

# **INTERNATIONAL RUBBER ASSOCIATION**

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### **International Contract for Preserved Rubber Latex in Drums (*Hevea Brasiliensis*)**

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<ASSOCIATION NAME>  
PRESERVED RUBBER LATEX IN DRUMS  
(HEVEA BRASILIENSIS)  
INTERNATIONAL CONTRACT

We have this day SOLD upon the terms of this Contract, TO: .....,  
BOUGHT FROM  
including the Conditions hereinafter contained or referenced, the following:

Contract No.:

Latex Type (including preservative):

Quantity: Shipment  
Landed

Packing:

From (Port):

Destination:

Contract Type (CIF/C & F/FOB):

Price per kilogramme or lb (WET):

Freight: Prepaid  
Payable at destination

Shipment Period/Vessel:

Broker/Intermediary:

Brokerage/Commission:

Payment:

Weighing/Sampling at: (Port of Shipment/Destination/Factory)

Arbitration: Regional Centre (Otherwise at )

Remarks:

Subject to the Regulations and Conditions governing the International Contract for Preserved Rubber Latex in Drums (Hevea Brasiliensis) and to the Special Trading Terms and Conditions of the<Association Name> in force at the date of this Contract.

**1. Quantity:**

Contracts made under these conditions shall be for specified quantities only and shipment quantities which shall consist of full drums suitable for the transport of latex and fit for export. Disputes arising over variances between specified quantities and quantities actually shipped shall be settled between Buyer and Seller, or failing such agreement, subject to arbitration.

The words 'ton' shall mean a metric ton or 'tonne' of one thousand (1,000) kilogrammes wet weight. If the contract weight is expressed in avoirdupois two point two zero five (2.205) lbs shall equal one (1) kilogramme.

The expression 'about' when used to define quantities contracted for shall mean that:-

No excess or deficiency between contracted and shipped weights shall be greater than one half (½) per cent of the contract quantity or Bill of Lading quantity or any monthly portion of a contract. The excess or deficiency over one half (½) per cent up to and including two (2) per cent shall be invoiced or invoiced back at the contract price. Should the excess or deficiency be greater than two (2) per cent, the whole of the excess or deficiency over the contract quantity or any monthly portion thereof, shall, failing agreement between Buyer and Seller, be invoiced or invoiced back at a price fixed by arbitration at the Regional Centre where the Contract is domiciled.

**2. Weighing:**

**2. (A) Weight Tolerances**

The Latex is to be invoiced at net shipping weights. Should the difference in shipment and landed weight (excluding theft, pilferage and damage in transit) exceed one half (½) per cent but not over two (2) per cent this difference in weight in excess of one half (½) per cent but not over two (2) per cent shall be invoiced or invoiced back at the contract price. Any difference exceeding two (2) per cent shall be invoiced or invoiced back at a price to be mutually agreed between Buyer and Seller or failing which the price shall be referred to Arbitration.

**2. (B) Weighing**

In the event of the Buyer claiming an adjustment by reason of the nett landed weights differing from the nett shipping weights, as provided for in the foregoing Clause 2. (A), he shall provide within thirty-five (35) calendar days of the landing of the Latex, a copy of the nett landed weights certified by a sworn weigher or recognised wharfinger or warehouseman, estimated by weighing gross ten (10) per cent of drums and deducting the marked tare.

All weighing shall be done and recorded to an accuracy of one (1) part in one thousand (1,000) (equivalent to one (1) gramme in one (1) kilogramme).

If a weight deficiency is found and it exceeds one half (½) per cent of the invoiced weight, the cost of weighing shall be borne by the Seller, otherwise it shall be borne by the Buyer.

**3. Insurance:**

Terms of Insurance shall be as agreed between Buyer and Seller at the time of contract.

**4. (A) Shipment:**

**4. (A) (i)** To be shipped by vessel or vessels loading or commencing to load in port of shipment (and loading continuously therein till date of shipment), per terms of contract, with transit direct, and/or indirect, with liberty to call and/or tranship at other ports.

