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AGENCY FOR INTERNATIONAL DEVELOPMENT

Washington, D. C. 20523

PROGRAM ASSISTANCE

APPROVAL DOCUMENT

(PAAD)

PHILIPPINES: Agrarian Reform Support
Program (492-0431)

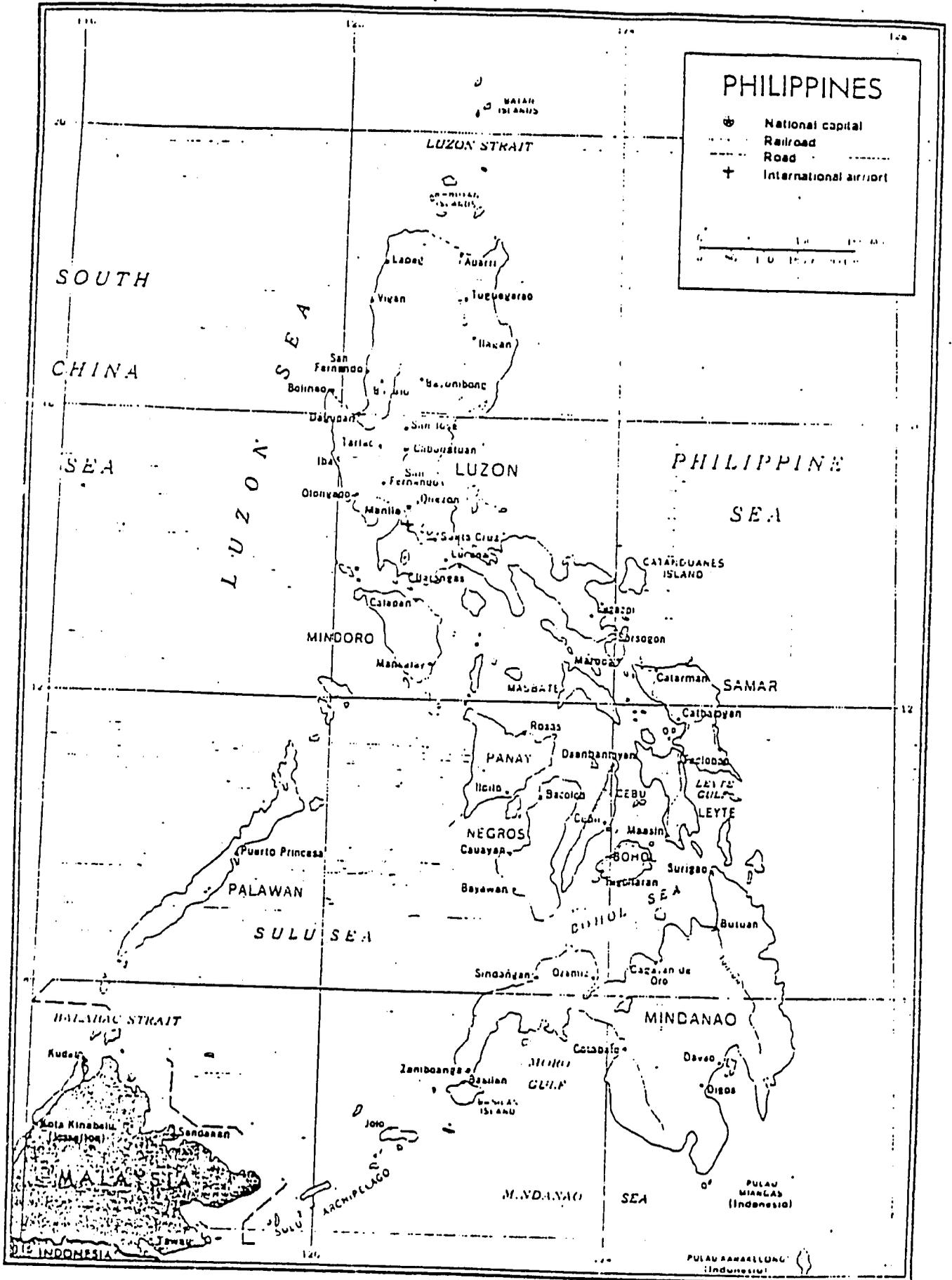
August 28, 1989

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**AGRARIAN REFORM SUPPORT PROGRAM (492-0431)
PROGRAM ASSISTANCE APPROVAL DOCUMENT (PAAD)**

USAID/Philippines
July, 1989

Best Available Document



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| AID 1120-1 PAAD | AGENCY FOR INTERNATIONAL DEVELOPMENT PROGRAM ASSISTANCE APPROVAL DOCUMENT | 1. PAAC NO. 492-0431 492-K-606 |
| | | 2. COUNTRY Philippines |
| | | 3. CATEGORY Sector Assistance |
| | | 4. DATE July, 1989 |
| 5. TO: Malcolm Butler Director, USAID/Philippines | 6. OYB CHANGE NO. N/A | |
| 7. FROM: Gary M. Imhoff DRM/PDID | 8. OYB INCREASE None | |
| 9. APPROVAL REQUESTED FOR COMMITMENT OR \$ 50,000,000.00 | | 10. APPROPRIATION - Economic Support Fund (ESF) |
| 11. TYPE FUNDING <input type="checkbox"/> L <input type="checkbox"/> GRANT | 12. LOCAL CURRENCY ARRANGEMENT <input checked="" type="checkbox"/> INFORMAL <input type="checkbox"/> FORMAL <input type="checkbox"/> NONE | 13. ESTIMATED DELIVERY PERIOD July, 1989-July, 1991 |
| 14. COM. DITIES FINANCED | 15. TRANSACTION CDS. SILITY DATE N/A | |

N/A

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|----------------------|---------------------------|
| 16. PERMITTED SOURCE | 17. ESTIMATED SOURCE |
| U.S. only: | U.S.: 3,000,000.00 |
| Limited F.W.: | Industrialized Countries: |
| Free World: | Local: 47,000,000.00 |
| Cash: 50,000,000.00 | Other: |

18. SUMMARY DESCRIPTION

The Agrarian Reform Support Program will provide \$50 million in grant assistance. Of this total, approximately \$47.5 million will be available as program assistance to fund mutually agreed upon and eligible Special Agrarian Reform Fund budget line items. The remaining \$2.5 million will finance the anticipated monitoring and evaluation needs of the program supported by A.I.D. financing, any unused amount of which will be reallocated to the program assistance line item. Our assistance will principally support activities under the Operation Land Transfer component of Comprehensive Agrarian Reform Program in the 18-month period from January 1, 1989 to June 30, 1990.

| | | |
|------------------|---------|---|
| 19. CLEARANCES | DATE | 20. ACTION |
| DRM: JAPatterson | 7/14 | <input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED |
| OCP: REJordan | | <i>Malcolm Butler</i> |
| OPHN: MHJohnson | 7/17/89 | Malcolm Butler |
| OFFPVC: BGeorge | 7/25/89 | 8/28/89 |
| RLA: BMiller | 7-13-89 | AUTHORIZED SIGNATURE |
| ORAD: KAPrussner | 8/24/89 | Director |
| CO: JStanford | | TITLE |

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 Cable MANILA #18138
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List of Abbreviations/Acronyms

| | |
|-------|---|
| ADB | Asian Development Bank |
| AID | Agency for International Development |
| APT | Asset Privatization Trust |
| AKSP | Agrarian Reform Support Program (USAID) |
| ASEAN | Association of Southeast Asia Nations |
| BUP | Balance of Payment |
| BSP | Budget Support Program |
| BTR | Bureau of the Treasury |
| CARP | Comprehensive Agrarian Reform Program |
| CUA | Commission on Audit |
| CPI | Consumer Price Index |
| CY | Calendar Year |
| DA | Department of Agriculture |
| DAR | Department of Agrarian Reform |
| DBM | Department of Budget and Management |
| DENR | Department of Environment and Natural Resources |
| DOF | Department of Finance |
| DPWH | Department of Public Works and Highways |
| DSP | Development Support Program |
| DTI | Department of Trade and Industry |
| EO | Executive Order |
| EP | Emancipation Patents |
| ESF | Economic Support Fund |
| FAO | United Nations Food and Agriculture Organization |
| GDP | Gross Domestic Product |
| GFI | Government Financing Institutions |
| GNP | Gross National Product |
| GOP | Government of the Philippines |
| Ha. | Hectares |
| IDA | International Development Association |
| IMF | International Monetary Fund |
| IBRD | International Bank for Reconstruction Development |
| LAD | Land Acquisition and Distribution |

| | |
|-------|---|
| LBP | Land Bank of the Philippines |
| OLT | Operation Land Transfer |
| PAAD | Program Assistance Approval Document |
| PARC | Presidential Agrarian Reform Council |
| PCGG | Presidential Commission on Good Government |
| PD | Presidential Decree |
| PD-13 | Policy Determination No. 13 (AID) |
| PDSA | Post-Land Distribution Support Activities |
| PPC | Office of Program and Policy Coordination, AID/W |
| PSC | Personal Services Contractor |
| RA | Republic Act |
| RPSP | Rural Productivity Support Program |
| SARF | Special Agrarian Reform Fund (GOP) |
| USAID | United States Agency for International Development/Manila |

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AGRARIAN REFORM SUPPORT PROGRAM (492-0431)
PROGRAM ASSISTANCE APPROVAL DOCUMENT

SUMMARY AND RECOMMENDATIONS

1. **Grantee:** The Government of the Philippines (GOP).
2. **Implementing Agency:** The Presidential Agrarian Reform Council (PARC).
3. **Amount:** U.S. \$50 million.
4. **Terms and Source of Funds:** Grant from Economic Support Fund.
5. **Program Purpose:** To assist the GOP in agrarian reform efforts.
6. **Program Definition:** The program will provide \$47.5 million in support of the Special Agrarian Reform Fund (SARF) and \$2.5 million to finance monitoring and evaluation services required under the Program.
7. **Grantee Contribution:** Although there is no requirement for counterpart funding, the GOP intends to finance CARP activities in calendar year 1989 in the amount of P6.2 billion (approximately \$329 million) with expected expenditures of P1.3 billion (or approximately \$62 million).
8. **Grant Request:** The GOP has requested A.I.D. to participate in providing funding to the Comprehensive Agrarian Reform Program (CARP) (see Annex C).
9. **Mission Views:** The Mission Program Committee recommends that the PAAD be forwarded to the ANE Bureau for review and comment and that authorization of the Program be redelegated to the Mission in order to facilitate negotiations and ease administrative requirements.
10. **Statutory Requirements:** All statutory criteria have been met. See Program Statutory Checklist, Annex E.
11. **Recommendation:** Authorization of a grant of U.S. \$50.0 million if negotiations do not significantly alter the Program in form or substance.
12. **Program Committee:** USAID Program Committee Members were:

ORAD:KPrussner
ORAD:RGarner
OD/PE:PDeuster
OD/PE:PKlem
OCP:REJordan
OCP:MHauben
DRM/PDID:GMImhoff

DRM/PRO:DAD' Antonio
CO:JRedder
CO:CRazo
CO:SDiama
OCP:DPagcaliwagan
RLA:BMMiller

EXECUTIVE SUMMARY

Land tenure relationships have been a politically charged issue in the Philippines for many decades. A succession of Philippine administrations have made a series of attempts to implement lasting agrarian reform; however, the political will behind these efforts has often been limited, and none have been truly successful. However, the Comprehensive Agrarian Reform Program (CARP) initiated by President Corazon Aquino and refined by both houses of the Philippine Congress reflects a broad consensus throughout the Government of the Philippines (GOP) on the need for agrarian reform. The U.S. Congress clearly demonstrated its desire to signal its support for agrarian reform in the Philippines by earmarking \$50 million in Economic Support Funds (ESF) to support the GOP's efforts in this crucial area. The Agrarian Reform Support Program (ARSP) will assist the GOP by providing financial assistance in support of agrarian reform efforts.

In 1902, policymakers recognized the pressures for land reform in the Philippines, and the U.S. Congress recognized the principle of the desirability of an agricultural base consisting of small, independent working farmers in the Organic Act of 1902. The American colonial government's early attempts at land reform were short-lived, however, and popular resentment against landowners fueled agrarian unrest in the 1930s. In 1935, the Philippines' Commonwealth Government passed legislation designed to reform land tenurial conditions. Again, however, political will for implementation and enforcement was lacking.

The Philippine Land Reform Act of 1955 was President Magsaysay's attempt to address the root of the agrarian problem. Unfortunately, it turned out to be underfinanced and poorly administered, and its implementation slowed dramatically after Magsaysay's death in 1957. As extremely high population growth continued to put ever greater pressures on limited arable land, the issue of land reform became even more visible.

In 1972, in part to stave off criticism for his declaration of martial law, President Marcos expanded a program of land reform for all tenanted rice and corn lands initiated under his predecessor, President Macapagal. Some land transfers did take place in the early years of this program; however, Marcos lost interest in the program long before it had achieved its aims.

Tenanted and landless agricultural workers' call for land reform was one of the major issues during the Presidential election campaign in late 1985 and early 1986. Shortly after coming to power in February 1986, President Aquino promised to initiate a land reform program which equitably distributed land to its tillers. This principle is enshrined in the Philippine Constitution ratified in 1987, as well as the two subsequent Executive Orders, Nos. 228 and 229 and the Comprehensive Agrarian Reform Law (RA 6657) executed in June 1988.

The Constitutional provisions, the two Executive Orders, and the new legislation pertaining to comprehensive agrarian reform all emphasize considerations of social justice as the primary justification for public policy intervention in this area. Nevertheless, the GOP believes that the CARP, once implemented, will enable the Philippines' agricultural sector to revive and develop its full potential through an improved incentive structure and increased production.

The CARP includes both land transfer activities, other non-land transfer distributive activities and support services. All land devoted to or suitable for agriculture is covered under the program with the exception of ancestral lands, lands reserved for national defense, wildlife preserves and schools. Non-land transfer distributive activities under the program include production sharing agreements, certain corporate landownership schemes, and a forestry program aimed at improving agroforestry productivity and ecological stability. Support services include the construction of rural roads, irrigation systems, post harvest facilities as well as production credit and other farm inputs. The GOP plans to implement CARP over three phases and to complete all agrarian reform activities under CARP by 1997.

The United States Congress, recognizing the importance of the land reform issue, earmarked \$50 million in Economic Support Funds (ESF) to assist the Philippines' agrarian reform program in December 1987, provided certain conditions were met by August 31, 1988, as they were. The Agrarian Reform Support Program (ARSP) will assist the GOP's efforts at agrarian reform by providing financial assistance in support of the implementation of CARP.

Although CARP is not the only GOP program directly related to agrarian reform, per se, it is the largest and has been judged effective. A.I.D. expects that \$47.5 million of this assistance will be used as program support to the Special Agrarian Reform Fund (SARF), the GOP's budget for agrarian reform implementation activities under CARP. The remaining \$2.5 million will be set aside to finance the expected costs to monitor and evaluate ARSP. Dollar grant funds identified as program support to SARF will be disbursed in tranches based on GOP requests and progress made against physical performance indicators and budget requirements which reflect the GOP's success at implementing CARP. If implementation of the program is rapid, then the GOP could avail of the entire \$47.5 million within one year; however, if the program's implementation turns out to be slower than the GOP is now projecting, the grant money could be available to the GOP for up to 24 months after program initiation. All contracting for monitoring/evaluation services will follow a direct contracting mode with direct payments being made.

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ARSP is designed as a sector assistance grant to assist the GOP in meeting its objectives for CARP over the next two years. Although it would be difficult to speculate on the success of CARP over its intended 10-year implementation life, it can be said with a degree of certainty that CARP implementation over the next two years is focussed, the necessary implementation guidelines are in place and the idea to bring all tenant rice and corn land under private ownership enjoys general political consensus.

The ARSP is not designed to have an impact on policy reform but on policy implementation. If progress slows dramatically and/or policies change radically to warrant no further assistance in support of SARF-funded activities within CARP, then the Mission would consider renegotiating the terms of the grant agreement or terminate the agreement and deobligating funds.

BACKGROUND

A. Political Setting

First 1,000 Days

The first 1,000 days after Corazon Aquino swept into power through a popular revolution on February 25, 1986, were marked by fundamental political changes. Senior judiciary figures were replaced; a series of military reforms began; and democratic institutions were restored.

In February 1987, the new Constitution was ratified by an overwhelming three-fourths majority in a referendum in which 87 percent of all Filipino voters participated. The following May, national elections for the bicameral legislature were held; and in January 1988, Filipino voters elected provincial governors and municipal officers. Barangay (village-level) elections were held in March 1989.

President Aquino's administration accomplished a great deal in these first 1,000 days. The personal popularity of President Aquino made for a relatively receptive political climate for reforms. The new government launched a major economic reform program, which greatly contributed to the economic recovery (outlined below). Foreign governments signalled their strong support of the new government and its reform program by greatly expanding official assistance levels. Slowly, foreign and domestic investors began to regain confidence and invest in the country again.

At the same time, the executive branch began work on the important problem of agrarian reform. The new constitution addresses the need for such reform; and in July 1987, President Aquino signed Executive Order (EO) No. 229, which included all lands suitable for agriculture in the Agrarian Reform program. After much controversy and many revisions, the bicameral legislature finally passed Republic Act (RA) No. 6657, the Comprehensive Agrarian Reform Law, in June, 1988.

Next 1,000 Days

A great deal remains to be done. In her speech of November 21, 1988, President Aquino laid out her priorities for her remaining tenure in office. She identified improvements in the pace of implementation of rural development, particularly new infrastructure projects, and increased revenue, primarily through tax collection efficiency, among the most important tasks.

In addition, the Government of the Philippines (GOP) will need to maintain economic growth, with particular emphasis on encouraging investment. Existing basic infrastructure needs upgraded and maintained. Economic and administrative reforms now underway must be fully implemented to ensure that the gains from economic growth are more equitably shared. This includes the rapid implementation of a comprehensive and equitable agrarian reform program

for equity and economic development. Continuing efforts must be made to increase public accountability at all levels of government.

Fundamental backdrop

The GOP is faced with a large, even daunting, task. Two decades under the Marcos regime left a legacy of overcentralized decision-making and approval processes and administrative difficulties in getting resources to rural areas. Yet increased attention to these areas is imperative. Wide disparities between regions and between rural and urban areas in such indicators as income, health and nutrition are only one aspect of the problem. Rural incomes are, on average, only half that in urban areas. The GOP estimates that 70 percent of all poor families lived in rural areas as of 1985. Expenditures on social and economic services differ substantially between regions, and resources are concentrated in urban areas.

The convening of the Philippine Congress in July 1987 established an alternative power center. The Aquino administration has now to share its decision-making authority, and the legislative process in the Philippines, as in any democracy, is often contentious. The expansion of democratic institutions is a welcome development, but it complicates the process of obtaining consensus on major reforms. In addition, popular demand for improved delivery of basic public services, such as education, public utilities, and basic infrastructure, is mounting. Finally, the Aquino administration has to face the continuing pressures of the communist insurgency and the Muslim separatist movements. The administration's ability to maintain the momentum of its initial 1,000 days, necessary to carry through its remaining planned reforms, will largely depend on its ability to handle these pressures without undermining economic stability and business confidence.

B. Economic Setting

Historical background

Between 1965 and 1980, real GDP in the Philippines grew by an average 5.9 percent and GDP per capita grew by an average 3.2 percent. During this period, the industrial sector grew by an average 8.0 percent. However, this growth was largely debt-financed, did not reflect real gains in productivity and investment such as those of the Philippines' ASEAN competitors, and was not sustainable. During that same period the country's total government debt swelled from \$641 million to \$5.2 billion. Massive public and private sector borrowing from both foreign and domestic sources obscured worsening structural imbalances in the economy.

Three decades of import substitution created an inefficient, import-dependent and overly capital-intensive, urban-biased industrial sector. Sustained systematic neglect of rural investment and poor farm policies fashioned an agricultural sector unable to provide raw materials and local demand essential for expanding rural markets and industrial protection. An overvalued exchange rate and an investment incentive system which

discouraged exports resulted in an underdeveloped export sector. The GOP increasingly intervened in the markets for goods and financial assets, setting up monopolistic structures which often benefitted former President and Mrs. Marcos and their "cronies." These exploitations became progressively more serious, resulting in large-scale waste, inefficiency, mismanagement, and corruption.

In 1980, international market fluctuations began to shake the country, which is a primary commodity exporter, a dependent importer of fuel, and a major foreign borrower. The GOP continued to rely heavily on foreign savings to finance a growing investment-savings gap, as domestic resource mobilization remained low. Ultimately, against a backdrop of global recession, high interest rates and declining availability of cheap foreign funds, the economy began to contract. In 1982, real per capita income declined by 0.9 percent, and in 1983, by 1.4 percent.

The assassination of Benigno Aquino in August 1983 triggered a loss in business confidence, massive capital flight and an abrupt decline in foreign commercial credit. This accelerated an economic crisis which included the GOP calling a debt moratorium in October 1983. The Marcos administration then initiated a stabilization program, which included a series of planned reforms. Some of these reforms were successfully implemented. Interest rates were liberalized, certain import restrictions were lifted, and commercial banks were allowed to trade foreign exchange. However, reform efforts were limited and the political commitment to them was weak. Real growth continued to decline, falling by 7.1 percent in 1984 and by 4.1 percent in 1985. In 1985, inflation rose to 50 percent, aggravated by unwarranted government expenditures surrounding the 1984 parliamentary and 1986 presidential campaigns.

Post-revolutionary developments

With the ascension to power of Corazon Aquino in 1986, real GDP began to expand after eleven consecutive quarters of economic contraction, and recorded 0.2 percent growth for the year. Real GDP growth was 6.4 percent in 1987 and will probably be about 6.0 percent in 1988. Inflation was brought down to less than one percent in 1986 and to 3.8 percent in 1987, was about 9 percent in 1988. Renewed confidence of domestic and foreign investors alike enabled investment to grow by 27.1 percent in 1987 after several years of sluggish or negative growth. Imports were greatly liberalized, and massive capital inflows enabled international reserves to increase from \$615 million at the end of 1985 to \$1.7 billion by end-1986.

At the same time, the Aquino administration was able to achieve some important reforms. For most of 1986 and 1987, the Central Bank allowed the market to determine the exchange rate, enabling exports to become more competitive. Fiscal reform efforts concentrated on reducing the government's reliance on indirect taxes and making the tax system less regressive. To this end, the government adopted a major tax reform program, which included the introduction of a value-added tax, a shift to a fully ad valorem basis,

increase in excise tax rates for cigarettes and liquor, the abolition of most exemptions from direct and indirect income tax, and subjection of all government agencies and corporations to audit. A privatization program was launched. The executive branch drafted a decentralization bill expanding the powers and increasing the resources of local governments. In agriculture, the new government dismantled monopolies in sugar and coconuts and ended the National Food Authority's monopoly on domestic trading of wheat, flour, and feedgrains and the import of wheat. The government also abolished export taxes on agricultural products except logs, and signed the Comprehensive Agrarian Reform Program (CARP).

Recently, however, enthusiasm for the economic reform efforts has waned. Domestic producers, long used to protection from foreign competition, are now exerting substantial pressures on the government to restrict imports and to reinstate tax breaks. Implementation of the privatization program and the value added tax has run into major obstacles. The Aquino administration is flirting with price controls. The Central Bank, concerned about inflation, has effectively ended the debt equity swap program and now intervenes regularly in currency and bond markets to defend the value of the peso. The resulting rundown in international reserves has rekindled fears of an external crisis.

Fundamental Backdrop

The Government of the Philippines continues to be faced with a number of fundamental problems. The basic structural weaknesses in the economy inherited from the Marcos era, including an inefficient industrial sector, underdeveloped export and agricultural sectors, a large domestic and foreign debt, and weak financial institutions, continue to hinder growth. In terms of real per capita income, the Philippines is now where it was in 1978. A population growth rate of 2.4 percent continues to dilute economic gains. An additional 750,000 new entrants to the labor force per year exerts downward pressure on real wages and upward pressure on unemployment (9.5 percent) and underemployment (estimated at about 32 percent). Nearly 60 percent of the population lives in poverty. Income distribution is extremely uneven; the top decile of the population earns more than fifteen times that of the lowest decile. Unsustainable agricultural, forestry, and fishing practices have led to serious environmental degradation.

1. Fiscal Deficit

Since the Aquino administration came to power, fiscal deficits have kept within targeted levels. However, this has large, been possible because capital outlays have been very low. National government revenues in 1987 totalled ₱103.3 billion (\$5.1 billion), of which 82.4 percent came from tax and 17.6 percent from non-tax sources. The 1987 expenditures came to ₱119.9 billion (\$5.9 billion), leaving a national government budgetary deficit of ₱16.7 billion (\$819 million). The 1987 deficit represented 2.4 percent of that year's GNP. The government financed 59.3 percent of the deficit by borrowing from domestic sources and financed the remaining 40.7 percent

abroad. The 1987 budget deficit was lower than had been targetted. However, this was possible only because total expenditures were lower than had been targetted; revenues for the year were, in fact, slightly lower than had been planned. In addition, ₱4.6 billion (\$226 million), which had originally been appropriated for capital expenditures, was re-oriented in the course of the year to increases in current operating expenses, mainly government salaries.

The 1988 Budget

The 1988 national budget called for ₱122.4 billion (\$5.6 billion) in revenues, 77.5 percent of which was expected to come from tax sources and 22.5 percent of which was expected to come from non-tax sources. Expenditures were budgeted at ₱169.7 billion (\$7.9 billion). This implied a deficit of ₱47.3 billion (\$2.2 billion), of which about 78.9 percent was expected to be financed from domestic sources and the remainder from foreign borrowings. However, preliminary estimates for the year put the 1988 budget deficit at about ₱21.3 billion (\$1.0 billion). This is only negligibly higher than the National Economic and Development Authority's (NEDA's) revised deficit target of ₱22.1 billion (\$1 billion). However, tax revenues in 1988 lagged far behind targetted levels, expenditures once again were much lower than planned, and early reports suggest that a similar re-orientation away from capital outlays in favor of increased expenditures on current operating expenses has occurred.

The 1989 Budget

The 1989 budget calls for expenditures of ₱169.8 billion (\$8 billion using an estimated exchange rate of \$1=₱21.5). Of this, ₱137.9 billion (\$6.4 billion) is slated to go towards current operating expenses and ₱31.9 billion (\$1.5 billion) towards capital outlays, including net lending and principal amortization. Expected revenues total ₱146.3 billion (\$6.8 billion), 80 percent of which is expected to come from tax and 20 percent from non-tax sources. The projected deficit for 1989 is therefore ₱23.5 billion (\$1.1 billion). The government expects that all of the deficit will be financed from domestic sources, although this expectation may not be reasonable.

President Aquino, in her Budget Message for 1989 to Congress, identified several budgetary priorities aimed at the medium-term objectives of rural development and a more equitable distribution of resources. These priorities include special attention to programs with redistributive effects such as agrarian reform, public education, basic health care and rural infrastructure; expanded support for improvements in physical infrastructure; and the decentralization of budgetary authority to local levels.

2. Balance of Payments Analysis

The 1987 Balance of Payments

In 1987, the Philippines' balance of payments continued to be satisfactory. Merchandise exports totaled \$5.7 billion and imports \$6.7

billion, leaving a trade deficit of \$1.0 billion. The inclusion of net services and transfers left a current account deficit of \$539 million, or 1.6 percent of GNP. The 1987 capital account deficit was slightly higher, at \$653 million. However, rescheduling totalling \$1.5 billion enabled international reserves to increase by \$265 million. Reserves at end-1987 came to 2.3 months of imports.

The 1988 Balance of Payments

The 1988 balance of payments performance was not as encouraging as that in 1987. Imports, which preliminary estimates put at about \$8.1 billion, continued to outstrip exports, estimated at \$6.9 billion. While the resulting trade deficit of \$1.2 billion was partially offset by net services and transfers, the current account deficit was still about \$542 million. The capital account also came to a deficit of about \$354. Rescheduling of \$1.4 billion and large cash transfers from official donors at the end of the last quarter enabled the Philippines to avert an otherwise dire situation. Still, reserves at end-1988 were about 2 months' worth of imports, slightly too low for comfort.

The 1989 Balance of Payments Outlook

Recent projections for 1989 are for exports to increase substantially to \$7.7 billion; however, imports will likely increase to about \$9.1 billion, leaving a widened trade deficit of \$1.4 billion. The inclusion of net services and transfers is projected to bring the current account deficit down to about \$900 million. If net flows from official donors substantially expand, i.e., the GUP utilizes official commitments more efficiently than it has in the recent past, the external account would be roughly balanced. However, in order for the GUP to build up its reserves, the GUP intends to re-negotiate debt service and repayment schedules with its Paris Club creditors and hopes to secure new money with commercial creditors.

C. Review of Past Program Assistance

The Agrarian Reform Support Program (AKSP) will be the fifth Economic Support Fund (ESF) program assistance effort by the Mission since 1983. In response to the onset of the economic crisis in 1983, the Mission began to provide ESF program assistance to help provide financial flexibility to the GUP. In calendar year 1984, the U.S. Government provided \$47.5 million in ESF program assistance under the Rural Productivity Support (RPSP) grant; in calendar (CY) 1985, \$45 million under the Development Support Program (DSP) grant; in CY 1986, \$300 million under the Budget Support Program (BSP) grant; and in CY 1987, \$150 million under the Budget Support Program II (BSP II) grant.

Both RPSP and DSP provided balance of payments to the Philippines. The generated pesos were to be used to provide additional GUP resources during the 1985 and 1986 calendar years to selected foreign-assisted projects whose implementation had been hampered by the critical lack of peso counterpart.

Following the February 1986 revolution, A.I.D. amended RPSP to allow the remaining RPSP balance to be used in 1986, and amended DSP to eliminate the additionality requirement so that DSP could supply the regular GUP counterpart resources for the selected projects from March 1, 1986 through March 31, 1987 (later extended through 1987). The GUP has completed peso disbursements for RPSP and DSP. The GUP submitted the final audited disbursement report for RPSP on March 31, 1987; and submitted the final audited disbursement report for DSP on February 19, 1988.

BSP and BSP II provided peso budget support to the GUP so that it could continue financing, in the midst of a severe budget crisis, basic services in the priority sectors of education, health and agriculture. The GUP has completed peso disbursements for both BSP and BSP II. The GUP has not yet submitted the final audited disbursement reports for BSP and BSP II, although the deadline for the BSP report was September 30, 1987 and for the BSP II report, September 30, 1988.

The AKSP represents a new direction in USAID's program assistance to the Philippines, in that the pesos provided in conjunction with the program assistance will support a specific program within the GUP's national budget.

Table 1
Selected Macroeconomic Indicators
1985 - 1988

| | <u>1985</u> | <u>1986</u> | <u>1987</u> | <u>1988</u> |
|---|-------------|-------------|-------------|-------------|
| Real GNP Growth (%) | -3.8 | 1.8 | 5.9 | 6.7 |
| Real GDP Growth (%) | -4.4 | 1.5 | 4.6 | 6.6 |
| Consumer Prices (%) | 23.1 | 0.8 | 3.7 | 9.0 |
| Current Account Deficit as % of GNP (minus = deficit) | -0.1 | +3.3 | -1.4 | -1.8 |
| External Debt (\$US Billion) | 26.3 | 28.3 | 28.1 | 28.9 |
| Real GNP growth per capita (%) | -6.2 | -0.6 | 3.5 | 4.3* |

* Assumes a 2.39 percent population growth rate

Sources: NSCB National Accounts
Other GUP Sources

Table 2

Balance of Payments 1987-1989
(In Million U.S. Dollars)

| | <u>1987</u> (actual) | <u>1988</u> (estimate) | <u>1989</u> (projected) |
|---------------------------------------|-------------------------|---------------------------|----------------------------|
| Merchandise Trade | -1,017 | -1,245 | -1,465 |
| Exports | 5,720 | 6,885 | 7,680 |
| Imports | 6,737 | 8,130 | 9,145 |
| Non-Merchandise Trade | -76 | -72 | -261 |
| Inflow | 3,497 | 3,582 | 4,041 |
| Outflow | 3,573 | 3,654 | 4,302 |
| Transfers, net | 554 | 775 | 802 |
| Current Account | -539 | -542 | -924 |
| Long-Term Loans | -1,780 | -1,605 | 565 |
| Inflow | 415 | 961 | 3,027 |
| Outflow | 2,195 | 2,566 | 2,462 |
| Direct Investments, Net | 205 | 611 | 537 |
| Short-Term Capital, Net | 52 | -9 | -21 |
| Errors and Omissions | -89 | 415 | 0 |
| Gold Monetization | 365 | 309 | 345 |
| Revaluation Adjustment | -150 | -75 | 0 |
| Capital Account | -1,219 | -354 | 1,426 |
| Overall Balance | 1,758 | -896 | 502 |
| Rescheduling | 2022 | 1,418 | 1,470 |
| Overall Balance after Rescheduling | 264 | 522 | 1,972 |

Source: Central Bank of the Philippines
1988 estimates as of January 11, 1989
1989 projections as of November 11, 1988

Table 3

**National Government Cash Budget
1987-1989
(In Billion Pesos)**

| | <u>1987 Actual</u> | <u>1988 Estimated Actual</u> | <u>1989 Projected</u> |
|------------------------------------|------------------------|----------------------------------|---------------------------|
| Revenues | 103.2 | 110.9 | 146.3 |
| Tax Revenue | 85.9 | 90.7 | 115.7 |
| Non-Tax Revenue | 17.3 | 20.2 | 30.6 |
| Expenditures | 119.9 | 132.2 | 169.8 |
| Current Operations | 95.5 | 117.9 | 137.9 |
| Capital Outlays and net lending | 24.4 | 14.3 | 31.9 |
| Surplus/Deficit | -16.7 | -21.3 | -23.5 |
| Percent of GNP | -2.4 | -2.6 | -2.5 |
| Financing Account | | | |
| Net Borrowings | 16.7 | 21.3 | 23.5 |
| Domestic | 9.9 | 27.4 | 31.6 |
| Foreign | 6.8 | -6.1 | -8.1 |

Sources: DBM projections for 1989 as of November 7, 1988
 NEDA estimated actual 1988 figures as of January 11, 1989

D. Land Tenure Structure

The 1980 agricultural census showed 3,420,323 farms with a total area of 9,725,200 hectares. The greatest number of farms were between one and three hectares in size; the average size farm was 2.8 hectares. Farms smaller than three hectares made up 69 percent of the total number of farms.

The pattern of tenancy changed little since 1971. Out of the 3,420,323 farms in 1980, 1,993,293 farms, or 58 percent, were operated by full owners; 367,304 farms, or 11 percent, by part owners; and 1,059,726 farms, or 31 percent, by tenant or "others". These are the same ratios for tenure found from the 1971 agriculture census.

Table 4

Farms - Number and Area by Size*:
1971 & 1980

| | <u>Number of Farms</u> | | <u>Area of Farms (ha.)</u> | |
|--------------------|------------------------|-------------|----------------------------|-------------|
| | <u>1971</u> | <u>1980</u> | <u>1971</u> | <u>1980</u> |
| All Farms | 2,354,469 | 3,420,323 | 8,493,735 | 9,725,200 |
| Under 1.00 ha. | 319,363 | 775,791 | 162,196 | 369,100 |
| 1.00 to 2.99 ha. | 1,117,581 | 1,578,044 | 1,887,663 | 2,522,200 |
| 3.00 to 4.99 ha. | 558,347 | 588,151 | 2,013,269 | 2,066,700 |
| 5.00 to 6.99 ha. | 243,847* | 283,585 | 1,553,496** | 1,612,100 |
| 7.00 to 9.99 ha. | | 76,421 | | 630,800 |
| 10.00 to 24.99 ha. | 101,130 | 103,723 | 1,412,100 | 1,406,400 |
| 25.00 ha. and over | 14,201 | 14,608 | 1,465,011 | 1,117,800 |

Table 5

Farms - Number and Area by Tenure of Operator:
1971 & 1980

| | <u>Number of Farms</u> | | <u>Area of Farms (ha.)</u> | |
|---------------|------------------------|-------------|----------------------------|-------------|
| | <u>1971</u> | <u>1980</u> | <u>1971</u> | <u>1980</u> |
| All Farms | 2,354,469 | 3,420,323 | 8,493,735 | 9,725,200 |
| Owned | 1,364,990 | 1,993,293 | 5,345,429 | 6,496,200 |
| Partly-Owned | 268,665 | 367,304 | 930,840 | 986,700 |
| Tenant/Leased | 681,658 | 871,536 | 1,746,455 | 1,806,900 |
| Other farms | 39,156 | 188,190 | 471,011 | 435,400 |

Sources: For information included in Tables 4 and 5, National Census and Statistics Office, 1971 and 1980 Censuses of Agriculture

Note: *Details may not add up to total due to rounding up of figures.
**Data for # and area of farms for 1971 is not available. Thus, for 1971 figures, farms of 5.00 to 6.99 ha. include farms 7 to 9.99 ha.

E. Land Resources Information

Philippine agricultural development over the first 60 years of this century essentially was a process of bringing land under cultivation at a rate approximately that of population growth. In the aggregate, per capita output remained stable. Beginning in the late 1950s, expansion in land under cultivation declined to a minor fraction of the rate of population growth. Today, it is estimated that the Philippines has approximately 10 million hectares of arable land available.

Of the 7.8 million hectares officially classified as farmed, three crops -- rice, corn and coconut -- are grown extensively. In 1980, nearly 88 percent of the total hectarage was devoted to these three crops. Other areas were used to grow sugar (3.2%), rootcrops (1.4%) and coffee (1.3%).

Table 6

Area of Farms by Land Use
1971 & 1980

| LAND USE | 1971 | | 1980 | |
|---|--------------------|---------------|--------------------|---------------|
| | Area (hectares) | Per cent | Area (hectares) | Percent |
| Total | <u>8,493,735</u> | <u>100.00</u> | <u>9,045,465</u> | <u>100.00</u> |
| Planted to annual crops | 3,891,982 | 45.82 | 4,487,679 | 49.56 |
| Planted to permanent crops | 2,532,166 | 29.80 | 3,313,054 | 36.67 |
| Lying idle | 752,272 | 8.86 | --- | --- |
| Under permanent meadows and pastures | 690,988 | 8.14 | 610,125 | 6.75 |
| Covered with forest growth | 433,707 | 5.11 | 623,496* | 7.02 |
| All other lands | 192,620 | 2.27 | | |

Source: National Census and Statistics Office,
1971 and 1980 Censuses of Agriculture

Note: * For the 1980 Census, categories titled "lands considered covered with forest growth" and "all other lands" were combined.

II. OVERVIEW OF PHILIPPINE LAND REFORM EFFORTS

A. Introduction: Land Reform Prior to CARP

Historically, Philippine agricultural tenure has been largely of a feudal character. The landowner, called 'cacique', and the tenant, known as 'aparcerero' or 'Masana', operated under a well-established crop-sharing system sanctioned by ancient tradition. The landlord had his obligations as well as his privileges. He was expected to carry his tenants through crop failure, he was their banker, their baptismal and wedding sponsor, and he helped them when disaster struck. This system worked without general complaint only so long as farming met the needs of the subsistence economy then prevailing.

During the present century, opportunities for gainful employment in the cities expanded. Many sons of tenant farmers accumulated enough capital to become landlords themselves. Many of these nouveau riche landlords inherited none of the tradition of noblesse oblige, which the old cacique families observed. To them, the relationship between landlord and tenant often became skewed to the advantage of the landlord. This attitude added to the growing discontent among tenant farmers. It became clear that under the new economic and social conditions which were evident, not only was the tenant farmer's cash income inadequate, his farm became substandard even as a subsistence unit.

Long before agrarian unrest had become a major social problem in the Philippines, public policy had been expressed as favoring the development of a broader base population element of independent working farmers, instead of tenant farmers. This principle was expressed early by the United States Congress in the Organic Act of 1902, regulating the disposal of the public domain in the Philippines. It provided for homesteading and limited the size of agricultural public lands which could be acquired. Shortly thereafter, in 1903, the U.S. purchased some 153,000 hectares owned by the Spanish friars to relieve discontent among the tenants (during the Spanish colonial period, substantial tracts of land, referred to as Friars' lands, were acquired by various religious orders). Philippine land reform had begun.

The momentum for land reform was short-lived however. American political dependence on landlords during the early years of this century, and the rapid growth of Philippine exports of sugar, abaca and coconut oil following the opening of free trade between the United States and the Philippines in 1909, dissuaded the American colonial government, despite frequently expressed interest and activity of American officials on behalf of the under-privileged, from actively pursuing land reform efforts.

Motivated by unsatisfactory tenurial conditions and continued landowner abuses, the Philippines experienced peasant revolts in the 1930s. The first Filipino legislative initiative related to agrarian reform was taken in 1933, when Senate President Quezon, reacting to the inequities of tenancy contracts in the rice and sugar areas of Central Luzon and Negros, pushed through legislation dividing the product between tenant and landholder. This legislation, however, like most of the succeeding acts passed prior to 1955, lacked provision for implementation or enforcement.

Not content with simply the regulation of public lands, the drafters of the 1935 Philippine Constitution recognized the growing socio-economic problems of the times which resulted from the antiquated tenancy relationships. Provision was made for the expropriation of landed estates for resale, and for the limitation in size of agricultural lands for private ownership. After the inauguration of the Commonwealth, additional land reform legislation was enacted in 1939, 1940 and 1946. Such legislation tended to emphasize a social justice theme which treated the problem primarily as one of equity. The legislation, however, failed to provide for implementation of any meaningful efforts in land reform and tenancy rates for the nation actually increased from 22 percent in 1918 to 35 percent by 1952.

The United States government was directly drawn into the field of land reform in the Philippines as a result of studies conducted by the Bell Mission in 1950. That Mission recommended U.S. government assistance to the Philippines if the Quirino administration would adopt certain tax legislation and other reform policies. Although reports at the time urged drastic land reform measures to be adopted, no legislation was introduced until Ramon Magsaysay, whose campaign had urged land for the landless, became President of the Philippines in 1954.

In 1954 and 1955, President Magsaysay persuaded the Philippine Congress to pass four pieces of land reform legislation over the opposition of landowners, including The Land Reform Act of 1955. As finally enacted however, the proposed legislation was weakened and the program was under-financed, poorly administered, and in places, corrupted. Nonetheless, there were some improvements and better enforcement over previous legislative attempts. As long as President Magsaysay was alive, the cooperative institutions established by his legislation, such as the Land Tenure Administration, functioned efficiently. Following his tragic death, the program collapsed.

In 1963, with tenancy rates in Central Luzon ranging from 70 percent to 85 percent, President Macapagal, who had also promised land reform in his election campaign, succeeded in persuading the Philippine Congress to pass well-studied and comprehensive legislation (Agrarian Reform Code, also known as Republic Act 3844). By this time the balance of political forces had shifted sufficiently that landlord resistance might have been overcome if the program had not been under-financed, imperfectly administered and frequently used as a vehicle for political ends rather than for the achievement of economic and social objectives. After initial successes, it finally broke down. When President Marcos assumed office in 1965, he continued the program, but with the proclamation of far more land reform areas than could be financed and with unsolved management and administrative problems.

At the beginning of the martial law period in 1972, President Marcos placed all tenanted rice and corn lands under agrarian reform through Presidential Decree (PD) No. 27. PD 27 provided for the transfer of ownership of privately-owned rice and corn lands cultivated under sharecropping or lease tenancy. This program became known as Operation Land Transfer (ULT).

The eligible tenant-farmers were declared "deemed owners" of the land they tilled, up to a size of 3 hectares if irrigated, and 5 hectares if not irrigated. The total cost of the land, which was calculated by using the average value of production of the land for the three years prior to 1972 multiplied by 2.5, was paid by the tenants over a period of fifteen years in equal installments. While paying the amortization fees, the beneficiaries received provisional titles, called Certificates of Land Transfer. It was originally foreseen that, after the full payment of the cost of the land, the former tenants would receive Emancipation Patents (EPs), a step less than a fee-simple title, which banned the bank from foreclosing on the beneficiary and provided for transfer within families. EPs also had a limited effect on the ability of the beneficiary to obtain production credit. (From January 1986 onward, EPs were issued regardless of the amortization paid, with the outstanding balance noted on the back of the title.)

But President Marcos grew weary of land reform when it became obvious that it could no longer help him politically. Furthermore, there were difficulties in establishing compensation levels based on the value of production formula, peasants lapsed into default on their land payments, and the program became too expensive for the government to continue. Technically, ULT was also hampered by the lack of a nationwide cadaster, problems of land valuation and complicated payment procedures. Meaningful agrarian reform in the Philippines was in a state of paralysis from the mid 1970s through the 1986 Revolution. The political will to advance the program was stifled and the economy did not permit sufficient financing to be mobilized for further implementation.

B. Comprehensive Agrarian Reform Program (CARP) 1/

1. Legislative Mandate

Following the 1986 Revolution, the Aquino administration promised to initiate a land reform program with the intent of equitably distributing land to those who tilled it. Articles XII, XIII and XIV of the 1987 Philippine Constitution provide for a comprehensive agrarian reform program, covering all agricultural lands founded on the right of farmers and regular farm workers, who are landless, to own, directly or collectively, the lands they till. Article XIII of the Constitution explicitly provides for the State to undertake the just distribution of all agricultural lands, subject to the rights of small landowners, the homestead prior rights of small settlers and the rights of indigenous communities to their ancestral lands. Although priorities and retention limits were left to Congress to determine, just compensation to landowners was prescribed.

