BILATERAL · JULY 31, 1990

PROJECT GRANT AGREEMENT

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Between

The Republic of the Philippines ("Grantee"), on behalf of the Association of Southeast Asian Nations ("ASEAN"), and The United States of America, acting through the Agency for International Development ("A.I.D.").

The above-named parties hereby mutually agree to carry out the Project described in this Agreement in accordance (1) with the terms of this Agreement including any annexes attached hereto, and (2) with any general agreement between the Grantee on behalf of ASEAN and the United States of America regarding economic or technical cooperation.

1.Name of Project: ASEAN Energy Conservation and Management

2. A.I.D. Project Number: 493-0285

3. Amount of A.I.D. Grant: US$5,000,000.00 (comprised of US$1,975,000 granted hereunder and US$3,025,000 to be provided in subsequent increments subject to the availability of funds to A.I.D. for this purpose.)

4. Project Assistance Completion Date: July 31, 1990 This Agreement consists of this page, a Project Description containing special provisions (Annex A) and a Standard Provisions Annex (Annex B).

REPUBLIC OF THE PHILIPPINES
(on behalf of ASEAN) UNITED STATES OF AMERICA

(Sgd.) PACIFICO A. CASTRO

Acting Minister for Foreign
Affairs

(Sgd.) STEPHEN W. BOSWORTH

Ambassador

A.I.D. Project No. 493-0285

ANNEX A

PROJECT DESCRIPTION

1. Purpose of Project

The purpose of this third project in the ASEAN-US Energy Cooperation Program is to foster policies which encourage both public and private sector adoption of energy efficient building design and maintenance; and to

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enhance human and institutional resource development in energy management. The project aims to increase the efficiency of energy use and to improve the management of energy resources and technologies in the ASEAN region.

2. Description of Project

The project comprises two components that are of common interest to ASEAN member countries. These are: (1) energy conservation in buildings and (2) training in energy management.

2.1. Component 1 - Energy Conservation in Buildings.

The scope of the first component includes:

(a) Regional training in building energy conservation techniques and economics;

(b) Research on daylighting approach, design of buildings with natural ventilation, comfort analysis and building materials thermal characteristics;

(c) Assessment and analysis of building energy use and technical/policy options and implementation and management of appropriate policies/standards.

(d) Activities to disseminate information to both public and private sector organizations, i.e. seminars and workshops, preparation of technical manuals, publication of reports and newsletters, computer data base development, periodic technical ASEAN meetings, etc.

It is planned that grant resources under Component 1 will be provided directly by A.I.D. under a technical assistance agreement with the United States Department of Energy/Lawrence Berkeley Laboratory ("LBL"). This agreement will be prepared in consultation with the ASEAN Working Group on Non-Conventional Energy Research ("AWGNCER"). This extends and expands the successful LBL demonstration effort and investment with the Government of Singapore ("GOS") under the ASEAN Energy Cooperation in Development Project ("ASEAN Energy II").

LBL will assist the AWGNCER to develop annual workplans for Component 1. The GOS designee will coordinate the implementation of the workplans of this Component on behalf of ASEAN. The workplans will be the basis for the allocation, use and accounting of project resources, and will take into due consideration the document prepared by the AWGNCER at the Workplan Formulation Meeting held in Singapore on 25-26 March, 1985.

2.2. Component 2 - Training in Energy Management

The second component supports several activities to improve energy management. These include:

(a) Training at the Asian Institute of Technology ("AIT") in energy planning and technology; provision of a long term energy management as well as to help coordinate/facilitate project training; and extension of support to AIT's Renewable Energy Resource Information Center ("RERIC");

(b) Intensive regional training in energy planning and management is planned with a major course in Malaysia and follow-on specialized training for selected ASEAN participants. A subsequent regional workshop is planned to assess impact of these activities. AIT will coordinate and channel grant funds for these training activities in the region as guided by the AWGNCER.

