



Treaty Series No. 26 (2011)

Exchange of Notes

between the Government of the United Kingdom of Great Britain and Northern
Ireland and the Government of the Republic of Togo concerning Certain
Commercial Debts
(United Kingdom/Togo Debt Agreement No.11 (2008))

Accra, 28 January 2011

[The Agreement entered into force on 28 January 2011]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
July 2011*

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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 TOGO CONCERNING
CERTAIN COMMERCIAL DEBTS
(UNITED KINGDOM/TOGO DEBT AGREEMENT NO. 11 (2008))**

No.1

The British High Commission in Accra, Ghana to the Embassy of the Republic of Togo to Ghana

28 January 2011

The British High Commission presents its compliments to the Embassy of the Republic of Togo and has the honour to refer to the Agreed Minutes on the Consolidation of the Debt of the Togolese Republic dated 12 June 2008 and the Agreed Minutes on the Consolidation of the Debt of the Togolese Republic dated 22 January 2009, 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 Togolese Republic on the terms and conditions set out in the attached Annex.

If these terms and conditions are acceptable to the Government of the Togolese Republic, 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/Togo Debt Agreement No.11 (2008)' and which shall enter into force on the date of your reply.

The British High Commission avails itself of this opportunity to renew to the Embassy of the Republic of Togo the assurance of its highest consideration.

British High Commission
Accra, Ghana

SECTION 1

Definitions and Interpretation

- (1) In this Annex, unless the contrary intention appears:
- (a) "Agreed Minutes" means the Agreed Minutes on the Consolidation of the Debt of the Togolese Republic dated 12 June 2008 and the Agreed Minutes on the Consolidation of the Debt of the Togolese Republic dated 22 January 2009;
 - (b) "Appropriate Market Rate" means the Reference Rate plus 0.5 per cent;
 - (c) "Business Day" means a day on which banks are open for domestic and foreign exchange business in London;
 - (d) "Consolidation Period" means:
 - (i) the period between 1 April 2008 and 31 March 2010 inclusive if the conditions set forth under Article IV paragraph 3.b) of each of the Agreed Minutes are met, and thereafter
 - (ii) the period between 1 April 2010 and 31 March 2011 inclusive if the conditions set forth under Article IV paragraph 3.c) of each of the Agreed Minutes are met;
 - (e) "Debt" means any of the payments of principal and interest to which by virtue of the provisions of Section 2, the provisions of this Annex apply;
 - (f) "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;
 - (g) "Eighth Agreement" means the Agreement between the Government of the United Kingdom and the Government of the Togolese Republic concerning Certain Commercial Debts which entered into force on 9 August 1991;
 - (h) "Maturity" means 31 March 2008 in respect of the amounts of principal and interest described in Section 2 paragraphs (1) to (4), and 30 October 2008 in respect of the amounts of principal and interest described in Section 2 paragraphs (5) to (8), or, in either case, the date for payment specified in the Previous Agreements if that date is later;
 - (i) "Ministry" means the Ministry of Economy and Finance of the Togolese

Republic or any other institution which the Government of the Togolese Republic nominates to perform the functions of the Ministry of Economy and Finance of the Togolese Republic hereunder;

