

PDABK-662
93674

Legal and Regulatory Aspects of Export of Agropastoral Products Republic of Chad

Contract No. 677-0069-C-00-3554-00

FINAL REPORT

**A Study Performed Under Subcontract By
The Service Group
Arlington, Virginia**

**Prepared for USAID/Chad
January 1994**



**LEGAL AND REGULATORY ASPECTS OF
EXPORT OF AGROPASTORAL PRODUCTS
REPUBLIC OF CHAD**

**A Study Performed by
Louis Aucoin
Benjamin Hardy**

**for the ATPRP Project
of USAID/Chad
under
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The authors wish to express their appreciation for the assistance and cooperation they received from USAID/Chad and from the many Chadians, official and private, who contributed to this study. In particular, warm thanks to our Chadian counterpart on the project, Mr. Guelkagayo Mianhoudam ("Gaby"), Chief of the License Bureau, External Commerce Division, Ministry of Commerce, Government of Chad. During our field trip to Sarh and Moundou, he provided invaluable help in making contact with knowledgeable informants and in explaining to us the Ministry's export licensing program.

Executive Summary

This examination of legal and regulatory constraints on agropastoral exports is based upon field work in Chad (N'Djaména, Sarh, and Moundou) during November 1993. The purposes, focus, and scope of the study are discussed in Section I. Although the study touches upon some Government of Chad (GOC) activities affecting general commerce, it focuses mainly on the Ministry of Commerce export licensing program. Its purpose is to propose specific steps to eliminate the program's deterrence to agropastoral exports.

Contrary to USAID/Chad's expectations, we find Chad's export licensing program presents no important impediments to agropastoral exports. In the course of this study, not a single private operator complained that export regulations are a major problem. There were ample complaints about other constraints, including taxes, transport costs, difficulty in obtaining financing, and the behavior of government "agents"; these are properly the focus of other studies already planned under USAID/Chad's ATPRP program.

The export licensing program arises from a single legislative basis, Decree 113/ET of 14 June 1965. In Section II, after discussing legal authority of regional and local officials, we examine the decree's provisions and compare them with procedures currently followed by the Ministry of Commerce. Interviews at Sarh and Moundou revealed significant differences in understanding of the law and methods of applying it, but the differences do not interfere with export commerce.

Chadian officials stated that export licenses allow the monetary authorities control over foreign exchange entering Chad from countries outside the franc zone, and promote national self-sufficiency in essential foodstuffs by allowing the government to calculate the global balance between food imports and exports at any given period. Thus, the decree addresses policy objectives long since abandoned and imposes requirements long since obsolete. The program is a useless anachronism, misconceived in 1965 in order to stifle private economic activity and extend GOC control over the smallest details of the country's international trade. Although the program's administration no longer matches either the letter of the decree or its intent, the inconsistencies have relatively little effect on export trade: GOC efforts to implement the program and compliance by private economic operators are minimal. During 1992, seventy-five export licenses were issued; at this annual rate, the program produces about FCFA 375,000 (roughly \$1,300 at November 1993 exchange rates), contributing little to GOC revenues. By the end of November 1993, only forty-four more export licenses had been issued. Export licensing is not important enough to concern private economic operators, the GOC, or donors.

As we point out in Section III, the export license program is of no use and could be dispensed with, but we recommend that USAID not make such a reform a condition precedent to the third tranche of ATPRP nonproject assistance to the GOC. Although the GOC should abolish the program, the machinery for doing so is likely to be cumbersome and slow; it would be simpler to pass the word to interested parties, official and private, that export licenses are no longer issued or expected. USAID/Chad need not demand that the program be discontinued because it has already atrophied to the point where it has no meaningful effect upon economic activity. Therefore, the authors have no reforms to recommend and hence no detailed proposals for implementing them.

Section I. Purposes, Focus, and Scope of Study

I.A. Purposes

This report examines legal and regulatory constraints likely to discourage agricultural exports and to encourage use of informal sector export channels. The Scope of Work for the study states that

Export regulations have been identified by the private sector as an important obstacle to increased exports of agricultural products. The export license, for example, can only be issued at N'Djamena, and a separate license is required for each commodity to be exported. Each request must be accompanied by extensive documentation that is very expensive and time-consuming for a typical Chadian business to assemble. Consequently, it is not surprising that most agricultural exports, other than cotton, take place in the informal sector. Even if the export tax were to be eliminated, it could be expected that many small traders would continue to avoid official channels because of the regulatory requirements.

The GOC has expressed its intention to reduce and simplify regulatory requirements with respect to exports. The purpose of this study will be to document all controls affecting exports in general, and agricultural exports in particular, and recommend appropriate changes. The findings and recommendations of this study will provide the basis for identifying the regulatory policy reforms that will be a condition precedent to the third tranche of ATPRP non-project assistance to the GOC.

We believe the Scope of Work overestimates the extent to which export regulations are an obstacle to increased exports of agricultural products. On the contrary, in the course of this study we found not a single private operator who complained that export regulations were a major impediment; rather, taxes of various kinds, many of them levied equally on internal as well as foreign trade, were the focus of heated complaints and, likewise, the cost of transport, which includes taxes and fees levied by the official National Freight Bureau. (Taxes are to be the subject of a separate ATPRP study.) Formal sector operators tended to cite difficulty in arranging trade finance, while informal sector operators complain about the behavior of "agents," i.e., persons acting or purporting to act under government authority.

These are problems of doing business in Chad, not just exporting. Although export licenses are only issued in N'Djaména, it is certainly not necessary to journey to the capital in order to obtain one; in every major prefecture there is a Regional Bureau of Economic Affairs, in effect a branch office of the Ministry of Commerce, which accepts export license applications for those who seek them, and transmits them to N'Djaména for processing. That a separate license is required for each product is of little consequence, as traders in a given locale tend to specialize in a specific product. The extensive documentation referred to is that required in order to be recognized as a commerçant (merchant, trader), including an importer or exporter, under the provisions of Ordinance 006/PR/84, whose provisions have already been the focus of USAID efforts at simplification and reform.¹

¹See Benjamin H. Hardy, "A System and Implementation Schedule for Simplifying Business Registrations in Chad," prepared for USAID/Chad (N'Djaména, 1992).

It is certainly true that most agricultural exports other than gum arabic, cotton, and cottonseed oil take place in the informal sector. However, it seems likely that even if all export taxes, other taxes on trade (local or national), and all export regulations were to be eliminated, few small traders would choose official channels. This is not because the informal sector is the illegal sector, nor because the government deliberately exploits small traders, but because the informal sector is the traditional sector: these economic operators behave as they do because they have always done so, basing their business affairs on ethnic origins, personal ties of friendship, fealty, dominance, and submission, and age-old patterns for assuring supplies, arranging storage and transport, negotiating prices, delivering on promises, and receiving payment in money, goods, services, esteem, and privilege. The modern economy, with its legal/rational calculus of profit and loss, is a cold and cheerless place by comparison.

In addition, official steps to eliminate taxes and regulations would leave in place the informal government, an institution similar to the informal economy in the sense that it, too, operates more in accordance with tradition than with legal/rational norms. This informal government uses the outward forms of modern administration for traditional purposes; many of its practices have grown up slowly, organically. In the informal government, laws, regulations, forms, and fees undergo local adaptations to satisfy personal and communal objectives in traditional ways. Informal government is not necessarily reprehensible--it is merely traditional. However, we infer that many quasi-official procedures that link commerce with government (such as road checkpoints, which persist despite official efforts to eliminate them) involve the informal economy coping with the informal government. Many of the abuses private economic operators complain about when they refer to the behavior of "agents" involve the informal government.

