



Treaty Series No. 37 (1994)

Exchange of Notes

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

concerning Certain Commercial Debts (The United Kingdom/
Costa Rica Debt Agreement No. 5 (1993))

San Jose, 18 November 1993

[The Agreement entered into force on 18 November 1993]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
July 1994*

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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 COSTA RICA
CONCERNING CERTAIN COMMERCIAL DEBTS
(THE UNITED KINGDOM/COSTA RICA DEBT No. 5 (1993))**

No. 1

*Her Majesty's Ambassador at San Jose to the Minister of Finance
of the Republic of Costa Rica*

*British Embassy
San Jose
18 November 1993*

Excellency

I have the honour to refer to the Agreed Minute on the Consolidation of the Debt of the Republic of Costa Rica which was signed at the Conference held in Paris on 22 June 1993, 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 Costa Rica 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 Costa Rica, I have the honour to propose that this Note together with its Annex, and your reply to that effect, shall constitute an Agreement between our two Governments in this matter which shall be known as 'The United Kingdom/Costa Rica Debt Agreement No. 5 (1993)' 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.

MARY LOUISE CROLL

ANNEX

SECTION I

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 Costa Rica which was signed at the Conference held in Paris on 22 June 1993;
 - (b) "Appropriate Market Rate" means the Reference Rate plus 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) "Contract" means a contract, including any agreement supplemental thereto, entered into before 1 July 1982, the parties to which include the Debtor and a Creditor and which either was for the sale of goods and/or services from outside Costa Rica to a buyer in Costa Rica, 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;
 - (e) "Costa Rica" means the Republic of Costa Rica;
 - (f) "Creditor" means a person or body of persons or corporation resident or carrying on business in the United Kingdom, the Channel Islands or 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 Costa Rica (whether as primary debtor or as guarantor), or any person or body of persons or corporation resident or carrying on business in Costa Rica 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) "the Fourth Agreement" means the Agreement between the Government of the United Kingdom and the Government of Costa Rica on certain Commercial Debts signed on 12 November 1991;¹
 - (l) "Maturity" in relation to a Debt;
 - (i) specified in Section 2(1)(a) and 2(1)(b) means 30 June 1993,
 - (ii) specified in Section 2(1)(c) 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 Ministry" means the Ministry of Finance of the Government of Costa Rica;
 - (n) "Reference Rate" means the rate quoted to the Department by a bank to be agreed upon by the Department and the Ministry as the rate at which that bank is 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 11 am (London time) two Business Days before the commencement of the relevant interest period;
 - (o) "the Previous Agreements" means collectively the Second and Third Agreements and the Fourth Agreement;

¹ Treaty Series No. 11 (1992), Cm 1814.

- (p) "the Second and Third Agreement" means the Agreements between the Government of the United Kingdom and the Government of Costa Rica on Certain Commercial Debts signed on 30 January 1986¹ and 7 June 1990² respectively;
- (q) "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, and 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 (excluding any compensation), payable under the Second and Third Agreements which fell due on or before 30 June 1993 and which remains unpaid; and
- (b) any amount of principal payable under the Fourth Agreement which fell due on or before 30 June 1993 and which remains unpaid; and
- (c) any other amount, whether of principal or of contractual interest accruing up to Maturity, which is owed by a Debtor to a Creditor and which:
- (i) arises under or in relation to a Contract;
 - (ii) is guaranteed by the Department as to payment according to the terms of the Contract;
 - (iii) is not expressed by the terms of the Contract to be payable in Costa Rica colones;
 - (iv) is not an amount payable under any of the Previous Agreements;
 - (v) does not arise from an amount payable upon or as a condition of the cancellation or termination of the Contract; and
 - (vi) fell due for payment on or before 30 June 1993 and remains unpaid.
- (2) The Department and the Ministry 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 Ministry, but may not be added to or amended without the agreement of both the Department and the Ministry. 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.

¹ Treaty Series No. 37 (1986) Cmnd. 9845.

² Treaty Series No. 61 (1990) Cm 1210.

SECTION 4

Payment of Debt

The Government of Costa Rica shall pay to the Department, in accordance with the provisions of Section 6(1);

- (i) 100 per cent of each Debt specified in Section 2(1)(a) and 2(1)(c), and
- (ii) 50 per cent of each Debt specified in Section 2(1)(b)

in 10 equal and consecutive half-yearly instalments commencing on 30 June 1995.

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.

(2) The Government of Costa Rica 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 on a half-yearly basis on 31 December and 30 June (the aforementioned dates being referred to as the "Due Dates") each year commencing on 31 December 1993.

(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, the Government of Costa Rica shall compensate the Department for any amount of interest outstanding. Such compensation shall be in addition to the interest payable under paragraph (2) of this Section. It shall accrue and be payable on the outstanding amount of overdue interest from day to day from the Due Date 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. Such compensation shall be calculated in accordance with the provisions of paragraph (4) of this Section.

(4) All interest and compensation 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 Ministry shall arrange for the necessary amounts, without deduction of taxes, fees, other public charges or any other costs accruing inside or outside Costa Rica, to be paid in the Currency of the Debt to an account notified by the Department to the Ministry.

(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 Ministry shall give the Department full particulars of the Debts and/or interest and compensation to which the payments relate.

SECTION 7

Exchange of Information

The Department and the Government of Costa Rica shall exchange all information required for the implementation of this Annex.

SECTION 8

Other Debt Settlements

- (1) The Government of Costa Rica undertakes to fulfil its commitments under Article III of the Agreed Minute.
- (2) The Government of Costa Rica agrees to accord to the United Kingdom terms no less favourable than those agreed with any other creditor, notwithstanding any provision of this Annex to the contrary.
- (3) The provisions of paragraph (2) 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 Costa Rica are authorised to act respectively on behalf of and to bind such Creditor and Debtor.

No. 2

*The Minister of Finance of the Republic of Costa Rica to Her Majesty's
Ambassador at San Jose*

*Ministry of Finance
San Jose
18 November 1993*

Excellency:

I have the honour to acknowledge receipt of Your Excellency's Note of 18 November 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 Costa Rica, 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/Costa Rica Debt Agreement No. 5 (1993)" and which shall enter into force today.

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

CARLOS E. MUNOZ VEGA