Given its agrarian reform mandate, on July 17, 1987, President Aquino approved EU No. 228, which provided for the expeditious implementation of land reform activities under PD No. 27, i.e., principally ULT, and prescribed that beneficiaries who acquired land under that PD were full owners of such land.

1/ Copies of selected GUP laws, executive orders and proclamations referred to in this document may be found in Annex F to this paper.

EU No. 228 also provided improved terms for landowner compensation by increasing rates of interests on LBP bonds, extended repayment periods from 15 to 20 years, included enforceable sanctions involving foreclosure if tenant beneficiaries were more than three amortization payments behind and introduced an appeals procedure for landowners protesting land valuations.

Five days later, President Aquino issued Proclamation No. 131 instituting CARP. EU No. 229 (also issued July 22, 1987) states that CARP shall cover all public and private agricultural land, regardless of tenurial arrangements or commodity produced and outlined the mechanisms for implementing CARP. A Presidential Agrarian Reform Council (PARC), chaired by the President, was created to coordinate implementation of the CARP and "ensure the timely and effective delivery of the necessary support services". The PARC includes 11 Cabinet members, the President of the Land Bank and representatives of agrarian reform beneficiaries and affected landowners. The Department of Agrarian Reform (DAR) serves as the lead agency, but is expected to work closely with other departments, including the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR) and the Land Bank of the Philippines (LBP). A complete listing of all agencies included in PARC can be found in Annex A of this paper.

In June, 1988, President Aquino signed into law RA No. 6657, the Comprehensive Agrarian Reform Law which defines the coverage, priorities and retention limits of the CARP. The scope of RA No. 6657 covers all public and private agricultural lands and limits exemptions for such uses as national defense, wildlife and forest reserves, schools, etc.

2. Description of CARP

In its stated goals and objectives for CARP, the Aquino administration continues to stress the social justice rationale for agrarian reform. According to PARC, the goals of CARP can be summed up as follows:

- to revive and develop the full potential of Philippine agriculture in order to pave the way for national industrialization as well as to assure genuine independence of the country;
- to provide farmers and farmworkers with the opportunity to enhance the dignity and improve the quality of their lives through greater agricultural productivity;
- to carry out the provisions of the Article on social justice in the 1986 Constitution, and
- to heed the call of the times for change and for an agrarian reform program that is workable and sufficiently funded.

It is recognized that the CARP will require an enormous effort in human and financial capital to implement as it seeks not only to provide EPs to small farmers and farmworkers but also the necessary support services required.

of a comprehensive land reform program. The Aquino Administration recognizes that adequate support services must be provided to new land owners if agrarian reform is to be successful. Services include the provision of physical infrastructure (farm-to-market roads, electricity, irrigation, post harvest facilities, etc.) access to production credit and other farm inputs, surveys and data base management, research and development and institutional strengthening of implementing agencies.

3. Planned Implementation of CARP

The CARP envisions a phased approach to land reform, with an ultimate target of 10.3 million hectares and nearly 3.9 million beneficiaries. CARP includes both land transfer activities and non-land transfer distributive activities. Lands to be transferred under the program fall into four broad categories: a) all alienable and disposable (A & D) lands of the public domain devoted to or suitable for agriculture; b) all lands of the public domain in excess of the specific limits as determined by Congress; c) all other lands owned by the government devoted to or suitable for agriculture; and d) all private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

Non-land transfer distributive activities allowed under the program include: a) production sharing agreements between landowners and farmworkers; b) certain corporate landownership schemes; c) lease and management contracts registered prior to the approval of EO 229; and d) the Integrated Social Forestry Program, which seeks to improve productivity and ecological stability in forest areas by assigning stewardship rights to beneficiaries.

The GOP plans to implement both land transfer and other distributive activities in three phases. Phase I will concentrate on land transfer of rice and corn lands originally slated to be transferred under PD 27; idle or abandoned lands, private lands voluntarily offered for sale; land foreclosed by government financial institutions, PCGG-acquired land; and government owned agricultural land. Phase II will include both land transfer and other distributive activities and will cover alienable and disposable public agricultural land; arable public land under agroforest, pasture and agricultural leases already planted to crops; public agricultural land to be opened for development and resettlement, and the excess amount over 50 hectares of private agricultural lands. Phase III will cover the land transfer of other private agricultural lands.

Phase I is scheduled to be implemented over a period of seven years, from 1987 through 1994 (rice and corn lands are to be implemented over a four-year period only; 1987 through 1991). Phase II is to be implemented over a similar period beginning in 1987 through 1994, except that integrated social forestry areas will continue to be implemented through 1997. Phase III will be implemented in two schedules, i.e., beginning the fourth year, and to be completed within three years, for landholdings above 24 hectares up to 50 hectares, and beginning the sixth year, and to be completed within four years, landholdings from the retention limit up to 24 hectares.

Table 7

Coverage of Planned CARP Implementation
1987 - 1997

| | <u>Hectares Covered</u> | <u>Beneficiaries</u> |
|--|-------------------------|----------------------|
| <u>Phase I</u> | <u>1,454,800 ha.</u> | <u>765,009</u> |
| Rice and Corn Lands | 727,800 | 522,675 |
| Idle and Abandoned Lands | 250,000 | 83,332 |
| Voluntary Offers | 400,000 | 133,335 |
| Surrendered/Sequestered Lands | 2,500 | 833 |
| GOV-owned Agricultural Lands | 74,500 | 24,834 |
| <u>Phase II</u> | <u>7,487,900 ha.</u> | <u>2,685,302</u> |
| Public A & D Lands and Lands under Agriculture Leases | 4,595,000 | 1,721,000 |
| Integrated Social Forestry | 1,880,000 | 626,667 |
| Resettlements | 478,500 | 159,500 |
| Private Agriculture Lands in excess of 50 hectares | 534,400 | 178,135 |
| <u>Phase III</u> | <u>1,352,900 ha.</u> | <u>450,966</u> |
| Other Private Agricultural Lands | | |
| 5.01 to 24 hectares | 1,049,800 | 349,932 |
| 24.01 to 50 hectares | 303,100 | 101,034 |
| TOTALS | <u>10,295,600</u> | <u>3,901,277</u> |

Source: Comprehensive Agrarian Reform Program, Volume I and Volume II,
Economic and Fiscal Implications, Presidential Agrarian Reform
Council, September, 1988.

The projected cropping pattern for each CARP implementation phase is summarized in Table 8. The traditional crops included in Phase I are irrigated/unirrigated rice and corn. The only changes likely in this pattern during implementation are the increasing ratio of lands devoted to irrigated rice to non-irrigated rice because of the construction of irrigation facilities under the CARP and a shifting in unirrigated rice lands to corn due to the relatively higher profitability and the need to satisfy increasing demand for livestock feeds.

At present, lands under voluntary offers for sale are mostly devoted to sugarcane and coconut or are idle and abandoned lands. It is expected that there will be some expansion of cultivated areas in the idle and abandoned lands as well as an intensification in other lands, especially in coconut lands where intercropping will be practiced.

Of all the planned implementation phases of CARP, Phase II has the greatest potential for expanding the cultivated area. While soil surveys will be needed to determine the appropriate crop mix for the different types of lands under this phase, it is expected that the cultivation of such crops as unirrigated rice, corn, coffee, cacao, peanut, mungbean, mango and other non-traditional fruit trees would be initiated.

Across the three phases, it is in Phase III where lands are relatively well-developed and a considerable portion are corporate farms. The most common crops grown are coconut, sugarcane, tobacco, abaca and coffee. The potential for expanding the cultivated land area under this phase is practically nil although the use of improved agro-technology could improve yields somewhat.

4. Program Management

Although PARC is responsible for the implementation of CARP, as the Executive Secretariat of PARC, the DAK is the central administrative unit charged with overseeing CARP implementation. The DAK is currently strengthening and increasing its staff size from 9,000 to 14,500. These additional workers will be contracted employees who will assist in the conduct of land surveys and augment clerical staff in processing the expected large number of EPs to be issued. The DAK recognizes that sheer numbers of workers will not guarantee success in the implementation of CARP. Personnel skills will have to be up-graded and monitoring/reporting systems designed to effect the smooth implementation of CARP. Therefore, the DAK has recently contracted for an analysis of needs for the implementation of a CARP management information system and tested it on a pilot basis covering three regions.

The quasi-judicial powers of DAK, to determine and adjudicate agrarian reform conflicts and disputes, as provided under EO No. 229 and retained by RA No. 6657, will require DAK to also employ a number of highly skilled personnel. Difficulties are expected in filling positions with qualified personnel, such as lawyers, where compensation and employment conditions are more attractive in private practice.

Table 8

Summary of Land-Use by Implementation Phase
Physical Area, with CARP

| PROGRAM | AREA (1,000 Ha.) |
|----------------|---------------------|
| PHASE I | 1,454 |
| Field Crops | |
| Irrigated Rice | 327 |
| Upland Rice | 290 |
| Corn | 300 |
| Mungbean | 12 |
| Peanut | 13 |
| Sugarcane | 115 |
| Perennials | |
| Mango | 25 |
| Coconut | 150 |
| Abaca | 75 |
| Coffee | 75 |
| Rubber | 50 |
| Banana | 2 |
| Cacao | 20 |
| PHASE II | 7,488 |
| Field Crops | |
| Irrigated Rice | 948 |
| Upland Rice | 880 |
| Corn | 1,200 |
| Mungbean | 78 |
| Peanut | 47 |
| Vegetables | 55 |
| Sugarcane | 240 |

(Table continues on next page)

Table 8 (con'd)

Summary of Land-Use by Implementation Phase
Physical Area, with CARP

| PROGRAM | AREA (1,000 Ha.) |
|------------------|---------------------|
| Perennials | |
| Coffee | 75 |
| Cacao | 60 |
| Coconut | 2,825 |
| Cassava | 135 |
| Mango | 25 |
| Rubber | 15 |
| Abaca | 37 |
| Banana | 188 |
| Other Perennials | 180 |
| Timber | 500 |
| PHASE III | 1,353 |
| Field Crops | |
| Irrigated Rice | 425 |
| Upland Rice | 180 |
| Corn | 260 |
| Sugarcane | 35 |
| Vegetables | 295 |
| Perennials | |
| Coconut | 25 |
| Abaca | 118 |
| Coffee | 5 |
| Banana | 10 |
| GRAND TOTAL | <u>10,295</u> |

Source: Comprehensive Agrarian Reform Program, Volume I, Economic and Fiscal Implications, Presidential Agrarian Reform Council, September, 1988.

Other key implementing agencies include the DA, the DENR and the LBP. GOP agrarian reform funds have been released to the DA for the hiring of contract staff. The DA proposes to field these new contract hires in agrarian reform areas covered by estate and plantation agriculture and in rainfed and upland areas where complex multi-cropping farming systems prevail. The DA proposes to serve agrarian reform farmer beneficiaries of Program A using their regular staff already assigned to rice and corn areas covered by the OLT program.

The National Mapping and Resource Inventory Authority (NAMRIA), an agency of the DENR, has the responsibility for classifying public domain lands, including the classification of their suitability for agriculture. In addition, such land classification is required for the declaration of ancestral land reserves. NAMRIA is better funded and equipped than most GOP agencies. Nonetheless, extra funding for the hiring of field staff will be needed to work on land classification required to proceed with land transfer of rice and corn areas and public lands. Other DENR agencies involved in CARP include the Forest Management Bureau and the Land Management Bureau.

As a result of LBP's policy decision to wholesale a greater percentage of production loans to agricultural cooperatives and viable rural banks in the future, the LBP has plans and budgetary allocations to double its Field Services Division staff in 1988. However, the expansion of staff has been slow and the projected build-up of the number of Land Bank branches and Field Service Offices has proceeded more slowly than expected.

The Department of Public Works and Highways (DPWH) is responsible for the construction and maintenance of rural infrastructure such as roads and irrigation systems under the CARP.

5. CARP Financing

According to PARC records, the total cost of CARP from 1987 through 1997 is estimated at ₱402.7 billion, or \$19.2 billion. Of the total cost, land acquisition and distribution (LAD) accounts for 38 percent, or ₱155 billion. This includes an estimated total landowners' compensation amounting to ₱97.4 billion of which 26 percent will be paid in cash and the balance in Land Bank bonds. Cash redemption of bonds and payment of interest are estimated to cost ₱54.6 billion, representing 76 percent of total bonds issued for the same period. For post-land distribution support activities (PLDSA), the estimated cost amount to ₱247.7 billion or 62 percent of the total CARP costs. Based on individual production credit loans to beneficiaries ranging from ₱4,000 to ₱5,000 per hectare, credit support is estimated at ₱159.5 billion during the 10-year implementation period, accounting for 79 percent of the total cost for support services to farmer/beneficiaries. For the same period, extension services and infrastructure facilities are estimated to cost ₱15.4 billion and ₱25.7 billion respectively.

CARP needs are expected to be financed from proceeds from the sales of the Asset Privatization Trust (APT); from sales of recorded assets of wealth recovered through the Presidential Commission on Good Government (PCGG); and

proceeds of the disposition of the properties of the GOP in foreign lands. It is estimated that for the implementation period 1987-1997, total receipts to be generated from these sources will amount to ₱50.1 billion. External assistance will be sought to cover the shortfall to finance CARP. To date, the GOP has received "commitments" from the ADB, the Italian, Dutch, Japanese and U.S. governments amounting to \$176.5 million, or ₱3.81 billion. Table 9, Sources and Uses of CARP Funds, clearly illustrates the expected shortfall of funds, particularly for PDSA, over the life of CARP.

In 1987, a total of ₱254 million (\$12 million) was disbursed out of the Special Agrarian Reform Fund (SARF) as the supplemental budget to agencies participating in CARP implementation. This amounted to 14 percent of the total amount approved for CARP implementation activities by the PARC. Of the ₱254 million spent, 66 percent was used by the LBP for land transfer, production loans, and operational support activities; 25 percent by the DAR for land registration, public information, and operational support activities; 8 percent by the DENR for land survey and titling activities; and 2 percent by the DA for agricultural extension services.

The major reason for the initial delay in disbursement of funds was related to the time required by PARC to design and issue needed implementation guidelines and procedures for CARP. Many of these guidelines have now been issued (see Annex A for a listing of selected CARP implementation guidelines). Also, management and communication systems between coordinating CARP agencies were structured and strengthened. Apparently, these steps have had a positive effect on disbursements under CARP. According to estimated figures provided by the PARC, fourth quarter disbursements for 1988 are 297 percent higher than for the same period in 1987 (₱ 754 million to ₱ 254 million).

The SARF budget in 1988 was for ₱6.5 billion (\$303 million). Of this, ₱2.0 billion (\$94 million) was to go towards current operating expenditures, and ₱4.5 billion (\$211 million) was slated for capital outlays. Preliminary estimates, however, suggest that actual expenditures for CARP-related activities under Phase I in 1988 were more like ₱1.364 billion (\$65 million).

The 1989 SARF budget targets ₱6.9 billion (\$329 million) for CARP implementation activities. Of this, 35.1 percent is to go to the DAR; 32.8 percent to LBP; 10.5 percent to the DENR; 8.1 percent to the DA; 9.9 percent to the Department of Public Works and Highways; and the remainder to the National Land Titles and Deeds Registration Administration and the Department of Trade and Industry.

Further analysis of the cash projections for the SARF shows that the PLDSA component will incur cumulative funds deficits of ₱2.9 and ₱18 billion during 1989 and 1990 respectively. An analysis of SARF is included as Annex B to this paper and provides a justification for A.I.D. program funding to be included into CARP for 1989.

Table 9

SOURCES AND USES OF FUNDS FOR THE SARF
1987 to 1997
(Billions of Pesos)

| SOURCES OF FUNDS | | USES OF FUNDS | | | | | |
|---|--------------------------------------|---------------|---------------------|------------------------|------------------------------|---------|--------|
| LAND ACQUISITION AND DISTRIBUTION (38%) | PCGG | 7% | P 28.3 | Land Survey * | 1% | P 2.9 | |
| | APT | 5% | P 21.9 | | Landowner's Compensation | 24% | P 97.4 |
| | Land Amortization | 1% | P 2.8 | | | | |
| | LBP Bonds | 17% | P 71.8 | | Payment of Maturing Bonds | 13% | P 54.6 |
| | Undetermined Source | 8% | P 30.1 | | | | |
| POST-LAND DISTRIBUTION SUPPORT ACTIVITIES (62%) | Identified Foreign Donor** | 1% | P 1.3 | Preliminary Activities | 1% | P 1.4 | |
| | Unidentified Foreign Donors | 36% | P 146.2 | Extension | 4% | P 15.4 | |
| | Collections and Revenues from Credit | 25% | P 100.3 | Credit | 40% | P 159.5 | |
| | Totals | | <u>P402.7</u> | Infrastructure | 6% | P 25.7 | |
| | | | Support to Agencies | 11% | P 45.8 | | |
| | | | Totals | | <u>P402.7</u> | | |

* Land survey, EP Generation/Distribution Patents, EP Registration and titling.
 ** Includes USAID grant of \$50 million.
 //// - anticipated funds deficit
 Exchange rate \$1=21 pesos

C. Expected Impact

According to the GUP, the successful implementation of CARP is expected to have a positive effect on rural incomes, employment generation, agricultural productivity and economic/political stability. Although it may be difficult to justify these expectations at this time, it can be said that the economic rationale of CARP, based on equity, is defensible. The longer term effects of land reform lie in its restructuring of the ownership patterns of rural society so that a much larger proportion of the population can be reached by, and can benefit from productivity-increasing projects and interventions in the agriculture sector.

Also, it is significant to note that a common feature of those economies, such as Japan and Korea, which have experienced rapid economic growth associated with equity - such that the benefits from growth were not concentrated mainly among the wealthy - are those in which an effective and comprehensive land reform have been implemented. Based on the experience of these countries, a far-reaching land reform program is clearly not inconsistent with rapid economic growth. There is good reason to believe that it is consistent with rapid social development (for more on the social consequences of CARP, see Annex H to this paper).

Finally, CARP offers an opportunity for various centers of Philippine political power to converge, understand and more clearly delineate positions and goals. With its fast growing population and effectively-closed land frontiers, there will be continuing pressure on the land and continuing agitation for reform. CARP is such a massive program, its funding requirements so encompassing that, in one way or another, it will have a direct bearing on most Filipinos.

The primary beneficiaries will be those Filipinos who are small farmers and who benefit directly under CARP as recipients of Emancipation Patents or production loans. Other direct beneficiaries include individuals who receive training to introduce new or up-grade existing skills and private sector firms expected to be contracted by the GUP to perform land surveys, construct infrastructure projects and conduct training. Indirect beneficiaries include small farmers who benefit from the completion of infrastructure projects which aid specific locales or regions in which they reside, and private sector firms which provide the materials and services associated with infrastructure activities.

D. Analysis of the Risks of CARP

CARP, as a massive redistributive undertaking, has substantial associated risks. These risks fall into three broad categories: political, financial, and economic. In addition to these risks undermining the probability of successful implementation of the program, success itself is also associated with risks. For instance, faltering political commitment, insufficient financial resources, and the GUP's general difficulties in implementing public investment projects may constrain CARP's completion. However, other problems,

such as vigilante violence, decreased agricultural investment, and an unsustainable financial drain on the GOP may ensue if the program's implementation proceeds as planned. However, A.I.D. believes that the risks are containable in the early years of the program, although they are likely to become increasingly worrisome later on. Furthermore, the ARSP is designed with these risks in mind, and A.I.D. support will be limited to the least controversial aspects of the CARP. Finally, A.I.D. believes that its assistance may serve to alleviate some of the risks of CARP. Therefore A.I.D. believes that the ARSP is justified, despite the political, financial, and economic risks associated with CARP outlined below.

Political Risks

An important risk associated with CARP's implementation is the possibility that political commitment to the program at the central level might wane. Already, the GOP has granted several exemptions to the program and a 10-year deferment for private commercial farms. Momentum will particularly be at risk in 1992, when the next presidential elections are scheduled. Another political constraint to the successful implementation of CARP is the weak control the central government exerts over remote areas such as parts of Mindanao. The possibility of violence surrounds land transfer activities on the part of vigilante landowner groups or impatient tenants.

The tremendous publicity surrounding CARP's passage has raised the expectations of potential tenant/beneficiaries. At this point, failure to implement the program has political risks. If implementation drags on for years, tenant frustration may lead to unrest and political instability, thus aggravating the problem that CARP was designed to address. In addition, the rhetorical and financial support that the United States is providing CARP increases the risk that the United States may be used as a scapegoat if the program is not implemented successfully.

Financial Risks

Perhaps the greatest risk associated with the GOP's ability to implement CARP pertains to the sheer size of the program. The total cost of the program is presently estimated at P402.7 billion, or \$19.2 billion. This figure represents 344 percent of total 1989 budget appropriations for all activities under all branches of the government, and the GOP's ability to finance the program remains uncertain. The GOP's present strategy to finance CARP relies heavily on highly optimistic assumptions about the level of proceeds from the sales of assets now held by the APT and PCGG, and the willingness of foreign donors to provide support to the program.

Contributing to the GOP financing problem are the differences in financial terms between the landowners' compensation packages and the tenant-beneficiaries' schedules for amortization and interest payments. Landowners will receive between 25 and 35 percent of the face value of their total compensation in cash (landowners who voluntarily offer their land for sale will receive an additional 5 percent in cash as an incentive). The

remainder will be in the form of transferable and negotiable 10-year Land Bank bonds, which will have interest rates aligned with 91 day Treasury bill rates, with 10 percent of the face value maturing each year from the date of issuance. Beneficiaries will pay the Land Bank in 30 annual amortization payments at 6 percent interest. The differential in financial terms, plus the possibility that interest payments to former landowners could skyrocket, will put an enormous strain on the Land Bank, whose viability may come into jeopardy. Were this to happen, political forces would almost certainly force the GUP to bail LBP out; however, such a bailout would simultaneously add another budgetary burden to the GUP and undermine the GUP's efforts to wean financial institutions such as LBP from state support. This potential problem will be further exacerbated if the GUP interprets "fair compensation" to landowners (mandated in CARL) to mean full market value, as now seems likely.

Economic Risks

One weakness of CARP, as it is presently designed, is that there is too much emphasis on asset transfer. Although the GUP expects that ultimately, agricultural production and farmers' income will increase, the means by which this is supposed to happen is at this point still not sufficiently articulated. However, unless beneficiaries' income increases, many are likely to be unable to hold on to their newly acquired asset. The support services and infrastructure components of CARP will therefore be crucial to the success of the program as a whole. However, the GUP has had substantial difficulties in moving the capital outlays portion of its budget, and to implement the planned infrastructure projects under CARP may prove difficult.

Other economic risks involve the possibility that agricultural production may actually fall as a result of the program. Uncertainty in the ten years scheduled for CARP's implementation may discourage investment. If the land transfer is successful, productive units may be broken up and it may take some time before the new beneficiaries attain similar production levels. Another risk is that CARP will create a large number of very small farms (the implied average farm size for the program as a whole is only 2.6 hectares), which will be too small to alleviate poverty significantly. Finally, the large budgetary outlays and the credit expansion associated with CARP will likely add to inflationary pressures on the economy.

Rationale for A.I.D. support in light of these risks

The bulk of the political risks of CARP pertain to the land transfer component of the program. However, A.I.D. has designed AKSP so that A.I.D.'s involvement will be limited to the least politically controversial aspects of the program. Furthermore, A.I.D. believes that foreign donors' involvement and resources at the early stages of CARP's implementation increase the likelihood that the GUP will be able to maintain momentum. Another justification for A.I.D. support despite the political risks associated with CARP is that the program need not be fully implemented in order to be "successful". For instance, even if only hundreds of thousands of hectares of publicly held and foreclosed lands were transferred, there would still be

benefits, as the status of squatters were formalized and such farmers were given greater stake in the system and incentive to invest. A.I.D. therefore believes that even if CARP is only partially implemented, sufficient political benefits are likely to justify the potential risks.

Although the potential financial problems in implementing CARP are serious, the program is adequately financed for the first several years. As is shown in Annex B, already identified sources of funds are expected to raise sufficient resources to cover CARP implementation activities through 1990. The GUP projects a small deficit in 1991, which will likely be covered by foreign donor commitments now being made. Furthermore, the program is still evolving, and further refinements could well lower the total costs to the GUP of implementing the program. For instance, voluntary stock options now being considered by several multinational corporations could reduce the land acquisition costs to the GUP. CARP may, therefore, turn out to be overbudgeted.

While the potential costs to Land Bank and ultimately the government due to the different financial terms of the compensation and acquisition packages are high, these costs will not really kick in until after significant transfers of private land have taken place, which will not be until the later years of the program. A final consideration is the possibility that AKSP may encourage financial prudence on the part of LBP, since A.I.D. resources will be available for production credit only insofar as the credit is market rate oriented and is repaid.

A.I.D. also believes that the economic risks to CARP are containable in the early years of its implementation. Asset transfer per se does not necessarily translate into economic benefits for society as a whole, therefore in the long term, the GUP's ability to implement needed infrastructural projects will be crucial in determining beneficiaries' future production and income levels and the success of the program as a whole. However, the GUP expects that CARP implementation activities in the early years of the program will be concentrated on rice and corn lands in relatively developed areas, where adequate infrastructural and support structures already exist. For the years of AKSP coverage, then, the majority of CARP beneficiaries will likely be able to generate sufficient production and income to be able to retain control over their newly acquired asset. Even if small, the landholdings will represent an improvement over the present situation. While they may not be the ultimate solution to poverty, they should allow improved economic conditions for the beneficiaries. Inflationary pressures due to CARP will be greatest in later years of the program, when the AKF begins to run deficits and when credit begins to expand more rapidly. Finally, A.I.D. believes that the activities that AKSP will be supporting, such as land surveys, market roads, impoundment dams, are economically worthwhile irrespective of what happens to CARP as a whole.

E. Constraints to CARP Implementation

With the issuance of EU 228 and EU 229 in 1987, agrarian reform activities under the Aquino administration were officially initiated. Implementation of

programs covered by PD 27 were targetted first. Of the 822,000 hectares originally to be covered in the ULT (and 688,000 beneficiaries), 557,000 hectares (and 398,000 beneficiaries) remained to be covered as of 1987 (see Table 10). The achievements since 1972 of ULT include the issuing of EPs to 190,000 beneficiaries in respect of 265,000 hectares of land, or 32 percent of program objectives. There is, clearly, wide scope for improving administrative arrangements that would expedite progress under PD 27.

Table 10

OLT (PD 27) Achievements

| | <u>Area covered</u> ('000 ha) | <u>Beneficiaries</u> ('000) |
|------------------------|-----------------------------------|---------------------------------|
| Full Program Coverage | 822 | 588 |
| Completion (1972-1986) | 265 | 190 |
| Remaining (1987-1990) | 557 | 398 |

In 1987, the ULT program accomplished only 47.1 percent of its plan target of 170,000 hectares, however, the land distributed during this period, 80,145 hectares, accounted for over 23 percent of the total land distributed since the launching of the program in 1972! This dramatic improvement can be attributed to (a) a series of inter-agency planning workshops conducted at the national, regional and provincial levels which successfully integrated ULT activities, simplified systems and procedures on land acquisition and distribution and decentralized DAK management authority; (b) the priority placed by the PARC on the completion of the ULT program, and (c) the provision of additional funding support.

Further, in preparation to the launching of the CARP, a compulsory program of landowners' registration was initiated in 1987. The purpose of this program was to generate a comprehensive database on land tenure. Also, a public information campaign to create awareness and encourage public acceptance of the concepts, principles and expected benefits derived from CARP was begun. Preliminary steps to organize Barangay Agrarian Reform Councils (BARCs) were instituted and the formulation of various operating policy guidelines for the implementation of CARP were issued during this period as well. The PARC is currently in the process of finalizing twenty sets of guidelines for CARP. Among the guidelines still being reviewed by the DAK are those governing multi-national corporations, commercial farms and production/profit-sharing enterprises (list of guidelines appears in Annex A to this paper).

As previously mentioned, the legislative mandate is now in place which, among other things, institutes an agrarian reform program, provides for tenure security, establishes the powers to execute the CARP, determines a just land valuation, sets implementation priorities, includes enforceable sanctions involving foreclosure if a tenant beneficiary is behind in payments and outlines an appeals procedure of landowners protesting land valuations. However, there remains a number of problems which will impede the implementation of CARP before significant accomplishments can be realized.

Those problems relate to issues regarding the transfer of beneficiary rights obtained from the ULT program through the sale or passing of rights, inter-vivos, to heirs or others, GUP land records which are incomplete and duplicative; land re-surveys which must be completed on up to 20 percent of the ULT areas; compensation provisions which must be revised for rice and corn lands under ULT which are based on pre-1972 use of land values and are often only a small fraction of their true market value; BARCs, which are meant to verify and help establish land values, and are far from being fully organized, and ULT beneficiaries who do not have the financial resources to pay taxes due on the land from the effective date of transfer, i.e., from 1972.

The potential problems, like its scope, are enormous under CARP. The GUP has concluded that agrarian reform is necessary for political stability and as a means of increasing the number of Filipinos participating in, and having an impact on, economic recovery efforts. The past attempts, and failures, at legitimate land reform in the Philippines have only confirmed that to succeed, CARP must be comprehensive in scope, the legislative mandate as well as the administrative framework must be in place, the political will to support agrarian reform must be shared by a majority throughout the Philippine political spectrum; and financing must be made available and be commensurate with program objectives.

III. PROGRAM OBJECTIVE AND STRATEGY

A. Objective

The objective of the proposed AKSP is to assist the GOP in agrarian reform efforts by providing program support and monitoring and evaluation services for the early implementation phase of CARP.

The United States has important political, economic and strategic interests in the Philippines. Further, the Philippines has important development needs which the U.S. can help address. In recognition of these twin interests, the U.S. Government has fostered, with the Philippines, one of its longest, uninterrupted development assistance programs anywhere in the world. It is recognized that a strong, economically sound and democratic Philippines is in the best interest of the United States.

Although tremendous economic strides have been made since the 1986 Revolution, the Philippine economy, like its democracy, remains frail. The CARP is a program intended to transform the agricultural base and permit more Filipinos to share in their nation's economic revitalization by becoming full partners in development. This will not only allow a greater number to participate in shaping their own destinies, but will counteract insurgency claims that the GOP is not serving the needs of its people.

In December, 1987, the U.S. Congress took the initiative and earmarked \$50 million in Economic Support Funds (ESF) to assist in the Philippine Agrarian Reform effort, provided that the following conditions were met by August 31, 1988:

- (1) The Government of the Philippines initiates an effective agrarian reform program and requests assistance from the United States for that program; and
- (2) A substantial majority of the resources for the implementation of that program will be provided by the Government of the Philippines or other non-United States donors or both.

The substantial majority of resources required under CARP will be provided by the GOP or other non-U.S. donors. In fact, SARF has already expended more resources than AKSP will make available (see discussion on CARP financing included in Annex B of this paper for details). In June, 1988, A.I.D. reached the conclusion that "an effective agrarian reform program, within the meaning of the relevant provision of the FY 1988 Continuing Resolution has been initiated" (see STATE CABLE 209420, dated June 29, 1988, Annex I). This determination was based on the number of important steps taken and the performance of the GOP in implementing CARP since the issuance of Ev Nos. 228 and 229 in July of 1987. Also, on April 7, 1988 the Mission received the GOP letter request to assist in the implementation of CARP (see Annex C). Thus, the conditions required for the U.S. to assist Philippine agrarian reform efforts have been satisfied.

In the Mission's view, CARP continues to be an effective program. This assessment is based on the accelerated level of land surveys completed under the old ULT program during the last year, the encouraging trend in disbursements realized during 1988 and the formulation of over twenty implementation guidelines during the last six months of 1988 which provide greater clarification and necessary operational procedures for the continued implementation of CARP.

Given U.S. strategic and development interests, continuing economic/political difficulties in the Philippines, and the high priority placed by the GUP on agrarian reform, this document presents a program for A.I.D. to channel its resources effectively to assist the GUP in its agrarian reform efforts.

B. Strategy

1. Program versus Project Approach

The need to make an immediate impact and reflect U.S. desires to assist in agrarian reform efforts of the GUP justify the use of a program approach over that of a project. As has been noted earlier, the GUP has initiated an effective agrarian reform program, i.e., CARP. The implementing institutions, while weak in many respects, are judged to be adequate to implement the program. A program approach, with the release of dollar transfers contingent upon the attainment of tangible physical performance indicators and SARF budget disbursements is fully consistent with the determination that CARP is an effective program. Our planned assistance is designed to alleviate a basic financial resource constraint to the initial implementation of CARP (see the analysis of SARF contained in Annex B). It therefore, is appropriate for A.I.D. to provide assistance to an existing, effective GUP program rather than to design and attempt to implement a separate activity to complement CARP. Further, our desire to show support for GUP agrarian reform efforts within a two-year time frame argues against the use of a project approach.

2. Relationship to Mission Strategy and PD-13 Guidance

The goal of the Mission's interim strategy in the Philippines is to work with the GUP and the Philippine private sector to improve living standards in the country's rural areas. Although support to CARP will not necessarily directly improve agricultural productivity, generate greater employment or increase rural income levels, our planned assistance has the potential to realize those objectives by allowing a larger proportion of the population to participate in the economic progress of their nation and promote political stability. Further, pesos provided by the GUP which are associated with the dollar disbursements will finance farm-to-market roads which will improve rural access to rural markets, fund the construction of irrigation systems which should increase agricultural productivity; and support the availability of formal credit through the increased use of production credit to beneficiaries. Thus, support for agrarian reform is consistent with the direction of the Mission's Interim Strategy.

A.I.D. Policy Determination (PD)-13 and Bureau for Program and Policy Coordination (PPC) guidance view land tenure and land reform as being marginal rather than fundamental in importance; that is, many other policies (e.g. farmgate prices, credit, marketing mechanisms, etc.) are seen as being at least of equal importance with regard to achieving rural development. A strong implication of the PPC guidance is that the conditions under which A.I.D. would support redistributive land reform will arise very infrequently; in most situations, it will be more appropriate, politically and economically, to pursue types of policies besides land reform in the policy dialogue between A.I.D. and the GOP. In fact, USAID is carrying out an extensive and effective policy dialogue with the GOP on improving agricultural policies under other programs and projects. Finally, neither PD-13 or subsequent PPC guidance provides policy guidance for a politicized situation of land maldistribution which ARSP indirectly addresses.

3. GOP Commitment

Agrarian Reform is a top priority of the Aquino administration. The 1986 Philippine Constitution mandates an agrarian reform program. Further, the Medium-Term Philippine Development Plan (1987-1992) acknowledges that an agriculture-led, employment-oriented development strategy without a meaningful agrarian reform program will not generate a strong positive impact on the rural poor to sustain broad-based rural development. The Medium-Term Philippine Development Plan recommends the following policies and strategies:

- Accelerate the conduct of Cadastral Surveys;
- Expand the scope and coverage of the previous Agrarian Reform effort;
- Strengthen the farm-base support services; and
- Strengthen farmers' organizations.

The GOP commitment has been confirmed by the legislative mandate (RP No. 6657) established, the steps taken to institutionally structure CARP implementation and by the funding identified and provided to date. The best reflection of the GOP commitment to CARP is the dedication of PARC officials to see that CARP succeeds.

4. Other Donor Assistance

USAID's grant of \$50 million in program support of agrarian reform efforts will significantly add to the total amount of funds committed by foreign donors to date. Thus far, a total of \$126.5 million in support of CARP has been committed by other donors. The Dutch Government provided \$10 million worth of fertilizers to be monetized, and the Italian Government signed a protocol agreement on January 12, 1989 to provide \$50 million to finance cadastral surveys, extension service and training, agro-industrial support services and the construction of post harvest facilities. The Japanese International Cooperation Agency, Japan's grant facility, recently agreed to provide P1.28 billion (\$60.2 million) for five capital assistance

projects. The ADB has agreed to provide an P8 million (\$380,000) grant to finance feasibility studies. In addition, the Italian Government and the Food and Agriculture Organization (FAO) jointly agreed to provide \$6.1 million to provide institutional support to agencies involved in CARP implementation activities.

A number of other donors are considering support of agrarian reform related activities in the near future. The British are now considering a request from DAK for a technical assistance grant for about \$80,260 to do a pilot nuclear farm project. The DAK has requested Japanese grant assistance amounting to \$35 million for agricultural support services and promotion. The Japanese are also considering extending a sector loan for CARP through an agricultural development program. The GUP has also asked the ADB to finance a \$45 million irrigation project. Further, under the general Consultative Group meeting scheduled to commence on July 2, 1989, in Tokyo, the GUP is expected to outline their needs and solicit commitments from donors to provide financing for specific portions of the CARP. It is expected that the Consultative Group will involve the United States, Japan, West Germany, Great Britain, the World Bank and other major donors.

To ensure that there is no double financing of SARF disbursements by AKSP and by other donors, the GUP will include a certification in the final audited reports that disbursements attributable to AKSP funded budget items were not financed by other donor programs.

IV. PROGRAM DESCRIPTION

A. The Program

Specifically, ARSP is designed as sector assistance with quantifiable physical and financial performance indicators. The ARSP will provide \$50 million in grant assistance. Of this total, approximately \$47.5 million will be available as program assistance to fund mutually agreed upon and eligible SARF budget line items. The remaining \$2.5 million will finance the anticipated monitoring and evaluation needs of the program supported by A.I.D. financing; any unused amount of which will be reallocated to the program assistance line item. Our assistance will principally support activities under the OLT component of CARP in the 18 - month period from January 1, 1989 to June 30, 1990.

The program assistance will be disbursed in tranches. As ARSP is designed, there may be several tranches of dollar releases. The first tranche will be released as soon after program execution as the conditions precedent (CPs) can be met and is based upon the GOP's reported physical accomplishments for the first two quarters of 1989 and on the GOP's reported disbursements in the first quarters of 1989 and reasonably anticipated disbursements for the last two quarters of 1989 in the eligible budget categories. After the initial tranche, dollars will be disbursed (in amounts not less than \$100,000), in response to GOP requests and based upon the degree of attainment of mutually agreed to physical performance targets and reported and reasonably anticipated SARF peso disbursements for mutually agreed upon eligible budget line items, adjusted if necessary on the basis of the results of monitoring. Upon receipt of each dollar tranche, the GOP will deposit, within one business day, into a special account the equivalent amount of pesos. The dollars, and any interest earned, will be used for payments of official debt to multilateral lending institutions such as the IMF, IBRD, IDA and ADB.

The requirement that the release of dollars is contingent upon meeting both "tests" addresses the need to encourage CARP performance and support SARF disbursements. The use of a physical performance indicator test ensures that A.I.D. disburses dollars only after the GOP has realized significant accomplishments in CARP's central activities: surveying land, and generating and distributing EPs. The use of a SARF disbursement test ensures that A.I.D.'s disbursements under ARSP are based on SARF budgetary expenditures.

Release of this Program's generated pesos to the SARF will be on a replenishment basis for a proportional share (approximately 80 percent) of disbursements on eligible SARF budget items in the aggregate. Quick disbursing eligible items, therefore, are likely to get a larger share of the A.I.D. Grant. The CARP implementation period to be covered will be from January 1, 1989 until the \$50 million has been disbursed, estimated to be 18 months.

Quarterly unaudited disbursement reports, physical progress reports and periodic audited reports will be required.

Special arrangements such as those used under BSP II, will be made to track the uses of the dollars and local currency. The details are discussed in Section V, Financial Arrangements and Implementation Plan, Implementation Process: Disbursements & Controls.

An accounting firm under an A.I.D. direct contract will verify both physical performance progress and SARF budget disbursements by reviewing submitted quarterly CARP progress reports and unaudited financial reports. The GOP's system for measuring physical progress indicators, while conceptually sound, is new and is only now being tested. Therefore, it is prudent that there is an independent review to verify progress. Reviews of GOP financial reports will enable USAID to determine the adequacy of both the data being generated and the system to process the data. It is understood that if the financial reviews reflect that the data and financial systems in place are adequate, these independent reviews could be curtailed and eliminated prior to the completion of the Program. However, initially, these services will be ready to cover the period of our planned involvement in CARP and cost approximately \$2,245,000.

An evaluation of ARSP is included and scheduled for July, 1990. The evaluation will involve an estimated eight person months of effort and cost approximately \$253,000. All contracts will be direct with direct payments being made.

B. Determination of Tranche Amounts

The release of dollars will be contingent upon two tests: the attainment of progress as reflected in ARSF physical performance indicators and SARF budgetary disbursements.

(1) Physical Performance Test: With regard to progress in meeting physical performance indicators, targets have already been established by the PARC. Five of these targets have been selected as performance indicators in the ARSP: area surveyed, emancipation patents generated, in terms of number and hectares covered; and emancipation patents distributed, again in terms of numbers and hectares covered. CARP performance against these performance indicators will be one measure to trigger the release of dollars to SARF. Performance completed since January 1, 1989 will be included as progress toward meeting ARSP performance indicators for purposes of determining the size of all dollar disbursements. ARSP's benchmarks are approximately 130 percent of the 1988 GOP accomplishments. Table 11 shows the five physical performance indicators, the progress to date under these indicators, and future progress benchmarks.

Table 11

| Physical Target | Performance Indicators | | | | | |
|--------------------|------------------------|-------------|------------------------------|--------------------------------|------------------------------|--------------------|
| | <u>1986</u> | <u>1987</u> | <u>1988</u> GOP Target | <u>1988</u> GOP Progress | <u>1989</u> GOP Target | ARSP Benchmarks |
| Area Surveyed (ha) | 259,148 | 139,494 | 171,120 | 140,500 | 961,000 | 182,695 |
| EPs | | | | | | |
| Generated (ha) | 42,339 | 92,230 | 98,000 | 141,404 | 355,000 | 176,987 |
| (# of patents) | 51,201 | 113,045 | 98,000 | 104,686 | 436,267 | 190,633 |
| Distributed (ha) | 33,237 | 66,036 | 98,000 | 100,941 | 355,000 | 131,223 |
| (# of patents) | 43,661 | 87,470 | 98,000 | 106,254 | 436,267 | 138,130 |

The five indicators which have been selected were chosen because: they are activities which directly result from CARP implementation, they inherently reflect that progress is being made toward distributing land to farmers, they are useful in the rural development of the Philippines whether or not CARP as a program is fully able to meet all of its objectives, and they will be relatively simple to enumerate and verify.

A formula based upon the GOP's achievement of 1989 physical targets has been devised to determine the dollar amount to be trached under this criterion. This figure, when compared to the amount based on aggregate SARF budgetary disbursements for the eligible items, will determine the actual tranche amount. Progress in meeting these five targets has been and will continue to be uneven. Land must first be surveyed, then EPs generated and finally distributed. Progress in meeting any one target is not entirely dependent upon progress in other areas, and may vary significantly at any given point in time. Thus, the proposed disbursement formula attempts to recognize this uneven progress and allow for an amount to be trached based on this criterion only as long as progress in implementation of the CARP program is realized.

The percentage of progress made by the GOP in meeting the ARSP benchmarks will be determined for each of the indicators, including progress in excess of 100 percent. The percentages will be added together and divided by the number of indicators to determine the average progress to date. The average percentage will be multiplied by the base figure which is defined as the \$50 million less the monitoring and evaluation contract(s) (\$2.5 million). The resulting figure is rounded to the nearest \$100,000 and is the amount of the tranche value based on performance attained. This figure will then be put to the second test of SARF budget disbursements. The last tranche will include all residual funding, if performance and SARF budgetary disbursements warrant, which may be less than the stated \$100,000 level. An example of how this formula would be applied is as follows:

| Physical Indicator | ARSP Benchmarks | GOP Qtrly Progress | Percent Target |
|----------------------|--------------------|-----------------------|-------------------|
| Area Surveyed EPs | 182,695 | 100,000 | 55% |
| Generated (ha.) | 176,987 | 40,000 | 23% |
| (# of patents) | 190,633 | 30,000 | 16% |
| Distributed (ha.) | 131,223 | 10,000 | 8% |
| (# of patents) | 138,130 | 5,000 | <u>4%</u> |

Average percent progress = $106\% / 5 = 21.2\%$

\$50 million Total A.I.D. assistance level to CARP
 less 2.5 million Funds in support of Monitoring
\$47.5 million Base
 x 21.2%
\$10.07 million, or \$10.1 million

In the above example, the five percentages yield an average of 21.2 percent of progress, which, when multiplied by the base figure of \$47.5 million, would yield an amount for tranching purposes based solely on this criterion of \$10,070,000. This figure, when compared to the amount calculated on the basis of SARF budgetary disbursements, will determine the actual tranche amount.

(2) SARF Budgetary Needs Test: Unaudited SARF disbursement reports, reasonable estimates of disbursements in the ensuing period, and adjustments based on monitoring will provide the information for calculating the dollar amounts of tranches based on disbursements made under eligible SARF budget line items. For the first tranche, a report providing the estimated SARF disbursements for eligible budget line items in the first two quarters of 1989 and reasonably anticipated disbursements for the last two quarters of 1989 will be the basis for calculating the dollar amounts of tranches based on disbursements made under eligible SARF budget line items. The resulting amount will be reduced by 20 per cent and converted into a dollar amount. Subsequent determinations of the dollar tranche based on budget disbursements will include adjustments based on the results of monitoring. In order to permit dollar tranches to be made prior to the monitoring contractor's having completed monitoring for all periods covered, \$2.5 million will be withheld for final disbursement after all monitoring has been completed. If the amount of a tranche based solely on performance indicators exceeds the amount for a tranche based on SARF budgetary disbursements for eligible line items, the amount based on SARF budget disbursements shall be the amount of dollars disbursed into the Dollar Special Account. Likewise, if the tranche value reflecting SARF budgetary disbursements exceeds the tranche amount according to the attainment of performance, the lower figure (in this case the amount determined by performance attainment) will prevail. Adjustments figuring accumulations and revisions to reports to determine the tranche value will be done per reporting period. An example of this procedure using cumulative totals follows:

Example (amounts in \$ millions):

First Tranche

| | <u>Tranche Amount</u> |
|--|-----------------------|
| Based upon Attainment of Performance | 5 |
| Based upon SARF Budgetary Disbursements | 9 |

The actual tranche amount would be \$ 5 million which represents the lesser of the tranche amounts.

