

REVISING PRESIDENTIAL DECREE NO. 550 CREATING THE PHILIPPINE FOREIGN LOAN GUARANTEE CORPORATION SO IT WILL NOW BE ENTITLED THE PHILIPPINE EXPORT AND FOREIGN LOAN GUARANTEE CORPO...

PRESIDENTIAL DECREE No. 1080, January 31, 1977

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I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree the revision of Presidential Decree No. 550, dated September 11, 1974, which shall henceforth read in its entirety as follows:

WHEREAS, there is a need to supplement existing domestic financial resources with borrowings from abroad in order to meet the country's economic development requirements;

WHEREAS, such foreign obligations contracted by the private sector may need to be adequately guaranteed by government financial institutions;

WHEREAS, the Development Bank of the Philippines, the Philippine National Bank, and the National Investment and Development Corporation are the only government financial institutions presently offering guarantee coverage to such foreign obligations incurred by the private sector;

WHEREAS, there is a felt need to expand the Philippine Government's guarantee coverage of foreign loans for the private sector in order to ensure the continuous entry of these resources into the economy;

WHEREAS, THERE IS A NEED TO EXPAND THE GOVERNMENT'S GUARANTEE COVERAGE TO THE PRIVATE SECTOR TO INCLUDE BANKING AND TECHNICAL INSTITUTIONS GRANTING LOANS TO FILIPINO EXPORTERS, PRODUCERS OF EXPORT PRODUCTS, AND CONTRACTORS WITH APPROVED SERVICE CONTRACTS ABROAD, AND/OR ISSUING STANDBY LETTERS OF CREDIT OR LETTERS OF GUARANTEE FOR THE PERFORMANCE OF APPROVED SERVICE CONTRACTS ABROAD ENTERED INTO BY DOMESTIC ENTITIES, ENTERPRISES OR CORPORATION;

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

SECTION 1. Philippine EXPORT AND Foreign Loan Guarantee Corporation.

(a) There is hereby created a body corporate to be known as the Philippine EXPORT AND Foreign Loan Guarantee Corporation, hereinafter referred to as the Corporation, which shall have succession in its corporate name. The Corporation shall have its principal office in the Greater Manila Area.

(b) The Corporation shall be deemed to be a wholly owned Government corporation and shall accordingly be subject to provisions of existing laws, rules and regulations applicable to Government-owned corporations not otherwise inconsistent with the provisions of this Decree.

SEC. 2. Primary Purposes. The primary purposes of the Corporation shall be as follows:

(a) To guarantee APPROVED foreign loans, in whole or in part, granted to any domestic entity, enterprise or corporation, majority of the capital of which is owned by citizens of the Philippines, and

(b) TO GUARANTEE PHILIPPINE BANKING AND FINANCIAL INSTITUTIONS AGAINST LOSS THAT MAY BE INCURRED IN CONNECTION WITH (1) THE GRANT OF THE LOANS/CREDIT ACCOMMODATIONS TO EXPORTERS, PRODUCERS OF EXPORT PRODUCTS, OR CONTRACTORS WITH APPROVED SERVICE CONTRACTS ABROAD, PROVIDED THAT SUCH EXPORTERS, PRODUCERS OR SERVICE CONTRACTORS, ARE FILIPINOS OR ENTITIES MAJORITY OF THE CAPITAL OF WHICH ARE OWNED BY CITIZENS OF THE PHILIPPINES, AND (2) THE ISSUANCE OF STANDBY LETTERS OF CREDIT OR OF LETTERS OF GUARANTEE, AS THE CASE MAY BE TO SECURE THE PERFORMANCE OF APPROVED SERVICE CONTRACTS ABROAD ENTERED INTO BY ANY DOMESTIC ENTITY, ENTERPRISE OR CORPORATION, MAJORITY OF THE CAPITAL OF WHICH IS OWNED BY CITIZENS OF THE PHILIPPINES.

SEC. 3. Functions. The corporation shall have the following functions:

(a) To promote and facilitate the entry of foreign loans into the country for development purposes having special regard to the needs of export-oriented industries, industries registered with the Board of Investments, public utilities, and industries the promotion of which is encouraged by government policy;

(b) TO GUARANTEE LOANS GRANTED BY PHILIPPINE BANKING AND FINANCIAL INSTITUTIONS TO QUALIFIED EXPORTERS, PRODUCERS OF EXPORT PRODUCTS, AND CONTRACTORS WITH APPROVED SERVICE CONTRACTS ABROAD;

(c) TO FACILITATE AND ASSIST IN THE IMPLEMENTATION OF APPROVED SERVICE CONTRACTS ABROAD ENTERED INTO BY PHILIPPINE ENTITIES, ENTERPRISES, OR CORPORATIONS WITH FOREIGN EXCHANGE EARNING POTENTIALS, BY PROVIDING COUNTER-GUARANTEES TO PHILIPPINE BANKS AND FINANCIAL INSTITUTIONS ISSUING STANDBY LETTERS OF CREDIT OR OF LETTERS OF GUARANTEE FOR THE PERFORMANCE OF SAID SERVICE CONTRACTS;

(d) To meet requests from domestic entities, enterprises, and corporations to assist them in the coordination of their development and expansion plans with a view to achieving better utilization of their resources; and

(e) To provide technical assistance in the preparation, financing and execution of development or expansion programs, including the formulation of specific project proposals.

