

Application and Legal Regulation of International Account Forms in the Republic of Belarus

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Nowadays competitiveness of domestic business entities on the foreign market depends on both the choice of the type of international payment and the implementation of their regulatory environment.

The purpose of the article is to study the application and legal regulation of international payments in the Republic of Belarus.

Material and methods. The material is based on works of national scholars and personal development of the authors in the field of international relations and their legal regulation. The main methods of the current research are: deductive reasoning, ascending from the abstract to concrete, analysis and synthesis.

Findings and their discussion. The transition to sustainable development is a key social and economic goal of sovereign Belarus. An effective foreign economic activity of national business entities, carried out by the international trade policy and regulations will play an important role in this process. In modern conditions economic relations between participants of the international trade are based on timeliness and completeness of payments for quality product. Trading and banking practice have developed several different forms of accounts, depending on the degree of mutual confidence among trading partners and the role of banks that act as intermediaries in the parties' economic trade relations. According to the payments there are three main forms of international account relations: documentary credit, encashment, and bank remittance. The legal basis of international accounts is international conventions, multilateral and unilateral agreements, acts of national legislation, banking habits and etc.

Conclusion. Modern social and economic development of Belarus is in large part based on the stable functioning of the national economy, which is determined by successful foreign trade relations. The choice of the correct form of international payments and strict abidance of all legal acts of international and national legislation allows business entities to solve foreign trade issues with minimum investment of time and money.

Key words: sustainable development, foreign economic activity, international accounts, credit, encashment, bank remittance, legal regulation.

Применение и правовое регулирование форм международных расчетов в Республике Беларусь

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В современных условиях конкурентоспособность национальных субъектов хозяйствования на внешнем рынке во многом зависит как от выбора формы международных расчетных отношений, так и нормативно-правовых условий их осуществления.

Цель данной статьи – исследование применения и правового регулирования международных расчетов в Республике Беларусь.

Материал и методы. Материалом послужили труды отечественных ученых и личные разработки авторов в области международных расчетных отношений и их правового регулирования. В качестве основных методов исследования использовались логико-дедуктивный, восхождение от абстрактного к конкретному, анализ и синтез.

Результаты и их обсуждение. Переход к устойчивому развитию – ключевая социально-экономическая задача суверенной Беларуси. Важную роль в этом процессе призвана сыграть эффективная внешнеэкономическая деятельность национальных хозяйствующих субъектов, осуществляемая с учетом международных внешнеэкономических норм и правил. Хозяйственные связи между участниками международной торговли в современных социально-экономических условиях строятся с учетом своевременности и полноты оплаты за поставляемую продукцию надлежащего качества. Торговая и банковская практика выработала несколько форм расчетов, которые отличаются друг от друга в зависимости от степени взаимного доверия торговых партнеров, а также от той роли, которую призваны играть в каждом конкретном случае банки, выступая посредниками между контрагентами внешнеэкономической деятельности. В соответствии с этим сложились три основные формы международных расчетных отношений: документарный аккредитив, инкассо и банковский перевод. Правовую основу международных расчетов составляют международные конвенции, многосторонние и односторонние договоры и соглашения, акты внутреннего (национального) законодательства, банковские обычаи и т.д.

Заключение. Современное социально-экономическое развитие Беларуси в значительной мере основывается на устойчивом функционировании национальной экономики, во многом определяемом успешной внешнеэкономической деятельностью ее участников. Правильный выбор и применение формы международных расчетов, а также неукоснительное следование при этом всем нормативным правовым актам международного и внутреннего (национального) законодательства позволяют хозяйствующим субъектам решать внешнеэкономические вопросы с минимальными затратами времени и средств.

Ключевые слова: устойчивое развитие, внешнеэкономическая деятельность, международные расчеты, аккредитив, инкассо, банковский перевод, правовое регулирование.

Social and economic reforms in the Republic of Belarus, its entry into the world community as a sovereign, stable developing state, building of its effective model of social and economic development are carried out with a glance to the world trends, the most important of which is globalization. The growing interconnection and interdependence of the countries of the world are realized through the active foreign economic activity, which allows them to solve the problems of limited potential of natural resources and economic advance. The competitiveness of Belarusian enterprises which participate in foreign economic activity is largely determined by the choice of the form of international account relations and the legal conditions (international and national) of their implementation.

Based on the above, the purpose of this article is to study the application and legal regulation of international payments in the Republic of Belarus.

Material and methods. The material is based on works of national academics and personal development of the authors in the field of international account relations and their legal regulation. The main methods of the current research are: deductive reasoning, ascending from the abstract to concrete, analysis and synthesis.