Second Tranche

| | <u>Tranche Cumulative Amount</u> | - <u>Actual Previous Tranches</u> | = <u>Current Tranche Amount</u> |
|--|--------------------------------------|--|--|
| Based upon Attainment of Performance | 24 | 5 | 19 |
| Based upon SARF Budgetary Disbursements | 12 | 5 | 7 |

The actual tranche amount would be \$ 7 million which represents the lesser of the current tranche amounts.

Although the GOP reports progress in meeting CARP targets on a quarterly basis, tranches will be in response to GOP requests, which may not necessarily be on a quarterly basis. After the GOP submits reports to USAID, the monitoring contractor will verify the reports using a technique which, in his judgment, provides a basis for determining reliability of data. Adjustments based on the monitoring contractor's data may result in increasing or decreasing the results reported by the GOP.

C. Eligible Items

Table 12 presents a listing of eligible budget line items funded from the Agrarian Reform Fund for CARP implementation activities for 1989 by agency and activity. The generated pesos will support, in the aggregate on an attribution basis, up to approximately 80 percent of disbursement on selected line items as a group. The individual items will be mutually agreed upon by USAID and the GOP. In determining whether a credit program is subsidized

Table 12

ELIGIBLE BUDGET LINE ITEMS FUNDED FROM THE AGRARIAN REFORM FUND
BY AGENCY/ACTIVITY

| <u>AGENCY/ACTIVITY</u> |
|---|
| Department of Agrarian Reform |
| General Administration & Support Services |
| Land Acquisition and Development (Services) |
| Agrarian Reform Beneficiaries Development |
| Land Use Management and Land Development |
| Agrarian Reform Information & Education |
| Locally Funded Projects |
| Acquisition of Equipment |
| Regional Operations |
| Department of Agriculture |
| General Administration & Support Services |
| Regional Operations |
| Extension/Training |
| Department of Energy and Natural Resources |
| General Administration & Support Services |
| Regional Operations |
| Land Management Services |
| Forest Management Services |
| Department of Public Works & Highways |
| Rural Roads |
| Small Water Impounding Dams |
| Rural Water Supply |
| Department of Trade and Industry |
| General Operations Support Services |
| Regional Operations |
| Land Bank of the Philippines |
| Operational Support |
| Loans Outlay |
| Credit |
| Land Registration Authority |
| General Administrative Services |
| Issuance of Land Titles & Registration of Deeds |
| National Irrigation Administration |
| Communal Irrigation Systems |

NB: For each budget line item listed above only maintenance, operating expenses and capital outlays are eligible.

* Provided market-oriented rates of interest are charged and debt service payments of borrowers are current lender credit instruments for which support is sought under ARSP at the time the credit is reported for purposes of ARSP. The interest rate charged by the Land Bank to participating financial institutions must not be lower than two percentage points below the quarterly simple average of weekly weighted average interest rates on 91 to 180 day time deposits in commercial banks and Land Bank rate to final borrowers must not be lower than two percentage points below the quarterly simple average of weekly weighted average interest rates on 91 to 180 day secured loans by commercial banks, both as compiled by the Central Bank of the Philippines, and both for the period for which support is sought.

or not, A.I.D. will examine both the rate of interest charged to ultimate borrowers and the currency of debt service payments since payment delinquency may in effect be a means of providing subsidized credit. In addition, funds provided or made available under the ARSP will not be used for disbursements for (i) military or paramilitary purposes, (ii) equity transfers or subsidies to government corporations or (iii) consumer subsidies.

Out of the total of P6.2 billion budgeted for CARP, through the SARF mechanism in 1989, line items which would be acceptable to A.I.D., excluding all credit for purposes of discussion, amount to P3.36 billion. However, actual cash disbursements for the type of items included are expected to be only 60 to 75 percent of the budgeted levels. Hence actual disbursements, at a 80 percent realization rate, are expected to total P2.0 billion. If the ARSP's generated pesos share were 70 percent of disbursements (seventy percent of P2.0 billion share would equal P1.4 billion), then provided the performance criteria were met, all pesos to be generated by dollar transfers would be used within the 1989 budget year. Even if some of the dollars were not transferred until 1990, the generated pesos could still be attributed against 1989 peso disbursements. Physical performance and peso disbursements can be achieved in different years.

D. Management Requirements

1. USAID

The Office of Rural and Agricultural Development (ORAD) will have major responsibility for administering USAID's assistance to CARP. The monitoring and evaluation requirements alone under ARSP will add an administrative burden to ORAD at a time when management requirements under existing activities are becoming more pressing. Administration of this program will require ORAD to allocate the following management units: 50 percent time of one USDH; 100 percent time of one FSN position; and 25 percent time of one graduate student intern (June 1989 through June 1990). Both the FSN and intern positions are new. ORAD will also manage the contractor(s) selected to provide the monitoring/evaluation services under ARSP. However, in order to ensure adequate staffing support of this politically important program, a Personal Services Contractor (PSC) program manager will also be hired under the Program.

A USAID program implementation committee will be formed to monitor implementation progress under ARSP. The committee will be chaired by the ORAD Project Officer and include representatives of: the Office of the Program Economist; the Project Design and Implementation Division of the Office of Capital Development; the Program Office and the Controller's Office. Other Mission offices, particularly the Office of the Regional Legal Advisor, the Contracts Services Division and the Logistics Division of the Executive Office and the Engineering, Infrastructure and Energy Division of the Office of Capital Development will lend assistance on an as needed basis.

2. The GOP

Every effort has been made in the design of this program to minimize the additional administrative burden on the GOP. With the PARC structure in place, the GOP management of ARSP will mirror the administrative responsibilities under CARP with the DAR having primary responsibility and coordinating with the principal agencies and offices of the DENR, DA, LBP and the DPWH.

E. Termination or Reprogramming

If CARP performance warrants, the entire amount of program funds available could be disbursed in 12 months of program execution. At any time, if performance trends would indicate that little performance is expected in the future, USAID will consider the need to renegotiate or terminate the Grant Agreement for the Program.

Recognizing that progress under SARF-funded activities may become delayed, due to litigation or other unforeseen circumstances, performance benchmarks may not be reached within the desired period after Program Agreement execution. If this should happen, USAID will review with the GOP the issues and problems preventing SARF-funded activities from reaching the mutually agreed upon benchmarks. If USAID determines that the GOP has a continuing strong commitment to the implementation of CARP despite whatever factors have prevented these performance targets from being met and the GOP has identified steps to resolve the impediments to reaching performance benchmarks, USAID may elect to extend the time period in which performance would be reported and disbursement of dollars made.

If at any time, however, USAID determines that the GOP has enacted legislation or issues guidelines which would call into question the effectiveness of the SARF-funded activities which ARSP funding supports, or if it is apparent that administrative/legislative "bottlenecks" preventing desired performance levels to be achieved will not be altered in the foreseeable future, USAID would consider termination of the Grant Agreement or seek renegotiation of the terms of the Agreement. Accordingly, the GOP and USAID may agree to reprogram funds obligated under the ARSP provided all of the statutory requirements were satisfied, including Congressional Notification, if appropriate and authorizing and obligating instruments are properly amended. In such a case, funds may be reprogrammed under ARSP as program assistance in support of CARP activities not financed under SARF and/or GOP agrarian reform activities not specifically implemented under CARP. ARSP funds that are obligated but not disbursed to the Special Dollar Account would be returned to the U.S. Treasury if it were apparent to USAID that ARSP funding could not be reprogrammed to assist GOP agrarian reform efforts effectively. In any decision to reprogram available ARSP funding outside of CARP, USAID would first have to make a determination that whatever program to which such reprogrammed funds would flow is effective, that U.S. funding will constitute less than a substantial majority of available funding and a GOP request for U.S. assistance is received.

Possible activities for reprogrammed funds include but are not limited to: extension services of the DA, certain services of the Land Management Bureau and NAMRIA, and selected credit programs serviced by the LBP which are included under CARP but not financed under SARF; the construction and maintenance of selected rural roads, irrigation systems, electrification distribution, and similar support activities currently being implemented by the DPWH, the National Electrification Administration and by the National Irrigation Administration which are required by CARP as support services but are not funded by SARF.

V. **FINANCIAL ARRANGEMENTS AND IMPLEMENTATION PLAN**

A. **Implementation Process: Disbursements & Controls**

1. Dollars

a. Initial Dollar Tranche

Upon satisfaction of the listed Conditions Precedent to initial transfer of dollars to the GOP (see Section VII, Conditions Precedent, Covenants and the Status of Negotiations) and fulfillment of both the physical performance and budget expenditure tests, A.I.D. will transfer on behalf of the GOP an initial tranche, equal to the lesser of the physical performance and budget expenditure amount, for deposit in the separate account or accounts with the bank or banks specified by the GOP. Transfer will be effected through the electronic funds transfer system.

b. Creation of the Dollar Special Account

The separate bank accounts into which dollars transferred are deposited will be referred to collectively as the "ARSP Dollar Special Account". Funds deposited in this Account will be used for payments to the IMF, IBRD, IDA, and/or ADB or for such other purposes as A.I.D. may agree to in writing, in accordance with mutually agreed upon implementation plans.

c. Transfer of Dollars from the ARSP Dollar Special Account

Prior to the initial transfer of dollars from the ARSP Dollar Special Account, the GOP will, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D. an implementation plan and a schedule of payments.

A schedule of payments for each tranche (and any other balances in the ARSP Dollar Special Account) is a Condition Precedent to deposit of that tranche in the ARSP Dollar Special Account in order to ensure that agreed upon uses of the subsequent tranches dollars are identified before providing the subsequent tranches.

Once dollars are disbursed into the Dollar Special Account, the GOP will transfer dollars from the ARSP Dollar Special Account in accordance with the implementation plan. All dollar transfers will be drawn directly from the ARSP Dollar Special Account and paid directly to the payees specified in the implementation plan for the amount specified on the due dates.

d. Subsequent Dollar Transfers

Except as A.I.D. may otherwise agree in writing, prior to the subsequent transfer of dollars by A.I.D. or to the issuance of documentation pursuant to which such transfers will be made, a determination will be made as to the appropriate size of any subsequent dollar transfer based on the independent

sample verification of GOP quarterly reports on physical performance and unaudited disbursements. In addition, the GOP will provide evidence satisfactory to A.I.D. that (1) the dollar payments agreed upon are being or have been made; (2) the GOP will be in substantial compliance with all of the terms and conditions of the Grant Agreement as of the date of such transfer or issuance of documentation; (3) the GOP will furnish to A.I.D., in form and substance satisfactory to A.I.D., a statement of the name, branch and U.S. Federal Reserve Bank branch number of each bank with which the dollars transferred will be deposited, together with a statement of the amount of dollars to be deposited in each separate account; and (4) the GOP will furnish to A.I.D. an implementation plan satisfactory to A.I.D., specifying a schedule of payments, which will identify payees, amounts and due dates, proposed to be made by the GOP using dollars held in the ARSP Dollar Special Account. These payments will be made using the subsequent tranches of dollars, plus any other funds remaining in the Dollar Special Account.

Upon satisfaction of the above conditions precedent to transfer, A.I.D. will transfer, on behalf of the GOP, the subsequent tranches of dollars through the electronic funds transfer system for deposit in separate accounts with the banks specified by the GOP.

2. Pesos

Creation of ARSP Peso Special Account

Within one business day of deposit of dollars by A.I.D. in the ARSP Dollar Special Account, the GOP will establish one or more separate bank accounts (collectively, the ARSP Peso Special Account) and will deposit therein within one business day of the time any dollar deposit is made by A.I.D. for the GOP an amount of pesos equivalent to each such dollar disbursement. The total amount of pesos required to be deposited in the ARSP Peso Special Account in connection with each dollar disbursement will be determined on the basis of the then prevailing rate of exchange of the Central Bank for the purchase of U.S. dollars on the date of conversion of each dollar deposit. Funds deposited in the ARSP Peso Special Account will not be commingled with funds from any other source. The ARSP Peso Special Account will include any interest in respect of funds held in this Account. The ARSP Peso Special Account will be used in accordance with the implementation plan for ARSP or for such other purposes as A.I.D. may agree to in writing.

The GOP will transfer all the pesos from the ARSP Peso Special Account to the Agrarian Reform Fund Account maintained at the Central Bank of the Philippines.

B. Implementing Entities

1. The Department of Agrarian Reform

The DAR will be the lead implementing agency for ARSP as it is for CARP. It will be responsible for timely and satisfactory implementation of ARSP activities including monitoring and reporting requirements. DAR will also be overseeing all other ARSP participating agencies/departments i.e., the Central Bank of the Philippines (CB), the DBM, the DOF, the BTR, and other involved

entities, for the preparation and submission to A.I.D. of documentation for the disbursement of dollars by A.I.D. to the ARSP Dollar Special Account, prior to such disbursement and disbursement by A.I.D. of the subsequent tranches of dollars.

2. The Department of Finance

Together with DAR, the Department of Finance (DOF) will represent the GOP in negotiating with A.I.D. the ARSP grant agreement and any subsequent amendments to the grant agreement. The DOF will also be responsible, in coordination with the Central Bank of the Philippines (CB), Bureau of Treasury (BTr), Commission on Audit (COA) and other involved entities for the preparation and submission to A.I.D. of implementation plans for the disbursement of dollars from the ARSP Dollar Special Account, prior to such disbursement.

3. The Central Bank of the Philippines

The CB, through its Treasury, the Management of External Debt Department and the Department of Economic Research, will:

- a. With the agreement of A.I.D. and in coordination with the BTR, establish a separate account or accounts with the designated bank or banks into which dollars disbursed by A.I.D. will be deposited (i.e., the ARSP Dollar Special Account).
- b. In coordination with BTR, prepare and submit to A.I.D., Federal Reserve Bank branch numbers of the bank or banks with which the dollars disbursed will be deposited, together with statements of amounts of dollars to be deposited in separate accounts with those banks.
- c. Upon the advice of BTR, establish a separate account or accounts to be called the ARSP Peso Special Account, into which the peso equivalent of the dollars disbursed by A.I.D. will be deposited.
- d. Credit the peso proceeds of the A.I.D. dollar disbursement equivalent to the ARSP tranche in the ARSP Peso Special Account.
- e. Disburse dollars directly from the ARSP Dollar Special Account to specified creditor(s) per A.I.D. agreed upon implementation plan.
- f. Prepare and submit to A.I.D., evidence that the agreed upon payments have been, or are being, made from the ARSP Dollar Special Account, prior to disbursement by A.I.D. of the subsequent tranches of dollars.
- g. Prepare and submit to A.I.D., the required quarterly unaudited dollar disbursement reports. Submit to A.I.D. a cumulative dollar disbursement report for the entire amount disbursed under the Grant.

4. The Department of Budget and Management

The DBM, through its Budget Planning Bureau and National Government Accounting and Finance Bureau will:

Coordinate the submission to A.I.D. of the required unaudited peso disbursement report and the final audited cumulative peso disbursement report for the agreed upon line items together with the required certification related to those reports.

5. The Commission on Audit (COA)

COA is responsible for the timely and accurate submission of audited reports stipulated in the grant agreement. COA should ascertain that all its reports supporting the consolidated report are properly filed, maintained and easily retrievable upon request by A.I.D. or any of its representatives.

6. The National Economic and Development Authority

The National Economic and Development Authority (NEDA) is expected to coordinate and act as the GOP secretariat leading up to the initiation of negotiations. NEDA will distribute drafts of relevant documents, arrange internal GOP meetings to coordinate understandings and positions, and provide general support to the GOP negotiating team.

VI. MONITORING, REPORTING AND EVALUATION REQUIREMENTS

As stated earlier, the implementation of ARSP will be monitored through quarterly reports (which may be amended from time to time). These reports will include progress realized and implementation issues identified during the reporting period, as well as financial reporting of both dollar and peso accounts. To ensure the validity of the reports for physical indicators and the financial reports, a contractor will assess the adequacy of the reports. Afterwards, a determination will be made by USAID of adjusting levels of monitoring by the contractor depending upon the initial findings.

A. Physical Indicators

Quarterly reports providing information on the attainment of agreed-upon physical progress indicators shall be provided by the end of the following quarter for which the progress is reported. Such reports shall be submitted by DAR, acting as Executive Secretariat to the PARC, to USAID. The content of the quarterly reports is discussed below. If at any time, progress in meeting the agreed-upon physical performance indicators is slowed, resulting in no new funds being disbursed, a meeting(s) shall be held with officials of PARC and USAID to determine the reasons for such delays in meeting benchmarks and to take appropriate action to resolve them. These meetings will be in addition to those required under 2(c) of the Covenants (see Section VII to this paper).

Quarterly progress will be verified through the services of an accounting firm that will review progress achieved during any given performance period. Depending on the results of this verification procedure, acceptance of performance or any necessary adjustments will be made as discussed earlier in this paper.

B. Financial Reporting

1. ARSP Dollar Special Account

(a) Unaudited Quarterly Reports

Unaudited quarterly reports for financial activities will be due by the end of the following quarter, and will contain, at a minimum, the following information: evidence satisfactory to A.I.D. that the agreed upon payments to multilateral institutions have been or are being made from the Dollar Special Account prior to disbursement of the subsequent tranches of dollars. For each disbursement from the ARSP Dollar Special Account, the payee and date of payment must be specified, together with a certification that the GOP has obtained and is maintaining documentation.

(b) Audited Final Report

Final audited reports covering the calendar year 1989 period will be provided to USAID by September 30, 1990. In addition, in the event that all grant funds are not disbursed within the 1989 calendar year, additional audited reports covering the period(s) of time for which disbursements of grant funds were realized will be provided to USAID. These additional audited reports will be provided by December 31 of the year in which funds were disbursed for the first semester report and by September 30, of the following year for the audited report. The GOP shall also furnish with these final reports certifications that all funds held in the ARSP Dollar Special Account have been used in accordance with the terms of the Grant Agreement. The form of the audited final reports should be consistent with that of the unaudited quarterly reports.

2. ARSP Peso Special Account

Once the Grant Agreement for ARSP has been signed, USAID will directly contract with a firm to provide financial monitoring. The contractor will review financial reports prepared by the GOP and will recommend amounts to be approved by A.I.D. Review of the reports will include reports of disbursements made beginning January 1, 1989. Should USAID subsequently make a determination that the reports prepared by the GOP are adequate, it may discontinue the monitoring contract.

(a) Unaudited Quarterly Reports

Unaudited quarterly reports for financial activities will be due by the end of the following quarter, and will contain, at a minimum, the following information: cumulative actual disbursements by specific budget category through the end of the period reported for costs incurred on or after January 1, 1989, in the agreed upon budget categories.

(b) Audited Final Report

Final audited reports covering the calendar year 1989 period will be provided to USAID by September 30, 1990. In addition, in the event that all grant funds are not disbursed within the 1989 calendar year, additional audited reports covering the period(s) of time for which disbursements of grant funds were realized will be provided to USAID. These additional audited reports will be provided by December 31 of the year in which funds were disbursed for the first semester report and by September 30 of the following year for the audited report. The GOP shall also furnish with these final reports certifications that an amount equal to the amount of pesos transferred from the ARSP Peso Special Account to the SARF has not been reported against other external assistance available to the GOP for disbursement for such costs. The form of the audited final reports should be consistent with that of the unaudited quarterly reports.

C. Evaluation Requirements

An external evaluation of ARSP will be conducted beginning in July, 1990 or earlier if agreed upon by AID and the GOP. The main objective of the evaluation is to assess ARSP and include an assessment of the qualitative indicators of CARP progress. In general, the evaluation will review the status of CARP implementation in light of the performance indicators agreed to. This assessment should consider the context in which the program has been operating. This includes economic, political and social factors that have affected CARP either negatively or positively and will include a sampling of the impact of various CARP activities.

As the objective of ARSP is to assist CARP implementation through budget support to SARF, the evaluation will review SARF performance as well as procedures and documentation requirements of ARSP.

Finally, the evaluation will recommend whether ARSP should be amended. If the program is to be amended, recommendations concerning changes in the management of the program and other factors pertaining to improving implementation will be made. In addition, if the program were to be extended, the evaluation would serve as a resource document for the preparation of an amendment.

To carry out a thorough evaluation as described here, a four person team consisting of an evaluation specialist, an agrarian reform expert, an agricultural economist, and a financial manager will be needed for eight person months of effort. They should have prior work experience with agrarian reform programs, knowledge of the Asian, with emphasis on Philippine, land reform experience and an understanding of program support activities. The ARSP Monitoring and Evaluation Budget, as shown in Table 13, outlines the needed funding for these required services in addition to identifying the services of one long-term expatriate advisor who would verify CARP progress by randomly sampling performance indicators, oversee monitoring requirements and administer evaluation services.

Table 13

ARSP Monitoring and Evaluation Budgets

| <u>Expense Item (Monitoring)</u> | <u>Amount</u> |
|--|-----------------------------|
| A. <u>Long-term Expatriate/Consultant</u> | |
| Salary - 18 months*, \$285/day | \$112,860 |
| Overhead - 100% x salary | 112,860 |
| Post Differential - 15% x salary | 17,000 |
| Housing & Utilities | 27,000 |
| Allowance/Benefits (Education FICA, DBA, Medical, etc.) | 20,000 |
| International Travel Incl. air fare, transport of household effects | 25,000 |
| In-country Travel | 4,000 |
| Per Diem - 100 days x \$60/day | <u>6,000</u> |
| Sub-Total - Long-Term Consultant | <u>324,720</u> |
| B. <u>Short-term (Local) Consultants</u> | |
| Consultant Costs - 11,960 man-days X-\$100 per day | 1,196,000 |
| Out of Pocket Costs (20% of Consultant Costs) | 239,200 |
| Contingency (5% Of Consultant & Out of Pocket Costs) | <u>71,760</u> |
| Sub-Total Short-Term Consultants | <u>1,506,960</u> |
| C. Home Office Support (of Long-term Consultant) | <u>20,000</u> |
| D. Other Direct Costs | |
| Exec. Secretarial Support \$200 x 18 months | 3,600 |
| Secretaries (4) \$150 x 18 months x 4 | 10,800 |
| Office Rent, utilities \$1,000/month x 18 months | 18,000 |
| Communications, supplies (incl. computers) | 75,000 |
| Printing Reports | 10,000 |
| Miscellaneous (visas, medical exams, etc) | 40,000 |
| Vehicle Rental/Operating Expenses/Driver | <u>30,000</u> |
| Sub-Total Other Direct Costs | <u>189,400</u> |
| E. Fixed Fee (10%) | <u>204,108</u> |
| Total Monitoring Budget | <u>\$2,245,188</u> ===== |

*Assuming 22 work days/month

Table 13 (con'd)

ARSP Monitoring and Evaluation Budgets

ILLUSTRATIVE BUDGET

| <u>Expense Items</u> (Evaluation) | Amount |
|--|---------------|
| A. Personnel Services (Specialist) | |
| 1. Agricultural Economist | |
| Land Reform and Specialist | |
| Finance and Credit Specialist | |
| Administration and Evaluation Specialist | |
| \$285/day x 52 days each | \$59,280 . |
| B. Travel | |
| 1. International | |
| RT (Wash/Mnl/Wash) | |
| \$3,000/trip x 4 trips | 12,000 |
| 2. Local | |
| - airfare: \$100/trip x 12 trips (3 trips each) | 1,200 |
| - transportation (taxi, bus) | 3,000 |
| Subtotal | <u>16,200</u> |
| C. Per Diem | |
| 1. International (\$140 x 8 days - 2 days each) | 1,120 |
| 2. Local | |
| - Manila \$94/day x 180 days (45 days each) | 16,920 |
| - Outside Manila (\$60/day x 28 days (7 days each) | 1,680 |
| Subtotal | <u>19,720</u> |
| D. Other Costs | |
| 1. Supplies & Materials | 7,000 |
| 2. Communications | 3,000 |
| 3. Medical Expense (physical, shots, visa) | 1,000 |
| Subtotal | <u>11,000</u> |
| E. Overhead (200% of A) | 118,560 |
| F. Contingency (5% of A+B+C+D) | 5,310 |
| G. SUBTOTAL | 230,070 |
| H. Fixed Fee (10% of G) | 23,007 |
| Total Evaluation Budget | 253,077 |

VII. CONDITIONS PRECEDENT, COVENANTS AND STATUS OF NEGOTIATIONS

A. Conditions Precedent to Disbursement

First Dollar Disbursement

Prior to the first transfer of dollars under the Grant, or to the issuance by A.I.D. of documentation pursuant to which a transfer will be made, in addition to standard conditions precedent (CPs) designating authorized representatives and providing legal opinion, the GOP will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (1) an implementation plan specifying the responsibilities and interrelationships of the entities involved in the implementation of ARSP;
- (2) a true, correct and complete copy of the COA memorandum setting forth guidelines for the preparation and submission of audited reports of disbursements in selected eligible budget categories under agreements with the U.S. and;
- (3) the written agreement of the GOP regarding the scope of work for monitoring and evaluation services required under ARSP.

Each Dollar Disbursement

Prior to each dollar disbursement from the ARSP Dollar Special Account, the GOP will, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., evidence that:

- (a) the GOP is in substantial compliance with all of the terms and conditions of the Grant;
- (b) a schedule of payments, identifying payees, amounts and due dates proposed to be made by the GOP using dollars and any interest earned on funds held in the ARSP Dollar Special Account;
- (c) a statement of the name, branch and U.S. Federal Reserve Bank Branch number of each bank with which the dollars are to be disbursed; and
- (d) evidence that payments in connection with any prior disbursement of U.S. dollars have been made from the ARSP Dollar Special Account.
- (e) reports on physical performance and budget disbursements for purposes of calculating the size of the dollar tranche.

B. Covenants

1. Program Evaluation

The Parties agree to establish an evaluation program as part of the program. Except as the Parties otherwise agree in writing, the program will

include, during the implementation of the program and at one or more points thereafter: (a) evaluation of progress toward attainment of the objectives of the CARP as well as ARSP; (b) identification and evaluation of problem areas or constraints which may inhibit such attainment; and (c) assessment of how such information may be used to help overcome such problems.

2. Additional General Covenants

Along with the general covenants covering taxation, refunds, publicity, communications, termination and representatives, the following general covenants are expected to be included in any executed program agreement:

(a) Periodic Meetings

The Parties agree on the importance of periodic consultations to discuss progress under the Program and agree to meet whenever either Party considers consultation with the other necessary with respect to the program.

(b) Annual Audit

The grantee shall arrange for the Commission on Audit (COA) to conduct an annual audit of the Program, with the results of the audit to be shared with A.I.D.

(c) Reports, Records, Payment Verifications and Refunds

(1) The grantee shall:

(A) furnish A.I.D. with such information and reports as A.I.D. may reasonably request showing pesos provided by A.I.D. or the Grantee into the special account were used for agreed upon purposes and in accordance with agreed upon procedures and documentation;

(B) maintain supporting documentation for data required by paragraph (A) above for at least three years from the date of last submission to A.I.D. required under the program;

(C) afford representatives of A.I.D. at all reasonable times access to inspect the documentation required under paragraph (B) above to enable such representatives to make such expenditure verifications as they deem necessary; and

(2) In the case of any disbursement which is not supported by documentation in accordance with the requirements of this agreement, or which is not used for purposes agreed upon hereunder, A.I.D. may require the grantee to refund the dollar amount of such disbursement to the U.S. Treasury and to refund the pesos to the Peso Special Account for such further uses as the Parties may agree to in writing.

During Program Agreement negotiations, the Mission will incorporate into the Agreement, appropriate language to cover the above terms and conditions.

C. Status of Negotiations

The use of physical indicators to monitor progress, the magnitude and number of tranches and requirements for monitoring/evaluation of the Program are but some of the topics which have been discussed with PARC representatives during the design of ARSP. However, it was recognized that until a review of this proposal had taken place by the Bureau, formal negotiations leading to agreement on these issues could not take place. For this reason, and to ease the administrative burden of having to seek Bureau approval if negotiations lead to minor revision in the design of the Program, the Mission requests that if the Bureau should "approve" this proposal, that the Mission be granted redelegated authority to approve the PAAD so as to expeditiously conclude the Program Agreement.

AGRARIAN REFORM SUPPORT PROGRAM (492-0431)
ANNEXES

- A. LISTING OF PARC DEPARTMENTS/AGENCIES
LISTING OF SELECTED CARP GUIDELINES
CABLE MANILA # 18138
- B. SARF ANALYSIS
- C. GOP LETTER OF REQUEST
- D. INITIAL ENVIRONMENTAL EXAMINATION
- E. STATUTORY CHECKLIST
- F. CARP LEGAL DOCUMENTS
- G. GRAY AMENDMENT CERTIFICATION
- H. EXECUTIVE SUMMARY TO THE SOCIAL SOUNDNESS ANALYSIS
- I. PAIP AND PAAD APPROVAL MESSAGES

ANNEX A
Listing of PARC Agencies
Listing of Selected CARP Guidelines
Cable Manila #18138

LIST OF THE GOP AGENCIES
IN THE PRESIDENTIAL AGRARIAN REFORM COUNCIL

Office of the President
Department of Agrarian Reform
Department of Agriculture
Department of Environment and Natural Resources
Department of Public Works and Highways
Land Bank of the Philippines
Department of Budget and Management
Department of Finance
Department of Labor and Employment
Department of Trade and Industry
Department of Local Government
National Economic and Development Authority

LISTING OF SELECTED IMPLEMENTING GUIDELINES
FOR THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP)

1. Compulsory acquisition of private/public agricultural lands
2. Processing of voluntary offer to sell involving landholdings covered by CARP
3. Distribution of idle and abandoned land
4. Multinational corporations
5. Commercial farming
6. Registration of landowners (LISTASAKA 2)
7. Registration of CARP beneficiaries
8. Land Valuation and just compensation
9. Voluntary land transfer and direct payment of compensation by beneficiaries
10. Payment of beneficiaries for land compulsorily acquired by the government
11. Corporate landowners and stock distribution plans
12. Production sharing under EO 229
13. Production and profit-sharing under RA 6657
14. Determination of lease rentals of farmers on tenanted lands under retention limits and lands not yet acquired under RA 6657
15. Organization of Provincial Agrarian reform coordinating Committee (PARCOM)
16. Conversion of agricultural lands to non-agricultural or change to other agricultural uses
17. Policy guidelines and procedures in the redistribution of private agricultural lands to CARP beneficiaries
18. New policies and procedures governing redistribution and patenting of lots on agricultural landed estates in favor of farmer-beneficiaries
19. New policy guidelines and procedures governing distribution and patenting of lots in settlement projects
20. General Guidelines -- A guide to new CARP under RA 6657

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CLASS: UNCLASSIFIED
CHRG: AIO 26/08/88
APPRV: AMB: NPLATT
DRFTD: OD: JBLACKTON/PD:
R
CLEAR: 1. DCM: KMCUINN
CD: WTOLIVER
ORAD: JFRADY
DISTR: AID (AMB DCM)
OD: CRAD C&R-3)

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E.O. 12356: N/A

TAGS: FAID, RP, FAGR

SUBJECT: EFFECTIVENESS OF GOP AGRARIAN REFORM

1. USAID IS NOW IN THE FINAL STAGES OF DEVELOPING WITH THE PRESIDENTIAL AGRARIAN REFORM COUNCIL (PARC) A MUTUALLY AGREED PROGRAM FOR THE PROVISION OF DOLS TO MILLION IN ESF ASSISTANCE TO THE AGRARIAN REFORM PROGRAM OF THE GOP. THE CONGRESSIONAL BARMARK OF THESE FUNDS REQUIRES THAT WE ESTABLISH THAT AN EFFECTIVE AGRARIAN REFORM PROGRAM IS IN PLACE. I BELIEVE THAT THE FACTS SPEAK FOR THEMSELVES AND DEMONSTRATE CONCLUSIVELY THAT THE PROGRAM IS EFFECTIVE.

2. IN THE ELEVEN MONTHS SINCE PRESIDENT AQUINO ISSUED AN EXECUTIVE ORDER FOR THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP) THE GOP HAS TAKEN A NUMBER OF IMPORTANT STEPS TO IMPLEMENT THE PROGRAM:

AA. LAND TRANSFERS UNDER PROGRAM A

THE REFORM OF RICE AND CORN LANDS (PROGRAM A) WAS BEGUN UNDER MARCOS IN OCTOBER 1972, BUT IMPLEMENTATION LAGGED SERIOUSLY AFTER AN EARLY PERIOD OF ACTIVITY. IN CY 1987, THE AQUINO GOVERNMENT ACTED TO RESTORE THE MOMENTUM OF THE RICE AND CORN LAND REFORM. IN 1987, MORE THAN 80,145 HECTARES OF LAND WERE TRANSFERRED TO ABOUT 66,063 BENEFICIARIES. THIS ONE YEAR'S OUTPUT REPRESENTED 71 PERCENT OF THE TOTAL HECTARES DISTRIBUTED SINCE 1972. THE STAFF AND SYSTEMS FOR PROGRAM A ARE THUS IN PLACE AND WORKING WELL.

BB. LAND REGISTRATION

IN LATE CY1987, THE DEPARTMENT OF AGRARIAN REFORM INITIATED A SPECIAL CAMPAIGN TO HAVE LANDOWNERS REGISTER THEIR LAND FOR EVALUATION PURPOSES. SO FAR, ABOUT 1,607,287 LANDOWNERS HAVE COMPLIED, COMPRISING ABOUT SEPT OF THE TOTAL NATIONAL TARGET. THE REGISTRATION PROCESS, WHILE STILL UNDERWAY, HAS PROVEN EFFECTIVE.

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1. USAID IS NOW IN THE FINAL STAGES OF DEVELOPING WITH THE PRESIDENTIAL AGRARIAN REFORM COUNCIL (PARC) A MUTUALLY AGREED PROGRAM FOR THE PROVISION OF DOLS 50 MILLION IN ESF ASSISTANCE TO THE AGRARIAN REFORM PROGRAM AS IT SHOULD BE. THE CARP IS A VITAL PART OF PRESIDENT AQUINO'S PROGRAM TO PROMOTE ECONOMIC EQUITY AND POLITICAL DEMOCRACY IN THE PHILIPPINES. TO SUPPORT HER IMPRESSIVE POLICY GAINS AND SUCCESS IN FORMULATING AN ACTION PROGRAM FOR THE NEXT DECADE, THE U.S. GOVERNMENT NOW NEEDS TO PROVIDE SUBSTANTIVE SUPPORT FOR THE CARP. OUR COMMITMENT WILL ALSO PROVIDE POSITIVE SIGNALS TO OTHER MEMBERS OF THE DONOR COMMUNITY. HOWEVER, OUR ASSISTANCE SHOULD BE PROVIDED IN A FLEXIBLE MANNER WHICH DOES NOT INJECT THE U.S. GOVERNMENT TOO DEEPLY INTO THE QUALITATIVE AND OPERATIONAL DETAILS OF IMPLEMENTATION. I BELIEVE THAT THE PROGRAM ASSISTANCE MODE PROPOSED FOR CUR FUNDING WILL ACHIEVE THIS. I THEREFORE REQUEST YOUR SUPPORT FOR EARLY APPROVAL OF THE A.I.D. AGRARIAN REFORM SUPPORT PROGRAM. PLATT

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ANNEX B
SARF Analysis
Including Attachments

Analysis of the Special Agrarian Reform Fund (SARF)

To ensure that implementation of the CARP would commence as soon as possible, in 1987 the GOP appropriated P2.7 billion through EO 229 which was funded solely by proceeds from the APT and PCGG. After discussions with officials of the Department of Finance (DOF), Department of Budget and Management (DBM), Bureau of Treasury (BTR), APT and DAR, a special fund code, No. 5158, was created solely for the SARF. Funds received for the SARF are deposited directly in fund code No. 5158 which are held by the BTR in a noninterest bearing account. Releases of funds from the SARF follow similar procedures as those of the GOP except that PARC approves all releases to the implementing agencies before funds are released. Funds that are not expended (disbursements plus accounts payables) during the fiscal year by the implementation agencies are returned to the BTR at year end with the exception of the LBP. The LBP is the only CARP implementing agency exempted from returning unexpended funds to the BTR at year end.

As a result of certain sensitive items in the CARP budget, PARC has divided sources of funding into two areas which are: (1) Land Acquisition and Distribution (LAD); and (2) Post-Land Distribution Support Activities (PLDSA). The LAD funds are used primarily to finance compensation to landowners, land acquisition and distribution activities. The GOP intends to fund these costs during the ten year implementation period of CARP from proceeds realized from APT and PCGG activities, from land amortization payments received from beneficiaries of CARP and from the issuance of LBP bonds at market-based rates.

The GOP has designed a cash management system for the sources of LAD funds as they will initially use the "less expensive" funds from the APT and PCGG early on in the program and the more expensive funds from LBP later on.

The PLDSA fund will be used primarily to cover the costs of preliminary activities, support to farmer-beneficiaries and support to CARP implementing agencies. PLDSA will be funded from foreign donors and collection and revenues from services provided by PLDSA. There has been a delay in securing the initial funds for the PLDSA from the above sources because the PARC just completed and distributed, in September 1988, their proposal for foreign project financing. Collection and revenues received from PLDSA services lag approximately one year from the issuance of production credit by LBP to support farmer-beneficiaries of CARP. However, the PARC has used funds identified for LAD activities for 1987 and 1988 to fund PLDSA costs to avoid a delay in the implementation of the CARP.

Funds collected for LAD and PLDSA are deposited in the SARF with the BTR in a noninterest bearing account. To ensure that the sources of funds are only used for CARP, the BTR prepares and submits a monthly certified report to PARC. This report includes details of remittances from the sources of funds and the releases from the SARF to the appropriate CARP implementing agencies. This monthly report allows PARC to monitor the activity of the SARF.

Uses of funds

Each year the CARP implementing agencies submit to PARC, for review and approval, their special budget requests based on the annual work and financial plans for CARP. The CARP annual work and financial plans list only the planned expenditures that are supplemental to regular budgets and are directly attributable to the CARP. Review by PARC of these annual work and financial plans is quite extensive and usually results in substantial reductions being made to requests. For example, the PARC will not fund an extension worker attached to a CARP implementing agency if that worker does not devote 100 percent of their performance to CARP. Attachment 1 to this Annex provides a detailed chart indicating the flow of funds of the SARF and the requirements of the CARP implementing agencies before funds are released.

To ensure the PARC has full control of fund releases from the SARF, DBM will not release funds unless implementing agencies have PARC certification of funds availability. The PARC certification of funds availability is signed by PARC and BTR showing that funds are available for the implementing agency to use in accordance to the approved annual work and financial plan.

Each CARP implementing agency has separate accounting systems to report only those expenditures attributable to CARP. For the period 1987 to 1988, actual releases from the SARF have been slow due to coordinating difficulties among the various PARC agencies in setting up appropriate systems to implement the CARP. However, the key agencies responsible for the implementation of CARP have a number of systems in place to monitor CARP progress.

As part of this integrated approach to CARP monitoring, the PARC has prepared standard Monitoring Forms to be completed by each implementing agency on a quarterly basis (see Attachments 2 and 3 to this Annex). Monitoring Form No. 1 (Attachment 2) allows for a comparison of actual vs. targeted fund releases, collections and disbursements for the quarter and year-to-date totals as well as the variances between the actual and target amounts. Data gathered from Monitoring Form No. 2 (Attachment 3) will reflect actual vs. targeted physical targets accomplished for the quarter and year-to-date totals. The introduction of these forms into the CARP monitoring system has been slow, but PARC is in the process of expediting their use by all CARP implementing agencies. PARC has recently announced that the release future funds to implementing agencies will be contingent upon the reliability of the implementing agencies' reporting data and whether they are deviating substantially from their targets.

SARF Monitoring and Reporting

As mentioned above, PARC has implemented controls in monitoring the SARF to ensure that funds are used solely for the CARP. All reports from the implementing agencies will be sent directly to PARC, where they will be reviewed and formatted into one consolidated report. Each implementing agency will maintain records at their respective offices and the Commission on Audit (COA) will ensure that the actual disbursements are CARP related and are part

of the approved work and financial plan. COA will prepare, each quarter, a separate disbursement report for each agency and will submit this information to PARC.

Strengths of the SARF

Procedures for releases of funds from the SARF have been streamlined so that they can be effectively used by the implementing agencies. However, the PARC has built into the SARF internal controls to ensure that funds are being used efficiently and effectively for the CARP. Not only does the SARF have strong internal controls, it has a degree of flexibility so that PARC can shift funds for other uses within the SARF if the need arises. This will avoid delays in implementation when modifications are requested by the implementing agencies or when performance dictates that funds could be better utilized in another CARP element. Finally, the sources of funds available for the SARF have been sufficient for 1987 and 1988 totalling 5.25 billion pesos which is well above the actual disbursements for that period.

Limitations in the Implementation of the SARF

Overall, the actual disbursements incurred by the implementing agencies under SARF are well below the targetted amounts for 1987 and 1988. Also, the submission of required reports by the implementing agencies have been delayed. Certain implementing agencies, DENR and DA, are incurring problems of identifying supplemental costs for CARP because some of their normal programs overlap with the CARP. Many of the accounting systems set up to account solely for expenses incurred for CARP contain actual disbursements figures which are actually extracted from normal operations. As a result, the initial projections have been inflated because there is little actual information to compare it with. The above limitations reflect the massive size of the CARP budget and the number of implementing agencies involved. PARC is aware of these limitations and are meeting regularly with the designated implementing agencies to improve the implementation, coordination and reporting of CARP activities.

Financial Analysis of the SARF

As Table 9 indicates, CARP total sources of funds will be ₱226.3 billion and total uses of funds will be ₱402.6 billion. This will leave an estimated funds deficit of ₱176.3 billion (US \$8.4 billion) or 44% additional sources needed for the SARF. Presently, PARC believes it will have sufficient funding for the LAD costs until 1995 and will only have to identify an additional 8% or ₱32 billion (US \$1.53 billion) for the period 1995 through 1997. However, substantial funding sources for PLDSA have not been identified and an additional 36% or ₱145 billion (US \$6.9 billion) is still required to fund these activities. PARC has presently incurred and has projected a substantial funds deficit for PLDSA during the planned implementation period of CARP.

A quick review of the ten year cash projections for SARF shows it will have an overall positive yearly cash position until the middle of 1990 (see

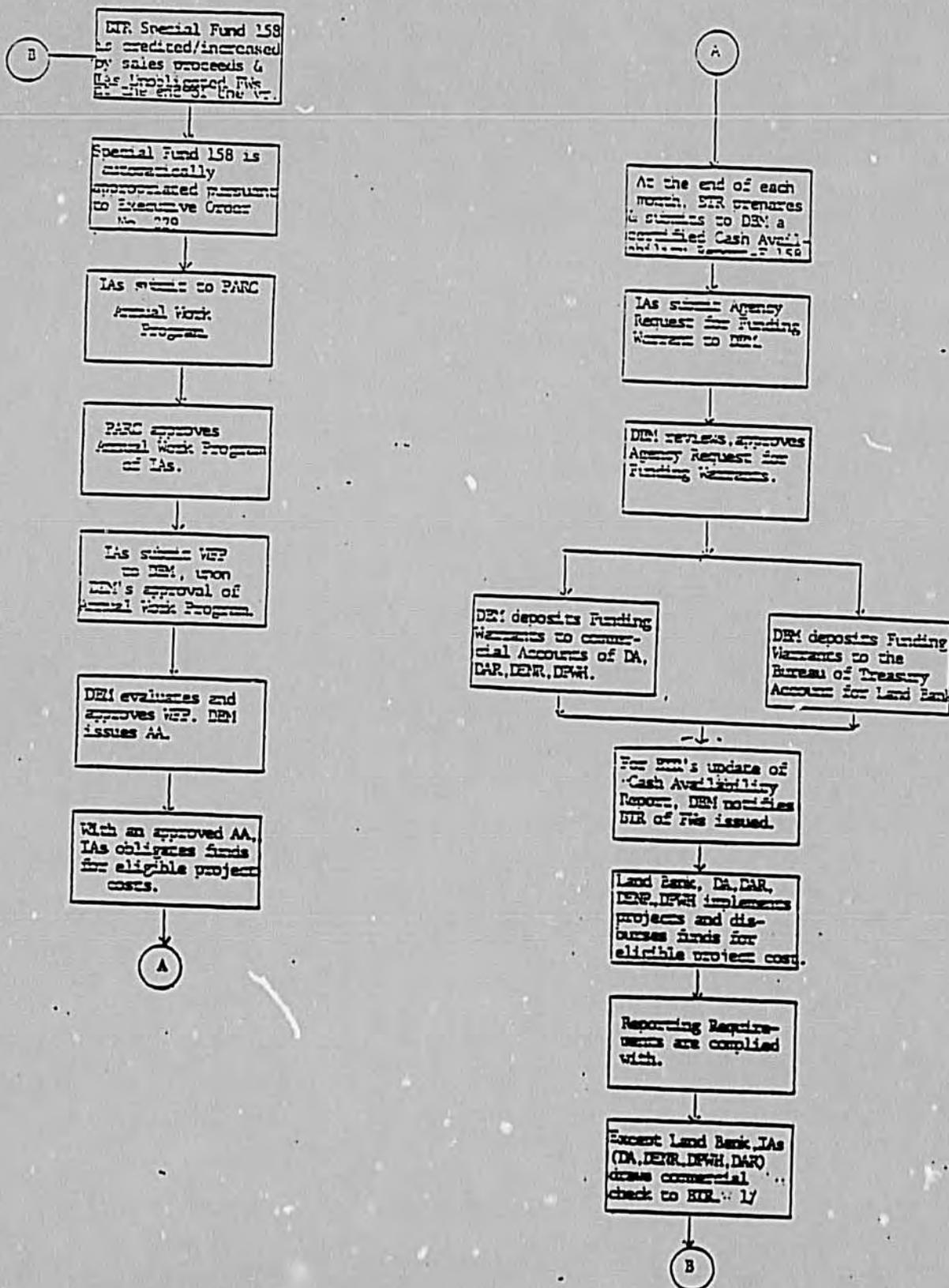
Attachment 4 to this Annex which does not include the recently provided \$50 million in Italian aid). Also actual disbursements (unaudited) as of September 30, 1988, and fourth quarter projections for 1988 show the SARF will have a substantial funds surplus of P4.6 billion for calendar year 1989. The actual disbursements as of September 30, 1988 totals P844 million (US \$40 million) representing P336 million (40%) for LAD and P508 million (60%) for PLDSA. However, further analysis of the cash projections for the SARF shows that the PLDSA will incur cumulative funds deficits of P2.9 and P18 billion during 1989 and 1990 respectively (see graph 1 included in this Annex).

