



NIGERIAN EXPORT PROMOTION COUNCIL ACT



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PREFACE

The Nigerian Export Promotion Council, Act and other related laws, having passed through several amendments have been published in segments. Several years ago, while I was the Director of Legal Services, I have always had this burning desire to make referencing into the NEPC enabling laws less cumbersome. This necessitated the collation and compilation of these laws into one single handy booklet that is user friendly, compact and yet without altering its originality.

I sincerely hope that this publication will make referencing easy for Nigerian Exporters, Policy makers and Operators both in Public and Private sectors and also for the general public.

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March 2010

CHAPTER 306
NIGERIAN EXPORT PROMOTION COUNCIL ACT

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SECTION

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CHAPTER 306
NIGERIAN EXPORT PROMOTION COUNCIL ACT

1988 NO.41

An Act to continue into being the Nigerian Export Promotion Council to promote the development and diversification of Nigeria's export trade, assist in promoting the development of export oriented industries in Nigeria and other related matters.

(1st December, 1987) *Commencement*

Establishment
of the Nigeria
Export
Promotion
Council

1. (1) There shall continue in being a body to be known as the Nigerian Export Promotion Council (hereafter in this Act referred as the council)

(2) The Council shall continue to be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Composition
of the
Council.

2. (1) The Council shall comprise the following members, that is-

(a) the Minister who shall be the Chairman;

(b) an alternate Chairman to be appointed by the President, Commander-in-Chief of the Armed Forces;

(c) the Director of External Trade in the Federal Ministry of Trade And Tourism;

(d) the President of the Nigerian Association of Chambers of Commerce, Industries, Mines and Agriculture;

(e) the President of the Manufacturers Association of Nigeria;

(F) the President of the Association of Nigerian Exporters;

(g) one person to represent the Bankers Committee;

- (h) the President of the Farmers Association;
- (i) the Executive Director of the Council;
- (j) one person to represent the Ministry of External Affairs
- (k) one person to represent the Department of Customs and Excise;
- (l) one person to be appointed by the President Commander-in-Chief of the Armed Forces.

(2) The appointment under paragraph (g) of subsection (1) of this section shall be made by the Minister on the recommendation of the appropriate body.

(3) The provisions set out in the Schedule to this Act shall have effect with respect to the tenure of office of members and proceedings of the Council and the other matters mentioned therein of section 2(1)(f) and (g) of this Act shall hold office for a term of four years and shall be eligible again for re-appointment for one further period of four years.

(2) The office of a member of the Council under this Act shall become vacant if-

- (a) he resigns his office by notice in writing under his hand, addressed to the Chairman of the Council; or
- (b) the President, Commander-in-Chief of the Armed Forces is satisfied that it is not in the interest of the Council for the person appointed to continue in office and notifies the member in writing to that effect

(3) Members of the Council may be paid such travelling and other allowances as may, from time to time, be approved by the Federal Government or the Council itself.

(4) Where a vacancy occurs in the Council, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest and shall be appointed by the President Commander-in-Chief of the Armed Forces, on the recommendation

(5) The Council may act notwithstanding any vacancy in its membership or any defect in the appointment of a member or the absence of a member.

4. (1) It shall be the special responsibility of the Council to-
- (a) promote the development and diversification of Nigeria's export trade;
 - (b) assist in promoting the development of export oriented industries in Nigeria;
 - (c) spearhead the creation of necessary export incentives;
 - (d) actively promote the implementation of export policies and programmes of the Federal Government;
 - (e) co-ordinate and monitor export promotion activities in Nigeria.

Function
of the
Council

(2) The other functions of the Council shall be to-

- (a) collect and disseminate information on products available for export;
- (b) collect and disseminate to local manufacturers and exporters information on foreign markets;
- (c) provide technical assistance to local exporters in such areas as export procedure and documentation, transportation, financing, marketing techniques, quality control, export packaging, costing and pricing, publicity and in other similar areas;
- (d) maintain adequate and effective representation in other countries;
- (e) provide, directly or jointly with training institutions, training for its staff and assist with the manpower development of the export community in Nigeria;
- (f) organise the participation of Nigeria in trade fairs and exhibitions in other countries;
- (g) administer grants and other benefits related to export promotion and development;
- (h) undertake studies of the current economic conditions, with special attention to the export sector with a view to advising government on necessary policies and measures;

- (i) co-operate with other institutions on matter relating to export financing, export incentives and specialised services to exporters;
- (j) establish specific trade promotion facilities in Nigeria and in other countries including the establishment of permanent showrooms at important commercial centres in other countries;
- (k) engage in export promotion publicity;
- (l) pursue the simplification and streamlining of export procedure and documentation on continuous basis;
- (m) provide services to trade delegations on matters relating to export,
- (n) perform such other functions as may be conducive to the achievement of the objectives of this Act.