To a much lesser extent, traditional behavior also characterizes the official government. For example, it appears that much of the government's activity is self-oriented; it exists to perpetuate itself rather than to provide services needed by the people. Laws and regulations are justified if they provide work for civil servants, without much weight assigned to whether the work serves a larger public purpose. As will be seen, the administration of export trade regulations has taken on some aspects of the informal government.

I.B. Focus

The Scope of Work enumerates the following tasks to be performed:

- a. Describe all of the controls on agricultural exports that are in effect at this time, including those instituted by prefectural authorities.
- b. Identify the law or decree that authorizes each control and the institution responsible for implementing it.
- c. Determine the reason that the control was put into effect, the impact that it has on exporters, and ways in which it can be eliminated or modified. In carrying out this task, the Contractor will consult with members of the Export Overview Team which will be in Chad at the same time.
- d. Describe in detail the procedure by which the recommended changes would be put into effect, including the specific laws or decrees to be changed, the step-by-step process by

which such changes would occur, the institutions that would be involved in each step of the process, and a reasonable time frame for completion of the process.

Our focus is the practice of licensing all exports. While it is true that prefects have claimed and exercised authority to control the movement of essential foodstuffs within their territories (see Section II.A below), in practice the controls are applied only in time of food deficit, and essential foodstuffs, particularly cereals, do not appear to be major export items in the places we visited. The legal/regulatory basis for such controls is discussed below in Section II.A. These controls have also been examined under another USAID study, which recommended that USAID urge the GOC to prevent prefects from resorting to such controls in the future.² (At present, there appear to be no such controls in effect in the three regions investigated during the course of this study, although the authority to institute them remains in effect.)

The tax authority of mayors and village chiefs appears to us to be justified, inasmuch as giving local authorities budgetary/fiscal powers is a step toward decentralized government; unfortunately, taxing trade directly inevitably adds to business costs, but apparently these taxes are applied to all goods, not just those exported, and in any case a full investigation of such taxes is properly the subject of the ATPRP tax study.

The Ministry of Commerce export licensing program arises from a single legislative source, Décret no. 113/ET portant réglementation de l'exportation et de reexportation des produits, marchandises, denrées, et objets de toute nature de la République du Tchad (available at Appendix IV.B and hereafter cited as Decree 113), dated 14 June 1965. Although it would seem likely that during nearly thirty years of administering the decree the Ministry would have issued arrêtés, notes circulaires, notes de service, or other supplementary guidance to ministry officials, the response to our requests for such items was that there are none: the decree stands alone. A review of published laws at the CEFOD library (see Section II.A, below), also failed to reveal any relevant administrative rulings. The decree's purposes are described in Part II.E, below. (A draft revision of several minor points in the decree has been under study for some time; copies of the decree and the revision are available in Appendix IV.B.)

As we shall discuss in Part III, the export license program is of no use and should be dispensed with, but we recommend that USAID not make such a reform a condition precedent to the third tranche of ATPRP non-project assistance to the GOC. As a result, the authors have no reforms to recommend, nor detailed processes for implementing them.

I.C. Limits to the Study

At various points in our study, officials of USAID and ATPRP suggested ways to limit overlap with prior or anticipated studies relating to agricultural exports. As was mentioned earlier, for example, taxes and tax-related measures are to be the subject of a separate ATPRP study.

In addition, certain agropastoral products were excluded from the present export licensing study. Cotton exports, for example, are a modern, formal sector monopoly of Cotontchad, which has GOC and foreign ownership. Also, under the World Bank's structural adjustment program, livestock

²Lawrence Kent, "Administrative Restrictions to Cereals Circulation: An AMTT Discussion Paper," prepared for USAID/Chad (N'Djaména, 1993).

exports have been specifically exempted from all export controls. Cereals and cowpeas exports are logically a topic for the present study, but the prefectures chosen for analysis (embracing the towns of N'Djaména, Sarh, and Moundou) are not exporters of grains and legumes to neighboring countries. Similarly, fresh fruits and vegetables are not much exported from these places (as onions and garlic are, however--for example, from Abéché). As a result, the agropastoral products remaining for analysis include the following:

- gum arabic, exported by formal sector traders from N'Djaména
- cottonseed oil, exported by informal traders from Moundou
- cottonseed cake, exported informally from Moundou
- peanuts, exported informally, largely via Sarh
- fish, exported informally along the borders
- animal hides, exported informally to Nigeria via Cameroon

The effect of licensing on exports of these products differs more due to the preference of traders for the formal or the informal sector than to the products themselves. Certain exports, such as those involving peanuts and animal hides, take place almost entirely in the informal sector, without resort to any export license whatever; we expect we would have found similar behavior with respect to fish and cowpeas had we visited the Lake Chad region and with respect to onions and garlic had we visited Abéché.

Section II. Relevant Law and Regulations

II.A. Authority of Regional and Local Officials

Chad has only one national law dealing directly with regulation of exports, Decree 113. There are nonetheless other laws and regulations that operate in such a way as to limit or discourage all kinds of trade, exports included, in certain agropastoral products, namely essential foodstuffs.

Article 7 of Décret 267/PR/INT fixant les attributions des Préfets, dated 2 November 1972 states that "When the population's supply of foodstuffs of primary necessity threatens the public welfare, he [the prefect] shall take the emergency measures required and report on the situation to the government" [our translation]. This general grant of authority has been and continues to be interpreted by prefects and other government officials as empowering the prefect to limit the transport of vital foodstuffs out of his prefecture.

In our interviews of the prefects in Sarh and Moundou, they reported to us that they had the authority, in the case of a shortage of a particular food staple, to issue a prefectural arrêté, not only forbidding the export of the staple but also preventing its transfer outside of the prefecture. In Sarh, it was reported to us that this authority was exercised last year by the prefect, who outlawed the transfer or export of millet from that prefecture. (A blank copy of the authorization form is available at Appendix IV.B.) The prefect in Moundou also referred to that authority but reported that he had not exercised such authority in recent years. In our interview with the Director General of the Ministry of Commerce in N'Djaména, he stated his belief that this authority lies in the law enumerating the powers of prefects (i.e., Decree 267).

A brief view of the relevant applicable law reveals that such action by prefects is authorized under the very broad terms of Article 7 of Decree 267.³ That article states: "When the population's supply of foodstuffs of primary necessity threatens the public welfare, he [the prefect] shall take the emergency measures required and report on the situation to the government." [Our translation.]

Since our study focuses on regulatory requirements for exports, we consider that this prefectural control on exports is only tangentially relevant. We therefore confine our treatment of it to a general reference to the prefect's authority in this connection without commenting on the wisdom of the law; in any case, none of the exporters or government officials interviewed objected to it as a restraint on exports.

In addition, the following laws would grant local administrators, in particular mayors and village chiefs, the authority to levy taxes on movement of goods:

Loi 15/62 de 22 Mai 1962 portant organisation Municipale dans la République du Tchad.

Ordonnance 17/PR/85 portant organisation des Communes de moyen exercice.