The graphs illustrate the severity of the expected funds deficit for PLDSA, over the ten-year implementation period of CARP. The area between the sources and uses of funds for the LAD reflect the expected deficit levels. Under LAD, this area is relatively small and the deficits are minimal compared to the yearly P15 to P20 billion funds deficits (after 1989) for the PLDSA. As a result of the PLDSA deficits, the graph for the total CARP (graph 4 to this Annex) shows substantial deficits especially after 1990. Not only is the PLDSA incurring funds deficits, but it is also utilizing surpluses from LAD to offset these deficits. A real danger in continuing to use LAD sources of funds to cover PLDSA deficits is that the estimated 8 percent undetermined sources of funds for LAD will be much higher and cumulative deficits for LAD will be encountered before 1995.

The graphs, along with Attachment 5, clearly show the cumulative funding deficits for PLDSA. The cumulative funds deficits for PLDSA grow from P2.9 billion in 1989 to P146.2 billion by 1997, which is an annual growth rate of 630 percent (not including inflation). The graphs show that LAD items should be adequately funded throughout the CARP and the PLDSA is in dire need of immediate cash infusion.

In concluding, the SARF does have sufficient funds for all CARP operations until 1990. However, the majority of these funds are for the LAD which are funded primarily by the GOP. The PLDSA items are incurring a significant funds deficit because collections for credit have been delayed and, so far, "commitments" from other donors are not sufficient. The quick infusion of USAID funds in 1989 is vital to support the recurring funds deficits expected for PLDSA items. This quick infusion of funds will also allow PARC to avoid funding the total deficit of PLDSA with LAD sources of funds. Without a quick infusion of funds in 1989, the PARC can either reduce the necessary support services to agrarian reform beneficiaries (PLDSA) or continue to use LAD sources for PLDSA and incur future funding problems for LAD.

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1/ At the end of the calendar year, All Implementing Agencies, except the Land Bank of the Philippines (if being a corporation) remit back to the Bureau of Treasury all UNOBLIGATED FUNDING WARRANTS. These funds are again deposited by the Bureau of Treasury to SIR's Special Fund 158 and again automatically appropriated.

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COUNCIL RESOLUTION NO. 67-1-5

RESOLUTION SETTING THE GUIDELINES FOR FUND DRAWDOWN
UNDER THE AGRARIAN REFORM FUND (ARF)

WHEREAS, Presidential Proclamation No. 131 and Executive Order No. 229 provide for the creation of a special fund known as the Agrarian Reform Fund (ARF) with an initial amount of FIFTY BILLION PESOS (P50 billion) to cover the estimated cost of the CARP from 1987 to 1992;

WHEREAS, Section 15 of Executive Order No. 229 provides for the setting up by the National Government in the Land Bank of the Philippines of an Agrarian Reform Operating Fund, the amount of which shall be determined by the Government Corporation Monitoring and Coordinating Committee (GCMCC); to provide the funds required for the full implementation of the Operation Land Transfer Program under Presidential Decree No. 27;

WHEREAS, the above Agrarian Reform Operating Fund shall also be funded by the ARF, and therefore, should follow the guidelines herein prescribed;

WHEREAS, there is a need to set guidelines for fund drawdown from the ARF to systematize its operationalization and rationalize the utilization of said Fund by implementing agencies;

NOW, THEREFORE, on motion duly seconded, the Presidential Agrarian Reform Council (PARC) duly presents:

RESOLVED, as it is hereby resolved, to set the following guidelines for fund drawdown under the Agrarian Reform Fund.

1. Agencies Eligible. All agencies implementing the Comprehensive Agrarian Reform Program (CARP) are authorized to draw their supplemental financial requirements from the ARF, subject to the approval by the PARC of their annual work programs.

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2. Pre-requisites

- 2.1 The PARC, through its Secretariat, shall secure from the National Treasury and submit to the Department of Budget and Management (DBM), a certification as to the outstanding balance of deposits by APT and PCGG and availability of funds for the CARP. This shall be the basis of the DEM for the issuance of Cash Disbursement Ceiling to agencies drawing from the ARF.
- 2.2 All implementing agencies shall submit to the PARC Secretariat, their annual program of expenditures or funding requirements to implement their activities pertinent to the CARP consistent with their annual work program approved by the PARC.
- 2.3 The consolidated budget shall be presented to the Presidential Agrarian Reform Council for approval which shall serve as the basis, among others, for requests to the Department of Budget and Management for release of a special budget to the agencies.

3. Procedures for Drawing from the Fund

- 3.1 The implementing agency shall request the DBM, through the PARC, for authority to draw from the ARF. Requests for drawing from the ARF shall be approved by the PARC through a Council Resolution.
- 3.2 In addition to the Council Resolution approving the request for release of funds, the implementing agency shall submit to the DBM the Work and Financial Plans and other supporting documents required to cover said request.
- 3.3 The DBM after reviewing the Work and Financial Plan and all supporting documents shall release directly to agencies concerned, the Advice of Allotment and corresponding Cash Disbursement Ceiling or treasury warrants as the case may be under a Special Accounts Code, copy furnish the PARC Secretariat.

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4. Guidelines For Account Management and Disbursement of Funds

- 4.1 The National Government Accounting and Finance Bureau under DEM shall assign, in accordance with the National Standard Agency Coding System, a fund code to each implementing agency to account for the allotment release.
- 4.2 Upon receipt of the Advice of Allotment and corresponding CDC or treasury warrants, each implementing agency can already disburse the funds in accordance with the work plan and usual accounting and auditing procedures pertinent to Special Accounts.
- 4.3 Agencies operating under the sub-allotment procedure shall sub-allot the required CDC to the regions in accordance with the work program of each region.
- 4.4 Accounting procedures in the booking-up of Cash Disbursement Ceiling for Special Accounts shall be in accordance with Joint Circular No. 4-25 dated May 6, 1985.
- 4.5 CDC issued to each agency shall be valid up to the end of the calendar year. Unobligated balance shall be reverted to surplus under Special Account at the end of the year. However, being a continuing appropriation, the unutilized amount may be requested for release subject to special budget for the succeeding calendar year.

UNANIMOUSLY APPROVED: This 16th day of October, 1987.

Gregorio B. Aquino
Chairman

Presidential Agrarian Reform Council

Philip E. Juico
PHILIP E. JUICO
Secretary

Department of Agrarian Reform

Carlos G. Dominguez
CARLOS G. DOMINGUEZ
Secretary

Department of Agriculture

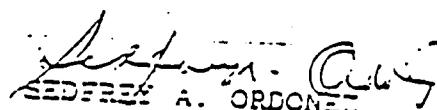
Fulgencio S. Factoran, Jr.
FULGENCIO S. FACTORAN, JR.
Secretary

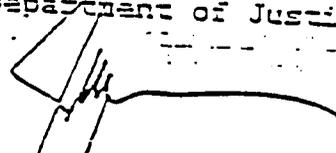
Department of Environment and
Natural Resources

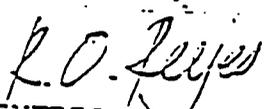
Catalino Macaraig, Jr.
CATALINO MACARAIG, JR.
Executive Secretary

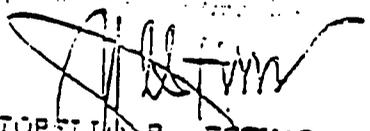

VICENTE B. JAYME
Secretary
Department of Finance

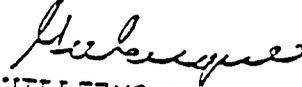

DECGRACIAS N. VISTAN
President
Land Bank of the Philippines

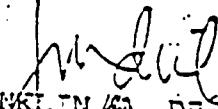

SEDFREY A. ORDONEZ
Secretary
Department of Justice

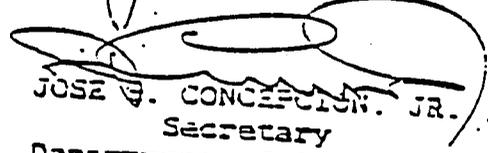

LITO NORBERTO LICHUANZA
Acting Secretary
Department of Local Government

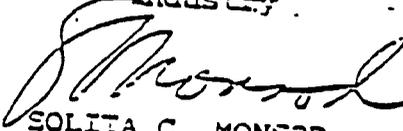

REINERIO C. REYES
Secretary
Department of Transportation
and Communication

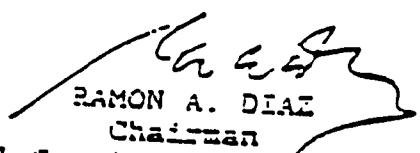

FIORELLO R. ESTUAR
Secretary
Department of Public
Works and Highways


GUILLERMO N. CARAGUE
Secretary
Department of Budget and
Management


FRANKLIN M. DEILON
Secretary
Department of Labor and
Employment


JOSE G. CONCEPCION, JR.
Secretary
Department of Trade and
Industry


SOLITA C. MONSOD
Secretary
National Economic and
Development Authority


RAMON A. DIAZ
Chairman
Presidential Commission on Good Government

ATTESTED:


Council Secretary

COMPREHENSIVE AGRARIAN REFORM PROGRAM.
Agency Quarterly Fund Statement
For the Period _____ to _____, 19__

| This Quarter | | | Year-to-date | | |
|--------------|--------|----------|--------------|--------|----------|
| Actual | Target | Variance | Actual | Target | Variance |

- A. Beginning Balance 1_ /
- B. Releases this Quarter
- C. Collections and Income
- TOTAL CASH AVAILABLE**
- D. Less: Disbursements 2_ /

TOTAL DISBURSEMENTS

- E. Ending Balance

1_ / Balance from previous quarter
2_ / To be broken down by activity

COMPREHENSIVE AGRARIAN REFORM PROGRAM
Quarterly Fund Statement
Land Bank of the Philippines
For the Period _____ to _____, 19__

| | This Quarter | | | Year-to-date | | |
|---------------------------------------|--------------|--------|----------|--------------|--------|----------|
| | Actual | Target | Variance | Actual | Target | Variance |
| A. Beginning Balance 1/ | | | | | | |
| B. Releases from ARF (Fund 153) | | | | | | |
| C. Collections & Incomes | | | | | | |
| 1. Production Loans | | | | | | |
| 2. Agrarian Reform - Receivables | | | | | | |
| 3. Incomes from BSP | | | | | | |
| D. Incomes from Reinvestments | | | | | | |
| 1. Interest Incomes | | | | | | |
| 2. Others | | | | | | |
| TOTAL FUND AVAILABLE | | | | | | |
| LESS: DISBURSEMENTS | | | | | | |
| A. Land Transfer | | | | | | |
| 1. Cash Portion of LO Compensation | | | | | | |
| a. Program A | | | | | | |
| 1) Old | | | | | | |
| 2) New | | | | | | |
| b. Program B | | | | | | |
| c. Program C | | | | | | |
| 2. Maturing Bonds | | | | | | |
| a. Program A | | | | | | |
| 1) Old | | | | | | |
| 2) New | | | | | | |
| b. Program B | | | | | | |
| c. Program C | | | | | | |
| 3. Interest Payments on Bonds | | | | | | |
| a. Program A | | | | | | |
| b. Program B | | | | | | |
| c. Program C | | | | | | |

1/ Balance from _____ quarter

| This Quarter | | | Year-to-date | | |
|--------------|--------|----------|--------------|--------|----------|
| Actual | Target | Variance | Actual | Target | Variance |

- B. Production Loan Disbursement
 - 1. Program A
 - 2. Program B
 - 3. Program C
 - 4. Program D
- C. Operational Support Activities 2/
 - 1. Training/seminars on land appraisal/valuation
 - 2. Processing of LO compensation claims
 - 3. Information Drive

TOTAL DISBURSEMENTS

ENDING BALANCE

2/ Other activities to be identified by agency

COMPREHENSIVE AGRARIAN REFORM PROGRAM
Agency Quarterly Accomplishment Report of Physical Targets
For the Period _____ to _____ 19__

Activity/Output Indicator

This Quarter

Year-to-date

Actual Target Variance

Actual Target Variance

A. (Activity)

1. (Output Indicator)

2. (Output Indicator)

3. (Output Indicator)

B. (Activity)

1. (Output Indicator)

2. (Output Indicator)

3. (Output Indicator)

COMPREHENSIVE AGRARIAN REFORM PROGRAM
Quarterly Accomplishment Report of Physical Targets
For the Period _____ to _____, 19__

| Activity/Output Indicator | This Quarter | | | Year-to-date | | |
|------------------------------------|--------------|--------|----------|--------------|--------|----------|
| | Actual | Target | Variance | Actual | Target | Variance |
| | | | | | | |
| A. Land Transfer | | | | | | |
| 1. Cash Portion of LD Compensation | | | | | | |
| a. Program A | | | | | | |
| 1) Number of LDs | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |
| b. Program B | | | | | | |
| 1) Number of LDs | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |
| c. Program C | | | | | | |
| 1) Number of LDs | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |
| 2. Maturing Bonds | | | | | | |
| a. Program A | | | | | | |
| 1) Number of LDs | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |
| b. Program B | | | | | | |
| 1) Number of LDs | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |
| c. Program C | | | | | | |
| 1) Number of LDs | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |
| 3. Interest Payments on Bonds | | | | | | |
| a. Program A | | | | | | |
| 1) Number of Bond Certificates | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |
| b. Program B | | | | | | |
| 1) Number of LDs | | | | | | |
| 2) Number of FAs | | | | | | |
| 3) Area | | | | | | |

Activity/Output Indicator

This Quarter

Year-to-date

Actual Target Variance

Actual Target Variance

- c. Program C
 - 1) Number of LOs
 - 2) Number of F3s
 - 3) Area

- B. Production Loan Disbursements
 - 1. Program A
 - a. Number of F3s
 - b. Area
 - 2. Program B
 - a. Number of F3s
 - b. Area
 - 3. Program C
 - a. Number of F3s
 - b. Area
 - 4. Program D
 - a. Number of F3s
 - b. Area

- C. Operational Support Activities 1/
 - 1 Training/seminars on land appraisal/valuation
 - a. No. of courses conducted
 - b. No. of trainees/participants
 - 2 Processing of LO compensation claims
 - a. No. of LOs
 - b. Area
 - 3. Information Drive
 - a. No. of print ads

1/ Other activities to be identified by agency

COMPREHENSIVE AGRARIAN REFORM PROGRAM
COST ESTIMATES AND CASHFLOW PROJECTIONS
(In Million Pesos)

| Quarter | 1987 Actual 4th | 1988 Actual 1-3rd | 1988 Estimate 4th | 1989 'Projected 'Yearly | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | TOTAL |
|--|-----------------------|-------------------------|-------------------------|-------------------------------|---------------|---------------|----------------|----------------|----------------|-----------------|-----------------|-----------------|-----------------|
| LAND ACQUISITION AND DISTRIBUTION | | | | | | | | | | | | | |
| 1. Land Survey | 118 | 218 | 177 | 1,401 | 10,059 | 10,441 | 14,742 | 17,639 | 21,600 | 22,999 | 26,047 | 29,337 | 151,040 |
| 2. EP Generation/Distribution | 20 | 19 | 20 | 137 | 181 | 214 | 269 | 317 | 253 | 228 | 120 | 54 | 1,851 |
| 3. Patent/CSC Issuances | 12 | 13 | 2 | 50 | 45 | 35 | 21 | 24 | 26 | 29 | 31 | 34 | 321 |
| 4. EP Registrations & Titling | | | 1 | 71 | 51 | 60 | 70 | 75 | 77 | 77 | 79 | 2 | 523 |
| 5. Landowners' Compensation | 65 | 186 | 150 | 1,179 | 8,272 | 7,707 | 10,760 | 11,836 | 13,942 | 13,351 | 14,607 | 16,194 | 90,350 |
| 6. Payment of Maturing Bonds | | | 0 | 0 | 1,483 | 2,407 | 3,588 | 5,389 | 7,293 | 9,285 | 11,109 | 13,034 | 51,556 |
| Sources of Funds | 1,277 | 3,972 | 600 | 11,962 | 10,266 | 14,445 | 10,130 | 10,906 | 12,631 | 12,159 | 13,243 | 14,475 | 124,165 |
| 1. Proceeds From Sales of Assets | 1,277 | 3,972 | 600 | 9,000 | 12,195 | 11,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 50,044 |
| a. FCGS | 228 | 1,005 | 200 | 5,000 | 4,800 | 6,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 29,233 |
| b. API | 1,049 | 2,967 | 400 | 4,000 | 7,395 | 5,000 | | | | | | | 20,811 |
| 2. Collect'n of Land Acortization | | | 0 | 20 | 491 | 156 | 206 | 269 | 340 | 450 | 563 | 499 | 3,209 |
| 3. Issuance of LSP Bonds | | | 0 | 2,934 | 5,600 | 3,209 | 7,924 | 8,717 | 10,283 | 9,709 | 10,660 | 11,777 | 70,913 |
| NET CASHFLOW | 1,159 | 3,754 | 423 | 10,181 | 8,227 | 4,004 | (4,612) | (6,653) | (8,969) | (10,930) | (12,604) | (14,821) | (30,822) |
| CUMULATIVE NET CASHFLOW | 1,159 | 3,754 | 1,582 | 12,063 | 20,290 | 24,294 | 19,682 | 13,029 | 4,060 | (6,770) | (19,574) | (34,436) | |

COST ESTIMATES AND CASHFLOW PROJECTIONS
(In Million Pesos)

Attachment 4
Annex B

| Quarter | 1987 Actual 4th | 1988 Actual 1-3rd | 1988 Estimate 4th | 1989 'Projected 'Yearly | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | TOTAL |
|--|-----------------------|-------------------------|-------------------------|-------------------------------|----------|----------|----------|----------|----------|-----------|-----------|-----------|-----------|
| II. POST-LAND DISTRIBUTION SUPPORT ACTIVITIES | | | | | | | | | | | | | |
| | 138 | 392 | 577 | 5,413 | 17,794 | 23,206 | 26,439 | 28,894 | 33,320 | 36,356 | 39,614 | 33,255 | 217,546 |
| 1. Preliminary Activities | 27 | 0 | 20 | 776 | 200 | 42 | 32 | 55 | 39 | 61 | 46 | 74 | 1,357 |
| 2. Support to Farmer-Benef. | 61 | 217 | 200 | 3,164 | 14,316 | 18,535 | 21,524 | 23,194 | 27,162 | 30,481 | 32,129 | 28,325 | 200,538 |
| a. Extension | 0 | 30 | 20 | 1,423 | 1,891 | 1,091 | 1,314 | 1,853 | 2,036 | 2,152 | 2,009 | 1,991 | 15,319 |
| b. Credit | 0 | 207 | 175 | 856 | 10,294 | 14,364 | 16,209 | 18,390 | 21,353 | 24,285 | 27,169 | 25,146 | 159,195 |
| c. Infrastructure | 0 | 0 | 5 | 885 | 2,131 | 3,080 | 4,001 | 2,661 | 3,713 | 3,744 | 2,651 | 2,779 | 25,650 |
| 3. Support to Agencies | 10 | 147 | 357 | 1,473 | 3,108 | 4,629 | 5,081 | 5,735 | 6,219 | 5,814 | 6,440 | 6,255 | 45,988 |
| a. Institut'l Strengthening | 10 | 145 | 120 | 1,415 | 3,071 | 3,467 | 5,010 | 5,407 | 6,105 | 5,791 | 6,407 | 6,213 | 41,151 |
| b. Research & Development | 0 | 1 | 2 | 58 | 61 | 39 | 52 | 48 | 31 | 10 | 33 | 12 | 359 |
| c. Data Base Management | 0 | 0 | 235 | 0 | 56 | 1,124 | 21 | | | | | | 1,116 |
| Sources of Funds | | | 353 | 2,059 | 3,752 | 5,316 | 7,758 | 10,590 | 13,557 | 16,271 | 19,418 | 22,529 | 101,672 |
| II. Foreign sources | | | | | | | | | | | | | |
| | | | 353 | 1,682 | 68 | 18 | | | | | | | 1,521 |
| a. Dutch Fertilizer Grant | 0 | 0 | 100 | 51 | 19 | | | | | | | | 191 |
| b. USAID | 0 | 0 | | 1,000 | | | | | | | | | 1,000 |
| c. FAD | 0 | 0 | 53 | 31 | 28 | 18 | | | | | | | 130 |
| d. Italian Aid | 0 | 0 | 200 | | | | | | | | | | 130 |
| 2. Collections/Revenues | 0 | 0 | 0 | 977 | 3,681 | 5,328 | 7,798 | 10,590 | 13,557 | 16,271 | 19,419 | 22,529 | 100,152 |
| NET CASHFLOW | (1361) | (1921) | (2241) | (3,351) | (13,952) | (12,860) | (18,811) | (18,304) | (19,603) | (20,055) | (19,196) | (14,126) | (116,273) |
| CUMULATIVE NET CASHFLOW | (1361) | (3921) | (360) | (3,714) | (17,666) | (35,526) | (54,367) | (72,671) | (92,474) | (112,559) | (131,755) | (145,891) | |
| III. TOTAL NET CASHFLOW | 1,023 | 3,362 | 199 | 7,127 | 15,725 | (13,856) | (23,153) | (24,957) | (29,772) | (30,915) | (32,000) | (28,988) | (176,955) |
| IV. TOTAL CUMULATIVE NET CASHFLOW | 1,023 | 3,362 | 1,222 | 8,319 | 2,624 | (11,232) | (34,695) | (59,642) | (88,414) | (119,329) | (151,329) | (180,317) | |
| Total Sources of Funds: | | | | | | | | | | | | | |
| Land Acquisition and Distribution | | | 20,813 | | 552 | | | | | | | | |
| Post-Land Dist'n Support Activities | | | 161,477 | | 452 | | | | | | | | |
| Total Uses of Funds: | | | 226,316 | | 1002 | | | | | | | | |
| Land Acquisition and Distribution | | | 151,962 | | 382 | | | | | | | | |
| Post-Land Dist'n Support Activities | | | 247,692 | | 622 | | | | | | | | |

P

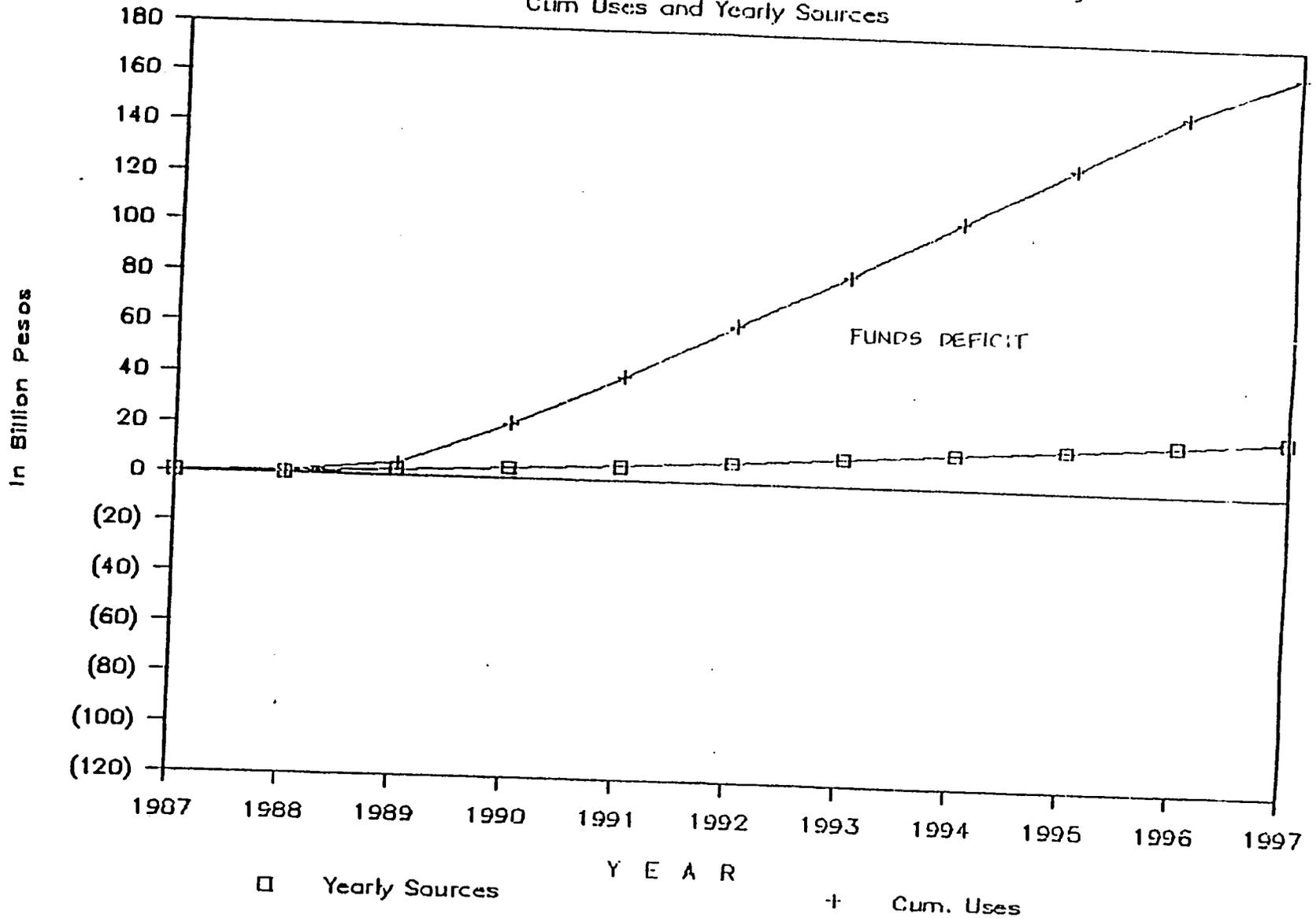
Attachment 5
Annex B

| L A D | | | | | P L D S A | | | | | TOTAL LAD & PLDSA | | | | |
|---------------------------|----------------------|-----------------------|---------------------------|--------------------------------|---------------------------|-----------------------|-------------------|---------------------------|--------------------------------|---------------------------|----------------------|-----------------------|---------------------------|--------------------------------|
| Available Sources ('000s) | Cum. Sources ('000s) | Uses of Funds ('000s) | Surplus (Deficit) ('000s) | Cum. Surplus (Deficit) ('000s) | Available Sources ('000s) | Uses of Funds ('000s) | Cum. Uses ('000s) | Surplus (Deficit) ('000s) | Cum. Surplus (Deficit) ('000s) | Available Sources ('000s) | Cum. Sources ('000s) | Uses of Funds ('000s) | Surplus (Deficit) ('000s) | Cum. Surplus (Deficit) ('000s) |
| 1,227 | 1227 | 115 | 1,112 | 1,112 | 0 | 116 | 116 | (116) | (116) | 1,227 | 996 | 231 | 996 | 996 |
| 4,572 | 5684 | 335 | 4,237 | 5,349 | 153 | 734 | 850 | (501) | (697) | 4,725 | 5721 | 1,069 | 3,656 | 4,652 |
| 11,962 | 17311 | 2,632 | 9,330 | 14,679 | 2,059 | 4,270 | 4967 | (2,211) | (2,908) | 14,021 | 10673 | 6,902 | 7,119 | 11,771 |
| 18,286 | 32965 | 8,908 | 9,378 | 24,057 | 3,752 | 18,855 | 21763 | (15,103) | (18,011) | 22,030 | 33809 | 27,763 | (5,725) | 6,046 |
| 14,445 | 38502 | 10,441 | 4,004 | 28,061 | 5,346 | 23,206 | 41217 | (17,860) | (35,871) | 19,791 | 25837 | 33,647 | (13,856) | (7,810) |
| 10,130 | 38191 | 14,742 | (4,612) | 23,449 | 7,798 | 26,639 | 62510 | (10,841) | (54,712) | 17,920 | 10118 | 41,381 | (23,463) | (31,253) |
| 10,986 | 34435 | 17,639 | (6,653) | 16,796 | 10,590 | 28,894 | 83606 | (10,304) | (73,016) | 21,576 | -9687 | 46,533 | (24,957) | (56,220) |
| 12,631 | 29427 | 21,600 | (8,969) | 7,827 | 13,557 | 33,360 | 106376 | (19,803) | (92,819) | 26,188 | -30032 | 54,960 | (28,772) | (84,972) |
| 12,159 | 19986 | 22,989 | (10,830) | (3,043) | 16,271 | 36,356 | 129175 | (20,085) | (112,904) | 20,430 | -56562 | 57,345 | (30,915) | (115,907) |
| 13,243 | 10240 | 26,047 | (12,804) | (15,807) | 19,418 | 38,614 | 151518 | (19,196) | (132,100) | 32,661 | -83246 | 64,661 | (52,000) | (147,907) |
| 14,475 | -1332 | 29,337 | (14,862) | (30,669) | 22,529 | 36,655 | 168755 | (14,126) | (146,226) | 37,004 | -110703 | 65,972 | (28,768) | (176,895) |
| ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 124,116 | | 154,785 | (30,669) | | 101,473 | 247,699 | | (146,226) | | 225,589 | | 402,484 | (176,895) | |
| ===== | | ===== | ===== | ===== | ===== | ===== | | ===== | | ===== | | ===== | ===== | ===== |

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POST Land Distribution & Survey

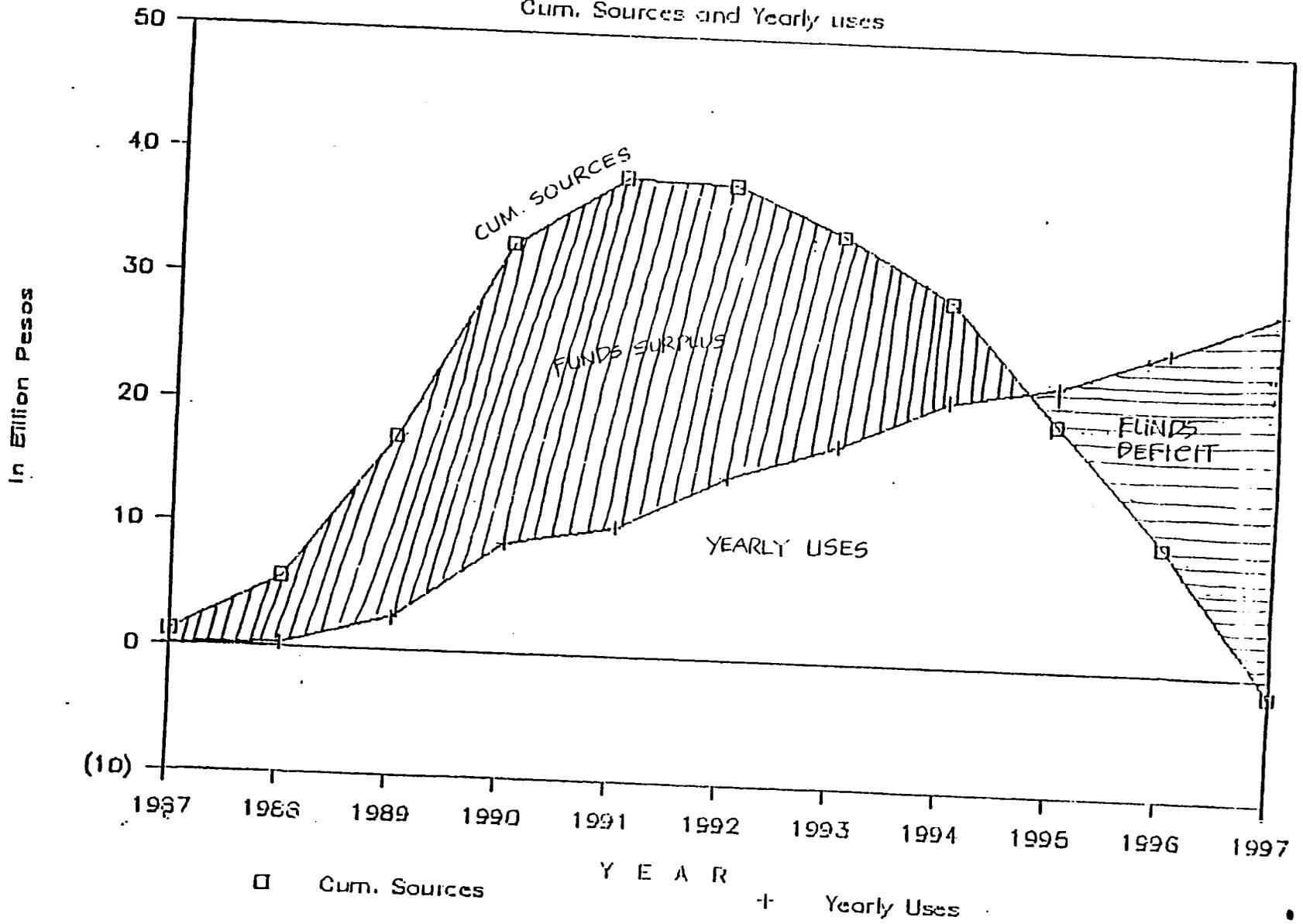
Cum Uses and Yearly Sources



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LAND AND DISTRIBUTION

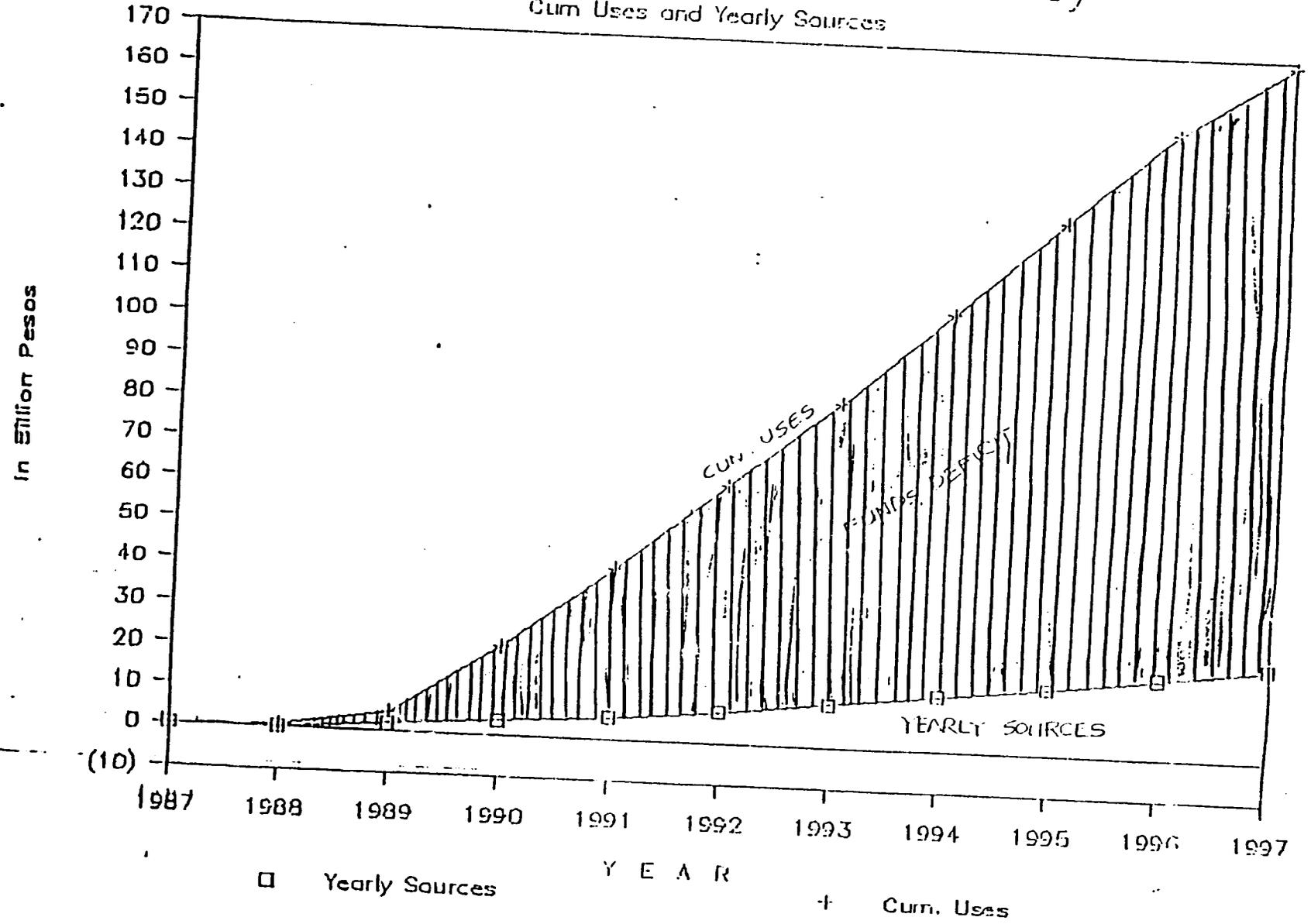
Cum. Sources and Yearly Uses



21

POST Land Distribution & Survey

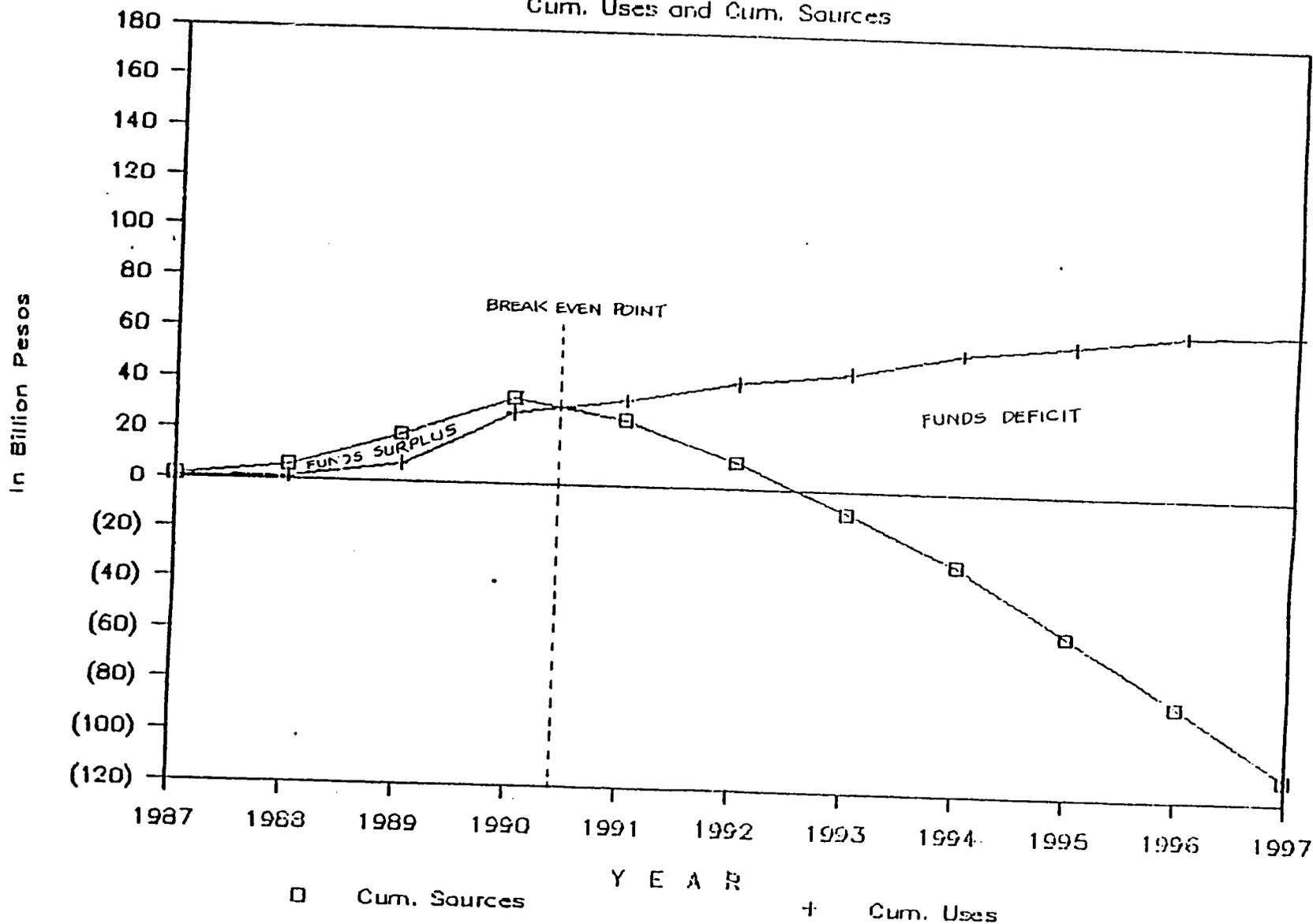
Cum Uses and Yearly Sources



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Total LAD and PLDSA

Cum. Uses and Cum. Sources



Handwritten initials or mark.

ANNEX C
GOP Letter of Request

2
Pasig, Metro Manila

Cable Address: MEDAPHIL
P.O. Box 419, Generalia
Tele. 673-50-31 to 63

7 April 1988

Mr. Frederick W. Schieck
Mission Director
USAID
Manila

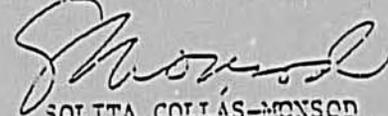
Dear Director Schieck:

This refers to the \$50 million U.S. assistance to support the Philippine Government's implementation of the Comprehensive Agrarian Reform Program (CARP).

We wish to inform you that the Government expects to avail of the said amount in full during the first year of program implementation. The Government is now making the preparations for programming the proposed utilization of the assistance.

Thank you for your continued support.

Very truly yours,

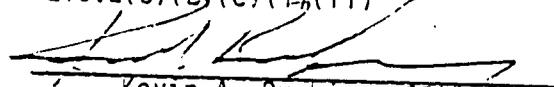


SOLITA COLLAS-MONSOD
Secretary of Socio-Economic Planning

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ANNEX D
Initial Environmental Examination

- (A) PROGRAM COUNTRY: Philippines
- (B) ACTIVITY: AGRARIAN REFORM SUPPORT PROGRAM (492-0431)
- (C) FUNDING: \$50 MILLION
- (D) PERIOD OF FUNDING: FY 1989 - FY 1991
- (E) STATEMENT PREPARED BY: 
Gary M. Imhoff, OCD/PDID, USAID, Philippines
- (F) ENVIRONMENTAL ACTION RECOMMENDED: Categorical Exclusion under
A.I.D. Regulation 16, Section
216.2(C)(2)(c)(1)(ii)
- (G) ENVIRONMENTAL OFFICER CLEARANCE: 
Kevin A. Rushing, ORAD,
USAID/Philippines
- (H) DECISION OF USAID/PHILIPPINES DIRECTOR
APPROVED: 
DISAPPROVED:
DATE: FEB 01 1989

EXAMINATION OF THE NATURE, SCOPE AND MAGNITUDE OF THE ENVIRONMENTAL IMPACT

A. DESCRIPTION OF THE PROGRAM:

The proposed program consists of funds provided to support the Government of the Philippines' budget expenditures under the Comprehensive Agrarian Reform Program (CARP). Some technical assistance will be provided to monitor progress and provide for evaluation services. A.I.D. will not be directly involved in how the budget support funds are spent, other than confirming that broad budget categories receive agreed levels of GOP funding during the 1989 and 1990 (if needed) calendar years. A.I.D. will have neither the knowledge or control of specific activities within those budget categories.

B. RECOMMENDED ENVIRONMENTAL ACTION:

Considering the above program approach, a categorical exclusion from A.I.D.'s Initial Environmental Examination, Environmental assessment and Environmental Impact Summary requirements is proposed. This proposal is in accordance with A.I.D. Regulation 16, Section 216.2(C)(2)(c)(1)(ii) which provides for a categorical exclusion in situations where the purpose of the program does not require A.I.D. to have "knowledge of or control over, the details of the specific activities that have an effect on the environment for which financing is provided by A.I.D."

