

No. 27648

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
(ACTING THROUGH THE GOVERNMENT
OF SWITZERLAND)**

and

**ARGENTINA
(ACTING THROUGH THE GOVERNMENT
OF BRAZIL)**

**Exchange of notes constituting an agreement concerning cer-
tain commercial debts (with annex). Paris, 16 February
1989**

Authentic texts: English and Spanish.

*Registered by the United Kingdom of Great Britain and Northern Ireland
on 23 November 1990.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
(AGISSANT PAR L'INTERMÉDIAIRE
DU GOUVERNEMENT SUISSE)**

et

**ARGENTINE
(AGISSANT PAR L'INTERMÉDIAIRE
DU GOUVERNEMENT BRÉSILIEEN)**

**Échange de notes constituant un accord relatif à certaines
dettes commerciales (avec annexe). Paris, 16 février 1989**

Textes authentiques : anglais et espagnol.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
le 23 novembre 1990.*

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE SWISS CONFEDERATION, ON BEHALF OF THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AND THE FEDERATIVE REPUBLIC OF BRAZIL, ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF ARGENTINA, CONCERNING CERTAIN COMMERCIAL DEBTS

I

The Minister in the Swiss Embassy at Paris, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland, to the Ambassador of Brazil at Paris

Paris
16 February 1989

Your Excellency,

I have the honour to refer to the Conference held in Paris on 15 and 16 January 1985 regarding the consolidation of Argentine debts, at which the Government of the United Kingdom, the Government of Argentina, 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, the Organisation for Economic Co-operation and Development and the Commission of the European Communities were represented. On behalf of the Government of the United Kingdom I have the honour to inform Your Excellency that the Articles set out in the Annex to this Note, which have been agreed between British and Argentine technical representatives, are acceptable to the Government of the United Kingdom.

If those Articles are acceptable to the Government of Argentina, I have the honour further to propose, for and on behalf of the Government of the United Kingdom, that this Note together with its Annex and your reply to that effect shall constitute an Agreement in this matter between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Argentina, which shall be known as the "UK/Argentina Debt Rescheduling Agreement (1985)" and 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.

J.-M. BOULGARIS

¹ Came into force on 16 February 1989, the date of the note in reply, in accordance with the provisions of the said notes.

ANNEX

ARTICLE I

Definitions

In these Articles, unless the contrary intention appears:

- (a) “contract” shall mean a contract as defined in Article 2;
- (b) “creditor” shall mean a creditor as defined in Article 2;
- (c) “currency of the debt” shall mean sterling or such other currency, not being australs, as is specified in the contract as being the currency in which the debt is to be paid;
- (d) “debt” shall mean any debt to which, by virtue of the provisions of Articles 2 and 10 and of Schedule 2 thereto, the provisions of these Articles apply;
- (e) “debtor” shall mean a debtor as defined in Article 2;
- (f) “maturity” in relation to a debt shall:
 - (i) for all purposes, save for the purposes of Article 5(2) when the debt is not an obligation of the Government of Argentina as primary or principal debtor or as guarantor, mean the date for payment thereof under the relevant contract or under a promissory note or bill of exchange drawn up pursuant to the terms of such contract, and
 - (ii) for the purposes of Article 5(2) when the debt is not an obligation of the Government of Argentina as aforesaid, mean the date on which payment in australs was made by the debtor concerned;
- (g) “the Bank” shall mean the Banco Central de la Republica Argentina which, for the purposes of these Articles, shall be and act as agent for and on behalf of the Government of Argentina;
- (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 these Articles;
- (i) “transfer scheme” shall mean the transfer scheme referred to in Article 4.

ARTICLE 2

The Debt

(1) The provisions of these Articles shall, subject to the provisions of paragraph (2) of this Article and the rules specified in paragraph (1) of Schedule 2, apply to any debt, whether of principal or of contractual interest accruing up to maturity, owed as primary or principal debtor or as guarantor by the Government of Argentina or by a person or body of persons or corporation resident or carrying on business in Argentina or by any successor thereto (hereinafter referred to as a “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 a “creditor”) provided that:

- (a) the debt arises under or in relation to a contract or any agreement supplemental thereto which was made between a debtor and a creditor for the supply from outside Argentina of goods or services or both or of finance therefor, and which allowed credit for a period exceeding one year, and which was entered into before 10 December 1983 (hereinafter referred to as a “contract”);
 - (b) maturity of the debt has occurred on or before 31 December 1985 and that after maturity that debt remains unpaid;
 - (c) payment of the debt according to the terms of the contract is guaranteed by the Department; and
 - (d) the debt is not expressed by the terms of the contract to be payable in australs.
- (2) The provisions of these Articles 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) For the purposes of this Article, where payment is due under a contract or an agreement which, when entered into by the parties, allowed credit for a period of one year or less but where by agreement of the parties payment has been deferred to allow credit for a period in excess of one year,
- (a) such contract shall be deemed for the purposes of sub-paragraph (1)(a) of this Article to be a contract allowing credit for a period exceeding one year when and only when the debtor has entered into a foreign exchange insurance contract in Argentina in respect of the deferred payments; and
 - (b) maturity for the purposes of sub-paragraph (1)(b) of this Article shall be deemed to be the date on which payment was due according to the terms of the deferral agreement.

