

INDONESIA



Treaty Series No. 3 (2004)

Exchange of Notes

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

concerning Certain Commercial Debts
(The United Kingdom/Indonesia Debt
Agreement No. 4 (2002))

Jakarta, 3 February and 29 April 2003

[The Agreement entered into force on 29 April 2003]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 2004*

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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 INDONESIA
CONCERNING CERTAIN COMMERCIAL DEBTS (THE UNITED
KINGDOM/INDONESIA DEBT AGREEMENT NO. 4 (2002))**

No. 1

The British Ambassador at Jakarta to the Minister of Finance of the Republic of Indonesia

*Jakarta
3 February 2003*

I have the honour to refer to the Memorandum of Understanding on the Consolidation of the Debt of the Republic of Indonesia which was signed in Paris on 12 April 2002, 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 Republic of Indonesia 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 Indonesia, 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/Indonesia Debt Agreement No. 4 (2002)' 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) "**Appropriate Market Rate**" means the Reference Rate plus 0.5 per cent;

(b) "**BusinessDay** " means (i) a day on which banks are open for domestic and foreign exchange business in London, and (ii) if payment is required to be made on such day, a day on which banks are open for domestic and foreign exchange business (a) in London in the case of payments to be made in sterling and (b) in both London and New York City in the case of payments to be made in dollars;

(c) "**Consolidation Period**" means the period between 1 April 2002 and 31 December 2003 inclusive;

(d) "**Contract**" means a contract, including any agreement supplemental thereto, entered into before 1 July 1997, the parties to which include the Debtor and a Creditor and which either was for the sale of goods and/or services from outside Indonesia to a buyer in Indonesia, or was for 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, the Channel Islands or the Isle of Man, 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 Indonesia whether as primary debtor or as guarantor;

(i) "**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;

(j) "**Indonesia**" means the Republic of Indonesia;

(k) "**Late Interest**" means interest to be charged under this Agreement on any amount of Debt or any amount of interest that remains unpaid after the date for payment or the Due Date specified therefor;

(l) "**Maturity**" in relation to a Debt means the due date for the repayment thereof under the relevant Contract or on a promissory note or bill of exchange drawn up pursuant thereto;

(m) "**Memorandum of Understanding** " means the document titled "Memorandum of Understanding on the Consolidation of the Debt of the

Republic of Indonesia due to the Group of Official Creditors” which was signed in Paris on 12 April 2002;

(n) “**Ministry**” means the Ministry of Finance of the Government of Indonesia;

(o) “**Previous Agreements** ” means the two agreements between the Government of the United Kingdom and the Government of Indonesia on certain Commercial Debts signed on 5 April 2000 ¹and on 29 October 2001²;

(p) "**Reference Rate**" means the rate (rounded upwards where necessary to the nearest multiple of one sixteenth of one per cent) quoted by the Reuters Monitor Money Rate Services (International Swap Dealers Association Interbank Rate from London) (page reference "ISDA") as the rate at which, (i) in the case of a Debt denominated in US dollars, six-month eurodollar deposits are offered in the London Interbank Market at 11am (London time) two Business Days before the commencement of the relevant interest period, or (ii) in the case of a Debt denominated in sterling, six-month sterling deposits are offered in the London Interbank Market at 11am (London time) on the first day of the relevant interest period. If the first day of a relevant interest period is not a Business Day the sterling rate to be used will be that applying on the nearest Business Day prior to the start of the relevant interest period. If the Reuters Monitor Money Rate Services are unavailable at that time on such dates, the rate to be used will be the rate (rounded upwards where necessary to the nearest multiple of one sixteenth of one per cent) quoted to the Department by a bank to be agreed by the Department and the Ministry, as the rate at which that bank is offering six-month eurodollar deposits or six-month sterling deposits as the case may be;

(q) "**United Kingdom** " means the United Kingdom of Great Britain and Northern Ireland.

(2) Where the context of this Annex so allows, words importing the singular include the plural and vice versa.

(3) Unless otherwise indicated, reference to a specified Section shall be construed as a reference to that Section of this Annex.

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

¹ Treaty Series No. 94 (2000) Cm 4810

² Treaty Series No. 5 (2002) Cm 5365

SECTION 2

The Debt

(1) The provisions of this Annex shall, subject to the provisions of paragraph (2) of this Section and Article IV paragraph 3 of the Memorandum of Understanding, apply to:

(a) (i) any amount, whether of principal or of contractual interest (excluding late interest) which has fallen due or will fall due during the period from 1 April 2002 to 31 December 2002 inclusive;

(ii) any amount of principal which will fall due during the period 1 January 2003 to 31 December 2003 inclusive; and

(iii) 50 per cent of contractual interest (excluding Late Interest) which will fall due during the period 1 January 2003 to 31 December 2003 inclusive, or such other percentage as may be advised by the International Monetary Fund at the end of 2002, based on Indonesia's financing needs for the same period;

(b) provided that such amount of principal or contractual interest:

(i) is owed by the Debtor to a Creditor;

(ii) arises under or in relation to a Contract;

(iii) is guaranteed by the Department as to payment according to the terms of the Contract;

(iv) is not expressed by the terms of the Contract to be payable in the lawful currency of Indonesia;

(v) is not an amount payable under the Previous Agreements;

(vi) is not due under a lease rental contract;

(vii) does not arise from an amount payable upon or as a condition of the cancellation or termination of a Contract; and

(viii) has fallen due or will fall due for payment during the Consolidation Period and remains unpaid.

