



Treaty Series No.71 (1988)

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. 2 (1987))

Manila, 24 March 1988

[The Agreement entered into force on 24 March 1988]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1988*

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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. 2 (1987))**

No. 1

*Her Majesty's Ambassador at Manila to the Secretary of Finance of the
Republic of the Philippines*

*British Embassy
Manila
24 March 1988*

Excellency,

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 22 January 1987, 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. 2 (1987)', 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.

KEITH MacINNES

ANNEX

SECTION 1.

Definitions and Interpretation

- (1) In this Annex, unless the contrary intention appears:
 - (a) "Agreed Minute" means 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 22 January 1987;
 - (b) "the Central Bank" means the Central Bank of the Philippines acting for and on behalf of the Government of the Philippines;
 - (c) "the Consolidation Period" means the period from 1 January 1987 to 30 June 1988 inclusive;
 - (d) "Contract" means a contract, and any agreement supplemental thereto, all of which were entered into before 1 April 1984, the parties to which include a Debtor and a Creditor and which is either for the sale of goods and/or services from outside the Philippines to a buyer in the Philippines, or is in respect of 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) "Creditor" means a person or body of persons or corporation resident or carrying on business in the United Kingdom, or any successor in title thereto;
 - (f) "Currency of the Debt" means the currency specified in the relevant Contract as being the currency in which that Debt is to be paid;

- (g) "Debt" means any debt to which, by virtue of the provisions of Section 2(1), the provisions of this Annex apply;
- (h) "Debtor" means the Government of the Philippines or one of its agencies, organisations or institutions or any successor in title thereto, whether as primary debtor or as guarantor;
- (i) "the Department" means the Secretary of State of the Government of the United Kingdom acting through the Exports Credits Guarantee Department or any other Department of the Government of the United Kingdom which that Government may subsequently nominate for the purpose hereof;
- (j) "the Government of the Philippines" means the Government of the Republic of the Philippines;
- (k) "the Government of the United Kingdom" means the Government of the United Kingdom of Great Britain and Northern Ireland;
- (l) "the Loan Agreement(s)" means the agreement(s) to be entered into between the parties to the Loan(s);
- (m) the "Loan" means a refinancing loan specified in Section 3;
- (n) "Maturity" in relation to a Debt 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;
- (o) "Non-Refinanced Debt" means any Debt which is not refinanced in accordance with Section 3(1) and any Debt which is to be refinanced in accordance with Section 3(1) prior to such refinancing;
- (p) "Previous Agreement" means the Agreement signed on 4 February 1986¹ between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of the Philippines on Certain Commercial Debts;
- (q) "Recognised Bank" means a bank, including a bank participating in a lending syndicate or in a syndicate led by banks, which has received a guarantee issued by the Department in respect of a loan or financial agreement;
- (r) "Reference Rate" means the rate quoted to the Department by the Reference Bank (being a bank to be agreed upon by the Department and the Central Bank) at which six-month sterling deposits, in the case of Debts denominated in sterling and six-month eurodollar deposits, in the case of Debts denominated in US dollars, are offered to that Reference Bank by prime banks in the London interbank market at 11 am (London time) two business days before 1 April and 1 October in each year;
- (s) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and for the purposes of Sections 1(1)(e), 1(1)(t) and Section 8 of this Annex includes the Channel Islands and the Isle of Man;
- (t) "United Kingdom Bank" means a bank carrying on business in the United Kingdom or a syndicate led by such a bank;

(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 365 days in the case of Debts denominated in sterling or of 360 days in the case of Debts denominated in US dollars.

(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 specified Section of this Annex.

(5) The headings to the Sections are for ease of reference only.

