

PHILIPPINES



Treaty Series No. 44 (1986)

# Agreement

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

Manila, 4 February 1986

[The Agreement entered into force on 4 February 1986]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
September 1986*

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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 THE PHILIPPINES ON  
CERTAIN COMMERCIAL DEBTS**

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

As a result of the Conference held in Paris on 20 December 1984 regarding the consolidation of Philippine debts at which the Government of the United Kingdom, the Government of the Philippines, certain other Governments, the International Monetary Fund, the International Bank for Reconstruction and Development, the Asian Development Bank, the Secretariat of the United Nations Conference on Trade and Development and the Organisation for Economic Co-operation and Development were represented;

Have agreed as follows:

**ARTICLE I**

**Definitions and Interpretation**

- (1) In this Agreement, unless the contrary intention appears:
- (a) "the Central Bank" means the Central Bank of the Philippines, acting for and on behalf of the Government of the Philippines in respect of the Public Sector Debts (obligations of the Government of the Philippines whether as primary debtor or as guarantor) and with the guarantee of the Government of the Philippines in respect of the Private Sector Debts (obligations other than Public Sector Debts);
  - (b) "UK" means the United Kingdom of Great Britain and Northern Ireland and includes the Channel Islands and the Isle of Man;
  - (c) "Contract" means a contract entered into before 1 April 1984 the parties to which include a Debtor and a Creditor and which is either for the sale of goods and/or services from outside the Philippines to a buyer in the Philippines or is in respect of the financing of such a sale and which in either case granted or allowed credit to the Debtor for a period exceeding one year;
  - (d) "Creditor" means a person or body of persons or corporation resident or carrying on business in the UK or any successor in title thereto;
  - (e) "Currency of the Debt" means the currency specified in the relevant Contract as being the currency in which that Debt is to be paid;
  - (f) "Debt" means any debt to which, by virtue of the provisions of Article 2 and of the operation of the rules specified by Schedule 2, the provisions of this Agreement apply;

- (g) "Debtor" means the Government of the Philippines (whether as primary debtor or as guarantor) or any person or body of persons or corporation resident or carrying on business in the Philippines or any successor in title thereto;
- (h) "the Department" means the Secretary of State of the Government of the United Kingdom acting through the Export Credits Guarantee Department or any other Department of the Government of the United Kingdom which that government may subsequently nominate for the purpose hereof;
- (i) "Maturity" in relation to a Debt means the due date for the payment or repayment thereof under the relevant Contract or on a promissory note or bill of exchange drawn up pursuant thereto;
- (j) "Recognized Bank" means a bank, including a bank participating in a lending syndicate or in a syndicate led by banks, which has received a guarantee issued by the Department in respect of loan or financial agreements;
- (k) "Transfer Scheme" means the Transfer Scheme specified by Schedule 1.

(2) All references to interest, excluding contractual interest, shall be to interest accruing from day to day and calculated on the basis of actual days elapsed and a year of 365 days in the case of Debts specified in sterling, or of 360 days in the case of Debts specified in US Dollars.

(3) Where the context of this Agreement so allows words importing the singular include the plural and vice-versa.

(4) Unless otherwise indicated reference to the specified Article or Schedule shall be construed as a reference to that specified Article or Schedule to this Agreement.

(5) The headings to the Articles are for ease of reference only and do not form part of this Agreement.

## ARTICLE 2

### The Debt

(1) The provisions of this Agreement shall, subject to the provisions of paragraphs (2) and (3) of this Article and the rules specified in paragraph (1) of Schedule 2, apply to every Debt, whether of principal or of contractual interest accruing up to Maturity, owed by a Debtor to a Creditor and which:

- (a) arises under or in relation to a Contract or any agreement supplemental thereto;
- (b) fell due or will fall due on or before 30 June 1986 and remains unpaid;
- (c) is guaranteed by the Department as to payment according to the terms of the Contract; and
- (d) is not expressed by the terms of the Contract to be payable in Philippine pesos.

(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

Contract or upon or as a condition of the cancellation or termination of the Contract.

(3) Where the Debt arises in respect of loans or financial agreements where the Creditor is a Recognised Bank, the Department and the Central Bank shall agree whether the provisions of the Agreement shall apply thereto or whether the Debt should be excluded therefrom. In respect of such Debts which are excluded the Department will procure a loan to be arranged to the Ministry of Finance of the Government of the Philippines to provide for payments to be made in respect of such Debts.

### ARTICLE 3

#### **Payments in Philippine Pesos in respect of Debts**

(1) In addition to the Public Sector Debts which are the obligation of the Government of the Philippines, where Private Sector Debtors have made payments in Philippine pesos in respect of any Debt, then

(a) where the payments were made before entry into force of this Agreement, upon such entry into force; and

(b) where the payments were made subsequently, upon such payments, the payment of such Debt shall become the obligation of the Central Bank. The payment of all such Debt by the Central Bank to the Department shall be made in accordance with the provisions of Article 4.

(2) Regarding the Debt of the private sector, where private sector Debtors are unable to deposit Philippine pesos in respect of their Debts on the date of maturity they may be afforded up to six months' extension from the date of maturity in which to make such deposits. Interest at the rate specified in Article 5 shall be payable by the Debtor from the date of maturity until the date of deposit with the Central Bank. From the date of deposit with the Central Bank until the date of transfer to the Department, as specified in paragraph (2) of Article 5, the Central Bank shall assume the responsibility for the payment of all interest due on such deposits at the rates specified in Article 5.