(5) The Council shall have power to-

- (a) receive within Nigeria or elsewhere, any trade marks, licences, protections or concessions relating to export;
- (b) subject to the Land Use Act, acquire, by purchase or lease, any landed property required for its functions under this Act;
- (c) invest in any activity which would facilitate the development or promotion of exports;
- (d) solicit, with the approval of the Minister, for funds from sources other than its normal budgetary sources;
- (e) exercise disciplinary control (including dismissal) over its employees.

Powers of
the Minister
to give
directions.

6. Subject to this Act, the Minister may give the Council directions of a general character or relating generally to particular matters with regard to the exercise by the Council of its functions under this Act and it shall be the duty of the Council to comply with the directions.

Appointment
of Executive
Director and
other employ-
ees of the
Council.

7. (1) There shall be appointed by the President, Commander-in-Chief of the Armed Forces, on the recommendation of the Council of the Council, an Executive Director of the Council.

(2) The Executive Director shall be the Chief Executive of the Council and be responsible for the execution of the policy of the Council and the day-to-day running of the affairs of the Council.

(3) The Council may appoint such other persons, it may determine, to be employees of the Council to assist the Executive Director in the performance of his functions under this Act.

(4) The Council may, subject to such conditions as it may think fit, delegate any of its power relating to the appointment of or exercise of disciplinary control (including dismissal) over its employees to the Executive Director or to any other employees of the Council.

8. (1) It is hereby declared that service in the Council shall be public service for the purposes of the Pensions Act and accordingly, officers and other persons employed in the Council, shall in respect of their service in the Council be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder, so however that nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

App-
lication
Pensions
Act,
Cap. 346.

(2) For the purposes of the application of the provisions of the Pensions Act, any power exercisable thereunder by a Minister or other authority of the Government of the Federation (not being the power to make regulations under section 23 thereof) is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

9. (1) The Council may establish an export committee in each state of the Federation.

Establish-
ment of an
Export
Committee.

(2) Each export committee shall

(a) constitute a forum for the promotion of exportation of the principal export products of the State concerned;

(b) advise the Council on the best means of achieving the objectives of this Act in the State concerned;

(c) carry out such other functions as the Council may, from time to time, direct.

Fund of the
Council

- 10 (1) The Council shall establish and maintain a fund from which there shall be defrayed all expenditure incurred by the Council.
- (2) There shall be paid and credited to the fund established in pursuance of subsection (1) of this section
- (a) such sums as may, from time to time, be granted to the Council by the Federal Government;
 - (b) all moneys raised for the purpose of the Council by way of gifts, grants-in-aid, testamentary disposition and sales from publications;
 - (c) all subscriptions, fees and charges for services rendered by the Council and all other sum as may accrue to the Council from any other source.

Expenditure of
the Council

11. The Council may, from time to time, apply the proceeds of the fund established pursuant to section 10 of this Act to-

- (a) meet the cost of administration of the Council and any research work carried out by or on behalf of the Council with its approval;
- (b) provide such training for the employees of the Council;
- (c) pay the salaries and other allowances and benefits of its employees;
- (d) re-imburse members of the Council and committees of the Council as the Council may deem necessary;
- (e) meet other expenses in connection with its functions and this Act.

Annual
estimates,
accounts and
audit.

12. (1) The Council shall cause to be prepared, not later than six months before the end of each financial year or such other time as the Minister may direct, an estimate of the expenditure and income

of the Council during the next succeeding financial year and when prepared they shall be submitted through the Minister for approval by the National Council of Ministers.

(2) The Council shall cause to be kept proper accounts and proper records in relation thereto and when certified by the Council such accounts shall be audited as provided in subsection (3) of this section.

(3) The accounts of the Council shall be audited as soon as may be after the end of each financial year by auditors appointed by the Council from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation and the fees of the Auditors and the expenses for the audit generally shall be paid from the funds of the Council.

