



Treaty Series No. 23 (1992)

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. 4 (1991))

London 13 November 1991

[The Agreement entered into force on 13 November 1991]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 1992*

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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. 4 (1991))**

*The Secretary of State for Foreign and Commonwealth Affairs
to the Ambassador of the Republic of the Philippines at London*

*Foreign and Commonwealth Office
London*

13 November 1991

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 20 June 1991, 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. 4 (1991)" 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.

(for the Secretary of State)
D. H. COLVIN

ANNEX

SECTION 1

Definitions and Interpretation

- (1) In this Annex, unless the contrary intention appears:
- (a) "the Agreed Minute" means the Agreed Minute on the Consolidation of the Debt of the Philippines which was signed at the Conference held in Paris on 20 June 1991;
 - (b) "Appropriate Market Rate" means the Reference Rate plus a margin of 0.5 per cent;
 - (c) "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 US dollars;
 - (d) "the Central Bank" means the Central Bank of the Philippines acting for and on behalf of the Government of the Philippines;
 - (e) "the Consolidation Period" means:
 - (i) the period from 1 July 1991 to 31 August 1992 inclusive, or
 - (ii) the period from 1 July 1991 to 31 December 1992 inclusive (if the terms specified in Section 11 come into effect);
 - (f) "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 was for the sale of goods and/or services from outside the Philippines to a buyer in the Philippines, or was for the financing of such a sale, and which in either case granted or allowed credit to the Debtor for a period exceeding one year;
 - (g) "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;
 - (h) "Currency of the Debt" means the currency specified in the relevant Contract or in the Previous Agreements as being the currency in which that Debt is to be paid;
 - (i) "Debt" means any debt to which, by virtue of the provisions of Section 2(1), the provisions of this Annex apply;
 - (j) "Debtor" means the Government of the Philippines or any of its agencies, organisations or institutions or any successor in title thereto, whether as primary debtor or as guarantor;
 - (k) "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;
 - (l) "Maturity" in relation to a Debt as specified:
 - (i) in Section 2(1)(a) means the relevant date for payment specified in the Previous Agreements or,
 - (ii) in Section 2(1)(b) 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;
 - (m) "the Philippines" means the Republic of the Philippines;
 - (n) "the 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 1986¹, 24 March 1988² and 15 March 1990³ respectively;
 - (o) "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 that bank is offering six-month eurodollar deposits, in the case of a Debt denominated in US dollars, or

¹Treaty Series No. 44 (1986), Cmnd. 9876.

²Treaty Series No. 71 (1988), Cm 513.

³Treaty Series No. 49 (1990), Cm 1138.

six-month sterling deposits, in the case of a Debt denominated in sterling, in the London Interbank Market at 11 am (London time) two Business Days before the commencement of the relevant interest period in each year;

- (p) "the 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 360 days, in the case of Debts denominated in US dollars, or 365 days in the case of Debts denominated in sterling.
- (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 headings 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 paragraph (2) of this Section and Article IV paragraph 3 of the Agreed Minute apply to:
- (a) any amount, whether of principal or of interest, payable under the Previous Agreements which has fallen due or will fall due during the Consolidation Period (excluding the instalment due on 30 June 1992 in accordance with Section 3(b) of the Agreement dated 15 March 1990) and which remains unpaid; and
- (b) any other amount, whether of principal or of contractual interest accruing up to Maturity, owed by the Debtor to a Creditor and which:
- (i) arises under or in relation to a Contract;
 - (ii) has fallen due or will fall due for payment during the Consolidation Period and remains unpaid;
 - (iii) is guaranteed by the Department as to payment according to the terms of the Contract;
 - (iv) is not expressed by the terms of the Contract to be payable in Philippine pesos; and
 - (v) does not arise from an amount payable upon or as a condition of the cancellation or termination of the Contract.
- (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 Central Bank. Delay in the completion of the Debt List shall neither prevent nor delay the implementation of the other provisions of this Annex.

SECTION 3

Payments under the Previous Agreements

The provisions of the Previous Agreements insofar as they relate to the payment of any Debt shall cease to apply upon the entry into force of this Agreement.

SECTION 4

Payment of Debt

The Government of the Philippines shall pay to the Department, in accordance with the provisions of Section 6(1), 100 per cent of the Debt specified in Section 2 in 14 equal and consecutive half-yearly instalments commencing on 31 July 2000.

SECTION 5

Interest

- (1) 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 in accordance with Section 4.
- (2) The Government of the Philippines shall be liable for and shall pay to the Department in accordance with the provisions of Section 6(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. Such interest shall be paid to the Department first on 30 November 1991 and then half-yearly on 31 January and 31 July (the "Due Dates") each year.
- (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 for 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 without further notice or demand.
- (4) All interest payable in accordance with the provisions of this Section shall be paid at the Appropriate Market Rate applicable to each half-yearly interest period commencing with the half-yearly interest period within which the Maturity of the Debt concerned occurs.

SECTION 6

Payments to the Department

- (1) When payment becomes due under the terms of Section 4 or 5, the Central Bank shall arrange for the necessary amounts, without deduction of taxes, fees, other public charges or any other costs accruing inside the Philippines, to be paid in the Currency of the Debt to an account 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 7

Exchange of Information

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

SECTION 8

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 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 5.

SECTION 9

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 10

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 the whole or part of the Debt. If the Department wishes to make such refinancing arrangements, the Government of the Philippines agrees to negotiate in good faith to attempt to agree to the necessary provisions provided such provisions involve no additional costs to the Government of the Philippines. 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 11

Debt Conversion Option

The Department may exercise the option provided for under Article II.2(C) of the Agreed Minute. The Department also recognises that this option can only be implemented with the consent of the Government of the Philippines.

SECTION 12

Conditionality

The Consolidation Period shall extend until 31 December 1992 provided that the conditions set forth under Article IV, paragraph 3 and 4 of the Agreed Minute have been complied with.

SECTION 13

Goodwill Clause

The Government of the United Kingdom acknowledges its commitment to honour Article IV, paragraph 4, of the Agreed Minute.

No. 2

*The Ambassador of the Republic of the Philippines at London to the
Secretary of State for Foreign and Commonwealth Affairs*

*Philippines Embassy
London*

13 November 1991

I have the honour to acknowledge receipt of Your Excellency's Note which reads as follows:

[As in No. 1]

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. 4 (1991)" and which shall enter into force today.

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

MANUEL T. YAN

[Annex as in No. 1]