Ordonnance 4/INT de 13 fevrier 1960 portant organisation administrative générale du territoire de la République. [Article 23 grants authority on the village level.]⁴

It is significant that in our interviews with both exporters in the private sector and of government officials, the multiplicity and high rates of taxes on exports were the factors most frequently and emphatically cited as a restraint on exports. It was reported to us that in addition to taxes imposed by customs officials, taxes were also imposed by the commune, by local authorities, and by those acting in an officious manner at the many barriers set up along routes leading to the borders.

However, we discovered a palpable lack of clarity as to the state of the law with respect to both the authority of prefects, described above, and the authority of local officials to tax exports. Although the written laws cited above would appear to provide prefects and local officials the authority in question, the director general of the Ministry of Agriculture and USAID officials informed us that recent administrative directives remove both prefects' emergency powers and local officials' tax authority; USAID provided us two administrative rulings believed to be intended to accomplish this.

The first source of confusion is that no one in Chad other than USAID and the Ministry of Agriculture appears to be aware of directives to this effect; for example, officials of the Ministry of Commerce in the capital and both prefectural and national officials in the regions we visited appear to be unaware of the changes. This reflects the endemic lack of publication and

³For a discussion of executive authority in the Chadian legal system, see Louis Aucoin, "Current Status of the Legal System and the Rule of Law in Chad and its Effect on the Private Sector," prepared for USAID/Chad (N'Djaména, 1992).

⁴These laws are available at the CEFOD library, where they are contained in Tome I, *Organisation Administrative et Chefferies Traditionnelles*, and Tome II, *Administration Municipale et Libertés Publiques*, both Ministry of Interior publications.

distribution of changes to laws and regulations, a problem that cripples Chad's legal system and its public administration.

The documents themselves add to the confusion. Both are internal administrative messages that purport to modify statutes, thus constituting a breach of authority, since they are inconsistent with existing statutes but are far lower in the hierarchy of legal instruments.

The earlier of the documents provided us, no. 551/MF/SE/DG (undated, but early September 1992), is a letter entitled "Prélèvement des taxes illégales sur les produits agricoles" [Imposition of illegal taxes on agricultural products] from the Ministry of Finance to the Minister of Interior; it calls the taxes in question illegal because they are "not instituted by the state." This creates a legal anomaly in that the laws cited above specifically grant local officials authority to impose taxes regardless of whether they have been instituted by the state.

The letter cites two harmful results from the offending taxes: they discourage commercial activity and they impede transport of cereals and other foodstuffs from surplus to deficit regions. From the wording, one might infer that the Ministry of Finance intended to curtail the emergency authority of prefects discussed above. However, although this language may have led USAID and the Ministry of Agriculture to conclude that the letter strips prefects of authority to control movement of foodstuffs, by its own terms the letter is limited to enjoining collection of illegal taxes. In contrast, the law governing the prefect's authority relates to controlling movement of foodstuffs out of his prefecture and is silent with respect to taxes. Therefore, the letter fails to extinguish that authority despite the letter's intent and its interpretation by some officials.

The second document, no. 0268/MIS/SE/DI/93 of 17 March 1993, is a letter headed "Taxes on agricultural products" from the Minister of Interior to prefects, assistant prefects, and local administrators; it complains that despite previous instructions, officials continue illegally to collect taxes on agricultural products, exposing them to judicial penalties. The identity of the recipients might lead one to believe that this letter also intends to extinguish the prefects' emergency authority. However, it says that the sole exception to the prohibition against such taxes applies within urban communities that depend upon such revenue sources to cover their modest budgets. This would tend to reconfirm rather than extinguish the taxing authority of the addressees. In fact, the intent of the letter is to take specific exception to the application of foodstuff taxes to purchases by foreign donors such as USAID, which suggests that it is intended not so much to reduce local authority as to facilitate foreign donor efforts to rebuild food security stocks.

Adoption of a clearly worded statute appears the only way to abrogate the prefects' emergency powers to stop the movement of essential foodstuffs. At present, such a law would have to be submitted by the Council of Ministers and adopted by the Conseil Supérieur de la Transition (CST, or High Council of the Transition), whose legislative powers are based upon Article 72 of the Transition Charter. Recognizing the time and effort that would be consumed in pursuing this course, however, we have reservations about recommending it, even if abrogation is desirable as an economic policy reform. We believe that because the authority is rarely exercised, and then only briefly for certain products, it is unlikely to constitute a major constraint on exports. Efforts to inform and persuade local officials about the ill effects of the constraints are more likely to be effective than efforts to push legislation through the transition system.

With respect to the local tax authority, we offer a similar observation: if that authority is deemed detrimental (and we are inclined to believe that decentralization of political authority should

include local control over both local spending and local revenues), then the CST will have to adopt a statute. In addition, Ministry of Finance personnel will have to travel to the regions to explain the legislation, oversee its implementation, and levy fines and criminal penalties when violations occur.

However, we hesitate to go further or make any final judgment regarding the desirability of such measures because the study of these taxes properly belongs to the ATPRP study of tax constraints to agropastoral export trade. That study is to take place during the coming months and will be conducted by specialists who can advise on the utility of particular taxes and their effects on exports. To the extent the tax study concludes that local tax authority should be amended or abrogated, the recommendations for a statute and enforcement personnel should be given due weight.

II.B Legal Basis of the Export Licensing System

Apart from the indirect effect of the laws and regulations discussed in the previous paragraphs, Chad's sole legal basis for regulating exports is Decree 113. It was issued in the name of the Ministry of Economy and Transport, Directorate of Economic Affairs, External Commerce. According to Chadian officials, the name of this ministerial entity has changed many times during the past twenty-eight years, but it is readily recognizable as the External Commerce Division of today's Ministry of Commerce.

The GOC considers the decree's fourteen articles (organized in four chapters) to govern Chad's export license program, but the practice that has arisen in connection with issuance of export licenses is not always consistent with the letter of this decree. Although we discuss current practice in Section II.B below, we provide here a detailed analysis of the letter of the law, noting occasionally where the practice diverges.

Article 1 announces that the decree applies to export and reexport (transit) of any and all products.

Chapter I, dealing with export (as opposed to reexport), contains articles 2 and 3. Article 2 concerns exports to countries within the [French] franc zone, and Article 3 relates to exports outside of that zone.

Article 2 begins by clearly stating that an export license is required for all products exported to destinations within the franc zone. (Interestingly, several trade regulation officials in Sarh stated to us exactly the opposite understanding of this decree--that export licenses are not required when exporting products within the franc zone.) It goes on to state that these licenses are to be granted without limitation, with the exception of the following products, with respect to which exports may be limited or controlled: food staples such as rice, corn, and grains; textiles, such as cotton; industrial products, such as tobacco, and all mining products with the exception of natron, which may be exported without limitation. Licenses under this article are to be issued by the Minister responsible for Commerce, who may delegate this responsibility to the Director of Economic Affairs.

Article 3 covers export licenses for exports of all products to areas outside the franc zone. According to the law, these export licenses are to be issued by the Director of Economic Affairs of the Ministry of Economy and Transport and must be reviewed by the Director of Foreign

Exchange, who is required to affix his "visa." While the decree does not specifically state this, the foreign exchange office falls under the responsibility of the Ministry of Finance.

