



Treaty Series No. 30 (1992)

Exchange of Notes

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

concerning Certain Commercial Debts

(The United Kingdom/Poland Debt Agreement No. 5 (1990))

Warsaw 4 October 1991

[The Exchange of Notes entered into force on 4 October 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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*Her Majesty's Ambassador at Warsaw to the Director of the Foreign Department of the
Ministry of Finance of the Republic of Poland*

*British Embassy
Warsaw
4 October 1991*

NOTE No. 253

I have the honour to refer to the Agreed Minute on the Consolidation of the Debt of the Republic of Poland which was signed at the Conference held in Paris on 16 February 1990, 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 Poland 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 Poland, I have the honour to propose that the 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/Poland Debt Agreement No. 5 (1990)" 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.

M. J. LLEWELLYN SMITH

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 Republic of Poland which was signed at the Conference held in Paris on 16 February 1990;
 - (b) "the Bank" means Bank Handlowy W Warszawie SA;
 - (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 Consolidation Period" means the period from 1 January 1990 to 31 March 1991 inclusive;
 - (e) "Contract" means a contract, or any agreement supplemental thereto, entered into before 1 January 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 Poland to a buyer in Poland, or is 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;
 - (f) "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;
 - (g) "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;
 - (h) "Debt" means any debt to which, by virtue of the provisions of Section 2(1), the provisions of this Annex apply;
 - (i) "Debtor" means the Government of Poland (whether as primary debtor or as guarantor), or any person or body of persons or corporation resident or carrying on business in Poland or any successor in title thereto;
 - (j) "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;
 - (k) "Maturity" in relation to a Debt specified in:
 - (i) Section 2(1)(a) means the due date for repayment thereunder;
 - (ii) 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;
 - (iii) Section 2(1)(c)(i) means 31 December 1989;
 - (iv) Section 2(1)(c)(ii) means 31 March 1991.
 - (l) "Poland" means the Republic of Poland;
 - (m) "the Previous Agreements" means the Agreements between the Government of the United Kingdom and the Government of Poland on Certain Commercial Debts signed on 2 July 1981¹ (as amended by an Exchange of Notes dated 5 November 1985², and including the related bridging finance), 30 November 1985³, 7 August 1986⁴ and 27 October 1989⁵ respectively;

¹Treaty Series No. 68 (1981) Cmnd. 8374.

²Treaty Series No. 47 (1986) Cmnd. 9889.

³Treaty Series No. 48 (1986) Cmnd. 9886.

⁴Treaty Series No. 15 (1987) Cm 105.

⁵Treaty Series No. 17 (1990) Cm 971.

- (n) "Reference Rate" means 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 by National Westminster Bank PLC, Lloyds Bank PLC, Midland Bank PLC and Barclays Bank PLC at which those banks are offering six-month eurodollar deposits, in the case of a Debt denominated in US dollars, or six-month sterling deposits, in the case of a Debt denominated in sterling, in the London Interbank Market at 11am (London time) two Business Days before the commencement of the relevant interest period in each year;
- (o) 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 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 4 of the Agreed Minute, apply to:
 - (a) any amount, whether of principal or of interest, payable under the Previous Agreements falling due on or before 31 March 1991 and which remains unpaid; and
 - (b) any other amount, whether of principal or of contractual interest accruing up to Maturity, owed by a Debtor to a Creditor and which:
 - (i) arises under or in relation to a Contract;
 - (ii) falls due for payment on or before 31 March 1991 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 Polish Zloty; and
 - (v) does not arise from an amount payable upon or as a condition of the cancellation or termination of the Contract; and
 - (c) any amount of interest charged under Section 5 of this Annex:
 - (i) having accrued on or before 31 December 1989, or
 - (ii) accruing during the Consolidation Period.
- (2) The Department and the Bank shall, as soon as possible, agree and draw up a list of Debts ("the Debt List") to which, by virtue of the provisions of this Section, this Annex shall apply. The Debt List may be reviewed from time to time at the request of the Department or of the Bank, but may not be added to or amended without the agreement of both the Department and the 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 Poland shall pay to the Department, in accordance with the provisions of Section 6(1), the following:

- (a) in respect of each Debt specified in Sections 2(1)(a), 2(1)(b) and 2(1)(c)(i) having fallen due for payment on or before 31 December 1989:
 - 100 per cent by 12 equal and consecutive half-yearly instalments commencing on 31 December 1997;
- (b) in respect of the Debt specified in Section 2(1)(c)(ii):
 - (i) 30 per cent on 31 March 1991, and
 - (ii) 70 per cent by 10 equal and consecutive annual instalments commencing on 31 December 1993; and
- (c) in respect of all other Debts specified in Sections 2(1)(a) and 2(1)(b) falling due during the Consolidation Period:
 - 100 per cent by 12 equal and consecutive half-yearly instalments commencing on 30 June 1999.

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 or, in the case of a Debt specified in Section 2(1)(c)(i), from 1 January 1990 or, in the case of a Debt specified in Section 2(1)(c)(ii), from 1 April 1991, until the settlement of that Debt by payment to the Department in accordance with Section 4.
- (2) The Government of Poland 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 pursuant to Section 4. Such interest shall be paid to the Department half-yearly on 30 June and 31 December (the "Due Dates") each year commencing on 30 June 1991.
- (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 Poland 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 rate of 0.5 per cent above the Reference 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 Sections 4 and 5, the Bank shall:
 - (a) where possible draw upon the special account at the Bank for International Settlements to meet such payments, and
 - (b) in any event arrange for the necessary amounts, without deduction for taxes, fees, other public charges or any other costs accruing inside Poland, to be paid in the Currency of the Debt to an account notified by the Department to the Bank.

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

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

SECTION 7

Exchange of Information

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

SECTION 8

Other Debt Settlements

(1) The Government of Poland 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 Poland are authorised to act respectively on behalf of and to bind such Creditor and Debtor.

*The Director of the Foreign Department of the Ministry of Finance of the Republic of Poland
to Her Majesty's Ambassador at Warsaw*

*Ministry of Finance
Warsaw
4 October 1991*

Excellency,

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

[As in No. 1]

[Annex 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 Poland, 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/Poland Debt Agreement No. 5 (1990)" and which shall enter into force today.

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

W. KASPRZAK