SEC. 4. Corporate Powers. The Corporation is hereby authorized to make contracts, to lease or own real and personal property, and to sell or otherwise dispose of the same, to sue and be sued, and otherwise to do and perform any and all things that may be necessary or proper to carry out the purpose of this Decree, or as are essential to the proper conduct of such operations.

SEC. 5. Borrowing and other Miscellaneous Powers. In addition to the powers specified elsewhere in this Decree, the Corporation shall have the power:

(a) To borrow funds in foreign countries or in the Philippines with the approval of the President of the Philippines and subject to pertinent provisions of Republic Act No. 265, as amended, and Central Bank rules and regulations;

(b) To buy and sell securities the Corporation has issued or guaranteed;

(c) To underwrite or participate in the under-writing of, securities by any domestic entity or enterprise for purposes consistent with the purpose of the Corporation;

- (d) To invest funds not needed in its operations;
- (e) To exercise such other powers and establish such rules and regulations as may be necessary and appropriate in furtherance of its purpose and functions.

SEC. 6. Operating Principles. The operations of the Corporation shall be conducted in accordance with the following principles:

- (a) The operations of the Corporation shall principally facilitate foreign OR DOMESTIC loan financing of specific projects, AS WELL AS THE IMPLEMENTATION OF APPROVED SERVICE CONTRACTS ABROAD WITH NET FOREIGN EXCHANGE EARNING POTENTIALS, ENTERED INTO BY DOMESTIC ENTITIES, ENTERPRISES OR CORPORATIONS. They may, however, include guarantee and counter-guarantees of (1) foreign loans made by banks or other financial institutions or suitable entities in order that the latter may finance specific development projects either by outright loan or guarantees; (2) DOMESTIC LOANS GRANTED BY PHILIPPINE BANKS AND FINANCIAL INSTITUTIONS TO QUALIFIED EXPORTERS, PRODUCERS OF EXPORT PRODUCTS, AND CONTRACTORS WITH APPROVED SERVICE CONTRACTS ABROAD; AND (3) LETTERS OF CREDIT AND/OR LETTERS OF GUARANTEE ISSUED BY BANKS AND FINANCIAL INSTITUTIONS TO SECURE THE PERFORMANCE OF SERVICE CONTRACTS ABROAD ENTERED INTO BY DOMESTIC ENTITIES, ENTERPRISES OR CORPORATIONS.
- (b) In considering an application for a guarantee, the Corporation shall pay due regard to the ability of the borrower to obtain guarantee facilities elsewhere on terms and conditions that the Corporation considers reasonable for the recipient, taking into account all pertinent factors;
- (c) In guaranteeing a loan OR A STANDBY LETTER OF CREDIT OR LETTER OF GUARANTEE, the Corporation shall pay due regard to the prospect that the borrower OR THE SERVICE CONTRACTOR will be in a position to meet its obligations under the loan/SERVICE CONTRACT;
- (d) In guaranteeing a loan OR STANDBY L/C OR LETTER OF GUARANTEE IN FAVOR OF A SERVICE CONTRACT, or in underwriting the sale of securities, the Corporation shall receive suitable compensation for its risks;
- (e) The corporation shall take the necessary measures to ensure that the proceeds of any loan guaranteed by the Corporation are used only for the purposes for which the loan was granted and with due attention to considerations of economy and efficiency;
- (f) The Corporation shall not guarantee a single borrower OR STANDBY L/C OR LETTER OF GUARANTEE IN FAVOR OF A SINGLE SERVICE CONTRACTOR in an amount exceeding the Corporation's subscribed capital stock, nor shall the aggregate outstanding guarantee obligations of the Corporation exceed fifteen (15) times its subscribed capital stock plus surplus;
- (g) When payment is made by the Corporation pursuant to a guarantee it has made, the Corporation shall be subrogated to any right, title, claim, or cause of action belonging to the creditor OR SERVICE CONTRACTOR.
- (h) The Corporation shall be guided by sound banking principles and sound financial management in its operations.