(c) Extension of the coal technology and management training provided under ASEAN Energy II. Special training activities will be developed in the U.S., including both formal and on-the-job training in the areas of coal use in electric power and industrial plants as well as coke production. A seminar is planned in the region subsequently to assess the impacts of training on the transfer of technology and the capability of the

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participating countries to manage the development of coal resources. Training activities in energy planning and management will also be developed and implemented in the U.S.

It is planned that grant resources in the approximate amount of US$770,000 will be provided to AIT for the provision/coordination of training and related activities summarized in paragraphs (a) and (b) above. This extends and expands the successful AIT effort initiated under the ASEAN Energy Activities Project ("ASEAN Energy I"). It is planned that coal technology training and U.S. energy management training in the approximate amount of US$630,000 will be provided under technical agreement with the Institute for International Education ("IIE"). This extends the model mechanism used to provide U.S. coal training under the ASEAN Energy II.

3. Project Financial Plan.

A.I.D. funds are expected to be allocated to the project approximately as follows:

Uses of Funds

A.I.D. Funds (All Years)
(US$000s)

Component 1 - Energy Conservation in Buildings

Training
750

Research
1000

Assessment, Analysis, Policy
725

Information Dissemination
525

Sub-Total
3000

Component 2 - Training in Energy Management

AIT Training, Coordination and Information Dissemination
770

IIE Coal Technology and Energy Management Training
630

Sub-Total
1400

Contingency/Evaluation
600

US$5000

TOTAL
======

The first year obligation of US$1.975 million for the project will be allocated in three parts: (1) US$1.0 million is allocated to LBL for energy conservation activities under Component I; (2) US$770,000 is allocated to AIT for training, coordination and information dissemination under Component II; (3) US$205,000 is allocated to IIE for coal technology training under Component II. Funds under this Grant will be made available directly by A.I.D. to these institutions to carry out these activities. The ASEAN contribution shall be in-kind and consist of existing property, services and other facilities needed for successfully carrying the project.

4. Project Administration.

The Government of the Philippines will sign the Project Agreement as current ASEAN Coordinator of the ASEAN-US Dialogue. Overall project administration will be provided by AWGNCER. As noted, Component 1 will be coordinated by the Government of Singapore designee. Project training, coordination and information dissemination activities under Component 2 will be coordinated by the Government of Thailand designee. Coal technology and energy management training provided through IIE will be coordinated by the Government of Indonesia designee. The AID/ASEAN Liaison Office will provide AID administration for the project in coordination with the A.I.D. Asia/Near East Bureau Energy Advisor.

5. Conditions Precedent to Disbursement.

5.1. Prior to the first disbursement of funds under the Grant, or to the issuance by A.I.D. of documentation pursuant to which disbursements will be made, the Grantee will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D., a statement of the name of the person authorized to act for the Grantee on behalf of ASEAN with respect to the Project and this Agreement and of any additional representatives, together with a specimen signature of each person specified in such statement. A.I.D. may accept as duly authorized any instrument signed by any such representative in implementation of this Agreement, until receipt of written notice of revocation of their authority.

5.2. Except as A.I.D. may otherwise agree in writing, prior to disbursement of funds under the Grant for activities in ASEAN member country other than the Philippines, the Grantee will obtain, or assist A.I.D. in obtaining, (a) evidence satisfactory to A.I.D. from such other ASEAN member country, that the appropriate authorities of that member country have accepted relevant obligations under this Agreement and (b) a statement, in form and substance satisfactory to A.I.D., of the name of the person or persons authorized to act for such other ASEAN member country with respect to the Project and this Agreement, together with a specimen signature of each person specified in such statement. A.I.D. may accept as duly authorized any instrument signed by any such representative in implementation of this Agreement, until receipt of written notice of revocation of their authority.

