Bibliographic References

- Abel, Andrew B. and Bernanke Ben S. : “Macroeconomics”, 5th Edition.
- Barbosa, Rubens - U.S. Barriers on Brazilian Goods and Services – Brazilian Embassy in Washington. 2001.
- Destler, I.M; Balint, P.J. - The New Politics of American Trade: Trade, Labor, and the Environment. Washington, DC: Institute for International Economics, 1999.
- Dunn, Robert M. and Mutti, John H. : “International Economics”, 6th Edition.
- Export Import Bank – Exim Bank – “Annual Report 2002” – Washington – 2003.
- International Monetary Fund – IMF: “World Economic Outlook” Washington, September 2003
- Multilateral Investment Guarantee Agency – MIGA: “Annual Report 2003” Washington, Jun 2003.
- O’Keefe, Thomas Andrew. Latin American Trade Agreements. New York, 1997.
- Todaro, Michael P. and Smith Stephen C. : “Economic Development”, 8th Edition.
- Van Horne, James C. “Financial Market and Flows”, 6th Edition.
- World Bank Group, The Web Page available on: <http://www.worldbank.org/>

Appendix B – Sites of Interest

- Banco Central do Brasil: www.bcb.gov.br
- Banco do Brasil: www.bb.com.br
- Banco Mundial: www.worldbank.org
- Bando Nacional de Desenvolvimento Economico e Social – BNDES: www.bndes.gov.br
- Brazilian Embassy: www.brasil.emb.nw.dc.us
- Export Import Bank – Exim Bank: www.exim.gov
- Inter-American Development Bank – IDB: www.iadb.org
- International Monetary Fund: www.imf.org
- IRB – Brasil Resseguros S.A.: www.irb-brasilre.com.br
- Ministerio do Desenvolvimento, Industria e Comercio Exterior – MDIC:
www.desenvolvimento.gov.br
- Ministerio da Fazenda: www.fazenda.gov.br
- Ministerio do Planejamento, Orcamento e Gestao – [www. Planejamento.gov.br](http://www.Planejamento.gov.br)
- Ministerio das Relacoes Exteriores – www.itamaraty.gov.br
- Presidencia da Republica Federativa do Brasil – www.planalto.gov.br
- Seguradora Brasileira de Credito a Exportacao – SBCE: www.sbce.com.br
- InvesteBrasil: www.investebrasil.org.br

LEI Nº 6.704, DE 26 DE OUTUBRO DE 1979.

**Dispõe sobre o seguro de crédito à exportação
e dá outras providências.**

O PRESIDENTE DA REPÚBLICA, Faço saber que o Congresso Nacional decreta e eu sanciono a seguinte Lei:

Art.1º - O Seguro de Crédito à Exportação tem por fim garantir as exportações brasileiras de bens e serviços contra os riscos comerciais, políticos e extraordinários que possam afetar as transações econômicas e financeiras vinculadas a operações do crédito à exportação.

Art.2º - Somente poderá operar com o Seguro de Crédito à Exportação empresa especializada nesse ramo, vedando-se-lhe operações em qualquer outro ramo de seguro.

Art.3º - A cobertura dos riscos de natureza comercial assumidos em virtude de Seguro de Crédito à Exportação poderá ser assegurada pelo Instituto de Resseguros do Brasil - IRB.

~~**Art.4º - O Tesouro Nacional, através do Instituto de Resseguros do Brasil - IRB, poderá conceder garantia da cobertura dos riscos de natureza política e extraordinária, bem como dos riscos de natureza comercial, assumidos em virtude de Seguro de Crédito à Exportação, conforme dispuser o regulamento desta Lei. — Parágrafo único. A garantia de que trata este artigo será autorizada pelo Ministério da Fazenda, que poderá delegar essa competência ao Presidente do Instituto de Resseguros do Brasil - IRB.**~~

Art. 4º A União, por intermédio do IRB-Brasil Re, poderá conceder garantia da cobertura dos riscos comerciais e dos riscos políticos e extraordinários, assumidos em virtude do Seguro de Crédito à Exportação, conforme dispuser o regulamento desta Lei. (Redação da pela Lei nº 10.659, de 22.4.2003)

§ 1º A garantia de que trata este artigo será autorizada pelo Ministério da Fazenda, que poderá delegar essa competência ao Presidente do IRB-Brasil Re; (Redação da pela Lei nº 10.659, de 22.4.2003)

§ 2º A União, por intermédio do IRB-Brasil Re, poderá contratar instituição habilitada a operar o Seguro de Crédito à Exportação, para a execução de todos os serviços relacionados ao seguro de crédito à exportação, inclusive análise e, quando for o caso, acompanhamento das

operações de prestação de garantias de que trata este artigo. (Incluído pela Lei nº 10.659, de 22.4.2003)

Art.5º - Para atender à responsabilidade assumida pelo Tesouro Nacional, na forma do artigo anterior, o Orçamento Geral da União consignará dotação específica, anualmente, ao Instituto de Resseguros do Brasil - IRB.