**4. (A) (ii)** The Latex must be shipped by a vessel scheduled to sail to the port of destination or any alternative destination as mutually agreed between Buyer and Seller, or in the case of transhipment must be on a through Bill of Lading, or otherwise the Bill of Lading must be endorsed by, or a certificate obtained from the Shipping Company that transhipment

has been effected and that the Latex is actually on board a vessel scheduled to sail as above.

4. (A) (iii) When Latex is sold for monthly shipment or for a specified part of a month's shipment, each month's or specified part of a month's shipment to be treated as a separate contract and carry an individual Bill of Lading. Each Bill of Lading shall be treated as a separate contract in respect of conventional break-bulk shipments but where shipment is effected in containers, each container shall be treated as a separate contract.
4. (A) (iv) Bill of Lading date will be proof of time of shipment in the absence of conclusive evidence to the contrary.
4. (A) (v) A Bill of Lading dated in the month immediately following the contractual month(s) shall be a good tender provided that it contains the following warranty endorsed on the Bill of Lading and signed by the Shipowners or on their behalf by their authorised Agents:
- Warranted that the vessel commenced loading in the port of shipment in (month) and has been continuously loading therein until date of shipment which is the date of this Bill of Lading.
4. (A) (vi) A Bill of Lading dated in the month immediately preceding the contract month(s) shall be a good tender provided that it contains the following warranty endorsed and signed as above:
- Warranted that the vessel has been continuously loading in the port of shipment since the date of this Bill of Lading and that the date of its final departure from the port was ..... (This date must be within the contract month(s)).
4. (A) (vii) If under the terms of this Contract, the Buyer has the obligation to declare a port of destination and/or nominate a vessel and fails to do so by the fifth (5<sup>th</sup>) business day prior to the month of shipment, then the Latex may be shipped to a port in the country of destination or if no country of destination has been stated, to a port customarily serving the country in which the Buyer is domiciled, at the Seller's option but Buyer to be notified by receipt-acknowledged telefax or e-mail not later than three (3) business days after the fifth (5<sup>th</sup>) business day prior to month of shipment.
- A Seller who has the option to ship from more than one port must declare the port from which he intends to ship on or before the sixth (6<sup>th</sup>) business day prior to the month of shipment to enable the Buyer to fulfil his obligation as stipulated in the previous paragraph.
4. (B) (i) **Specified Period of Shipment:**
- In the case of contracts calling for shipment through a specified period, where cargo is shut out, or a vessel omits ports specified in the Contract, and when no other vessel is available during the shipment period, the Buyer or the Seller shall be entitled to claim shut out and invoke Clause 9, upon production of an appropriate certificate issued by the Shipping Line or Representative
4. (B) (ii) **Named Vessel:**
- If the Latex has been sold for shipment on a Named Vessel, and this vessel, through change of schedule, should omit ports specified in the Contract or the Latex should be shut out of said vessel, the party responsible for supplying the space shall, within nine (9) calendar days after being informed, nominate the next vessel on which space is available to the required port scheduled to sail not earlier than the scheduled sailing date of the Named Vessel (failing which the other party shall be entitled to nominate the vessel).
4. (B) (iii) Should the loading date for the substituted vessel be more than three (3) weeks after the loading date for the original nominated vessel, all additional expenses related to the delayed shipment accrued or incurred at the loading end, shall be for the account of the party responsible for supplying the space.

**5. Packing:**

In new drums containing about ..... kilogrammes, wet weight, each.

**6. Quality:**

If under the terms of this contract, the Buyer has the obligation to declare a Type/Grade of Latex and fails to make such a declaration by the first (1<sup>st</sup>) business day of the month prior to the month of shipment, then the Seller may ship the Latex with a Dry Rubber Content of sixty (60) per cent by weight Full Ammonia preserved but Buyer to be notified by receipt-acknowledged telefax or e-mail not later than the fourth (4<sup>th</sup>) business day of the month prior to the month of shipment.

The Dry Rubber Content to be sixty (60) per cent by weight (unless otherwise agreed between Buyer and Seller and specially stated herein) which figure shall be taken to mean that any excess over sixty (60) per cent shall not be charged to the Buyer, and the latter shall have no claim against the Seller for any deficiency below sixty (60) per cent and down to fifty-nine point eight (59.8) per cent. In the case of the Latex sold with a Dry Rubber Content other than sixty (60) per cent the Seller shall not be liable for a claim if the deficiency is proportionately no greater than that permitted for sixty (60) per cent Dry Rubber Content Latex.

