



Treaty Series No. 49 (1990)

## Exchange of Notes

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

concerning Certain Commercial Debts

(The United Kingdom/Philippines Debt Agreement No. 3 (1989))

Manila, 15 March 1990

[The Agreement entered into force on 15 March 1990]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
July 1990*

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**EXCHANGE OF NOTES  
BETWEEN THE GOVERNMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES  
CONCERNING CERTAIN COMMERCIAL DEBTS  
(THE UNITED KINGDOM/PHILIPPINES DEBT AGREEMENT NO. 3 (1989))**

No. 1

*Her Majesty's Ambassador at Manila to the Secretary of Finance of the Republic of  
the Philippines*

*British Embassy  
Manila  
15 March 1990*

Your Excellency,

I have the honour to refer to the Agreed Minute on the Consolidation of the Debt of the Republic of the Philippines which was signed at the Conference held in Paris on 26 May 1989, and to inform Your Excellency that the Government of the United Kingdom of Great Britain and Northern Ireland are prepared to provide debt relief to the Government of the Republic of the Philippines on the terms and conditions set out in the attached Annex.

If these terms and conditions are acceptable to the Government of the Republic of the Philippines, I have the honour to propose that this Note together with its Annex, and your reply to that effect, shall constitute an Agreement between the two Governments in this matter which shall be known as 'The United Kingdom/Philippines Debt Agreement No. 3 (1989)' and which shall enter into force on the date of your reply.

I have the honour to convey to Your Excellency the assurance of my highest consideration.

K. G. MacInnes

ANNEX

SECTION I

**Definitions and Interpretation**

- (1) In this Annex, unless the contrary intention appears:
- (a) "Agreed Minute" means the Agreed Minute on the Consolidation of the Debt of the Republic of the Philippines which was signed at the Conference held in Paris on 26 May 1989;
  - (b) "Business Day" means a day on which dealings are carried on in the London interbank market and (if payment is required to be made on such day) on which banks are open for domestic and foreign exchange business in London in the case of sterling and in both London and New York City in the case of United States dollars;
  - (c) "the Central Bank" means the Central Bank of the Philippines acting for and on behalf of the Government of the Philippines;
  - (d) "Contract" means a contract, or any agreement supplemental thereto, entered into before 1 April 1984, the parties to which include a Debtor and a Creditor and which either is 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;
  - (e) "Creditor" means a person or body of persons or corporation resident or carrying on business in the United Kingdom, including the Channel Islands and the Isle of Man, or any successor in title thereto;
  - (f) "Debt" means any debt to which, by virtue of the provisions of Section 2(1), the provisions of this Annex apply;

- (g) "Debtor" means the Government of the Philippines or one of its agencies, organisations or institutions or any successor in title thereto, whether as primary debtor or as guarantor;
  - (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) "the Philippines" means the Republic of the Philippines;
  - (k) "Previous Agreements" means the Agreements between the Government of the United Kingdom and the Government of the Philippines on Certain Commercial Debts signed on 4 February 1986<sup>1</sup> and 24 March 1988<sup>2</sup>;
  - (l) "Reference Rate" means the rate quoted to the Department by a bank to be agreed upon by the Department and the Central Bank at which six-month sterling deposits, in the case of Debts denominated in sterling, and six-month eurodollar deposits, in the case of Debts denominated in United States dollars, are offered to that bank by prime banks in the London interbank market at 11 a.m. (London time) two business days before the commencement of the relevant interest period in each year;
  - (m) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland.
- (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 denominated in sterling, or of 360 days, in the case of Debts denominated in United States dollars.
- (3) Where the context of this Annex so allows, words importing the singular include the plural and vice versa.
- (4) Unless otherwise indicated, reference to a specified Section shall be construed as a reference to that Section of this Annex.
- (5) The heading to the Sections are for ease of reference only.

## SECTION 2

### The Debt

- (1) The provisions of this Annex shall, subject to the provisions of paragraphs (2) and (3) of this Section and Article IV paragraph 3 of the Agreed Minute, apply to any amount of principal or contractual interest accruing up to Maturity, owed by a Debtor to a Creditor, and which:
- (a) arises under or in relation to a Contract;
  - (b) has fallen due or will fall due for payment on or before 30 June 1991 and remains unpaid;
  - (c) is guaranteed by the Department as to payment according to the terms of the Contract;
  - (d) is not expressed by the terms of the Contract to be payable in Philippine pesos;
  - (e) does not arise from an amount payable upon, or as a condition of the formation, cancellation or termination of the Contract; and
  - (f) does not arise from an amount payable under either of the Previous Agreements.
- (2) The Department and the Central Bank shall, as soon as possible, agree and draw up a list of Debts ("the Debt List") to which this Annex shall apply. The Debt List may be reviewed from time to time at the request of the Department or of the Central Bank, but may not be added to or amended without the agreement of both the Department and the

<sup>1</sup>Treaty Series No. 44 (1986), Cmnd. 9876.

<sup>2</sup>Treaty Series No. 71 (1988), Cm 513.

Central Bank. Delay in the completion of the Debt List shall neither prevent nor delay the implementation of the other provisions of this Annex.