Art.6º - Às operações de Seguro de Crédito à Exportação, bem como à empresa especializada nesse ramo, não se aplicam as limitações contidas no Art.9º da Lei nº 5.627, de 1º de dezembro de 1970, nem as disposições do Decreto-Lei nº 73, de 21 de novembro de 1966, exceto quanto à competência do Conselho Nacional de Seguros Privados - CNSP, da Superintendência de Seguros Privados - SUSEP e do Instituto de Resseguros do Brasil - IRB.

Art.7º - Nas operações de Seguro de Crédito à Exportação não serão devidas comissões de corretagem.

Art.8º - O Presidente da República poderá autorizar a subscrição de ações, por entidades da Administração Indireta da União, no capital de empresa que se constituir para os fins previstos no Art.2º desta Lei, não podendo essa participação acionária, no seu conjunto, ultrapassar de 49% (quarenta e nove por cento) do respectivo capital social.

Art.9º - O Poder Executivo baixará o regulamento desta Lei, o qual poderá definir as condições de obrigatoriedade do Seguro de Crédito à Exportação.

Art.10 - A presente Lei entrará em vigor na data de sua publicação, revogada, a partir da expedição do seu regulamento, a Lei nº 4.678, de 16 de junho de 1965, bem assim quaisquer outros preceitos relativos ao Seguro de Crédito à Exportação, e demais disposições em contrário.

Brasília, 26 de outubro de 1979; 158º da Independência e 91º da República.

JOÃO FIGUEIREDO

Karlos Rischbieter

João Camilo Pena

Delfim Netto

Este texto não substitui o publicado no D.O.U. 29.10.1979

DECRETO Nº 2.049, DE 31 DE OUTUBRO DE 1996

Regulamenta a Lei nº 6.704, de 26.10.79, relativa ao Seguro de Crédito à Exportação.

O PRESIDENTE DA REPÚBLICA, no uso da atribuição que lhe confere o Art. 84, inciso IV, da Constituição, e tendo em vista o disposto no Art. 9º da Lei nº 6.704, de 26.10.79,

D E C R E T A:

TÍTULO I – DO SEGURO DE CRÉDITO À EXPORTAÇÃO

Art. 1º – O Seguro de Crédito à Exportação – SCE tem por objetivo garantir as exportações brasileiras de bens e serviços contra os riscos comerciais, políticos extraordinários que possam afetar as transações econômicas e financeiras vinculadas a operações de crédito à exportação.

§ 1º – Poderão ser segurados do SCE o exportador e as instituições financeiras que financiarem ou refinanciarem as exportações.

§ 2º – Os riscos previstos neste decreto somente terão cobertura do SCE quando expressamente definidos nas condições do contrato de seguro.

Art. 1º – Consideram-se riscos comerciais as situações de insolvência do devedor, caracterizando -se esta quando:

I – ocorrer inadimplência do devedor por prazo igual ou superior a 180 dias, desde que não provocada pelos fatos enumerados nos incisos I a V do Art. 3º;

II – executado o devedor, revelarem-se insuficientes ou insuscetíveis de seqüestro ou penhora os seus bens;

III– decretada a falência ou a concordata do devedor ou outro ato administrativo ou judicial de efeito equivalente;

IV– concluído acordo do devedor com o Segurado, com anuência da Seguradora do SCE, para pagamento com redução do débito.

Art. 3º – Consideram-se riscos políticos e extraordinários as situações nas quais, isolada ou cumulativamente:

I – em consequência de moratória declarada, centralização de câmbio, proibição de remessa de divisas ao exterior ou medida de efeito similar, adotada pelo governo do país de domicílio do devedor, não se realize o pagamento:

a) em prazo igual ou superior a 180 dias, contados a partir da data do vencimento da obrigação;

- b) na moeda convencionada e disto resulte perda para o Segurado;
- c) apesar de o devedor ter depositado as somas necessárias em banco ou conta em estabelecimento oficial dentro de seu país;

II – em conseqüência de guerra civil ou estrangeira ou de revolução de âmbito generalizado no país do devedor, não se realize o pagamento do débito;

III– por decisão do governo brasileiro, de governos estrangeiros ou de organismos internacionais, posterior aos contratos firmados, resulte a impossibilidade de se realizar o pagamento pelo devedor.

IV–o Segurado, previamente autorizado pelas autoridades brasileiras, recupere sua mercadoria para evitar um risco político latente e, em conseqüência dessa recuperação, lhe resulte perda;

V – o devedor não possa realizar o pagamento em decorrência de terremotos, inundações, furacões, erupções vulcânicas e ou outros fenômenos naturais com conseqüências catastróficas, alheios à previsão normal dos contratantes.

Art. 4º – As situações a que se referem os Arts. 2º e 3º abrangem também os seguintes casos de:

I – falta de cumprimento, por parte de devedor, das obrigações contratadas, entre a data em que os contratos foram firmados e a data em que deveria ser efetivado o embarque ou iniciada a execução dos serviços:

II – exportação em consignação, feiras, mostras, exposições e similares, quando se verificar a impossibilidade de fazer retornar as mercadorias não vendidas no exterior.