ANNEX E
Statutory Checklist

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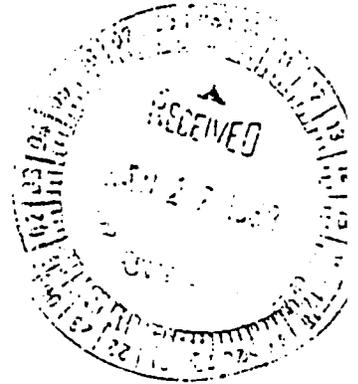
5C(1) - COUNTRY CHECKLIST

Listed below are statutory criteria applicable to: (A) FAA funds generally; (B)(1) Development Assistance funds only; or (B)(2) the Economic Support Fund only.

A. GENERAL CRITERIA FOR COUNTRY ELIGIBILITY

1. FY 1989 Appropriations Act Sec. 578(b). Has the President certified to the Congress that the government of the recipient country is failing to take adequate measures to prevent narcotic drugs or other controlled substances which are cultivated, produced or processed illicitly, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully?

No.



2. FAA Sec. 481(h); FY 1989 Appropriations Act Sec. 578; 1988 Drug Act Secs. 4405-07. (These provisions apply to assistance of any kind provided by grant, sale, loan, lease, credit, guaranty, or insurance, except assistance from the Child Survival Fund or relating to international narcotics control, disaster and refugee relief, narcotics education and awareness, or the provision of food or medicine.) If the recipient is a "major illicit drug producing country" (defined as a country producing during a fiscal year at least five metric tons of opium or 500 metric tons of coca or marijuana) or a "major drug-transit country" (defined as a country that is a significant direct source of illicit drugs significantly affecting the United States, through which such drugs are transported, or through which significant sums of drug-related

The Philippines has n been defined as a "ma illicit drug producin country" or a "major transit country."

profits are laundered with the knowledge or complicity of the government): (a) Does the country have in place a bilateral narcotics agreement with the United States, or a multilateral narcotics agreement? and (b) Has the President in the March 1 International Narcotics Control Strategy Report (INSCR) determined and certified to the Congress (without Congressional enactment, within 45 days of continuous session, of a resolution disapproving such a certification), or has the President determined and certified to the Congress on any other date (with enactment by Congress of a resolution approving such certification), that (1) during the previous year the country has cooperated fully with the United States or taken adequate steps on its own to satisfy the goals agreed to in a bilateral narcotics agreement with the United States or in a multilateral agreement, to prevent illicit drugs produced or processed in or transported through such country from being transported into the United States, to prevent and punish drug profit laundering in the country, and to prevent and punish bribery and other forms of public corruption which facilitate production or shipment of illicit drugs or discourage prosecution of such acts, or that (2) the vital national interests of the United States require the provision of such assistance?

3. 1986 Drug Act Sec. 2013; 1988 Drug Act Sec. 4404. (This section applies to the same categories of assistance subject to the restrictions in FAA Sec. 481(h), above.) If recipient country is a "major illicit drug producing country" or "major drug-transit country" (as defined for the purpose of FAA Sec 481(h)), has the President submitted a report to Congress listing such country as one (a) which, as a matter of government policy, encourages or facilitates the production or

N/A. See (2) ab

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distribution of illicit drugs; (b) in which any senior official of the government engages in, encourages, or facilitates the production or distribution of illegal drugs; (c) in which any member of a U.S. Government agency has suffered or been threatened with violence inflicted by or with the complicity of any government officer; or (d) which fails to provide reasonable cooperation to lawful activities of U.S. drug enforcement agents, unless the President has provided the required certification to Congress pertaining to U.S. national interests and the drug control and criminal prosecution efforts of that country?

4. FAA Sec. 620(c). If assistance is to a government, is the government indebted to any U.S. citizen for goods or services furnished or ordered where (a) such citizen has exhausted available legal remedies, (b) the debt is not denied or contested by such government, or (c) the indebtedness arises under an unconditional guaranty of payment given by such government or controlled entity? No.

5. FAA Sec. 620(e)(1). If assistance is to a government, has it (including any government agencies or subdivisions) taken any action which has the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property of U.S. citizens or entities beneficially owned by them without taking steps to discharge its obligations toward such citizens or entities? No.

6. FAA Secs. 620(a), 620(f), 620D; FY 1989 Appropriations Act Secs. 512, 550, 592. Is recipient country a Communist country? If so, has the President determined that assistance to the country is vital to the security of the United States, that the recipient country is not controlled by the international Communist conspiracy, and that such assistance will further promote the independence of the recipient country from international communism? Will assistance be provided No.

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either directly or indirectly to Angola, Cambodia, Cuba, Iraq, Libya, Vietnam, South Yemen, Iran or Syria? Will assistance be provided to Afghanistan without a certification, or will assistance be provided inside Afghanistan through the Soviet-controlled government of Afghanistan?

7. FAA Sec. 620(j). Has the country permitted, or failed to take adequate measures to prevent, damage or destruction by mob action of U.S. property? No.
8. FAA Sec. 620(l). Has the country failed to enter into an investment guaranty agreement with OPIC? No.
9. FAA Sec. 620(o); Fishermen's Protective Act of 1967 (as amended) Sec. 5. (a) Has the country seized, or imposed any penalty or sanction against, any U.S. fishing vessel because of fishing activities in international waters? (a) No.
(b) If so, has any deduction required by the Fishermen's Protective Act been made? (b) N/A
10. FAA Sec. 620(q); FY 1989 Appropriations Act Sec. 518. (a) Has the government of the recipient country been in default for more than six months on interest or principal of any loan to the country under the FAA? (a) No.
(b) Has the country been in default for more than one year on interest or principal on any U.S. loan under a program for which the FY 1989 Appropriations Act appropriates funds? (b) No.
11. FAA Sec. 620(s). If contemplated assistance is development loan or to come from Economic Support Fund, has the Administrator taken into account the percentage of the country's budget and amount of the country's foreign exchange or other resources spent on military equipment? (Reference may be made to the annual "Taking Into Consideration" memo: "Yes, taken into account by the Administrator at time of approval of Yes.

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Agency OYB." This approval by the Administrator of the Operational Year Budget can be the basis for an affirmative answer during the fiscal year unless significant changes in circumstances occur.)

12. FAA Sec. 620(t). Has the country severed diplomatic relations with the United States? If so, have relations been resumed and have new bilateral assistance agreements been negotiated and entered into since such resumption?
13. FAA Sec. 620(u). What is the payment status of the country's U.N. obligations? If the country is in arrears, were such arrearages taken into account by the A.I.D. Administrator in determining the current A.I.D. Operational Year Budget? (Reference may be made to the "Taking into Consideration" memo.)
14. FAA Sec. 620A. Has the President determined that the recipient country grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism or otherwise supports international terrorism?
15. FY 1989 Appropriations Act Sec. 568. Has the country been placed on the list provided for in Section 6(j) of the Export Administration Act of 1979 (currently Libya, Iran, South Yemen, Syria, Cuba, or North Korea)?
16. ISDCA of 1985 Sec. 552(b). Has the Secretary of State determined that the country is a high terrorist threat country after the Secretary of Transportation has determined, pursuant to section 1115(e)(2) of the Federal Aviation Act of 1958, that an airport in the country does not maintain and administer effective security measures?

No.

The GOP is not delinquent with respect to its U.N. obligations within the meaning of the first sentence of Article of the U.N. Charter. The A.I.D. Administrator has taken an arrearages into account in the FY 1989 Taking Into Consideration memo.

No.

No.

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17. FAA Sec. 666(b). Does the country object, on the basis of race, religion, national origin or sex, to the presence of any officer or employee of the U.S. who is present in such country to carry out economic development programs under the FAA? No.
18. FAA Secs. 669, 670. Has the country, after August 3, 1977, delivered to any other country or received nuclear enrichment or reprocessing equipment, materials, or technology, without specified arrangements or safeguards, and without special certification by the President? Has it transferred a nuclear explosive device to a non-nuclear weapon state, or if such a state, either received or detonated a nuclear explosive device? (FAA Sec. 620E permits a special waiver of Sec. 669 for Pakistan.) No.
19. FAA Sec. 670. If the country is a non-nuclear weapon state, has it, on or after August 8, 1985, exported (or attempted to export) illegally from the United States any material, equipment, or technology which would contribute significantly to the ability of a country to manufacture a nuclear explosive device? No.
20. ISDCA of 1981 Sec. 720. Was the country represented at the Meeting of Ministers of Foreign Affairs and Heads of Delegations of the Non-Aligned Countries to the 36th General Assembly of the U.N. on Sept. 25 and 28, 1981, and did it fail to disassociate itself from the communique issued? If so, has the President taken it into account? (Reference may be made to the "Taking into Consideration" memo.) No.
21. FY 1989 Appropriations Act Sec. 527. Has the recipient country been determined by the President to have engaged in a consistent pattern of opposition to the foreign policy of the United States? No.

22. FY 1989 Appropriations Act Sec. 513. Has the duly elected Head of Government of the country been deposed by military coup or decree? If assistance has been terminated, has the President notified Congress that a democratically elected government has taken office prior to the resumption of assistance? No.
23. FY 1989 Appropriations Act Sec. 540. Does the recipient country fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations, including resettlement without respect to race, sex, religion, or national origin? Yes.

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B. FUNDING SOURCE CRITERIA FOR COUNTRY ELIGIBILITY

1. Development Assistance Country Criteria

FAA Sec. 116. Has the Department of State determined that this government has engaged in a consistent pattern of gross violations of internationally recognized human rights? If so, can it be demonstrated that contemplated assistance will directly benefit the needy?

No.

FY 1989 Appropriations Act Sec. 536. Has the President certified that use of DA funds by this country would violate any of the prohibitions against use of funds to pay for the performance of abortions as a method of family planning, to motivate or coerce any person to practice abortions, to pay for the performance of involuntary sterilization as a method of family planning, to coerce or provide any financial incentive to any person to undergo sterilizations, to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning?

No.

2. Economic Support Fund Country Criteria

FAA Sec. 502B. Has it been determined that the country has engaged in a consistent pattern of gross violations of internationally recognized human rights? If so, has the President found that the country made such significant improvement in its human rights record that furnishing such assistance is in the U.S. national interest?

No.

qk

3(A)2 - NONPROJECT ASSISTANCE CHECKLIST

The criteria listed in Part A are applicable generally to FAA funds, and should be used irrespective of the program's funding source. In Part B a distinction is made between the criteria applicable to Economic Support Fund assistance and the criteria applicable to Development Assistance. Selection of the criteria will depend on the funding source for the program.

CROSS REFERENCES: IS COUNTRY CHECKLIST UP TO DATE? HAS STANDARD ITEM CHECKLIST BEEN REVIEWED?

FY 1989 Country Checklist is attached.
Yes.

A. GENERAL CRITERIA FOR NONPROJECT ASSISTANCE

1. FY 1989 Appropriations Act Sec. 523; FAA Sec. 534A. Describe how authorization and appropriations committees of Senate and House have been or will be notified concerning the project.

A CN has been submitted to Congress. Obligation will take place once the waiting period has passed without objection.
2. FAA Sec. 611(a)(2). If further legislative action is required within recipient country, what is basis for reasonable expectation that such action will be completed in time to permit orderly accomplishment of purpose of the assistance?

No further legislative action is required.
3. FAA Sec. 209. Is assistance more efficiently and effectively provided through regional or multilateral organizations? If so, why is assistance not so provided? Information and conclusions on whether assistance will encourage developing countries to cooperate in regional development programs.

No.
N/A.
Program is for targetted budgetary assistance in support of GOP agrarian reform activities and is solely bilateral in nature.

- | | |
|---|--|
| <p>4. <u>FAA Sec. 601(a)</u>. Information and conclusions on whether assistance will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture, and commerce; and (f) strengthen free labor unions.</p> | <p>Budgetary Support will assist in areas of CARP implementation which will encourage the use of rural savings institutions and coops. As the economic rationale of CARP is one of equity, private initiative should be stimulated as more Filipinos enter the economic arena.</p> |
| <p>5. <u>FAA Sec. 601(b)</u>. Information and conclusions on how assistance will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).</p> | <p>The Program assistance will support Philippine agriculture and trade which is largely in the private sector. A small portion of the assistance will finance US private sector TA.</p> |
| <p>6. <u>FAA Secs. 612(b), 636(h); FY 1989 Appropriations Act Secs. 507, 509.</u> Describe steps taken to assure that, to the maximum extent possible, foreign currencies owned by the U.S. are utilized in lieu of dollars to meet the cost of contractual and other services.</p> | <p>N/A.</p> |
| <p>7. <u>FAA Sec. 612(d)</u>. Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?</p> | <p>No.</p> |
| <p>8. <u>FAA Sec. 601(e)</u>. Will the assistance utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?</p> | <p>Yes.</p> |
| <p>9. <u>FAA 121(d)</u>. If assistance is being furnished under the Sahel Development Program, has a determination been made that the host government has an adequate system for accounting for and controlling receipt and expenditure of A.I.D. funds?</p> | <p>N/A.</p> |
| <p>10. <u>FY 1989 Appropriations Act</u>. Will assistance be designed so that the percentage of women participants will be demonstrably increased?</p> | <p>N/A.</p> |

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B. FUNDING CRITERIA FOR NONPROJECT ASSISTANCE

1. Nonproject Criteria for Economic Support Fund

- a. FAA Sec. 531(a). Will this assistance promote economic and political stability? To the maximum extent feasible, is this assistance consistent with the policy directions, purposes, and programs of Part I of the FAA? Yes.
Yes.
- b. FAA Sec. 531(e) Will assistance under this chapter be used for military or paramilitary activities? No.
- c. FAA Sec. 531(d). Will ESF funds made available for commodity import programs or other program assistance be used to generate local currencies? If so, will at least 50 percent of such local currencies be available to support activities consistent with the objectives of FAA sections 103 through 106? Yes.
Yes.
- d. FAA Sec. 609. If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made? N/A.
- e. FY 1989 Appropriations Act. If assistance is in the form of a cash transfer: (a) are all such cash payments to be maintained by the country in a separate account and not to be commingled with any other funds? (b) will all local currencies that may be generated with funds provided as a cash transfer to such a country also be deposited in a special account to be used in accordance with FAA Section 609 (which requires such local currencies to be made available to the U.S. government as the U.S. determines necessary for the requirements of the U.S. Government, and which requires the remainder to be used for programs agreed to by the U.S. Government to carry out the purposes for which new funds authorized by the FAA
This Program is a sector support program rather than a cash transfer. However, separate accounts will be used for both dollars and local currency generations.
(a) Yes.
(b) All local currencies will be deposited into separate accounts and used in support of mutually agreed to budget items included in the Special Agrarian Reform Fund.

would themselves be available? (c) Has Congress received prior notification providing in detail how the funds will be used, including the U.S. interests that will be served by the assistance, and, as appropriate, the economic policy reforms that will be promoted by the cash transfer assistance?

(c) Congress will be informed through meetings to be held between representatives of the Bureau and Congress prior to approval of the Program.

2. Nonproject Criteria for Development Assistance

Not DA funded.

a. FAA Secs. 102(a), 111, 113, 281(a).
Extent to which activity will (a) effectively involve the poor in development, by expanding access to economy at local level, increasing labor-intensive production and the use of appropriate technology, spreading investment out from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using the appropriate U.S. institutions; (b) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward better life, and otherwise encourage democratic private and local governmental institutions; (c) support the self-help efforts of developing countries; (d) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (e) utilize and encourage regional cooperation by developing countries?

N/A.

b. FAA Secs 103, 103A, 104, 105, 106, 120-21. Is assistance being made available (include only applicable paragraph which corresponds to source of funds used; if more than one fund source is used for assistance, include relevant paragraph for each fund source):

N/A.

(1) [103] for agriculture, rural development or nutrition; if so (a) extent to which activity is specifically designed to increase productivity and income of rural poor; [103A] if for agricultural research, account shall be taken of the needs of small farmers, and extensive use of field testing to adapt basic research to local conditions shall be made; (b) extent to which assistance is used in coordination with efforts carried out under Sec. 104 to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people; and (c) extent to which activity increases national food security by improving food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing post harvest food losses, and improving food distribution.

N/A.

(2) [104] for population planning under Sec. 104(b) or health under Sec. 104(c); if so, extent to which activity emphasizes low-cost, integrated delivery systems for health, nutrition and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

N/A.

(3) [105] for education, public administration, or human resources development; if so, (a) extent to which activity strengthens nonformal education, makes formal education more relevant, especially for rural families and urban poor, and strengthens management capability of institutions enabling the poor to participate in development; and (b) extent to which assistance provides advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.

N/A.

(4) [106] for technical assistance, energy, research, reconstruction, and selected development problems; if so, extent activity is:

N/A.

(1)(a) concerned with data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy production; and (b) facilitative of research on and development and use of small-scale, decentralized, renewable energy sources for rural areas, emphasizing development of energy resources which are environmentally acceptable and require minimum capital investment;

(ii) concerned with technical cooperation and development, especially with U.S. private and voluntary, or regional and international development, organizations;

(iii) research into, and evaluation of, economic development processes and techniques;

(iv) reconstruction after natural or manmade disaster and programs of disaster preparedness;

(v) for special development problems, and to enable proper utilization of infrastructure and related projects funded with earlier U.S. assistance;

(vi) for urban development, especially small, labor-intensive enterprises, marketing systems for small producers, and financial or other institutions to help urban poor participate in economic and social development.

(5) [120-21] for the Sahelian region; if so, (a) extent to which there is international coordination in planning and implementation; participation and support by African countries and organizations in determining development priorities; and a long-term, multi-donor development plan which calls for equitable burden-sharing with other donors; (b) has a determination been made that the host government has an adequate system for accounting for and controlling receipt and expenditure of projects funds (dollars or local currency generated therefrom)?

N/A.

c. FY 1989 Appropriations Act. Have local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under Sub-Saharan Africa, DA been deposited in a special account established by that government, and are these local currencies available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of Section 102 of the FAA and for necessary administrative requirements of the U.S. Government? N/A.

d. FAA Sec. 107. Is special emphasis placed on use of appropriate technology (defined as relatively smaller, cost-saving, labor using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor)? N/A.

e. FAA Sec. 281(b). Describe extent to which the activity recognizes the particular needs, desires, and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development; and supports civic education and training in skills required for effective participation in governmental and political processes essential to self-government. N/A.

f. FAA Sec. 101(a). Does the activity give reasonable promise of contributing to the development of economic resources, or to the increase of productive capacities and self-sustaining economic growth? N/A.

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5C(3) - STANDARD ITEM CHECKLIST

Listed below are the statutory items which normally will be covered routinely in those provisions of an assistance agreement dealing with its implementation, or covered in the agreement by imposing limits on certain uses of funds.

These items are arranged under the general headings of (A) Procurement, (B) Construction, and (C) Other Restrictions.

A. PROCUREMENT

1. FAA Sec. 602(a). Are there arrangements to permit U.S. small business to participate equitably in the furnishing of commodities and services financed? Yes
2. FAA Sec. 604(a). Will all procurement be from the U.S. except as otherwise determined by the President or determined under delegation from him? Yes
3. FAA Sec. 604(d). If the cooperating country discriminates against marine insurance companies authorized to do business in the U.S., will commodities be insured in the United States against marine risk with such a company? N/A
4. FAA Sec. 604(e); ISDCA of 1980 Sec. 705(a). If non-U.S. procurement of agricultural commodity or product thereof is to be financed, is there provision against such procurement when the domestic price of such commodity is less than parity? (Exception where commodity financed could not reasonably be procured in U.S.) N/A

5. FAA Sec. 604(q). Will construction or engineering services be procured from firms of advanced developing countries which are otherwise eligible under Code 941 and which have attained a competitive capability in international markets in one of these areas? (Exception for those countries which receive direct economic assistance under the FAA and permit United States firms to compete for construction or engineering services financed from assistance programs of these countries.) N/A
6. FAA Sec. 603. Is the shipping excluded from compliance with the requirement in section 901(b) of the Merchant Marine Act of 1936, as amended, that at least 50 percent of the gross tonnage of commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) financed shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates? N/A
7. FAA Sec. 621(a). If technical assistance is financed, will such assistance be furnished by private enterprise on a contract basis to the fullest extent practicable? Will the facilities and resources of other Federal agencies be utilized, when they are particularly suitable, not competitive with private enterprise, and made available without undue interference with domestic programs? (1) Yes
(2) N/A
8. International Air Transportation Fair Competitive Practices Act, 1974. If air transportation of persons or property is financed on grant basis, will U.S. carriers be used to the extent such service is available? Yes
9. FY 1989 Appropriations Act Sec. 504. If the U.S. Government is a party to a contract for procurement, does the contract contain a provision authorizing termination of such contract for the convenience of the United States? Anticipated contracts will include such a provision.

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10. FY 1989 Appropriations Act Sec. 524. If assistance is for consulting service through procurement contract pursuant to 5 U.S.C. 3109, are contract expenditures a matter of public record and available for public inspection (unless otherwise provided by law or Executive order)? Yes

B. CONSTRUCTION

1. FAA Sec. 601(d). If capital (e.g., construction) project, will U.S. engineering and professional services be used? N/A
2. FAA Sec. 611(c). If contracts for construction are to be financed, will they be let on a competitive basis to maximum extent practicable? N/A
3. FAA Sec. 620(k). If for construction of productive enterprise, will aggregate value of assistance to be furnished by the U.S. not exceed \$100 million (except for productive enterprises in Egypt that were described in the CP), or does assistance have the express approval of Congress? N/A

C. OTHER RESTRICTIONS

1. FAA Sec. 122(b). If development loan repayable in dollars, is interest rate at least 2 percent per annum during a grace period which is not to exceed ten years, and at least 3 percent per annum thereafter? N/A
2. FAA Sec. 301(d). If fund is established solely by U.S. contributions and administered by an international organization, does Comptroller General have audit rights? N/A

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3. FAA Sec. 620(h). Do arrangements exist to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries? Yes
4. Will arrangements preclude use of financing: (1)-(4) Yes
- a. FAA Sec. 104(f); FY 1989 Appropriations Act Secs. 525, 536.
(1) To pay for performance of abortions as a method of family planning or to motivate or coerce persons to practice abortions; (2) to pay for performance of involuntary sterilization as method of family planning, or to coerce or provide financial incentive to any person to undergo sterilization; (3) to pay for any biomedical research which relates, in whole or part, to methods or the performance of abortions or involuntary sterilizations as a means of family planning; or (4) to lobby for abortion?
- b. FAA Sec. 483. To make reimbursements, in the form of cash payments, to persons whose illicit drug crops are eradicated? Yes
- c. FAA Sec. 620(q). To compensate owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President? Yes. Further budget support will not be used for budget items financing land compensation.
- d. FAA Sec. 660. To provide training, advice, or any financial support for police, prisons, or other law enforcement forces, except for narcotics programs? Yes
- e. FAA Sec. 662. For CIA activities? Yes

- f. FAA Sec. 636(i). For purchase, sale, long-term lease, exchange or guaranty of the sale of motor vehicles manufactured outside U.S., unless a waiver is obtained? N/A
- g. FY 1989 Appropriations Act Sec. 503. To pay pensions, annuities, retirement pay, or adjusted service compensation for prior or current military personnel? Yes
- h. FY 1989 Appropriations Act Sec. 505. To pay U.N. assessments, arrearages or dues? Yes
- i. FY 1989 Appropriations Act Sec. 506. To carry out provisions of FAA section 209(d) (transfer of FAA funds to multilateral organizations for lending)? Yes
- j. FY 1989 Appropriations Act Sec. 510. To finance the export of nuclear equipment, fuel, or technology? Yes
- k. FY 1989 Appropriations Act Sec. 511. For the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights? Yes
- l. FY 1989 Appropriations Act Sec. 516; State Authorization Sec. 109. To be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress, to influence in any way the outcome of a political election in the United States, or for any publicity or propaganda purposes not authorized by Congress? Yes
5. FY 1989 Appropriations Act Sec. 584. Will any A.I.D. contract and solicitation, and subcontract entered into under such contract, include a clause requiring that U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate? Yes

3. Economic Support Fund Project Criteria

- | | |
|---|------------|
| a. <u>FAA Sec. 531(a)</u> . Will this assistance promote economic and political stability? To the maximum extent feasible, is this assistance consistent with the policy directions, purposes, and programs of Part I of the FAA? | Yes Yes |
| b. <u>FAA Sec. 531(e)</u> . Will this assistance be used for military or paramilitary purposes? | No |
| c. <u>FAA Sec. 609</u> . If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made? | N/A |

ANNEX F
Selected CARP Legal Documents

CARP Legal Documents

There is an extraordinarily complex set of laws governing land reform in the Philippines. Considerable litigation has focused on the mere interpretation and reconciliation of these laws. These include at least nine Commonwealth and Republic Acts, 42 Presidential Decrees, 17 Letters of Instruction and scores of Presidential Memoranda as well as Circulars and Memoranda of the Department/Ministry of Agrarian Reform. In addition, other legislation such as the Agricultural Tenancy Act, the Public Land Act and the Sugar Tenancy Act are also directly relevant to the agrarian reform. This Annex includes only copies of the following documents:

EXECUTIVE ORDER NO 228

EXECUTIVE ORDER NO. 229

PROCLAMATION NO. 131

PRESIDENTIAL DECREE NO. 27

ARTICLES XII, XIII, AND XIV OF THE 1987
PHILIPPINE CONSTITUTION

COMPREHENSIVE AGRARIAN REFORM PROGRAM LAW

MALACANAN PALACE
Manila,

PROCLAMATION NO. 131,

INSTITUTING A COMPREHENSIVE
AGRARIAN REFORM PROGRAM

WHEREAS, we have proclaimed the revival and development of the full potential of Philippine agriculture to be an economic priority of our new democracy so as to provide a firm foundation for the industrialization of our economy, and thereby assure the genuine independence of our country;

WHEREAS, it is necessary to make our new democracy meaningful by increasing the productivity of the farming sector and increasing the incomes of farmers, regular farmworkers, and other farmworkers;

WHEREAS, the essential element in any policy of agricultural revival and development is a comprehensive and realistic agrarian reform program;

WHEREAS, such an agrarian reform program will encourage the shift of capital from land to industry;

WHEREAS, realizing these imperatives, the President declared in the 1980 Presidential campaign that she would undertake an agrarian reform program;

WHEREAS, there is need for all to address agrarian reform in the spirit of cooperation, harmony, and understanding, a spirit which must pervade the process as a whole, in its voluntary as well as non-voluntary aspects, for the country faces problems and challenges that require national unity;

WHEREAS, agrarian reform indispensably entails the participation of all concerned in the planning, organization, and management of the program;

WHEREAS, the entire Filipino people, together with all government agencies and private organizations, must extend priori-

ty support and full cooperation to implement this program effectively;

WHEREAS, there is a need for the program to be realistic and flexible in order to succeed, to take account of differences from place to place, from community to community, so that no single and rigid prescription would be unfairly and unwisely applied to all regardless of special features and circumstances, and to be within the present and foreseeable capabilities of the nation;

WHEREAS, the program further requires available funding that is definite as to source and timing;

WHEREAS, the education, re-orientation, and motivation of farmers, regular farmworkers, and other farmworkers, in their new role and responsibilities, along with steps to ensure that the program will result in increased productivity and better income for the beneficiaries, are also called for;

WHEREAS, all these and other infrastructure requirements must further be provided for by other legislation and measures;

WHEREAS, the President recognizes as a partner to this continuing undertaking the co-equal branch of the Congress of the Philippines, whose Senate is elected at large and therefore speaks for the nation, and whose House of Representatives articulates the needs and problems of the constituencies and sectors in the land;

WHEREAS, in the last analysis, the times undeniably call for change, and the need to undertake the agrarian reform program can no longer wait, so that alternative lies but to adopt a program that is workable, sufficiently funded and, above all, aimed to succeed, for the nation can no more afford its failure than its lack;

WHEREAS, the forces of history and the Constitution, the pressing needs of the times, the capabilities of the present, and the age-old aspirations of the Filipino people demand such an agrarian reform program.

WHEREFORE, the Constitution of the Philippines provides the following:

"ART. II"

"DECLARATION OF PRINCIPLES AND STATE POLICIES"

x x x

"Sec. 21. The state shall promote comprehensive rural development and agrarian reform."

"ART. XXII"

"NATIONAL ECONOMY AND PATRIMONY"

x x x

"Sec. 1, par. 2: The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, x x x."

"ART. XIII"

"SOCIAL JUSTICE AND HUMAN RIGHTS"

x x x

"AGRARIAN AND NATURAL RESOURCES REFORM"

x x x

"Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining the retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary landsharing."

"Sec. 5. The State shall recognize the right of the farmers, farmworkers, and landowners, as well as cooperatives, and other

independent farmers' organizations to participate in the planning, organization, and management of the program, and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services."

"Sec. 6. The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the right of indigenous communities to their ancestral lands

The State may resettle landless farmers and farmworkers in its own agricultural estates which shall be distributed to them in the manner provided by law."

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"Sec. 8. The State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises. Financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice."

ART. XVIII

TRANSITORY PROVISIONS

x x x

"Sec. 22. At the earliest possible time, the Government shall expropriate idle or abandoned agricultural lands as may be defined by law, for distribution to the beneficiaries of the agrarian reform program."

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order:

Section 1. Scope. A Comprehensive Agrarian Reform Program (CARP) is hereby instituted which shall cover, regardless

of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in the Constitution, including whenever applicable in accordance with law, other lands of the public domain suitable to agriculture.

Sec. 2. *Agrarian Reform Fund.* There is hereby created a special fund, to be known as the Agrarian Reform fund, an initial amount of FIFTY BILLION PESOS (50,000,000,000.00) to cover the estimated cost of the Comprehensive Agrarian Reform Program from 1987 to 1992 which shall be sourced from the receipts of the sale of the assets of the Asset Privatization Trust and receipts of sale of ill-gotten wealth received through the Presidential Commission on Good Government and such other sources as government may deem appropriate. The amounts collected and accruing to this special fund shall be considered automatically appropriated for the purpose authorized in this Proclamation.

Sec. 3. *Implementation.* The provisions for the mechanisms needed initially to implement the Comprehensive Agrarian Reform Program are set forth in Executive Order No. 229 dated July 22, 1987, which is companion measure to this Proclamation.

Sec. 4. *Effectivity and Repealing Clause.* This Proclamation shall take effect immediately upon its approval and repeals or amends accordingly all laws, issuances, decrees or any parts thereof inconsistent with its provisions.

APPROVED, in the city of Manila, Philippines, this 22nd day of July, 1987.

(SGD.) CORAZON C. AQUINO
President

By the President:

JOKER P. ARROYO
Executive Secretary

MALACANAN PALACE
Manila

EXECUTIVE ORDER NO. 229

PROVIDING THE MECHANISMS FOR THE
IMPLEMENTATION OF THE COMPREHENSIVE
AGRARIAN REFORM PROGRAM

WHEREAS, by virtue of Proclamation No. 131 dated July 22, 1987 the Comprehensive Agrarian Reform Program has been instituted:

WHEREAS, there is a need to provide for the mechanisms to start the implementation of the program:

WHEREAS, public hearings and consultations were held to determine appropriate mechanisms capable of being established:

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order:

CHAPTER 1. COVERAGE

SECTION 1. *Scope.* The Comprehensive Agrarian Reform Program (CARP) shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 dated July 22, 1987, including whenever applicable in accordance with law, other lands of the public domain suitable to agriculture.

SECTION 2. *Implementation.* Land acquisition and distribution shall be implemented as provided in this Order as to all kinds of lands under the coverage of the program, subject to such priorities and reasonable retention limits as the Congress may under the Constitution prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation.

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SECTION 3. Exemptions. Lands actually used and found to be necessary for national defense, school sites and campuses, religious purposes, penal colonies, and government research and quarantine centers, are exempted from the coverage of the program.

SECTION 4. Compulsory Registration. Within one hundred eighty (180) days from the effectivity of this Order all natural and juridical persons, including government entities, owning, leasing or managing agricultural lands, shall file a sworn statement in the proper Assessor's Office in the form to be prescribed by the Department of Agrarian Reform (DAR). This statement shall include among others, (a) the description and area of the property; (b) the estimated average gross income from the property; (c) the names of all tenants and regular farmworkers therein; (d) the crop(s) planted in the property and the area covered by each crop as of June 1, 1987; (e) the terms of mortgages, leases, and management contracts subsisting as of June 1, 1987; (f) the latest declared market value of the land as determined by the City/Provincial Assessor; and (g) a sworn declaration of the current fair market value, which the owner wishes to receive. If the property should be acquired by the government for agrarian reform purposes.

If the landowner fails to register within the prescribed period, the government shall base the valuation of his property for landowner compensation purposes on the City/Provincial Assessor's value. Beginning with the quarter immediately following this registration, the real property tax payable shall be based on the above mentioned owner's declaration of current fair market value.

CHAPTER II. PRIVATE LAND ACQUISITION

SECTION 5. Procedure of Acquisition. After the land, landowners, and beneficiaries shall have been identified, the DAR shall publish its decision to acquire the land and notify the landowners thereof, together with the offer of the DAR to pay for the land as provided in Section 6 hereunder.

Within fifteen (15) days from publication and notice, landowner shall signify to the DAR his acceptance or rejection of the offer.

If the landowner accepts the offer of the DAR, the Land Bank of the Philippines (LBP) shall pay the landowner the purchase price of the land within fifteen (15) days after he surrenders the Certificate of Title and other relevant documents required by the DAR and the LBP.

In case of rejection or if no reply is received, the DAR shall conduct administrative summary proceedings to determine the compensation for the land, requiring the landowner, the LBP, and other interested parties to submit within fifteen (15) days from the receipt of notice, evidence as to the compensation for the land. After the expiration of the above period, the matter is deemed submitted for decision.

Within fifteen (15) days from receipt of the decision, the LBP shall establish a trust fund for the landowner concerned in the amount decided and notify the landowner and the DAR of its establishment.

Any party who disagrees with the decision may bring the matter to the proper court for determination of just compensation.

After the establishment of the trust fund or receipt by the DAR of the landowner's acceptance of the offer, the DAR shall take immediate possession of the land. Upon formal notification by the DAR, the Register of Deeds shall issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines as Trustee for and in behalf of qualified beneficiaries. Thereupon, the DAR shall proceed with the redistribution of the land to the qualified beneficiaries.

The rights and responsibilities of ownership by the beneficiaries commence at the time of their designation as awardees owners by the DAR, as evidenced by a Certificate of Landownership Award in their favor.

SECTION 6. Compensation to Landowners. The LBP shall compensate the landowner an amount to be established by the government, which shall be based on the owner's declaration of current fair market value as provided in Section 4 hereof, but subject to certain controls to be defined and promulgated by the Presidential Agrarian Reform Council (PARC) as provided in Section 18 hereof. The compensation shall be paid in any of the following modes, at the option of the landowner:

- (a) Bond payment over ten (10) years, with ten (10) percent of the value of the land payable immediately in cash and the balance in the form of LBP bonds bearing market rates of interest that are aligned with 91-day treasury bills rates, net of applicable final withholding tax. One-tenth of the face value of the bonds shall mature every year from the date of issuance until the tenth year;

The LBP bonds issued hereunder shall be eligible at face value for the purchase of government assets to be privatized;

- (b) Direct payment in cash or kind by the farmer-beneficiaries with the terms to be mutually agreed upon by the beneficiaries and landowners and subject to the approval of the DAR; and
- (c) Other modes of payment as may be prescribed or approved by the PARC.

SECTION 7. Assistance to Landowners. Landowners affected by this Order shall be assisted and provided by the LBP with the following services:

- (a) Investment information and counselling assistance;
- (b) Conversion and/or exchange of LBP bonds; to/from government stocks and/or with government assets; and
- (c) Marketing of LBP bonds.

CHAPTER III. LAND TRANSFER, UTILIZATION AND SHARING

SECTION 8. Voluntary Land Transfer. Landowners whose lands are subject to redistribution under this Order have the option of entering into a voluntary agreement for direct transfer of their lands to appropriate beneficiaries, under terms and conditions acceptable to both parties and subject to the approval of the DAR. The general guidelines for voluntary land transfer are:

- (a) The beneficiaries are determined by the DAR to be the same individuals who would be eligible to purchase the land in case the government under this Order acquired the land for resale;
- (b) The area of land to be transferred is no less than the area which the government, under this Order, would otherwise acquire for resale;
- (c) The terms and conditions of the government's standing offer to purchase from the landowner and standing offer to resell to the beneficiaries are fully known and understood by both parties;
- (d) The voluntary transfer agreement shall include sanctions for non-compliance by either party and shall be binding and irrevocable for both parties, and shall be duly recorded at and monitored by the DAR.

SECTION 9. Voluntary Offer to Sell. The government shall purchase all agricultural lands it deems productive and suitable to farmer cultivation voluntarily offered for sale to it at a valuation determined in accordance with Section 6. Such transactions shall be exempt from the payment of capital gains tax and other taxes and fees.

SECTION 10. Corporate Landowners. Corporate landowners may give their workers and other qualified beneficiaries the right to purchase such proportion of the capital stock of the corporation that the land assets bear in relation to the corporation's total assets, and grant additional compensation which may

be used for this purpose. The approval by the PARC of a plan for such stock distribution, and its initial implementation, shall be deemed compliance with the land distribution requirements of the CARP.

SECTION 11. *Leases, Management Contracts, Mortgages, and Claims.* Leases and management contracts on land covered by land distribution and registered with the Register of Deeds prior to the approval of this Order may continue under their original terms and conditions, but not beyond five (5) years from the effectivity of this Order; provided that upon expiration, leases and management contracts may only be renewed subject to the agreement of the qualified beneficiaries; and provided further that upon the distribution or award of the land, where the existing lease rentals are not acceptable to the qualified beneficiaries, such rentals shall be renegotiated with the assistance of the Barangay Agrarian Reform Council (BARC). If the parties fail to agree, the DAR shall determine the rental. Mortgages and other claims registered with the Register of Deeds will be assumed by the Government up to the landowner's compensation value as provided for in Section 6 hereof.

SECTION 12. *Payment of Beneficiaries.* Land acquired and redistributed by the government shall be paid for by the beneficiaries in thirty (30) equal annual payments at six (6) percent per annum interest, with the first payment due one year after resale, and a two (2) percent interest rebate for amortizations paid on time, provided, that in no case shall the annual amortizations exceed ten (10) percent of the land's annual value of gross production. Should the amortization exceed ten (10) percent, the LBP shall reduce the interest rate and or reduce the principal obligation to make the repayments affordable. Incentives shall be given for prepayments.

The LBP shall have a lien by way of mortgage on the land acquired by the beneficiary and this mortgage may be foreclosed by the LBP when the outstanding principal balance unpaid and past due reaches the equivalent of three (3) annual amortizations.

SECTION 13. *Credit Support.* Upon land transfer, each beneficiary who actually farms his land shall be eligible for a production loan to finance one crop cycle under terms and conditions to be determined by the LBP on a case to case basis, renewable upon repayment.

SECTION 14. *Collective or Individual Ownership.* For lands with multiple beneficiaries, ownership of whole parcels or estates may be transferred to the farmer-beneficiaries collectively or individually, at the option of the beneficiaries, provided, that in collective ownership, each beneficiary shall have an undivided share of the land held in common equivalent to not more than the applicable retention limit. The beneficiaries may collectively decide on the continued operation of the parcel/estate as a whole or to subdivide the same into individual lots and determine the manner in which such subdivision is to be implemented.

SECTION 15. *Distribution and Utilization of Public Lands.* All alienable and disposable lands of the public domain suitable for agriculture and outside proclaimed settlements shall be distributed by the Department of Environment and Natural Resources (DENR) to qualified beneficiaries as certified to jointly by the DAR and the DENR.

SECTION 16. *Production Sharing.* Individuals or entities owning and/or operating under lease agricultural lands with gross sales in excess of Five Million Pesos (P5 million) per annum are hereby mandated to execute a production sharing plan whereby at least two and one-half (2.5) percent of the gross sales from the production/cultivation of such lands are distributed as compensation to the farmworkers over and above the compensation they currently receive, provided that such individuals or entities are not obligated to pay more than 100 percent of the regular annual compensation of the farmworkers.

CHAPTER IV. IMPLEMENTING AND COORDINATING MECHANISMS

SECTION 17. *Quasi-Judicial Powers of the DAR.* The DAR is hereby vested with quasi-judicial powers to determine and

adjudicate agrarian reform matters, and shall have exclusive original jurisdiction over all matters involving implementation of agrarian reform, except those falling under the exclusive original jurisdiction of the DENR and the Department of Agriculture (DA).

The DAR shall have powers to punish for contempt and to issue *subpoena*, *subpoena duces tecum* and writs to enforce its orders or decisions:

The decisions of the DAR may, in proper cases, be appealed to the Regional Trial Courts but shall be immediately executory notwithstanding such appeal.

SECTION 18. The Presidential Agrarian Reform Council (PARC). To coordinate the implementation of the CARP and to ensure the timely and effective delivery of the necessary support services, there is hereby created the Presidential Agrarian Reform Council composed of the President as Chairman, and the Secretaries or Heads of the following agencies, as follows:

| | |
|---|------------------|
| Department of Agrarian Reform | -- Vice Chairman |
| Department of Agriculture | -- Vice Chairman |
| Department of Environment and Natural Resources | -- Vice Chairman |
| Executive Secretary | -- Member |
| Department of Budget and Management | -- Member |
| Department of Finance | -- Member |
| Department of Justice | -- Member |
| Department of Labor and Employment | -- Member |
| Department of Local Government | -- Member |
| Department of Public Works & Highways | -- Member |
| Department of Trade and Industry | -- Member |
| Department of Transportation & Communications | -- Member |
| National Economic and Development Authority | -- Member |
| Land Bank of the Philippines | -- Member |
| Presidential Commission on Good Government | -- Member |

The President shall appoint representatives of agrarian reform beneficiaries and affected landowners as members of PARC.

The DAR shall provide the Secretariat for the PARC and the Secretary of Agrarian Reform shall be the Director-General thereof.

The PARC shall formulate and/or implement the policies, rules and regulations necessary to implement each component of the CARP, and may authorize any of its members to formulate rules and regulations concerning aspects of agrarian reform falling within their area of responsibility. These policies, rules and regulations shall include the following:

- a. Recommended small farm economy areas, which shall be specific by crop and based on thorough technical study and evaluation.
- b. The schedule of acquisition and redistribution of specific agrarian reform areas, provided that such acquisition shall not be implemented until all the requirements are completed, including the first payment to the landowners concerned.
- c. Control mechanisms for evaluating the owner's declaration of current fair market value as provided in Section 4 hereof in order to establish the government's compensation offer as provided in Section 6 hereof, taking into account current land transactions in the locality, the landowner's annual income from his land, and other factors.

PARC shall have an Executive Committee composed of the Secretary of Agrarian Reform as Chairman, and Secretaries or Heads of the following agencies as members:

Executive Secretary
Department of Agriculture
Department of Environment and Natural Resources
Department of Finance
Department of Public Works and Highways
Land Bank of the Philippines

Within ninety (90) days from the effectivity of this Order, the Executive Committee of PARC shall complete a Program of Implementation incorporating the physical targets, Implementation schedule and support requirements of agrarian reform, and shall submit the same to the PARC approval. Such programs of implementation shall take into account, and be consistent with, priorities and retention limits that Congress may in the meantime prescribe, and the following basic policies and guidelines set forth in the Constitution:

- a. The CARP is founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively, the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof;
- b. The right of small landowners shall be respected;
- c. Voluntary land-sharing shall be encouraged;
- d. Farmers, farmworkers, landowners, cooperatives and/or independent farmers' organizations have the right to participate in the planning, organization, and management of the CARP;
- e. In lands of the public domain, the CARP shall respect prior rights, homestead rights of small settlers, and the rights of Indigenous communities to their ancestral lands;
- f. Support to agriculture through appropriate technology and research, and adequate financial, production, marketing and other support services must be provided;
- g. Landowners shall be encouraged to invest the proceeds of the agrarian reform program to promote industrialization, employment, creation, and privatization of public sector enterprises; and
- h. At the earliest possible time, idle or abandoned agricultural lands as may be defined by law shall be expropriated for distribution to the beneficiaries of the agrarian reform program.

SECTION 19. Barangay Agrarian Reform Council (BARC). On matters related to agrarian reform, the DAR shall convene at

the barangay level, a Barangay Agrarian Reform Council. The BARC shall be operated on a self-help basis and will be composed of the following:

- a. Representative/s of farmer and farmworker beneficiaries;
- b. Representative/s of farmer farmworker non-beneficiaries;
- c. Representative/s of agricultural cooperatives;
- d. Representative/s of other farmer organizations;
- e. Representative/s of the Barangay Council;
- f. Representative/s of non government organization (NGOs);
- g. Representative/s of landowners;
- h. DA official assigned to the barangay;
- i. DENR official assigned to the area;
- j. DAR Agrarian Reform Technologist assigned to the area who shall act as the Secretary; and
- k. Land Bank of the Philippines representative.

The functions of the BARC shall be:

- a. To participate and give support to the implementation of programs on agrarian reform;
- b. To mediate, conciliate or arbitrate agrarian conflicts and issues that are brought to it for resolution; and
- c. To perform such other functions that the PARC, its Executive Committee, or the DAR Secretary may delegate from time to time.

CHAPTER V. FINANCING

SECTION 20. Agrarian Reform Fund. As provided in Proclamation No. 131 dated July 22, 1987, a special fund is created, known as The Agrarian Reform Fund, an initial amount of FIFTY BILLION PESOS (P50 billion) to cover the estimated cost of the CARP from 1987 to 1992 which shall be sourced from the receipts of the sale of the Assets of the Asset Privatization Trust (APT) and receipts of sale of ill-gotten wealth recovered through the Presidential Commission on Good Government and

such other sources as government may deem appropriate. The amount collected and accruing to this special fund shall be considered automatically appropriated for the purpose authorized in this Order.

