

CREATING THE EXPORT DEVELOPMENT CORPORATION OF THE PHILIPPINES, DEFINING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES

PRESIDENTIAL DECREE NO. 1074, January 25, 1977

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WHEREAS, there is an immediate need to increase the country's foreign exchange resources and to this end, it is necessary to expand foreign trade through the promotion and diversification of the country's export products and services, especially construction and engineering services;

WHEREAS, a number of producers and exporters, including those engaged in non-tradition products, has been found to be economically viable in the export trade but unable to expand operations due to the inadequacy of existing credit facilities;

WHEREAS, there is a need to improve, supplement and expand existing credit facilities so as to adequately meet credit requirements for exports, particularly non-traditional products and services; and

WHEREAS, to attain these ends, it is desirable and necessary that the Government, in a joint venture with the private sector, establish an implementing body corporate.

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

SECTION 1. Corporate Body. — There is hereby created a body corporate to be known as the "Export Development Corporation of the Philippines" hereinafter referred to as the Corporation.

SECTION 2. Principal Place of Business. — The Corporation shall have its principal place of business in Metropolitan Manila.

SECTION 3. Corporate Existence. — The Corporation shall have corporate existence for a period of fifty (50) years from the date of this Decree.

SECTION 4. Purposes and Powers. — The Corporation is hereby vested with the following purposes and powers:

- a) To help, promote, develop and diversify exports, particularly non-traditional products and services by providing adequate financial and technical assistance in project promotion and execution.
- b) Without completing or supplanting but rather supplementing and complementing the pending operations of existing credit institutions, to provide financial assistance to producers and exporters of the Philippine products with high priority, especially the small and medium-scale industries which cannot meet the collateral requirements of lending institutions and to this end, engage in:
 - 1) Providing refinancing facilities to commercial banks against export bills and other documents related primarily with exports of Philippines products and services;
 - 2) Discounting bills of other instruments representing the credits that such producers and exporters grant to foreign buyers;

- 3) Endorsing export credit instruments, and, in general guaranteeing export credit;
 - 4) Granting credits for export promotion activities designed to open up new foreign markets and consolidating and expanding existing ones;
 - 5) Making advances for the payment of freight, insurance, customs duties, storage fees, bidding and bonding fees and other charges on export goods and services;
 - 6) Providing credit for the production of export goods in fulfillment of orders or contracts;
 - 7) Buying, endorsing, selling and discounting export bills and other documents issued in connection with export transactions;
 - 8) Serving as intermediary, agent or broker for export credits granted by international or regional financial institutions;
 - 9) Financing other activities that may be necessary for the promotion, development and diversification of export products and services;
 - 10) Lending money against personal security or against securities consisting of persons and real properties; and
 - 11) Conducting all activities necessary to insure that producers, exporters and service contractors are adequately provided with comparable credit facilities available to foreign competitors.
- c) To provide technical assistance to producers and exporters through acceleration and development of export-oriented projects and project promotion and execution;
- d) To search for areas where contribution of finance or effort is of catalytic importance;
- e) To borrow, raise, or obtain funds to support or carry out its objects and purposes and/or to arrange financing or equipment credit or any kind of financial technical assistance for its own account or for the producers, exporters, service contractors from private or governmental sources or from international lending institutions and to secure any or all of the same, to the extent that may be required, by any lawful guaranteed or counter-guarantee, by pledge, mortgage or deed of trust, or by creating or suffering to exist a charge or encumbrance, general or special, upon its revenue and/or assets, and likewise, by similar guarantees, pledges, mortgages, liens and other security arrangements to secure the performance by the Corporation of any obligation or liability it may undertake for itself or for the producers, exporters and service contractors;
- f) To acquire by purchase, subscription, exchange, assignment, give or otherwise, and to sell, assign, transfer, exchange, mortgage, pledge, and deal in and otherwise to enjoy and dispose of, any bonds, debenture, promissory notes, shares of capital stock and/or other securities and/or obligation, created, negotiated or issued by any corporation, or other entity foreign or domestic, and while the owner thereof, to exercise all the rights, powers and privileges of ownership, including the right to receive, collect and dispose of, any and all dividends, interest and income derived therefrom, and the right to vote on any shares of the capital stock, and upon bonds, debentures and/or other securities, having voting power so owned;
- g) To invest and deal with the funds of the Corporation in such manner as may be deemed necessary and proper to attain the objectives and purposes for which the Corporation has been organized;
- h) To sue and be sued;
- i) To purchase, hold convey, sell, lease, let, mortgage, encumber and otherwise deal with such real and personal property as the purpose of the Corporation may require;

- j) To establish and operate branches of offices in the Philippines or abroad for the transaction of business for itself, or in behalf of producers, exporters, and service contractors; and
- k) To do all such other things and to transact all business as may be directly or indirectly incidental or conducive to the attainment of the above objectives.

SECTION 5. Capital Structures and Commencement of Operations. — The Corporation shall have an authorized capital stock of ONE BILLION PESOS (P1,000,000,000.00) derived into TEN MILLION (P10,000,000) common shares with a par value of ONE HUNDRED PESOS (P100.00) per share.

