



Treaty Series No.10 (2006)

# Exchange of Notes

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

## concerning Certain Commercial Debts (The United Kingdom/Nigeria Debt Agreement No.5 (2005))

Abuja, 17 December 2005

[The Exchange of Notes entered into force on 17 December 2005]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
May 2006*

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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 FEDERAL REPUBLIC OF NIGERIA  
CONCERNING CERTAIN COMMERCIAL DEBTS (THE UNITED  
KINGDOM/NIGERIA DEBT AGREEMENT NO.5 (2005))**

**No. 1**

*The British High Commissioner at Abuja to the Minister of Finance of the Federal Republic of Nigeria*

Abuja  
17 December 2005

I have the honour to refer to the Agreed Minute on the Consolidation of the Debt of the Federal Republic of Nigeria which was signed in Paris on 20 October 2005, and to inform Your Excellency that the Government of the United Kingdom of Great Britain and Northern Ireland is prepared to provide debt relief to the Government of the Federal Republic of Nigeria on the terms and conditions set out in the attached Annex.

If these terms and conditions are acceptable to the Government of the Federal Republic of Nigeria, 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/Nigeria Debt Agreement No. 5 (2005)' 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.

**RICHARD GOZNEY**

**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 Federal Republic of Nigeria which was signed in Paris on 20 October 2005;

- (b) **"Appropriate Market Rate"** means 4.61%;
- (c) **"Arrears"** means any amount due on the Debt in arrears outstanding and unpaid (including late interest as defined in the Fourth Agreement) as at 14 September 2005 inclusive;
- (d) **"Business Day"** means (i) a day on which banks are open for domestic and foreign exchange business in London, and (ii) in respect of Debt whose Currency is the US dollar, a day on which banks are open for domestic and foreign exchange business in both London and New York;
- (e) **"Date of Settlement"** means the date of approval of the first review under the Policy Support Instrument by the Executive Board of the International Monetary Fund plus 20 business days and in any case no later than 31 May 2006;
- (f) **"Debt"** means any debt to which, by virtue of the provisions of Section 2, this Annex applies; it is also understood that the Debt includes all the debts resulting from the contracts related to the sugar plant SAVE;
- (g) **"Department"** means the Export Credits Guarantee Department or any other department or entity that the Government of the United Kingdom may subsequently nominate to perform the functions of the Export Credits Guarantee Department hereunder;
- (h) **"DMO"** means the Debt Management Office of Nigeria or any other institution that the Government of Nigeria may nominate for this purpose;
- (i) **"Fourth Agreement"** means the Agreement between the Government of the United Kingdom and the Government of Nigeria concerning Certain Commercial Debts which entered in to force on 27 March 2003<sup>1</sup>;
- (j) **"GBP"** means British pounds sterling;
- (k) **"Late Interest"** means interest charged under this Agreement on any amount of Debt (whether of principal or interest) which remains unpaid after the date specified under this Agreement. Late Interest shall accrue at the rate of the sum of the Appropriate Market Rate and zero point seven five per cent. (0.75%) and shall be payable on the outstanding overdue amount from day to day from the date for payment specified in this Agreement, and shall be due and payable without further notice or demand;

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<sup>1</sup> Treaty Series No. 20 (2003) Cm 5862

- (l) **"Previous Agreements"** means the Third Agreement and the Fourth Agreement collectively;
  - (m) **"Relevant Principal"** means the outstanding amount of principal remaining due on the Debt as of 15 September 2005 inclusive and interest accrued on the Debt from the last interest date up to 14 September 2005 inclusive under the Previous Agreements. Arrears and late interest (as defined in the Fourth Agreement) are not included in the "Relevant Principal";
  - (n) **"Special Deposit Account"** means the special deposit account established by the Government of Nigeria with the Bank for International Settlements in order to implement the terms of this Agreement;
  - (o) **"Third Agreement"** means the Agreement between the Government of the United Kingdom and the Government of Nigeria concerning Certain Commercial Debts which entered into force on 10 June 1991<sup>1</sup>;
  - (p) **"United Kingdom"** means the United Kingdom of Great Britain and Northern Ireland;
  - (q) **"USD"** means the dollar of the United States of America.
- (2) All interest accruable pursuant to this Annex shall be calculated on the basis of actual days elapsed and a year of 365 days.
- (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**

The provisions of this Annex shall, subject to the provisions of Article IV, paragraph 4 of the Agreed Minute, apply to any amount, whether of principal or interest (including Late Interest as defined in the Fourth Agreement) payable under each of the Previous Agreements and remaining unpaid.