Findings and their discussion. In modern conditions opening of national economies has intensified, and that has led to activation of foreign economic activity of economic entities, increment of the volume of international payments and enhancement of their role in shaping the financial outcome of economic activities of enterprises and corporations. In this regard, the study of the nature of international account relations and the regulatory and legal conditions of their implementation become particularly important. As the research demonstrated, international accounts are settlements between participants of foreign economic activity carried out through banks. At the same time in international practice, the form of calculation includes payment terms which are governed by the rules of private international law and which have specific features of the funds-transfer order to the accounts, type of billing statements and the procedure of the flow of documents [1].

International conventions, multilateral and unilateral treaties and agreements, acts of domestic (national) legislation, banking habits, and many other elements form a legal framework of international accounts. In addition, the Uniform Customs and Practice for Documentary Credits (UCP 500) and the Uniform Rules for Collection, which were developed by the International Chamber of Commerce and

were the result of the long-term systematization of international trade and banking practices, have become widespread in the legal regulation of international account relations. In the Republic of Belarus, along with these international regulatory legal acts, account relations between participants of foreign economic activity are regulated, mainly, by the Banking Code and Instructions of the National Bank. In the process of establishing and developing international economic relations, Belarus has concluded bilateral agreements on international accounts with the Russian Federation, Kazakhstan, Ukraine, Latvia, Lithuania, Uzbekistan, Tajikistan, Armenia, Turkmenistan and some other countries.

The peculiarity of the legal regulation of international account relations is the prevalence of norms established by domestic (national) legislation and regulating foreign economic activities of Belarusian business entities. These standards govern:

- The timing of payments for foreign economic transactions by non-residents and the timing of their provision of goods and services after payments by residents;
- Currency of accounts between residents and non-residents;
- The procedure for making advance payment;
- The possibility and procedure for changing the forms of accounts previously agreed upon and fixed in the concluded foreign trade contract on the foreign economic transaction being made.

During the research, we established that in the modern international trade and banking practice of Belarusian business entities, there are three main forms of international account relations: documentary credit, encashment, and bank remittance.

Documentary credit is one of the most popular forms of payment used by Belarusian participants in foreign economic activity. At the same time, the use of a documentary credit is most beneficial for the seller (the exporter). This is because accounts under the documentary credit are made at the place of its opening, which brings together in time the shipment of the product to the buyer and its payment to the seller. In its turn, untimely opening of the documentary credit by the payer-importer allows the supplier to delay the delivery or even refuse to execute the concluded contract because of the non-receipt of funds from the trading partner. Thus, the withdrawal of money from the payer's account preceding the delivery is common for documentary credit payments [2].

At the same time, international accounts in the form of a documentary credit have a number of shortcomings that slow down and complicate the procedure, among which we can distinguish:

1. *Complex document flow and interruptions in the movement of documents* associated not only with their control in banks, but also with the transfer between banks. So, if there are problems related to bank verification of documents and the establishment of discrepancies in them, the executing bank is forced to contact the importer for additional instructions. In case of its agreement with the revealed discrepancies, the bank shall make the appropriate payment, if not, the money will not be paid to the exporter.

2. *Manual verification of the documents accompanying the payments under the documentary credit.* This procedure requires considerable time and highly qualified specialists.

3. *The emergence of transit risk*, thereby, for its elimination, it is required to include the insurance policies of reputable insurance companies in the list of accompanying documents.

4. *Insufficient or, conversely, detailed description of the shipped products*, which leads to additional time costs for the necessary clarifications.

5. *Violations of the shipment schedules set-up due to the occurrence of circumstances in the process of the delivery not provided for by the participants of the transaction*, which leads to a slowdown in accounts and the need to compile additional documents for its servicing.

Legal regulation of documentary credit accounts of Belarusian participants of foreign economic activity is carried out in accordance with the Uniform Customs and Practice for Documentary Credits (UCP 500) and by the Banking Code of the Republic of Belarus. The Banking Code is a national normative legal act that establishes the basic principles of the documentary credit operations by Belarusian economic entities. More detailed regulation of the international accounts procedure through the documentary credit is contained in the Instruction concerning the procedure for banking documentary operations, approved by the resolution № 67, 29.03.2001 of The Board of the National Bank of the Republic of Belarus [3].

As for the encashment form of the international account relations, it is characterized by the receipt of money by the supplier for the shipped products due to him from the payer through the bank serving this foreign trade operation on the basis of the corresponding account documentation. Whereas the bank charges a certain amount for crediting the received funds to the client's account. The research showed that the advantage of the collection form of accounts is the simplicity of registration and the ability to control the documents listed [4].