Art. 5º – A cobertura do SCE incidirá sobre as perdas líquidas definitivas do Segurado, não abrangendo os prejuízos de correntes da não realização de lucros esperados ou de oscilações de mercado.

Art. 6º – Nas operações do SCE não serão devidas comissão de corretagem.

Art. 7º – A garantia da União será concedida, por intermédio do Instituto de Resseguros do Brasil – IRB, abrangendo apenas cobertura de riscos políticos e extraordinários, observadas as seguintes condições:

I – participação obrigatória do Segurado de, no mínimo, quinze por cento nas perdas líquidas definitivas, não podendo essa parcela ser objeto de seguro ou garantia de quaisquer pessoas ou instituições;

II – participação da União limitada a, no máximo, oitenta e cinco por cento das perdas líquidas definitivas;

III– operações contratadas com prazo de pagamento de até 8 anos;

IV– manifestação favorável da Secretaria do Tesouro Nacional, ouvido o Comitê de Avaliação de Créditos ao Exterior – COMACE;

V – limite total de garantias: o equivalente a US\$ 3 bilhões dos Estados Unidos da América.

§ 1º – A garantia da União deverá abranger a totalidade dos negócios de exportação a crédito realizados pelo Segurado podendo o IRB excluir, a seu critério, determinadas operações da cobertura do seguro.

§ 2º – Em casos excepcionais, os Ministros de Estado da Fazenda e da Indústria do Comércio e do Turismo, em ato conjunto, poderão autorizar a garantia da União em prazo superior ao estabelecido no inciso III deste artigo.

Art. 8º – Os recursos provenientes do Orçamento da União e dos prêmios pagos pelos Segurados e os decorrentes das recuperações de sinistros serão depositados na Conta Única do Tesouro Nacional, mantendo-se os registros contábeis em separado e controle individualizados, com movimentação efetuada pelo Instituto de Resseguros do Brasil – IRB, por intermédio do Sistema Integrado de Administração Financeira – SIAFI.

Parágrafo único – Caberá à Secretaria do Tesouro Nacional propor as dotações orçamentárias necessárias ao atendimento do disposto neste artigo.

Art. 9º – O Ministro de Estado da Fazenda definirá os procedimentos com vistas à operacionalização da concessão das garantias e dos depósitos previstos nos Arts. 7º e 8º, inclusive no que se refere ao nível de alçada a ser delegada ao IRB.

TÍTULO II – DA SEGURADORA DO SEGURO DE CRÉDITO À EXPORTAÇÃO

Art. 10 – A empresa seguradora de SCE será constituída sob a firma de sociedade anônima.

Art. 11 – A seguradora do SCE não poderá explorar qualquer outra atividade de comércio, indústria ou prestação de serviços e atuará apenas no SCE, vedando-se lhe operar em qualquer outro ramo de seguros.

Art. 12 – A autorização para funcionamento de empresa seguradora de SCE será concedida pelo Ministro de Estado da Fazenda, mediante requerimento dos incorporadores apresentado à Superintendência de Seguros Privados – SUSEP.

Art. 13 – Concedida a autorização para funcionamento, a seguradora deve comprovar perante a SUSEP, em até 90 dias, haver cumprido todas as formalidades legais, além das exigências feitas no ato da autorização.

Art. 14 – Os casos de incorporação, fusão, encampação ou cessão de operações, transferência de controle acionário, alterações de estatutos e abertura de filiais ou sucursais no exterior devem ser submetidos à aprovação da SUSEP.

Art. 15 – A aplicação das reservas técnicas será definida pelo Conselho Monetário Nacional.

Art. 16 – Metade do capital social da seguradora constituirá permanente garantia suplementar das reservas técnicas e sua aplicação será idêntica a dessas reservas.

Art. 17 – Os bens garantidores da metade do capital social, reservas técnicas e fundos não poderão ser alienados ou gravados de qualquer forma, sem prévia autorização da SUSEP, na qual serão inscritos.

Parágrafo único – Quando a garantia recair em bem imóvel, será obrigatoriamente inscrita no competente cartório de registro geral de imóveis, mediante requerimento firmado pela Sociedade Seguradora e pela SUSEP, na forma da legislação em vigor.

Art. 18 – Este Decreto entra em vigor na data de sua publicação.

Art. 19 – Fica revogado o Decreto nº 57.286, de 18.11.65.

Brasília, 31 de outubro 1996; 175º da Independência e 108º da República.

FERNANDO HENRIQUE CARDOSO

Pedro Malan

Francisco Dornelles

Antonio Kandir

(DOU, de 01.11.96 – pág. 22.459 – Seção 1).

Nota da Editora: Este Decreto foi revogado pelo Decreto nº 2.369, de 10.11.97.

LEI Nº 9.818, DE 23 DE AGOSTO DE 1999.

Cria o Fundo de Garantia à Exportação - FGE, e dá outras providências.