Annual reports

13. The Council shall, not later than six months after the end of each financial year, submit through the Minister to the President, Commander-in-Chief of the Armed Forces, a report of the activities of the Council and its administration during the immediately preceding year and shall include in such report the audited accounts of the Council and the auditor's comments thereon.

Regulations.

14. The Council may, with the approval of the National Council of Ministers, make regulations for carrying into effect the provisions of this Act.

Repeal,
Savings and
transfer of
assets,
liabilities,
staff, etc.
1976 No. 26

15. (1) The Nigerian Export Promotion Council Act 1976 is hereby repealed and the Council established thereunder is hereby dissolved.

(2) By virtue of this Act, there shall be vested in the Council all assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in the Council dissolved by and under subsection (1) of this section.

(3) The rights, interests, obligations and liabilities of the dissolved Council existing before this Act under any contract or instrument, or in law or in equity apart from any contract or instrument, shall by virtue of this Act be assigned to and vested in the Council established by this Act.

(4) Any such contract or instrument as is mentioned in subsection (3) of this section shall be of the same force and effect against or in favour of the Council established by this Act and shall be enforceable as fully and effectively as if instead of the dissolved Council, the Council established by this Act has been named therein or had been a party thereto.

(5) The Council shall be subject to all the obligations and liabilities to which the dissolved Council was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Council as they had against the dissolved Council immediately before the commencement of this Act.

(6) Any proceedings or cause of action pending or existing immediately before the commencement of this Act by or against the dissolved Council in respect of any right, interest, obligation or liability of the dissolved Council may be continued or as the case may be, commenced and any determination of a court of law, tribunal or other authority or person may be enforced by or against the Council to the same extent that such proceedings, cause of action or determination might have been continued, commenced or enforced by or against the dissolved Council as if this Act had not been made.

(7) All assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in the dissolved Council shall by virtue of this Act and without further assurances, be vested in the Council.

(8) Notwithstanding the repeal of the enactment referred to in this section, if the Council thinks it is expedient that any vacancy in the Council should be filled by a person holding office at the Commencement of this Act in the Council dissolved by this section, it may employ such person by way of transfer to the Council and the previous service in the dissolved Council by such person shall count as service for the purpose of any pension subsequently payable by the Council.

16. In this Act, unless the context otherwise requires "Council" means the Nigerian Export Promotion Council continued in being by and under section 1 of this Act; Inter-pretation.

"Chairman" means Chairman of the Council;

"Minister" means the Minister charged with responsibility for matters relating to trade.

17. This Act may be cited as the Nigerian Export Promotion Council Act. Short title.

SCHEDULE *Section 2(3)*
Proceedings of the Council

1. (1) The Council shall meet for the conduct of business at such time, places and on such days as the Chairman may appoint but shall meet not less than twice in a year.

(2) The Chairman may, at any time, and shall at the request in writing of not less than six members summon a meeting

(3) Particulars of the business to be transacted at any meeting shall be circulated to members with the notice of the meeting of the Council

(4) Every question put before the Council at a meeting shall be decided by a majority of the votes of the members present and voting.

(5) Seven members shall form a quorum at any meeting of the Council.

(6) The Chairman shall, at any meeting, have a vote and in the case of an equality of votes, may exercise a casting vote.

(7) The Chairman shall preside at all meetings of the Council, and in the absence of the Chairman of the Council, the alternate Chairman shall preside at that Meeting.

(8) Subject to the provision of this Act, the Council may make standing orders with respect to the holding of meetings, the nature of notice to be given, the proceedings thereat, the keeping of minutes of such proceedings and the custody and production for inspection of such minutes.

Committees

2. (1) The Council may appoint one or more committees to advise it on the exercise and performance of its functions under this Act.

(2) Every such committee shall consist of

(a) a Chairman who shall be appointed by the Council from among the members of the Council,

(b) not more than five persons (who may or may not be members of the Council), so however that any non-member of the Council co-opted to serve on any committee shall enjoy all the rights and privileges of a member except the right to vote and be counted toward a quorum.

(3) In this paragraph "Chairman" means the Chairman of a committee.

Miscellaneous

3. (1) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may be entered into or executed on behalf of the Council by any person generally or specifically authorised in that behalf by the Council.