The legal basis for the implementation of the encashment operations is the Uniform Rules

for Collections of the International Chamber of Commerce (in force as at the date of implementation of the encashment), which is the main international normative act regulating this form of the account relations between the subjects of foreign economic activity [1].

It should be noted that the encashment operations are beneficial both for the participants of the trade transaction and for the banks serving it. Thus, banks do not need to open additional accounts or accumulate funds in any other way when executing their clients' orders (as, for example, in the case of the documentary credit form of account relations). In addition, the buyer can be sure that after the payment of the account documents, he will be entitled to the product and all accompanying documents of the relevant transaction. For its part, the supplier is in confidence that before the receipt of money the inventory items will be at his disposal. Unfortunately, the encashment form has been identified as not becoming widespread in the account practice of the participants of foreign economic activity in the Republic of Belarus. In our opinion, the underestimation of the obvious advantages of the encashment accounts is due to the imperfection of the national legislation regulating these relations, as well in connection with the insufficient legal culture of economic entities concerning both domestic and international legislative sphere.

In its turn, a bank remittance as a form of international account relations represents an order to the bank of one participant of an international trade transaction (an originator) to transfer a certain amount in favor of another its participant (a transferee). A bank remittance is carried out cashless by one bank to another. Participants of the transaction (exporters and importers) in this form of account relations exchange the accompanying documents directly, without participation of the bank. When calculating by means of bank remittances, banks don't control the transaction fact, its documentary maintenance, and payment in accordance with the contract concluded by the sides. They only transfer money from the account of an originator into the account of a transferee at the time of providing the relevant payment order [2]. Simplicity, economic profitability and availability of bank remittances make them one of the most common modern forms of international account relations used by Belarusian business entities. At the same time, according to the research, a number of problems arise when using payments through bank remittances.

1. *Incorrect specification of the recipient's details* (his name or his account number), leading to the wrong transfer of funds. In this case, there

is a need for additional notification by the sending bank of the funds of the bank of their recipient about the change of the beneficiary and the remittance of the funds from the incorrect account to the correct one, which causes a slowdown in the remittance procedure.

2. *Operational errors*, which make up about a quarter of all errors made in the processing of payment orders during the process of bank remittances. Their correction involves the additional expenses of means and time, slowing down the remittance and increasing the workload of bank employees.

3. *Sending payment to the wrongly indicated recipient bank of the funds*. This circumstance leads to penalties, according to which the recipient bank is forced to compensate the sending bank 90% of the income received from the placement of the received amount.

4. *An overdue payment* in case of which the bank that detains the payment (the sending bank) requests a back-value to correct the accounting transaction on the transferee bank account with an opportunity to make the remittance "retroactively". At the same time, the bank that committed such a mistake is obliged to pay compensation to the recipient bank at a special, increased tariff (in the amount of 100% of the amount of the payment).

5. *Indication of the wrong (smaller) amount of the payment*. In this case the sending bank pays the missing sum and offers to the recipient bank to make a back-value for the additionally transferred funds.

6. *Insufficiency of funds on the account of the managing subject-originator*. Lack of the necessary funds on the account leads to the necessity of the mandatory re-checking of solvency of the originator, which becomes a reason for an extension of the bank remittance procedure.

International accounts through a bank remittance are regulated in Belarus by national legislation and relevant banking rules. The main regulatory legal acts are the Banking Code of the Republic of Belarus [5], the Law of the Republic of Belarus № 226-3, 22.06.2003 «On Currency Regulation and Currency Control», amended and supplemented [6], and the Instruction № 28.10, 23.12.1997 on International Accounts in the form of a bank remittance, approved by the National Bank of the Republic of Belarus [3]. At the same time, as it has been established during the research, there are no international legal acts regulating accounts by means of a bank remittance.

Conclusion. Liberalization of foreign economic activity of economic entities of the Republic of Belarus, as a result of which they are able to compete on a global scale, updated the issues of foreign trade transaction and related international accounts, as their rational use contributes to the normal cash operating cycle and continuous disposal of commodities and services. International accounts represent a system of organization and regulation of payments of subjects of foreign economic activity and are carried out by banks in strict accordance with the norms of national and international legislation. International account relations of Belarusian economic entities in modern conditions are implemented in three main forms: documentary credit, encashment, and bank remittance. It is difficult to avoid problems during realization of international account relationships, but participants of international business activity need to calculate the possible risks and anticipate the occurrence of possible difficulties in order to avoid or minimize them, since this ultimately determines the successful completion of each transaction they make.

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