If the Dry Rubber Content is below fifty-nine point eight (59.8) per cent but not below fifty-nine (59) per cent a percentage allowance shall be made by Seller to Buyer, which allowance shall be that proportion of the contract price equivalent to the amount by which the Dry Rubber Content falls short of sixty (60) per cent, expressed as a percentage of sixty (60) per cent. If the Dry Rubber Content is below fifty-nine (59) per cent, the Buyer shall have the option, to be exercised only after analysis has been made as laid down in the subsequent paragraph, of rejecting the Latex and claiming default or of accepting it with an allowance, provided that the Latex has not been removed from the quay or public warehouse at destination called for in the contract unless factory weighing and sampling has been agreed between the Buyer and Seller. In the event of the Buyer deciding to accept the Latex with an allowance, there shall be subtracted from the established Dry Rubber Content a figure which shall be the amount by which it falls short of fifty-nine (59) per cent and this shall be regarded as the Dry Rubber Content for the purpose of calculating the percentage allowance to be given by Seller to Buyer. This allowance shall be the proportion of the contract price equivalent to the amount by which the notional Dry Rubber Content, as arrived at above, falls short of sixty (60) per cent, expressed as a percentage of sixty (60) per cent.

The Dry Rubber Content to be ascertained by the Coagulation Method as adopted by the Management Committee of the International Rubber Association by an approved independent analyst mutually agreed by Seller and Buyer.

The Latex to be completely fluid, free from putrefactive odour, reasonably white in colour and commercially free from extraneous matter. In the event of a claim arising, from any cause whatsoever, failing an amicable settlement, it shall be referred to arbitration.

**7. Sampling:**

7. (i) Such sample or samples shall be drawn by an approved sampler or jointly by Buyer's and Seller's representatives at a point as agreed in the Contract. If the Seller has not named his representative, the labels of the samples shall be signed and sealed by Buyer in conjunction with an independent recognised sampler and shall be accepted by the Seller.
7. (ii) Drums representing 10 per cent of the delivery subject to a minimum of one, shall be selected at random.
7. (iii) Latex in individually selected drums to be adequately blended/homogenised in accordance with either the ISO Method 123-01 and/or the ASTM Method D1076-06, as agreed at the time of contract.
7. (iv) One half (1/2) litre shall be drawn from each of these drums and bulked.
7. (v) From the quantity so bulked, five (5) samples, each of not less than one half (1/2) litre shall be drawn into separate containers (of non-absorbent inner surface chemically resistant to latex). Each container shall be filled full, sealed air-tight and labelled, stating the distinctive numbers of

the drums opened. Seals shall be applied in accordance with clause 7. (i) above. (In the event of sampled drums being less than five (5) in number, adequate latex shall be taken to provide five (5) samples).

Two (2) samples shall be retained by Buyer's representatives and three (3) shall be retained by Seller's representatives, each to send one (1) sample to an approved Independent Analyst or a recognised Regional Test Laboratory mutually agreed by Seller and Buyer, the remaining to be kept for use in the event of arbitration and/or appeal against arbitration award.

All samples shall be kept within the temperature range of plus five (+5) and plus thirty (+30) degrees Celsius.

**8. Claims:**

**8. (A) Claims in respect of the Quality Specification**

8. (A) (i) In the event of a claim, other than a claim for rejection, failing amicable settlement, samples shall be tested by an approved Independent Analyst or a Regional Test Laboratory as mutually agreed by Buyer and Seller. If this analysis is to be final and binding on other parties then their agreement must also be obtained. In the case where this agreement is not possible then the Co-ordinating Test Laboratory shall perform the analysis.

For the purpose of this Clause the Standards Laboratory of the Rubber Research Institute of Malaysia is appointed as the Co-ordinating Test Laboratory.