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

SECTION 2

The Debt

(1) The provisions of this Annex shall, subject to the provisions of paragraph (2) of this Section and paragraph 3 of Section IV of the Agreed Minute, apply to any amount, whether of principal or of contractual interest accruing up to Maturity, owed by a Debtor to a Creditor, and which:

- (a) arises under or in relation to a Contract;
- (b) fell due or will fall due for payment during the Consolidation Period and remains unpaid;
- (c) is guaranteed by the Department as to payment according to the terms of the Contract;
- (d) is not expressed by the terms of the Contract to be payable in Philippines pesos;
- (e) does not arise from any amount payable upon, or as a condition of, the formation of the Contract, or as a condition of the cancellation or termination of the Contract; and
- (f) does not arise from any amount payable under the Previous Agreement.

(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, by virtue of the provisions of this Section, this Annex applies. 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

Refinancing Loans

(1) The Department shall use its best endeavours to procure that a Loan or series of Loans, denominated in sterling or United States dollars, shall be arranged between a United Kingdom Bank or other lending institution and the Government of the Philippines to provide for payments to be made in respect of those Debts which are the subject of a loan or financial agreement where the Creditor is a Recognised Bank. The terms of the Loan(s) shall, in accordance with the Agreed Minute, provide for the refinancing of 100 per cent of amounts of principal and 70 per cent of amounts of contractual interest which fell due, or will fall due, during the Consolidation Period and which remain unpaid.

(2) Repayment of the Loan(s) by the Government of the Philippines shall be made by ten equal and consecutive half-yearly instalments on 1 April and 1 October each year commencing on 1 April 1993;

(3) The rate of interest applicable to the Loans shall be 0.5 per cent above the appropriate London Interbank Offered Rate, as will be defined in the Loan Agreements.

SECTION 4

Transfer Scheme for Non-Refinanced Debt

(1) The Government of the Philippines shall pay to the Department in accordance with the provisions of Section 6(1) in respect of each Debt which fell due, or will fall due, during the Consolidation Period which is not the subject of a Loan:

100 per cent of principal and 70 per cent of contractual interest by ten equal and consecutive half-yearly instalments on 1 April and 1 October each year commencing on 1 April 1993.

(2) The Government of the Philippines shall, in respect of each Debt which fell due, or will fall due, during the Consolidation Period, also arrange for payment of:

30 per cent of the contractual interest to be made to the relevant Creditor, in the Currency of the Debt, on the original due date for payment under the terms of the Contract.

SECTION 5

Interest on Non-Refinanced Debt

- (1) Interest on the balance of each Non-Refinanced 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(1), or in respect of a loan or financial agreement where the Creditor is a Recognised Bank, until the refinancing of that Debt in accordance with Section 3(1).
- (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 Non-Refinanced Debt to the extent that it has not been settled by payment to the Department pursuant to Section 4(1), or refinanced pursuant to Section 3(1). For the period 1 January 1987 to 1 October 1987 such interest shall be paid and transferred to the Department half-yearly on 1 April and 1 October each year commencing on 1 April 1988.
- (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 and payable without further notice or demand of any kind.
- (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 for the period in question.

SECTION 6

Payments to the Department

- (1) As and when payments become due under the terms of Sections 4 and 5, the Central Bank shall arrange for the necessary amounts, without deduction for taxes, fees, other public charges or any other costs accruing inside the Philippines, to be paid and transferred in the Currency of the Debt to the Department in the United Kingdom to an account, details of which shall be notified by the Department to the Central Bank. In this respect the Department shall be regarded as acting as agent for each Creditor concerned.
- (2) The Central 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 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 comply with the conditions of Section III, paragraphs 1 to 3 and 7 of the Agreed Minute and agrees to accord to the United Kingdom terms no less favourable than those agreed with any other participating creditor country, notwithstanding any provision of this Annex to the contrary.
- (2) The Government of the Philippines also undertakes to comply with the conditions of Section III, paragraphs 8 and 9 of the Agreed Minute.
- (3) 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 and 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.

No. 2

*The Secretary of Finance of the Republic of the Philippines to
Her Majesty's Ambassador at Manila*

*Department of Finance
Manila
24 March 1988*

Excellency:

I have the honour to acknowledge receipt of Your Excellency's Note of 24 March 1988 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 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. 2 (1987)", and which shall enter into force today.

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

VICENTE R. JAYME



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