(3) The provisions of this Section shall cease to apply to Debts falling due from 1 April 1990 to 30 June 1991 if the conditions of Article IV paragraph 4 of the Agreed Minute are not met by 31 March 1990.

### SECTION 3

#### Payment of Debt

The Government of the Philippines shall pay to the Department in accordance with the provisions of Section 5(1):

- (a) in respect of each Debt which fell due on or before 31 May 1989:  
100 per cent of principal and interest in eight equal and consecutive half-yearly instalments commencing on 31 May 1994; and
- (b) in respect of each Debt falling due during the period from 1 June 1989 to 30 June 1991:  
10 per cent of interest on 30 June 1991  
15 per cent of interest on 30 June 1992  
75 per cent of interest and 100 per cent of principal in eight equal and consecutive half-yearly instalments commencing on 31 December 1996.

### SECTION 4

#### Interest

- (1) Interest shall be deemed to have accrued and shall accrue on the unpaid portion of each Debt during, and shall be payable in respect of, the period from Maturity until the settlement of that Debt by payment to the Department in accordance with Section 3.
- (2) The Government of the Philippines shall be liable for and shall pay to the Department in accordance with the provisions of Section 5(1) and of this Section interest on each Debt to the extent that it has not been settled by payment to the Department in the United Kingdom pursuant to Section 3. In respect of Debts specified in Section 3(a) such interest shall be paid to the Department half-yearly on 31 May and 30 November each year commencing on 31 May 1990 and in respect of Debts specified in Section 3(b) such interest shall be paid to the Department half-yearly on 30 June and 31 December each year commencing on 30 June 1990.
- (3) If any amount of interest payable in accordance with the provisions of paragraph (2) of this Section is not paid on the due date for payment thereof, the Government of the Philippines 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 of payment thereof in accordance with the provisions of paragraph (2) of this Section to the date of receipt of the payment by the Department, and shall be due and payable without further notice or demand of any kind.
- (4) All interest payable in accordance with this Section shall be paid at the rate of 0.5 per cent above the Reference Rate for each half-yearly interest period appropriate to the Debt in question commencing with the period within which the Maturity of that Debt occurs.

### SECTION 5

#### Payments to the Department

(1) Subject to the provisions of paragraph (2) of this Section, as and when payments become due under the terms of Sections 3 and 4, the Central Bank shall arrange for the necessary amounts, without deduction for taxes, fees, other public charges or any other costs accruing inside the Philippines, to be paid in the currency specified in the Contract as being the currency in which the Debt is to be paid to the Department in the United Kingdom to an account details of which shall be notified by the Department to the Central Bank.

(2) If the day on which such a payment falls due is not a Business Day payment shall be made on the next succeeding Business Day.

(3) The Central Bank shall give the Department full particulars of the Debts and /or interest to which the payments relate.

#### SECTION 6

##### **Exchange of Information**

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

#### SECTION 7

##### **Other Debt Settlements**

(1) The Government of the Philippines undertakes to perform its obligations under Article III of the Agreed Minute and agrees to accord to the Government of the United Kingdom terms no less favourable than those agreed with any other creditor country, notwithstanding any provision of this Annex to the contrary.

(2) The provisions of paragraph (1) of this Section shall not apply to matters relating to the payment of interest determined by Section 4.

#### SECTION 8

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

This Annex and its implementation shall not affect the rights or obligations of any Creditor or Debtor under a Contract other than those rights and obligations in respect of which the Government of the United Kingdom and the Government of the Philippines are authorised to act respectively on behalf of and to bind such Creditor and Debtor.

#### SECTION 9

##### **The Department's Intention**

The Department intends, in the spirit of Article IV paragraph 1 of the Agreed Minute, to consider whether it may become possible at some future time to make arrangements to refinance any part of the Debt. If the Department shall wish to make such refinancing arrangements, the Government of the Philippines agrees to negotiate in good faith to attempt to agree the necessary provisions. It is agreed that if, as a consequence of such negotiations, both parties agree that amendments should be made to this Annex, such amendments shall be effected by a further Exchange of Notes between the Government of the Philippines and the Government of the United Kingdom.

#### SECTION 10

##### **Goodwill Clause**

The Government of the United Kingdom acknowledges its commitment to Article IV, paragraph 5, of the Agreed Minute.

No. 2

*The Secretary of Finance of the Republic of the Philippines to Her Majesty's Ambassador  
at Manila*

*Department of Finance  
Manila  
15 March 1990*

Excellency:

I have the honour to acknowledge receipt of Your Excellency's note of 15 March 1990 which reads as follows:

[As in No. 1]

[Annex]

I have the honour to confirm that the terms and conditions set out in the Annex to your Note are acceptable to the Government of the Republic of the Philippines, and that your Note together with its Annex, and this reply, shall constitute an Agreement between our two Governments in this matter which shall be known as 'The United Kingdom/Philippines Debt Agreement No. 3 (1989)' and which shall enter into force today.

I have the honour to convey to your Excellency the assurance of my highest consideration.

JESUS P. ESTANISLAO



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