



Treaty Series No. 94 (1980)

Exchange of Notes ✓

concerning a Loan by the Government
of the United Kingdom of Great Britain
and Northern Ireland to the
Government of the Republic of the
Philippines

(United Kingdom/Philippines Loan No. 2 1980)

Manila, 23 September 1980

[The Agreement entered into force on 23 September 1980]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1980*

LONDON

HER MAJESTY'S STATIONERY OFFICE

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**EXCHANGE OF NOTES
CONCERNING A LOAN BY THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND TO THE GOVERNMENT OF
THE REPUBLIC OF THE PHILIPPINES**

No. 1

*Her Majesty's Ambassador at Manila to the Minister of
Human Settlements of the Philippines*

*British Embassy
Manila*

23 September 1980

Your Excellency,

United Kingdom/Philippines Loan (No 2) 1980

1. I have the honour to inform you that it is the intention of the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") to make available to the Government of the Republic of the Philippines (hereinafter referred to as "the Government of the Philippines") by way of a loan a sum not exceeding £1,967,000 (one million, nine hundred and sixty seven thousand pounds sterling) (hereinafter referred to as "the loan"), to be allocated towards the cost of machinery, equipment, material and associated services for wood burning power stations to be supplied to the National Electrification Administration of the Philippines (hereinafter referred to as "the NEA") by Balfour Beatty Engineering Ltd (hereinafter referred to as "the Contractors") under a contract dated 23 September 1980 between the NEA and the Contractors (hereinafter referred to as "the Contract"), and certain charges and commissions payable to the Crown Agents for Oversea Governments and Administrations (hereinafter referred to as "the Crown Agents").

2. The Government of the United Kingdom shall adopt the arrangements and the procedures described in the following paragraphs of this Note, insofar as they relate to things to be done by or on behalf of, or to matters under the control of that Government. The Government of the Philippines shall adopt the arrangements and procedures so described insofar as they relate to things to be done by or on behalf of, or to matters under the control of, that Government.

3. The Government of the Philippines shall lend the funds provided out of the loan to the NEA on terms to be agreed by the Government of the United Kingdom and the Government of the Philippines.

4. Subject to paragraph 8 of this Note, drawings from the loan to a total sum not exceeding £1,962,360 (one million, nine hundred and sixty two thousand, three hundred and sixty pounds sterling) shall be applied to payments to the Contractor which shall become due and payable as follows:—

(i) On the coming into operation of this Agreement	£1,143,260.25
(ii) On delivery of plant or a portion thereof ...	7.8394% of Contract Price

(iii) For advisory services and commissioning (payable at monthly intervals for work done)	22.8394% of Contract Price
(iv) For freight and insurance (on delivery of plant or portions thereof)	22.8394% of actual cost
(v) For variations and contract price adjustments ...	22.8394% of payments

INITIAL PROCEDURES

5. For the purposes of these arrangements, the Government of the Philippines shall by a request in the form shown in Appendix A to this Note, open a special account (hereinafter referred to as "the Account") with the Crown Agents. The Account shall be operated solely for the purposes of the loan and in accordance with the instructions contained in the request.

6. As soon as the Account is opened, and before taking any other steps required by these arrangements for obtaining any part of the loan, the Government of the Philippines shall furnish the Government of the United Kingdom with a copy of their instructions to the Crown Agents given in accordance with the provisions of paragraph 5 of this Note. The Crown Agents, acting on behalf of the Government of the Philippines, shall, at the same time and as often as any change is made therein, notify the Government of the United Kingdom of the names of the officers of the Crown Agents who are duly authorised to sign on its behalf the Request for Drawing in the form shown in Appendix B to this Note and shall furnish a specimen signature in duplicate of each such officer.

