NEAR EASTERN AND AFRICAN JURISDICTIONS

The following countries of the Near East and Africa are representative of those having the most restrictive and stringent foreign exchange controls: Iraq, Libya, the People's Democratic Republic of Yemen, Turkey, Ghana, Nigeria, Mauritania, Mali, and Zaire.

Iraq, Libya, and the People's Democratic Republic of Yemen

Foreign exchange controls are in force in several Arab countries where economic and political conditions dictate a policy of saving hard currency to pay for the import of capital goods, medical supplies, and commodities considered essential for their national economies. The countries having the most restrictive foreign exchange controls are Iraq, Libya, and the People's Democratic Republic of Yemen.

Article 5, paragraph 2 of the Iraqi Foreign Exchange Law No. 19 of March 13, 1961[1/] prohibits any Iraqi citizen from exporting money, such as, cash, postal money orders, gold, commercial shares, or securities, without authorization from the Council of the Central Bank of Iraq. According to article 7, the value of exported commodities

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1/ al-Waqa'i' al-'Irāqiyah [Official Gazette of Iraq] No. 501 of March 27, 1961, pp. 1-4.

should be repatriated; however, foreign trade has become the exclusive monopoly of the state. Article 16 stipulates that any violator of the Foreign Exchange Law is liable to a penalty of not less than five years in jail, a 10,000 ID fine (approximately $30,000), or both.

Libya has promulgated Royal Decree of October 5, 1955[2/] stipulating that foreign exchange operations are government controlled. Articles 1 and 2 prohibit the import and export of Libyan or foreign currency and state that funds resulting from exported commodities should be repatriated. Citizens traveling abroad are allowed to take 50 LD (approximately $150) in banknotes without permission and another sum of foreign exchange not to exceed 10 LD (approximately $30). Visitors may bring any amount of foreign exchange into Libya and may take it out if they have declared it upon entering Libya. Article 8 states that foreign exchange violators are liable to three years imprisonment, a fine not to exceed 1,000 LD (approximately $3,000), or both.

Similarly, the People's Democratic Republic of Yemen has issued Law No. 16 of April 1, 1971[3/] prohibiting all Yemeni citizens and temporary foreign visitors from dealing in or using foreign

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2/ 8 Mawsu'at al-Tashrī'iyat al-Lībīyah: Naqd [Encyclopedia of Libyan Legislation: Currency] 9-14 (1962).

3/ Jumhūriyat al-Yāman al-Dimoqrātīyah al-Shabīyah al-Jarīdah al-Rasmīyah [Official Gazette of Yemen] No. 26 of July 1, 1971, pp. 29-30.

currency, such as traveler's checks, personal checks, cash, securities, and shares. Licensed money changers may deal with selling and buying banknotes which are not handled by the National Bank of Yemen [al-Bank al-Ahli al-Yamani].

Turkey

Foreign exchange control and offenses against this control are regulated by the provisions of the Law of the Protection of the Value of the Turkish Currency[4/] and by the decisions of the Council of Ministers. Import and exchange control are administered by the Ministry of Commerce, the Ministry of Finance, and the Central Bank of the Republic.

Import and foreign exchange control are very restrictive in Turkey because of the shortage of foreign exchange and the desire to protect domestic industry. Besides the regular restrictions on import and export and on foreign exchange transactions,[5/] there are other restrictions which make Turkey one of the countries having the most

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4/ Law No. 1567 of February 20, 1930 as amended on March 8, 1966. In Fahri Çoker and Sadi Kazanci, eds., Türkiye Cumhuriyeti Kanunlari [Laws of the Turkish Republic] 1462-66 (2d ed., 1973) (looseleaf).