8. (A) (ii) If the quality is not in accordance with the contractual specification as confirmed by an approved Independent Analyst or Regional Test Laboratory, then Buyer shall accept the Latex with a fair allowance to be decided upon by arbitration in the Arbitration Centre named in this Contract or subsequently agreed upon by Buyer and Seller, provided Arbitrators are of the opinion that the Latex as shipped was *bona fide* fulfilment of the Contract. Should Arbitrators decide that the Latex as shipped was *non bona fide*, they shall fix an allowance and Buyer, if he has so claimed, shall have the option, to be exercised within five (5) business days from the issue of the Award, of rejecting the Latex and claiming default or accepting it with the allowance as the Arbitrators shall award.

**8. (B) Claims – General**

8. (B) (i) Sealed sample or samples in support of the claim must be produced by Buyer to the Seller or his authorised representative within forty-two (42) calendar days of the date of discharge at the port of destination named in the Contract. This period may be extended by agreement between the parties or at the discretion of the Arbitrators, if the delay is due to circumstances over which the final Buyer has no control. The cost of sampling, supervision, analysis, despatch of samples promptly by air and all reasonable expenses and charges of Buyer's representative shall be paid by the Seller if a claim is sustained except in the case where such charges equal or exceed the amount of the Award when Arbitrators shall have the discretion to award those charges against either party.

8. (B) (ii) Final notice in writing of the claim, stating the grounds of the complaint must be given by Buyer to the Seller or his authorised representative within five (5) business days of the expiry of the period stipulated above for the production of sample or samples otherwise the claim will be null and void. If a claim still remains in dispute at the end of a period of fifteen (15) weeks from the date of the final discharge of the vessel at destination, it shall be the responsibility of the Buyer to submit it to arbitration for settlement. Failure to take this step within fourteen (14) days of the expiry of this period shall render the claim null and void.

8. (B) (iii) The Seller further agrees that the destination for the purpose of inspecting the goods shall be deemed, if Buyer so wishes, to be the factory or factories instead of ports named in the Contract, provided always that the cost of transport and insurance from steamer to factory shall be for Buyer's account. While in factory, the goods shall be at factory Buyer's risk.

8. (B) (iv) Factory in this Contract shall include premises used for storage occupied by the proprietor of the factory whether or not the same shall be in the curtilage of the factory.
8. (B) (v) In the event of the Buyer claiming rejection the Seller may within five (5) business days request that a second (2<sup>nd</sup>) sample or samples be taken in the presence of Buyer's and Seller's representatives, as per Clause 7, and shall be tested by a Regional Test Laboratory as agreed by Buyers and Sellers. Should Seller not name his representative at the time of requesting the second (2<sup>nd</sup>) samples, then the labels of the samples shall be signed and sealed by Buyer in conjunction with an independent recognised sampler and shall be accepted by the Seller.
- This result shall be final and binding on all parties.
- The cost of second (2<sup>nd</sup>) sampling, supervision, analysis, despatch of samples promptly by air and all reasonable expenses and charges of Buyer's representative shall be paid by the Seller if a claim for rejection is sustained.
8. (B) (vi) In the event of final rejection the Seller shall within ten (10) business days of the receipt of the approved analyst's report or the Award, notify the Buyer by receipt-acknowledged telefax or e-mail naming the warehouse to which the Latex is to be returned together with any instructions regarding sampling, weighing and insurance. The Buyer shall carry out such instructions without undue delay and also insure the drums in transit. Buyer shall be entitled to debit Seller with the cost of returning the drums to warehouse, including insurance in transit. The cost of receiving the Latex into warehouse and of working and sampling shall be for Seller's account.
- Where drums are delivered to a factory or factories without passing through a warehouse, or when part of the consignment is delivered to warehouse and remainder is delivered to a factory or factories without passing through a warehouse neither the onward movement of the goods from port nor the breaking of quantity by distribution of one (1) contract quantity between two (2) or more factories shall be deemed an acceptance by the Buyer so as to cause the Buyer to lose thereby his right of claim or rejection.

#### 9. Frustration of Contract:

Should Seller be prevented from fulfilling his obligations hereunder during the period stipulated herein by reasons of act of God, act of Sovereign, government or parliament, consequences of hostilities or warlike operations, blockade, political or civil disturbances or insurrections, riots, strikes, lock-outs, combination of workmen or any other cause beyond his control which he could not reasonably have been expected to anticipate and such cause or causes continue for a period of twelve (12) calendar months from the commencement thereof, any obligations hereunder relating to shipments or deliveries the fulfilment of which is thus prevented and payment therefore shall be cancelled and no claim shall lie by either party against the other in respect of loss or damage arising out of such cancellation.