Chapter 2 deals with "export and reexport" (sic) of all products that have been previously imported (i.e., products in transit). It contains Articles 4, 5, and 6:

Article 4 covers transit to countries inside, and Article 5 covers transit to countries outside, the franc zone. Article 4 provides that export licenses for transit products be issued in the same way as they are in the case of other products exported within the zone under Article 2--but not automatically. (Recall that under Article 2, all products save those listed may be exported without limit.) Article 5 provides that export licenses for products in transit to countries outside of the zone be issued in the same way except that in the case of those products, the Director of Foreign Exchange must affix his visa before the Minister responsible for commerce can issue the license.

Article 6 simply lists transit goods with respect to which no export license is required:

- products and supplies for aircraft in transit
- samples, with or without a commercial value, departing following temporary admission
- packing or containers completely reexported
- packing or containers of any nature, empty or full, following temporary admission where the importation did not involve any payment outside of the country
- personal property of travelers
- products subject to diplomatic immunity
- goods returned due to errors in shipping, etc.; these must not leave customs
- automobiles exported temporarily or in transit after temporary admission

Chapter 3, which sets out the procedures applicable to all export licenses, contains Articles 7 through 11 (i.e., five in all):

Article 7 states procedures regarding application for and issuance of the export license. (Current procedures reflect evolution over time.) It requires that three copies of the application be filed for exports within the franc zone, and five copies be filed for exports outside of the zone; in the latter case, one copy of the application must be domiciled with a bank authorized to act as intermediary between Chadian exporters and foreign parties.

Under this article the copies are to distributed as follows:

- a) For exports within the zone:
 - 1st copy-- Directorate of Economic Affairs
 - 2nd copy-- Exporter
 - 3rd copy-- Customs office at locality from which product(s) is (are) being exported
- b) For exports outside the zone:
 - 4th copy-- Directorate of Foreign Exchange
 - 5th copy-- Authorized intermediary bank

Furthermore, the article states, the application must be accompanied by whatever documentation is required by the application itself and by the foreign exchange regulations.

Article 8 provides that the export license, once issued, is valid for six months, and this period is automatically renewed upon request. However, if no action has been taken on the license during the first six months (no part of the quantity of products to be exported has actually been exported), the licensing authority has discretion to deny the automatic renewal.

Article 9 sets out the circumstances under which the license can be modified. Modifications are to be the exception and not the rule; in the usual case they may only be authorized when they involve unintentional errors of form. These errors must be corrected before a customs declaration is made. However, in the case of force majeure (war, catastrophe, etc.) in the country of destination, the destination can be changed without the necessity of a new application in order to avoid economic waste. In that case the change must be accompanied by documentary justification.

Under Article 10, the license may be revoked in the case of force majeure within Chad or in case it is found that the exporter is engaging in speculation. In addition, the exporter himself may request that the license be canceled. He must explain his reasons. In that case all parties entitled to a copy of the license application must be notified of the cancellation.

Article 11 deals with review of the quantities exported and with control of foreign exchange. In all cases, after customs officials have verified the quantity exported, a copy of the license used for this purpose must be sent to the Director of Economic Affairs. Where the export is outside of the franc zone the license must contain a commitment by the exporter to turn over all foreign exchange to the intermediary bank. As will be seen in the discussion of current practices in Section II.B below, the requirements of this article have become obsolete in practice.

Oddly, the last chapter of the decree, which contains Articles 12 through 14, is labeled "Chapter 6." This is obviously an error: it should be Chapter 4. It is entitled "Miscellaneous Provision." The only significant provision is Article 12, which provides that the penalties for violation of the decree shall be the same as those that apply to violations of the laws establishing prices and to violations of the regulations governing customs and foreign exchange.

II.C. Current Export Licensing Procedure

Anyone applying for an export license must already have established that he or she has prior authorization from the Ministry of Commerce to engage in trade, including export trade. In practice, this means that the applicant must have satisfied the requirements of Ordinance 006 and its relevant implementing regulations.⁵

Decree 113 requires that a separate export license be obtained for each category of merchandise (generally, each category of the Tariff Code) intended for export during the license validity period, i.e., six months from the license issue date, renewable for an additional six months.

The would-be exporter goes to the appropriate office of the Ministry of Commerce and completes an application form (See Appendix IV.B). In N'Djaména, the office is the External Commerce

⁵The obligations established under Ordinance 006 are arguably the most onerous legal/regulatory constraints imposed upon private economic operators in Chad. See Hardy, "A System and Implementation Schedule for Simplifying Business Registrations in Chad."

Division's License Bureau; in the prefectures, the office is the Regional Bureau of Economic Affairs, which does no processing other than to forward applications to the Ministry of Commerce.

The applicant's documentation as an export trader (as required under Ordinance 006) plus the application form constitute the applicant's dossier, which is circulated within the Ministry of Commerce for examination and comment by the officials concerned (chiefs of the License Bureau and the External Commerce Division, the Director of Commerce, the Director General, and the Minister; see the blank "Avis" form at Appendix IV.B).

Each official is asked to comment upon the application, specifically with regard to the total amount of product to be exported. When all division chiefs have indicated their approval, the applicant is notified that a decision has been reached.

Upon notification that the license application has been approved, the exporter goes to the Treasury to pay the droit de licence and the droit de fichier; total cost of the license is FCFA 5000 (about \$17.50 at November 1993 exchange rates). The exporter brings the receipts to the Ministry of Commerce.

The license is completed in six copies--officially five, but see the distribution in the next paragraph. (A blank license form is available at Appendix IV.B; note that what is today's license was once the application form--another example of the evolution of usage away from legal or administrative norms.) Limitations on the license are in accordance with the comments added to the application by the division chiefs; i.e., in principle, if a restriction upon the amount to be exported has been recommended, the license will be limited to the restricted amount. In practice, it appears, licenses are approved routinely for the amount requested by the applicant.

The exporter takes the license to his bank to be domiciled, and then returns it to the Ministry of Commerce. If everything is in order, the license is signed by the Chief of the External Commerce Division, the Director General, and the Minister of Commerce. (The minister may delegate his signing authority to the DG.) The license is then entered on the Ministry of Commerce Registry of Licenses, and single copies are distributed as follows:

- Commerce, External Commerce Division
- Commerce, License Bureau
- Finance, External Finance Bureau
- Finance, Customs Bureau
- Applicant's intermediary bank
- Applicant

The applicant's copy becomes the exporter's authorization to export a given product up to a given quantity during the validity period. It is presented at the border customs post when export occurs. On the reverse side of the license there is a form upon which the customs officer indicates information about the amount of product being exported at the time of any given presentation of the license. The exporter is legally entitled to continue using the license until the authorized amount has been exported, or until the validity period has expired. Ministry of Commerce officials indicated that in some cases licenses have been kept in use by exporters for up to five years. They added that although it is illegal to sell export licenses to third parties, the practice does occur.

II.D. Comparison of Export Licensing Legislation with Administration

We compare legislation with administration by presenting two perspectives, the first dealing with the ways in which Ministry of Commerce practice at N'Djaména varies from the letter of the law, and the second describing local practice in Sarh and Moundou.

The description in Section II.C of the procedures followed in the granting of export licenses in N'Djaména is based upon information gathered in conversation with the Director General of the Ministry of Commerce and with External Commerce Division officials, who explained the procedures to us in detail. These are the procedures intended to be followed everywhere in Chad for processing license applications and granting export licenses.