(2) The Department and the Ministry shall, as soon as possible, agree and draw up a list of Debts (the "**Debt List**") to which this Annex shall apply. The Debt List may be reviewed from time to time at the request of the Department or of the Ministry, but may not be added to or amended without the agreement of both the Department and the Ministry. Delay in the completion of the Debt List shall neither prevent nor delay the implementation of the other provisions of this Annex.

SECTION 3

Payment of Debt

The Government of Indonesia shall pay to the Department the Debt, in accordance with the provisions of Section 5(1), on the following dates and in the following percentages:

Repayment Date	Percentage to be Repaid
1 December 2008	2.00
1 June 2009	2.10
1 December 2009	2.20
1 June 2010	2.31
1 December 2010	2.42
1 June 2011	2.53
1 December 2011	2.66
1 June 2012	2.79
1 December 2012	2.92
1 June 2013	3.06
1 December 2013	3.21
1 June 2014	3.37
1 December 2014	3.53
1 June 2015	3.70
1 December 2015	3.88
1 June 2016	4.07
1 December 2016	4.26
1 June 2017	4.47
1 December 2017	4.69
1 June 2018	4.91
1 December 2018	5.15
1 June 2019	5.40
1 December 2019	5.66
1 June 2020	5.94
1 December 2020	6.23
1 June 2021	6.54

SECTION 4

Interest

(1) Interest on the balance of 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 complete payment of that Debt.

(2) The Government of Indonesia shall pay to the Department interest on each Debt in accordance with the provisions of Section 5(1) to the extent that such Debt has not been settled by payment. Such interest shall be paid first on 31 March 2003 and then half-yearly on 1 June and 1 December (the "Due Dates") each year commencing on 1 June 2003.

(3) Interest payable in accordance with the provisions of paragraph (2) of this Section shall be paid at the Appropriate Market Rate.

(4) If any amount of interest payable in accordance with the provisions of paragraph (2) of this Section is not paid on the pertinent Due Date, the Government of Indonesia shall pay to the Department Late Interest on such amount of overdue interest. Late Interest shall accrue at the Appropriate Market Rate plus 0.5% from day to day from the Due Date to the date of receipt of the payment by the Department, and shall be due without further notice or demand.

(5) If any amount of Debt is not paid on the date specified for repayment thereof, the Government of Indonesia shall pay to the Department Late Interest on any such outstanding amount. Late Interest shall accrue at the Appropriate Market Rate plus 0.5% and be payable from day to day from the date specified for repayment of the Debt to the date of its receipt by the Department, and shall be due without further notice or demand.

(6) All interest payable pursuant to this Annex shall be calculated on the basis of actual days elapsed and a year of 360 days, in the case of Debts denominated in US dollars, and 365 days, in the case of Debts denominated in sterling.

SECTION 5

Payments to the Department

(1) When payment becomes due under the terms of Section 3 or 4, the Ministry 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 in the Currency of the Debt to an account notified by the Department to the Ministry.

(2) 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.

(3) The Ministry shall give the Department full particulars of the Debts and/or interest to which the payments relate.

SECTION 6

Exchange of Information

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

SECTION 7

Other Debt Settlements

(1) The Government of Indonesia undertakes to fulfil its commitments under Article III of the Memorandum of Understanding 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.

(2) The provisions of paragraph (1) of this Section shall not apply to matters relating to the payment of interest under Section 4.

SECTION 8

Preservation of Rights and Obligations

This Annex and its implementation shall not affect the rights or obligations of any Creditor or Debtor under any Contract other than those payment rights and obligations arising under Contracts expressly mentioned in the Debt List.

SECTION 9

Debt Swaps Option

The Department shall notify the Government of Indonesia if it wishes to exercise the option given in Article II paragraph 4 of the Memorandum of Understanding to sell or exchange Debt. This option may only be implemented with the consent of the Government of Indonesia and will only be exercised on condition that the Debt sold or exchanged is discharged in the legal currency of Indonesia.

SECTION 10

Conditionality

Unless the Department otherwise agrees in writing, the conditions of Article IV paragraph 3 of the Memorandum of Understanding shall apply to this Annex. If this Annex ceases to apply because any of these conditions has not been fulfilled, all

outstanding payments shall be due according to the original Contracts, as if this Annex had never existed.

No. 2

The Minister of Finance of the Republic of Indonesia to the British Ambassador at Jakarta

*Jakarta
29 April 2003*

I have the honour to acknowledge receipt of Your Excellency's Note of 3 February 2003 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 Republic of Indonesia, 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/Indonesia Debt Agreement No. 4 (2002)' and which shall enter into force today.

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

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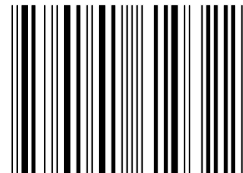
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