Should such cause or causes continue for a period of less than twelve (12) calendar months any outstanding shipments shall be shipped and any outstanding obligations hereunder shall be fulfilled as soon as possible after such cause(s) cease(s) to operate but in no event later than six (6) calendar months after such cessation.

#### 10. Declaration:

Seller shall give Buyer the following:

##### 10. (A) Declaration of Shipment:

Declaration of Shipment must be issued by the Seller or his authorised representative and must state the contract reference, leading marks, number of drums shipped, weight, name of vessel and Bill of Lading date.

10. (A) (i) The Declaration of Shipment must be issued by receipt-acknowledged telefax or e-mail to ensure receipt within nine (9) calendar days of the date of the Bill of Lading or the date of first transshipment into ocean-going vessel as marked on the through Bill of Lading

(subject to the provisions of para. 10. (A) (iii) below) in case of CIF contract or within six (6) calendar days for any other terms to enable a FOB or C & F Buyer to cover insurance.

10. (A) (ii) Failure by the Seller to issue the Declaration of Shipment within the period specified in 10. (A) (i) shall entitle the Buyer to claim for such damages as he shall prove to have sustained.
10. (A) (iii) In no case shall a Declaration of Shipment be issued by the Seller or his authorised representative later than the twenty-first (21<sup>st</sup>) calendar day following the last day of the period of shipment. Failure to issue the Declaration of Shipment within this period shall constitute a default and the twenty-second (22<sup>nd</sup>) calendar day following the last day of the period of shipment shall be deemed to be the date established as the date of default for invoicing back purposes, failing an amicable settlement prior to that date.
10. (A) (iv) Without the consent of the Buyer, a Declaration of Shipment, which on the face of it complies with the contract, shall not be withdrawn or altered except in the case of a *bona fide* error, of which the Seller must furnish adequate proof.

10. (B) General:

Any notice to be given under this Contract must be made with due despatch to the last known place of business of the party to whom it is addressed.

All parties must acknowledge receipt of every notice or Declaration.

When an act has to be done on or before a given day, and such day shall happen to be a non-business day, such act must be done on or before the next following business day, unless provision is made to the contrary in these Conditions.

11. Freight:

Freight under C. & F. and C.I.F. Contracts to be for Seller's account. Any alteration in freight resulting from circumstances which, under Tariff rules, entitle a Shipping Conference to vary their freight rate without notice shall if made after the date of contract and before the date of the Bill of Lading be shared equally between Buyer and Seller.

12. Arbitration:

12. (a) When either party to this Contract claims that a default has occurred, then failing an amicable settlement, the dispute shall be placed before arbitrators and if the latter decide that a default has occurred, the Contract shall be closed out at a price and weight, which price shall be the estimated market value of the Latex contracted for on the day the default has occurred or is established within the discretion of the Arbitrators with a penalty of not less than one (1) per cent of the value of the Contract or the equivalent thereof in the currency of the injured party.
12. (b) All Arbitrations shall be held in accordance with the provisions of the Constitution of a Member Association in the designated Centre of Arbitration given in 12. (c) below and, unless Arbitrators otherwise direct, all differences due under any Arbitration Award, whether arising out of claims for default, or claims on quality, or otherwise, shall be paid in cash within seven (7) business days from the receipt of the Award. In the event of an appeal, payment may be suspended pending the result of the appeal; but should the Award be upheld the amount due shall be increased by interest at bank rate for the contract currency in the country of the sustained party and payment shall be due within three (3) days of the result of the appeal being made known to the losing party.
12. (c) Any dispute arising out of this Contract shall be settled at the designated Centre of Arbitration mentioned below, unless otherwise agreed upon between Buyer and Seller:

Regional Port of Destination

Central and North America

Europe including Russia & Turkey

Regional Centre of Arbitration

New York

London

Australasia, Asia, Africa and South America

Singapore or Kuala Lumpur or  
Jakarta or Bangkok at the choice of  
the party whose application for  
arbitration is first received at that  
Regional Centre of Arbitration.  
If applications are received from  
both parties at different Regional  
Centres of Arbitration on the same  
date, Sellers choice of Regional  
Arbitration Centre shall prevail.

