

December 21, 1987

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE
GOVERNMENT OF CANADA CONCERNING THE BATANGAS
TELECOMMUNICATIONS DEVELOPMENT PROJECT (734/14260)**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE
GOVERNMENT OF CANADA**

The Government of Canada (hereinafter called "CANADA") and the Government of the Republic of the Philippines (hereinafter called "PHILIPPINES"), desiring to record an understanding concerning development assistance with respect to a development line of credit project, have agreed as follows :

**ARTICLE I
NATURE OF THE MEMORANDUM OF UNDERSTANDING**

SECTION 1.01

This Memorandum of Understanding does not constitute an international treaty: it is intended only to set out the responsibilities of the two Governments in relation to the Project.

**ARTICLE II
RESPONSIBLE AUTHORITIES**

SECTION 2.01

CANADA designates the Canadian International Development Agency (hereinafter called "CIDA") as the agency responsible for the implementation of its obligations under this Memorandum of Understanding.

SECTION 2.02

PHILIPPINES designates the Department of Transportation and Communications (hereinafter called "Department") as the agency responsible for the implementation of its obligations under this Memorandum of Understanding.

**ARTICLE III
THE PROJECT**

SECTION 3.01

CANADA and PHILIPPINES shall participate in a line of credit project (hereinafter called the "Project"), the objective of which is to use the proceeds of the contribution made available hereunder by CANADA to PHILIPPINES for the purpose described in Annex "A".

SECTION 3.02

The procurement of goods and services relating to the Project will be performed by PHILIPPINES in accordance with the procedures referred to in Annex "D".

SECTION 3.03

A Steering Committee will be formed composed of CIDA's representative at the Canadian Embassy in Manila, the Department's representatives and other representatives agreed to by CANADA and PHILIPPINES.

SECTION 3.04

The Steering Committee will facilitate the execution and the monitoring of the Project.

SECTION 3.05

CANADA shall have the right to conduct any inspection of the goods on the system and conduct an evaluation of the system and its usage in collaboration with PHILIPPINES.

ARTICLE IV CONTRIBUTION OF CANADA

SECTION 4.01

CANADA shall make available to PHILIPPINES, on terms and conditions hereinafter set forth, a contribution in an amount not to exceed four hundred and fifty thousand Canadian dollars (Cdn \$450,000.) (hereinafter called "the contribution"). The amount of the contribution shall be allocated as follows:

- (a) four hundred thousand Canadian dollars (Cdn \$400,000.) for the line of credit; and
- (b) fifty thousand Canadian dollars (Cdn \$50,000.) for the evaluation component of the Project.

SECTION 4.02

The responsibilities of CANADA are more particularly described in Annex "C".

SECTION 4.03

The proceeds of the contribution shall not be used by PHILIPPINES to pay any taxes, fees, customs duties or any other levies or charges imposed directly or indirectly by PHILIPPINES on any goods, materials, equipment, vehicles and services purchased or acquired for, or related to, the execution of the Project.

ARTICLE V CONTRIBUTION OF PHILIPPINES

SECTION 5.01

PHILIPPINES shall provide the necessary funds and other resources in accordance with the budgetary or resource requirements to be prepared and agreed upon by both parties necessary to implement the Project. In no case shall the PHILIPPINES be required to incur foreign exchange expenditures to implement this Project.

SECTION 5.02

PHILIPPINES shall undertake to approve the use of the radio frequencies necessary for the Project.

SECTION 5.03

PHILIPPINES shall undertake to ensure that all necessary interconnection, cost sharing, organisational, management and such like agreements between participating organizations are in place before construction is completed.

SECTION 5.04

PHILIPPINES shall be responsible for all local costs incurred.

SECTION 5.05

The responsibilities of PHILIPPINES are more particularly described in Annex "B".

ARTICLE VI USE OF THE CONTRIBUTION

SECTION 6.01

Except as may otherwise be specifically agreed to by CANADA, the proceeds of the contribution shall be used by PHILIPPINES exclusively for the Project in accordance with Annex "A". The procedures for procurement of, and payment for, any goods and services to be purchased or acquired for the Project shall be those set forth in Annex "D". Goods and services purchased or acquired with the proceeds of the contribution shall be used exclusively for the purpose of the Project.

SECTION 6.02

Goods and services purchased or acquired in Canada with the proceeds of the contribution shall have an overall Canadian content of not less than sixty-six and two-thirds per cent (66 2/3%).

SECTION 6.03

Goods and services contracted for prior to the effective date of this Memorandum of Understanding may not be financed out of the proceeds of the contribution except as may otherwise be agreed to by CANADA.

SECTION 6.04

If the full amount of the contribution is not committed before the 31st day of March 1989, the balance will be cancelled, unless otherwise agreed to by CANADA.

ARTICLE VII CANCELLATION AND SUSPENSION

SECTION 7.01

If any of the following events occurs, and continues to occur, CANADA may, by sixty (60) days written notice to PHILIPPINES, specifying the reason for suspension, suspend in whole or in part the right of PHILIPPINES to obtain money from the contribution:

(a) a default on the part of PHILIPPINES in the performance of any responsibilities under this Memorandum of Understanding;

(b) any extraordinary situation which renders it impossible for PHILIPPINES or CANADA to perform its responsibilities under this Memorandum of Understanding.

SECTION 7.02

If suspension occurs and continues for thirty (30) days, CANADA may, by sixty (60) days' written notice to PHILIPPINES, cancel that part of the contribution not disbursed prior to the giving of such notice.

ARTICLE VIII DEFINITIONS OF CANADIAN FIRMS AND PERSONNEL

SECTION 8.01

For the purpose of this Memorandum of Understanding:

(a) "Canadian firm" means Canadian or other non-Filipino firms, partnerships or institutions engaged in the Project;

(b) "Canadian personnel" means Canadian or non-Filipino or other non-permanent residents of Philippines, who are working in Philippines on the Project;

(c) "Dependant" means:

(i) the spouse of a member of the Canadian personnel, including a person of the opposite sex with whom the member of the Canadian personnel has lived and publicly represented as his/her spouse for a period of not less than one year before the commencement of his/her period of service in Philippines;

(ii) a child of the member of the Canadian personnel, or his/her spouse who is:

1. under twenty-one years of age and dependent on the member of the Canadian personnel or his/her spouse for support, or

2. twenty-one years of age or older and dependent on the member of the Canadian personnel or his/her spouse for support by reason of mental or physical incapacity.

ARTICLE IX INDEMNITY

SECTION 9.01

PHILIPPINES shall indemnify and save harmless CANADA, Canadian firms and Canadian personnel from civil liability, for acts or omissions occurring in the course of the performance of their duties in the execution of the Project except for acts