(2) Any member of the Council or of a committee thereof, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or a committee, thereof, shall forthwith disclose his interest to the Council or the committee, as the case may be, and shall not vote on any question relating to such contract or arrangement.

4. (1) The common seal of the Council shall not be used or affixed to any document except in pursuance of a resolution duly passed at a properly constituted meeting of the Council and recorded in the minutes of the meeting.

(2) The fixing of the seal of the Council shall be authenticated by the signature of the Chairman or some other members authorised generally or specifically by the Council to act for that purpose.

(3) Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

**NIGERIAN EXPORT PROMOTION COUNCIL (AMENDMENT)
DECREE 1992**

Decree No. 64

[19th November 1992]

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:-

1. (1) The Nigerian Export Promotions Council Act (in this Decree referred to as "the principal Act") is hereby amended as provided in this Decree.

(2) For the existing section 2 of the principal Act there shall be substituted therefor a new section 2 as follows, that is:-

Composition of
The Board

2. (1) There shall be a governing Board of the Council (in this Act referred to as "the Board").

(2) The Board shall consist of a Chairman to be appointed by the President, Commander-in-Chief of the Armed Forces on the recommendation of the Minister and the following members-

(a) a representative each of the following Federal Ministries, that is to say:-

- (i) Foreign Affairs,
- (ii) Commerce and Tourism;

(b) a representative of the Department of Customs and Excise;

(c) a representative each of the following associations, that is.

- (i) the Nigerian Association of Chambers of Commerce, Industries, Mines and Agriculture,

(ii) the Manufacturers Association
of Nigeria,

(iii) the Association of Nigerian
Exporters,

(iv) the Farmers Association; and

(d) One person to be appointed by the Minister from
the private sector who shall be a person possessing
practical experience in industry, commerce, finance
and export promotion; and

(e) the Executive Director of the Council.

(3) The appointments under paragraph (d) of subsection (2) of this
section shall be made by the Minister on the recommendation of
the appropriate association".

Amendment
of section 3.

3: For the existing section 3 of the principal Act there shall be
substituted therefore a new section 3 as follows, that is-

"Tenure of
office.

1. (1) A member of the Board other than an ex-officio member shall,
subject to the provisions of this Act, hold office for a period of four
years from the date of his appointment as a member and shall be
eligible for re-appointment for a further period of two years
thereafter, he shall no longer be eligible for re-appointment.

(2) Notwithstanding subsection (1) of this section the
President, Commander-in -Chief of the Armed Forces may
on the recommendation of the Minister require any member
of the Board to vacate his office if his continued
membership will not be in the interest of the Council.

(3) Any member of the Board not being an ex-officio
member may resign his appointment by a notice in writing
under his hand addressed to the Minister.

Amendment
of section 5.

4. Section 5 of the principal Act is hereby amended by deleting the existing paragraph (d) thereof and substituting therefore, the following new paragraph (d), that is:

(d) Solicit for funds from sources other than its budgetary allocation and invest all or any of such funds;

5. For the existing section 6 of the principal Act, there shall be substituted therefor, a new section 6 as follows, that is:-

"Staff
regulations.

6. The Council may make staff regulations relating generally to the conditions of service of the employees of the Council and without prejudice to the generality of the foregoing, such regulations may provide for-

(a) the appointment, promotion and disciplinary control of all employees of the Council; and

(b) appeal by such employees against dismissal or other disciplinary measures,

Cap. 346
LFN

and until such regulations are made, the regulations relating to the conditions of service of officers in the civil service of the Federation and the provisions of the Pensions Act shall be applicable with such modifications as may be necessary to the staff of the Council."

7. Section 7 of the principal Act is hereby amended inserting of immediately after the existing sub-section (4) thereof, the following new sub-section (5), that is:-

"(5) There shall be appointed by the Board a Secretary who shall be a legal practitioner with not less than ten years post call experience"

8. Section 8 of the principal Act is hereby deleted.

Deletion of
section 8.

9. For the existing section 10 of the principal Act, there shall be substituted a new section 10 as follows, that is -

Amend-
ment of
section 10.

"Funds of the
Council.

10 -(1) The Council shall establish and maintain a fund which shall be applied towards the attainment of the Council's objectives and from which shall be defrayed all expenditure incurred by the Council.

