

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 CUR...

PRESIDENTIAL DECREE NO. 1961, January 11, 1985

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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 be subject to the provisions of Republic Act No. 4860, as amended, as to purpose, tems and ceilings on borrowings and guarantees.

SECTION 9. Whenever necessary or advisable in connection with the National Economic Recovery Program and in connection with the rescheduling, refinancing or restructuring of the external debt of the Philippines, the Central Bank of the Philippines, directly or through a subsidiary, may adopt and implement a foreign exchange cover program. Any such subsidiary shall have the power to obtain foreign borrowings and such other powers as may be necessary to accomplish its objectives. The receipts, expenditures, profits, income, contracts, deeds, documents and transactions related to the foreign exchange cover program shall be exempt from all national, provincial, municipal and city taxes, fees, charges and assessments now in force or hereafter established. The Republic of the Philippines may extend such financial assistance to the foreign exchange cover program as may be necessary to

accomplish its objectives.

SECTION 10. The Monetary Board of the Central Bank of the Philippines shall issue such rules and regulations as may be necessary to implement the provisions of this Decree.

SECTION 11. The loan and guarantee agreements and other documents to which the Republic of the Philippines may become a party pursuant to this Decree may be executed and delivered by the President of the Philippines or by such representatives as he may designate.

SECTION 12. Interests, fees and other payments on or respect of foreign currency loans, credits, deposits or other obligations of the Central Bank of the Philippines that may be incurred pursuant to this Decree shall be exempt from any and all Philippine taxes. Certificates and other documents that may be issued by the Central Bank pursuant to this Decree shall be exempt from stamp, excise and other similar taxes.

SECTION 13. Any amount necessary in order to enable the Republic of the Philippines to pay the principal, interest, fees and other charges on or in respect of the loans, credits, deposits, or other obligations that may be incurred by the Republic of the Philippines pursuant to this Decree, and not otherwise covered by a specific appropriation, are hereby appropriated out of any funds in the National Treasury not otherwise appropriated.

SECTION 14. Any provision of law or regulation inconsistent herewith is hereby repealed, revoked or modified accordingly: Provided, that this Decree shall not be construed as repealing or modifying the regulations of the Central Bank of the Philippines requiring the approval and registration by the Central Bank of the Philippines of foreign loans and borrowings or the authority of the Central Bank of the Philippines to borrow or obtain loans under Republic Act No. 265, as amended, and other relevant laws.

SECTION 15. This Decree shall take effect immediately.

DONE in the City of Manila this 11th day of January in the Year of Our Lord nineteen hundred and eighty-five.

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