



Treaty Series No. 77 (1984)

Agreement ✓

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Republic of Malawi
on Certain Commercial Debts

London, 29 August 1984

[The Agreement entered into force on 29 August 1984]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1984*

LONDON

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AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE REPUBLIC OF MALAWI ON CERTAIN
COMMERCIAL DEBTS

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the United Kingdom") and the Government of the Republic of Malawi (hereinafter referred to as "Malawi");

As a result of the Conference regarding consolidation of Malawian debts held in Paris on 27 October 1983 at which the Government of the United Kingdom, the Government of Malawi, certain other Governments, the International Monetary Fund, the International Bank for Reconstruction and Development, the Secretariat of the United Nations Conference on Trade and Development, the Commission of the European Communities and the Organisation for Economic Co-operation and Development were represented;

Have agreed as follows :

ARTICLE 1

Definitions

In this Agreement, unless the contrary intention appears :

- (a) "credit contract" shall mean a credit contract as defined in Article 2 of this Agreement;
- (b) "creditor" shall mean a creditor as defined in Article 2 of this Agreement;
- (c) "currency of the debt" shall mean sterling or such other currency as is specified in the credit contract;
- (d) "debt" shall mean any debt to which, by virtue of the provisions of Articles 2 and 9 of this Agreement and of Schedule 2 thereto, the provisions of this Agreement apply;
- (e) "debtor" shall mean a debtor as defined in Article 2 of this Agreement;
- (f) "maturity" in relation to a debt shall mean the date for the repayment thereof under the relevant credit contract or under a promissory note or bill of exchange drawn up pursuant to the terms of such credit contract;
- (g) "the Bank" shall mean the Reserve Bank of Malawi;
- (h) "The Department" shall mean the Export Credits Guarantee Department of the Government of the United Kingdom or any other Department thereof which the Government of the United Kingdom may nominate for the purposes of this Agreement;
- (i) "transfer scheme" shall mean the transfer scheme referred to in Article 3 of this Agreement.

ARTICLE 2

The Debt

(1) The provisions of this Agreement shall, subject to the provisions of paragraph (2) of this Article, apply to any debt, whether of principal or of contractual interest accruing up to maturity owed as primary or principal debtor or as guarantor by the Government of Malawi or by a person or body of persons or corporation resident or carrying on business in Malawi or by any successor thereto (hereinafter referred to as "debtor") to a person or body of persons or corporation resident or carrying on business in the United Kingdom or to any successor thereto (hereinafter referred to as "creditor") provided that:

- (a) the debt arises under or in relation to a contract or any agreement supplemental thereto which was made between the debtor and the creditor for the supply from outside Malawi of goods or services or both or of finance therefor, and which allowed credit to the debtor for a period exceeding one year, and which was entered into before 1 January 1982 (hereinafter referred to as a "credit contract");
- (b) maturity of the debt has occurred, or will occur, between 1 July 1983 and 30 June 1984 both dates inclusive and that after maturity that debt remains unpaid; but a deposit of Kwacha equivalent to the amount payable in the currency of the debt has been made at the Bank;
- (c) the debt is in respect of a credit contract guaranteed as to payment of that debt under a guarantee issued by the Department; and
- (d) the debt is not expressed by the terms of the credit contract to be payable in Kwacha.

(2) The provisions of this Agreement shall not apply to so much of any debt as arises from an amount payable upon or as a condition of the formation of the credit contract or upon or as a condition of the cancellation or termination of the credit contract.

ARTICLE 3

Payments to Creditors

Malawi undertakes to pay its debts punctually and shall ensure that funds are transferred to the creditors in the United Kingdom in the currency of the debt in accordance with the transfer scheme set out in Schedule 1 to this Agreement.

ARTICLE 4

Interest

(1) Malawi shall be liable for and shall pay to the creditor interest in accordance with the provisions of this Article on any debt to the extent that it has not been settled by payment to the creditor in the United Kingdom pursuant to Article 3 of this Agreement.

(2) Interest shall accrue during, and shall be payable in respect of, the period from maturity until the settlement of the debt by payment to the

creditor, and shall be paid and transferred to the creditor concerned in the currency of the debt half-yearly on 2 January and 1 July each year commencing 1 July 1984.

(3) Interest shall be calculated on the outstanding amount of the debt and paid at the rate of 10.25 per cent per annum and shall be calculated on the basis of a 365 day year.

ARTICLE 5

Exchange of Information

The Department and the Bank shall exchange all information required for the implementation of this Agreement.

ARTICLE 6

Other Debt Settlements

(1) If Malawi agrees with any creditor country other than the United Kingdom terms for the settlement of indebtedness similar to the indebtedness the subject of this Agreement which are more favourable than are the terms of this Agreement to creditors, then the terms of the payment of debts the subject of this Agreement shall, subject to the provisions of paragraphs (2) and (3) of this Article, be no less favourable to creditors than the terms so agreed with that other creditor country notwithstanding any provision of this Agreement to the contrary.

(2) The provisions of paragraph (1) of this Article shall not apply in a case where the aggregate of the indebtedness to the other creditor country is less than the equivalent of SDR500,000.

(3) The provisions of paragraph (1) of this Article shall not apply to matters relating to the payments of interest determined by Article 4 thereof.

ARTICLE 7

Preservation of Rights and Obligations

This Agreement and its implementation shall not affect the rights and obligations of creditors and debtors under their credit contracts.

ARTICLE 8

Rules

In the implementation of this Agreement the rules set out in Schedule 2 to this Agreement shall apply.

ARTICLE 9

The Schedules

The Schedules to this Agreement shall form an integral part thereof.

ARTICLE 10

Entry into Force and Duration

This Agreement shall enter into force on signature and shall remain in force until the last of the payments to be made to the creditors under Articles 3 and 4 of this Agreement has been made.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done in duplicate at London this 29th day of August 1984.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

MALCOLM RIFKIND

For the Government of the Republic of Malawi:

C. M. MKONA

SCHEDULE 1

Transfer Scheme

In respect of each debt arising under a credit contract which fell due or will fall due between 1 July 1983 and 30 June 1984 (both dates inclusive) and which remains unpaid:

(a) an amount equal to 85 per cent shall be paid and transferred from Malawi to the United Kingdom in ten equal and consecutive half-yearly instalments on 2 January and 1 July each year commencing on 1 January 1988; and

(b) the balance of 15 per cent shall be paid and transferred from Malawi to the United Kingdom as follows:

7.5 per cent on date of maturity

7.5 per cent on 30 June 1985.

SCHEDULE 2

Rules

(1) The Department and the Bank shall agree a list of debts to which, by virtue of the provisions of Article 2 of this Agreement, this Agreement applies.

(2) Such a list shall be completed as soon as possible. This list may be reviewed from time to time at the request of the Department or the Bank. The agreement of both the Department and the Bank shall be necessary before the list may be altered or amended or added to.

(3) Neither inability to complete the list referred to in paragraphs (1) and (2) of this Schedule nor delay in its completion shall prevent or delay the implementation of the other provisions of this Agreement.

(4) (a) The Bank shall transfer the necessary amounts in the currency of the debt to a bank in the United Kingdom together with payment instructions in favour of the creditor to whom payment is due in accordance with this Agreement.

(b) When making such transfer the Bank shall give the Department particulars of the debts and of the interest to which the transfers relate.