(2) There shall be paid and credited to the fund established pursuant to subsection (1) of this Section-

(a) ten percent of levies on freight collected by the Nigerian Maritime Authority;

(b) such sums as may from time to time be granted to the Council by the Federal Military Government;

(c) all moneys raised for the purpose of the Council by way of gifts, grants-in-aid and income from investments; and

(d) all subscriptions, fees and charges for services rendered by the Council and all other sums as may accrue to the Council from any other source"

Amendment
of section 12.

10. For the existing section 12 of the principal Act, shall be substituted a New section 12 as follows that is :

"Annual
estimates
accounts and
audit.

12-(1) The Board shall cause to be prepared not later than 30th June in each year, an estimate of the expenditure and income of the Council during the next year and when prepared they shall be submitted to the Minister.

(2) The Board shall cause to be kept, proper accounts and proper records in relation thereto and when certified by the Board such accounts shall be audited as provided in subsection (3) of this section.

(3) The accounts of the Council, shall be audited within six months after the end of the year, by an external auditor appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation".

Amendment of
section 14.

11. In section 14 of the Principal Act, there shall be deleted therefrom the words "with the approval of the National Council of Ministers"

Amendment of
section 16.

12. For the existing section 16 of the principal Act, there shall be substituted a new section 16 as follows, that is:

Interpretation 12 in this Act, unless the context otherwise Requires—

"Board" means the governing Board of the Council established by section 2(1) of this Act;"

"Chairman" means the Chairman of the Board;

"Council" means the Nigerian Export Promotion Council established under section 1 of this Act;

"member" means any member of the Board including the Chairman; and

"Minister" means the Minister
charged with the responsibility for
matters relating to Commerce;

4. The schedule to the principal Act is hereby amended as follows

Amend-
ment of
Schedule.

(a) in paragraph

(i) by deleting the word "Council" occurring in subparagraphs (1), (3), (4), (5), and (8) substituting therefore the word "Board".

(ii) by substituting for the existing subparagraph (7) thereof a new subparagraph 7 as follows, that is-

"(7) The Chairman shall preside at every meeting of the Board but in his absence, the members present shall elect one of their members present to preside at the meeting.";

(b) in paragraph 2 by deleting the word "Council" occurring in subparagraphs (1) and (2) and substituting therefor, the word "Board",

(c) in paragraph 3

(i) by deleting the word "Council" where it last occurs in subparagraph (1) thereof and substituting therefor, the word "Board"

(ii) by deleting the existing subparagraph (2) thereof, and substituting new subparagraphs (2) and (3) as follows, that is-

"(2) A member of the Board who

(a) is either directly or indirectly interested in

any company or enterprise the affairs of which are being deliberated upon by the Board; of his interest at a meeting of the Board

(b) has a personal interest in any contract made or proposed to be made by the Board,

Shall as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the Board

(3) Every disclosure in subparagraph (2) shall be recorded in the minutes of the meeting of the Board and the member concerned shall-

(a) not take part after such disclosure in any deliberation or decision of the Board with regard to the subject matter in respect of which his interest is thus disclosed; and

(b) be excluded for the purpose of constituting a quorum of the Board for any such deliberation or decision."

(d) in paragraph 4 by deleting the word "Council" in line 3 of subparagraphs (1) and (2) thereof and substituting therefor the word "Board."

Citation.

15. This Decree may be cited as the Nigerian Export Promotions Council Amendment Decree 1992.

MADE at Abuja this 19th day of November, 1992.

GENERAL I. B. BABANGIDA

*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

CHAPTER 118
EXPORT (INCENTIVES AND MISCELLANEOUS
PROVISIONS) ACT

1986 No 18 An Act to provide incentives to manufacturing exporters of exportable products and for other purposes connected therewith

Commencement.

(11th July, 1986)

PART I - EXPORT INCENTIVES

Retention
Of certain
percentage
of Export
proceeds in
foreign
currency
cap 151.

1. (1) Notwithstanding the provisions of section 1 (l) of the Foreign Currency (Domiciliary Accounts) Act, each Nigerian exporter may retain twenty five per cent or any percentage that may be prescribed from time to time by the Federal Government of his export proceeds in foreign currency in his bank account in Nigeria.

(2) The percentage of foreign currency retained pursuant to subsection (1) of this section, shall be effected as soon as the foreign exchange earned on the export sales is received in Nigeria.