SECTION 21. *Supplemental Appropriations.* The amount of TWO BILLION SEVEN HUNDRED MILLION PESOS (P2.7 billion) is hereby appropriated to cover the supplemental requirements of the CARP for 1987, to be sourced from the receipts of the sale of ill-gotten wealth recovered through the Presidential Commission on Good Government and the proceeds from the sale of assets by the APT. The amount collected from these sources shall accrue to The Agrarian Reform Fund and shall likewise be considered automatically appropriated for the purpose authorized in this Order.

CHAPTER VI. SANCTIONS

SECTION 22. *Permanent Disqualification.* Persons, associations, or entities who prematurely enter the land to avail themselves of the rights and benefits hereunder, shall be permanently disqualified from receiving benefits and shall forfeit their rights hereunder.

SECTION 23. *Contempt.* Persons, associations, or entities who willfully prevent or obstruct the implementation of the CARP shall be liable for contempt.

CHAPTER VII. GENERAL PROVISIONS

SECTION 24. *Ancestral Lands.* Within the framework of national unity and development, the rights of indigenous cultural communities to their ancestral lands are hereby protected to ensure their economic, social, and cultural well-being.

SECTION 25. *Immunity of Government Agencies from Undue Interference.* No injunction, restraining order, prohibition or mandamus shall be issued by the lower courts against the DAR, the DA, the DENR and the Department of Justice in their implementation of the CARP.

SECTION 26. *Assistance of other Government Entities.* The PARC in the exercise of its functions is hereby authorized to call upon the assistance and support of other government agencies, bureaus, and offices, including government-owned or controlled corporation.

SECTION 27. *Applications of Existing Legislation.* Presidential Decree No. 27, as amended, shall continue to operate with respect to rice and corn lands, covered thereunder. The provisions of Republic Act No. 3844 and other agrarian laws not inconsistent with this Order shall have supplementary effect.

SECTION 28. *Free Registration of Patents and Titles.* All Registers of Deeds are hereby directed to register free from payment of all fees, patents, titles, and documents required in the implementation of the CARP.

SECTION 29. *Separability Clause.* If, for any reason, any section or provision of this Order shall be held unconstitutional or invalid, no other section or provision hereof shall be affected thereby.

SECTION 30. *Repealing Clause.* All laws, issuances, decrees, or any part or parts thereof inconsistent with the provisions of this Order are hereby repealed or amended accordingly.

SECTION 31. *Effectivity Clause.* The Executive Order shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

APPROVED, in the City of Manila, Philippines, this 22nd day of July, 1987.

(SGD.) CORAZON C. AQUINO
President

By the President:

JOKER P. ARROYO
Executive Secretary

MALACANANG PALACE
Manila

EXECUTIVE ORDER NO. 220

DECLARING FULL LAND OWNERSHIP TO QUALIFIED FARMER BENEFICIARIES COVERED BY PRESIDENTIAL DECREE NO. 27; DETERMINING THE VALUE OF REMAINING UNVALUED RICE AND CORN LANDS SUBJECT OF P. D. NO. 27; AND PROVIDING FOR THE MANNER OF PAYMENT BY THE FARMER BENEFICIARY AND MODE OF COMPENSATION TO THE LANDOWNER.

WHEREAS, Presidential Decree No. 27, for purposes of determining the cost of the land to be transferred to the tenant-farmer, provided that valuation shall be determined by crop productivity;

WHEREAS, there is a need to complete Operation Land Transfer and accelerate the payment to landowners of lands transferred to tenant-farmers; and

WHEREAS, there is also a need to maintain the financial viability of the Land Bank of the Philippines, the financing arm of the agrarian reform program of the government;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested by the Constitution, hereby order that:

SECTION 1. All qualified farmer beneficiaries are now deemed full owners as of October 21, 1972 of the land they acquired by virtue of Presidential Decree No. 27 (hereinafter referred to as P.D. No. 27):

SECTION 2. Henceforth, the valuation of rice and corn lands covered by P.D. No. 27 shall be based on the average gross production determined by the Barangay Committee on Land Production in accordance with Department Memorandum Circular No. 26, series of 1973, and related issuances and regulation of the

Department of Agrarian Reform. The average gross production per hectare shall be multiplied by two and a half (2.5), the product of which shall be multiplied by Thirty Five Pesos (P35.00), the government support price for one cavan of 50 kilos of palay on October 21, 1972, or Thirty One Pesos (P31.00), the government support price for one cavan of 50 kilos of corn on October 21, 1972, and the amount arrived at shall be the value of the rice and corn land, as the case may be, for the purpose of determining its cost to the farmer and compensation to the landowner.

Lease rentals paid to the landowner by the farmer beneficiary after October 21, 1972, shall be considered as advance payment for the land. In the event of dispute with the landowner regarding the amount of lease rental paid by the farmer beneficiary, the Department of Agrarian Reform and the Barangay Committee on Land Production concerned shall resolve the dispute within thirty (30) days from its submission pursuant to Department of Agrarian Reform Memorandum Circular No. 26, series of 1973, and other pertinent issuances. In the event a party questions in court the resolution of the dispute, the landowner's compensation claim shall still be processed for payment and the proceeds shall be held in trust by the Trust Department of the Land Bank in accordance with the provisions of Section 5 hereof, pending the resolution of the dispute before the court.

SECTION 3. Compensation shall be paid to the landowners in any of the following modes, at the option of the landowners:

(a) Bond payment over ten (10) years, with ten percent (10%) of the value of the land payable immediately in cash, and the balance in the form of LBP bonds bearing market rates of interest that are aligned with 90 day treasury bills rates, net of applicable final withholding tax. One-tenth of the face value of the bonds shall mature every year from the date of issuances until the tenth year.

The LBP bonds issued hereunder shall be eligible for the purchase of government assets to be privatized.

(b) Direct payment in cash or kind by the farmer beneficiaries with the terms to be mutually agreed upon by the benefi-

ciaries and landowners and subject to the approval of the Department of Agrarian Reform; and

(c) Other modes of payment as may be prescribed or approved by the Presidential Agrarian Reform Council.

SECTION 4. All outstanding Land Bank bonds that are retained by the original landowners-payee or by their heirs, are deemed matured up to one twenty fifth (1/25) of their yearly face value from their date of issue to the date of this Executive Order and may be claimed by the original landowner-payee by surrendering the bonds to the Land Bank. The original landowner-payee may claim payment for the remaining unmatured period of the surrendered bonds under any of the modes of compensation provided in Section 3, sub-sections (a), (b), or (c) hereof.

In order to meet the financial requirements mentioned in this Section, the Central Bank shall remit to Land Bank such sums as may be necessary from the Sinking Fund established by the Land Bank from the retirement of its bonds and other long-term obligations and which Sinking Fund is administered by the Central Bank: Provided, however, That there is no change in maturity of other outstanding Land Bank bonds acquired and held by transferees from original bondholders.

The landowner is exempt from capital gains tax on the compensation paid to him under this Executive Order.

SECTION 5. In the event the landowner does not accept payment of the compensation due him, his compensation shall be held in trust for him by the Trust Department of the Land Bank. The cash portion of the compensation and such portions that mature yearly shall be invested by the Trust Department only in government securities fully guaranteed by the Republic of the Philippines. All the net earnings of the investment shall be for the benefit of the landowner, his heirs or successors in interest.

The rights of the landowner may be exercised by his heirs upon his death.

SECTION 6. The total cost of the land including interest at the rate of six percent (6%) per annum with a two percent (2%)

interest rebate for amortizations paid on time, shall be paid by the farmer-beneficiary or his heirs to the Land Bank over a period of up to twenty (20) years in twenty (20) equal annual amortizations. Lands already valued and financed by Land Bank are likewise extended a 20 year period of payment of twenty (20) equal annual amortizations. However, the farmer beneficiary if he so elects, may pay in full before the twentieth year or may request the Land Bank to structure a repayment period of less than twenty (20) years if the amount to be financed and the corresponding annual obligations are well within the farmer's capacity to meet. Ownership of lands acquired by farmer-beneficiary may be transferred after full payment of amortizations.

SECTION 7. As of the date of this Executive Order, a lien by way of mortgage shall exist in favor of the Land Bank on all lands it has financed and acquired by the farmer-beneficiary by virtue of P.D. No. 27 for all amortizations, both principal and interest, due from the farmer beneficiary or a valid transferee until the amortizations are paid in full.

SECTION 8. Henceforth, failure on the part of the farmer-beneficiary to pay three (3) annual amortizations shall be sufficient cause for the Land Bank to foreclose on the mortgage.

SECTION 9. Thirty (30) days after final notice for payment to the defaulting tenant-farmer, a copy of which notice shall be furnished to the Department of Agrarian Reform, the Land Bank may foreclose on the mortgage by registering a certification under oath of its intent to foreclose with the Registry of Deeds of the city or province where the land is located attaching thereto: a copy of the final notice for payment; proof of service to the tenant-farmer and the Department of Agrarian Reform of the final notice for payment; and a certification that at least three (3) annual amortizations on the land or the sum thereof remain unpaid. The mortgage is deemed foreclosed upon registration of said documents with the Registry of Deeds.

In the event the defaulting tenant-farmer could not be served the final notice for payment, the Land Bank shall post the notice for payment in the town hall, public market and barangay hall or any other suitable place frequented by the public of the barangay

where the defaulting tenant-farmer resides. A certification by the Land Bank to this effect will substitute for the proof of service of the final notice of payment for purposes of foreclosure.

The Register of Deeds of all cities and provinces are directed to have a separate registry book to enter all the requirements of foreclosure as provided herein.

SECTION 10. The tenant-farmer, or any of his compulsory heirs may lift the foreclosure within a period of two (2) years from its registration by paying the Land Bank all unpaid amortizations on the land with interest thereon of six percent (6%) per annum. In case of failure to lift the foreclosure within the said period, ownership of the land shall be deemed transferred to the Land Bank.

SECTION 11. The Land Bank, not later than three (3) months after its acquisition of the land, shall sell the foreclosed land to any interested landless farmer duly certified to as a bona fide landless farmer by the Department of Agrarian Reform of the barangay or the two closest barangays where the land is situated. The cost of the land is the unpaid amortizations due on the land as of the date of the sale with interest thereon of six percent (6%) per annum. In the event that there is more than one interested buyer, the actual buyer shall be determined by lottery in the presence of all the buyers or their representatives and a representative of the Department of Agrarian Reform. The Deed of Conveyance executed by the Land Bank in favor of the farmer transferee shall be registered with the Register of Deeds of the city or province where the land is located. Ownership shall transfer to the farmer transferee only upon registration with the Registry of Deeds. The lien of the Land Bank by way of mortgage on the remaining unpaid amortizations shall subsist on the title of the transferee.

SECTION 12. The Land Bank, at least one (1) month prior to the sale, shall furnish the Department of Agrarian Reform with a notice of sale and shall post a similar notice in the town hall, public market and barangay hall or any other suitable place frequented by the public of the barangay where the property is

located. The notice shall state the description of the property subject of the sale, the price, the date and place of sale.

SECTION 13. The National Land Titles and Deeds Registration Administration is hereby authorized to issue such rules and regulations as may be necessary relative to the registration with the Register of Deeds of all transactions/activities required herein taking into consideration the need to protect the integrity of the Torrens Systems, the interests of the parties and innocent third parties.

All transactions/activities and their corresponding documents that are registered with the Register of Deeds pursuant to the requirements of P.D. No. 27 and this Executive Order shall be free from all documentary stamps and registration fees.

SECTION 14. The Department of Agrarian Reform and the Land Bank are authorized to issue the additional implementing guidelines of this Executive Order which shall not be later than sixty (60) days from the date hereof.

SECTION 15. To ensure the successful implementation of the Agrarian Reform Program, an Agrarian Reform Operating Fund (Agrarian Fund) shall be set up by the National Government in the Land Bank. The amount of this Agrarian Fund, to be determined by the Government Corporation Monitoring and Coordinating Committee (hereinafter referred to as GCMCC), with source the funding requirements for Land Bank to carry out the full implementation of this program which will include the net operating losses directly and indirectly attributable to this program and the credit facilities to farmers and farmers' organizations. Within thirty (30) days from the effectivity of this Executive Order, the Land Bank shall submit to the GCMCC its funding requirements for 1987. Thereafter, within sixty (60) days after the end of each calendar year, the Land Bank shall submit to the GCMCC an accounting of all drawings the Land Bank had made against the fund. At the same time, it will also submit its prospective funding requirements for the current year for review and validation of the GCMCC. The amount approved by the GCMCC shall be deemed appropriated and the amount programmed for release in coordination with the Department of Finance, Budget

and Management and the National Economic and Development Authority. Within thirty (30) days from GCMCC's approval, such funds shall be remitted to the Land Bank for credit to the Agrarian Fund.

SECTION 16. If any part of this Executive Order is declared invalid or unconstitutional, it shall not affect any other part thereof.

SECTION 17. All laws, presidential decrees, orders, letters of instructions, rules and regulations, and other issuances or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

SECTION 18. This Executive Order shall take effect upon its signing and publication as provided by law.

DONE in the city of Manila, this 17th day of July, in the year of Our Lord, nineteen hundred and eighty-seven.

(SGD.) CORAZON C. AQUINO
President

By the President:

(SGD.) JOKER P. ARROYO
Executive Secretary

MALACAÑANG
Manila

EXECUTIVE ORDER NO. 129-A

MODIFYING EXECUTIVE ORDER NO. 129
REORGANIZING AND STRENGTHENING DEPARTMENT
OF AGRARIAN REFORM AND FOR OTHER PURPOSES

WHEREAS, Executive Order No. 129 dated January 30, 1987 was suspended;

WHEREAS, Presidential Proclamation No. 131 and Executive Order No. 229, both dated July 22, 1987 instituted a Comprehensive Agrarian Reform Program (CARP) and provided the mechanisms for its implementation;

WHEREAS, Executive Order No. 229 vests on the Department of Agrarian Reform quasi-judicial powers to determine and adjudicate agrarian reform matters;

WHEREAS, there is a need to strengthen and expand the functions of the Department of Agrarian Reform to be more effective in implementing the Comprehensive Agrarian Reform Program;

WHEREAS, under Article XVIII, Section 6, of the 1987 Constitution, the President shall continue to exercise legislative powers until the First Congress convenes;

NOW, THEREFORE, I, CORAZON C. AQUINO, PRESIDENT OF THE PHILIPPINES, by virtue of the powers vested in me by the Constitution, do hereby order:

SECTION 1. *Title.* This Executive Order shall otherwise be known as the Reorganization Act of the Department of Agrarian Reform.

SECTION 2. *Reorganization.* The Department of Agrarian Reform is hereby reorganized structurally and functionally, hereinafter referred to as the Department, in accordance with the provisions of this Executive Order.

the privilege granted hereunder for private or unauthorized purposes, shall be punished by a fine of five hundred pesos or imprisonment of not more than three years or both.

This Decree shall take effect immediately.

Done in the City of Manila, this 21st day of October, in the year of Our Lord, nineteen hundred and seventy-two.

(SGD.) FERDINAND E. MARCOS
President
Republic of the Philippines

MALACANANG
MANILA

By the President of the Philippines

PRESIDENTIAL DECREE NO. 27

Decreeing The Emancipation of Tenant From The Bondage of The Soil and Giving To Them The Ownership of The Land They Till and Providing The Instruments and Mechanism Therefor.

Inasmuch as the old concept of land ownership by a few has spawned valid and legitimate grievances that gave rise to violent conflict and social tension,

The redress of such legitimate grievances being one of the fundamental objectives of the New Society,

Since Reformation must start with the emancipation of the tiller of the soil from his bondage,

Now, THEREFORE, I, Ferdinand E. Marcos, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1 dated September 22, 1972, as amended do hereby decree and order the emancipation of all tenant farmers as of this day, October 21, 1972;

This shall apply to tenant farmers of private agricultural lands primarily devoted to rice and corn under a system of share-crop or lease-tenancy, whether classified as landed estate or not;

The tenant farmer, whether in land classified as landed estate or not, shall be deemed owner of a portion constituting a family-size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated;

In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it;

For the purpose of determining the cost of the land to be transferred to the tenant-farmer pursuant to this Decree, the value of the land shall be equivalent to two and one-half (2½) times the average harvest of three normal crop years immediately preceding the promulgation of this Decree;

The total cost of the land, including interest at the rate of (6) percentum per annum, shall be paid by the tenant in fifteen (15) years of fifteen (15) equal annual amortizations;

In case of default, the amortizations due shall be paid by the farmers' cooperative in which the defaulting tenant-farmer is a member, with the cooperative having a right of recourse against him;

The government shall guaranty such amortizations with shares of stock in government-owned and government-controlled corporations;

No title to the land owned by the tenant-farmers under this Decree shall be actually issued to a tenant-farmer unless and until the tenant-farmer has become a full-pledged member of a duly recognized farmers' cooperative;

Title to land acquired pursuant to this Decree or the Land Reform Program of the Government shall not be transferable except by hereditary succession or to the Government in accordance with the provisions of this Decree, the Code of Agrarian Reforms and other existing laws and regulations;

The Department of Agrarian Reform through its Secretary is hereby empowered to promulgate rules and regulations for the implementation of this Decree.

All laws, executive orders, decrees and rules and regulations, or parts thereof inconsistent with this Decree are hereby repealed and/or modified accordingly.

Done in the City of Manila this 21st day of October, in the year of Our Lord, nineteen hundred and seventy-two.

(SGD.) FERDINAND E. MARCOS
President
Republic of the Philippines ✓

MALACANANG
MANILA

PRESIDENTIAL DECREE NO. 28

ESTABLISHING SEVEN REGIONAL PRISONS AND CONVERTING EXISTING NATIONAL PENAL INSTITUTIONS INTO REGULAR PRISONS AND PENAL FARMS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

WHEREAS, there were pending before Congress prior to the promulgation of Proclamation No. 1081, dated September 21, 1972, certain priority measures vital to the establishment and maintenance of peace and order throughout the land;

WHEREAS, one of these priority measures is a bill, entitled "An Act Establishing Seven Regional Prisons and Converting Existing National Penal Institutions Into Regular Prisons and Penal Farms, Appropriating Funds Therefor, And For Other Purposes";

WHEREAS, this measure offers a positive solution to the problems bred by our overcrowded national prisons and perpetuated by an integrated system of confinement of various types of felons, irrespective of whether they are incorrigibles or merely first offenders;

WHEREAS, this bill will reduce the incidence of escapes among the national prisoners and promote their rehabilitation by bringing prisoners and their families and friends closer to each other;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces

of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, and in order to effect desired changes and reforms in the social, economic and political structures of our society, do hereby decree that House Bill No. 4385, entitled "AN ACT ESTABLISHING SEVEN REGIONAL PRISONS AND CONVERTING EXISTING NATIONAL PENAL INSTITUTIONS INTO REGULAR PRISONS AND PENAL FARMS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES", is hereby adopted and approved, and made part of the law of the land: Provided, That there shall be immediately established, in lieu of the number and location of the penal establishments created thereunder, one regional prison in each of the following provinces and area: Leyte, Pangasinan and Northeastern Mindanao.

This decree shall take effect immediately: Provided, That amendments, changes and modifications may be made by me and the same shall take effect after my announcement thereof or by my duly designated representative.

Done in the City of Manila this 25th day of October, in the year of Our Lord, nineteen hundred and seventy-two.

(SGD.) FERDINAND E. MARCOS
President
Republic of the Philippines

MALACANANG
MANILA

PRESIDENTIAL DECREE NO. 29

AMENDING SUBPARAGRAPH (D) OF SECTION SEVENTEEN HUNDRED THIRTY-NINE AND SUBPARAGRAPH (B) OF SECTION SEVENTEEN HUNDRED FORTY OF THE REVISED ADMINISTRATIVE CODE.

WHEREAS, there were pending before Congress prior to the promulgation of Proclamation No. 1081, dated September 21, 1972, certain measures vital to the establishment and maintenance of peace and order throughout the land;

WHEREAS, one of these priority measures is House Bill No. 2544 which provides that prisoners sentenced to not more than six (6) months shall be deemed municipal prisoners and those sentenced to a maximum term of not more than three (3) years shall be deemed provincial or city prisoners;

Section 17 of Article XI requires a verified declaration of assets, liabilities and net worth of every public officer or employee and public disclosure of the same is constitutionally required (in the manner provided by law) with respect to the President, the Vice-President, the Members of the Cabinet as well as Members of the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices including the officers of the armed forces with general or flag rank. It is understood, however, that with respect to all other public officers, a law may likewise require publication or public disclosure of the declaration of assets, liabilities and net worth.

The law shall deal with any public officer or employee who, during his tenure, seeks to change his citizenship or acquire the status of an immigrant of another country. The law may provide that they be separated from the service under certain conditions subject to exceptions.

Provisions related to accountability of public officers are found in other articles like those of the Judiciary (on moral qualifications, removal of Judges, etc.), Civil Service Commission and General Provisions.

Article XII
NATIONAL ECONOMY AND
PATRIMONY

Section 1. The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.

In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given

Artikulo XII
PAMBANSANG EKONOMIYA AT
PATRIMONYA

Seksyon 1. Ang mga tunguhin ng pambansang ekonomiya ay higit pang ekwitableng pamamahig ng mga pagkakataon, kita at kayamanan, sustinadong pagpaparami ng mga kalakal at mga pag-iingkod na likha ng bansa para sa kapakinabangan ng sambayanan; at humalagong pagkaproduktibo bilang susi sa pag-aangat ng uri ng pamumuhay para sa lahat, lalo na sa mga kapus-palad.

Dapat itaguyod ng Estado ang industrialisasyon at pagkakataon na magkahanapbuhay ang lahat batay sa mahusay na pagpapaulad ng pagsasaka at repormang pansakahan, sa pamamagitan ng mga industriya na gumagamit nang lubusan at episyente sa mga kakayahan ng tao at mga likas na kayamanan, at nakikipagpaligsahan kapwa sa mga pamilihing lokal at dayuhan. Gayon man, dapat pangalagaan ng Estado ang mga negosyong Pilipino laban sa marayang kompetensyang dayuhan at mga nakamihaskan sa pangangalakal.

Sa pagsisikap na matamo ang mga tunguhing ito, dapat bigyan ng lubos na pagkakataong umunlad

optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership.

Sec. 2. All lands of the public domains, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and ex-

ang lahat ng mga sektor ekonomiko at mga rehiyon ng bansa.

Dapat pasiglahin ang mga pribadong negosyo, pati na mga korporasyon, mga kooperatiba at katularing mga lansakang organisasyon, sa pagpapalawak ng base ng kaniilang pagmamamay-ari.

Sec. 2. Ang lahat ng mga lupaing ari ng bayan, mga tubig, mga mineral, karbon, petrolyo at iba pang mga langis mineral, lahat ng mga lakas ng magagamit na enerhiya, mga pangisdaan, mga kagubatan o mga kahuyan, buhay-ibang, halaman at hayop, at iba pang mga likas na kayamanan ay ari ng Estado. Hindi maaaring ilipat kaninoman ang lahat ng iba pang mga likas na kayamanan maliban sa mga lupaing pansakahan. Dapat sumailalim sa ganap na kontrol at supervisiyon ng Estado ang paggalugad, pagpapaunlad, at pagsasagamit ng mga likas na kayamanan. Ang mga gawaing ito ay maaaring tuwirang isagawa ng Estado, o ito ay maaaring malipagkasunduang koproduksiyon, magkasamang pakikipagsapalaran, bakasang produksiyon sa mga mamamayang Pilipino o sa mga korporasyon o mga asosasyon na ang animnapung porsiyento man lamang ng puhunan ay ari ng gayong mga mamamayan. Ang gayong mga kasunduan ay maaaring ukol sa panahong hindi hihigit sa dalawampu't limang taon, na mapapanidago sa hindi hihigit sa dalawampu't limang taon, at sa ilalim ng mga termino at mga kondisyon na maaaring itadhana ng batas. Sa kalagayan ng mga karpatan sa patubig, panustos-tubig, mga pangisdaan o mga gamit pang-industry na iba sa pagpapaunlad ng lakas-tubig, ang gamit na kapalipakinabang ang maaaring magiging sukatan at katakdaan ng pagkakalood.

Dapat pangalagaan ng Estado ang yamang-dagat ng bansa sa mga karagatan pangkapuluhan, dagat

clusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons.

The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.

The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution.

Sec. 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renew-

territoryal at eksklusibo na sonang pangkabuhayan nito, at dapat itaan ang eksklusibong paggamit at pagtatamasa nito sa mga mamamayang Pilipino.

Maaaring pahintulutan ng Kongreso sa pamamagitan ng batas ang maliitang pagsasagamit ng mga likas na kayamanan ng mga mamamayang Pilipino, gayon din ang pangkooperatibang pag-aalaga ng isda, na ang prayoriti ay sa kawad-buhay na mga mangingisda at mga manggagawang pang-isda sa mga ilog, mga lawa, mga look, at mga dagat-dagatan.

Ang Pangulo ay maaaring maki-pagkasunduan sa mga korporasyong aring-dayuhan na kinapapalooban ng tulong teknikal o pinansyal para sa malawakang paggalugad, pagpapaunlad, at pagsasagamit ng mga mineral, petrolyo at iba pang mga langis mineral alinsunod sa mga pangkalahatang termino at mga kondisyon na itinataadhana ng batas, batay sa mga tunay na ambag sa pagsulong na pangkabuhayan at sa kagalingang panlahat ng bansa. Sa gayong mga kasunduan, dapat itaguyod ng Estado ang pagpapaunlad at paggamit sa mga lokal na batis syentipiko at teknikal.

Dapat ipagbigay-alam ng Pangulo sa Kongreso ang bawat kontratang pinakipagkayarian alinsunod sa tadhanang ito sa loob ng tatlum-pung araw mula sa pagkakatapagsagawa nito.

Sek. 3. Ang mga lupaing ari ng bayan ay inuuri na pansakahan, kagubatan o kakahuyan, lupaing mineral, at mga pambansang parke. Ang lupaing pansakahan na ari ng bayan ay maaaring uriin pa sa pamamagitan ng batas alinsunod sa mga paggagamitan nito. Dapat iimitahan sa mga lupaing pansakahan ang maililipat na mga lupaing ari ng bayan. Hindi maaaring humawak ang alin mang pribadong korporasyon o asosasyon ng mga lupaing maililipat na ari ng bayan

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able for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant.

Taking into account the requirements of conservation, ecology, and development, as subject to the requirements of agrarian reform, the Congress shall determine, by law, the size of lands of the public domain which may be acquired, developed, held, or leased and the conditions therefor.

Sec. 4. The Congress shall, as soon as possible, determine by law the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor diminished, except by law. The Congress shall provide, for such period as it may determine, measures to prohibit logging in endangered forests and watershed areas.

Sec. 5. The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.

The Congress may provide for the applicability of customary laws

maliban sa pamamagitan ng lease, sa tawing na panahong hindi hihigit sa dalawampung't limang taon, na mapaninibago sa hindi hihigit sa dalawampung't limang taon, at hindi lalabis sa isang libong hektaryang sukat. Ang mga mamamayan ng Pilipinas ay maaaring mag-lease nang hindi lalabis sa limang daang hektarya, o magtamo sa pamamagitan ng pagbili, homestead, o kaloob, nang hindi lalabis sa labindalawang hektarya niyon.

Dapat itakda ng Kongreso, sa pagsasaalang-alang sa mga pangangailangan sa pangangalaga, ekolohiya at pagpapaulad at alinsunod sa mga hinihingi ng repormang pansakahan, sa pamamagitan ng batas, ang sukat ng mga lupaing ari ng bayan na maaaring tamuhin, paunlarin, hawakan, o paupahan at ang mga kondisyon niyon.

Sec. 4. Dapat magtakda ang Kongreso, sa pamamagitan ng batas sa lalong madaing panahon ng mga tiyak na saklaw ng mga lupaing kagubatan at mga pambansang parke, na malinaw na magtatakda ng kanilang mga hangganan sa lupa. Pagkatapos noon, ang gayong mga lupaing kagubatan at mga pambansang parke ay dapat ikonserba at hindi maaaring dagdagan ni bawasan, maliban sa pamamagitan ng batas. Dapat magtakda ang Kongreso, para sa panahong maaaring ipasya nito, ng mga batas na magbabawal ng pagtotroso sa mga nanganganib na kagubatan at mga sakop ng watershed.

Sec. 5. Dapat pangalagaan ng Estado, batay sa mga tadhana ng Konstitusyong ito at sa mga patakaran at mga programa sa pagpapaulad ng bansa, ang mga karapatan ng mga katutubong pamayanang kultural sa kanilang mga minanang lupain upang matiyak ang kanilang kagalingang ekonomiko, panlipunan at pangkultura.

Maaaring magtakda ang Kongreso para sa pagpapairal ng mga na-

governing property rights or relations in determining the ownership and extent of ancestral domain.

Sec. 6. The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, co-operatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common goods so demands.

Sec. 7. Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.

Sec. 8. Notwithstanding the provisions of Section 7 of this Article, a natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private lands, subject to limitations provided by law.

Sec. 9. The Congress may establish an independent economic and planning agency headed by the President, which shall, after consultations with the appropriate public agencies, various private sectors, and local government units, recommend to Congress, and implement continuing integrated and coordinated programs and policies for national development.

Until the Congress provides otherwise, the National Economic and Development Authority shall function as the independent plan-

karangalang batas hinggil sa mga karapatan o mga pangyayari sa ariarian sa pagtutukang sa pagmamamamayan at saklaw ng minanang lupain.

Sek. 6. Ang paggamit ng ariarian ay may naimikal na tungkuling sosyal, at lahat ng mga kinatawang pangkabuhayan ay dapat magambag sa kabutihang panlahat. Dapat magkaroon ng karapatan ang mga indibidwal at mga pribadong pangkat, kabilang ang mga korporasyon, mga kooperatiba, at katuturing mga lansakang organisasyon, na magmamay-ari, magtatag at magpaikad ng mga negosyong pangkabuhayan, sa saklaw ng tungkulin ng Estado na itaguyod ang marapat na katarungan at manghimasok kapag hinihingi ng kabutihang panlahat.

Sek. 7. Hindi dapat malipat o masalin ang ano mang pribadong lupain maliban sa pagmamana, at sa mga tao, mga korporasyon o mga asosasyon na may karapatang magtamo o maghawak ng mga lupain ng ari ng bayan.

Sek. 8. Sa kabila ng mga tadhana ng Seksyon 7 ng Artikulong ito, ang isang katutubong inianak na mamamayan ng Pilipinas na nawalan ng pagkamamamayang Pilipino ay maaring paglipatan ng mga lupain ng pribado, batay sa mga katakdang itinataadhana ng batas.

Sek. 9. Maaaring magtatag ang Kongreso ng isang malayang sangay sa ekonomiya at pagpapalano na pamumunuan ng Pangulo, na dapat magtagubilin sa Kongreso matapos makipagsanggunian sa angkop na mga sangay pambayan, sa iba't ibang pribadong sektor, at sa mga yunit ng pamahalaang lokal, at magsakatuparan ng patuluyan, pinag-isa at magkakaugnay na mga programa at patakaran para sa pagpapalunlad ng bansa.

Hangga't ang Kongreso ay hindi nagtatakdang ng naiiba, dapat manungkulan ang Pambansang Pangasiwaan sa Ekonomiya at Pagpapal-

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ning agency of the government.

Sec. 10. The Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least sixty per centum of whose capital is owned by such citizens, or such higher percentage as Congress may prescribe, certain areas of investments. The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.

In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos.

The State shall regulate and exercise authority over, foreign investments within its national jurisdiction and in accordance with its national goals and priorities.

Sec. 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. The participa-

niad bilang malayang sangay sa pagpapalana ng pamahalaan.

Señ. 10. Sa tagubilin ng sangay sa ekonomiya at pagpapalana, dapat ilaan ng Kongreso sa mga mamamayan ng Pilipinas o sa mga korporasyon o mga asosasyon na ang animnapung porsiyento man lamang ng puhunan ay ari ng gayong mga mamamayan, o ang mas mataas na porsiyento na maaring itakda ng Kongreso, ang ilang mga larangan ng pamamuhuman kailan man at ganito ang iniatas ng pambansang kapakanan. Dapat magsabatas ang Kongreso ng mga hakbanging magpapasigla sa pagbubuo at pagpapalakad ng mga negosyo na ang puhunan ay aring ganap ng mga Pilipino.

Sa pagkaloob ng mga karapatan, mga pribilehiyo at mga konsesyon na sumasaklaw sa pambansang ekonomiya at patrimonyo, dapat unahin ng Estado ang mga kwalipikadong Pilipino.

Dapat regulahin at gamitin ng Estado ang autoridad nito sa mga puhunang dayuhan na saklaw ng pambansang hurisdiksiyon nito at nang naalinsunod sa mga pambansang tunguhin at prayoriti nito.

Señ. 11. Hindi dapat ipagkaloob ang ano mang prangkisya, sertipiko, o iba pang anyo ng pahintulot sa pagpapalakad ng kagamitang pambayan maliban sa mga mamamayan ng Pilipinas o sa mga korporasyon o mga asosasyong itinatag sa ilalim ng mga batas ng Pilipinas na ang animnapung porsiyento man lamang ng puhunan ay ari ng gayong mga mamamayan, ni hindi dapat na ang prangkisya, sertipiko, o pahintulot ay tanging-tangi sa uri o lihigit pa sa limampung taon ang itatagal. Ni hindi dapat ipagkaloob ang gayong prangkisya o karapatan maliban sa kondisyon na ito ay dapat sumailalim ng pagsususog, pagbabago, o pagpapawalang-saysay ng Kongreso kapag kinakailangan ng kabutihang panla-

tion of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.

Sec. 12. The State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive.

Sec. 13. The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity.

Sec. 14. The sustained development of a reservoir of national talents consisting of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the State. The State shall encourage appropriate technology and regulate its transfer for the national benefit.

The practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law.

Sec. 15. The Congress shall create an agency to promote the viability and growth of cooperatives as instruments for social justice and economic development.

hat. Dapat pasiglahin ng Estado ang tanan na makilalakip sa pamumuhunan sa mga kagamitang pambayan. Ang paglahok ng mga mamumuhang dayuhan sa mga pamatnugutan sa ano mang kalakalan sa kagamitang pambayan ay dapat matakda sa kanilang katumbas na sepi sa puhunan niyon, at ang lahat ng mga pinunong tagapagpaganap at tagapamahala ng gayong mga korporasyon o asosasyon ay kinailalangang mga mamamayan ng Pilipinas.

Sek. 12. Dapat magtaguyod ang Estado ng makiling na paggamit ng paggawang Pilipino, domestikong materyales at mga kalakal na yaring lokal at dapat magpatibay ng mga hakbangin upang makalaban sa kompetensya ang mga ito.

Sek. 13. Dapat magtaguyod ang Estado ng patakarang pangkalakalan na mauukol sa kagalangang panlahat at magsasagmamit sa lahat ng mga anyo at ayos ng palitan na nasasalig sa pagkakapantay-pantay at pagtutumbasan.

Sek. 14. Dapat magtaguyod ang Estado ng patuluyang pagpapalilad ng isang pambansang pagpipisan ng talino ng mga Pilipinong sayantis, mga mamumuhunan, mga propesyonal, mga manedyer, mataas na kaantasan ng laang-hisig na teknikal at mga bihasang manggagawa at mga artisan sa lahat ng mga larangan. Dapat magtaguyod ang Estado ng angkop na teknolohiya at magregula ng pagliipat ng teknolohya para sa kapakinabangan ng bansa.

Dapat ilaan lamang sa mga mamamayang Pilipino ang pagpapraktis ng lahat ng mga propesyon sa Pilipinas, matangi sa mga kalagayang itatakda ng batas.

Sek. 15. Dapat lumikha ang Kongreso ng isang sangay na magtaguyod sa pag-iral at pagsulong ng mga kooperatiba bilang mga kasanangkapan para sa katarangang

Sec. 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.

Sec. 17. In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately owned public utility or business affected with public interest.

Sec. 18. The State may, in the interest of national welfare or defense, establish and operate vital industries and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

Sec. 19. The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.

Sec. 20. The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as

panlipunan at kamalayang pangkalahatan.

Sec. 16. Hindi dapat magtatag ang Kongreso, maliban sa pamamagitan ng pangkalahatang batas, ukol sa pagbuho, pagtatag, o pagreregula ng mga pribadong korporasyon. Maaaring lumitka o magtatag ng mga korporasyong ari o kontrolado ng pamahalaan sa pamamagitan ng mga tanging karta para sa kabutihan ng lahat at nasasalalay sa pagsubok sa pagiging kapaki-pakinabang nito.

Sec. 17. Ang Estado, sa mga panahon ng pambansang kagipitan, kapag kinakailangan ng kapakanang pambayan, ay maaaring pansamantalang mangasiwa o mamatnugot sa pagpapalakad ng anumang pambayang yutiliti na aring pribado o negosyong kinapapalooan ng kapakanang pambayan, habang umiral ang kagipitang pambayan at sa ilalim ng makatwirang mga katakdaang itatagubilin nito.

Sec. 18. Ang Estado, sa kapakanan ng pambansang kagalingan o pagtatanggol, ay maaaring magtatag at magpalakad ng mga napakahalagang industriya, at pagkayababayad ng wastong kabayaran, maaaring ilipat nito sa pagmamayaring pambayan ang mga yutiliti at iba pang mga pribadong negosyo na palalakaran ng pamahalaan.

Sec. 19. Dapat regulahin o ipagbawal ng Estado ang mga monopoli kapag kinakailangan ng kapakanang pambayan. Hindi dapat payagan ang mga kombinasyong sumusupil sa kalakalan o ang malayang kompetensya.

Sec. 20. Dapat magtatag ang Kongreso ng isang malayang pangasiwaan sa pananalapi, na ang mga kagawad ng namumunong kalupunan ay kinakailangang mga katutubong iniyak na mamamayang Pilipino na kilala sa pagkamatapat, pagkamarangal, at pagkamalabayan, at ang nakararami sa kanila ay dapat magmula sa pribadong

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may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

Until the Congress otherwise provides, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority.

Sec. 21. Foreign loans may only be incurred in accordance with law and the regulation of the monetary authority. Information on foreign loans obtained or guaranteed by the Government shall be made available to the public.

Sec. 22. Acts which circumvent or negate any of the provisions of this Article shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law.

sektor. Sila ay dapat ding sumailalim sa iba pang mga kwalipikasyon at disability na maaaring itakda ng batas. Dapat magtakda ang pangasiwaan ng patnubay na patakaran sa mga larangan na may kinalamayan sa salapi, pagbabangko, at kredito. Dapat magkaroon ito ng supervisoryon sa pumamalakad ng mga bangko at gampanan ang mga kapangyarihan sa pagregula nang ayon sa maaaring itadhana ng batas sa pamamalakad ng mga kompanya sa pananalapi at sa iba pang mga institusyong gumaganap ng katularing mga gawain.

Hangga't hindi nagtatakda ng natiba ang Kongreso, ang Bangko Sentral ng Pilipinas, sa pagpapalakad sa ilalim ng umiral na mga batas, ay gagaganap bilang punong pangasiwaan sa pananalapi.

Sek. 21. Maaari lamang makautang sa ibang bansa nang naaalisunod sa batas at sa alituntunin ng pangasiwaan sa pananalapi. Dapat maging handa sa pagbibigay sa taong-bayan ng impormasyon hinggil sa mga utang sa ibang bansa na nakuha o ginarantyaan ng pamahalaan.

Sek. 22. Ang mga kagagawan na lumilihis o nagpapawalang-saysay sa alin mang tadhana ng Artikulong ito ay dapat ituring na di naaangkop sa kapakanang pambansa at dapat lapatan ng mga parusang sibil at kriminal, ayon sa maaaring itakda ng batas.

EXPLANATIONS

Section 19* of the Article on the Declaration of Principles and State policies states: "The State shall develop a self-reliant, dynamic and independent national economy effectively controlled by Filipinos." Note that the word "national" describes "economy" to indicate that the economy covers the whole nation. A self-reliant economy does not, of course, mean economic seclusion; rather, it refers to the use and development of our own vast and rich resources so that we do not end up as beggars in the international community. An economy is dynamic if it is vigorous; that it has grown to the point that it is not easy to render it weak. An economy is independent if it is free from undue

* Some explanations herein were based on the notes of Mr. Albert P. Almendralejo, Secretary of the Committee on National Economy and Patrimony.

external control such that the Filipinos themselves or through their representatives, can freely decide their economic plans and programs.

The primary guiding principles with respect to our national economy and patrimony may be stated as follows: (1) attainment of the common good; (2) application of the principle of subsidiarity; and (3) following the principle of solidarity.

The attainment of the common good has always been the goal of every civilized society. Every individual is given importance in the attainment of this goal. His actions must not be designed only for himself but also for others. The first sentence of Section 6 of the instant Article supports this statement. "The use of property bears a social function, and all economic agents shall contribute to the common good." Thus, the situation contemplated is that every member of society must be afforded the opportunities for him to be developed materially, politically, culturally and spiritually. It is amounting to total human liberation. And when man's potentials are well-developed based on equal distribution of opportunities, wealth and income, it is expected that there will be sustained increase in production, goods and services, thus raising the quality of life for all, not only for a segment of society.

Under the principle of subsidiarity, it is private initiative that should be the main basis of every economic activity in the sense that when such activity can be performed responsibly and efficiently by private individuals or private agencies, the State shall refrain from interfering. State interference shall be justified only for the attainment of the common good. It gives way to the so-called "free enterprise" or "private enterprise" economic system. But when the desire for unrestrained profits becomes the overriding motive, the common good is imperilled and this will justify State interference.

The concept of solidarity teaches that it is the duty of every individual, in the pursuit of the common good, to make himself productive and avoid indolence and mediocrity in his work. Of course, this assumes an environment where there is equitable distribution of wealth and equal opportunities for work.

Section 20 of the article on Declaration of Principles and State Policies supports the principle of subsidiarity when it provides: "The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments." And closely related thereto is the second sentence of Section 6 of the instant Article which states: "Individuals and private groups including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands."

The 60%-40% equity in a corporation or association in the exploration, development and utilization of natural resources has been retained with the 40% as the maximum equity for alien but the 60% equity for Filipinos, because of the use of the words "at least sixty per centum" can be increased by the Congress (even up to 100%) when domestic capital becomes more available. Layering in corporate practice through the so-called grandfather rule is constitutionally prohibited because this will enable aliens to own in effect more than 40%. This was the answer of Bernie Villegas to an interpellation on the subject by Jose N. Nollado.

There is no provision in Section 2 of the instant Article on the participation of foreign investors in the governing body of the corporation engaged in the exploration, development and utilization of natural resources unlike in Section 11 of the instant Article where "the participation of foreign investors in the government body of any public utility enterprise shall be limited to their proportionate share in its capital." The same rule however, shall apply to Section 2 because of PD No. 715, which presidential decree shall continue to operate until amended, repealed or revoked, pursuant to Section 3 of Article XVIII, *infra*.

With respect to our marine wealth, the New Constitution provides for the protection of this wealth, whether found in archipelagic waters, or territorial sea, or exclusive economic zone and it is likewise provided that the State shall reserve the use and enjoyment of its marine wealth exclusively to Filipino citizens. Therefore, the 60%-40% equity should not apply to the marine wealth of the country which constitutes also part of the Nation's natural resources.

Cooperative fish farming may be allowed by law with priority to subsistence fishermen and fishworkers in rivers, lakes, bays and lagoons. Refer also to Section 7, Article XIII on protection to the rights of subsistence fishermen.

Service contracts with foreign-owned corporations for technical or financial assistance may be entered into subject to the following conditions:

- (1) They are entered into by the President;
- (2) They cover technical or financial assistance for large-scale exploration, development and utilization of minerals, petroleum and other mineral oils;
- (3) Must be based on real contributions to the economic growth and general welfare of the country;
- (4) They shall embody stipulations wherein the State shall promote the development and use of local scientific and technical resources;
- (5) They must be in accordance with the general terms and conditions provided for by law (a general law); and
- (6) The President shall notify the Congress of every service contract entered into by him, within thirty (30) days from its execution.

Natural resources, except agricultural lands, shall not be alienated. (Sec. 2) And alienable lands of the public domain shall be limited to agricultural lands. (Sec. 3)

Private corporations or associations may hold alienable lands (agricultural) of the public domain only by lease, not to exceed 1,000 hectares in area for a period not exceeding 25 years, renewable for not more than 25 years. Individuals who are citizens of the Philippines may hold alienable lands of the public domain either by lease (not more than 500 hectares) or in ownership (not exceeding 12 hectares). This 12-hectare limit may still be decreased under the second paragraph of Section 3 of the instant Article. So also, the maximum limits for lease above may likewise be decreased by the Congress under said paragraph.

Aliens may not acquire lands of the public domain either by lease or in ownership, except by way of private corporations which as already stated may be merely lessees of alienable lands of the public domain.

As to private lands, the same may be transferred or conveyed only to individuals, corporations, or associations qualified to acquire or hold lands of

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the public domain as understood in Section 3 of the instant Article, except, of course, in cases of hereditary succession. But despite these provisions (as to ownership of private lands), a natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private lands, subject to such limitations as may be provided by law. (Sec. 7, Art. XII) This Section 7, Article XII, contrary to popular belief, is designed to give constitutional support to BP Blg. 125 which provides that "any natural-born citizen of the Philippines who has lost his Philippine citizenship and who has the legal capacity to enter into a contract under Philippine laws may be a transferee of a private land up to a maximum area of one thousand (1,000) square meters, in the case of urban land, or one hectare in the case of rural land, to be used by him as his residence." Under BP Blg. 125 above, "in the case of married couples, one of them may avail of the privilege herein provided; Provided, That if both shall avail of the same, the total area required shall not exceed the maximum herein fixed." Moreover, under BP Blg. 125, "in case the transferee already owns urban or rural lands for residential purposes, he shall be entitled to be a transferee of additional urban or rural lands for residential purposes which, when added to those already owned by him, shall not exceed the maximum areas herein authorized."