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<sup>1</sup> Treaty Series No. 86 (1991) Cm 1753

### SECTION 3

#### **Payments under the Previous Agreements**

Subject to Section 10, the provisions of the Previous Agreements insofar as they relate to the payment of any Debt as defined herein shall cease to apply upon the entry into force of this Agreement.

### SECTION 4

#### **Payment, Deferral and Cancellation of Debt**

##### *Pro Rata Temporis Payment*

- (a) In respect of the Relevant Principal due on the Debt referred to in Article II 1 d2) of the Agreed Minute, the Nigerian Government shall pay GBP 13,107,677 and USD 8,396,857. Unless otherwise agreed by the Department this payment shall be made on 31 October 2005 and in accordance with Section 6.

##### **First Phase**

##### *Levelling Up Payment*

- (b) In respect of the Relevant Principal due on the Debt referred to in Article II 1 d2) of the Agreed Minute and remaining due after the implementation of Section 4 (a), the Nigerian Government shall pay GBP 83,331,216 and USD 53,382,478. This payment shall be made at the latest on 31 October 2005 and in accordance with Section 6.

##### *Payment and Deferral of Arrears*

- (c) In respect of Arrears, the Nigerian Government shall pay GBP 529,815,722 and USD 294,400,466. This payment shall be made at the latest on 31 October 2005 and in accordance with Section 6.
- (d) Arrears remaining due after the implementation of Section 4 (c) shall be deferred to 12 December 2005.
- (e) One hundred per cent. (100%) of interest accruing from 15 September 2005 to 12 December 2005 inclusive on the Debt set out in Section 4 (d) shall be capitalised and deferred to 12 December 2005.

##### *Cancellation of Debt*

Provided that payments referred to in Section 4 (a), (b) and (c) have been fully made on due date and this Agreement has been signed by 31 December 2005 or

such later date as may be agreed by the Department:

- (f) The Department will cancel GBP 879,792,136 and USD 464,836,386 of the Relevant Principal. This will be retroactively effective on 31 October 2005.
- (g) The Department will cancel one hundred per cent. (100%) of interest accruing on the Relevant Principal from 14 September 2005 up to 31 October 2005.
- (h) Amounts not cancelled and remaining due after the implementation of paragraph 4 (f) shall be deferred to the Date of Settlement.
- (i) One hundred per cent. (100%) of interest accruing from 1 November 2005 up to the Date of Settlement inclusive on the Debt set out in Section 4 (h) shall be capitalised and deferred up to the Date of Settlement.

## **Second Phase**

### *Second Phase Payment*

- (j) In respect of Arrears referred to in Section 4 (d), the Nigerian Government shall pay GBP 146,823,546 and USD 81,584,820. This payment shall be made at the latest on 12 December 2005 and in accordance with Section 6.
- (k) Provided that the payments referred to in Section 4 (j) have been fully made on the due date, the amounts referred to in Section 4 (e) shall be cancelled on 12 December 2005.

## **Third Phase**

### *Post Cut Off Date Debt*

- (l) In respect of Debt referred to in Section 3 of the Fourth Agreement, the Nigerian Government shall pay GBP 2,372,459. This payment shall be made at the latest on the Date of Settlement and in accordance with Section 6.