Faço saber que o Presidente da República adotou a Medida Provisória nº 1.840-25, de 1999, que o Congresso Nacional aprovou, e eu, Antonio Carlos Magalhães, Presidente, para os efeitos do disposto no parágrafo único do art. 62 da Constituição Federal, promulgo a seguinte Lei:

Art. 1º Fica criado o Fundo de Garantia à Exportação - FGE, de natureza contábil, vinculado ao Ministério da Fazenda, com a finalidade de dar cobertura às garantias prestadas pela União nas operações de seguro de crédito à exportação, nos termos desta Lei.

Art. 2º O patrimônio inicial do FGE será constituído mediante a transferência de noventa e oito bilhões de ações preferenciais nominativas de emissão do Banco do Brasil S.A. e um bilhão e duzentos milhões de ações preferenciais nominativas de emissão da Telecomunicações Brasileiras S.A. - TELEBRÁS, que se encontram depositadas no Fundo de Amortização da Dívida Pública Mobiliária Federal - FAD, criado pela Lei nº 9.069, de 29 de junho de 1995.

§ 1º Poderão ainda ser vinculadas ao FGE, mediante autorização do Presidente da República, outras ações de propriedade da União, negociadas em bolsa de valores, inclusive aquelas que estejam depositadas no FAD.

§ 2º O valor de transferência das ações para o FGE será determinado pela cotação média dos últimos cinco pregões em que as ações tenham sido negociadas.

§ 3º As ações vinculadas ao FGE serão depositadas no Banco Nacional de Desenvolvimento Econômico e Social - BNDES.

§ 4º O produto da venda das ações transferidas ao FGE deverá constituir reserva de liquidez, nas condições definidas pelo Conselho a que se refere o art. 6º, e o restante será aplicado em títulos públicos federais, com cláusula de resgate antecipado. (Vide Medida Provisória nº 143, de 10.12.2003)

Art. 3º Constituem recursos do FGE:

I - o produto da alienação das ações;

II - a reversão de saldos não aplicados;

III - os dividendos e remuneração de capital das ações;

IV - o resultado das aplicações financeiras dos recursos;

V - as comissões decorrentes da prestação de garantia;

VI - recursos provenientes de dotação orçamentária do Orçamento Geral da União.

Parágrafo único. O saldo apurado em cada exercício financeiro será transferido para o exercício seguinte, a crédito do FGE.

Art. 4º O FGE proverá recursos para cobertura de garantias prestadas pela União em operações de seguro de crédito à exportação:

I - contra risco político e extraordinário, pelo prazo total da operação;

II - contra risco comercial, desde que o prazo total da operação seja superior a dois anos.

Art. 5º Os recursos do FGE poderão ser utilizados, ainda, para a cobertura de garantias prestadas pela União contra riscos de obrigações contratuais sob a forma de garantia de execução, garantia de reembolso de adiantamento de recursos e garantia de termos e condições de oferta, para operações de bens de capital ou de serviços.

Parágrafo único. A concessão de garantias previstas neste artigo dependerá de vinculação de contragarantias suficientes à cobertura do risco assumido.

Art. 6º Para regular as atividades de prestação de garantia previstas nesta Lei, fica criado o Conselho Diretor do Fundo de Garantia à Exportação - CFGE, órgão colegiado integrante da estrutura organizacional do Ministério da Fazenda, observado o disposto no artigo seguinte.(Vide Medida Provisória nº 143, de 10.12.2003)

§ 1º O Poder Executivo definirá a composição do CFGE.

§ 2º Compete ainda ao CFGE autorizar o BNDES a alienar as ações vinculadas ao FGE.

Art. 7º Compete à Câmara de Comércio Exterior definir, com base em proposta do CFGE: (Vide Medida Provisória nº 143, de 10.12.2003)

I - as diretrizes, os critérios, os parâmetros e as condições para a prestação de garantia prevista nesta Lei;

II - os limites globais e por países para concessão de garantia.

Art. 8º O BNDES será o gestor do FGE, competindo-lhe, observadas as determinações da Câmara de Comércio Exterior e do CFGE: (Vide Medida Provisória nº 143, de 10.12.2003)

I - efetuar, com recursos do FGE, os pagamentos relativos à cobertura de garantias;

II - aplicar as disponibilidades financeiras do FGE, garantindo a mesma taxa de remuneração das disponibilidades do BNDES;

III - solicitar à Secretaria do Tesouro Nacional do Ministério da Fazenda o resgate antecipado de títulos públicos federais para honrar garantias prestadas;

IV - autorizado pelo CFGE, proceder à alienação das ações. (Vide Medida Provisória nº 143, de 10.12.2003)

Parágrafo único. As despesas, os encargos e os emolumentos relacionados com a alienação das ações serão abatidos do produto da alienação. (Vide Medida Provisória nº 143, de 10.12.2003)

§ 2º (Vide Medida Provisória nº 143, de 10.12.2003)

Art. 9º Os recursos do FGE poderão ser utilizados, ainda, para garantir compromissos decorrentes de operações de financiamento às exportações brasileiras enquadradas pelo BNDES até 28 de agosto de 1997, cujo primeiro vencimento tenha ocorrido após 31 de maio de 1997.

Art. 10. O Poder Executivo poderá pôr termo ao provimento de recursos, pelo FGE, destinados à cobertura de novas garantias às operações de exportações brasileiras de bens e serviços, nos termos desta Lei.