Japan

Tokyo

This Contract shall be construed according to the Laws of the Country wherein Arbitration shall take place whatever be the residence or nationality of the parties, and its performance shall, in every part and incident, be considered due in that country for the purpose of jurisdiction, and the Courts and Arbitrators in that country shall have absolute jurisdiction over all disputes which may arise under this Contract, and decisions shall be enforceable as final judgements in any Country.

12. (d) In the event of there being more than one contract existing between the same parties, which shall be closed in pursuance of an Association's Constitution, an account shall be taken of what is due from the one party to the other in respect of such contracts, and the sum due from the one party shall be set off against the sum from the other party, and the balance of the accounts and no more shall be claimed or paid on either side respectively.
12. (e) When the subject matter and terms of contracts are identical or identical except as to date, quantity or price, all arbitrations in respect of quality or condition shall be held between First Seller and Last Buyer or their authorised representatives and the award made in pursuance thereof, subject to the right of appeal to the Association, shall also be binding on all intermediary parties providing that the terms of the contract have been duly fulfilled so far as they are concerned.

13. **Terminology:**

In these Conditions, unless the context otherwise requires, words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number, and words importing persons shall include firms and corporations.

14. Minor typographical errors in the printing of an individual contract shall not be deemed to void the contract.
15. Disputes arising from different interpretations of the terminology of this Contract shall be referred back to the Management Committee.

All special clauses proposed by any Member Association using this Contract shall be notified to the Management Committee of the International Rubber Association prior to their adoption. If in the opinion of the Management Committee any such clauses should properly form part of this Contract rather than of the special trading terms of an individual Association, the Management Committee shall inform the Association concerned accordingly, and users of this Contract shall not be bound by such special terms. The terms and conditions of the International Contract shall take precedence until the matter is resolved. The Management Committee shall be responsible for notifying all Member Associations of any special terms sent to them.

No Member Association using this Contract shall be bound by the special trading terms of another Association until they have received and acknowledged a copy of such terms.

**Glossary:**

**'Weights recorded to the nearest'** means that weights can be taken upwards as well as downwards. Where the weight recorded is exactly halfway it will be taken upwards.

*Dry Rubber Content (DRC)* shall be determined to the nearest 0.01 per cent.

*Technical Specifications* shall be as agreed between Buyer and Seller.

*For the present, recognised Regional Laboratories* include the test laboratories of:

Rubber Research Institute of Cambodia – Phnom Penh, Cambodia  
National Rubber Quality Supervision Testing Center – Haikou, Hainan, China  
CIRAD – CP Chimie Technologie Hevea – Montpellier, France  
Rubber Consultants, c/o Tun Abdul Razak Research Centre – Hertford, Great Britain  
Processing & Quality Control Division – Kottayam, Kerala, India  
Pusat Pengajian Mutu Barang Eksport Import – Jakarta, Indonesia  
Malaysian Rubber Board – Kuala Lumpur, Malaysia  
Philippine Rubber Testing Centre - Kabacan, Cotabato, Philippines  
TUV SUD PSB Pte Ltd - Singapore  
Rubber Research Sub Institute – Hatyai, Songkhla, Thailand  
Rubber Research Institute of Vietnam – Ho Chi Minh City, Vietnam

*'Through Bill of Lading'* shall mean a Bill of Lading issued by a local carrier with authorisation to act on behalf of the ocean-going carrier calling for shipment into a specific ocean-going vessel scheduled for continent of destination.

(1) Such Bill of Lading should be that of the final carrier and the authorisation should be registered – through the Secretariat – with all IRA members. (It is understood that the above definition is subject to appropriate amendment as necessary).

A '*recognised sampler*' is one which is included in the list of recognised samplers maintained by the Secretariat of the International Rubber Association.

*Shut Out:*

A shut out is deemed to occur when loading of rubber is not permitted by a shipping company on a vessel for which space had previously been booked.

*Marking:*

Drums to be marked in accordance with Buyer's instructions and the tare weight.

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