### *Final Cancellation*

Provided that the terms of Section 4 (a) – (l) have been fully implemented:

- (m) The Debt referred to in Section 4 (h) and remaining due as at the Date of Settlement shall be cancelled by GBP 906,452,504 and USD 478,922,337 on the Date of Settlement; and

- (n) The Debt referred to in Section 4 (i) and remaining due as at the Date of Settlement shall also be cancelled on the Date of Settlement.

*Buy Back*

- (o) The Nigerian Government shall buy back the remaining balance of the Relevant Principal in respect of the Debt referred to in Section 4 (h) which remain due after the implementation of Sections 4 (l), (m) and (n) as at the Date of Settlement, for a total amount of GBP 505,524,762 and USD 266,186,881. This payment shall be made in on the Date of Settlement and in accordance with Section 6.

SECTION 5

**Interest**

- (1) Interest on the balance of each Debt shall be deemed to have accrued and shall accrue and, provided that the provisions of Section 4 have been fully implemented, will be deferred and/or cancelled in accordance with Section 4.
- (2) Interest shall accrue at the Appropriate Market Rate.
- (3) Late Interest shall be payable by the Government of Nigeria on any payment not paid on its respective due date under this Agreement. Late Interest shall accrue in respect of payments due under Sections 4 (a), 4 (b) and 4 (c) from 2 November 2005. Late Interest shall accrue in respect of payments due under Section 4 (j) from 13 December 2005. Late Interest shall accrue in respect of payments due under Sections 4 (l) and 4 (o) from the Date of Settlement plus one Business Day.

SECTION 6

**Payments to the Department**

- (1) When payment becomes due under the terms of Section 4 (b) and 4 (c), the Government of Nigeria shall arrange for the necessary amounts, without deduction of taxes, fees, other public charges or any other costs incurred, to be paid to the Special Deposit Account for the benefit of the Government of the United Kingdom.
- (2) When payment becomes due under the terms of Section 4 (j) and 4 (l), the Government of Nigeria shall arrange for the necessary amounts, without deduction of taxes, fees, other public charges or any other costs incurred, to be paid to the Special Deposit Account for the benefit of the Government of the United Kingdom or to such other account as notified by the Department to the DMO from time to time.



(3) When payment becomes due under the terms of Section 4 (a) or 4 (o), the Government of Nigeria shall arrange for the necessary amounts, without deduction of taxes, fees, other public charges or any other costs incurred outside the United Kingdom, to be paid into the account notified by the Department to the DMO from time to time.

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

(5) The Bank for International Settlements shall make all disbursements relating to this bilateral agreement in accordance with the terms of the Depositary and Escrow Agreement concluded between the Central Bank of Nigeria and the Bank for International Settlements.

## SECTION 7

### **Exchange of Information**

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

## SECTION 8

### **Communication of this Agreement**

The Government of the United Kingdom has given a commitment to communicate a copy of this Agreement to the Chairman of the Paris Club. The Government of Nigeria acknowledges this arrangement.

## SECTION 9

### **Other Debt Settlements**

The Government of Nigeria undertakes to fulfil its commitments under Article III of the Agreed Minute and agrees to accord to the Government of the United Kingdom terms no less favourable than those agreed with any other creditor, notwithstanding any provision of this Annex to the contrary.

## SECTION 10

### **Conditionality**

Unless the Department otherwise agrees in writing, the conditions of Article IV paragraph 4 of the Agreed Minute shall apply to this Annex. If this Annex ceases

to apply because any of these conditions has not been fulfilled, all outstanding payment obligations in respect of the remaining balance of the Debt shall be due and payable in accordance with the Previous Agreements.

## SECTION 11

### **No further claims**

In accordance with Article IV-6 of the Agreed Minute, any remaining Debt owed by Nigeria to the Department shall be deemed to be immediately cancelled upon satisfactory implementation of Section 4 of this Annex.

### **No. 2**

*The Minister of Finance to the British High Commissioner at Abuja*

Abuja  
17 December 2005

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

### **[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 Federal Republic of Nigeria, 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/Nigeria Debt Agreement No 5 (2005)' and which shall enter into force today.

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

**DR. NGOZI OKONJO IWEALA**





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