§ 1º Ocorrendo o disposto no caput, será efetuado cálculo atuarial para determinar as reservas necessárias à cobertura integral de todas as obrigações já assumidas.

§ 2º Caso haja recursos remanescentes, estes serão transferidos, anualmente, à conta do Tesouro Nacional.

Art. 11. O art. 7º da Lei nº 6.704, de 26 de outubro de 1979, passa a vigorar com a seguinte redação:

"Art. 7º Nas operações do Seguro de Crédito à Exportação, garantidas pela União, não serão devidas comissões de corretagem." (NR)

Art. 12. Ficam convalidados os atos praticados com base na Medida Provisória nº 1.840-24, de 29 de junho de 1999.

**Art. 13. Esta Lei entra em vigor na data de sua publicação.
Brasília, 23 de agosto de 1999; 178º da Independência e 111º da República.**

**Senador ANTONIO CARLOS MAGALHÃES
PRESIDENTE**

Este texto não substitui o publicado no D.O.U. de 24.8.1999

DECRETO Nº 3.937, DE 25 DE SETEMBRO DE 2001.

Regulamenta a Lei nº 6.704, de 26 de outubro de 1979, que dispõe sobre o Seguro de Crédito à Exportação, e dá outras providências.

O PRESIDENTE DA REPÚBLICA, no uso da atribuição que lhe confere o art. 84, inciso IV, da Constituição, e tendo em vista o disposto no art. 9º da Lei nº 6.704, de 26 de outubro de 1979,

DECRETA:

Capítulo I

DO SEGURO DE CRÉDITO À EXPORTAÇÃO

Art. 1º O Seguro de Crédito à Exportação - SCE tem por objetivo segurar as exportações brasileiras de bens e serviços contra os riscos comerciais, políticos e extraordinários que possam afetar as transações econômicas e financeiras vinculadas a operações de crédito à exportação.

Parágrafo único. O exportador e as instituições financeiras que financiarem ou refinanciarem as exportações poderão ser segurados do SCE.

Art. 2º Consideram-se riscos comerciais as situações de insolvência do devedor, caracterizando-se esta quando:

I - ocorrer mora pura e simples do devedor por prazo igual ou superior a cento e oitenta dias do vencimento da data da primeira parcela não paga, desde que não provocada pelos fatos enumerados nos incisos I a VI do art. 3º;

II - executado o devedor, seus bens revelarem-se insuficientes ou insuscetíveis de arresto, seqüestro ou penhora;

III - decretada a falência ou a concordata do devedor ou outro ato administrativo ou judicial de efeito equivalente;

IV - celebrado acordo do devedor com o segurado, com anuência da seguradora, para pagamento com redução do débito.

Art. 3º Consideram-se riscos políticos e extraordinários a ocorrência, isolada ou cumulativamente, das seguintes situações:

I - mora pura e simples do devedor público por prazo igual ou superior a cento e oitenta dias do vencimento da data da primeira parcela não paga;

II - rescisão arbitrária, pelo devedor público, do contrato garantido;

III - moratória geral decretada pelas autoridades do país do devedor ou de outro país por intermédio do qual o pagamento deva ser efetuado;

IV - qualquer outro ato ou decisão das autoridades de um outro país que impeça a execução do contrato garantido;

V - por decisão do Governo brasileiro, de governos estrangeiros ou de organismos internacionais, posterior aos contratos firmados, resulte a impossibilidade de se realizar o pagamento pelo devedor;

VI - superveniência, fora do Brasil, de guerra, revolução ou motim, de catástrofes naturais, tais como ciclones, inundações, terremotos, erupções vulcânicas e maremotos, que impeçam a execução do contrato garantido.

VII - impossibilidade de pagamento por parte dos Bancos Centrais dos países participantes do Convênio de Pagamentos e Créditos Recíprocos - CCR, por prazo superior a cento e vinte dias das Compensações Quadrimestrais. (Inciso incluído pelo Decreto nº 4.539, de 23.12.2002)

Parágrafo único. As situações previstas nos incisos I a V deste artigo não contemplam as operações cursadas no âmbito do CCR. (Parágrafo incluído pelo Decreto nº 4.539, de 23.12.2002)

Art. 4º As situações a que se referem os arts. 2º e 3º deste Decreto abrangem também os seguintes casos:

I - risco de fabricação, definido como a interrupção das obrigações contratuais do devedor por cento e oitenta dias, durante o período compreendido entre a data em que os contratos foram firmados e a data em que deveria ser efetivado o embarque ou finalizadas as obrigações contratuais do segurado;

II - exportação em consignação, feiras, mostras, exposições e similares, quando se verificar a impossibilidade de fazer retornar as mercadorias não vendidas no exterior.

Art. 5º As situações caracterizadoras de risco comercial e de risco político e extraordinário, previstas nos arts. 2º e 3º deste Decreto, somente prevalecerão quando expressamente notificadas nas condições do contrato de seguro.

Art. 6º A cobertura do SCE incidirá sobre as perdas líquidas definitivas do segurado, no caso de risco de fabricação, não abrangendo os prejuízos decorrentes da não realização de lucros esperados ou de oscilações de mercado.