A comparison of these procedures with Decree 113 reveals that the procedures followed at the ministerial level vary from the terms of the decree. The decree is clear in requiring two separate procedures--one to be applied to exports within the franc zone and another to exports outside the zone. Under the terms of the decree, for exports within the zone, only three copies of the license need to be prepared since the visa of the Director of Foreign Exchange is not required (no foreign exchange being involved). For exports outside the zone, five copies are required, as is the visa of the Director of Foreign Exchange.

In reality, as can be seen from the description in Section II.C, there is only one set of procedures for the granting of licenses for exports, and there is no procedural distinction between licenses for exports within the zone franc and those for exports outside the zone. In every case in which a license is granted, five copies are prepared and the visa of the Director of Foreign Exchange is required. This demonstrates the evolution of a procedure that has long since lost sight of its original purpose, which was to control foreign exchange and compare the global value of exports with imports for food security planning purposes (see Section III). Licenses are no longer used for either of those purposes, and the same procedure is required whether or not foreign exchange is involved. M. Zakaya of the Directorate of Foreign Exchange, Ministry of Finance, reported to us that the Ministry no longer provides a visa on export licenses, and in fact receives very few export license applications from the Ministry of Commerce. Foreign exchange reporting is now the responsibility of the commercial banks, which annually provide foreign exchange totals without reference to export licenses.

In addition to the variance of Ministry of Commerce procedures from the requirements of Decree 113, in the prefectures we visited, local practices vary from the decree, from the Ministry's procedures, and from each other.

In Sarh, for example, customs officials and officials working in the Regional Bureau of Economic Affairs stated to us that export licenses were not required for exports destined within the franc zone. This is clearly contrary to Decree 113: the first sentence of Article 2 of Chapter 1 states that all exports within the franc zone require an export license.

This misunderstanding of the law has evolved for at least two reasons. First, as noted above in Section II.B, exports within the franc zone are to be treated differently than other exports. However, the law differentiates between the two mainly by exempting franc zone exports from Ministry of Finance foreign exchange controls. Second, officials told us that goods imported from within UDEAC are exempt from import licenses. Some officials appear to confuse the law as it

applies to exports and as it applies to imports. In any event, it is clear that in Sarh, officials understood the law not to require export licenses for exports to franc zone destinations.

According to the government officials and private exporters we interviewed, Sarh's main agropastoral export (other than livestock, excluded from our study) is peanuts. Since peanuts are only exported to the Central African Republic and Cameroon, countries within the franc zone, GOC officials at Sarh require no export licenses. We were able to test this at meetings with two different sets of peanut exporters, one at the peanut market, the other invited to the customs office. At the latter meeting, exporters complained mainly about their tax burdens and about the behavior of government officials, particularly at the municipal level. When we displayed an export license form to the second set of exporters, they said they had never used it.

Export officials said Sarh's only other agropastoral export relevant to our study is livestock hides. These are destined for Nigeria, outside the franc zone, but they leave Chad via Moundou for Cameroon. Officials acknowledged that Decree 113 requirements apply in principle to hides, but said such exports are entirely informal; thus, they make no attempt to require licenses due to the very low export volume and value. A local skins and hides exporter subsequently informed us that he was not aware of any requirement for an export license. This exporter complained to us about the high tax rates levied on his exports by officials of the local office of the Ministry of Water and Forests; we subsequently called upon officials at that office, who maintained that they levy taxes only upon hides and skins of wild animals, never on livestock hides.

In Moundou we found similarities and differences in the application of the decree. We were told that the local exports relevant to our study are peanuts, cottonseed oil, and cottonseed cake, exported exclusively to the Central African Republic and Cameroon. Officials told us they recognize that Decree 113 license requirements apply to peanut exports to franc zone countries, but they simply do not apply the law. Private exporters confirmed this.

Export license requirements are enforced only with respect to Cotontchad, the large formal sector cotton exporter. However, we noted one exception to this general exemption for small informal sector operators: exports of cottonseed oil. Officials were unable to explain to us why they enforce the law with respect to cottonseed oil but not peanuts. Perhaps this practice has arisen from the obvious association of cottonseed oil with cotton, a formal sector export. Since Cotontchad consistently applies for and receives export licenses for cotton, it is natural to require licenses for cottonseed oil exports as well. (Apparently cottonseed cake is not currently exported, due to the reduction in cotton production during recent years; even in years of ample production, most Chadian cottonseed cake is consumed as livestock feed within Chad.)

The anomalous result of this evolution of enforcement in Moundou is that small traders who export peanuts freely without export licenses consistently request and obtain such licenses in order to export cottonseed oil. They report no difficulty in obtaining licenses, which they usually receive within twenty or thirty days following application to the Regional Bureau of Economic Affairs at Moundou. They offered no complaints about the FCFA 5000 fee.

Legitimate exporters who buy cottonseed oil from Cotontchad are eligible for an exemption from the Chadian taxes normally imposed upon oil sold for local consumption. They then obtain an export license, pay an export tax (among other taxes), and export the oil. Sellers on the local market complain of abuses involving the tax exemption by self-described "exporters" who unload tax-exempt oil in the local market at low prices instead of exporting it. Managers at Cotontchad,

who say they are constantly importuned for tax-free oil by government officials as well as private economic operators, are considering means of marking containers of tax-free oil (possibly to include a number for each purchaser) in an attempt to control abuses.

II.E. Benefits and Costs of the Export Licensing Program

The justification offered by Chadian officials is that export licenses

- a) allow the monetary authorities control over foreign exchange entering Chad from countries outside the franc zone, and
- b) promote national self-sufficiency in essential foodstuffs by allowing the government to calculate the global balance between food imports and exports at any given period.

Insofar as the agropastoral products covered in this study are concerned, the export license is irrelevant to achieving either of these objectives. Exported to other franc zone countries, such products generate no foreign exchange control requirements, and in any case the license no longer plays any role in foreign exchange reporting. Ministry of Commerce officials in N'Djaména reported that since Chad has had no import/export programs for more than five years, there would be little use for the statistical information contained in the aggregated export licenses; this point was corroborated by the Customs Service at N'Djaména. In any case, export data from licenses are not analyzed.

Ministry of Commerce officials reported they issued seventy-five export licenses during 1992, and had issued forty-four by end-November 1993. They estimated also that between 50 percent and 80 percent of informal sector exports occur without benefit of license. (Given that it appears no export licenses whatever are issued to traders in Sarh and export licenses are issued to local traders in Moundou almost exclusively for export of cottonseed oil, the estimated range may be low.)

Section III. Reforming Chad's Export Licensing System

Chad's export license program apparently antedates independence. The license form requires that goods be valued in French francs, suggesting that it dates from the colonial period, and Decree 113 refers to an antecedent document (dated 12 July 1950) regulating exports from French Equatorial Africa. The export licensing program has become obsolete because international economic conditions, including financial systems and business practices, have changed considerably during the intervening years.

The amount and the cost of activity generated by the licensing process is hard to estimate. The License Bureau within the External Commerce Division that deals with export licenses is also responsible for import licenses, a much livelier endeavor. At the rate of seventy-five export licenses issued per year, the program produces annual revenue on the order of FCFA 375,000, or roughly \$1,300 at November 1993 exchange rates. (This ignores taxes of other kinds paid by export license holders, who are likely to be formal sector operators, but it is likewise hard to estimate the effect on such other revenues that removal of the export licensing requirement would entail.)

