

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES CONCERNING C...

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The Government of the United Kingdom of Great Britain and Northern Ireland ("the Government of the United Kingdom") and the Government of the Republic of the Philippines ("the Government of the Philippines");

Having regard to the friendly relations between them and in order to further develop and enhance their economic and technical cooperation;

Have reached the following understanding ("the Understanding"):

SECTION 1

FINANCIAL ARRANGEMENTS

1. The form of the financial support will be the provision of Grant funds ("the Grant") supplied through the Government of the United Kingdom's Overseas Development Administration ("ODA") under mixed credit arrangements (a "Mixed Credit") where a Grant provided by the Government of the United Kingdom is made available to make purchases in conjunction with a medium term loan ("a Loan") provided by a bank in the UK ("the Lending Bank") Mixed Credits are hereinafter also referred to as "the Project Funding".
2. Unless the Government of the United Kingdom notifies the Government of the Philippines otherwise in writing the Project Funding for which the Government of the United Kingdom will provide financial support will not in aggregate exceed £50,000,000 (fifty million pounds sterling).
3. In accordance with OECD rules, the agreement will end two years from the date of its signature. Before the expiry of the CFA, both Governments will discuss progress under the CFA, and the possibilities of future financing.

SECTION 2

PROCEDURES AND PRACTICES

1. The following procedures will be adopted in order to promote closer cooperation between the Governments of the Philippines and the United Kingdom and the effective use of the concessional financing available under this Understanding. The two Governments will meet at least once each year to consult with each other in order to identify and prioritise areas of consideration (both sectoral and spatial) under this Understanding, assess the suitability of individual projects for financial support and to discuss related matters. If the Government of the Philippines, through the Investment Coordination Committee of the National Economic Development Authority (NEDA) Board, considers at any time that a project merits priority for financial support under this Understanding, notwithstanding the status of negotiations between the Filipino purchaser and the United Kingdom supplier to whom Section 3, paragraph 2 applies ("the United Kingdom Supplier"), the Government of the Philippines will endorse the project and request financial support pursuant to this Understanding through diplomatic channels. The

Government of the United Kingdom may also at any time propose projects to the Government of the Philippines for possible funding under this Understanding subject to approval of the Investment Coordination Committee of the NED A Board. The meetings referred to above will also review progress on projects considered.

2. Save to the extent to which the Government of the United Kingdom notifies the Government of the Philippines otherwise in writing, Grant allocations made to any project within the scope of this Understanding will be formalised through Exchange of Notes between the Department of Foreign Affairs of the Government of the Philippines and the British Embassy in Manila acting on behalf of ODA.

3. If a project is approved by the two Governments following their respective rules and regulations, financial support will be made available in the form of Mixed Credit. The export credits under OECD conditions will be agreed and signed by banks in UK and, for the Philippine Government, the Department of Finance or the borrowing government-owned and controlled corporations, including Government Financial Institutions which will be involved in project implementation ("the Borrower").

4. Subject to the conditions of this Understanding being met and

(a) the contract between the Filipino purchaser and the United Kingdom Supplier ("the Contract") being in a form acceptable for Project Funding by the ODA and for support of the Government of the United Kingdom's Export Credits Guarantee Department ("ECGD") where appropriate, and likewise acceptable to the Borrower and other appropriate Filipino authority or authorities and being signed, and

(b) the Loan Agreement between the Borrower and the Lending Bank being signed,

the two Governments will exchange letters in a form designed to match the project requirements.

SECTION 3

TERMS AND CONDITIONS

1. Subject to the conditions in paragraphs 1 and 2 of Section 2, the concessionality of individual Mixed Credits to be provided under the Understanding will conform to the Organisation of Economic Cooperation and Development ("OECD") Consensus concerning Concessional Finance at the time the offer is made by the Government of the United Kingdom to the Government of the Philippines. The terms of ECGD support in Mixed Credits provided under this Understanding will also conform to the OECD Arrangement on Guidelines for Officially Supported Export Credits (including Tied Aid Financing). Any fiscal levies which are imposed in the Republic of the Philippines in respect of payments of interest and repayment of principal made in respect of the Loans provided under this Understanding will be paid by the appropriate borrowing entity of the Government of the Philippines, or arrangements will be made by the appropriate borrowing entity of the Government of the Philippines for the settlement of such levies.