Note also that granting a usufruct over a land to an alien does not violate the Constitutional prohibition against aliens acquiring lands in the Philippines. (See *Palacios vs. Ramirez*, L-27952, Feb. 15, 1982)

The 60%-40% provisions on natural resources (Sec. 2) and public utilities (Sec. 11) are provisions on foreign investments. So also, under Section 11 (2), Article XVI, only Filipino citizens or corporations or associations at least 70% of the capital of which is owned by such citizens shall be allowed to engage in the advertising industry. Under Section 11 (1) of Article XVI, "the ownership and management of mass media shall be limited to citizens of the Philippines, or to corporations, cooperatives or associations, wholly-owned and managed by such citizens." Under Section 4 (2), Article XIV, "educational institutions, other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least 60% of the capital of which is owned by such citizens."

Outside of the cases above stated where Filipino equity is expressly provided for, aliens may invest even up to 100% except as may be regulated or limited by laws on investment of the Congress. Nevertheless, under Section 10 of the instant Article, "the Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least 60% of whose capital is owned by such citizens, or such higher percentage as the Congress may prescribe, certain areas of investments." Note that our investment laws remain effective until amended or repealed. (See Sec. 3, Art. XVIII)

The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly-owned by Filipinos. (Sec. 10, par. 2) This is a Chito Gascon amendment.

The above provisions can be qualified, as may be appropriate, by the rule that "in the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos," a proposal of Jose N. Nolleto.

The following provisions are pertinent to foreign investments:

(1) The State shall regulate and exercise authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities. (Sec. 10, third par., Art. XII)

(2) The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity. (Sec. 13, Id.)

Section 14 above on the sustained development of a reservoir of national talents confirms the statement that our patrimony includes also our mental abilities and faculties. Filipinos, if given the opportunity, have remarkable intelligence in all fields of human endeavors. Our history is replete with examples and lives of great men in the arenas of politics, arts, sciences, business, sports, etc. The second paragraph which provides that the practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases provided by law, was urged by groups headed by Francisco "Paco" Gonzales IV. It was sponsored on the floor by Ricardo Romulo, Florenz Regalado, Blas Ople and Jose N. Nolleto.

The Anti-Dummy provision in the New Constitution is found in Section 22 of Article XII which reads: "Acts which circumvent or negate any of the provisions of this Article shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law." Dummyism is widely practiced to circumvent provisions limiting foreign equity in the doing of business in the Philippines and sad to say, many of the dummies are lawyers themselves of multi-national companies. The civil sanctions for practicing dummyism shall include fines, and forfeiture of the foreign capital invested in favor of the State.

Industrialization is not necessarily dependent upon attainment of sound agricultural development for it is truly within the intent of the 1986 Constitutional Commission to proceed to industrialization along with the program designed to accelerate agricultural development. For the purpose of improving our agricultural pursuits is to increase the purchasing power of our population, especially in the rural areas so as to make our industries viable but then there are many purchasers in the urban centers whose purchasing power is not dependent on agriculture. The Congress, therefore, may adopt measures geared towards industrialization together with measures designed to attain sound agricultural development. Actual attainment of sound agricultural development is not a condition precedent to industrialization otherwise there is an absurdity that the Constitution should not contemplate.

Section 15 of Article XII may be the key, so they say, to real national progress. The need for systematic and properly supervised cooperatives in the Philippines is truly urgent. Florangel Rosario Braid emphatically said that the spirit of cooperation must be exploited in every Filipino. Jose N. Nolleto observed that cooperation is inherent in the Filipinos because of their traditional bayanihan spirit. When people, rich or poor, pool their resources, they can undertake great projects that may truly gravitate our Nation towards viable social and economic development. Thus, the forthcoming Congress is enjoined to give top priority to what Section 15 mandates, that "the Congress shall create an agency to promote the viability and growth of cooperatives as instruments for social justice and economic development." The adage "in union, there is strength" is ever true anywhere, everywhere.

Article XIII

SOCIAL JUSTICE AND HUMAN RIGHTS

Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

Sec. 2. The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

LABOR

Sec. 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

Artikulo XIII

KATIRUNGANG PANLIPUNAN AT MGA KARAPATANG PANTAO

Seksyon 1. Dapat pag-akuhin ng Kongreso ng pinakamataas na prioridad ang pagpasabatas ng mga hakbangin na mangangulaga at magpapatingkad sa karapatan ng lahat ng mga mamamayan sa dignidad na pantao, magbabawas sa mga di pagkakapantay-pantay na panlipunan, pengkabulapan at pampulitika, at papawi sa mga di pagkakapantay-pantay na pangkalinangan sa pamamagitan ng ekwitableng pagpalaganap ng kayamanan at kapangyarihang pampulitika para sa kabutihan ng lahat.

Tungo sa mga mithing ito, dapat regulahin ng Estado ang pagtatamo, pagmamay-ari, paggamit, at paglilipat ng arazian at ng mga bunga nito.

Sek. 2. Dapat na kalaatip sa pagtataguyod ng katarungang panlipunan ang komitment sa paglikha ng mga pagkakataong ekonomiko na nacasalig sa kalayaan sa pagpapatiina at pagtitiwala sa sariling kakayahan.

PAGGAWA

Sek. 3. Dapat magkaloob ang Estado ng lubos na proteksyon sa paggawa, sa lokal at sa ibayong dagat, organisado at di organisado, at dapat itaguyod ang puspusang employment at pantay na mga pagkakataon sa employment para sa lahat.

Dapat nitong garantyan ang mga karapatan ng lahat ng mga manggagawa na magtatatag ng sariling organisasyon, sama-samang pakikipagkasundo at negosasyon, mapayapa at magkakaugnay na pagkilos; kasama ang karapatang magwelga nang naaqlinsunod sa batas. Dapat na may karapatan sila sa katatagan sa trabaho, sa makataong mga kalagayan sa trabaho, at sa sahod na sapat ikabuhay. Dapat din silang lumahok sa mga pro-

seso ng pagbabalangkas ng patakaran at desisyon na may kinaiyaman sa kanilang mga karapatan at benepisyo ayon sa maaring itatuhana ng batas.

Dapat itatupad ng Estado ang prinsipiyong hatiang penanagutan ng mga manggagawa at mga employer at ang kinatitang paggamit ng boluntaryong mga pamamaraan ng pagsasabay sa mga hidwaan, kabilang ang konsilyasyon, at dapat ipatupad ang pagtatama nito ng isa't isa upang maisulong ang katiwasayang industrial.

Dapat regulahin ng Estado ang ugnayan ng mga manggagawa at mga employer, dahil sa pagkilala sa karapatan ng paggawa sa karampatang kaparte nito sa mga bunga ng produksiyon at sa karapatan ng mga negosyo sa makatwirang tubo sa mga pamumuhunan, at sa paglawak at paglago.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

AGRARIAN AND NATURAL RESOURCES REFORM

Sec. 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into accounts ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the rights of small landowners. The State shall further provide incentives for voluntary land-sharing.

REFORMANG PANSAKAHAN AT PANLIKAS NA KAYAMANAN

Sec. 4. Dapat magsagawa ang Estado, sa pamamagitan ng batas, ng programa sa reformang pansakahan na nakasalig sa karapatan ng mga magsasaka at mga regular na manggagawa sa bukid, na mga walang lupa, na tuciran o samasamang magmay-ari ng mga lupang kanilang sinasaka o, sa kalagayan ng iba pang mga manggagawa sa bukid, tumanggap ng karampatang kaparte sa mga bunga ninyon. Tungo sa layuning ito, dapat magpangsigla at magsagawa ang Estado ng makatwirang pamamahagi ng lahat ng mga lupang pansakahan, na sasailalim sa mga prayoriti at sa makatwirang mapananatiling mga sukat na maaaring itakda ng Kongreso, na nagsasaalang-alang sa mga konsiderasyong pang-ekolohiyal, pangkainlarian o pangkamakatarungan, at batay sa pagbabayad ng makatwirang kabayaran. Dapat igalang ng Estado ang mga karapatan ng maliit na may-ari ng lu-

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Sec. 5. The State shall recognize the right of farmers, farmworkers, and landowners, as well as cooperatives, and other independent farmers' organizations to participate in the planning, organization, and management of the program, and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing, and other support services.

Sec. 6. The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands.

The State may resettle landless farmers and farmworkers in its own agricultural estates which shall be distributed to them in the manner provided by law.

Sec. 7. The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against

pa sa pagtatakdang ng mga retension limit. Dapat ding maglaan ang Estado ng mga insentibo para sa hantaryong pangkabuhat ng lupa.

Sek. 5. Dapat kilalanin ng Estado ang karapatan ng mga magsasaka, mga manggagawa sa bukid, at mga may-ari ng lupa, ganon din ng mga magsasaka na lumahok sa pagpapalano, pagbuo, at pamamahala ng programa, at dapat maglaan ng suporta sa pagsasaka sa pamamagitan ng angkop na teknolohiya at pananaliksik, at sapat na mga lingkuran sa pananalapi, produksyon, pagsasapamilihan, at iba pang mga lingkurang pantulong.

Sek. 6. Dapat ipatupad ng Estado ang mga simulain ng repormang pansakahan o stewardship kailanma't mapairal nang naaalisunod sa batas sa pamamahagi o paggamit ng iba pang mga likas na kayamanan, kasama ang mga lupaing pambayan na angkop sa pagsasaka sa ilalim ng pamumuwisang o konsesyon, batay sa mga karapatang nauuna, mga karapatan sa homestead ng maililit na nananahanan, at mga karapatan ng katutubong mga pamayanan sa kanilang minang mga lupain.

Macaring ipanahanan ng Estado ang mga magsasakang walang lupa at ang mga manggagawa sa bukid sa sarili nitong mga lupaing pansakahan na ipamahagi sa kanila sa paraang itinatakdang ng batas.

Sek. 7. Dapat pangalagaan ng Estado ang mga karapatan ng mga mangingisdang tawid-buhay, lalo na ng mga lokal na pamayanan, sa may pagtatanging paggamit ng mga kayamanan sa tubig at pangisdaan na para sa lahat, kapwa sa mga tubigang panloob at sa dagat. Dapat na maglaan ito ng suporta sa mga mangingisdang iyon sa pamamagitan ng angkop na teknolohiya at pananaliksik, sapat na tulong na nauukol sa pananalapi, produksyon at pagsasapamilihan, at iba pang mga lingkuran. Dapat

foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.

... ang pangangalagaan, panalipin at ikonserba ng Estado ang mga kayamanang iyon. Dapat tumanggap ang pangangalaga sa mga pangisdaan sa dagat ng mga mangangisdaang larid-buhay laban sa pagpasok ng daguhan. Dapat tumanggap ang mga manggagawa sa pangisdaan ng karampatang kaparte sa kanilang pagtatrabaho sa pakinabang sa mga kayamanan sa tubig at pangisdaan.

Sec. 8. The State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment creation, and privatization of public sector enterprises. Financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice.

Sek. 8. Dapat maglaan ang Estado ng mga insentibo sa mga may-ari ng lupa sa pamumuhunan ng tinanggap na kabayaran sa programa sa repormang pansakahan upang itaguyod ang industriyalisasyon, lumikha ng mga hanapbuhay, at isapribado ang mga negosyo ng sektor publiko. Ang mga kasangkapang pampananalapi na ginamit na kabayaran sa kanilang mga lupain ay dapat tanggapin ikawiti sa kanilang piniliing mga negosyo.

URBAN LAND REFORM AND HOUSING

REPORMA SA LUPANG URBAN SA PABAHAY

Sec. 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such program the State shall respect the rights of small property owners.

Sek. 9. Dapat magsagawa ang Estado, sa pamamagitan ng batas at para sa kabutihan ng lahat, sa pakikipagtulungan sa pribadong sektor, ng patuluyang programa sa reporma sa lupang urban at sa pabahay na magbibigay ng makakayanang discenteng pabahay at mga pangunahing paglilingkod sa mga mamamayang dukha at walang tahanan sa mga sentrong urban at mga panahanang pook. Dapat ding itaguyod nito ang supat na mga pagkakataon sa hanapbuhay sa mga mamamayang iyon. Dapat igalang ng Estado ang mga karapatan ng mga may-ari ng maliliit na ararian sa implementasyon ng programang iyon.

Sec. 10. Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just

Sek. 10. Hindi dapat paalisin ni gibain ang kanilang mga tirahan ng nagsisipanirahan na mga dukhang urban o rural maliban kung

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and humane manner.

No resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.

naayon sa batas at sa paraang makatarungan at makatao.

Hindi dapat ilipat ng tirahan ang nagsisipantirahan na mga dukhang urban o rural nang walang suporta na pakikipag-uuganin sa kanila at sa mga pamayanang paglilipatan sa kanila.

HEALTH

Sec. 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.

Sec. 12. The State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country's health needs and problems.

Sec. 13. The State shall establish a special agency for disabled persons for their rehabilitation, self-development and self-reliance, and their integration into the mainstream of society.

WOMEN

Sec. 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the ser-

KALUSUGAN

Sec. 11. Dapat magsagawa ang Estado ng pinag-isa at komprehensibong icpit sa pagpapaulad ng kalusugan na magbibigay ng mga pangunahing pangangailangan, mga lingkurang pangkalusugan at iba pang mga lingkurang panlipunan na makakayanan ng lahat ng mga mamamayan. Dapat magkaroon ng prayoriti para sa mga pangangailangan ng mahihirap, mga maysakit, matatanda, may kapansanan, mga babae, at mga bata. Dapat sikapin ng Estado na makapagkaloob ng libreng pangagamot sa mga pulubi.

Sec. 12. Dapat magtatag at magpanitili ang Estado ng mabisang sistema ng pangangasiwa sa pagkain at gamot at magsagawa ng angkop na pagpapaulad at pananaliksik sa laang-bisig sa kalusugan na tumutugon sa mga pangangailangan at suliranin sa kalusugan ng bansa.

Sec. 13. Dapat magtatag ang Estado ng isang natatanging tanggapan para sa mga taong baldado para sa kanilang mga rehabilitasyon, sariling pagpapaulad, at pagtitiwala sa sariling kakayahan, at sa kanilang pakikiisa sa kabuuang daloy ng lipunan.

KABABAIHAN

Sec. 14. Dapat pangalagaan ng Estado ang mga kababaihang nagtatrabaho sa pamamagitan ng paglalaan ng ligtas at nakapagpapalugan na mga kalagayan sa pagtatrabaho, na nagsasaalang-alang ng kanilang mga gawain bilang ina, at ng mga kaluwagan at mga pagka-

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vice of the nation.

kasalanan na nagpapatingkad sa kanilang ikagapaling at ikagiginhawa upang matamo ang kanilang ganap na potensyal sa pagitingkad sa bansa.

ROLE AND RIGHTS OF PEOPLE'S ORGANIZATIONS

ANG BAHAGING GINABAMPANAN AT MGA KARAPATAN NG MGA ORGANISASYON NG SAMBAYANAN

Sec. 15. The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

Sek. 15. Dapat ipalag ng Estado ang bahaging ginabampanan ng malayang mga organisasyon ng sambayanan upang matamo at mapangalagaan ng mga taong-bayan, sa loob ng balangkas na demokrata-tiko, ang kanilang lehitimo at sama-samang mga intercs at hangarin sa pamamagitan ng paraang mapayapa at naayon sa batas.

People's organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.

Ang mga organisasyon ng sambayanan ay mga asosasyong bona fide ng mga mamamayan na may subok na kakayahang itaguyod ang kapakanang pambayan at may mapagkikilalang paminununo, kasapihan at istruktura.

Sec. 16. The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

Sek. 16. Hindi dapat bawahan ang karapatan ng sambayanan at ng kanilang mga organisasyon sa madisa at makatwirang pakikilahok sa lehat ng mga antas ng pagpapasiyang panlipunan, pampolitika at pangkabukhayan. Dapat padaliin ng Estado, sa pamamagitan ng batas, ang pagtatatag ng sepat na mga pamamaraan sa partisipag-sanggunian.

HUMAN RIGHTS

MGA KARAPATANG PANTAO

Sec. 17. (1) There is hereby created an independent office called the Commission on Human Rights.

Ang Komisyon sa Mga Karapatang Pantao

(2) The Commission shall be composed of a Chairman and four Members who must be natural-born citizens of the Philippines and a majority of whom shall be members of the Bar. The term of office and other qualifications and disabilities

Sek. 17. (1) Nililikha sa pamamagitan nito ang isang malayang tanggapan na tatawaging Komisyon sa Mga Karapatang Pantao.

(2) Ang Komisyon ay dapat buuin ng isang Tagapangulo at apat na mga Kagawad na kinakailangang mga katutubong inianak na mamamayan ng Pilipinas at ang mayorya nito ay dapat na mga kabalang sa Philippine Bar. Dapat

of the Members of the Commission shall be provided by law.

(2) Until this Commission is constituted, the existing Presidential Committee on Human Rights shall continue to exercise its present functions and powers.

(4) The approved annual appropriations of the Commission shall be automatically and regularly released.

Sec. 18. The Commission on Human Rights shall have the following powers and functions:

- (1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- (2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;
- (3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection.
- (4) Exercise visitatorial powers over jails, prisons, or detention facilities;
- (5) Establish a continuing program of research, education, and information to enhance respect for the primacy of

itadigana ng batas ang taning na panahon ng panunungkulan at ang iba pang mga kwalifikasyon at mga disabildi ng mga kasapi ng Komisyon.

(2) Hangga't hindi nabubuo ang Komisyon ito, ang kasalukuyang Pampanguluhang Komite sa mga Karapatang Pantao ay dapat magpatuloy sa pagtupad ng kasalukuyang mga gawain at kapangyarihan nito.

(4) Dapat na kusa at regular na ipulabas ang pinagtibay na tawang laang-gugulin ng Komisyon.

Sec. 18. Dapat magkaroon ang Komisyon sa mga Karapatang Pantao ng sumusunod na mga kapangyarihan at mga gawain:

- (1) Masiyasat, sa kusa nito o sa sumbong ng alin mang panig, ng lahat ng uri ng mga paglabag sa mga karapatang pantao na kinapapalooban ng mga karapatang sibil at pulitikal;
- (2) Maglagda ng mga panuntunan sa pamalakad, at mga tuntunin ng pamamaraan nito, at magharap ng skidat na paglapastangan ukol sa mga paglabag dito nang naaalisunod sa mga Tuntunin ng Hukuman;
- (3) Magtakda ng angkop na mga hakbangin na naaayon sa batas para sa pangangalaga ng mga karapatang pantao ng lahat ng mga tao sa Pilipinas, at gayon din ng mga Pilipino na naninirahan sa ibang bansa, at magtakda ng mga panagkang hakbangin, at mga pag-iilingkod na tulong legal sa mga kuwang-pelad na ang mga karapatang pantao ay nilabag o nangangailangan ng proteksyon;
- (4) Tumupad ng mga kapangyarihan sa pagdalaw sa mga piitan, mga bilangguan, o mga pasilidad sa detensyon;
- (5) Magtatag ng patuluyang programa sa pananaliksik, edukasyon at impormasyon upang mapatingkad ang pagyalang sa pagkapa-

human rights:

- (6) Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;
- (7) Monitor the Philippine Government's compliance with international treaty obligations on human rights;
- (8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- (9) Request the assistance of any department, bureau, office, or agency in the performance of its functions;
- (10) Appoint its officers and employees in accordance with law; and
- (11) Perform such other duties and functions as may be provided by law.

Sec. 19. The Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations.

naunahan ng mga karapatang pantao;

- (6) Magirekomenda sa Kongreso ng mabisang mga hakbangin upang matatagpuan ang mga karapatang pantao at magiannapara sa mga bapad-pinsaia sa mga biktima, o sa kanilang mga pamilya, ng mga paglabag sa mga karapatang pantao;
- (7) Subaybayan ang pagtatatama ng Pamahalaan ng Pilipinas sa mga panangutanan sa pandaigdig na kasunduang-bansa hinggil sa mga karapatang pantao;
- (8) Magkaloob ng imyuniti sa pag-uusig sa sino mang tao na ang testimonyo o ang pag-iingat ng mga dokumento o iba pang ebidensya ay kinakailangan o makaluluwag sa paatipak ng katotohanan sa alin mang pagsisiyasat na isinagawa nito o sa ilalim ng awtoridad nito;
- (9) Hilingin ang tulong ng alin mang kagawaran, kawanihan, tanggapan o sangay sa pagtupad ng mga gawain nito;
- (10) Humirang ng mga pinuno at kawani nito nang naaayon sa batas; at
- (11) Tumupad ng iba pang mga tungkulin at mga gawain na maaaring itakda ng batas.

Sec. 19. Maaaring magtadhana ang Kongreso para sa iba pang mga kaso ng paglabag sa mga karapatang pantao na dapat masaklaw ng awtoridad ng Komisyon, na nagsasaalang-alang sa mga rekomendasyon nito.

EXPLANATIONS

The concept of social justice has now gone beyond its traditional meaning as referring to equity or fairness in the social and economic fields. The term "social justice" has reached the area of political aspects. While social justice originally taught the elimination of social and economic inequalities through equitable diffusion of wealth and providing economic opportunities now based on freedom of initiative and self-reliance, in view of the desire to attain social justice in all phases of national development, the State now considers as part of its social justice program the protection against political inequalities. Thus, the State commits itself to ensuring equal access to opportunities for public service and to the prohibition, by law, of political dynasties. People's partici-

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participation in the governing process is recognized under specified conditions. The multi-party system and sectoral representation in the national and local levels as well as grant of autonomy to local governments are ways by which political power is diffused or dispersed.

The removal of social, economic and political inequalities as well as cultural inequities are designed to protect and enhance the people's right to human dignity and honor. To make the rule complete, the State provides for mechanism by which violations of human rights may be avoided. Thus, in the Declaration of Principles and State Policies, it is provided for that: "The State values the dignity of every human person and guarantees full respect for human rights."

Labor, whether local and overseas, organized or not organized, shall be given constitutional protection. The right to strike although already a part of the right to self-organization is specifically mentioned in Section 3, part two of the instant Article. The right to a living wage is expressly stated. A wage is a living wage if it is adequate to sustain a worker and his family in dignity.

The State shall promote shared responsibility between workers and employers. Thus, the workers shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law. In this regard, the law may provide for consultations with workers or their unions or the union which is the collective bargaining agent may be represented in the governing body of an enterprise whose opinion voicing that of the union he represents may be taken into account by management.

The recognition by the State of the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments as well as to expansion and growth may be considered a sequel to the rule that the principle of shared responsibility between workers and employers must be promoted by the State. The words "just share in the fruits of production" should not cover only basic salaries and other employment benefits but may also cover profit sharing.

Agrarian reform now covers all agricultural lands, not only rice and corn agricultural lands subject to priorities and retention limits that the Congress may prescribe. While land reform is imposed by law, the Constitution recognizes the possibility of landowners voluntarily surrendering their lands within the concept of land reform and therefore, the State shall provide incentives (which include tax exemptions) for voluntary land-sharing.

Note that Congress may not, after all, prescribe retention limits when circumstances so indicate. Rights acquired under PD No. 27 shall be respected. It is not true that PD 27 has been suspended. PD No. 27 shall continue until repealed or amended.

While it is required that when private lands are expropriated under the land reform, there must be payment of just compensation, it is believed that the term "just compensation" should be liberally construed as to consider seriously the spirit behind the land reform program. The government may provide for appropriate subsidy in the acquisition of lands covered by its land reform program.

The beneficiaries of land reform are the farmers and regular farmworkers who are landless. They, of course, cover tenants who are legally farmers. With

respect to other farmworkers, they shall receive a just share of the fruits of the farms.

With respect to supporting services which include loans, marketing, technology, etc., Section 5 of Article XIII states that the State "shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing and other support services." The planning, organization and management of the land reform program shall involve the participation not only of landowners and farmers but also of farmworkers as well as cooperatives.

It will be noted that the ownership of the agricultural lands by farmers and farmworkers may be directly or collectively through cooperatives. It seems that a meso-type of agriculture in the spirit of cooperativism is contemplated by the New Constitution.

Lands of the public domain and other natural resources may be utilized or disposed of in accordance with the principles of agrarian reform or stewardship subject to prior rights, homestead rights of small settlers and the right of indigenous communities to their ancestral lands.

Landless farmers and farmworkers may be resettled in agricultural estates of the Government itself and those agricultural estates shall be distributed to them as the law may provide.

The rights of fishermen and citizens engaged in the fishing industry are given protection in Section 7 of Article XIII (on social justice and human rights) and paragraphs two and three of Section 2 of Article XII (on national economy and patrimony).

Taking such section and paragraphs together, the following rules may be stated:

(1) The State shall protect the Nation's marine wealth in its waters, whether archipelagic or territorial, including the waters within the exclusive economic zone (extending not more than 200 nautical miles from the archipelagic baselines).

(2) The State shall also protect, develop and conserve the communal marine and fishing resources, both inland and offshore.

(3) The State shall reserve the use and enjoyment of the Nation's marine wealth exclusively to Filipino citizens, thereby showing that the 60%-40% equity ratio cannot apply to the exploitation and utilization of our marine wealth.

(4) Subsistence fishermen are given ample protection as follows:

(a) Their rights to the preferential use of the communal marine and fishing resources, whether in land or offshore shall enjoy the protection of the State.

(b) They shall be given support through appropriate technology and research, adequate financial, production and marketing assistance, and other services.

(c) Their offshore fishing grounds shall also be protected against foreign intrusion.

(d) They shall be given priority on cooperative fish farming that Congress may allow in rivers, lakes, bays and lagoons.

(5) Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources; they shall, together with subsistence fish-

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ermen, be given priority with respect to cooperative fish farming as provided for in the third paragraph of Section 2, Article XII.

The main proponent of the provisions that benefit subsistence fishermen and fishworkers is Rustico de los Reyes of Laguna.

Landowners receive in cash or in the form of bonds or other ways of compensation from the Government by reason of the implementation of the land reform program. These may involve sums of money that may be channeled into the developmental programs of our Government. Thus, Section 8 of Article XIII provides that the State shall provide incentives to landowners to invest the proceeds of the agrarian reform program so as to promote industrialization, employment creation and privatization of public sector enterprises and moreover "financial instruments used as payment for their lands shall be honored as equity in enterprises of their choice."

The other provisions on social justice concern urban land reform and housing including manner of treatment of squatters, health including a provision sponsored by Jose N. Nolleto that "the State shall endeavor to provide free medical care to paupers", establishment of agency for disabled persons, protection to working women, recognition of people's organizations and protection of human rights through the establishment of a Commission on Human Rights which shall provide, among others, legal and preventive measures designed to protect persons against violations of human rights or vindicate them for such violations. Ed Garcia is the champion of human rights provisions in this Constitution. His co-champion is Rene V. Sarmiento. Edmundo Garcia sponsored the provisions on people's organizations.

The provisions on health were principally proposed by Minda Luz Ouesada, a registered nurse who argued in the 1986 Constitutional Commission like a seasoned lawyer.

Article XIV
EDUCATION, SCIENCE AND
TECHNOLOGY, ARTS, CULTURE,
AND SPORTS

EDUCATION

Section 1. The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.

Sec. 2. The State shall:

- (1) Establish, maintain, and support a complete, adequate, and integrated system of education relevant to the needs of the people and society;
- (2) Establish and maintain a system of free public education in the elementary and high

Artikulo XIV
EDUKASYON, SYENSYA AT
TEKNOLOHYA, MGA SINING
KULTURA, AT ISPORTS

EDUKASYON

Seksyon 1. Dapat pangalagaan at itaguyod ng Estado ang karapatan ng lahat ng mga mamamayan sa mahusay na edukasyon sa lahat ng antas at dapat magsagawa ng angkop na mga hakbang upang matamo ng lahat ang gayong edukasyon.

Sek. 2. Ang Estado ay dapat:

- (1) Magtatag, magpanatili, at magtustos ng isang kumpleto, sapat at pinag-isang sistema ng edukasyong naaangkop sa mga pangangailangan ng sambayanan at lipman;
- (2) Magtatag at magpanatili ng isang sistema ng libreng pambayang edukasyon sa elementarya at hayskul. Hindi bilang pagtatalda

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school levels. Without limit-
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rents to rear their children,
elementary education is com-
pulsory for all children of
school age;

- (3) Establish and maintain a system of scholarship grants, student loan programs, subsidies, and other incentives which shall be available to deserving students in both public and private schools, especially to the underprivileged;
- (4) Encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs; and
- (5) Provide adult citizens, the disabled, and out-of-school youth with training in civics, vocational efficiency, and other skills.

Sec. 3. (1) All educational insti-
tutions shall include the study of
the Constitution as part of the cur-
ricula.

(2) They shall inculcate patrio-
tism and nationalism, foster love of
humanity, respect for human rights,
appreciation of the role of national
heroes in the historical development
of the country, teach the rights and
duties of citizenship, strengthen
ethical and spiritual values, devel-
op moral character and personal
discipline, encourage critical and
creative thinking, broaden scienti-
fic and technological knowledge,
and promote vocational efficiency.

(3) At the option expressed in
writing by the parents or guard-
ians, religion shall be allowed to be

sa likas na karapatan ng mga
magulang sa pag-aaral ng haiti-
leng mga anak, ang edukasyon
elementary ay nangitiin sa lahat
ng mga batang nasa edad ng pag-
aaral.

(3) Magtatag at magmamaiti ng
isang sistema ng mga kaluob na is-
kolarsip, mga programang pantang
sa estudyante, mga tulong na sulapi
at iba pang mga insentibo na dapat
ibigay sa karapat-dapat na mga es-
tudyante sa mga paaralang publiko
at pribado, lalo na sa mga kaniang-
palad;

(4) Pasiglahin ang di-pormal,
impormal at katutubong mga sis-
tema ng pagkatuto, at gayon din
ang mga programang pagkatuto sa
sarili, sarilinang pag-aaral at pag-
aaral sa labas ng paaralan lalo na
yaong tumutugon sa mga pang-
angailangan ng pamayanan; at

(5) Mag-ukol sa mga mamama-
yang may sapat na giulang, may ka-
pansanan, at kabataang nasa labas
ng paaralan ng pagsasanay sa sibi-
ka, kahusayang bokasyonal at iba
pang mga kasanayan.

Sek. 3. (1) Dapat maging bahagi
ng kurikulum ang pag-aaral ng Kon-
stitusyon sa lahat ng mga institus-
yong pang-edukasyon.

(2) Dapat nilang ikintal ang
pagkamakabayan at nasyonalismo,
ihasik ang pag-ibig sa sunykatau-
han, paggalang sa mga karapatang
pantao, pagpapahalaga sa gampa-
nin ng mga pambansang bayani sa
historikal na pagpapaunlad ng ban-
sa, ituro ang mga karapatan at mga
tungkulin ng pagkamamayan, pata-
tagin ang mga pagpapahalagang
etikal at espiritwal, linangin ang
karakter na moral at disiplinang
pansarili, pasiglahin ang kaisipang
mapanuri at malikhain, palawakin
ang kaalamang syentipiko at tekno-
lohikal, at itaguyod ang kahusa-
yang bokasyonal;

(3) Sa opsyong nakalahad nang
nakasulat ng mga magulang o mga
tagaakop, dapat pahintulatang

taught to their children or wards in public elementary and high schools within the regular class hours by instructors designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the Government.

Sec. 4. (1) The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.

(2) Educational institutions, other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens. The Congress may, however, require increased Filipino equity participation in all educational institutions.

The control and administration of educational institutions shall be vested in citizens of the Philippines.

No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. The provisions of this subsection shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.

(3) All revenues and assets of non-stock, non-profit educational

ituro ang relihiyon sa kanilang mga anak o mga ampon sa mga pamamayanang pang-educational at high school sa regular na mga oras ng klase ng mga tagapagturo ng itinatag o pinakinatulan ng relihiyosong auctoridad ng relihiyosong kinauuniban ng mga anak o mga ampon, nang walang dagdag na gastos ang pamahalaan.

Sec. 4. Kinikilala ng Estado ang mga gampaning komplementaryo ng mga institusyong publiko at pribado sa sistemang pang-edukasyon at dapat itong tumugad ng makatwirang supervisyon at regulasyon sa lahat ng mga institusyong pang-edukasyon.

(1) Ang mga institusyong pang-edukasyon, bukod sa mga itinatag ng mga pangkat na relihiyoso at mga kalupunang misyon, ay dapat na ari lamang ng mga mamamayan ng Pilipinas o ng mga korporasyon o mga asosasyon na ang animnang bahagdan nian lamang ng puhunan nito ay ari ng gayong mga mamamayan. Gayon man, maaring itakda ng Kongreso ang karagdagan lahod na ekwiting Pilipino sa lahat ng mga institusyong pang-edukasyon.

Dapat sumakamay ng mga mamamayan ng Pilipinas ang kontrol at administrasyon ng mga institusyong pang-edukasyon.

Hindi dapat matatag ang anumang institusyong pang-edukasyon ng eksklusibong para sa mga dayuhan at hindi dapat humigit sa isang-katlo ng enrolment sa alinmang paaralan ang ano mang pangkat ng mga dayuhan. Ang mga tadhana ng subseksiyong ito ay hindi sasaklaw sa mga paaralang itinatag para sa mga dayuhan na tauhang diplomatiko at kanilang mga dependent at, matangi kung naiiba ang itinatadhana ng batas, para sa iba pang mga dayuhan na pansamantalang naninirahan dito.

(2) Ang lahat ng mga rebenyu at mga aset ng mga institusyong pang-

Institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.

...kasyon na direktang, direktang, eksklusibong at ginamit nang eksklusibong, tuwiran at eksklusibo para sa mga layuning pang-edukasyon ay dapat malibre sa mga buwis at mga buwisan sa kalakal. Sa sandaling mabuwag o mapatal ang buhay-korporasyon ng gayong mga institusyon, dapat madispos ang kanilang mga asset sa paraang itinatadhana ng batas.

Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment.

Macariri ring magkaroon ng karapatan ang mga institusyong pang-edukasyon na propyetaryo ng mga ari ng kooperatiba sa gayong mga pagkaiibre salig sa mga katakdang itinatadhana ng batas kabilang ang mga pagtatakda sa mga dibidendo at mga tadhana para sa muling pamumuhunan.

(4) Subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax.

(3) Batay sa mga kondisyong itinatalka ng batas, dapat malibre sa buwis ang lahat ng mga kaloob, mga endowment, mga donasyon, o mga kontribusyon na ginamit nang eksklusibong, tuwiran, at eksklusibo para sa mga layuning pang-edukasyon.

Sec. 5. (1) The State shall take into account regional and sectoral needs and conditions and shall encourage local planning in the development of educational policies and programs.

Sec. 5. (1) Dapat isaalang-alang ng Estado ang mga pangangailangan at kalagayang pangrehiyon at pangsektor at dapat pasiglahin ang lokal na pagpapalano sa pagbuho ng mga patakaran at mga programang pang-edukasyon.

(2) Academic freedom shall be enjoyed in all institutions of higher learning.

(2) Dapat tamasahin ang kalagayang akademiiko sa lahat ng mga institusyon ng lalong mataas na karunungan.

(3) Every citizen has a right to select a profession or course of study, subject to fair, reasonable, and equitable admission and academic requirements.

(3) Ang bawat mamamayan ay may karapatang pumili ng propesyon o kurso ng pagcaaral, salig sa karapatan, makatuwiran at ekwitableng mga kinakailangan sa pagpasok at mga pangangailangang akademiiko.

(4) The State shall enhance the right of teachers to professional advancement. Non-teaching academic and non-academic personnel shall enjoy the protection of the State.

(4) Dapat patingkarin ng Estado ang karapatan ng mga guro sa pag-sulong na propesyonal. Dapat magtamasa ng proteksyon ng Estado ang mga tauhang akademiiko na dinagtuturo at mga tauhang di-akademiko.

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(5) The State shall assign the highest budgetary priority to education and ensure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment.

Dapat mag-ukol ang Estado ng pinakamalaking bahagi ng budget sa edukasyon at siguraduhin na magagamit ng mga talento ng pagtuturo ang kaniyang katamtamang bahagi ng mga talento sa pamamagitan ng sapat na gantimpala at iba pang paraan ng kasiyahan at kalupayan sa gawain.

LANGUAGE

Sec. 6. The national language of the Philippines is Filipino. As it evolves, it shall be further developed and enriched on the basis of existing Philippine and other languages.

Subject to provisions of law and as the Congress may deem appropriate, the Government shall take steps to initiate and sustain the use of Filipino as a medium of official communication and as language of instruction in the educational system.

Sec. 7. For purposes of communication and instruction, the official languages of the Philippines are Filipino and, until otherwise provided by law, English.

The regional languages are the auxiliary official languages in the regions and shall serve as auxiliary media of instruction therein.

Spanish and Arabic shall be promoted on a voluntary and optional basis.

Sec. 8. This Constitution shall be promulgated in Filipino and English and shall be translated into major regional languages, Arabic, and Spanish.

Sec. 9. The Congress shall establish a national language commission composed of representatives of various regions and disciplines which shall undertake, coordinate, and promote researches for the development, propagation, and preser-

WIKA

Sek. 6. Ang wikang pambansa ng Pilipinas ay Filipino. Samantalang naitatag, ito ay dapat pagpapalaganap at pagpapalaganap sa umiiral na wika sa Pilipinas at sa iba pang mga wika.

Alinsunod sa mga tadhana ng batas at sang-ayon sa nararapat na maaaring ipasya ng Kongreso, dapat magsagawa ng mga hakbangin ang Pamahalaan upang ibunsod at puspusang itaguyod ang paggamit ng Filipino bilang medium ng opisyal na komunikasyon at bilang wika ng pagtuturo sa sistemang pang-edukasyon.

Sek. 7. Ukol sa mga layunin ng Komunikasyon at pagtuturo, ang mga wikang opisyal ng Pilipinas ay Filipino at, hangga't walang ibang itinataadhana ang batas, Ingles.

Ang mga wikang panrehiyon ay pantulong na mga wikang opisyal sa mga rehiyon at magsisilbi na pantulong na mga wikang panturo noon.

Dapat itaguyod nang luwa at opsyonal ang Kastila at Arabic.

Sek. 8. Ang Konstitusyong ito ay dapat ipahayag sa Filipino at Ingles, at dapat isalin sa mga pangunahing wikang panrehiyon, Arabic, at Kastila.

Sek. 9. Dapat magtatag ang Kongreso ng isang komisyon ng wikang pambansa na binubuo ng mga kinatawan ng iba't ibang mga rehiyon at mga disiplina na magsasagawa, magiugnay at magtataguyod ng mga pananaliksik sa Filipino at iba

vided by law

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nang para sa pangkang maaring
itakda ng batas.

ARTS AND CULTURE

Sec. 14. The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.

Sec. 15. Arts and letters shall enjoy the patronage of the State. The State shall conserve, promote, and popularize the nation's historical and cultural heritage and resources, as well as artistic creations.

Sec. 16. All the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition.

Sec. 17. The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

Sec. 18. (1) The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, scholarships, grants and other incentives, and community cultural centers, and other public venues.

(2) The State shall encourage and support researches and studies on the arts and culture.

SPORTS.

Sec. 19. (1) The State shall pro-

MGA SINING AT KULTURA

Sec. 14. Dapat itaguyod ng Estado ang pangangalaga, pagpapayaman at dinamikong ebidensyon ng isang pambansang kulturang Filipino salig sa simulaing pagkakaisa sa pagkakaiba-iba sa kaligirang malaya, artistiko at intelektual na pagpapahalaga.

Sec. 15. Dapat tangkilikin ng Estado ang mga sining at panitikan. Dapat pangalagaan, itaguyod, at ipalaganap ng Estado ang pamangang historikal at kultural at ang mga liha at mga kayamanang batil artistiko ng bansa.

Sec. 16. Ang lahat ng mga kayamanang artistiko at historiko ng bansa ay dumuduo sa kayamanang kultural nito at dapat pangalagaan ng Estado na maaring magregula sa disposisyon nito.

Sec. 17. Dapat kilalainin, igalang, at pangalagaan ng Estado ang mga karapatan ng mga katutubong pamayanang kultural sa pagpapantili at pagpapayaman ng kanilang mga kultura, mga tradisyon at mga institusyon. Dapat isaalang-alang nito ang mga karapatang ito sa pagbabalangkas ng mga pambansang plano at mga patakaran.

Sec. 18. (1) Dapat seguruhin ng Estado ang pantay na pagtamo ng mga pagkakataong kultural sa pamamagitan ng sistemang pang-edukasyon, mga kultural na entity na publiko o pribado, at mga iskolarship, mga kaloob at iba pang mga insentibo, at mga pampamayanang sentrong kultural at iba pang mga tanghalang pangmadla.

(2) Dapat pasiglahin at tangkilikin ng Estado ang mga pananaliksik at mga pag-aaral tungkol sa mga sining at kultura.

ISPORTS

Sec. 19. (1) Dapat itaguyod ng

The
COMPREHENSIVE
AGRARIAN
REFORM PROGRAM LAW
(CARP)
REPUBLIC ACT NO. 6657

1998 EDITION

AM PUBLICATIONS, INC.
Quezon City

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CHAPTER I

PRELIMINARY CHAPTER

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ISBN — 971-14-0019-7

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AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES

(REPUBLIC ACT NO. 6657)

SECTION 1. *Title.* This Act shall be known as the Comprehensive Agrarian Reform Law of 1988.

SEC. 2. *Declaration of Principles and Policies.* - It is the policy of the State to pursue a Comprehensive Agrarian Reform Program (CARP). The welfare of the landless farmers and farmworkers will receive the highest consideration to promote social justice and to move the nation toward sound rural development and industrialization, and the establishment of owner cultivatorship of economic-sized farms as the basis of Philippine agriculture.

To this end, a more equitable distribution and ownership of land, with due regard to the rights of landowners to just compensation and to the ecological needs of the nation, shall be undertaken to provide farmers and farmworkers with the opportunity to enhance their dignity and improve the quality of their lives through greater productivity of agricultural lands.

The agrarian reform program is founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to the priorities and retention limits set forth in this Act, having taken into account ecological, developmental, and equity considerations, and subject to the payment of just compensation. The State shall respect the right of small landowners, and shall provide incentives for voluntary land-sharing.

The State shall recognize the right of farmers, farmworkers and landowners, as well as cooperatives and other independent farmers' organizations, to participate in the planning, organization, and management of the program, and shall provide support to agriculture through appropriate technology and research, and adequate financial, production, marketing and other support services.

The State shall apply the principles of agrarian reform, or stewardship, whenever applicable, in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain, under lease or concession, suitable to agriculture, subject to prior rights, homestead rights of small settlers and the rights of indigenous communities to their ancestral lands.

The State may resettle landless farmers and farmworkers in its own agricultural estates, which shall be distributed to them in the manner provided by law.

By means of appropriate incentives, the State shall encourage the formation and maintenance of economic-sized family farms to be constituted by individual beneficiaries and small landowners.

The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production and marketing assistance and other services. The State shall also protect, develop and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.

The State shall be guided by the principles that land has a social function and land ownership has a social responsibility. Owners of agricultural land have the obligation to cultivate directly or through labor administration the lands they own and thereby make the land productive.

The State shall provide incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization, employment and privatization of public sector enterprises. Financial instruments used as payment for lands shall contain features that shall enhance negotiability and acceptability in the marketplace.

The State may lease undeveloped lands of the public domain to qualified entities for the development of capital-intensive farms, and traditional and pioneering crops especially those for exports subject to the prior rights of the beneficiaries under this Act.

SEC. 3. Definitions. For the purpose of this Act, unless the context indicates otherwise:

(a) *Agrarian Reform* means the redistribution of lands, regardless of crops or fruits produced, to farmers and regular farmworkers who are landless, irrespective of tenurial arrangement, to include the totality of factors and support services designed to lift the economic status of the beneficiaries and all other arrangements alternative to the physical redistribution of lands, such as production or profit-sharing, labor administration, and the distribution of shares of stock, which will allow beneficiaries to receive a just share of the fruits of the lands they work.

(b) *Agriculture*. Agricultural Enterprise or Agricultural Activity means the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry or fish, including the harvesting of such farm products, and other farm activities and practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical.

(c) *Agricultural Land* refers to land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land.

(d) *Agrarian Dispute* refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements.

It includes any controversy relating to compensation of lands acquired under this Act and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.

(e) *Idle or Abandoned Land* refers to any agricultural land not cultivated, tilled or developed to produce any crop nor devoted to any specific economic purpose continuously for a period of (3) three years immediately prior to the receipt of notice of acquisition by the government as provided under this Act, but does not include land that has become permanently or regularly devoted to non-agricultural purposes. It does not include the land which has become unproductive by reason of force majeure or any other fortuitous event, provided that prior to such event, such land was previously used for agricultural or other economic purpose.

(f) *Farmer* refers to a natural person whose primary livelihood is cultivation of land or the production of agricultural crops, either by himself, or primarily with the assistance of his immediate farm household, whether the land is owned by him, or by another person under a leasehold or share of share tenancy agreement or arrangement with the owner thereof.

