



Treaty Series No. 9 (1987)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the
Somali Democratic Republic

on Certain Commercial Debts

Mogadishu, 14 August 1986

[The Agreement entered into force on 14 August 1986]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 1987*

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE SOMALI DEMOCRATIC 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 Somali Democratic Republic (hereinafter referred to as "the Government of Somalia");

As a result of the Conference held in Paris on 4, 5 and 6 March 1985 regarding the consolidation of Somali debts at which the Government of the United Kingdom, the Government of Somalia, certain other Governments, the International Monetary Fund, the International Bank for Reconstruction and Development and the Secretariat of the United Nations Conference on Trade and Development were represented;

Have agreed as follows:

ARTICLE 1

Definitions

In this Agreement, unless the contrary intention appears:

- (a) "Contract" means a contract entered into before 1 October 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 Somalia to a buyer in Somalia or is in respect of the financing of such a sale;
- (b) "Credit Period" shall mean in relation to a Contract, the longest period of credit in respect of Debts under the Contract and references to Contracts where the Credit Period is less than one year shall include those Contracts which do not provide for any credit to be given;
- (c) "Creditor" means a person or body of persons or corporation resident or carrying on business in the United Kingdom or any successor in title thereto;
- (d) "Currency of the Debt" means the currency specified in the relevant Contract as being the currency in which the Debt is to be paid;
- (e) "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;
- (f) "Debtor" means the Government of Somalia (whether as primary debtor or as guarantor) or any person or body of persons or corporation resident or carrying on business in Somalia or any successor in title thereto;
- (g) "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 purposes hereof;

- (h) "Maturity" in relation to a Debt shall:
- (i) for all purposes, save for the purposes of Article 5(2) of this Agreement when the Debt is not an obligation of the Government of Somalia as primary or principal debtor or as guarantor, mean the date for payment thereof under the relevant Contract or under a promissory note or bill of exchange drawn up pursuant to the terms of such Contract; and
 - (ii) for the purposes of Article 5(2) of this Agreement when the Debt is not an obligation of the Government of Somalia as aforesaid, mean the date on which payment in Somali shillings was made by the Debtor concerned;
- (i) "the Ministry" shall mean the Ministry of Finance of Somalia;
- (j) "Transfer Scheme" means the Transfer Scheme specified by Schedule 1;
- (k) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland and includes the Channel Islands and the Isle of Man;
- (l) 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;
- (m) where the context of this Agreement so allows words importing the singular include the plural and vice versa;
- (n) unless otherwise indicated reference to a specified Article or Schedule shall be construed as a reference to that specified Article of, or Schedule to, this Agreement;
- (o) 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 paragraph (2) of this Article and the rules specified in 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) in respect of a Contract which allowed credit to a Debtor for a period exceeding one year, fell due or will fall due on or before 31 December 1985 and remains unpaid;
 - (c) in respect of a Contract which allowed credit to a Debtor for a period of one year or less, fell due on or before 31 December 1984 and remains unpaid;
 - (d) is guaranteed by the Department as to payment according to the terms of the Contract; and
 - (e) is not expressed by the terms of the Contract to be payable in Somali shillings.

(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.

ARTICLE 3

Payments in Somali Shillings in respect of Debts

In addition to the Debts which are the obligation of the Government of Somalia, where a Debtor has made a payment in Somali shillings in respect of any Debt, then:

(a) where the payment was made before entry into force of this Agreement, upon such entry into force, and

(b) where the payment was made subsequently, upon such payment,

the payment of such Debt shall become the obligation of the Government of Somalia. The payment of all such Debt by the Government of Somalia to the Department shall be made in accordance with the provisions of Article 4.

ARTICLE 4

Payments to Creditors

The Government of Somalia shall pay and transfer to the Department on behalf of and as agent for each Creditor, and to an account details of which shall be notified by the Department to the Ministry, 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 Government of Somalia shall be liable for and 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 the balance of 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, and shall be paid and transferred to the Department in the United Kingdom, in the Currency of the Debt half-yearly on 1 January and 1 July each year commencing on 1 January 1986.

(3) If any amount of any instalment payable in accordance with Article 4 of this Agreement is not paid on the due date for payment in accordance with the Transfer Scheme set out in Schedule 1, interest shall accrue in respect thereof after that date 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 Government of Somalia shall be liable for and 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 thereof in accordance with the provisions of paragraph (2) of this Article to the date of receipt of 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

Other Payments

The Government of Somalia agrees that any payments made in Somali shillings by any Debtor in respect of interest on a Debt (not being a Debt owed by the Government of Somalia as primary or principal debtor or which the Government of Somalia has guaranteed), for the period between the due date for payment thereof under the relevant Contract (or under any promissory note or bill of exchange drawn up pursuant to the terms of such Contract) and the date the Debtor has made payment in Somali shillings in respect thereof shall be immediately transferable and payable in the Currency of the Debt, in the United Kingdom, to the Department on behalf of the Creditor concerned.

ARTICLE 7

Exchange of Information

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

ARTICLE 8

Other Debt Settlements

(1) If the Government of Somalia 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 creditors 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 500,000.

(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 9

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 those in respect of which the parties hereto are authorised to act respectively on behalf of and to bind such Creditor or Debtor.

ARTICLE 10

Rules

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

ARTICLE 11

The Schedules

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

ARTICLE 12

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 Mogadishu this 14th day of August 1986.

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

 

[PETER HOWARD GAY]

[MOHAMED SHEIKH OSMAN]

SCHEDULE 1

Transfer Scheme

(1) In respect of each Debt which allowed a Credit Period exceeding one year, and which fell due, or will fall due, on or before 31 December 1985, and which remains unpaid, the Government of Somalia shall pay and transfer to the Department, in the United Kingdom, in the Currency of the Debt:

(a) an amount equal to 95 per cent of such Debt provided for in the Agreement, by ten equal and consecutive half-yearly instalments on 1 January and 1 July each year commencing on 1 January 1991; and

(b) an amount equal to 5 per cent of such Debt provided for in the Agreement, by four equal and consecutive annual instalments commencing on 1 July 1986.

(2) In respect of each debt which allowed a Credit Period of one year or less, and which fell due on or before 31 December 1984 and remains unpaid, an amount equal to 100 per cent of such Debt shall be paid and transferred by the Government of Somalia to the Department, in the United Kingdom, in the Currency of the Debt provided for in the Agreement, by seven equal and consecutive half-yearly instalments on 1 January and 1 July each year commencing on 1 January 1986.

SCHEDULE 2

Rules

(1) Debt List

- (a) The Department and the Ministry shall agree a list of Debts to which, by virtue of the provisions of Article 2 of the Agreement, the 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 Ministry. The agreement of both the Department and of the Ministry shall be necessary before the list may be amended or added to.
- (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) Special Account

- (a) As and when payments become due under the terms of this Agreement, the Government of Somalia shall, in the first instance, draw upon the special account at the Bank of Italy to meet such payments.
- (b) The Government of Somalia 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.

(3) Calculation of Interest

Interest shall be calculated on the outstanding amount of the Debt. The rate of interest applicable to each interest period shall be that rate per annum being the aggregate of:

- (i) the margin (0.5 per cent as stated in paragraph 5 of Article 5); and
- (ii) 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 Ministry) 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.