Parágrafo único. A percentagem de cobertura incide sobre o valor do financiamento da operação, no caso de risco de crédito.

Art. 7º Não serão devidas comissões de corretagem nas operações do SCE garantidas pela União.

Capítulo II

DA GARANTIA DA UNIÃO

~~Art. 8º A garantia da União será concedida por intermédio do IRB - Brasil Resseguros S.A. ou por outra entidade a ser designada pelo Ministro de Estado da Fazenda, observadas as normas e os procedimentos aprovados pelo Conselho Diretor do Fundo de Garantia à Exportação - CFGE.~~

~~Art. 8º A garantia da União será concedida por intermédio do IRB - Brasil Resseguros S.A., observadas as normas e os procedimentos aprovados pelo Conselho Diretor do Fundo de Garantia à Exportação - CFGE. (Redação dada pelo Decreto nº 4.539, de 23.12.2002)~~

Art. 8º A garantia da União será concedida por intermédio do IRB - Brasil Resseguros S.A., observadas as normas e os procedimentos aprovados pelo Comitê de Financiamento e Garantia das Exportações - COFIG. (Redação dada pelo Decreto nº 4.993, de 2004)

§ 1º A participação da União nas perdas líquidas definitivas estará limitada a:

I - no máximo noventa por cento, no caso de seguro contra risco comercial;

~~II - no máximo noventa e cinco por cento, no caso de seguro contra risco político e extraordinário;~~

II - no máximo noventa e cinco por cento, no caso de seguro contra risco político e extraordinário nas operações fora do CCR. (Redação dada pelo Decreto nº 4.539, de 23.12.2002)

~~III - no máximo noventa e cinco por cento, no caso de seguro contra risco comercial em operações financiadas que contem com garantia bancária, conforme definido pelo CFGE.~~

III - no máximo noventa e cinco por cento, no caso de seguro contra risco comercial em operações financiadas que contem com garantia bancária, conforme definido pelo COFIG. (Redação dada pelo Decreto nº 4.993, de 2004)

IV - no máximo cem por cento, a critério da Câmara de Comércio Exterior - CAMEX, no caso de seguro contra risco comercial, político e extraordinário, quando as condições de mercado relacionadas com a exportação de determinados bens sofrerem súbita alteração ou forem diretamente afetadas por eventos de natureza internacional fora do controle brasileiro. (Inciso incluído pelo Decreto nº 4.041, de 3.12.2001)

V - no máximo cem por cento, no caso de seguro contra risco político e extraordinário, nas operações cursadas no CCR, limitada a noventa e cinco por cento do valor da parcela original considerada na respectiva

Compensação Quadrimestral. (Inciso incluído pelo Decreto nº 4.539, de 23.12.2002)

§ 2º A garantia da União a operações de seguro contra risco comercial será concedida para operações com prazo superior a dois anos, contado da data do embarque.

§ 3º A garantia da União a operações de seguro contra risco político e extraordinário será concedida para operações com qualquer prazo de financiamento. (Parágrafo incluído pelo Decreto nº 4.539, de 23.12.2002)

§ 4º A garantia da União nas exportações financiadas que tenham curso no CCR, será concedida para operações com prazo superior a trezentos e sessenta dias, contados da data de emissão do instrumento de pagamento previsto no CCR." (NR) (Parágrafo incluído pelo Decreto nº 4.539, de 23.12.2002)

Art. 9º As garantias da União previstas neste Decreto serão honradas com recursos originários do Fundo de Garantia à Exportação - FGE.

Capítulo III

DA SEGURADORA DO SEGURO DE CRÉDITO À EXPORTAÇÃO

Art. 10. A empresa seguradora de SCE será constituída sob a forma de sociedade anônima.

Art. 11. A seguradora de SCE não poderá explorar qualquer outra atividade de comércio ou indústria, vedando-se-lhe operar em qualquer outro ramo de seguro.

Art. 12. A autorização para funcionamento de empresa seguradora de SCE será concedida pelo Ministro de Estado da Fazenda, mediante requerimento apresentado pelos incorporadores à Superintendência de Seguros Privados - SUSEP.

Art. 13. Concedida a autorização para funcionamento, a seguradora deve comprovar perante a SUSEP, em até noventa dias, haver cumprido todas as formalidades legais, além das exigências feitas no ato da autorização.

Art. 14. Os casos de incorporação, fusão, encampação ou cessão de operações, transferências de controle acionário, alterações de estatutos e abertura de filiais ou sucursais no exterior devem ser submetidos à aprovação da SUSEP.

Art. 15. A aplicação das reservas técnicas será definida pelo Conselho Monetário Nacional.

Art. 16. Os bens garantidores do capital social, reservas técnicas e fundos não poderão ser alienados ou gravados de qualquer forma, sem prévia autorização da SUSEP, na qual serão inscritos.

Parágrafo único. Quando a garantia recair em bem imóvel, será obrigatoriamente inscrita no competente cartório de registro geral de imóveis, mediante requerimento firmado pela sociedade seguradora e pela SUSEP, na forma da legislação em vigor.