7. To the extent that the Crown Agents, acting on behalf of the Government of the United Kingdom, accept

- (a) a request from the Contractors for a payment in accordance with paragraph 4 of this Note; or
- (b) reimbursement of charges incurred by the Government of the Philippines under Section B of Paragraph 8 of this Note;

the Government of the United Kingdom shall, on receipt of the request from the Crown Agents, acting on behalf of the Government of the Philippines, in the form set out in Appendix B to this Note, make payments in sterling into the Account and each such payment shall constitute a drawing on the Loan.

8. Save to the extent (if any) to which the Government of the United Kingdom may otherwise agree, drawings from the loan shall only be used as provided in paragraph 4 of this Note and in accordance with the provisions of Section A and B of this paragraph.

Section A

Before any payments are made the Government of the Philippines shall ensure that the Crown Agents, acting on their behalf, receive copies of the Contract from the Contractors and a certificate from Lloyds Bank International Limited to the effect that all the pre-disbursement conditions under the Loan Agreement (as defined in the contract) have been fulfilled.

For the payments due under paragraph 4 of this Note withdrawals from the Account shall be made on receipt by Crown Agents from the Contractors of a UK Payment Certificate in the form shown in Appendix C to this Note.

Section B

For payment of sterling charges and commissions payable in the United Kingdom to the Crown Agents in respect of their services on behalf of the Government of the Philippines in connection with the loan, the Crown Agents shall debit the Account for these payments and shall inform the Government of the Philippines of the amounts so debited.

PAYMENTS INTO AND FROM THE ACCOUNT

9. Unless the Government of the United Kingdom otherwise agree, payments into the Account shall not be made after 31 March 1984.

10. If any monies that have been paid out of the Account are subsequently refunded to the NEA or the Government of the Philippines either by the Contractor or by a Guarantor, the Government of the Philippines shall pay the equivalent in sterling of such sums into the Account.

11. Any balances remaining in the Account six months after the date of the last credit to the Account in accordance with paragraph 9 of this Note shall be remitted to the Government of the United Kingdom.

12. The Government of the Philippines shall ensure the provisions of such finance additional to the loan as may be needed to complete the project.

13. In the event of any of the goods and services to be provided under the Contract not being so provided the Government of the United Kingdom shall have the right to recover forthwith from the Government of the Philippines any sum paid out of the loan in excess of 22.8394% of the value of goods and services which have been provided.

14. The Government of the Philippines shall ensure that the NEA permit officers and other servants or agents of the Government of the United Kingdom to visit the project sites for which any part of the loan is allocated and shall furnish such information as regards the project, its progress and financing as they require.

15. The Government of the Philippines shall repay to the Government of the United Kingdom in pounds sterling in London the total sum borrowed under the loan. The repayments shall be made by instalments paid on the dates and in the amounts specified below; except that if on the date when any such instalment is due to be paid, there is then outstanding less than the amount specified for that instalment only the amount then outstanding need be paid:—

INSTALMENTS

<i>Date Due</i>	<i>Amount</i>
23 March 1988 and 23 March of each year thereafter until 23 March 2005	£54,700
23 September 1988 and 23 September of each year thereafter until 23 September 2004	£54,700
23 September 2005	£52,500

Notwithstanding these provisions, the Government of the Philippines shall be free to repay at any earlier time to the Government of the United Kingdom in pounds sterling in London any amount of the loan that is outstanding.

16. The Government of the Philippines shall inform the Government of the United Kingdom not less than three months before the first repayment of principal becomes due under the provisions of paragraph 15 of this Note of the name and address of the agent in London through whom repayments shall be made. At the same time a standing authority shall be issued to the agent to make payments of the amounts in pounds sterling on the dates specified in paragraph 15 of this Note and a copy of the authority shall be sent to the Government of the United Kingdom.

17. If the above proposals are acceptable to the Government of the Philippines I have the honour to propose that this Note and its appendices, together with Your Excellency's reply in that sense, shall constitute an Agreement between the Government of the United Kingdom and the Government of the Philippines which shall enter into force on the date of your reply and shall be known as the United Kingdom/Philippines Loan (No. 2) 1980.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

WILLIAM BENTLEY

APPENDIX A

Government of the Republic of the Philippines.

