

ZAMBIA



Treaty Series No. 23 (1985)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Republic of Zambia
on Certain Commercial Debts

Lusaka, 15 February 1985

[The Agreement entered into force on 15 February 1985]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
June 1985*

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AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE REPUBLIC OF ZAMBIA 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 Republic of Zambia (hereinafter referred to as "the Government of Zambia");

As a result of the Conference held in Paris on 20 July 1984 regarding the consolidation of Zambian debts at which Government of the United Kingdom, the Government of Zambia, certain other Governments, the International Monetary Fund, the International Bank for Reconstruction and Development, the Secretariat of the United Nations Conference on Trade and Development, the Organisation for Economic Cooperation and Development and the Commission of European Communities were represented;

Have agreed as follows :

ARTICLE 1

Definitions

In this Agreement, unless the contrary intention appears :

- (a) "contract" shall mean a contract as defined in Article 2(1)(b) of this Agreement or, in relation to a debt referred to in Article 2(1)(a) of this Agreement, the contract under which the debt of principal and contractual interest was originally payable;
- (b) "creditor" shall mean a creditor as defined in Article 2 of this Agreement;
- (c) "currency of the debt" shall mean sterling or such other currency not being Kwacha as is specified in the contract;
- (d) "debt" shall mean any debt to which, by virtue of the provisions of Article 2 and 9 of this Agreement and of Schedule 2 thereto, the provisions of this Agreement apply;
- (e) "debtor" shall mean a debtor as defined in Article 2 of this Agreement;
- (f) "maturity" in relation to a debt shall mean the date for the repayment thereof under the relevant contract or under a promissory note or bill of exchange drawn up pursuant to the terms of such contract;
- (g) "the Bank" shall mean the Bank of Zambia;
- (h) "the Department" shall mean the Export Credits Guarantee Department of the Government of the United Kingdom or any other Department thereof which the Government of the United Kingdom may subsequently nominate for the purposes of this Agreement;

- (i) "the 1983 Agreement" shall mean the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Zambia on Certain Commercial Debts signed on 30 December 1983⁽¹⁾;
- (j) "transfer scheme" shall mean the transfer scheme referred to in Article 4 of this Agreement.

ARTICLE 2

The Debt

(1) The provisions of this Agreement shall, subject to the provisions of paragraph (2) of this Article, apply to:

- (a) any debt, whether of principal or of contractual interest, payable under the 1983 Agreement owed as primary or principal debtor or as guarantor by the Government of Zambia or by a person or body of persons or corporation resident or carrying on business in Zambia or by any successor thereto (hereinafter referred to as "debtor") to a person or body of persons or corporation resident or carrying on business in the United Kingdom or to any successor thereto (hereinafter referred to as "creditor") which has fallen due or will fall due for payment under the 1983 Agreement on or before 31 December 1984 and which remains unpaid after due date;
- (b) any other debt, whether of principal or of contractual interest accruing up to maturity, owed by a debtor to a creditor provided that:
- (i) the debt arises under or in relation to a contract or any agreement supplemental thereto which was made between the debtor and the creditor for the supply from outside Zambia of goods or services or both or of finance therefor, which was entered into before 1 January 1983 (hereinafter referred to as a "contract") and which allowed credit for a period exceeding one year;
 - (ii) maturity of the debt has occurred, or will occur, between 1 January 1984 and 31 December 1984 both dates inclusive and that after maturity that debt remains unpaid;
 - (iii) the debt is in respect of a contract guaranteed as to payment of that debt under a guarantee issued by the Department; and
 - (iv) the debt is not expressed by the terms of the contract to be payable in Kwacha.

(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 Kwacha in Respect of Debts

Where a debtor has made a payment in Kwacha in respect of any debt then, (a) where payment was made before the entry into force of this Agreement, upon entry into force and (b) where payment was made subsequently, immediately after the payment was made, the payment and transfer

⁽¹⁾ Treaty Series No. 23 (1984), Cmnd. 9187.

of such debt shall become the obligation of the Government of Zambia. The payment and transfer of such debt by the Government of Zambia to the Department on behalf of the creditors shall be made in accordance with the provisions of Article 4 of this Agreement.

ARTICLE 4

Payment to Creditors

The Government of Zambia shall pay to the Department on behalf of the creditors in the United Kingdom in the currency of the debt the amounts due to each creditor in accordance with the transfer scheme and the rules set out in Schedule 1 and Schedule 2 respective to this Agreement.

