

July 10, 1969

**GUARANTEE AGREEMENT BETWEEN THE REPUBLIC OF THE
PHILIPPINES AND THE INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT. - THIRD DEVELOPMENT
CORPORATION PROJECT**

The Agreement entered into force, July 10, 1969.

Reference: This Agreement is also published in 704 UNTS 163.

AGREEMENT, dated July 10, 1969, between REPUBLIC OF THE PHILIPPINES (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by the Loan Agreement of even date herewith² between the Bank and Philippine National Bank (hereinafter called the Borrower), the Bank has agreed to make to the Borrower a loan in various currencies equivalent to twenty-five million dollars (\$25,000,000) on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Section 1.01. The parties to this Guarantee Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,ⁱ with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 2 to the Loan Agreement (said General Conditions Applicable to Loan and Guarantee Agreements, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Guarantee Agreement, unless the context shall otherwise require, the several terms defined in the General Conditions and in Section 1.02 of the Loan Agreement have the respective meanings therein set forth.

ARTICLE II

Section 2.01. Without limitation or restriction upon any of the other covenants on its part in this Guarantee Agreement contained, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement and in the Bonds.

ARTICLE III

Section 3.01. It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor as security for any external debt, such lien will ipso facto equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property, or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor or of any agency of the Guarantor, including the Central Bank of the Philippines or any other institution performing the functions of a central bank.

The Guarantor further undertakes that, within the limits of the laws in force in its territories, it will make the foregoing undertaking effective with respect to liens on the assets of its political subdivisions and their agencies, and to the extent that the Guarantor is unable within the limits of the laws in force in its territories to make this undertaking effective, the Guarantor will give to the Bank an equivalent lien satisfactory to the Bank.

Section 3.02. (a) The Guarantor and the Bank shall co-operate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

Section 3.03. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes, and free from all restrictions, imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 3.04. This Guarantee Agreement, the Loan Agreement, the Project Agreement^[1] and the Bonds shall be free from any taxes that shall be imposed

under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery, or registration thereof.

Section 3.05. The Guarantor covenants that it will not take or permit any of its political subdivisions or any of its agencies or any agency of any political subdivision to take any action which would prevent or interfere with the performance by the Borrower of any of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained, or by the Corporation of any of the covenants, agreements and obligations of the Corporation in the Project Agreement contained, and will take or cause to be taken all reasonable action which shall be necessary in order to enable the Borrower and the Corporation respectively to perform such covenants, agreements and obligations.

ARTICLE IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the General Conditions, its guarantee on the Bonds to be executed and delivered by the Borrower. The Secretary of Finance of the Guarantor and such person or persons as he shall appoint in writing are designated as authorized representatives of the Guarantor for the purposes of Section 8.10 of the General Conditions.

ARTICLE V

Section 5.01. The Secretary of Finance of the Guarantor is designated for the purposes of Section 10.03 of the General Conditions.

Section 5.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Guarantor:

Secretary of Finance
Department of Finance
Manila
Philippines
Alternative address for cables:
Secfinance
Manila

For the Bank:

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America
Alternative address for cables:
Intbafrad
Washington, D.C.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of the Philippines:
By Eduardo Z. ROMUALDEZ

Authorized Representative

International Bank for Reconstruction and Development:

By J. Burke KNAPP

Vice President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

GENERAL CONDITIONS, DATED 31 JANUARY 1969

GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

[Not published herein. See United Nations, Treaty Series, vol. 691, p. 300.]

LOAN AGREEMENT

AGREEMENT, dated July 10, 1969, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and PHILIPPINE NATIONAL BANK (hereinafter called the Borrower), a company organized and existing under the laws of the Republic of the Philippines (hereinafter called the Guarantor).

WHEREAS the Private Development Corporation of the Philippines (hereinafter called the Corporation), a company organized and existing under the laws of the Guarantor, has been incorporated to assist privately controlled industrial and other productive enterprises in the Philippines by providing capital for such enterprises in the form of credits or share participations;

WHEREAS by an agreement dated February 15, 1963⁽¹⁾ between the Bank and the Borrower (hereinafter called the First Loan Agreement) the Bank made a loan to the Borrower in an amount in various currencies equivalent to \$15,000,000 to be relented to the Corporation upon terms and conditions satisfactory to the Bank, such loan being guaranteed as to payments of principal, interest and other charges by the Guarantor;

WHEREAS by an agreement dated September 23, 1966⁽²⁾ between the Bank and the Borrower (hereinafter called the Second Loan Agreement) the Bank made a second loan to the Borrower in an amount in various currencies equivalent to \$25,000,000 to be relented to the Corporation upon terms and conditions satisfactory to the Bank, such loan being guaranteed as to payments of principal, interest and other charges by the Guarantor; and

WHEREAS the Bank has agreed to make to the Borrower upon the terms and conditions hereinafter set forth a third loan the proceeds of which or the equivalent thereof are to be relented to the Corporation on terms and conditions satisfactory to the Bank on condition that such loan be guaranteed as to payments of principal, interest and other charges by the Guarantor upon the terms and conditions of a guarantee agreement of even date herewith between the Guarantor and the Bank;

NOW THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I

GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,¹ with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 2 to this Agreement (said General Conditions Applicable to Loan and Guarantee Agreements, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in the Loan Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Subsidiary Loan Agreement" means the Subsidiary Loan Agreement (Third Development Corporation Project) of even date herewith,² between the Borrower and the Corporation, under which the Borrower shall relend the proceeds of the Loan to the Corporation, as the same shall be amended from time to time by agreement of the parties thereto and the Bank;

(b) "Project Agreement" means the Project Agreement (Third Development Corporation Project) of even date herewith,¹ between the Bank and the Corporation, as the same shall be amended from time to time by agreement between the Bank and the Corporation;

(c) "AID Agreement" means the agreement dated February 15, 1963, between the Agency for International Development, an agency of the United States of America (hereinafter called AID) and the Corporation, providing for a loan by AID to the Corporation in the aggregate principal amount of P27,500,000;

(d) "Credit" means a credit made or proposed to be made by the Corporation out of the proceeds of the Loan to an Investment Enterprise for an Investment Project;

(e) "Investment" means an investment, other than a Credit, made or proposed to be made by the Corporation out of the proceeds of the Loan in an Investment Enterprise for an Investment Project;

(f) "Investment Enterprise" means an enterprise to which the Corporation shall propose to make or shall have made a Credit, or in which it shall propose to make or shall have made an Investment in accordance with and as provided in Section 3.01 of this Agreement;

(g) "Investment Project" means a specific investment project to be carried out by an Investment Enterprise and to be financed in whole or in part out of the proceeds of the Loan by means of a Credit or an Investment;

(h) "subsidiary" means any company of which the majority of the outstanding voting stock or other proprietary interest shall be owned, or which shall be effectively controlled, by the Corporation or by any one or more subsidiaries of the Corporation or by the Corporation and one or more of its subsidiaries.