BILATERAL

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Excellency,

I have the honour to confirm the following understanding recently reached between the representatives of the Government of Japan and of the Government of the Republic of the Philippines concerning a Japanese loan to be extended with a view to promoting the economic development efforts of the Republic of the Philippines:

1. A loan in Japanese Yen up to the amount of fifty billion yen (¥50,000,000,000) (hereinafter referred to as "the Loan") will be extended, in accordance with the relevant laws and regulations of Japan, to the Government of the Republic of the Philippines by the Overseas Economic Cooperation Fund (hereinafter referred to as "the Fund".) to implement the projects listed in the Project List attached hereto (hereinafter referred to as "the List") according to the allocation for each project as specified in the List.

2. (l) The Loan will be made available by loan agreements to be concluded between the Government of the Republic of the Philippines and the Fund, The terms and conditions of the Loan as well as the procedures for its utilization will be governed by the said loan agreements which will contain, inter alia, the following principles:
(a) The repayment period will be twenty (20) years after the grace period of ten (10) years.

(b) The rate of interest will be three (3) per cent per annum.

(c) The disbursement period will be three (3) years with regard to the projects mentioned in 6, 7 and 8 of the List, five (5) years with regard to the projects mentioned in 2 and 4 of the List, and six (6) years with regard to the projects mentioned in 1, 3 and 5 of the List from the date of the signing of the relevant loan agreement.

(2) The loan agreements mentioned in sub-paragraph (l) above will be concluded after the Fund is satisfied of the feasibility of the project to which such loan agreement relates.

(3) The disbursement period mentioned in sub-paragraph (l)(c) above many be extended with the consent of the authorities concerned of the two Governments.
3. (l) The Loan will be made available to cover payments to be made by Philippine executing agencies to suppliers, contractors and/or consultants of eligible source countries under such contracts as may be entered into between them for purchases of products and/or services required for the implementation of the projects mentioned in paragraph 1, provided. that such purchases are made in such eligible source countries for products produced in and/or services supplied from those countries.

(2) The scope of eligible source countries mentioned in sub-paragraph (l) above will be agreed upon between the authorities concerned of the two Governments.

(3) A part of the Loan may be used to cover eligible local currency requirements for the implementation of the project mentioned in 1 of the List.

4. The Government of the Republic of the Philippines will ensure that products and/or services mentioned in sub-paragraph (l) of paragraph 3 are procured in accordance with the guidelines for procurement of the Fund, which set forth, inter alia, the procedures of international tendering to be followed except where such procedures

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are inapplicable or inappropriate.

5. (l) The Government of the Republic of the Philippines will exempt the Fund from all fiscal levies or taxes imposed in the Republic of the Philippines on and/or in connection with Loan as well as interest accruing therefrom.

(2) The Government of the Republic of the Philippines will, itself or through its executing agencies or instrumentalities, assume all fiscal levies or taxes imposed in the Republic of the Philippines on Japanese firms and national operating as suppliers, contractors or consultants on and, in connection with any income that may accrue from the o£ products and/or services to be provided under the Loan.

6. (l) With regard to the shipping of products purchased under the Loan, the two Governments will promote mutual operation for the development of shipping, under the Treaty of Amity, Commerce and Navigation between Japan and the Republic of the Philippines signed at Manila on 10 May, 1979.

(2) With regard to the marine insurance of products purchased under the Loan, the two Governments will refrain, within the scope of the relevant laws and regulations of their respective countries, from imposing any restrictions that may hinder fair and free competition between the marine insurance companies of the two countries.

7. Japanese nationals whose services may be required in the Republic of the Philippines in connection with the supply of products and/or services mentioned in sub-paragraph (l) of paragraph 3 will be accorded such facilities as may be necessary for their entry into the Republic of the Philippines and stay therein for the performance of their work.

8. (l) The Government of the Republic of the Philippines will, upon request, furnish the Government of Japan with reports on the progress of the projects mentioned in paragraph 1.

(2) The two Governments will jointly review from time to time, on the basis o£ the reports mentioned in sub-paragraph (l) above, the progress of the implementation of the Loan and take, if necessary, appropriate measures to secure smooth and effective utilization of the Loan. The Fund will be invited to participate in such review.

9. The two Governments will consult with each other with respect to any matter that may arise from or in connection with this understanding.