2. Unless the Government of the United Kingdom otherwise accepts in writing, goods provided under any Contracts funded by the Mixed Credit will be produced in and supplied from the United Kingdom ("UK Goods") and services provided under any Contracts funded by the Mixed Credit will be provided by persons normally resident and carrying on business in the United Kingdom ("UK Services"). Third country procurement will only be considered in exceptional circumstances.

3. The approved texts of the Contracts and Loan Agreements will not be amended and the rights and responsibilities will not be subcontracted or assigned without the prior approval of ODA, ECGD where appropriate, the appropriate Filipino authority or authorities and the Borrower.

4. The Mixed Credits will not be used to meet the cost of any fiscal levies directly or indirectly imposed in the

Republic of the Philippines.

5. Goods purchased under the Contracts will be shipped and insured in accordance with normal commercial competitive practice by ships or companies of any flag or country acceptable to both Governments. This provision will be stated explicitly in the Contracts.

6. Mixed Credits eligible for support under the arrangements set out in this Understanding will be for capital goods and related services and will not be used for the purchase of luxury goods, or items for military or defence purposes.

7. Subject to agreement by the two Governments the Project Funding may be re-lent by the borrowing Government of the Philippines Financial Institutions to private sector end users based on terms and conditions acceptable to both Governments.

8. The Government of the Philippines will permit the Government of the United Kingdom's personnel or representatives to visit any sites or locations where projects are being carried out which are being financed under the Mixed Credits and will furnish them with such information as they require regarding the project, its progress, and financing.

9. The Government of the Philippines will ensure that the Contracts provide for, and extend to, the Government of the United Kingdom's personnel sufficient facilities to permit a proper examination and assessment of procurement efficiency.

10. The Government of the Philippines will make arrangements so that the appropriate counterpart finance to cover local and other costs required to complete approved projects shall be adequately provided for by the appropriate borrowing entity of the Government of the Philippines or relevant implementing agency for the project.

11. If a project is suspended or terminated before completion the two Governments will consult on measures to resolve the problems, including treatment of any Grants already paid or to be paid, and agree on appropriate action. Such consultations will not affect the rights and obligations of the respective parties to the Contracts and the Loan Agreements.

12. The Government of the Philippines will ensure that:

a) all goods and all services for which payment has been financed under the Mixed Credits are employed for the purpose for which and by the user for whom they were supplied, for as long as their being so employed remains feasible and the items purchased will be used for civilian purposes only;

b) all reasonable precautions are taken to protect any Mixed Credit funds paid out under the Contracts in advance of work being carried out;

c) any sums payable to the Filipino purchaser by or on behalf of the United Kingdom Suppliers relating to goods and services for which finance is made available under the Project Funding, (except for Grant funds used for advance payments in the Mixed Credits which will be returned to the Account at the Crown Agents for Overseas Governments and Administrations, Sutton, Surrey) will be paid to the appropriate Lending Bank, which will inform the Borrower. These sums will be available for further drawings made by the Borrower and as approved by the Government of the United Kingdom for UK goods and UK Services only (as defined in Section 3 paragraph 2) to remedy defects in relation to goods and services financed under this Understanding. Any sum not required for this purpose will be used to reduce the outstanding Loan balances, or as otherwise provided under the relevant Loan Agreement.

13. Unless the Government of the United Kingdom otherwise accepts, the Contracts must become effective and

all loan agreements must be signed before 1st September 1997 in order to be eligible for the Grant support.

SECTION 4

ENTRY INTO OPERATION

This Understanding will come into operation on signature.

The foregoing represents the Understandings reached between the Government of the United Kingdom and the Government of the Philippines upon matters referred to therein.

Signed in duplicate at Manila this 1st day of September 1995 in the English language.

For the Government of the
United Kingdom of Great Britain
and Northern Ireland

For the Government of the
Republic of the Philippines

(Sgd.)
BARONESS CHALKER

(Sgd.)
DOMINGO L. SIAZON, JR
Minister for Overseas Development
Secretary
Department of Foreign Affairs

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