

POLAND



Treaty Series No. 48 (1986)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Polish People's Republic
on Certain Commercial Debts

Warsaw, 30 November 1985

[The Agreement entered into force on 30 November 1985]

*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 POLISH PEOPLE'S REPUBLIC 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 Polish People's Republic (hereinafter referred to as "the Government of Poland");

As a result of the meetings held in Paris regarding the consolidation of Polish debts at which the Government of the United Kingdom, the Government of Poland and certain other Governments were represented;

Have agreed as follows:

ARTICLE 1

Definitions

In this Agreement, unless the contrary intention appears:

- (a) "contract" shall mean a 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, not being Polish Zloty, as is specified in the contract as being the currency in which the debt is to be paid;
- (d) "debt" shall mean any debt to which, by virtue of the provisions of Articles 2 and 8 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 contract or under a promissory note or bill of exchange drawn up pursuant to the terms of such contract;
- (g) "the Bank" shall mean Bank Handlowy W Warszawie SA;
- (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 subsequently 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 paragraphs (2) and (3) of this Article and the rules specified in Schedule 2 to this Agreement, 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 Poland or by a person or body of persons or corporation resident or carrying on business in Poland or by any successor thereto (hereinafter referred to as a "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 a "creditor") provided that:

- (a) the debt arises under or in relation to a contract or any agreement supplemental thereto which was made between a debtor and a creditor for the supply of goods or services or both or of finance therefor, and which allowed credit for a period exceeding one year, and which was entered into before 1 January 1984 (hereinafter referred to as a "contract");
- (b) maturity of the debt has occurred on or before 31 December 1984 and that after maturity that debt remains unpaid;
- (c) payment of the debt according to the terms of the contract is guaranteed by the Department; and
- (d) the debt is not expressed by the terms of the contract to be payable in Polish Zloty.

(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) The provisions of this Agreement shall not apply to any debts covered by the 1981 consolidation or to any payments due as a result of that consolidation and the bridging finance arranged in 1981.

ARTICLE 3

Payments to Creditors

The Government of Poland shall pay and transfer to the Government of the United Kingdom acting by the Department on behalf of each creditor, in the United Kingdom, in the currency of the debt the amounts due to each creditor in accordance with the transfer scheme and the rules set out in Schedules 1 and 2 respectively to this Agreement. In this respect the Department shall be regarded as acting as agent for each creditor concerned.

ARTICLE 4

Interest

(1) The Government of Poland shall in accordance with the provisions of this Article be liable for and pay interest in the United Kingdom in the currency of

the debt to the Government of the United Kingdom acting by the Department acting for each creditor concerned.

(2) In this Article the determined rate for any interest period shall be the rate of 0.5 per cent (the margin) above the London Inter-Bank Offer Rate for that period determined in accordance with the Rule set out in Schedule 2 to this Agreement.

(3) In respect of each debt:

- (a) for the period from the date following the date of maturity to 31 December 1984 (both dates inclusive) interest calculated at the rate of 11 per cent per annum on the amount of the debt shall be due and payable in 12 equal and consecutive half-yearly instalments on 1 January and 1 July in each year commencing on 1 January 1990;
- (b) for the period from 1 January 1985 to 1 July 1985 (both dates inclusive) and for the period from 2 July 1985 to 1 January 1986 (both dates inclusive) (each of which periods and each of every successive six months period thereafter is herein referred to as an "interest period") interest calculated at the determined rates for the aforesaid two periods on the amount of the debt shall be due and payable:
 - (i) as to one half thereof on 1 January 1986, and
 - (ii) as to the balance in four equal and consecutive annual instalments on 1 January in each year commencing on 1 January 1987;
- (c) for each interest period after the period 2 July 1985 to 1 January 1986 and until the full amount of the debt has been paid in the United Kingdom to the Government of the United Kingdom acting by the Department interest shall be due and payable on the last day of the period calculated at the determined rate for the period on the balance of the debt not so paid.

(4) In respect of interest on each debt calculated as provided in:

(a) paragraph (3)(a) of this Article:

- (i) for the interest period from 1 January 1985 to 1 July 1985 (both dates inclusive) and 2 July 1985 to 1 January 1986 (both dates inclusive) interest calculated at the determined rate for each period on the amount of interest calculated in accordance with the said paragraph (3)(a) shall be due and payable:
 - (A) as to one half thereof on 1 January 1986,
and
 - (B) as to the balance in four equal and consecutive annual instalments on 1 January in each year commencing on 1 January 1987;
- (ii) for the interest period commencing on 2 January 1986 and for each successive interest period thereafter and until the full amount thereof has been paid in the United Kingdom to the Government of the United Kingdom acting by the Department interest shall be due and payable on the last day of the period calculated at the determined rate for the period on the balance thereof not so paid;

(b) paragraph (3)(b) of this Article and expressed to be payable on the terms set out in sub-paragraph (ii) thereof and until the full amount so expressed to be payable has been paid in the United Kingdom to the Government of the United Kingdom acting by the Department interest shall be due and payable on the last day of the interest period calculated at the determined rate for the period on the balance thereof not so paid.