It is significant that during the course of this investigation of legal and regulatory barriers to exports, not a single respondent, official or private, raised any objection to the export licensing process as such. Asked point blank to state their problems in exporting, private operators often responded vociferously; the most frequent complaints dealt with taxes (especially local taxes) and transport costs. Formal sector operators also mentioned difficulty in arranging finance, while informal operators alleged misbehavior by "agents." For formal sector economic operators, the export licensing process is a minor bureaucratic task, one completed easily, inexpensively, routinely. For informal operators, it is in almost every case outside their business experience; those few who were familiar with it reported no problems.

This is not to say the program is in any way useful. There is no point, therefore, in trying to salvage or improve an anachronism, misconceived in 1965 in order to stifle private sector activity and extend GOC control over the smallest details of the country's international trade. The decree addresses policy objectives long since abandoned and imposes requirements long since obsolete; moreover, the program's administration no longer matches either the letter of the decree or its intent. Indeed, as is clear from our report, administration in some parts of the country varies considerably from that in others. Our discussions with Ministry of Commerce officials in the field and at N'Djaména lead us to believe they are aware of these inconsistencies. There is scant attention to the content of Decree 113: the draft revision of the decree (copy available at Appendix IV.B) now circulating within the GOC changes the name of the agency responsible from what it was in 1965 to what it is now, but leaves the substance of the decree intact, although that substance is now meaningless.

Against the background of Chad's disheartening social, political, and economic challenges, export licenses have small import: they achieve nothing useful, but waste few resources and appear not to deter private economic activity. As Chad's society, politics, and economy evolve, there may come a time when economic operators will find a useless procedure annoying; likewise, officials may come to value the small monetary savings and increase in efficiency that would result from abolishing an outmoded requirement. We recommend that USAID/Chad point out the ineffectiveness of the export license system, but make no demands upon the government of Chad to change it. USAID/Chad need not demand that the program be discontinued because it has already atrophied to the point where it has no meaningful effect upon economic activity.

What should the GOC do about its export licensing program, so poorly administered, so widely ignored? In a society with a strong legal-rational basis, a stable political environment, and an effective public administration, the answer would be to legislate its abolishment. For example, the Interministerial Committee overseeing ATPRP might propose abolishment to the Council of Ministers. Article 60 of the Transition Charter empowers the Council of Ministers to exercise regulatory power by means of decree; perhaps the Council of Ministers has defined conditions under which the Prime Minister might abolish Decree 113 through issuance of a new decree. Any such procedure may be fraught with procedural complexity and delay, however; relatively little regulatory reform has occurred since adoption of the Transition Charter on 4 April 1993.

Under current circumstances, it might be far easier to informalize export license administration a bit further simply by passing the word along to participants (private operators and public employees alike) that they need not bother going through the motions in the future. A quick look at the licenses issued during 1992 and 1993 would identify virtually every private economic operator involved; when exporters seek to submit license applications in the future, representatives of the Ministry of Commerce can simply tell them that export licenses are no longer issued or expected.

Section IV. Appendices

IV.A List of Persons Contacted

At N'Djaména

Government of Chad

Yamtebaye Nadjitangar, Directeur Général du Ministère du Commerce et de l'Industrie
M. Daouda, Chef de la Division du Commerce Extérieur, Ministère du Commerce et de l'Industrie
Guelkagayo Mianhoudam, Chef du Bureau des Licenses, Division Commerce Extérieur, Ministère
du Commerce et de l'Industrie
Beguy Ngaba, Inspecteur des Douanes (Législation), Ministère des Finances
Dr. Bichara Chérif Daoussa, Directeur Général du Ministère de l'Agriculture
M. Zakaya, Direction des Changes, Ministère des Finances

Nongovernment

Djallal Khalil, Directeur Général, Sodimex (exporter of gum arabic, hides)
Saad Abderahaman, Directeur Commercial, Banque Méridien BIAO Tchad
Kirim Mahamat Ali, Directeur du Crédit et Marketing, Banque Méridien BIAO Tchad

USAID

Anne M. Williams, AID Representative
Carole Adoum, Non-Project Assistance Project Officer
Robert Haskell, SCI Chief of Party, ATPRP
William Hand, SCI consultant to ATPRP
Walter West, ATPRP consultant on agropastoral exports
Giovanni Caprio, ATPRP consultant on agropastoral exports
William Dalrymple, DAI Chief of Party, AMTT
Sheldon Gellar, AMTT consultant on internal trade
Lawrence Hermon, AMTT consultant on internal trade
Karen Russell, Private Sector Advisor, IRIS
Jacques Monet, IRIS consultant on customs services
Kebba Wouado Evariste, Director, VITA
Iven Ose, VITA consultant

At Sarh

Mme. Adoum, Chef du Bureau des Douanes
Oumar Abderassoul, Inspecteur des Douanes
Directeur Adjoint, Bureau Régional des Affaires Economiques
Mahamat Yamba, Controleur du Tresor, Mairie de Sarh
Yangalbe Passiai, Préfet de Sarh
M. Tatola, Maire de Sarh
Daoussa's brother
Several commerçants in arachides, at office of M. Abderassoul
A commerçant dealing in hides
official at Eaux et Forêts
official at Bureau National de Frets
Directeur du Bureau Régional des Affaires Economiques

At Moundou

Beremadji Madingar, Directeur Général, Cotontchad
Khirallah Yacoub, Chef du Personnel, Cotontchad
M. Noel, Director of cottonseed oil operations, Cotontchad
M. Maddi, factory director, Cotontchad oil mill
Mahamat Nour Mallai, Préfet de Moundou
Djimalde Mbailaou, Maire de Moundou
an Inspecteur des Douanes
M. Djourdebe, Directeur du Bureau Régional des Affaires Economiques
11 merchants who export cottonseed oil, convoked by M. Djourdebe

IV.B. Bibliography and Documents

Application form for obtaining an export license (copy attached)

Form for avis (comments) on export license application by Ministry of Commerce officials (copy attached)

Laws/regulations governing commerce, including exports, e.g.:

Ordonnance 006/PR/84 of 12 April 1984

Décret 168/PR/MEC/84 of 14 April 1984

Note de Service 001/MCI/SE/DG/DIC of 3 February 1988

Arrêté 011/GCI/SE/DG/DS/DCI/89 of 5 July 1989

Note de Service 045/MCI/SE/DG/DS/DCI of 24 January 1990

Laws/regulations governing movements of foodstuffs, e.g.:

Arrêté 2191/SECH of 12 July 1950

Loi 27/61 of 20 January 1961

Décret 105/PR of 18 January 1963

Ordonnance 5/F of 18 March 1965

Lettre 551/MF/SE/DG/92 (undated) (copy attached)

Lettre 0268/MIS/SE/DG/DI/93 of 17 March 1993 (copy attached)

Autorisation de sortie des denrées alimentaires, Comité de gestion de la Ville de Sarh (blank form attached)

Laws/regulations governing export licenses, e.g.:

Décret 113/ET of 14 June 1965 (copy attached)

Draft proposal for amending Décret 113 (copy attached)

Demande d'autorisation d'Import/Export (blank application form attached)

Avis des services du Ministre du Commerce, de l'Industrie et du Tourisme (blank form attached)

Demande d'Autorisation d'Exportation (blank license form attached)

DES SERVICES DU MINISTÈRE DU COMMERCE,
DE L'INDUSTRIE ET DU TOURISME.