ARTICLE 3

Payments in australs in respect of Debts

In addition to the debts which are the obligation of the Government of Argentina, where a debtor has made a payment in australs in respect of any debt, then

- (a) where the payment was made before entry into force of these Articles, 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 Argentina. The payment of all such debt by the Government of Argentina to the Department shall be made by the Bank in accordance with the provisions of Article 4.

ARTICLE 4

Payments to Creditors

The Government of Argentina acting through the Bank shall pay and transfer to the Department on behalf of each creditor, 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 Schedules 1 and 2 respectively. In this respect the Department shall be regarded as acting as agent for each creditor concerned.

ARTICLE 5

Interest

(1) The Government of Argentina shall be liable for and shall through the Bank pay to the Department 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 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 the balance of each debt shall accrue during, and shall be payable in respect of, the period from maturity until the settlement of the debt by payment to the Department, and shall be paid and transferred to the Department in the currency of the debt half-yearly on 31 May and 30 November in each year commencing on 31 May 1986 or 30 days after the date of entry into force of this Agreement, whichever is the later.

(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 any interest which accrues in respect thereof after that date shall be due and payable without further notice or demand of any kind from day to day until the amount is paid.

(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 Argentina shall compensate the Department on any amount of interest outstanding. Such compensation shall be in addition to the interest payable under paragraph (2) of this Article. It shall accrue and be payable on the outstanding amount of overdue interest from day to day from the original due date 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 currency of the debt to which the overdue interest refers without further notice or demand of any kind. Such compensation shall be calculated in accordance with the provisions of paragraph (5) of this Article.

(5) All interest and compensation payable in accordance with the provisions of paragraphs (1), (2), (3) and (4) of this Article shall be calculated on the outstanding principal or overdue interest amounts in any debt and on the basis of the aggregate of

- (a) the London Inter-Bank Offer Rate for the currency and the period in question; and
- (b) a margin

(6) The method of determination of the London Inter-Bank Offer Rate and of the appropriate margin and the method of calculation of interest payable under the provisions of this Article are set out in Schedule 2.

ARTICLE 6**Other Payments**

The Government of Argentina agrees that any payments made in australs by any debtor in relation to

- (a) a debt under a contract or an agreement which, when entered into by the parties, allowed credit for a period of one year or less shall, notwithstanding that payment has by agreement of the parties been deferred but provided always that the debtor has not entered into a foreign exchange insurance contract in Argentina in respect of the deferred payments, and
- (b) interest on a debt (not being a debt owed by the Government of Argentina as primary or principal debtor or which the Government of Argentina has guaranteed) for the period between the due date for payment thereof under the relevant contract (or under any promissory note or bill of exchange drawn up pursuant to the terms of such contract) and, the date the debtor has made payment in australs in respect thereof shall, to the extent that the rate of interest applied does not exceed the rate for the relevant period or periods determined in accordance with paragraph (2) in Schedule 2 be immediately transferable and payable in the currency of the debt to the Department in the United Kingdom on behalf of the creditor concerned.

ARTICLE 7**Exchange of Information**

The Department and the Bank shall exchange all information required for the implementation of these Articles.

ARTICLE 8**Other Debt Settlements**

- (1) If the Government of Argentina agrees with any creditor country other than the United Kingdom terms for the settlement of indebtedness similar to the indebtedness the subject of these Articles which are more favourable to creditors than are the terms of these Articles, then the terms of the payment of indebtedness the subject of these Articles 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 these Articles 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 SDR1,000,000.
- (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 9

Preservation of Rights and Obligations

Except for payments related to debts referred to in Schedule 2 these Articles shall not modify any of the rights and obligations of any creditor or debtor under a contract.

ARTICLE 10

Rules

In the implementation of these Articles the rules set out in Schedule 2 shall apply.

ARTICLE 11

The Schedules

The Schedules to these Articles shall form an integral part thereof.

ARTICLE 12

Duration

These Articles shall remain in force until the last of the payments to be made to the Department under Articles 4 and 5 has been made.