- (j) "Ninth Agreement" means the Agreement between the Government of the United Kingdom and the Government of the Togolese Republic concerning Certain Commercial Debts which entered into force on 12 December 1994¹;
- (k) "Previous Agreements" means the Sixth Agreement, the Seventh Agreement, the Eighth Agreement, the Ninth Agreement and the Tenth Agreement collectively;
- (l) "Reference Rate" means the rate (rounded upwards where necessary to the nearest multiple of one sixteenth of one per cent) quoted by Bloomberg Services (British Bankers Association LIBOR Rates) (page reference "BBAM") as the rate at which six-month sterling deposits are offered in the London Interbank Market at 11.00am (London time) two Business Days before the commencement of the relevant interest period. If Bloomberg Services are unavailable at that time on that date, the rate to be used will be the rate (rounded upwards where necessary to the nearest multiple of one sixteenth of one per cent) for six-month sterling deposits in the London interbank market, obtained from the British Bankers Association or any other source quoting the rates published by the British Bankers Association, or if no quotation is available from the British Bankers Association, the rate (rounded upwards where necessary to the nearest multiple of one sixteenth of one per cent) quoted by a bank to be agreed by the Department and the Ministry, as the rate at which that bank is offering six-month sterling deposits in the London interbank market;
- (m) "Seventh Agreement" means the Agreement between the Government of the United Kingdom and the Government of the Togolese Republic concerning Certain Commercial Debts which entered into force on 3 April 1990²;
- (n) "Sixth Agreement" means the Agreement between the Government of the United Kingdom and the Government of the Togolese Republic concerning Certain Commercial Debts which entered into force on 31 January 1989³;
- (o) "Tenth Agreement" means the Agreement between the Government of the United Kingdom and the Government of the Togolese Republic concerning Certain Commercial Debts which entered into force on 25 October 1995⁴, as amended on 2 November 1999⁵; and

¹ Treaty Series No. 081 (1996) Cm 3378

² Treaty Series No. 077 (1990) Cm 1309

³ Treaty Series No. 031 (1989) Cm 754

⁴ Treaty Series No. 064 (1996) Cm 3312

- (p) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland.
- (2) All interest payable 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 Debts

The provisions of this Annex shall, subject to the provisions of Article IV paragraph 3 of each of the Agreed Minutes, apply to:

- (1) 1.1 any amount, whether of principal or of interest (including interest accrued on interest) which fell due on or before 31 March 2008 and remains unpaid; and
- 1.2 any amount, whether of principal or of interest (excluding interest accrued on interest) which fell due from 1 April 2008 to 31 October 2008 inclusive

which is payable under the Sixth Agreement and/or the Tenth Agreement and, if payable under the Tenth Agreement, was:

- (a) rescheduled under the Seventh Agreement and/or the Eighth Agreement and was not in arrears at 31 December 1994;
- (b) rescheduled under the Ninth Agreement, having been rescheduled previously under the Sixth Agreement; and/or
- (c) rescheduled under the Ninth Agreement, having been rescheduled previously under the Seventh Agreement and/or the Eighth Agreement;
- (2) 2.1 any amount, whether of principal or of interest (including interest accrued on interest) which fell due on or before 31 March 2008 and remains unpaid; and

⁵ Treaty Series No. 048 (2000) Cm 4700

- 2.2 any amount, whether of principal or of interest (excluding interest accrued on interest) which fell due from 1 April 2008 to 31 October 2008 inclusive

which is payable under the Seventh Agreement, the Eighth Agreement and/or the Tenth Agreement and, if payable under the Tenth Agreement, was:

- (a) rescheduled under the Seventh Agreement and/or the Eighth Agreement and was not in arrears at 31 December 1994; and/or
 - (b) rescheduled under the Ninth Agreement, having been rescheduled previously under the Seventh Agreement and/or the Eighth Agreement;
- (3) 3.1 any amount, whether of principal or of interest (including interest accrued on interest) which fell due on or before 31 March 2008 and remains unpaid; and
- 3.2 any amount, whether of principal or of interest (excluding interest accrued on interest) which fell due from 1 April 2008 to 31 October 2008 inclusive

which is payable under the Ninth Agreement;

- (4) 4.1 any amount, whether of principal or of interest (including interest accrued on interest) which fell due on or before 31 March 2008 and remains unpaid; and
- 4.2 any amount, whether of principal or of interest (excluding interest accrued on interest) which has fallen or will fall due from 1 April 2008 to 31 March 2011 inclusive

which is payable under the Tenth Agreement, and was:

- (a) rescheduled under the Sixth Agreement, the Seventh Agreement and/or the Eighth Agreement and was in arrears at 31 December 1994; and/or
 - (b) rescheduled under the Sixth Agreement and was not in arrears at 31 December 1994;
- (5) any amount, whether of principal or of interest (excluding interest accrued on interest) which has fallen due or will fall due from 1 November 2008 to 31 March 2011 inclusive and which is payable under the Sixth Agreement and/or the Tenth Agreement and, if payable under the Tenth Agreement, was:
- (a) rescheduled under the Seventh Agreement and/or the Eighth Agreement and was not in arrears at 31 December 1994;