- Avis du Chef de Service de Licences : _____

- Avis du Chef de la Division du Commerce Extérieur : _____

- Avis du Directeur du Commerce : _____

- Avis du Directeur Général : _____

- Décision du Ministre : _____

République du Tchad

Ministère de l'ECONOMIE et
des TRANSPORTS

Direction des AFFAIRES ECO-
NOMIQUES

Commerce Extérieur

UNITE - TRAVAIL - PROGRES

- DECRET n° 113/ET portant réglementation -
de l'EXPORTATION et de REEXPORTATION des
PRODUITS, MARCHANDISES, DENREES et OBJETS de
toute nature de la République du TCHAD

Le Président de la République,
Président du Conseil des Ministres,

VU la Constitution,

VU l'arrêté 2191/SECE du 12 Juillet 1950, portant réglementation
de l'exportation et de la réexportation des produits, marchan-
dises, denrées et objets de toute nature de l'A.E.F. et les
actes modificatifs subséquents,

VU la Loi 27/61 du 20 Janvier 1961 autorisant la ratification des
accords de Coopération Franco-Tchadien, particulièrement l'ac-
cord de matière monétaire, économique et financier signé à
BRAZZAVILLE le 15 Août 1960 (J.O. RICTARD du 15 Janvier 1961),

VU le Décret 105/TR du 18 Juin 1963 portant réglementation du
régime des prix dans la République du TCHAD,

VU l'Ordonnance 5/F. du 18 mars 1965 portant application de la
réglementation des changes et création d'une Direction des
Changes,

La Chambre de Commerce, d'Agriculture et d'Industrie consultée,

Le Conseil des Ministres entendu dans sa séance du 13 mai 1965,

Sur le rapport de Monsieur le Ministre de l'Economie et des Trans-
ports,

DECRETE

Article 1- Les modalités de l'exportation et de la réexportation
des produits, marchandises, denrées et objets de toute nature,
sont régies par les dispositions du présent décret.

CHAPITRE I- EXPORTATION DES PRODUITS, MARCHANDISES ET OBJETS DE TOUTE NATURE -

Article 2 Les exportations à destination des pays de la Zone
Franc sont soumises à une autorisation d'exportation.

Ces autorisations sont délivrées sans limitation à l'exception de celles des produits ci-dessous pour lesquels des restrictions peuvent être imposées :

- denrées vivrières : riz, maïs et blés,
- fibres textiles : coton,
- produits industriels : tabac
- tous produits miniers (sauf le natron).

*à destination
pays*

Ces autorisations d'exportations sont délivrées par le Ministre chargé du Commerce qui peut déléguer ses pouvoirs au Directeur des Affaires Economiques.

Article 3 - Les exportations à destination des pays appartenant à une autre zone monétaire que la zone franc sont soumises à une autorisation d'exportation comportant engagement de change. Cette autorisation est délivrée par le Ministre de l'Economie et des Transports (Direction des Affaires Economiques) et doit être visée par le Directeur des Changes.

CHAPITRE 2 - EXPORTATION ET REEXPORTATION DES MARCHANDISES DEN-
REES ET OBJETS DE TOUTE NATURE PREALABLEMENT IMPOR-
TES -

Article 4 - Les réexportations à destination des pays appartenant à la zone franc sont soumises à l'obtention de l'autorisation définie à l'article 2 ci-dessus. Toutefois, celle-ci n'est en aucun cas automatique.

Article 5 - La réexportation à destination des pays appartenant à une autre zone monétaire que la zone franc sont soumises à l'autorisation d'exportation définie à l'article 2 ci-dessus ; cette autorisation est délivrée par le Ministre chargé du Commerce (Direction des Affaires Economiques), après avoir été visée par le Directeur des Changes).

Article 6 - Les exportations suivantes sont dispensées de toute formalité au regard du contrôle du Commerce Extérieur et des Changes :

- ravitaillement des aéronefs et provisions de bords ;
- échantillons sans valeur marchande et échantillons ayant une valeur marchande réexportés en suite d'admission temporaire ;
- emballages ou récipients réexportés pleins ; la valeur de ces emballages doit être reprise, le cas échéant, sur la licence afférente à la marchandise ;
- emballages de toute nature réexportés pleins ou vides en suite d'admission temporaire lorsque leur importation n'a donné lieu à aucun règlement financier avec l'étranger ;

- objets exportés par les voyageurs pour leurs usages personnels ;
- privilèges diplomatiques ; objets exportés en franchise au titre de l'immunité accordée aux Membres du Corps Diplomatique ;
- renvois de marchandises aux expéditeurs étrangers ; marchandises expédiées par erreur et renvoyées aux expéditeurs étrangers, sans avoir quitté la surveillance de la Douane ;
- véhicules automobiles bénéficiant du régime de l'exportation temporaire ou réexportation en suite d'admission temporaire.

CHAPITRE 3 - MODALITES RELATIVES AUX DEMANDES D'AUTORISATION D'EXPORTATION OU DE REEXPORTATION -

Article 7 - Les demandes d'autorisation d'exportation sont établies sur des imprimés ad hoc en trois ou cinq exemplaires selon que l'exportation ou la réexportation a lieu vers la zone franc ou vers les autres zones monétaires.

Pour ces dernières, les demandes doivent obligatoirement être domiciliées chez une Banque ayant la qualité d'intermédiaire agréée.

Ces exemplaires sont répartis ainsi par la Direction des Affaires Economiques.

a) - Pour la zone Franc

- 1er exemplaire - Direction des Affaires Economiques
- 2ème exemplaire - Exportateur
- 3ème exemplaire - Bureau des Douanes du lieu d'exportation.

b) - Pour les zones étrangères à la zone Franc

- 3 premiers exemplaires - sans changement
- 4ème exemplaire - Direction des Changes
- 5ème exemplaire - Banque intermédiaire agréée.

Les demandes devront contenir toutes les indications exigées et être appuyées de toutes justifications prévues par la réglementation des Changes.

Article 8 - La durée de validité des autorisations d'exportation

ou de réexportation est fixée à six mois. Elle est prorogée automatiquement au moment même où les autorisations sont accordées et pour une autre période de six mois, par l'apposition d'un cachet ad hoc,

La prerogative automatique pourra être annulée par l'autorité qui délivre les licences dans le cas où dans les six premiers mois aucun commencement d'exécution n'aura été donnée à l'exportation pour laquelle la licence a été accordée.

Article 9 - Des modifications peuvent être apportées aux autorisations d'exportation. Ces modifications sont destinées en principe à corriger seulement des erreurs de forme involontaire ou de changements intervenus au dernier moment dans les commandes des acheteurs. Elles doivent être, en principe, antérieures au dépôt de la déclaration en douane. Toutefois, dans les cas exceptionnels où une licence délivrée pour un pays donné devait recevoir une modification pour une raison de force majeure, une modification du pays de destination pourra être accordée, si cette procédure paraît plus simple que celle de l'annulation de la première licence et son remplacement par une nouvelle licence faisant état de la nouvelle destination. Les pièces justificatives du bien fondé de cette modification devront être présentées par la suite.

Article 10 - L'autorisation d'exportation pourra exceptionnellement être retirée dans des cas de force majeure affectant l'économie nationale et cas de manœuvre tendant à la spéculation de la part de l'exportateur.

Elle pourra également être annulée sur demande justifiée de l'exportateur.

Tous les services destinataires du document seront avisés de ce retrait.