6. Special Covenants.

6.1. The Parties agree to establish an evaluation effort as an integral part of the Project. Except as the Parties otherwise agree in writing, the effort will include, during the implementation of the Project and at one more points thereafter;

(a) Evaluation of progress toward attainment of the objectives of the project;

(b) Identification and evaluation of problem areas or constraints which may be inhibit such attainment;

(c) Assessment of how such information may be used to help overcome such problems; and

(d) Evaluation, to the degree feasible, of the overall development impact of the Project.

7. Procurement Source.

7.1. Source and Origin of Goods and Services. Goods and services, except for ocean shipping, financed by A.I.D. under the Project, shall have their source and origin in the United States or the ASEAN countries (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) except as A.I.D. may otherwise agree in writing. Ocean shipping financed by A.I.D. under the Project shall, except as A.I.D. may otherwise agree in writing, be financed only on flag vessel of the United States.

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ANNEX B

STANDARD PROVISIONS ANNEX

A. Reference to "this Agreement" means the original Project Agreement as modified by any revisions which have entered into effect. Reference to "Cooperating Country" means the country or territory of the Grantee or of any other ASEAN member country participating in the Project, each of which shall be deemed to be Parties to the Agreement for purposes of these Standard Provisions. References to Items 1 through 4 of this Agreement mean Items 1 through 4, respectively, of the cover page of this Agreement.

B. (1) Subject to the availability of funds, A.I.D. will make available the amount specified in Item 3 of this Agreement, as necessary for the Project, as may be further described in Annex A.

(2) The Grantee will make, or arrange to have, additional contributions of property, services, facilities and funds required for carrying out the Project as specified in Annex A.

C. A.I.D. and the Grantee may obtain the assistance of other public and private agencies in carrying out their respective obligations under this Agreement. The Parties may agree to accept contributions of property, services, facilities and funds for purposes of this Agreement from other public and private agencies, and may agree upon the participation of any such third party in carrying out activities under this Agreement.

D. Except as otherwise specified herein or subsequently agreed by the parties, all contributions of the Parties pursuant to this Agreement shall be made on or before the Project Assistance Completion Date specified in item 4, or amended date. A contribution of goods and services shall be considered to have been made when the services have been performed and the goods furnished as contemplated in this Agreement. Disbursement of funds may take place after final contributions have been made, but A.I.D. shall not be required to disburse funds hereunder after the expiration of nine months following the estimated Project Assistance Completion Date specified in Item 4 of any amended Project Assistance Completion Date specified.

E. The procurement of commodities and services to be financed in whole or in part by A.I.D. may (where so required by A.I.D. procedures) be undertaken only pursuant to Project Implementation Orders (PIOs) which shall, unless otherwise agreed by A.I.D., be issued unilaterally by A.I.D. with advice to the Cooperating Country.

F. Unless otherwise specified in the applicable PIO or Project Implementation Letter (PIL), the procurement of commodities imported specifically for the Project and financed with the A.I.D. contribution referred to in Item 3 of this. Agreement shall be subject to the provisions of A.I.D. Regulation 1.

G. Unless otherwise agreed by the Parties or otherwise specified in the applicable P10, title to all property procured through financing by A.I.D. pursuant to Item 3 of this Agreement shall be in the Cooperating Country to which such property is provided, or such public or private agency as it may authorize.

H. (1) Any property furnished to a Party through financing by another Party pursuant to this Agreement shall, unless otherwise agreed by the Party which financed the procurement, be used effectively for the purposes of the Project in accordance with this Agreement, and upon completion of the Project, will be used so as to further the objectives sought in carrying out the Project. A Party shall offer to return to the other, or to reimburse the other for, any property which it obtains through financing by the other Party pursuant to this Agreement which is not used in accordance with the preceding sentence.

(2) Any funds provided to a Party pursuant to this Agreement which are not used in accordance with this Agreement, shall be refunded to the Party providing the funds.

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(3) Any interest or other earnings of funds provided by A.I.D. to a Cooperating Country under this Agreement will be returned to A.I.D. by the Cooperating Country.