(5) If the amount of any interest due and payable in accordance with the provision of paragraphs (3) and (4) of this Article is not paid on the date when such amount is expressed to be due the Government of Poland shall further be liable for and shall pay interest on the amount of interest not so paid calculated at the determined rate until such amount has been paid to the Government of the United Kingdom acting by the Department.

(6) If the amount of any instalment payable in accordance with Article 3 of and the transfer scheme set out in Schedule 1 to this Agreement is not paid on the due date for payment in accordance with the transfer scheme or if the amount of any interest due and payable in accordance with the provisions of paragraphs (3) and (4) of this Article is not paid on the date when such amount is expressed to be due any interest which accrues in respect thereof after that date shall be due and payable without further notice or demand of any kind from day to day until the amount has been paid.

ARTICLE 5

Exchange of Information

The Government of the United Kingdom acting by the Department and the Government of Poland shall exchange all information required for the implementation of this Agreement.

ARTICLE 6

Other Debt Settlements

(1) Subject to the provisions of paragraphs (2) and (3) of this Article the Government of Poland will accord to the Government of the United Kingdom treatment not less favourable than that which it may have accorded to any other creditor country for the settlement of indebtedness of a comparable nature to that the subject of this Agreement and this Agreement shall be construed accordingly notwithstanding any provision to the contrary set out herein.

(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 4 hereof.

ARTICLE 7

Preservation of Rights and Obligations

Save to the extent that creditors shall have authorised the Government of the United Kingdom acting by the Department to enter into this Agreement and to agree to the transfer scheme set out in Schedule 1, this Agreement and its implementation shall not affect the rights and obligations of any creditor or debtor under a contract. The Government of the United Kingdom undertakes that it will not nominate or specify a debt for inclusion within the Debt List referred to in Schedule 2 to this Agreement and that it will not accept the inclusion of a debt within such List unless it has received the aforesaid authorisation from the respective creditor.

ARTICLE 8

Rules

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

ARTICLE 9

The Schedules

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

ARTICLE 10

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 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 Warsaw this 30th day of November 1985.

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

For the Government of the Polish
People's Republic:

JOHN MORGAN

Z. KARCZ

SCHEDULE 1

Transfer Scheme

In respect of each debt which fell due as at 31 December 1981 and was not paid or due from 1 January 1982 up to 31 December 1984 inclusive and was not paid, an amount equal to 100 per cent of each debt shall be paid and transferred by the Government of Poland to the Department in the United Kingdom by 12 equal and consecutive half-yearly instalments on 1 January and 1 July each year commencing on 1 January 1990.

SCHEDULE 2

Rules

(1) Calculation of Interest

Interest shall be calculated on the outstanding amount of the debt on the basis of a 365 day year in respect of debts denominated in sterling or a 360 day year in respect of debts denominated in US dollars. The rate of interest applicable to each interest period (the determined rate) shall be that rate per annum being the aggregate of:

- (a) the margin (0.5 per cent as stated in Article 4 (2)), and
- (b) (i) in the case of sterling denominated debts the arithmetic mean (rounded upwards where necessary to the nearest multiple of 1/16th (one-sixteenth) of one per cent) of the rates quoted to the Department at its request by four reference banks (being banks to be agreed upon by the Department and the Bank) at which six months sterling deposits were or are offered to the reference banks by prime banks in the London Inter-Bank market at 11 am (London time) two business days before the commencement of the relevant interest period, or
- (ii) in the case of US dollar denominated debts the arithmetic mean (rounded upwards where necessary to the nearest multiple of 1/16th (one-sixteenth) of one per cent) of the rates quoted to the Department at its request by four reference banks (being banks to be agreed upon by the Department and the Bank) at which six months eurodollar deposits were or are offered to the reference banks by prime banks in the London Inter-Bank market at 11 am (London time) two business days before the commencement of the relevant interest period.

(2) Debt List

- (a) 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.
- (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 Bank. The agreement of both the Department and of the Bank shall be necessary before the list may be altered or amended or added to.
- (c) Neither inability to complete the list referred to in paragraphs 2 (a) and 2 (b) of this Schedule nor delay in its completion shall prevent or delay the implementation of the other provisions of this Agreement.