5/ Decision No.17 Concerning the Protection of the Value of the Turkish Currency, T.C. Resmî Gazete [Turkish Official Gazette] No. 11178 of August 11, 1962.

restrictive system of control on foreign exchange. The following are examples of these restrictions:

a) Travel regulations restricting the resident to foreign travel once every two years and limiting the amount of foreign currency taken out of Turkey;[6/]

b) blockage of funds accrued to non-residents from inheritance or sales of real estate situated in Turkey and owned by non-resident physical or juridical persons;[7/] and

c) obligations requiring exporters to sell the foreign exchange proceeds of goods exported to a bank in Turkey within three months from the date of export or within ten days from the date on which the foreign exchange is placed at their disposal.[8/] This obligation applies to every resident who makes money abroad.[9/]

Nigeria and Ghana

Both Nigeria and Ghana have very strict foreign exchange regulations. The main regulations for Nigeria are found in the Exchange

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6/ Communiqué Series IV, No. 8/1 Rendered According to Decision No. 17 Concerning the Protection of the Value of the Turkish Currency, Turkish Official Gazette No. 16202 of February 16, 1978.

7/ *Supra* note 5, art. 42.

8/ *Id.*, art. 14.

9/ *Id.*, art. 30.

Control Act No. 16 of 1962, as amended.[10/] Those for Ghana are contained in the Exchange Control Act No. 71 of 1961.[11/] The provisions of both acts are very similar, consisting mainly of prohibitions designed to conserve foreign exchange.

In both countries almost all transactions involving foreign exchange are forbidden except with the permission of the Minister of Finance. Most of the powers of the ministers are, however, delegated to the Central Bank in each country. It is forbidden for anyone but authorized dealers to handle any transactions involving foreign exchange.

When foreign exchange is issued to anyone for a particular purpose, it must be used for that purpose. When it is no longer required for that use, it may not be held. Residents of either Nigeria or Ghana may not make payments to the credit of a non-resident or to another resident on behalf of a non-resident. Payments for the acquisition of property outside either country are also forbidden. Securities or any interest in them may not be transferred in favor of a non-resident nor may securities inside either country be substituted for securities outside those countries. In Nigeria, a foreign business granted "approved status" by the Minister of Trade

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10/ 1962 Nigerian Official Gazette Supplement A51.

11/ 2 Acts of Ghana.

may repatriate its share of capital and profits.[12/]

In order to restrict the flow of foreign exchange outside the country, both Nigeria and Ghana have placed restrictions on imports. In addition, exporters in both countries must yield the proceeds from their exports in foreign currency to their respective Central Banks.

Mali, Mauritania, and Zaire

Among the French-speaking African countries south of the Sahara, Mali, Mauritania, and Zaire apply the most retrictive foreign exchange controls.

Financial relations with foreign countries have been strictly regulated in Mali since 1968. The Ministry of Finance and the authorized banks operate foreign exchange controls, and the Ministry of Commerce issues import and export licenses.[13/]

According to the regulations, residents are permitted to import and export a limited amount of national banknotes. However, they may not own foreign currency or maintain bank balances abroad and may not make foreign investments without prior authorization.

12/ Nigerian Exchange Control Act No. 16 of 1962, supra note 10.

13/ Order No. 240 of March 29, 1968, Journal Officiel de la République du Mali [Malian Official Gazette: MALI OG] No. 274 of April 15, 1968, pp. 267-68; Order No. 11 of January 7, 1969, MALI OG No. 294 of February 1, 1969, pp. 81-82; and Law No. 67-19 of June 21, 1967 MALI OG No. 254 of July 15, 1967, pp. 360-61.

Residents are allowed to transfer currencies within the French Franc Zone. They must repatriate export proceeds from outside the French Franc Zone within ninety days and license imports originating outside the West African Economic Community. Both residents and non-residents may import any amount of foreign banknotes, but neither may import gold coins.

Receipts from foreign countries are free. However, capital movements between Mali and foreign countries are restricted and require exchange control approval. Transactions with France and other countries within the French Franc Zone are exempted from these controls. In addition, foreign loans with countries other than France and those within the French Franc Zone are subject to special controls.