Capítulo IV

DO FUNDO DE GARANTIA À EXPORTAÇÃO

~~Art. 17. O CFGE será presidido pelo Secretário Executivo do Ministério da Fazenda e composto por um representante dos seguintes órgãos e entidades: (Revogado pelo Decreto nº 4.993, de 2004)~~

- ~~I - Ministério do Planejamento, Orçamento e Gestão;~~
- ~~II - Ministério do Desenvolvimento, Indústria e Comércio Exterior;~~
- ~~III - Ministério das Relações Exteriores;~~
- ~~IV - Câmara de Comércio Exterior - CAMEX;~~
- ~~V - Secretaria do Tesouro Nacional do Ministério da Fazenda;~~
- ~~VI - Secretaria de Assuntos Internacionais do Ministério da Fazenda;~~
- ~~VII - Banco do Brasil S.A.;~~
- ~~VIII - Banco Nacional de Desenvolvimento Econômico e Social - BNDES;~~
- ~~IX - IRB - Brasil Resseguros S.A.;~~
- ~~X - Banco Central do Brasil. (Inciso incluído pelo Decreto nº 4.539, de 23.12.2002)~~

~~§ 1º A Secretaria Executiva do CFGE será exercida pela Secretaria de Assuntos Internacionais do Ministério da Fazenda.~~

~~§ 2º Os membros do CFGE não farão jus a qualquer espécie de remuneração por suas participações no Conselho.~~

~~§ 3º O regimento interno do CFGE, a ser aprovado pelo Ministro de Estado da Fazenda dentro de sessenta dias, estabelecerá as normas e os procedimentos operacionais para o seu funcionamento.~~

~~Art. 18. Compete ao CFGE:~~

- ~~I - definir os percentuais de comissões a serem cobrados pela prestação de garantias pela União;~~
- ~~II - identificar, designar e determinar a contratação de uma ou mais instituições habilitadas a executar os serviços de análise e, quando for o caso, de acompanhamento das operações de prestação de garantia; (Revogado pelo Decreto nº 4.539, de 23.12.2002)~~
- ~~III - fixar as alçadas de aprovação de operações pela instituição ou pelas instituições habilitadas a operar as garantias em nome da União;~~
- ~~IV - decidir sobre possível cobertura por parte da União em situações, eventos e riscos não especificados nos arts. 2º, 3º e 4º deste Decreto;~~
- ~~V - decidir sobre a alienação das ações vinculadas ao FGE, para constituir a reserva de liquidez ou para honrar as garantias prestadas;~~
- ~~VI - autorizar o BNDES a alienar as ações vinculadas ao FGE;~~
- ~~VII - autorizar o exercício de direitos relativos às ações vinculadas ao FGE;~~
- ~~VIII - estabelecer os critérios para constituição da reserva de liquidez do FGE;~~
- ~~IX - aprovar a proposta orçamentária do FGE, elaborada pela Secretaria~~

~~Executiva do CFGE;~~

~~X - submeter à CAMEX proposta relativa às diretrizes, aos critérios, aos parâmetros e às condições para prestação de garantia da União;~~

~~XI - submeter à CAMEX proposta relativa aos limites globais e por países para a concessão de garantia;~~

~~XII - aprovar operações que excedam os limites de alçada. (Revogado pelo Decreto nº 4.993, de 2004)~~

Art. 19. Este Decreto entra em vigor na data de sua publicação.

Art. 20. Ficam revogados os Decretos nºs 2.369, de 10 de novembro de 1997, e 2.877, de 15 de dezembro de 1998.

Brasília, 25 de setembro de 2001; 180^a Independência e 113^a da República.

FERNANDO HENRIQUE CARDOSO
Pedro Malan

Este texto não substitui o publicado no D.O.U. 26.9.2001

DECRETO N o 4.993, DE 18 DE FEVEREIRO DE 2004

Cria o Comitê de Financiamento e Garantia das Exportações - COFIG e dá nova redação ao caput do art. 5 o do Decreto n o 4.732, de 10 de junho de 2003, que dispõe sobre a Câmara de Comércio Exterior - CAMEX, do Conselho de Governo.

O PRESIDENTE DA REPÚBLICA , no uso da atribuição que lhe confere o art. 84, inciso VI, alínea "a", da Constituição,

D E C R E T A :

Art. 1 o Fica criado o Comitê de Financiamento e Garantia das Exportações - COFIG, colegiado integrante da Câmara de Comércio Exterior - CAMEX, do Conselho de Governo, com as atribuições de enquadrar e acompanhar as operações do Programa de Financiamento às Exportações - PROEX e do Fundo de Garantia à Exportação - FGE, estabelecendo os parâmetros e condições para concessão de assistência financeira às exportações e de prestação de garantia da União.