SEC. 7. Capital Stock. The initial authorized capital stock of the Corporation shall be TWO BILLION PESOS (P2,000,000,000) to be fully subscribed by the Government of the Republic of the Philippines. For this purpose, the sum of TWO BILLION PESOS (P2,000,000,000) is hereby appropriated from any sums not otherwise

appropriated in the National Treasury. The Board may increase the authorized capital stock of the Corporation, subject to the approval of the President of the Philippines.

SEC. 8. Loans from Central Bank. The Central Bank of the Philippines may grant the Corporation loans and advances which it may need for its operations secured by any assets which are defined as acceptable security by a concurrent vote of at least five (5) members of the Monetary Board.

SEC. 9. Guarantee of National Government. The payment of obligations incurred by the Corporation under the provisions of this Decree is fully guaranteed by the Government of the Republic of the Philippines.

SEC. 10. Board of Directors; Compositions. The powers and functions of the Corporation shall be exercised by a Board of Directors, hereinafter referred to as the 'Board' which shall be composed of NINE (9) members, as follows:

(a) The Secretary of Finance, who shall be the Chairman of the Board. Whenever the Secretary of Finance is unable to attend a meeting of the Board, he shall designate an undersecretary to attend as his alternate, who shall not act as Chairman.

(b) The President of the Corporation, who shall be the Vice-Chairman of the Board, shall assist the Chairman and act in his stead in case of absence or incapacity.

(c) The Secretary of Industry. Whenever the Secretary of Industry is unable to attend a meeting of the Board, he shall designate an undersecretary to attend as his alternate.

(d) THE SECRETARY OF TRADE. WHENEVER THE SECRETARY OF TRADE IS UNABLE TO ATTEND A MEETING OF THE BOARD, HE SHALL DESIGNATE AN UNDERSECRETARY TO ATTEND AS HIS ALTERNATE.

(e) THE GOVERNOR OF THE CENTRAL BANK OF THE PHILIPPINES. WHENEVER THE GOVERNOR OF THE CENTRAL BANK OF THE PHILIPPINES IS UNABLE TO ATTEND A MEETING OF THE BOARD, HE SHALL DESIGNATE THE SENIOR DEPUTY GOVERNOR OR A DEPUTY GOVERNOR AS HIS ALTERNATE.

(f) The Director-General of the National Economic and Development Authority. Whenever the Director-General is unable to attend a meeting of the Board, he shall designate a Deputy Director General of the Authority to attend as his alternate.

(g) THE CHAIRMAN-PRESIDENT, PHILIPPINE EXPORT COUNCIL. WHENEVER THE CHAIRMAN-PRESIDENT OF THE PHILIPPINE EXPORT COUNCIL IS UNABLE TO ATTEND A MEETING OF THE BOARD, HE SHALL DESIGNATE THE VICE-PRESIDENT, PHILIPPINE EXPORT COUNCIL, TO ATTEND AS HIS ALTERNATE.

(h) THE SECRETARY OF NATURAL RESOURCES. WHENEVER THE SECRETARY OF NATURAL RESOURCES IS UNABLE TO ATTEND A MEETING OF THE BOARD, HE SHALL DESIGNATE AN UNDERSECRETARY TO ATTEND AS HIS ALTERNATE.

(i) THE SECRETARY OF AGRICULTURE. WHENEVER THE SECRETARY OF AGRICULTURE IS UNABLE TO ATTEND A MEETING OF THE BOARD, HE SHALL DESIGNATE AN UNDERSECRETARY TO ATTEND AS HIS ALTERNATE.

SEC. 11. Powers of the Board. The Board shall have the authority:

(a) To formulate policies to carry out effectively the provisions of this Decree;

(b) To prepare and issue rules and regulations as it considers necessary for the effective discharge of the responsibilities and exercise of the powers assigned to the Corporation under this Decree;

(c) To direct management, operations and administration of the Corporation;

(d) On the recommendation of the President of the Corporation, appoint, fix the remunerations and other emoluments, and remove the personnel of the Corporation: Provided, however, That positions considered by the Board to be policy-determining, primarily confidential or highly technical in nature shall not subject to the Civil Service Law; and

(e) To authorize such expenditure by the Corporation as are in the interest of the effective administration and operations of the Corporation.

SEC 12. Meetings. The Board shall convene as frequently as is necessary to discharge its responsibilities properly, but shall meet at least once every two weeks. The Board maybe convoked either by the Secretary of Finance or by the President of the Corporation.

The presence of FIVE (5) members shall constitute a quorum.

All decisions of the Board shall require the concurrence of at least FIVE (5) members.

SEC. 13. Remuneration of Members for Attending Meetings of the Board. The members of the Board or their respective alternates, except the President of the Corporation, shall receive a per diem of FIVE HUNDRED PESOS (P500.00) for every Board meeting attended.