(3) The foreign currency retained pursuant to subsection (1) of this section is to enable the exporter to have at his disposal, foreign exchange funds to pay for the following export-related activities, that is -

- (a) services of his agents residing abroad;
- (b) travelling out at short notice to conclude export contracts;
- (c) defraying costs arising from-
 - (i) short landing,
 - (ii) quality determination (including deterioration)

(4) The Central Bank of Nigeria may, from time to time, add to export-related activities for which the provisions of subsection (3) of this section may be utilized by an exporter.

(5) The Nigerian Export Promotion Council in consultation with the Central Bank of Nigeria, shall from time to time, issue guidelines and directives on the operation of foreign currency retention permitted by subsection (1) of this section.

2 (1) A manufacturer who purchases a commodity at a price fixed by the Government for the production of export products shall be allowed to do so at the prevailing world market prices at the maximum.

Incentive to manufacturing exporters

(2) The cost implications of this incentive shall be absorbed by the Export Adjustment Scheme Fund established pursuant to section 6 of this Act.

3. (1) As from the commencement of this Act, all raw or unprocessed commodities, whether mineral or agricultural, shall be exportable on the production of export licence issued by the Export Licensing Authority.

Exportation of goods and Commodities

(2) Subject to subsection (1) of this section, all other products shall be exportable without the production of export license:

Provided that all existing foreign exchange and other similar Regulations are complied with

(3) Any export licence issued pursuant to subsection (1) of this section shall be valid for one year or for such period as may be stated on the licence by the Export Licensing Authority.

(4) Sections 4 (1), 4 (3), 5 and the Sixth and Eighth schedules to the Finance Act are hereby repealed.

1981 No 2

Cap. 58. (5) The monopoly of exportation of commodities granted to the Commodity Boards pursuant to the Commodity Boards Act is hereby cancelled.

(6) In this Act "Export Licensing Authority" means such person or persons amongst the officers of the Federal Ministry of Trade as may be designated by the Minister by notification in the Federal Gazette or such person or persons as the Minister may by notification in the Federal Gazette designate in that behalf.

PART II - ESTABLISHMENT OF FUNDS
A-Export Development Fund

Establishment,
etc. of Export
Development
Fund.

4.(1) There is hereby established a fund to be known as the Export Development Fund (hereinafter referred to as "the Development Fund").

(2) The Development Fund shall consist of such money as the Federal Government may, from time to time, pay into Development Fund and contributions made to the Development Fund by private sector exporters.

(3) The Development Fund shall be used to provide financial assistance to private sector exporting companies to cover part of their initial expenses in respect of export promotion activities, that is:-

- (a) participation in training courses, symposia, seminars and workshops in all aspects of export promotion;
- (b) advertising and publicity campaigns in foreign markets;
- (c) export market research and studies;
- (d) product design and consultancy;
- (e) participation in trade missions, buyer-oriented activities, overseas trade fairs, exhibitions and store promotion;
- (f) cost of collecting trade information;
- (g) organisation of joint export groups and mutual export guarantee associations;
- (h) backing up the development of export oriented Industries.

(4) The Trustees of the Development Fund shall consist of-

- (a) a representative of the Nigerian Export Promotion Council as Chairman;
- (b) a representative of the Federal Ministry of Finance
- (c) a representative of the Federal Ministry of Trade
- (d) a representative of the Federal Ministry of Industries;
- (e) a representative of the Federal Ministry of Budget and National Planning;

- (f) a representative of Manufacturers Association of Nigeria;
 - (g) a representative of the Nigerian Association of Chambers of Commerce, Industries, Mines and Agriculture.
- (5) It shall be the duty of the Trustees of the development Fund to-
- (a) oversee the Development Fund by approving the annual budget including proposal for investments;
 - (b) determine the use of incomes and profits accruing from investment;
 - (c) cover the cost of official involvement of the Nigerian Export Promotion Council in the activities of the Development Fund.
- (6) It shall be the duty of the Nigerian Export Promotion Council to-
- (a) recommend applications for financial assistance for the approval of the Exchange Control Department of the Central Bank of Nigeria;
 - (b) disburse the sum approved by the Central Bank of Nigeria.
 - (c) be responsible for the day to day running of the Development Fund through a special unit maintained by the Development Fund; and
 - (d) issue guidelines for the operation of the Development Fund.

B-Export Expansion Grant Fund

Establishment.
Etc. of Export
Expansion fund.

