

EXCHANGE CONTROL (EXEMPTION) REGULATIONS,
1962

L.I. 168.

IN exercise of the powers conferred on the Minister responsible for Finance by section 38 of the Exchange Control Act, 1961 (Act 71), and for the purpose of giving effect to the provisions of Article 33 of the Master Agreement, as approved by the National Assembly on January 20, 1962, the exemptions and consents herein provided for are granted, this 22nd day of January, 1962.

PART I—EXEMPTIONS PURSUANT TO PARAGRAPH A OF ARTICLE 33 OF
THE MASTER AGREEMENT

I. Notwithstanding the provisions of sections 1, 3 and 6 of the Act, Valco and the Trustee of the Valco Current Accounts Trust may receive and hold foreign currency in accounts outside Ghana, and may make payments from such accounts, as permitted by the Valco Current Accounts Trust, for the following purposes: (a) Constructing the Smelter in accordance with Article II of the Master Agreement, out of funds available to the Trustee for such purpose from sources described in

Articles 3, 4 and 5 of the Valco Current Accounts Trust;

- (b) Meeting Valco's obligations under the Exim-Valco Loan Agreement to pay principal, interest and fees and other charges; and
- (c) Paying fees, expenses and reimbursable costs to the Trustee of the Valco Current Accounts Trust, and the Voting Trustee of The Voting Trust Arrangements: Provided, however, that the exemptions hereby granted shall be limited to such amounts as may be shown to have been required during each semi-annual period by the certificate of the Financial Manager of Valco (or such other person as the Ministry of Finance may approve) delivered to the Ministry within sixty days after the end of each semi-annual period ending June 30th and December 31st in each year.

2. Valco shall submit a report to the Ministry of Finance annually on or before the first day of March setting forth in reasonable detail the amounts of foreign currency received held or paid by Valco and said Trustee during the preceding calendar year under the exemptions granted in section I hereof and the purposes to which such amounts have been applied, accompanied by such documents and other information as the Ministry may reasonably require.

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PART II—EXEMPTIONS AND CONSENTS PURSUANT TO PARAGRAPH F, OF
ARTICLE 33 OF THE MASTER AGREEMENT

3. Notwithstanding the provisions of sections 1, 3 and 6 of the Act, Valco
and the Trustee of the Current Accounts Trust may

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receive and hold foreign currency in accounts outside Ghana in the

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following amounts :—

- (a) Up to \$12,000,000, as the proceeds of the issuance of Valco shares pursuant to the Subscription Agreement;
- (b) Up to \$42,000,000 as Tolling Charge Prepayments pursuant to the Long Term Tolling Contracts; and (c) Up to \$110,000,000 as the proceeds of the issuance by Valco of its promissory notes under the EximValco Loan Agreement.

4. For purposes of section 10 of the Act:

- (a) Valco shall be deemed to be the only person exporting goods from Ghana under the Long Term Tolling Contracts and the only party to the Long Term Tolling Contracts to whom section 10 shall be deemed applicable;
- (b) The method of payment provided in the Long Term Tolling Contracts shall be deemed to satisfy the provisions of section 10 (I) (a);
- (c) The amount of the payment provided in the Long Term Tolling Contracts shall be deemed to satisfy the provisions of section 10 (1) (b);
- (d) The parties to the Long Term Tolling Contracts other than Valco shall be exempted in all respects from the provisions of section 10.

5. Subject to the conditions hereinafter stated in subparagraphs (a) and (b) such consents and exemptions as may be required under the Act are hereby given to the entering into and the carrying out of contracts and agreements listed in Article 33 (F) of the Master Agreement :

Provided that—

- (a) such consents or exemptions shall not affect or derogate from—
 - (i) the exemptions herein granted and any limitations therein specified;
 - (ii) any consents or exemptions which may be granted in future; and
 - (iii) the provisions of Article 33 of the Master Agreement and the obligations of the parties thereunder; and
- (b) if in the view of the Ministry specific exemptions or consents are required in the interest of orderly

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administration of the Act and Regulations, due application will be made therefor provided that due and timely notice

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shall be given to the parties concerned and no penalties shall be imposed or other enforcement action taken until the party concerned shall, in accordance with the provisions of Article 33 of the Master Agreement, have had reasonable opportunity to comply, or justify non-compliance with such notice, whether by reason of the requirements of the various contracts and agreements, or otherwise.

PART III—MISCELLANEOUS

6. The exemptions and consents granted above are without pre judice to applications by any interested party for any further exemptions or consents for the purposes of giving effect to Article 33 of the Master Agreement or to any extension or modification of existing exemptions or consents which may be shown to be required or permitted thereunder. Applications shall be accompanied by such documents and papers and such other information as the Ministry may reasonably require. The various interested parties will also furnish such information periodically as the Ministry may reasonably require.

7. In this instrument:

" Act " means the Exchange Control Act, 1961 (Act 71). The various agreements documents and persons referred to herein shall, when applicable, refer to or have the meanings assigned to them in the Master Agreement.

F. K. D. GOKA
Minister of Finance and Trade.

Date of Gazette notification : 26th January, 1962

