

[PRESIDENTIAL DECREE NO. 1961, January 11, 1985]

AN ACT AUTHORIZING THE PRESIDENT OF THE PHILIPPINES, ON BEHALF OF THE REPUBLIC OF THE PHILIPPINES, AND AUTHORIZING THE CENTRAL BANK OF THE PHILIPPINES, TO ENTER INTO FOREIGN CURRENCY LOAN, DEPOSIT AND GUARANTEE AGREEMENTS AND ARRANGEMENTS IN SUPPORT OF THE NATIONAL ECONOMIC RECOVERY PROGRAM, AND FOR OTHER PURPOSES.

WHEREAS, the current economic crisis amounts to a grave emergency which affects, the stability of the nation and requires immediate action;

WHEREAS, in pursuance of the above goals, the Philippines has presented a National Economic Recovery Program to its foreign creditors, and in furtherance thereof, (i) a multinational arrangement had been agreed upon by the Philippines for the rescheduling of certain credits made, guaranteed or insured by foreign governments and their agencies, and (ii) the Philippines is currently negotiating with the international banking community for the establishment of a new credit facility of US \$925 million, a revolving short-term trade credit facility in an aggregate amount equal to approximately US \$3 billion, and the restructuring of certain foreign currency debts of public and private sectors owing to international banking and financial institutions and falling due from October 17, 1983 through December 31 1986 amounting in the aggregate to approximate US\$5.8 billion;

WHEREAS, the issuance of this Decree is an essential and necessary component of the National Economic Recovery Program formulated to meet and overcome the emergency;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby direct and order;

SECTION 1. This Decree shall be known as the "Philippine Economic Recovery Program Financing Law of 1985."

SECTION 2. In furtherance of the National Economic Recovery Program, the Central Bank of the Philippines is hereby authorized to contract foreign currency loans with the guarantee of the Republic of the Philippines, upon such terms and conditions as may be agreed with the lenders.

SECTION 3. In furtherance of the National Economic Recovery Program of the Philippines, the Republic of the Philippines, political subdivisions and instrumentalities of the Republic of the Philippines, and corporations, including financial institutions owned or controlled by the Government of the Republic of the Philippines and corporations more than fifty percent of the beneficial ownership of which is held by one or more of such government-owned or controlled corporations, may reschedule, refinance or restructure their foreign currency loans, credits and indebtedness, including suppliers' credits deferred payment arrangements and official assistance, upon such terms and conditions as may be agreed with the lenders, creditors or suppliers.

SECTION 4. In order to promote and maintain the availability of trade credit to the Philippines, the Central Bank of the Philippines may contract trade facilities in foreign currency for the benefit of both the public and private sectors. Under such trade facilities, the Central Bank of the Philippines may establish foreign currency deposits in respect of, or assume by means of other obligations, certain foreign currency loans, credits and indebtedness of Philippine public and private borrowers or obligors, upon such terms and conditions as may be agreed with the lenders, creditors or suppliers. In the event that the Central Bank of the Philippines shall become liable with respect to such foreign currency loans, credits and indebtedness of the Republic of the Philippines, political subdivisions or instrumentalities of the Republic of the Philippines, or corporations, including financial institutions owned or controlled by the Government of the Republic of the Philippines and corporations more than fifty percent of the beneficial ownership of which is held by one or more of such government-owned or controlled corporations, the Government, such political subdivisions and instrumentalities, and such corporations shall deliver to the Central Bank of the Philippine the peso equivalent of such loans, credits and indebtedness in respect of which the Central Bank of the Philippines shall become liable, or shall deliver consideration satisfactory to the Central Bank of the Philippines, upon such terms and conditions as may be prescribed by the Central Bank of the Philippines.

SECTION 5. The Central Bank of the Philippines may likewise establish foreign currency deposits in respect of, or assume by means of other obligations, certain foreign currency loans, credits and indebtedness of Philippine public and private borrowers or obligors, not related to trade transactions, in connection with the rescheduling, refinancing or restructuring of foreign currency loans, credits and indebtedness, upon such terms and conditions as may be agreed with the lenders, creditors or suppliers.

SECTION 6. Whenever necessary or advisable in Bank of the subdivisions and instrumentalities of the Republic of the Philippines, corporations, including financial institutions owned or controlled by the Government of the Republic of the Philippines and corporations more than fifty percent of the beneficial ownership of which is held by one or more of such owned or controlled corporations, and (ii) foreign currency loans, credits and indebtteness related to the financing of trade and directed by the Central Bank of the Philippines to specific private sector obligors or borrowers, upon such terms and conditions as may be agreed with the lenders, creditors or suppliers. Subject to the terms and conditions contained in such guarantees issued by the Republic of the Philippines under this Decree, the liability of the Republic of the Philippines under any such guarantee shall be unconditional, irrespective of any circumstance (other than payment in full) which might otherwise constitute a defense available under Philippine law to the principal obligor or to the Republic of the Philippines in respect of such guarantee.

SECTION 7. Whenever necessary or advisable in connection with the National Economic Recovery Program of the Philippines, the President of the Philippines, upon recommendation of the Monetary Board of the Central Bank of the Philippines, may exclude specific categories of external debt contracted or obtained under the provisions of this Decree from the twenty percent ceiling on external debt service prescribed under Section 2 of Republic Act No. 4860, as amended.

SECTION 8. Loans, credits and indebtedness obtained by, and guarantees extended by, the Republic of the Philippines pursuant to the provisions of this Decree shall not