5. (1) There is hereby established a fund to be known as Export Expansion Grant Fund (hereinafter referred to as "the Expansion Fund").

(2) The Expansion Fund shall be used to provide cash inducement for exporters who have exported a minimum of N50,000 worth of semi-manufactured or manufactured products to enable them to

- (a) increase the volume of export;
- (b) diversify export products and market coverage.

(3) The Expansion Fund shall be made available only to exporters who produce evidence of exporting with the proceeds paid into the foreign account of the Central Bank of Nigeria:

Provided that if there are divergences between the contents of the documents on the exports in the exporter's bank as against those of the Central Bank of Nigeria, the Nigerian Export Promotion Council shall rely on figures in the documents of the Central Bank of Nigeria.

(4) The Nigerian Export Promotion Council shall be responsible for the day to day administration of the Expansion Fund established pursuant to subsection (1) of this section.

(5) The Nigerian Export Promotion Council shall issue from time to time guidelines for the effective administration of the Expansion fund.

(6) The Minister charged with responsibility for trade may make rules or regulations for the effective administration of the Expansion Fund established pursuant to subsection (1) of this section.

C-Export Adjustment Scheme Fund

6.(1) There is hereby established a fund to be known as the Export Adjustment Scheme Fund (hereinafter referred to as "the Adjustment Fund").

Establishment, etc of Export Adjustment Scheme Fund.

(2) The Adjustment Fund shall serve as a supplementary export subsidy, or as an additional fund for dealing with-

(a) high costs of production arising mainly from infra structural deficiencies;

(b) other factors beyond the control of the exporter

(3) The Nigerian Export Promotion Council shall be responsible for the day to day administration of the Adjustment Fund established pursuant to subsection (1) of this section.

(4) An exporter wishing to benefit from the Adjustment Fund shall supply to the Nigerian Export Promotion Council accurate information on the costs of his export activities.

(5) The Nigerian Export Promotion Council shall issue from time to time guidelines for the effective administration of the Adjustment Fund.

- (6) A Committee comprising a representative each of
- (a) the Productivity, Prices and Incomes Board;
 - (b) the Prices Intelligence Unit of the Federal Ministry of Trade;
 - (c) the Nigerian Export Promotion Council;
 - (d) the Department of Customs and Excise, shall oversee the Administration of the adjustment Fund.

PART III - MISCELLANEOUS

7. In this Act, unless the context otherwise requires

Interpre-
tation

"exportable products" means any product of Nigerian origin with at least 35 per cent value added or 40 per cent local raw materials content;

"manufacturing exporter" means a manufacturer who exports at least 50 per cent of his annual turnover provided that the product has at least 40 per cent local raw materials content or 35 per cent value added;

"Minister" Means the Minister charged with responsibility for trade matters.

8. This Act may be cited as the Exporters (Incentives and Miscellaneous Provisions) Act

DECREE NO. 65

(19TH NOVEMBER 1992) Commencement

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:-

1. The Export (Incentives and Miscellaneous Provisions) Act in this Decree referred to as "the principal Act") is hereby amended as provided in this Decree. Amendment Cap 118 LFN

2. For the existing section 1 of the principal Act there shall be substituted the following new section 1, that is. Amendment of section 1

"Retention of export proceeds in foreign currency.

1. (1) Notwithstanding the provisions of any enactment to the contrary, a Nigerian Exporter may retain all his export proceeds in foreign currency in his bank account in Nigeria.

(2) The foreign currency retained pursuant to subsection (1) of this section shall be effected as soon as the foreign exchange earned on the export sales is received in Nigeria.

(3) The foreign currency retained pursuant to subsection (1) of this section shall be for the purpose of enabling the exporter have at his disposal, foreign currencies to pay for such export related activities as may be prescribed by regulations made by the Nigerian Export Promotion Council in consultation with the Central Bank of Nigeria."

3. For the existing section 2 of the principal Act there shall be substituted the following new section 2 that is- Amendment of section 2

Administration of incentives.

2. The Nigerian Export Promotion Council shall to the exclusion of any other Government body or authority be charged with responsibilities for administering the Incentives contained in this Decree."