Art. 2 o O COFIG tem a seguinte composição:

I Secretário-Executivo do Ministério do Desenvolvimento, Indústria e Comércio Exterior, que o presidirá;

II um representante de cada um dos seguintes órgãos:

a) Ministério da Fazenda, que será o Secretário-Executivo do Comitê;

b) Ministério das Relações Exteriores;

c) Ministério da Agricultura, Pecuária e Abastecimento;

d) Ministério do Planejamento, Orçamento e Gestão;

e) Casa Civil da Presidência da República; e

f) Secretaria do Tesouro Nacional, do Ministério da Fazenda.

§ 1 o Os membros de que tratam os incisos I e II e respectivos suplentes serão indicados pelos titulares dos órgãos ao Conselho de Ministros da CAMEX, para designação mediante resolução.

§ 2 o Na ausência dos titulares de que trata o § 1 o , os suplentes os substituirão, com direito a voto, sem prejuízo do disposto no § 5 o .

§ 3 o Os titulares do Banco do Brasil S.A., Banco Nacional de Desenvolvimento Econômico e Social - BNDES, IRBBrasil Resseguros S.A. e da Seguradora Brasileira de Crédito à Exportação - SBCE indicarão, ao Presidente do COFIG, um representante e respectivo suplente, que poderão ser convocados a participar das reuniões do Comitê para apresentar as operações, sem direito a voto.

§ 4 o O Presidente do COFIG poderá convidar para participar das reuniões, sem direito a voto, outros representantes de órgãos da administração pública federal.

§ 5 o Em suas faltas ou impedimentos, o Presidente do COFIG será substituído pelo Secretário -Executivo do Comitê.

Art. 3 o O Conselho de Ministros da CAMEX definirá as diretrizes e os critérios para concessão de assistência financeira e de prestação de garantia da União nas exportações brasileiras.

Parágrafo único. As decisões e deliberações do COFIG serão tomadas por consenso, sendo oficializadas, diretamente por seu Presidente, aos órgãos de que trata o § 3 o do art. 2 o , para as necessárias providências operacionais.

Art. 4 o Compete ao COFIG:

I submeter à CAMEX proposta relativa às diretrizes e aos critérios para concessão de assistência financeira às exportações e de prestação de garantia da União;

II submeter à CAMEX proposta relativa aos limites globais e por países para a concessão de garantia;

III indicar limites para as obrigações contingentes do Tesouro Nacional em garantias e seguros de crédito à exportação;

IV estabelecer alçadas e demais condições a serem observadas pelo Banco do Brasil S.A. e pelo IRB-Brasil Resseguros S.A., na qualidade de agentes da União, para contratação de operações no PROEX e no FGE, respectivamente;

V definir parâmetros e condições para concessão de assistência financeira às exportações e de prestação de garantia da União;

VI decidir sobre pedidos de financiamento e de equalização, com recursos do PROEX, e de concessão de garantia com recursos do FGE, que extrapolem ou não atendam aos limites ou condições de alçada de que trata o inciso IV;

VII decidir sobre pedidos de financiamento ou de equalização de taxas de juros relativos à exportação de serviços, de navios ou de aeronaves;

VIII examinar e propor as medidas necessárias à recuperação de créditos da Fazenda Nacional, originários de financiamentos e garantias concedidas às exportações brasileiras destinadas a entidades do setor privado do exterior, cuja inadimplência não tenha resultado de atos de soberania política;

IX definir os percentuais de comissões a serem cobrados pela prestação de garantias pela União;

X decidir sobre a alienação das ações vinculadas ao FGE, para constituir a reserva de liquidez ou para honrar as garantias prestadas;

XI deliberar sobre o seu regimento interno;

XII exercer outras atribuições definidas pela CAMEX.

Art. 5 o Os membros do COFIG não farão jus a qualquer espécie de remuneração por suas participações no Comitê.

Art. 6 o O COFIG aprovará, dentro de sessenta dias, seu regimento interno, estabelecendo as normas e os procedimentos operacionais para o seu funcionamento.

Art. 7 o O art. 8 o do Decreto n o 3.937, de 25 de setembro de 2001, passa a vigorar com a seguinte redação:

"Art. 8 o A garantia da União será concedida por intermédio do IRB Brasil Resseguros S.A., observadas as normas e os procedimentos aprovados pelo Comitê de Financiamento e Garantia das Exportações - COFIG.

.....

III no máximo noventa e cinco por cento, no caso de seguro contra risco comercial em operações financiadas que contem com garantia bancária, conforme definido pelo COFIG.

....." (NR)

Art. 8 o O caput do art. 5 o do Decreto n o 4.732, de 10 de junho de 2003, passa a vigorar com a seguinte redação:

"Art. 5 o Integrarão a CAMEX, o Comitê Executivo de Gestão - GECEX, a Secretaria-Executiva, o Conselho Consultivo do Setor Privado - CONEX e o Comitê de Financiamento e Garantia das Exportações - COFIG." (NR)

Art. 9 o Este Decreto entra em vigor na data de sua publicação.

Art. 10. Ficam revogados os arts. 17 e 18 do Decreto n o 3.937, de 25 de setembro de 2001.

Brasília, 18 de fevereiro de 2004; 182 o da Independência e 115 o da República.

LUIZ INÁCIO LULA DA SILVA

Antonio Palocci Filho

Marcio Fortes de Almeida