I should be grateful if Your Excellency would confirm the foregoing understanding on behalf of the Government of the Republic of the Philippines.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Sgd.) CARLOS P. ROMULO

(Sgd.)HIDEHO TANAKA

Minister for Foreign Affairs

Ministry of Foreign Affairs

Republic of the Philippines

PROJECT LIST

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1.Extra High Voltage Transmission Line Project, Stage I

32,420

2.Agro-Industry Technology Transfer Project

5,000

3.Metro Manila Traffic Engineering and Management Project

3,860

4.Fishing Ports Development Project

3,630

5.Flood Forecasting and Warning System for Dam Operation Project

3,600

6.Rural Power Development Project

(Engineering Service)

670

7.PNR Main Line North Rehabilitation Project

(Engineering Service)

490

8.Lower Agusan Development Project

(Engineering Service)

330

EMBASSY OF JAPAN MANILA

No. 302-82

The Embassy of Japan presents its compliments to the Ministry of Foreign Affairs of the Republic of the

Philippines and has the honour to refer to paragraph 3 of the Exchange of Notes dated May 26, 1982 concerning a Japanese loan to be extended with a view to promoting the economic development efforts of the Republic of the Philippines.

The Embassy has further the honour to propose that the eligible source countries mentioned in the said paragraph of the Exchange of Notes will be as follows:

1. With regard to products and services other than consulting services, the eligible source countries are;
(a) All the member countries o£ the Organization for Economic Cooperation and Development (OECD), and

(b) All the developing countries as defined in I.l.(b) of the Memorandum of Understanding on Untying of Bilateral Development Loans in Favour of Procurement in Developing Countries agreed among eight members of the Development Assistance Committee on June 7, 1974.

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2. With regard to consulting services, the eligible source countries are:

(a)All the developing countries as defined in I.l (b) of the Memorandum of Understanding on Untying of bilateral Development Loans in Favour of Procurement in Developing Countries agreed among eight members of the Development Assistance Committee on June 7, 1974, and

(b) Japan.

The Embassy of Japan avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of the Philippines the assurance of its highest consideration.

Manila, 26 May 1982

Record of Discussions
In connection with the Exchange of Notes dated May 26, 1982 concerning a Japanese loan to be extended with a view to promoting the economic development efforts of the Republic of the Philippines (hereinafter referred to as "the Japanese Loan"), the representatives of the Japanese Delegation and of the Philippine Delegation wish to record the following:

1. With reference to sub-paragraph (l) of paragraph 3 of the Exchange of Notes, even if purchases are made for product produced in and/or services supplied from the Republic of the Philippines, the financing will be made from the Japanese Loan mentioned in the said Exchange of Notes for those products and/or services in cases where they fall under the category classified as "foreign currency portion" in the relevant loan agreement.

2. As for products which contain components originating from countries other than the eligible source countries, they will be eligible for the financing under the Japanese Loan, if they meet the following:
(1) The total cost of components imported into the country or production from countries other than the eligible source countries will be less than 30 per cent of the price per unit of such products.

(2) For the purpose of (l) above:

(a) "The total cost of components" means the price C.I.F. of the imported components plus import duties levied thereon in the country of production;

(b) "Price per unit of such products" means;

(i) in cases where the country of production is not the Republic of the Philippines, the price F.O.B. of such products, and

(ii) in cases where the country of production is the Republic of the Philippines, the price ex-factory of such products.

3. (l) With reference to sub-paragraph (3) of paragraph 3 of the Exchange of Notes, the amount of the Japanese loan to be used to cover eligible local currency requirements for the implementation of the Extra High Voltage Transmission Line Project, Stage 1, shall not in any case exceed five billion four hundred and forty million yen (¥5,440,000,000).

(2) Such local currency requirements as general administrative expenses, interest during construction, taxes and duties, expenses concerning office, remuneration to employees of the executing agencies and housing, not directly related to the implementation of the project, purchase of land properties, compensation and the like, however, will not be considered as eligible for financing under the Japanese Loan.

4. With regard to the Fishing Ports Development Project, the Japanese Loan is to cover the supplemental financing for Package I and the engineering service for Package II.

5. With regard to the Flood Forecasting and Warning System for Dam Operation Project, the Japanese Loan is to cover the engineering service of the flood forecasting and warning system in relation to five dams, i.e. Angat, Pantabangan, Magat, Binga and Ambuklao Dams, and to cover the construction cost of the flood forecasting and warning system in relation to two deans, i.e. Angat and Pantabangan Dams.

6. It was confirmed that the Philippine side would give such due consideration to the importation of the products required for the implementation of the projects under the Japanese Loan as it had given in the course of the implementation of the projects under the successive Japanese project loans.

(Sgd.) CARLOS P. ROMULO

(Sgd.)HIDEHO TANAKA

Minister for Foreign Affairs

Ambassador of Japan to the

Republic of the Philippines

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