4. Section 3 of the principal Act is hereby amended as follows that is-

(a) by substituting for the existing subsections (1) and (2) thereof the following new subsections (1) and (2), that is:-

"Exportation
of raw and
unprocessed
goods and
Commodities

3(1) As from the commencement of this Act all raw or unprocessed commodities whether mineral or agricultural shall be exportable on the payment of a levy as may be prescribed from time to time by order by the N i g e r i a n Export Promotion Council.

(2) Subject to subsection (1) of this section, all exports from Nigeria shall be exportable without the production of export licence provided all existing foreign exchange regulations are complied with, "and

(b) by deleting subsections (3) and (6) thereof and renumbering the existing subsections (4) and (5) as new subsections (3) and (4).

5. Section 5 of the principal Act is hereby amended as follows, that is.-

(a) by deleting the existing subsection (2) thereof and substituting therefor a new subsection (2) as follows, that is.-

"(2) The Expansion Fund shall be used to provide cash inducement for exporters who qualify to benefit from the Expansion Fund based on the value of their semi manufactured or manufactured products as prescribed by order from time to time made by the Nigerian Export Promotion Council to enable the exporters-

- (b) increase their volume and value of exports; and
- (c) diversify export products and coverage."

6. Section 6 of the principal Act is hereby amended by deleting therefrom the existing subsection (6)

7. Immediately after the existing section 6 of the Principal Act there shall be inserted the following new sections, that is-

*Participation
In Schemes.

6A. An exporter wishing to benefit from Duty Drawback, Duty Suspension or Manufacture-in-Bond scheme shall direct his application for participation in any or all of the said schemes to the Nigerian Export Promotion Council.

6B. The Nigerian Export Promotion Council shall to the exclusion of any Government body or authority after consultation with the Duty Drawback Committee established under section 6C of this Act be charged with the responsibility for the due administration of the schemes.

6C-(1) There shall be established a Duty Draw back Committee (in this Act referred to "the Committee) which shall advise the Nigerian Export Promotion Council on the formulation of regulations for the efficient operation and administration of the Duty Draw-back, Duty Suspension and Manufacture in Bond Scheme.

- (2) The Committee shall consist of a representative each of-
- (a) the Nigerian Export Promotion Council;
 - (b) the Standard Organisation of Nigeria;
 - (c) the Central Bank of Nigeria;
 - (d) the Bankers Committee;
 - (e) the Federal Ministry of Commerce and Tourism;
 - (f) the Federal Ministry of Finance;
 - (g) the Manufacturers Association of Nigeria; and
 - (h) the Department of Customs and Excise

(3) without prejudice to the provisions of subsections (1) of this section, it shall be the duty of the Committee-

- (a) to fix the unit or rate of duty draw-back for each export product;
- (b) to fix the rate of reimbursement or import duties, levies, surcharges or export duties paid in respect of all imports including raw materials, components and packaging materials used in export production;
- (c) to fix the rate of reimbursement on excise duties paid in respect of all export products and components of export products;
- (d) to grant to the exclusion of any other Government body or authority, to qualified exporters benefits and entitlement in respect of the suspension or refund of import duties, levies, surcharges and export duties payable or paid in respect of all imports including raw materials, components and packaging materials used in export production or excise duties payable or paid in respect of all export products and components of export products.

specification
of rates, etc.

6D. The Nigerian Export Promotions Council may by Order prescribe such rates, entitlements and benefits as may be granted pursuant to the provisions of this Act.

Application of
Cap. 179LFN
to export
oriented
Industries.

6E. The provisions of the Industrial Development (Income Tax Relief) Act with respect to pioneer status shall apply to any manufacturing exporter who exports at least 50 percent of his annual turnover.

(2) Application for the declaration of an export oriented industry to be a pioneer industry shall be directed to the Nigerian Export Promotion Council for processing and it shall be the duty of the Nigerian Export Promotion Council to screen all applications and submit recommendations thereon for the approval of the Minister charged with the responsibility for industries".

8. For the existing section 7 of the principal Act there shall be substituted the following new section 7, that is-

"Interpretation. 7 In this Act unless the context otherwise requires-

"Exportable products" means any product of Nigerian origin.

"manufacturing exporter" means a manufacturer who manufactures and adds value to its products and exports at least 50 percent of its annual turnover."

9. This Decree may be cited as the Export (Incentives and Miscellaneous provisions) (Amendment) Decree 1992. Citation

MADE at Abuja this 19th day of November 1992

GENERAL I. B. BABANGIDA.

*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*