The Crown Agents for Oversea
Governments and Administrations

4 Millbank
LONDON
SW1P 3JD

Dear Sirs

United Kingdom/Philippines Loan (No 2) 1980

1. I confirm your appointment as agents of the Government of the Republic of the Philippines (hereinafter called "the Government") in connection with the management in the United Kingdom of the above mentioned Loan which is for a sum not exceeding one million nine hundred and sixty seven thousand pounds sterling.

2. I have to request you on behalf of the Government to open a Special Account in the name of the Government to be described as United Kingdom/Philippines Loan (No 2) 1980 Account (hereinafter called "the Account").

3. Payments into the Account will be made from time to time by the Government of the United Kingdom on receipt of request in the form shown in Appendix B to the Exchange of Notes between the Government of the United Kingdom and the Government of the Philippines dated 23 September 1980 (a copy of which is attached hereto) and which you are authorised to present on behalf of the Government. The amount of the loan to be drawn on any one occasion will be sufficient, together with any balance which may be available in the Account, to cover the payments properly due from the loan in accordance with paragraphs 4 and 8 of the Exchange of Notes. It is possible that, as a result of refunds referred to in paragraph 10 of the Exchange of Notes paid by Contractors or Guarantors to the Government or to the National Electrification Administration, payments into the Account will also be made by the Government themselves.

4. Payments from the Account are to be made only in respect of the amounts falling due under the provisions of paragraphs 4 and 8 of the Exchange of Notes and in the manner and subject to the conditions described in paragraph 8 of the Exchange of Notes.

5. You are to send to the Government at the end of each month a detailed statement showing all debits and credits to the Account.

6. You are to send to the Government of the United Kingdom specimen signatures of the Officers of the Crown Agents authorised to sign Requests for Drawing on behalf of the Government.

7. Your charges and commissions for acting as our agents in connection with the loan shall be chargeable to the Account.

8. A copy of this letter has been addressed to the Government of the United Kingdom.

Yours faithfully

APPENDIX B

United Kingdom/Philippines Loan (No 2) 1980

REQUEST FOR DRAWING

Crown Agents for Oversea
Governments & Administrations
4 Millbank
LONDON
SW1 3JP

D.F. No

Dear Sirs

Please pay the sum of £ _____ to the United Kingdom/
Philippines Loan (No 2) 1980 Account at the Crown Agents.

This sum shall, on payment into the Account, constitute a drawing
on the Loan. The balance in hand is £ _____

for the Crown Agents on behalf
of the Government of the Philippines

Funding approved ODA

To: Finance Department
Overseas Development Administration
Foreign and Commonwealth Office
Eland House
Stag Place
London SW1E 5DH

cc Government of the Philippines

APPENDIX C

CROWN AGENTS REQN: NO
SUPPLIES CONTRACT REF

UK PAYMENT CERTIFICATE

I hereby certify that

- (i) The payments referred to in the invoices listed below, which or copies of which accompany this payment certificate, fall due and are due to be made in respect of Contract No. between Balfour Beatty Engineering Limited and National Electrification Administration, Philippines.

Balfour Beatty Engineering's Invoice No	Date	Amount £	Short description of goods, works and/or services
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- (ii) I have the authority to sign this certificate on behalf of Balfour Beatty Engineering Limited.

Signed

Position held

For and on behalf of Balfour Beatty Engineering Ltd.

Marlow House
Sidcup, Kent.

Date

No. 2

*The Minister of Human Settlements of the Philippines to Her Majesty's
Ambassador at Manila*

*Malacanang
Manila*

23 September 1980

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of 23 September 1980 which reads as follows:

[As in No. 1]

I have the honour to confirm that the foregoing proposals are acceptable to the Government of the Philippines and that your Note and this reply constitute an Agreement between our two Governments in this matter which shall enter into force today and shall be known as the United Kingdom/Philippines Loan (No 2) 1980.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

IMELDA MARCOS

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