- (b) rescheduled under the Ninth Agreement, having been rescheduled previously under the Sixth Agreement; and/or
 - (c) rescheduled under the Ninth Agreement, having been rescheduled previously under the Seventh Agreement and/or the Eighth Agreement;
- (6) any amount, whether of principal or of interest (excluding interest accrued on interest) which has fallen due or will fall due from 1 November 2008 to 31 March 2011 inclusive and is payable under the Seventh Agreement, the Eighth Agreement and/or the Tenth Agreement and, if payable under the Tenth Agreement, was:
- (a) rescheduled under the Seventh Agreement and/or the Eighth Agreement and was not in arrears at 31 December 1994; and/or
 - (b) rescheduled under the Ninth Agreement, having been rescheduled previously under the Seventh Agreement and/or the Eighth Agreement;
- (7) any amount, whether of principal or of interest (excluding interest accrued on interest) which has fallen due or will fall due from 1 November 2008 to 31 March 2011 inclusive and is payable under the Ninth Agreement; and
- (8) any amount, whether of principal or of interest (excluding interest accrued on interest) which has fallen due or will fall due from 1 November 2008 to 31 March 2011 inclusive, is payable under the Tenth Agreement, and was:
- (a) rescheduled under the Sixth Agreement, the Seventh Agreement and/or the Eighth Agreement and was in arrears at 31 December 1994; and/or
 - (b) rescheduled under the Sixth Agreement and was not in arrears at 31 December 1994).

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 of the amounts set out at Section 2 paragraphs (1) to (8) shall cease to apply upon the entry into force of this Agreement (although they may be consulted as necessary in order to determine Maturity under this Annex).

SECTION 4

Debt Reduction and Payment

- (1) On the date of this Agreement, each Debt in respect of which Maturity is prior to the date of this Agreement is deemed to have been reduced on Maturity by the

percentages set out in paragraph (3) of this Section.

(2) On Maturity, each Debt in respect of which Maturity is on or after the date of this Agreement is reduced by the percentages set out in paragraph (3) of this Section.

(3)

- (a) each Debt specified in Section 2 (1): 67 per cent;
- (b) each Debt specified in Section 2 (2): 50 per cent;
- (c) each Debt specified in Section 2 (3): 34 per cent;
- (d) each Debt specified in Section 2 (5): 90 per cent;
- (e) each Debt specified in Section 2 (6): 85 per cent;
- (f) each Debt specified in Section 2 (7): 80 per cent;
- (g) each Debt specified in Section 2 (8): 70 per cent.

(4) The Government of the Togolese Republic shall pay to the Department, in accordance with the provisions of Section 7, the remainder of each Debt specified in Section 2 on the following dates and in the following percentages:

Repayment Date	Percentage of the Debts to be Repaid
1 October 2016	0.12
1 April 2017	0.20
1 October 2017	0.28
1 April 2018	0.38
1 October 2018	0.48
1 April 2019	0.58
1 October 2019	0.70
1 April 2020	0.82
1 October 2020	0.94
1 April 2021	1.08
1 October 2021	1.22
1 April 2022	1.36
1 October 2022	1.52
1 April 2023	1.70
1 October 2023	1.86
1 April 2024	2.06
1 October 2024	2.26
1 April 2025	2.46
1 October 2025	2.68
1 April 2026	2.92
1 October 2026	3.18
1 April 2027	3.44
1 October 2027	3.70
1 April 2028	4.00
1 October 2028	4.30
1 April 2029	4.64
1 October 2029	4.98

1 April 2030	5.34
1 October 2030	5.72
1 April 2031	6.12
1 October 2031	6.54
1 April 2032	7.00
1 October 2032	7.46
1 April 2033	7.96