SEC. 14. President. The Chief Executive Officer of the Corporation shall be the President who shall be appointed by the President of the Philippines, upon recommendation of the Board, for a term of six (6) years unless removed for cause or by reason of incapacity. No person shall be elected President of the Corporation unless he is a native-born Filipino citizen, at least forty (40) years of age, of good moral character and of unquestionable integrity and responsibility, and who is experienced and of recognized competence in the field of international financial transactions, banking and law. He shall be assisted by such executive officials as may be necessary for the efficient operation of the Corporation.

SEC. 15. Powers and Duties of the President. The powers and duties of the President of the Corporation shall be:

(a) To prepare the agenda for meetings of the Board and to submit for the consideration of the Board the policies and measures which he believes to be necessary to carry out the purposes and provisions of this Decree;

(b) To execute and administer the policies and measures approved by the Board;

(c) To direct and supervise the operations and internal administration of the Board. He may delegate certain of his administrative responsibilities to other officers of the Corporation, subject to the rules and regulations of the Board; and

(d) To exercise such other powers as may be vested in him by the Board.

SEC. 16. Remuneration of the President. The salary of the President of the Corporation shall be fixed by the Board with the approval of the President of the Philippines. Until such salary has been so fixed, the President of the Corporation shall receive a salary of Sixty Thousand Pesos (P60,000) per annum. The Board may authorize payment of allowances and other emoluments to the President of the Corporation.

SEC. 17. Other Officials and Employees of the Corporation. All officials and employees of the Corporation shall be appointed and removed by the Board, on recommendation of the President of the Corporation.

SEC. 18. Assistance by other Government Offices and Corporations. Other Government offices and Government-owned and controlled corporations shall extend whatever assistance may be needed by the Corporation, including the detail of its officials and employees to the Corporation on a full-time or part-time basis under arrangements satisfactory to the Corporation and the other Government offices or corporation concerned. Said officials and employees may draw allowances and other emoluments for such assignment, notwithstanding, the provision of any law to the contrary.

SEC. 19. Auditor. The Chairman of the Commission on Audit shall act as the ex-officio Auditor of the Corporation and, as such, he is empowered and authorized to appoint a representative who shall be the Auditor of the Corporation and, in accordance with law, fix his salary, and to appoint and fix the salaries and number of the personnel to assist said representative in his work, but in all cases subject to the approval of the Board. The salaries and all other expenses of maintaining the Auditor's office shall be paid by the Corporation. The Auditor of the Corporation and personnel under him may be removed only by the Chairman of the Commission on Audit.

The representative of the Chairman of the Commission on Audit must have at least ten (10) years experience as a certified public accountant.

SEC. 20. Coordination of Policies. Unless otherwise specifically prescribed by this Decree, the Corporation shall coordinate its policies and operations with those of the Central Bank of the Philippines, National Economic and Development Authority, PHILIPPINE EXPORT COUNCIL, AND ALL RELEVANT DEPARTMENTS OF THE GOVERNMENT INVOLVED IN EXPORTS.

SEC. 21. Availability of Foreign Exchange. Subject to the provisions of Republic Act No. 265, as amended, particularly Section 74 thereof, the Central Bank of the Philippines shall make available to the Corporation the necessary foreign exchange to enable it to comply with its obligations incurred under this Decree.

SEC. 22. Supervision and Examination by the Central Bank. The Corporation shall be subject to the supervision and examination by the Central Bank of the Philippines in accordance with Republic Act No. 265, as amended and Republic Act No. 337, as amended.

SEC. 23. Applicability of Central Bank Foreign Exchange Regulations. The Guarantee operations and all other transactions of the Corporation involving foreign exchange shall be subject to the applicable foreign exchange regulations of the Central Bank.

SEC. 24. Tax Exemption. Notwithstanding the provision of any general or special law to the contrary, the Corporation, its assets, property, income and transaction shall be exempt from all taxation and government fees and charges.

SEC. 25. Non-Applicability of WAPCO Standards and Scales. The Corporation shall not be subject to standards and salary scales prescribed by the Wage and Position Classification Office.

SEC. 26. Applicability of the Corporation Law and Civil Service Law. The provisions of the Corporation Law and Civil Service Law shall apply to the Corporation insofar as they are not inconsistent with the provisions of this Decree.

SEC. 27. Repealing Clause. PRESIDENTIAL DECREE NO. 1074 AND all laws and executive orders and parts thereof inconsistent herewith are hereby repealed.

SEC. 28. Effectivity Clause. This Decree shall take effect immediately.

Done in the City of Manila, this 31st day of January, in the year of Our Lord, nineteen hundred and seventy-seven.

(SGD.) FERDINAND E. MARCOS
President

By the President:

(SGD.) JUAN C. TUVERA
Presidential Assistant

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