Article II - L'imputation des autorisations d'exportation est effectuée dans les bureaux des Douanes qui, après apurement, feront parvenir l'exemplaire de contrôle à la Direction des Affaires Economiques.

Dans le cas des exportations sur les pays hors zone franc, la Direction des Affaires Economiques fera parvenir à la Direction des Changes l'exemplaire de contrôle aux fins d'apurement en matière de changes.

Sur les licences, la valeur à considérer est le prix franco-frontière ou FOB éventuellement CAF suivant les clauses du contrat commercial.

Si l'exportation a lieu vers les pays autres que ceux de la zone franc, l'autorisation comporte engagement de change et l'exportateur est tenu de céder les devises provenant de l'exportation dans les délais prévus par la réglementation des changes, de ses transactions s'effectuent obligatoirement par l'intermédiaire de la Banque domiciliaire.

CHAPITRE 6 - DISPOSITIONS DIVERSES .

Article 12 - Les infractions aux dispositions du présent décret seront passibles des peines prévues par la législation des prix et par la réglementation des charges et des douanes.

Article 13 - sont abrogés :

- l'arrêté du 12 Juillet 1950 portant le numéro 2191 ainsi que tous les textes modificatifs subséquents et toutes dispositions contraires au présent décret.

Article 14 - Le Ministre chargé du Commerce et le Ministre des Finances sont chargés chacun en ce qui le concerne de l'application du présent décret qui sera enregistré, publié au Journal Officiel de la République du TCHAD et communiqué partout où besoin sera.

FORT - LAMY, le 14 Juin 1965

Pr. le Président de la République,
Le Ministre de l'Economie et des
Transports

(é) A. LAFANA -

F. TOMBALBAYE

F. O. Le Ministre des Finances
Le Ministre de l'Economie et des
Transports

(é) LAFANA

REPUBLIQUE DU TCHAD
PRESIDENCE DE LA REPUBLIQUE
MINISTRE DU COMMERCE,
DE L'INDUSTRIE ET DU TOURISME

--- UNITE - TRAVAIL-PROGRES ---

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DECRET N° / PR/MCIT/93

SA : S.G.C.

Portant modification des dispositions de l'article 2 du Décret 113/PT du 14 Juin 1965 portant réglementation de l'exportation et de réexportation des produits, marchandises, denrées et objets de toute nature de la République du Tchad.

LE PRESIDENT DE LA REPUBLIQUE ;
CHIEF DE L'ETAT ;
PRESIDENT DU CONSEIL DES MINISTRES.

- ✓u la Charte de Transition ;
- ✓u l'Acte n° 002/CNS/93 du 05/04/93 portant adoption de la Charte de Transition ;
- ✓u le Décret n° 282/PR/93 portant publication de la Charte de Transition ;
- ✓u le Décret n° 283/PR/93 du 09/04/93 portant nomination du Premier Ministre ;
- ✓u le Décret n° 320/PR/93 du 24/06/93 portant remaniement Ministériel ;
- ✓u la Loi n° 27/61 du 20/01/61 autorisant la ratification des Accords de Coopération Franco-Tchadien et particulièrement l'Accord en matière monétaire économique et financière signé à Brazzaville le 15/08/1960 ;
- ✓u la Loi n° 30/68 du 28/12/68 relative aux prix, aux interventions économiques et à la répression des infractions économiques ;
- ✓u l'Ordonnance n° 22/P.CSM/SGG/77 du 07/11/77 relative aux relations financières entre la République du Tchad et l'Etranger ;
- ✓u l'Ordonnance n° 006/PR/84 du 12/04/84 portant Statuts des commerçants ;
- ✓u le Décret n° 44/P.CSM/SGG/77 du 03/03/77 fixant les modalités de constatation et de poursuite des infractions à l'Ordonnance 22/P.CSM/SGG/77 du 07/11/77 ;
- ✓u le Décret n° 45/P.CSM/MFFM/78 du 03/03/78 relatif aux opérations financières de la République du Tchad avec l'Etranger ;
- ✓u le Décret n° 113/PT du 14/06/65 portant réglementation de l'exportation de la réexportation des produits, marchandises, denrées et objets de toute nature de la République du Tchad ;
- ✓u les Recommandations de la Conférence Nationale Souveraine consignées dans le Cahier de Charges du Gouvernement de Transition ;
- SUA Proposition du Ministre du Commerce, de l'Industrie et du Tourisme. 26

SECRET

Article 1er - L'Article 2 est modifié comme suit

- Article 2 ancien :

Les exportations à destination des pays de la zone franc sont soumises à une autorisation d'exportation.

Ces autorisations sont délivrées sans limitation à l'exception de celles des produits ci-dessous pour lesquels des restrictions peuvent être imposées :

- denrées vivrières : riz, maïs et blé ;
- fibres textiles : coton ;
- produits industriels : tabac ;
- tous produits miniers (sauf le natron).

Ces autorisations d'exportation sont délivrées par le Ministre chargé du Commerce qui peut déléguer ses pouvoirs au Directeur des Affaires économiques.

-- Article 2 nouveau :

Les exportations à destination des pays de la zone franc sont soumises à une autorisation d'exportation.

Ces autorisations sont délivrées sans limitation à l'exception de celles des produits ci-dessous pour lesquels des restrictions peuvent être imposées :

- denrées vivrières : riz, maïs et blé
- fibres textiles : coton ;
- produits industriels : tabac ;
- tous produits miniers (sauf le natron).

Ces autorisations d'exportation sont délivrées par le Directeur général du Ministère du Commerce, de l'Industrie et du Tourisme.

DEMANDE D'AUTORISATION D'EXPORTATION (1)

MODEL

Cette licence est strictement personnelle et incessible. Toute utilisation d'une licence inapplicable exposerait le délinquant aux sanctions prévues par les articles 29 et 306 du Code des Douanes.

Nom ou raison social de l'exportateur :

Profession :

Adresse complète de la société ou de l'établissement :

Motif de l'exportation :

PAYS DE DESTINATION :

Expéditeur :

Destinataire :

Nature de la marchandise (2) :

Numéro du tarif sous lequel l'article est dédouané (3) :

Poids brut (en toutes lettres) :

Poids net (en toutes lettres) :

Nombre de pièces, s'il y a lieu :

Valeur en douane de la marchandise au lieu d'exportation (en francs français) :

1) Valeur FOB :

2) Valeur mercuriale :

Sommes à encaisser en devises :

Exportation domiciliée chez (banque agréée) : sous n° du ...

BUREAU D'EXPORTATION :

Date probable de l'exportation :

Je m'engage à me faire payer par mon acheteur, par l'intermédiaire du Service des Extérieures et des Changes selon les prescriptions des textes en vigueur.

....., le.....

Signature de l'export.

(1) Cette demande doit être fournie en cinq exemplaires pour les pays hors zone franc; pour ceux-ci premiers sont nécessaires:

(2) Mentionner la spécification de la marchandise suivant les termes exacts du tableau des droits et

(3) Indiquer le numéro de la nomenclature douanière.

DECISION N°

VALABLE JUSQU'AU

LE DIRECTEUR GENERAL

PROROGEE JUSQU'AU

N'DJAMENA, LE

BUREAU DE DEDOUANEMENT

CHARGEMENT DU CHEF DU BUREAU
des douanes ou de son délégué

NUMERO
de déclaration
de consommation



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