SECTION 5

Interest

- (1) Interest on the balance of each Debt shall be deemed to have accrued and shall continue to accrue and be payable from Maturity until the complete payment of that Debt.
- (2) The Government of the Togolese Republic shall be liable for and shall pay to the Department interest on each Debt until such Debt has been settled by payment to the Department in the United Kingdom. Subject to the provisions of Section 6, such interest shall be paid half-yearly on 1 April and 1 October (the "Due Dates") each year, commencing on 1 April 2010.
- (3) Interest payable on each Debt in accordance with the provisions of paragraph (2) of this Section shall be paid at the Appropriate Market Rate applicable to each half-yearly interest period commencing with the half-yearly interest period within which the Maturity of the Debt concerned occurred or occurs.
- (4) If any amount of interest payable in accordance with the provisions of paragraphs (2) and (3) of this Section is not paid on the relevant Due Date for payment thereof, the Government of the Togolese Republic shall pay to the Department interest on any such amount of overdue interest. Such additional interest shall accrue at the Appropriate Market Rate from day to day from the Due Date until the date of receipt of the payment by the Department, and shall be due without further notice or demand.

SECTION 6

Deferral of Interest during the Consolidation Period

- (1) Subject to Section 10, the Government of the Togolese Republic shall not be required to pay interest accruing during the Consolidation Period on any Due Date during the Consolidation Period. All such interest shall be deferred and shall be paid by the Government of the Togolese Republic to the Department, in accordance with the provisions of Section 7, in five equal and consecutive yearly instalments commencing on 1 April 2012.

(2) Interest shall be payable on each amount that is deferred in accordance with paragraph (1) of this Section, from the Due Date on which it would have been payable (but for the operation of paragraph (1) of this Section) until the final day of the Consolidation Period. The Government of the Togolese Republic shall pay to the Department, in accordance with the provisions of Section 7, all such interest in five equal and consecutive yearly instalments, commencing on 1 April 2012.

SECTION 7

Payments to the Department

(1) When payment becomes due under the terms of Section 4, 5, 6 or 10, 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 sterling to the 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 each payment relates.

SECTION 8

Exchange of Information

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

SECTION 9

Other Debt Settlements

(1) The Government of the Togolese Republic undertakes to fulfil its commitments set out in Article III of each of the Agreed Minutes 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 5 or 6.

SECTION 10

Conditionality

(1) Unless the Department otherwise agrees in writing, the conditions specified in Article IV paragraph 3 of each of the Agreed Minutes as having to be satisfied in order for the provisions of the relevant Agreed Minutes to apply (the “Conditions”) must be satisfied, and continue to be satisfied, for this Annex to apply to, and continue to apply to, the amounts of principal and interest set out at Section 2 paragraphs (1) to (8) which have not yet reached Maturity. For the avoidance of doubt, this Annex shall continue to apply to the amounts of principal and interest set out at Section 2 paragraphs (1) to (8) which have reached Maturity regardless of whether the Conditions are satisfied.

(2) If this Annex ceases to apply to the amounts of principal and interest set out at Section 2 paragraphs (1) to (8) which have not yet reached Maturity because any of the Conditions is not, or ceases to be, satisfied:

- (a) the amounts of principal and interest set out at Section 2 paragraphs (1) to (8) which have not yet reached Maturity shall be payable according to the payment schedules in the relevant Previous Agreements as if this Annex had never existed;
- (b) interest which has been deferred under Section 6 shall continue to be payable under Section 6; and
- (c) interest arising under Section 5 after the date on which any of the Conditions is not, or ceases to be, met will be payable in accordance with Section 5 and, for the avoidance of doubt, shall not be deferred under Section 6.

No. 2

The Embassy of the Republic of Togo to Ghana to the British High Commission in Accra, Ghana

28 January 2011

The Embassy of the Republic of Togo has the honour to acknowledge receipt of Your Excellency's Note of 28 January 2011 which read as follows:

[As in No. 1]

I have the honour to confirm that the terms and conditions set out on the Annex to your Note are acceptable to the Government of the Togolese Republic, 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/Togo Debt Agreement No. 11 (2008)' and which shall enter into force today.

The Embassy of the Republic of Togo avails itself of this opportunity to Your Excellency the assurances of my highest consideration.

Embassy of Togo to Ghana
Accra



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