No. 27028

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
and
ECUADOR

Agreement on certain commercial debts (with schedules). Signed at London on 29 January 1986

Authentic texts: English and Spanish.

Registered by United Kingdom of Great Britain and Northern Ireland on 19 January 1990.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD
et
ÉQUATEUR

Accord relatif à certaines dettes commerciales (avec annexes). Signé à Londres le 29 janvier 1986

Textes authentiques : anglais et espagnol.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 19 janvier 1990.

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF ECUADOR 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 Ecuador (hereinafter referred to as "the Government of Ecuador");

As a result of the Conference held in Paris on 23 and 24 April 1985 regarding the consolidation of Ecuadorian debts at which the Government of the United Kingdom, the Government of Ecuador, certain other Governments, the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Secretariat of the United Nations Conference on Trade and Development and the Organisation for Economic Co-operation and Development were represented;

Have agreed as follows:

Article 1

DEFINITIONS

(1) In this Agreement, unless the contrary intention appears:

(*a*) "The Bank" means the Central Bank of the Republic of Ecuador;

(*b*) "Contract" means a contract entered into before 1 January 1983 the parties to which include a Debtor and a Creditor and which is either for the sale of goods and/or services from outside Ecuador to a buyer in Ecuador 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;

(*c*) "Creditor" means a person or body of persons or corporation resident or carrying on business in the UK or any successor in title thereto;

(*d*) "Currency of the Debt" means the currency specified in the relevant Contract as being the currency in which that Debt is to be paid;

(*e*) "Debt" means any debt to which, by virtue of the provisions of Article 2 and of the operation of the rules specified by Schedule 2, the provisions of this Agreement apply;

(*f*) "Debtor" means the Government of Ecuador (whether as primary debtor or as guarantor) or any person or body of persons or corporation resident or carrying on business in Ecuador or any successor in title thereto;

(*g*) "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 purposes hereof;

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[1] Came into force on 29 January 1986 by signature, in accordance with article 11.

(*h*) "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;

(*i*) "Transfer Scheme" means the Transfer Scheme specified by Schedule 1;

(*j*) "UK" means the United Kingdom of Great Britain and Northern Ireland and includes the Channel Islands and the Isle of Man.

(2) All references to 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 Debt denominated in sterling, or of 360 days in the case of Debts denominated in US dollars.

(3) Where the context of this Agreement so allows words importing the singular include the plural and vice-versa.

(4) Unless otherwise indicated reference to a specified Article or Schedule shall be construed as a reference to that specified Article or Schedule to this Agreement.

(5) The headings to the Articles are for ease of reference only and do not form part of this Agreement.

Article 2

THE DEBT

(1) The provisions of this Agreement shall, subject to the provisions of paragraphs (2), (3) and (4) of this Article and the rules specified in paragraph 1 of Schedule 2, apply to every Debt of principal owed by a Debtor to a Creditor and which:

(*a*) Arises under or in relation to a Contract or any agreement supplementary thereto;

(*b*) Fell due or will fall due on or before 31 December 1987 and remains unpaid;

(*c*) Is guaranteed by the Department as to payment according to the terms of the Contract; and

(*d*) Is not expressed by the terms of the Contract to be payable in Ecuadorian sucres.

(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.

(3) The provisions of this Agreement shall not apply to any indebtedness covered by the Agreement between the Government of the United Kingdom and the Government of Ecuador on Certain Commercial Debts, signed on 18 June 1984[1], nor to any payments due under the terms of that Agreement.

(4) (*a*) The provisions of this Agreement shall not apply to any Debt falling due between 1 June 1986 and 31 May 1987, both dates inclusive, unless the Department has notified the Government of Ecuador to the contrary by no later than 31 May 1986.

(*b*) The provisions of this Agreement shall not apply to any Debt dalling due between 1 June 1987 and 31 December 1987, both dates inclusive, unless the Depart-

[1] United Nations, *Treaty Series*, vol. 1416, No. I-23701.

ment has notified the Government of Ecuador to the contrary by no later than 31 May 1987.

Article 3

PAYMENTS IN ECUADORIAN SUCRES IN RESPECT OF DEBTS

In addition to the Debts owed by the Government of Ecuador as Debtor, where a Debtor has made a payment in Ecuadorian sucres in respect of any Debt, then:

(*a*) where the payment was made before entry into force of this Agreement, upon such entry into force; and

(*b*) where the payment was made subsequently, upon such payment,

the payment of such Debt shall become the obligation of the Government of Ecuador. The payment of all such Debt by the Government of Ecuador to the Department shall be made in accordance with the provisions of Article 4.

Article 4

PAYMENTS TO CREDITORS

The Government of Ecuador shall pay and transfer to the Department on behalf of and as agent for each Creditor, in the United Kingdom, in the Currency of the Debt and to an account details of which shall be notified by the Department to the Government of Ecuador the amounts due to that Creditor in accordance with the Transfer Scheme and the rules set out in Schedules 1 and 2 respectively.

Article 5

INTEREST

(1) The Government of Ecuador shall be liable for and shall pay to the Department interest in accordance with the provisions of this Article on Debt to the extent that it has not been settled by payment to the department, in the United Kingdom, pursuant to Article 4. In this respect the Department shall be regarded as acting as agent for each Creditor concerned.

(2) Interest on 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 as aforesaid, and shall be paid and transferred to the Department in the Currency of the Debt half-yearly on 30 June and 31 December each year commencing on 31 December 1985.

(3) If any amount of any instalment payable in accordance with Article 4 is not paid on the due date for payment in accordance with the Transfer Scheme set out in Schedule 1, interest shall accrue in respect thereof after the date from day to day until the amount is paid and shall be due and payable without further notice or demand of any kind.

(4) If any amount of interest payable in accordance with the provisions of paragraph (2) of this Article is not paid on the due date for payment thereof the Government of Ecuador shall be liable for and shall pay to the Department interest on the Debt at the rate of 1.0 per cent per annum which shall be in addition to the interest payable in accordance with the provisions of paragraph (2) of this Article. Such additional interest shall accrue from day to day from the due date for payment in accordance with the provisions of paragraph (2) of this Article to the date of

receipt of the payment by the Department and shall be payable in the United Kingdom in the Currency of the Debt without further notice or demand of any kind.

(5) Interest payable in accordance with the provisions of paragraphs (1), (2) and (3) of this Article shall be paid at the rate of 0.5 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.

Article 6

EXCHANGE OF INFORMATION

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

Article 7

OTHER DEBT SETTLEMENTS

(1) If the Government of Ecuador 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 indebtedness the subject of this Agreement shall, subject to the provisions of paragraphs (2) and (3) of this Article, be no less favourable to any Creditor 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 SDR1,500,000.

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

Article 8

PRESERVATION OF RIGHTS AND OBLIGATIONS

This Agreement and its implementation shall not affect the rights and obligations of any Creditor or Debtor under a Contract other than those in respect of which the parties hereto are authorised to act respectively on behalf of and to bind such Creditor and Debtor.

Article 9

RULES

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

Article 10

THE SCHEDULES

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