ARTICLE 5

Interest

(1) The Government of Zambia shall be liable for and shall pay to the Department on behalf of the creditor interest in accordance with the provisions of this Article on any debt to the extent that it has not been settled by payment to the creditor in the United Kingdom pursuant to Article 4 of this Agreement.

(2) Interest shall accrue during, and shall be payable in respect of, the period from maturity or, in the case of a debt specified in Article 2(1)(a) of this Agreement from the date for payment under the 1983 Agreement, until the settlement of the debt by payment to the Department on behalf of the creditor and shall be paid and transferred to the Department on behalf of the creditor concerned in the currency of the debt in half-yearly instalments on 30 June and 31 December each year commencing on 31 December 1984.

(3) Interest shall be calculated on the basis of a 365 day year on the outstanding amount of the debt and shall be paid at the rate of 1 per cent (the margin) above the London Inter-Bank Offer Rate for the period in question. The method of calculation is set out in Schedule 2 to this Agreement. No additional commission or premium shall be charged.

ARTICLE 6

Exchange of Information

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

ARTICLE 7

Other Debt Settlements

(1) If the Government of Zambia 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 debts the subject of this Agreement shall, subject to the provisions of paragraph (2) and (3) of this Article, be no less favourable to creditors 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 SDR500,000.

(3) The provisions of paragraph (1) of this Article shall not apply to matters relating to the payment of interest determined by Article 5 hereof.

ARTICLE 8

Preservation of Rights and Obligations

This Agreement and its implementation shall not affect the rights and obligations of creditors and debtors under their contracts.

ARTICLE 9

Rules

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

ARTICLE 10

The Schedules

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

ARTICLE 11

Entry into force and Duration

This Agreement shall enter into force on signature and shall remain in force until the last of the payments to be made to the Department on behalf of the creditors under Article 4 and 5 of this Agreement has been made.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done in duplicate at Lusaka this fifteenth day of February 1985.

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

For the Government of the Republic
of Zambia:

W. K. K. WHITE

E. C. KAUNGA

SCHEDULE 1

Transfer Scheme

(1) In respect of each debt specified in Article 2(1)(a) and 2(1)(b) of this Agreement which has fallen due or will fall due for payment between 1 January 1984 and 31 December 1984, both dates inclusive, and after due date remains unpaid, an amount equal to 100 per cent shall be paid and transferred by the Government of Zambia to the Department on behalf of the creditor in the United Kingdom by 10 equal and consecutive half-yearly instalments on 30 June and 31 December each year commencing on 31 December 1989.

(2) In respect of each debt specified in Article 2(1)(a) of this Agreement which has fallen due for payment on or before 31 December 1983 and remains unpaid, an amount equal to 100 per cent shall be paid and transferred by the Government of Zambia to the Department on behalf of the creditor in the United Kingdom by 12 equal and consecutive monthly instalments commencing on 31 August 1984.

SCHEDULE 2

Rules

(1) *Calculation of Interest*

The rate of interest applicable to each interest period shall be that rate per annum determined as the aggregate of (a) the margin (1 per cent as stated in Article 5(3)) and (b) 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 Bank) at which six month sterling deposits are offered to that Reference Bank by prime banks in the London Inter-Bank Market as at 11 AM (London time) two business days before the commencement of an interest period.

(2) *Debt List*

(a) The Department and Bank shall agree a list of debts to which, by virtue of the provisions of Article 2 of this Agreement, this 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 Bank. The agreement of both the Department and of the Bank shall be necessary before the list may be altered or amended or added to.

(c) Neither inability to complete the list referred to in paragraph 2(a) and 2(b) of this Schedule nor delay in its completion shall prevent or delay the implementation of the other provisions of this Agreement.

(3) *Special Account*

(a) As and when payments become due under the terms of this Agreement, the Government of Zambia shall, in the first instance draw upon the special account at the New York Federal Reserve Bank to meet such payments.

(b) The Government of Zambia shall arrange for the necessary amounts to be transferred in the currency of the debt to the Department on behalf of the creditors to whom payments are due in accordance with this Agreement.

(c) When arranging such transfers, the Government of Zambia shall give the Department full particulars of the debts and/or the interest to which the transfers relate.