SCHEDULE I TO THE ARTICLES

Transfer Scheme

(1) In respect of each debt which fell due on or before 31 December 1984 and which remains unpaid:

- (a) an amount equal to 75 per cent of each debt shall be paid and transferred by the Government of Argentina acting through the Bank to the Department, in the United Kingdom, by ten equal and consecutive half-yearly instalments on 1 February and 1 August each year commencing on 1 August 1988; and
- (b) an amount equal to 25 per cent of each debt shall be paid and transferred by the Government of Argentina acting through the Bank to the Department in the United Kingdom according to the following schedule:
 - as to one half of such amount on 31 May 1986
 - as to one sixth of such amount on 1 August 1986
 - as to one sixth of such amount on 1 February 1987 and
 - as to one sixth of such amount on 1 August 1987

or 30 days after the date of entry into force of this Agreement, whichever is the later provided however that, if a payment or payments should have become due in respect of a debt but shall not have been made by reason of the debt not having then been included within the agreed Debt List referred to in Schedule 2, such payment or payments shall be made immediately after inclusion of that debt within the Debt List.

(2) In respect of each debt which has fallen due between 1 January 1985 and 31 December 1985, both dates inclusive, and which remains unpaid;

- (a) an amount equal to 90 per cent of each debt shall be paid and transferred by the Government of Argentina acting through the Bank to the Department, in the United Kingdom, by ten equal and consecutive half-yearly instalments on 1 January and 1 July each year commencing on 1 January 1991; and
- (b) an amount equal to 10 per cent of each debt be paid and transferred by the Government of Argentina acting through the Bank to the Department in the United Kingdom in five equal instalments the first being due on 31 May 1986 and the subsequent instalments being due on 1 December 1986, 1987, 1988 and 1989 respectively or 30 days after the date of entry into force of this Agreement, whichever is the later

provided that, if a payment or payments should have become due in respect of a debt but shall not have been made by reason of the debt not having then been included within the agreed Debt List referred to in Schedule 2, such payment or payments shall be made immediately after inclusion of that debt within the Debt List.

SCHEDULE 2 TO THE ARTICLES

Rules

(1) Debt List

- (a) The Department and the Bank shall agree a list of debts to which, by virtue of the provisions of Article 2, the Articles apply.
- (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 paragraphs (1)(a) and (1)(b) of this Schedule nor delay in its completion shall prevent or delay the implementation of the other provisions of the Articles.

(2) Calculation of Interest

Interest shall be calculated on the outstanding amount of the debt on the number of days actually elapsed and on the basis of a 365 day year in respect of debts denominated in sterling or in Japanese yen or a 360 day year in respect of debts denominated in US dollars. The rate of interest applicable to each interest period or part thereof shall be the rate per annum being the aggregate of:

- (a) (i) in respect of each six monthly period ending 31 May or 30 November until 31 May 1986, the arithmetic average of the rates quoted in International Financial Statistics published by the International Monetary Fund for London Inter-Bank Offer Rate for six month deposits of the currency of the debt for each of the six calendar months commencing with the month nine months prior to the end of the relevant period;
- (ii) in respect of each subsequent six monthly period, the arithmetic average of the rates quoted to the Department at its request by three Reference Banks (being banks to be agreed upon by the Department and the Bank) at which six months deposits of the currency of the debt are offered to those Reference Banks by prime banks in the London Inter-Bank Market at 11 am (London time) two business days before the commencement of the relevant period; and
- (b) (i) in respect of each six monthly period until 31 May 1986, a margin of 0.5 per cent;
- (ii) in respect of each subsequent six monthly period a margin of 0.5 per cent or, where interest arises in relation to a debt included under the Articles by reason of the provisions of Articles 2(3) thereof, 0.5625 per cent.

[TRANSLATION¹ — TRADUCTION²]

II

The Ambassador of Brazil at Paris, on behalf of the Government of the Republic of Argentina, to the Minister in the Swiss Embassy at Paris

Paris
16 February 1989

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of 16 February 1989 which reads as follows:

[*See note I*]

I have the honour to confirm, for and on behalf of the Government of Argentina, that the Articles set out in the Annex to your Note are acceptable to the Government of Argentina and that your Note together with the Annex and this reply shall constitute an Agreement in this matter between the Government of the Republic of Argentina and the Government of the United Kingdom of Great Britain and Northern Ireland which shall be known as the "UK/Argentina Debt Rescheduling Agreement (1985)" and shall enter into force today.

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

JOAO HERMES P. DE ARAUJO

[*Annex as under note I*]

¹ Translation supplied by the Government of the United Kingdom.

² Traduction fournie par le Gouvernement du Royaume-Uni.