(3) For those private sector Debts featuring due dates up to six months prior to 30 November 1985 and where Philippine pesos have still not been deposited with the Central Bank, the Central Bank shall endeavour to procure such deposits. Provided the deposits are made by 28 February 1986 that amount of the Debt covered by such deposits may be included within this Agreement. To the extent that such deposits are not made by 28 February 1986, the outstanding balance of the debt in question will be excluded from this Agreement. The Central Bank shall provide to the Department a list of all cases where it is endeavouring to secure Philippine peso deposits on the basis described in this paragraph.

### ARTICLE 4

#### **Payments to Creditors**

The Central Bank shall pay and transfer to the Department on behalf of and as agent for each Creditor, in the United Kingdom, in the Currency of the Debt

and to an account, details of which shall be notified by the Department to the Central Bank, the amounts due to that Creditor in accordance with the Transfer Scheme and the rules set out in Schedules 1 and 2 respectively.

## ARTICLE 5

### Interest

(1) The Central Bank shall pay to the Department interest in accordance with the provisions of this Article on Debt to the extent that it has not been settled by payment to the Department, in the United Kingdom, pursuant to Article 4. In this respect the Department shall be regarded as acting as agent for each Creditor concerned.

(2) Interest on each Debt shall be deemed to have accrued and shall accrue during, and shall be payable in respect of, the period from Maturity until the settlement of that Debt by payment to the Department as aforesaid, and shall be paid and transferred to the Department, in the United Kingdom, in the currency of the Debt half-yearly on 15 March and 15 September each year commencing on 15 March 1986.

(3) If any amount of any instalment payable in accordance with Article 4 is not paid on the due date for payment in accordance with the Transfer Scheme set out in Schedule 1, interest which accrues in respect thereof shall accrue from day to day until the amount is paid and shall be due and payable without further notice or demand of any kind.

(4) If any amount of interest payable in accordance with the provisions of paragraph (2) of this Article is not paid on the due date for payment thereof, the Central Bank shall pay to the Department interest on such amount of overdue interest. Such additional interest shall accrue from day to day from the due date for payment in accordance with the provisions of paragraph (2) of this Article to the date of receipt of the payment by the Department and shall be due and payable, in the United Kingdom in the Currency of the Debt, without further notice or demand of any kind.

(5) All interest payable in accordance with the provisions of this Article shall be paid at the rate of 0.5 per cent (the margin) above the London Interbank Offered Rate for the period in question. The method of calculation is set out in Schedule 2.

## ARTICLE 6

### Exchange of Information

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

## ARTICLE 7

### Other Debt Settlement

(1) If the Government of the Philippines 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 to

that creditor country than are the terms of this Agreement, then the terms of the payment of indebtedness the subject of this Agreement shall, subject to the provisions of paragraphs (2) and (3) of this Article, be no less favourable to any Creditor 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 SDR 1,000.000.

(3) The provisions of paragraph (1) of this Article shall not apply to matters relating to the payment of interest determined by Article 5.

## ARTICLE 8

### **Preservation of Rights and Obligations**

This Agreement and its implementation shall not affect the rights and obligations of any Creditor or Debtor under a Contract other than the modifications to the payment schedules of the principal and contractual interest on the Debts covered by this Agreement.

## ARTICLE 9

### **Rules**

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

## ARTICLE 10

### **The Schedules**

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

## ARTICLE 11

### **Entry into Force and Duration**

This Agreement shall enter into force upon signature and shall remain in force until the last of the payments to be made to the Department under Articles 4 and 5 has been made.

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

Done in duplicate at Manila, this 4th day of February, nineteen hundred and eighty-six.

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

**ROBIN McLAREN**

For the Government of the Republic of the Philippines:

**CESAR VIRATA**

For the Central Bank of the Philippines:

**JOSE FERNANDEZ**

## SCHEDULE 1

### Transfer Scheme

(1) In respect of each Debt which fell due on or before 31 December 1984 and remains unpaid, payment shall be made and transferred according to the following schedule:

- 25 per cent on 15 June 1985;
- 25 per cent on 15 December 1985;
- 50 per cent on 15 June 1986;

(2) In respect of each Debt which fell due or will fall due between 1 January 1985 and 30 June 1986, both dates inclusive, and remains unpaid:

- (a) an amount equal to 100 per cent of principal and 60 per cent of contractual interest shall be paid and transferred by ten equal and consecutive half-yearly instalments on 15 March and 15 September each year commencing on 15 March 1991;
- (b) the balance of 40 per cent of contractual interest shall be paid and transferred according to the following schedule:
  - 1/3 on the original due date for payment;
  - 1/3 on 15 September 1986; and
  - 1/3 on 15 September 1987.

## SCHEDULE 2

### Rules

#### (1) Debt List

- (a) The Department and the Central Bank shall agree a list of Debts to which, by virtue of the provisions of Article 2, this Agreement applies.
- (b) 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 of the Central Bank. The agreement of both the Department and the Central Bank shall be necessary before the list may be altered in any respect.
- (c) Neither inability to complete the list referred to in paragraphs (1) (a) and (1) (b) of this Schedule nor delay in its completion shall prevent or delay the implementation of the other provisions of the Agreement.

#### (2) Calculation of Interest

The rate of interest applicable to each interest period shall be that rate per annum being the aggregate of

- (a) the margin (0.5 per cent as stated in paragraph (5) of Article 5) and
- (b) the rate quoted to the Department at its request by the Reference Bank (being a bank to be agreed upon by the Department and the Central Bank) at which six-month sterling deposits in the case of Debts specified

in sterling, or six-month eurodollar deposits in the case of Debts specified in US dollars, are offered to that Reference Bank by prime banks in the London Interbank Market at 11 am (London time) two business days before the commencement of an interest period.

(3) Transfer

As and when payments become due under the terms of this Agreement, the Central Bank shall arrange for the necessary amounts to be transferred, in the Currency of the Debt, to the Department and shall give the Department full particulars of the Debts and/or interest to which the transfers relate.