In Mali the Investment Code of 1969 grants special privileges in respect to the foreign transfer of profits, dividends, and royalties as well as to the repatriation of funds derived from investment liquidations in the country.[14/]

Since 1967 Mauritania has imposed foreign exchange controls requiring authorization for foreign exchange operations and capital

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14/ Ordinance No. 29 of May 23, 1969, MALI OG No. 302 of June 1, 1969, pp. 366-69; and Decree No. 182-69 of October 29, 1969, MALI OG No. 312 of November 1, 1969, pp. 817-18.

movements performed by residents or non-residents.[15] This authority is exercised by the Ministry of Finance and the Central Bank.

Residents are defined as natural persons and corporations with an established domicile of not less than six months. Residents are not permitted to import or export foreign currency and may not own foreign currency in Mauritania. Their investments abroad, foreign loans exceeding a minimum amount, and repayments on the loans are subject to prior approval.[16] In addition, residents must surrender proceeds from exports, insurance, tourism, transportation, royalties, and license fees to the government of Mauritania.

Non-residents are similarly prohibited from importing and exporting foreign currency. Their direct investments and liquidations are subject to approval.

Capital receipts are free. However, capital movements and transfers to all foreign countries are subject to foreign exchange control.[17]

15/ Law No. 67-128 of June 19, 1967, Journal Officiel de la République Islamique de Mauritanie [Mauritanian Official Gazette: MAU OG] No. 211 of July 5, 1967, pp. 208-09; Decree No. 69-384 of November 21, 1969, MAU OG No. 268-269 of December 31, 1969, pp. 71-72; and Law No. 73-137 of June 18, 1973, MAU OG No. 352-353 of June 27, 1973, pp. 224-25.

16/ Decree No. 67-130 of June 30, 1967, MAU OG No. 211 of July 5, 1967, p. 234; and Decree No. 69-383 of November 21, 1969, MAU OG No. 268-269 of December 31, 1969, pp. 70-71.

17/ Decree No. 68-338 of December 16, 1968, MAU OG No. 244-245

In Zaire regulatory authority over foreign payments, receipts, and trade is vested in the Bank of Zaire through provisions contained in 1966 laws.[18/]

No one is permitted to import foreign banknotes or coins. In addition, residents are not permitted to export or import foreign currency or to own foreign currencies, and they may not maintain foreign bank balances. Ordinance No. 66-584 of October 14, 1966 stipulates that an official allocation will be established for each trip abroad.[19/] According to Decree-Law of June 29, 1961,[20/] import and export operations are subject to licensing by the Bank of Zaire. All exchange receipts, including those derived from exports, must be surrendered to the Central Bank or its authorized agents. Additionally, exports must be secured either by a general license or by an individual declaration subject to prior approval.

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of December 31, 1968, pp. 411-12; Order No. 735 of December 24, 1968, MAU OG No. 244-245 of December 31, 1968, pp. 412-13; and Circular No. 34 of December 28, 1968, MAU OG No. 244-245 of December 31, 1968, pp. 415-16.

18/ Ordinance No. 66-209 of April 6, 1966, Moniteur Congolais No. 8 of May 1, 1966, pp. 220-21 [hereinafter cited as MC]; and Ordinance No. 66-327 of May 21, 1966, MC No. 13 of July 15, 1966, pp. 481-484.

19/ MC No. 6 of March 15, 1967, p. 191.

20/ MC No. 16 of July 24, 1961, pp. 276-82.

Non-residents of Zaire are prohibited from importing and exporting national banknotes. The transfer of rents, profits, and dividends is also forbidden. The 1969 Investment Code guarantees, however, the transfer of profits and dividends derived from newly invested capital and permits the repatriation of such capital in case of liquidation. Any other capital movement abroad operated by residents or non-residents is prohibited.[21/]

Non-resident payments must be made in specific convertible currencies. The acceptance of other currencies which are not fully convertible requires special authorization. In general, foreign exchange is made available only for licensed imports whereby the license is also valid for exchange purposes until payments have been completed.[22/]

21/ Ordinance-Law No. 69-032 of June 26, 1969, MC No. 21 of November 1, 1969, pp. 839-50.

22/ Decree-Law of June 29, 1961, MC No. 16 of July 24, 1961, pp. 276-82; and Ordinance-Law No. 66-584 of October 14, 1966, MC No. 6 of March 15, 1967, p. 191.

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