I. (1) If A.I.D. and any public or private organization furnishing commodities through A.I.D. financing for operations hereunder in a Cooperating Country, is, under the laws, regulations or administrative procedures of the Cooperating Country, liable for customs, duties and import taxes on commodities imported into the Cooperating Country for purposes of carrying out this Agreement, the Cooperating Country will pay such duties and taxes unless exemption is otherwise provided by any applicable international agreement.

(2) If any personnel (other than citizens and residents of the Cooperating Country), whether United States Government employees, or employees of public or private organizations under contract with, or individuals under contract with A.I.D., the Grantee or any agency authorized by the Grantee, who are present in the Cooperating Country to provide services which A.I.D. has agreed to furnish or finance under this Agreement, are under the laws, regulations or administrative procedures of the Cooperating Country, liable for income and social security taxes with respect to income which they are obligated to pay income or social security taxes on personal property intended for their own use, or for the payment of any tariff or duty upon personal or household goods brought into the Cooperating Country for the personal use of themselves and members of their families (not including such personal and household goods as may be sold by any such personnel in the Cooperating Country) or if any firm, not normally resident in the Cooperating Country, is liable for income, receipts, or other taxes on work financed by A.I.D. hereunder, the Cooperating Country will pay or, as appropriate, refund such taxes, tariff, or duty unless exemption is otherwise provided by any applicable international agreement.

J. If funds provided by A.I.D. are introduced into the Cooperating Country by A.I.D. or any public or private agency for purposes of carrying out obligations of A.I.D. hereunder, the Cooperating Country will make such arrangements as may be necessary so that such funds shall be convertible into currency of the Cooperating Country at the highest rate which, at the time conversion is made, is not unlawful in the Cooperating Country.

K. A.I.D. shall expend funds and carry on operations pursuant to this Agreement only in accordance with the applicable laws and regulations of the United States Government.

L. The Parties shall have the right at any time to observe operations carried out under this Agreement. The Parties during the term of the Project and for three years after the completion of the Project shall further have the right (1) to examine any property procured through financing by that Party under this Agreement, wherever such property is located, and (2) to inspect and audit any records and accounts with respect to funds provided by, or any properties and contract services procured through financing by, that Party under this Agreement, wherever such records may be located and maintained. Each Party, in arranging for any disposition of any property procured through financing by the other Party under this Agreement/ shall assure that the rights of examination, inspection and audit described in the preceding sentence are reserved to the Party which did the financing.

M. A.I.D. and the Cooperating Country shall each furnish the other with such information as may be needed to determine the nature and scope of operations under this Agreement and to evaluate the effectiveness of such operations.

N. The present Agreement shall enter into force when signed. Either A.I.D. or the Grantee may terminate this Agreement by giving the other Party thirty (30) days written notice of intention to terminate it. Termination of this Agreement shall terminate any obligations of the Parties to make contributions pursuant to this Agreement, except for payments which they are committed to make pursuant to noncancellable commitments entered into with third parties prior to the termination of the Agreement. It is expressly understood that the obligations under paragraph H relating to the use of property or funds shall remain in force after such termination. In addition, upon such

termination A.I.D. may, at A.I.D's expense, direct that title to goods financed under the Grant be transferred to A.I.D. if the goods are from a source outside the Cooperating Country, are in a deliverable state and have not been offloaded in ports of entry of the Cooperating Country.

O. To assist in the implementation of the Project, A.I.D., from time to time, may issue PILs that will furnish additional information about matters stated in this Agreement. The Parties may also use jointly agreed upon PILs to confirm and record their mutual understanding on aspects of the implementation of this Agreement.

P. The Cooperating Country agrees, upon request, to execute an assignment to A.I.D. of any cause of action which may accrue to the Cooperating Country in connection with or arising out of the contractual performance or breach of performance by a party to a direct U.S. Dollar contract which A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.

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