The capital stock shall be subscribed and paid-up as follows:

- a) Forty percent (40%) thereof of FOUR HUNDRED MILLION PESOS (P400,000,000.00) represented by FOUR MILLION (P4,000,000) shares shall be offered for subscription to the private sector, provided that at least TWENTY MILLION PESOS (P20,000,000.00) represented TWO HUNDRED THOUSAND (200,000) shares shall be paid up; and
- b) Sixty per cent (60%) thereof or SIX HUNDRED MILLION PESOS (P600,000,000.00) represented by SIX MILLION (6,000,000) shares shall be subscribed by the Republic of the Philippines and paid as follows:
 - 1) THIRTY MILLION PESOS (P30,000,000.00) represented by THREE HUNDRED THOUSAND (300,000) shares upon the effectivity of this Decree. For this purpose, the sum of THIRTY MILLION PESOS (P30,000,000.00) is hereby set aside and appropriated out of the General Fund no otherwise appropriated; and
 - 2) payments for the unpaid subscription of the Government shall be made proportionately from time to time as additional payments on the capital stock subscribed by the private sector are made to maintain the 60-40 equity ratio between the Government and the private sector.
- c) Subscription by foreign institutional or individual investment to the capital stock earmarked for the private sector may be allowed, subject to existing laws and regulations.

The Corporation shall commence operations upon the organization of its Board of Directors and the release by the Budget Commissioner of the THIRTY MILLION PESOS (P30,000,000.00) representing the initial payment for the subscription of the Government to the capital stock.

SECTION 6. Board of Directors. — 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 Chairman, Philippine Export Council, who shall act as the Chairman of the Board;
- b) The President of the Corporation, who shall act as Vice-Chairman;
- c) The Governor, Central Bank of the Philippines or his authorized representative;
- d) The Secretary of Trade or his authorized representative;
- e) The Chairman, Board of Investments or his authorized representative;
- f) The Secretary, Department of Finance or his authorized representative; and
- g) Three (3) members to be appointed by the President of the Philippines representing the private sector for a term of six (6) years, Provided, That the first appointees shall have terms of office of two (2), four (4) and six (6) years respectively.

The Board of Directors shall convene as frequently is necessary to discharge its responsibilities but shall meet at least once every two weeks. The members of the Board or their respective substitute, except the President shall

receive a per diem for every board meeting attended. The Philippines but may not exceed FOUR HUNDRED PESOS (P400.0) nor the sum of FOUR THOUSAND PESOS (P4,000.00) PESOS for any single month.

SECTION 7. Powers and Functions of the Board. — The Board shall be the governing body which shall have full power and authority to administer the affairs of the Corporation including but not limited to the following:

- a) To adopt by-laws, rules and regulations as may be necessary to carry out the objectives and purposes of the Corporation;
- b) To appoint all officers and employees of the Corporation; to fix their salaries, wages and other conditions of employment; and to discipline or remove them;
- c) To approve the annual budget and authorized such expenditures as are in the interest of the effective administration and operations of the Corporation;
- d) To exercise such other powers as may be necessary for the achievements of the purposes for which the corporation was organized.

SECTION 8. The President. — The President shall be the Chief Executive of the Corporation and shall be appointed by the President of the Philippines, preferably from the private sector, for at a term six (6) years. He must be a person of unquestionable integrity and responsibility with considerable finance and trade. His compensation, allowances and emoluments shall be fixed by the Board of the Directors of the Corporation with the approval of the President of the Philippines.

SECTION 9. Borrowing Powers. — The Corporation is authorized to borrow from domestic and foreign private and government financial institutions, including the Central Bank of the Philippines which is hereby authorized to extend financial assistance to the Corporation, and from international and regional financial institutions, such funds as are from time to time required for the operations of the Corporation. No part of the proceeds of domestic and/or foreign borrowings shall be used for administrative operating expenses.

Notwithstanding the provisions of any special or general law to the contrary, the Corporation is hereby authorized to secure foreign loans or credits in an amount not exceeding, in the aggregate at any one time, the sum of ONE BILLION UNITED STATES DOLLARS (\$1,000,000,000.00), subject to prior approval by the Central Bank of the Philippines, on such terms and conditions as it shall deem appropriate for the accomplishment of its purpose and to enter into and execute agreements and other documents specifying such terms and conditions. Provided, That whenever conditions warrant, the President of the Philippines may increase the ceiling prescribed herein upon the recommendation of the Board of Directors of the Corporation, the Secretary of Finance, and the Monetary Board.

SECTION 10. Guaranty of National Government. — The government shall guarantee the payment of both the principal and interest of domestic and foreign loans contracted under the preceding section, with the approval of the President of the Philippines, upon the recommendation of the Secretary of Finance.

SECTION 11. Advisory Committee. — In the performance of its functions, the board of Directors shall be assisted by an Advisory Committee the members of which shall be drawn from the nominees of the private sector.

SECTION 12. The Exemptions. — Notwithstanding the provisions of any general or special law to the contrary, the Corporation, its assets, property, income and transactions, shall be exempt from the payment of all forms of taxes, duties, fees, appeal, bonds, superseding bonds, in any court of administrative proceedings.

SECTION 13. Applicability of the Corporation Law. — The provisions of the Corporation Law shall apply to the Corporation insofar as they are not inconsistent with the provisions of this Decree.

SECTION 14. Repealing Clause. — All laws and executive orders and parts thereof inconsistent herewith are hereby repealed.

SECTION 15. Effectivity. — This Decree shall take effect immediately.

DONE in the City of Manila, this 25th day of January, in the year of Our Lord, Nineteen Hundred and Seventy-Seven.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JUAN C. TUVERA
Presidential Executive Assistant

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