(g) *Farmworker* is a natural person who renders service for value as an employee or laborer in an agricultural enterprise or farm regardless of whether his compensation is paid on a daily, weekly, monthly or "pakyaw" basis. The term includes an individual whose work has ceased as a consequence of, or in connection with, a pending agrarian dispute and who has not obtained a substantially equivalent and regular farm employment.

(h) *Regular Farmworker* is a natural person who is employed on a permanent basis by an agricultural enterprise or farm.

(i) *Seasonal Farmworker* is a natural person who is employed on a recurrent, periodic or intermittent basis by an agricultural enterprise or farm, whether as a permanent or non-permanent laborer, such as "dumaan", "sacada", and the like.

(j) Other Farmworker is a farmworker who does not fall under paragraphs (g),(h) and (i).

(k) Cooperatives shall refer to organizations composed primarily of small agricultural producers, farmers, farmworkers, of other agrarian reform beneficiaries who voluntarily organize themselves for the purpose of pooling land, human, technological, financial or other economic resources, and operated on the principle of one member, one vote. A juridical person may be a member of a cooperative, with the same rights and duties as a natural person.

CHAPTER II

COVERAGE

SEC. 4. *Scope.* - The Comprehensive Agrarian Reform Law of 1988 shall cover, regardless of tenurial arrangement and commodity produced, all public and private agricultural lands as provided in Proclamation No. 131 and Executive Order No. 229, including other lands of the public domain suitable for agriculture.

More specifically, the following lands are covered by the Comprehensive Agrarian Reform Program:

(a) All alienable and disposable lands of the public domain devoted to or suitable for agriculture. No reclassification of forest or mineral lands to agricultural lands shall be undertaken after the approval of this Act until Congress, taking into account ecological, developmental and equity considerations, shall have determined by law, the specific limits of the public domain;

(b) All lands of the public domain in excess of the specific limits as determined by Congress in the preceding paragraph;

(c) All other lands owned by the Government devoted to or suitable agriculture; and

(d) All private lands devoted to or suitable for agriculture regardless of the agricultural products raised or that can be raised thereon.

SEC 5. *Schedule of Implementation* - The distribution of all lands covered by this Act shall be implemented immediately and completed within ten (10) years from the effectivity thereof.

SECTION 6. *Retention Limits* - Except as otherwise provided in this Act, no person may own or retain, directly or indirectly, any public or private agricultural land, the size of which shall vary according to factors governing a viable family-sized farm, such as commodity produced, terrain, infrastructure, and soil fertility as determined by the Presidential Agrarian Reform Council (PARC) created hereunder, but in no case shall retention by the landowner exceed five

(5) hectares. Three (3) hectares may be awarded to each child of the landowner, subject to the following qualifications: (1) that he is at least fifteen (15) years of age; and (2) that he is actually tilling the land or directly managing the farm; Provided, That landowners whose lands have been covered by Presidential Decree No. 27 shall be allowed to keep the area originally retained by them thereunder; Provided, further, That original homestead grantees or their direct compulsory heirs who still own the original homestead at the time of the approval of this Act shall retain the same areas as long as they continue to cultivate said homestead.

The right to choose the area to be retained, which shall be compact or contiguous, shall pertain to the landowner; Provided, however, That in case the area selected for retention by the landowner is tenanted, the tenant shall have the option to choose whether to remain therein or be a beneficiary in the same or another agricultural land with similar or comparable features. In case the tenant chooses to remain in the retained area, he shall be considered a leaseholder and shall lose his right to be a beneficiary under this Act. In case the tenant chooses to be a beneficiary in another agricultural land, he loses his right as a leaseholder to the land retained by the landowner. The tenant must exercise this option within a period of one (1) year from the time the landowner manifests his choice of the area for retention.

In all cases, the security of tenure of the farmers or farmworkers on the land prior to the approval of this Act shall be respected.

Upon the effectivity of this Act, any sale, disposition, lease, management contract or transfer of possession of private lands executed by the original landowner in violation of this Act shall be null and void; Provided, however, That those executed prior to this Act shall be valid only when registered with the Register of Deeds within a period of three (3) months after the effectivity of this Act. Thereafter, all Registers of Deeds shall inform the DAR within thirty (30) days of any transaction involving agricultural lands in excess of five (5) hectares.

SEC. 7. *Priorities.* - The DAR in coordination with the PARC shall plan and program the acquisition and distribution of all agricultural lands through a period of ten (10) years from the effectivity of this Act. Lands shall be acquired and distributed as follows:

Phase One: Rice and corn lands under Presidential Decree No. 27; all idle or abandoned lands; all private lands voluntarily offered by the owners for agrarian reform; all lands foreclosed by government financial institutions; all lands acquired by the Presidential Commission on Good Government (PCGG); and all other lands owned by the government devoted to or suitable for agriculture which shall be acquired and distributed immediately upon the effectivity of

this Act, with the implementation to be completed within a period of not more than four (4) years;

Phase Two: All alienable and disposable public agricultural lands; all arable public agricultural lands under agro-forest, pasture and agricultural leases already cultivated and planted to crops in accordance with Section 6, Article XIII of the Constitution; all public agricultural lands which are to be opened for new development and resettlement; and all private agricultural lands in excess of fifty (50) hectares, insofar as the excess hectareage is concerned, to implement principally the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till, which shall be distributed immediately upon the effectivity of this Act, with the implementation to be completed within a period of not more than four (4) years.

Phase Three: All other private agricultural lands commencing with large landholdings and proceeding to medium and small landholdings under the following schedule.

a) Landholdings above twenty-four (24) hectares up to fifty (50) hectares, to begin on the fourth (4th) year from the effectivity of this Act and to be completed within three (3) years; and

b) Landholdings from the retention limit up to twenty-four (24) hectares, to begin on the sixth (6th) year from the effectivity of this Act and to be completed within four (4) years; to implement principally the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till.

The schedule of acquisition and redistribution of all agricultural lands covered by this program shall be made in accordance with the above order of priority, which shall be provided in the implementing rules to be prepared by the Presidential Agrarian Reform Council (PARC), taking into consideration the following: the need to distribute lands to the tillers at the earliest practicable time; the need to enhance agricultural productivity; and the availability of funds and resources to implement and support the program.

In any case, the PARC, upon recommendation by the Provincial Agrarian Reform Coordinating Committee (PARCCOM), may declare certain provinces or regions as priority land reform areas, in which case the acquisition and distribution of private agricultural lands therein may be implemented ahead of the above schedules.

In effecting the transfer within these guidelines, priority must be given to lands that are tenanted.

The PARC shall establish guidelines to implement the above priorities and distribution scheme, including the determination of who are qualified beneficiaries: Provided, That an owner-tiller may be a beneficiary of the land he does not own but is actually cultivating

to the extent of the difference between the area of the land he owns and the award ceiling of three (3) hectares.

SEC. 8. *Multinational Corporations.* - All lands of the public domain leased, held or possessed by multinational corporations or associations, and other lands owned by the government or by government-owned or controlled corporations, associations, institutions, or entities, devoted to existing and operational agribusiness or agro-industrial enterprises, operated by multinational corporations and associations, shall be programmed for acquisition and distribution immediately upon the effectivity of this Act, with the implementation to be completed within three (3) years.

Lands covered by the paragraph immediately preceding, under lease, management, grower or service contracts, and the like, shall be disposed of as follows:

(a) Lease, management, grower or service contracts covering such lands covering an aggregate area in excess of 1,000 hectares, leased or held by foreign individuals in excess of 500 hectares are deemed amended to conform with the limits set forth in Section 3 of Article XII of the Constitution.

(b) Contracts covering areas not in excess of 1,000 hectares in the case of such corporations and associations, and 500 hectares, in the case of such individuals, shall be allowed to continue under their original terms and conditions but not beyond August 29, 1992, or their valid termination, whichever comes sooner, after which, such agreements shall continue only when confirmed by the appropriate government agency. Such contracts shall likewise continue even after the land has been transferred to beneficiaries or awardees thereof, which transfer shall be immediately commenced and implemented, and completed within the period of three (3) years mentioned in paragraph 1 hereof.

(c) In no case will such leases and other agreements now being implemented extend beyond August 29, 1992, when all lands subject hereof shall have been distributed completely to qualified beneficiaries or awardees.

Such agreements can continue thereafter only under a new contract between the government or qualified beneficiaries or awardees, on the one hand, and said enterprises, on the other.

Lands leased, held or possessed by multinational corporations, owned by private individuals and private non-governmental corporations, associations, institutions and entities, citizens of the Philippines, shall be subject to immediate compulsory acquisition and distribution upon the expiration of the applicable lease, management, grower or service contract in effect as of August 29, 1987, or otherwise, upon its valid termination, whichever comes sooner, but not later than after ten (10) years following the effectivity

of this Act. However, during the said period of effectivity, the government shall take steps to acquire these lands for immediate distribution thereafter.

In general, lands shall be distributed directly to the individual worker-beneficiaries. In case it is not economically feasible and sound to divide the land, then they shall form a workers' cooperative or association which will deal with the corporation or business association or any other proper party for the purpose of entering into a lease or growers agreement and for all other legitimate purposes. Until a new agreement is entered into by and between the workers' cooperative or association and the corporation or business association or any other proper party, any agreement existing at the time this Act takes effect between the former and the previous landowner shall be respected by both the workers' cooperative or association and the corporation, business association or such other proper party. In no case shall the implementation or application of this Act justify or result in the reduction of status or diminution of any benefits received or enjoyed by the worker-beneficiaries, or in which they may have a vested right, at the time this Act becomes effective.

The provisions of Section 32 of this Act, with regard to production- and income-sharing shall apply to farms operated by multinational corporations.

During the transition period, the new owners shall be assisted in their efforts to learn modern technology in production. Enterprises which show a willingness and commitment and good-faith efforts to impart voluntarily such advanced technology will be given preferential treatment where feasible.

In no case shall a foreign corporation, association, entity or individual enjoy any rights or privileges better than those enjoyed by a domestic corporation, association, entity or individual.

SEC. 9. Ancestral Lands. - For purposes of this Act, ancestral lands each indigenous cultural community shall include, but not be limited to, lands in the actual, continuous and open possession and occupation of the community and its members; Provided, That the Torrens System shall be respected.

The right of these communities to their ancestral lands shall be protected to ensure their economic, social and cultural well-being. In line with the principles of self-determination and autonomy, the systems of land ownership, land use, and the modes of settling land disputes of all these communities must be recognized and respected.

Any provision of law to the contrary notwithstanding, the FARC may suspend the implementation of this Act with respect to ancestral lands for the purpose of identifying and delineating such lands: Provided, That in the autonomous regions, the respective legislatures may enact their own laws on ancestral domain subject to the

provisions of the Constitution and the principles enunciated in this Act and other national laws.

SEC. 10. Exemptions and Exclusions. - Lands actually, directly and exclusively used and found to be necessary for parks, wildlife, forest reserves, reforestation, fish sanctuaries and breeding grounds, watersheds and mangroves, national defense, school sites and campuses including experimental farm stations operated by public or private schools for educational purposes, seeds and seedlings research and pilot production centers, church sites and convents appurtenant thereto, mosque sites and Islamic centers appurtenant thereto, communal burial grounds and cemeteries, penal colonies and penal farms actually worked by the inmates, government and private research and quarantine centers and all lands with eighteen percent (18%) slope and over, except those already developed shall be exempt from the coverage of this Act.

SEC. 11. Commercial Farming. - Commercial farms, which are private agricultural lands devoted to commercial livestock, poultry and swine raising, and aquaculture including saltbeds, fishponds and prawn ponds, fruit farms, orchards, vegetable and cut-flower farms, and cacao, coffee and rubber plantations, shall be subject to immediate compulsory acquisition and distribution after ten (10) years from the effectivity of this Act. In the case of new farms, the ten-year period shall begin from the first year of commercial production and operation, as determined by DAR. During the ten-year period, the government shall initiate the steps necessary to acquire these lands, upon payment of just compensation for the land and the improvements thereon, preferably in favor of organized cooperatives or associations, which shall thereafter manage the said lands for the worker beneficiaries.

If the DAR determines that the purposes for which this deferment is granted no longer exist, such areas shall automatically be subject to redistribution.

The provisions of Section 32 of this Act, with regard to production- and income-sharing, shall apply to commercial farms.

CHAPTER III

IMPROVEMENT OF TENURIAL AND LABOR RELATIONS

SEC. 12. Determination of Lease Rentals. - In order to protect and improve the tenurial and economic status of the farmers in tenanted lands under the retention limit and lands not yet acquired under this Act, the DAR is mandated to determine and fix immediately the lease rentals thereof in accordance with Section 34 of R.A. No. 3844 as amended: Provided, That the DAR shall immediately and

periodically review and adjust the rental structure for different crops, including rice and corn, of different regions in order to improve progressively the conditions of the farmer, tenant or lessee.

SEC. 13. Production Sharing Plan. - Any enterprise adopting the scheme provided for in Section 32 or operating under a production venture, lease, management contract or other similar arrangement and any farm covered by Sections 8 and 11 hereof is hereby mandated to execute within ninety (90) days from the effectivity of this Act, a production sharing plan under guidelines prescribed by the appropriate government agency.

Nothing herein shall be construed to sanction the diminution of any benefit, such as salaries, bonuses, leaves and working conditions granted to the employee-beneficiaries under existing laws, agreements, and voluntary practice by the enterprise, nor shall the

enterprise and its employee-beneficiaries be prevented from entering into any agreement with terms more favorable to the latter.

CHAPTER IV

REGISTRATION

SEC. 14. Registration of Landowners. - Within one hundred eighty (180) days from the effectivity of this Act, all persons, natural or juridical, including government entities, that own or claim to own agricultural lands, whether in their names or in the name of others, except those who have already registered pursuant to Executive Order No. 229, who shall be entitled to such incentives as may be provided for by PARC, shall file a sworn statement in the proper assessor's office in the form to be prescribed by the DAR, stating the following information;

- (a) the description and area of the property;
- (b) the average gross income from the property for at least three (3) years;
- (c) the names of all tenants and farmworkers therein;
- (d) the crops planted in the property and the area covered by each crop as of June 1, 1987;
- (e) the terms of mortgages, leases, and management contracts subsisting as of June 1, 1987; and
- (f) the latest declared market value of the land as determined by the city or provincial assessor.

SEC. 15. Registration of Beneficiaries. - The DAR in coordination with the Barangay Agrarian Reform Committee (BARC) as organized in this Act, shall register all agricultural lessees, tenants and farmworkers who are qualified to be beneficiaries of the CARP.

These potential beneficiaries with the assistance of the BARC and the DAR shall provide the following data:

- a) names and members of their immediate farm household;
- b) owners or administrators of the lands they work on and the length of tenurial relationship;
- c) location and area of the land they work;
- d) crops planted; and
- e) their share, in the harvest or amount of rental paid or wages received.

A copy of the registry or list of all potential CARP beneficiaries in the barangay shall be posted in the barangay hall, school or other public buildings in the barangay where it shall be open to inspection by the public at all reasonable hours.

CHAPTER V

LAND ACQUISITION

SEC. 16. Procedure for Acquisition of Private Lands. - For purposes of acquisition of private lands, the following procedures shall be followed:

(a) After having identified the land, the landowners and the beneficiaries, the DAR shall send its notice to acquire the land to the owners thereof, by personal delivery or registered mail, and post the same in a conspicuous place in the municipal building and barangay hall of the place where the property is located. Said notice shall contain the offer of the DAR to pay a corresponding value in accordance with the valuation set forth in Section 17, 18, and other pertinent provisions hereof.

(b) Within thirty (30) days from the date of receipt of written notice by personal delivery or registered mail, the landowner his administrator or representative shall inform the DAR of his acceptance or rejection of the offer.

(c) If the landowner accepts the offer of the DAR the LBP shall pay the landowner the purchase price of the land within thirty (30) days after he executes and delivers a deed of transfer in favor of the Government and surrenders the Certificate of Title and other muniments of title.

(d) In case of rejection or failure to reply, the DAR shall conduct summary administrative proceedings to determine the compensation for the land by requiring the landowner, the LBP and other interested parties to submit evidence as to the just compensation for the land, within fifteen (15) days from the receipt of the notice. After the expiration of the above period, the matter is deemed submitted for

decision. The DAR shall decide the case within thirty (30) days after it is submitted for decision.

(e) Upon receipt by the landowner of the corresponding payment or in case of rejection or no response from the landowner, upon the deposit with an accessible bank designated by the DAR of the compensation in cash or in LBP bonds in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines. The DAR shall thereafter proceed with the redistribution of the land to the qualified beneficiaries.

(f) Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.

CHAPTER VI COMPENSATION

SEC. 17. *Determination of Just Compensation.* - In determining just compensation, the cost of acquisition of the land, the current value of like properties, its nature, actual use and income, the sworn valuation by the owner, the tax declarations, and the assessment made by government assessors shall be considered. The social and economic benefits contributed by the farmers and the farmworkers and by the Government to the property as well as the non-payment of taxes or loans secured from any government financing institution on the said land shall be considered as additional factors to determine its valuation.

SEC. 18. *Valuation and Mode of Compensation.* - The LBP shall compensate the landowner in such amount as may be agreed upon by the landowner and the DAR and LBP or as may be finally determined by the court as the just compensation for the land.

The compensation shall be paid in one of the following modes, at the option of the landowner:

(1) Cash payment, under the following terms and conditions:

- | | |
|--|--|
| (a) For lands above fifty (50) hectares, insofar as the excess hectareage is concerned | - Twenty-five percent (25%) cash, the balance to be paid in government financial instruments negotiable at any time. |
| (b) For lands above twenty-four (24) | - Thirty percent (30%) cash, the balance to be paid in |

hectares and up to fifty (50) hectares

government financial instruments negotiable at any time.

(c) For lands twenty four (24) hectares and below

- Thirty-five percent (35%) cash the balance to be paid in government financial instruments negotiable at any time.

(2) Shares of stock in government-owned or-controlled corporations, LBP preferred shares, physical assets or other qualified investments in accordance with guidelines set by the PARC;

(3) Tax credits which can be used against any tax liability;

(4) LBP bonds, which shall have the following features:

(a) Market interest rates aligned with 91-day treasury bill rates. Ten percent (10%) of the face value of the bonds shall mature every year from the date of issuance until the tenth (10th) year: Provided, That should the landowner choose to forego the cash portion, whether in full or in part, he, shall be paid correspondingly in LBP bonds;

(b) Transferability and negotiability. Such LBP bonds may be used by the landowner, his successors in interest or his assigns, up to the amount of their face value, for any of the following:

(i) Acquisition of land or other real properties of the government, including assets under the Asset Privatization Program and other assets foreclosed by government financial institutions in the same province or region where the lands for which the bonds were paid are situated;

(ii) Acquisition of shares of stock of government-owned or controlled corporations or shares of stock owned by the government in private corporations;

(iii) Substitution for surety or bail bonds for the provisional release of accused persons, or for performance bonds;

(iv) Security for loans with any government financial institution, provided the proceeds of the loans shall be invested in an economic enterprise, preferably in a small-and medium-scale industry, in the same province or region as the land for which the bonds are paid;

(v) Payment for various taxes and fees to government: Provided, That the use of these bonds for these purposes will be limited to a certain percentage of the outstanding balance of the financial instruments: Provided, further, That the PARC shall determine the percentages mentioned above;

(vi) Payment for tuition fees of the immediate family of the original bondholder in government universities, colleges, trade schools, and other institutions;

(vii) Payment for fees of the immediate family of the original bondholder in government hospitals; and

(viii) Such other uses as the PARC may from time to time allow.

In case of extraordinary inflation, the PARC shall take appropriate measures to protect the economy.

SEC. 19. Incentives for Voluntary Offers for Sale. - Landowners, other than banks and other financial institutions, who voluntarily offer their lands for sale shall be entitled to an additional five percent (5%) cash payment.

SEC. 20. Voluntary Land Transfer. - Landowners of agricultural lands subject to acquisition under this Act may enter into a voluntary arrangement for direct transfer of their lands to qualified beneficiaries subject to the following guidelines:

(a) All notices for voluntary land transfer must be submitted to the DAR within the first year of the implementation of the CARP.

Agreements between the landowners and qualified beneficiaries covering any voluntary land transfer which remain unresolved after one (1) year shall not be recognized and such land shall instead be acquired by the government and transferred pursuant to this Act.

(b) The terms and conditions of such transfer shall not be less favorable to the transferee than those of the government's standing offer to purchase from the landowner and to resell to the beneficiaries, if such offers have been made and are fully known to both parties.

(c) The voluntary agreement shall include sanctions for non-compliance by either party and shall be duly recorded and its implementation monitored by the DAR.

SEC. 21. Payment of Compensation by Beneficiaries under Voluntary Land Transfer. - Direct payment in cash or in kind may be made by the farmer-beneficiary to the landowner under terms to be mutually agreed upon by both parties, which shall be binding upon them, upon registration with and approval by the DAR. Said approval shall be considered given, unless notice of disapproval is received by the farmer-beneficiary within 30 days from the date of registration.

In the event they cannot agree on the price of land, the procedure for compulsory acquisition as provided in Section 16 shall apply. The LBP shall extend financing to the beneficiaries for purposes of acquiring the land.

CHAPTER VII

LAND REDISTRIBUTION

SEC. 22. Qualified Beneficiaries. - The lands covered by the CARP shall be distributed as much as possible to landless residents of the

same barangay, or in the absence thereof, landless residents of the same municipality in the following order of priority:

- (a) agricultural lessees and share tenants;
- (b) regular farmworkers;
- (c) seasonal farmworkers;
- (d) other farmworkers;
- (e) actual tillers or occupants of public lands;
- (f) collectives or cooperatives of the above beneficiaries; and
- (g) others directly working on the land.

Provided, however, That the children of landowners who are qualified under Section 6 of this Act shall be given preference in the distribution of the land of their parents; And provided, further, that actual tenant-tillers in the landholding shall not be ejected or removed therefrom.

Beneficiaries under Presidential Decree No. 27 who have culpably sold, disposed of, or abandoned their land are disqualified to become beneficiaries under this Program.

A basic qualification of a beneficiary shall be his willingness, aptitude, and ability to cultivate and make the land as productive as possible. The DAR shall adopt a system of monitoring the record or performance of each beneficiary, so that any beneficiary guilty of negligence or misuse of the land or any support extended to him shall forfeit his right to continue as such beneficiary. The DAR shall submit periodic reports on the performance of the beneficiaries to the PARC.

If, due to the landowner's retention rights or to the number of tenants, lessees, or workers on the land, there is not enough land to accommodate any or some of them, they may be granted ownership of other lands available for distribution under this Act, at the option of the beneficiaries.

Farmers already in place and those not accommodated in the distribution of privately-owned lands will be given preferential rights in the distribution of lands from the public domain.

SEC. 23. Distribution Limit. - No qualified beneficiary may own more than three (3) hectares of agricultural land.

SEC. 24. Award to Beneficiaries. - The rights and responsibilities of the beneficiary shall commence from the time the DAR makes an award of the land to him, which award shall be completed within one hundred eighty (180) days from the time the DAR takes actual possession of the land. Ownership of the beneficiary shall be evidenced by a Certificate of Land Ownership Award, which shall contain the restrictions and conditions provided for in this Act, and shall be recorded in the Register of Deeds concerned and annotated on the Certificate of Title.

SEC. 25. Award Ceilings for Beneficiaries. Beneficiaries shall be awarded an area not exceeding three (3) hectares, which may cover a contiguous tract of land or several parcels of land cumulated up to the prescribed award limits.

For purposes of this Act, a landless beneficiary is one who owns less than three (3) hectares of agricultural land.

The beneficiaries may opt for collective ownership, such as co-ownership or farmers cooperative or some other form of collective organization: Provided, That the total area that may be awarded shall not exceed the total number of co-owners or members of the cooperative or collective organization multiplied by the award limit above prescribed, except in meritorious cases as determined by the PARC. Title to the property shall be issued in the name of the co-owners or the cooperative or collective organization as the case may be.

SEC. 26. Payment by Beneficiaries. - Lands awarded pursuant to this Act shall be paid for by the beneficiaries to the LBP in thirty (30) annual amortizations at six percent (6%) interest per annum. The payments for the first three (3) years after the award may be at reduced amounts as established by the PARC: Provided, That the first five (5) annual payments may not be more than five percent (5%) of the value of the annual gross production as established by the DAR. Should the scheduled annual payments after the fifth year exceed ten percent (10%) of the annual gross production and the failure to produce accordingly is not due to the beneficiary's fault, the LBP may reduce the interest rate or reduce the principal obligation to make the repayment affordable.

The LBP shall have a lien by way of mortgage on the land awarded to the beneficiary; and this mortgage may be foreclosed by the LBP for non-payment of an aggregate of three (3) annual amortizations. The LBP shall advise the DAR of such proceedings and the latter shall subsequently award the forfeited landholding to other qualified beneficiaries. A beneficiary whose land, as provided herein, has been foreclosed shall thereafter be permanently disqualified from becoming a beneficiary under this Act.

SEC. 27. Transferability of Awarded Lands. - Lands acquired by beneficiary under this Act may not be sold, transferred or conveyed except through hereditary succession, or to the government or to the LBP, or to other qualified beneficiaries for a period of ten (10) years: Provided, however, That the children or the spouse of the transferor shall have a right to repurchase the land from the government or LBP within a period of two (2) years. Due notice of the availability of the land shall be given by the LBP to the Barangay Agrarian Reform Committee (BARC) of the barangay where the land is situated. The Provincial Agrarian Reform Coordinating Committee (PARCCOM),

as herein provided, shall, in turn, be given due notice thereof by the BARC.

If the land has not yet been fully paid by the beneficiary, the rights to the land may be transferred or conveyed, with prior approval of the DAR, to any heir of the beneficiary or to any other beneficiary who, as a condition for such transfer or conveyance, shall cultivate the land himself. Failing compliance herewith, the land shall be transferred to the LBP which shall give due notice of the availability of the land in the manner specified in the immediately preceding paragraph.

In the event of such transfer to the LBP, the latter shall compensate the beneficiary in one lump sum for the amounts the latter has already paid, together with the value of improvements he has made on the land.

SEC. 28. Standing Crops at the Time of Acquisition. - The landowner shall retain his share of any standing crops unharvested at the time the DAR shall take possession of the land under Section 16 of this Act, and shall be given a reasonable time to harvest the same.

CHAPTER VIII

CORPORATE FARMS

SEC. 29. Farms Owned or Operated by Corporations or Other Business Associations. - In the case of farms owned or operated by corporations or other business associations, the following rules shall be observed by the PARC:

In general, lands shall be distributed directly to the individual worker-beneficiaries.

In case it is not economically feasible and sound to divide the land, then it shall be owned collectively by the worker-beneficiaries who shall form a workers' cooperative or association which will deal with the corporation or business association. Until a new agreement is entered into by and between the workers' cooperative or association and the corporation or business association, any agreement existing at the time this Act takes effect between the former and the previous landowner shall be respected by both the workers' cooperative or association and the corporation or business association.

SEC. 30. Homelots and Farmlots for Members of Cooperatives. - The individual members of the cooperatives or corporations mentioned in the preceding section shall be provided with homelots and small farmlots for their family use, to be taken from the land owned by the cooperative or corporation.

and small farmlets for their family use, to be taken from the land owned by the cooperative or corporation.

SEC. 31. Corporate Landowners. - Corporate landowners may voluntarily transfer ownership over their agricultural landholdings to the Republic of the Philippines pursuant to Section 20 hereof or to qualified beneficiaries, under such terms and conditions, consistent with this Act, as they may agree upon, subject to confirmation by the DAR.

Upon certification by the DAR, corporations owning agricultural lands may give their qualified beneficiaries the right to purchase such proportion of the capital stock of the corporation that the agricultural land, actually devoted to agricultural activities, bears in relation to the company's total assets under such terms and conditions as may be agreed upon by them. In no case shall the compensation received by the workers at the time the shares of stocks are distributed be reduced. The same principle shall be applied to associations, with respect to their equity or participation.

Corporations or associations which voluntarily divest a proportion of their capital stock, equity or participation in favor of their workers or other qualified beneficiaries under this section shall be deemed to have complied with the provisions of this Act. Provided, That the following conditions are complied with:

a) In order to safeguard the right of beneficiaries who own shares of stocks to dividends and other financial benefits, the books of the corporation or association shall be subject to periodic audit by certified public accountants chosen by the beneficiaries.

b) Irrespective of the value of their equity in the corporation or association, the beneficiaries shall be assured of at least one (1) representative in the board of directors, or in a management or executive committee, if one exists, of the corporation or association; and

c) Any shares acquired by such workers and beneficiaries shall have the same rights and features as all other shares.

d) Any transfer of shares of stock by the original beneficiaries shall be void *ab initio* unless said transaction is in favor of a qualified and registered beneficiary within the same corporation.

If within two (2) years from the approval of this Act, the land or stock transfer envisioned above is not made or realized or the plan for such stock distribution approved by the PARC within the same period, the agricultural land of the corporate owners or corporation shall be subject to the compulsory coverage of this Act.

SEC. 32 Production-Sharing. - Pending final land transfer, individuals or entities owning, or operating under lease or management contract, agricultural lands are hereby mandated to execute a production-sharing plan with their farmworkers or

farmworkers' organization, if any, whereby three percent (3%) of the gross sales from the production of such lands are distributed within sixty (60) days of the end of the fiscal year as compensation to regular and other farmworkers in such lands over and above the compensation they currently receive: Provided, That these individuals or entities realize gross sales in excess of five million pesos per annum unless the DAR, upon proper application, determines a lower ceiling.

In the event that the individual or entity realizes a profit, an additional ten percent (10%) of the net profit after tax shall be distributed to said regular and other farmworkers within ninety days of the end of the fiscal year.

To forestall any disruption in the normal operation of lands to be turned over to the farmworker-beneficiaries mentioned above, a transitory period, the length of which shall be determined by the DAR, will be established.

During this transitory period, at least one percent (1%) of the gross sales of the entity shall be distributed to the managerial, supervisory and technical group in place at the time of the effectivity of this Act, as compensation for such transitory managerial and technical functions as it will perform, pursuant to an agreement that the farmworker-beneficiaries and the managerial, supervisory and technical group may conclude, subject to the approval of the DAR.

SEC. 33. Payment of Shares of Cooperative or Association. - Shares of a cooperative or association acquired by farmers-beneficiaries or workers-beneficiaries shall be fully paid for in an amount corresponding to the valuation as determined in the immediately succeeding section. The landowner and the LBP shall assist the farmers-beneficiaries and workers-beneficiaries in the payment for said shares by providing credit financing.

SEC. 34. Valuation of Lands. - A valuation scheme for the land shall be formulated by the PARC, taking into account the factors enumerated in Section 17, in addition to the need to stimulate the growth of cooperatives and the objective of fostering responsible participation of the workers-beneficiaries in the creation of wealth.

In the determination of a price that is just not only to the individual but to society as well, the PARC shall consult closely with the landowner and the workers-beneficiaries.

In case of disagreement, the price as determined by the PARC, if accepted by the workers-beneficiaries, shall be followed, without prejudice to the landowner's right to petition the Special Agrarian Court to resolve the issue of valuation.

CHAPTER IX

SUPPORT SERVICES

SEC. 35. Creation of Support Services Office. - There is hereby created the Office of Support Services under the DAR to be headed by an Undersecretary.

The Office shall provide general support and coordinative services in the implementation of the program, particularly in carrying out the provisions of the following services to farmer-beneficiaries and affected landowners:

- 1) Irrigation facilities, especially second crop or dry season irrigation facilities;
- 2) Infrastructure development and public works projects in areas and settlements that come under agrarian reform, and for this purpose, the preparation of the physical development plan of such settlements providing suitable barangay sites, potable water and power resources, irrigation systems and other facilities for a sound agricultural development plan;
- 3) Government subsidies for the use of irrigation facilities;
- 4) Price support and guarantee for all agricultural produce;
- 5) Extending to small landowners, farmers and farmers' organizations the necessary credit, like concessional and collateral-free loans, for agro-industrialization based on social collaterals like the guarantee of farmers organization;
- 6) Promoting, developing and extending financial assistance to small- and medium-scale industries in agrarian reform areas;
- 7) Assigning sufficient numbers of agricultural extension workers to farmers' organization;
- 8) Undertake research, development and dissemination of information on agrarian reform and, low-cost and ecologically sound farm inputs and technologies to minimize reliance on expensive and imported agricultural inputs;
- 9) Development of cooperative management skills through intensive training;
- 10) Assistance in the identification of ready markets for agricultural produce and training in other various aspects of marketing; and
- 11) Administration, operation, management and funding of support services programs and projects including pilot projects and models related to agrarian reform as developed by the DAR.

SEC. 36. Funding for Support Services. - In order to cover the expenses and cost of support services, at least twenty-five percent (25%) of all appropriations for agrarian reform shall be immediately set aside and made available for this purpose. In addition, the DAR

shall be authorized to package proposals and receive grants, aid and other forms of financial assistance from any source.

SEC. 37. Support Services to the Beneficiaries. - The PARC shall ensure that support services to farmer-beneficiaries are provided, such as:

- (a) Land surveys and titling;
- (b) Liberalized terms on credit facilities and production loans;
- (c) Extension services by way of planting, cropping, production and post-harvest technology transfer, as well as marketing and management assistance and support to cooperatives and farmer organizations;
- (d) Infrastructure such as access trails, mini-dams, public utilities, marketing and storage facilities; and
- (e) Research, production and use of organic fertilizers and other local substances necessary to farming and cultivation.

The PARC shall formulate policies to ensure that support services to farmer-beneficiaries shall be provided at all stages of land reform.

The Bagong Kilusang Kabuhayan sa Kaunlaran (BKK) Secretariat shall be transferred and attached to the LBP, for its supervision, including all its applicable and existing funds, personnel, properties, equipment and records.

Misuse or diversion of the financial and support services herein provided shall result in sanctions against the beneficiary guilty thereof, including the forfeiture of the land transferred to him or lesser sanctions as may be provided by the PARC, without prejudice to criminal prosecution.

SEC. 38. Support Services to Landowners. - The PARC, with the assistance of such other government agencies and instrumentalities as it may direct, shall provide landowners affected by the CARP and prior agrarian reform programs with the following services:

- (a) Investment information, financial and counselling assistance;
- (b) Facilities, programs and schemes for the conversion or exchange of bonds issued for payment of the lands acquired with stocks and bonds issued by the National Government, the Central Bank and other government institutions and instrumentalities;
- (c) Marketing of LBI bonds, as well as promoting the marketability of said bonds in traditional and non-traditional financial markets and stock exchanges; and
- (d) Other services designed to utilize productively the proceeds of the sale of such lands for rural industrialization.

A landowner who invests in rural-based industries shall be entitled to the incentives granted to a registered enterprise engaged in a pioneer or preferred area of investment as provided for in the Omnibus Investment Code of 1987, or to such other incentives as the

PARC, the LBP, or other government financial institutions may provide.

The LBP shall redeem a landowner's LBP bonds at face value, provided that the proceeds thereof shall be invested in a BOI-registered company or in any agri-business or agro-industrial enterprise in the region where the landowner has previously made investments, to the extent of thirty percent (30%) of the face value of said LBP bonds, subject to guidelines that shall be issued by the LBP.

SEC. 39. *Land Consolidation.* - The DAR shall carry out land consolidation projects to promote equal distribution of landholdings, to provide the needed infrastructures in agricultural, and to conserve soil fertility and prevent erosion.

CHAPTER X

SPECIAL AREAS OF CONCERN

SEC. 40. *Special Areas of Concern.* - As an integral part of the Comprehensive Agrarian Reform Program, the following principles in these special areas of concern shall be observed:

(1) *Subsistence Fishing* - Small fisherfolk, including seaweed farmers, shall be assured of greater access to the utilization of water resources;

(2) *Logging and Mining Concessions* - Subject to the requirement of a balanced ecology and conservation of water resources, suitable areas, as determined by the Department of Environment and Natural Resources (DENR), in logging, mining and pasture areas, must be opened up for agrarian settlements whose beneficiaries will be required to undertake reforestation and conservation production methods. Subject to existing laws, rules and regulations, settlers and members of tribal communities must be allowed to enjoy and exploit the products of the forest other than timber within the logging concessions.

(3) *Sparsely Occupied Public Agricultural Lands.* - Sparsely occupied agricultural lands of the public domain will be surveyed, proclaimed and developed as farm settlements for qualified landless people based on an organized program to ensure their orderly and early development.

Agricultural land allocations will be made for ideal family-sized farms as determined by the PARC. Pioneers and other settlers will be treated equally in every respect.

Subject to the prior rights of qualified beneficiaries, uncultivated lands of the public domain shall be made available on a lease basis to interested and qualified parties. Parties who will engage in the

development of capital-intensive, traditional or pioneering crops will be given priority.

The lease period, which shall not be more than a total of fifty (50) years, shall be proportionate to the amount of investment and production goals of the lessee. A system of evaluation and audit will be instituted.

(4) *Idle, abandoned, foreclosed and sequestered lands.* - Idle, abandoned, foreclosed and sequestered lands shall be planned for distribution as home lots and family-sized farmplots to actual occupants. If land area permits, other landless families will be accommodated in these lands:

(5) *Rural Women* - All qualified women members of the agricultural labor force must be guaranteed and assured equal rights to ownership of the land, equal shares of the farm's produce, and representation in advisory or appropriate decision-making bodies.

(6) *Veterans and Retirees.* - In accordance with Section 7 of Article XVI of the Constitution, landless war veterans and veterans of military campaigns, their surviving spouses and orphans, retirees of the Armed Forces of the Philippines (AFP) and the Integrated National Police (INP), returnees, surrenderees, and similar beneficiaries shall be given due consideration in the disposition of agricultural lands of the public domain.

(7) *Agriculture Graduates* - Graduates of agricultural schools who are landless shall be assisted by the government, through the DAR, in their desire to own and till agricultural lands.

CHAPTER XI

PROGRAM IMPLEMENTATION

SEC. 41. *The Presidential Agrarian Reform Council.* - The Presidential Agrarian Reform Council (PARC) shall be composed of the President of the Philippines as Chairman, the Secretary of Agrarian Reform as Vice-Chairman and the following as members: Secretaries of the Departments of Agriculture; Environment and Natural Resources; Budget and Management; Local Government; Public Works and Highways; Trade and Industry; Finance; Labor and Employment; Director-General of the National Economic and Development Authority; President, Land Bank of the Philippines; Administrator, National Irrigation Administration; and three (3) representatives of affected landowners to represent Luzon, Visayas and Mindanao, six (6) representatives of agrarian reform beneficiaries, two (2) each from Luzon, Visayas and Mindanao, provided that one of them shall be from the cultural communities.

SEC. 42. Executive Committee. - There shall be an Executive Committee (EXCOM) of the PARC composed of the Secretary of the DAR as Chairman, and such other members as the President may designate, taking into account Article XIII, Section 5 of the Constitution. Unless otherwise directed by the PARC, the EXCOM may meet and decide on any and all matters in between meetings of the PARC: Provided, however, That its decisions must be reported to the PARC immediately and not later than the next meeting.

SEC. 43. Secretariat - A PARC Secretariat is hereby established to provide general support and coordinative services such as inter-agency linkages; program and project appraisal and evaluation and general operations monitoring for the PARC.

The Secretariat shall be headed by the Secretary of Agrarian Reform who shall be assisted by an Undersecretary and supported by a staff whose composition shall be determined by the PARC Executive Committee and whose compensation shall be chargeable against the Agrarian Reform Fund. All officers and employees of the Secretariat shall be appointed by the Secretary of Agrarian Reform.

SEC. 44. Provincial Agrarian Reform Coordinating Committee (PARCCOM). - A Provincial Agrarian Reform Coordinating Committee (PARCCOM) is hereby created in each province, composed of a Chairman, who shall be appointed by the President upon the recommendation of the EXCOM, the Provincial Agrarian Reform Officer as Executive Officer, and one representative each from the Departments of Agriculture, and of Environment and Natural Resources and from the LBP; one representative each from existing farmers organizations, agricultural cooperatives and non-governmental organizations in the province; two representatives from landowners, at least one of whom shall be a producer representing the principal crop of the province, and two representatives from farmer and farmworker beneficiaries, at least one of whom shall be a farmer or farmworker representing the principal crop of the province, and two representatives from farmer and farmworker beneficiaries, at least one of whom shall be a farmer or farmworker representing the principal crop of the province, as members. Provided, that in areas where there are cultural communities, the latter shall likewise have one representative.

The PARCCOM shall coordinate and monitor the implementation of the CARP in the province. It shall provide information on the provisions of the CARP, guidelines issued by the PARC and on the progress of the CARP in the province.

SEC. 45. Province-by-Province implementation. - The PARC shall provide the guidelines for a province-by-province implementation of the CARP. The ten-year program of distribution of public and private lands in each province shall be adjusted from year to year by the

province's PARCCOM in accordance with the level of operations previously established by the PARC, in every case ensuring that support services are available or have been programmed before actual distribution is effected.

SEC. 46. Barangay Agrarian Reform Committee (BARC). - Unless otherwise provided in this Act, the provisions of Executive Order No. 229 regarding the organization of the Barangay Agrarian Reform Committee (BARC) shall be in effect.

SEC. 47. Functions of the BARC. - In addition to those provided in Executive Order No. 229, the BARC shall have the following functions:

- (a) Mediate and conciliate between parties involved in an agrarian dispute including matters related to tenurial and financial arrangements;
- (b) Assist in the identification of qualified beneficiaries and landowners within the barangay;
- (c) Attest to the accuracy of the initial parcellary mapping of the beneficiary's tillage;
- (d) Assist qualified beneficiaries in obtaining credit from lending institutions;
- (e) Assist in the initial determination of the value of the land;
- (f) Assist the DAR representative in the preparation of periodic reports on the CARP implementation for submission of the DAR;
- (g) Coordinate the delivery of support services to beneficiaries; and
- (h) Perform such other functions as may be assigned by the DAR.

(2) The BARC shall endeavor to mediate, conciliate and settle agrarian disputes lodged before it within thirty (30) days from its taking cognizance thereof. If after the lapse of the thirty day period, it is unable to settle the dispute, it shall issue a certification of its proceedings and shall furnish a copy thereof upon the parties within seven (7) days after the expiration of the thirty day period.

SEC. 48. Legal Assistance. - The BARC or any member thereof may, whenever necessary in the exercise of any of its functions hereunder, seek the legal assistance of the DAR and the provincial, city, or municipal government.

SEC. 49. Rules and Regulations. - The PARC and the DAR shall have the power to issue rules and regulations, whether substantive or procedural, to carry out the objects and purposes of this Act. Said rules shall take effect ten (10) days after publication in two (2) national newspapers of general circulation.

CHAPTER XII

ADMINISTRATIVE ADJUDICATION

SEC. 50. *Quasi-Judicial Powers of the DAR.* - The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

It shall not be bound by technical rules of procedure and evidence but shall proceed to hear and decide all cases, disputes or controversies in a most expeditious manner, employing all reasonable means to ascertain the facts of every case in accordance with justice and equity and the merits of the case. Toward this end, it shall adopt a uniform rule of procedure to achieve a just, expeditious and inexpensive determination of every action or proceeding before it.

It shall have the power to summon witnesses, administer oaths, take testimony, require submission of reports, compel the production of books and documents and answers to interrogatories and issue subpoena, and *subpoena duces tecum* and to enforce its writs through sheriffs or other duly deputized officers. It shall likewise have the power to punish direct and indirect contempts in the same manner and subject to the same penalties as provided in the Rules of Court.

Responsible farmer leaders shall be allowed to represent themselves, their fellow farmers, or their organizations in any proceedings before the DAR: Provided, however, that when there are two or more representatives for any individual or group, the representatives should choose only one among themselves to represent such party or group before any DAR proceedings.

Notwithstanding an appeal to the Court of Appeals, the decision of the DAR shall be immediately executory.

SEC. 51. *Finality of Determination.* - Any case or controversy before it shall be decided within thirty (30) days after it is submitted for resolution. Only one (1) motion for reconsideration shall be allowed. Any order, ruling or decision shall be final after the lapse of fifteen (15) days from receipt of a copy thereof.

SEC. 52. *Fivolous Appeals.* - To discourage frivolous or dilatory appeals from the decisions or orders on the local or provincial levels, the DAR may impose reasonable penalties, including but not limited to fines or censures upon erring parties.

SEC. 53. *Certification of BARC.* - The DAR shall not take cognizance of any agrarian dispute or controversy unless a

certification from the BARC that the dispute has been submitted to it for mediation and conciliation without any success of settlement is presented. Provided, however, that if no certification is issued by the BARC within thirty (30) days after a matter or issue is submitted to it for mediation or conciliation the case or dispute may be brought before PARC.

CHAPTER XIII

JUDICIAL REVIEW

SEC. 54. *Certiorari.* - Any decision, order, award or ruling of the DAR on any agrarian dispute or on any matter pertaining to the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform may be brought to the Court of Appeals by certiorari except as otherwise provided in this Act within fifteen (15) days from receipt of a copy thereof.

The findings of fact of the DAR shall be final and conclusive if based on substantial evidence.

SEC. 55. *No Restraining Order Or Preliminary Injunction.* - No court in the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against PARC or any of its duly authorized or designated agencies in any case, dispute or controversy arising from, necessary to, or in connection with the application, implementation, enforcement, or interpretation of this Act and other pertinent laws on agrarian reform.

SEC. 56. *Special Agrarian Court.* - The Supreme Court shall designate at least one (1) branch of the Regional Trial Court (RTC) within each province to act as a Special Agrarian Court.

The Supreme Court may designate more branches to constitute such additional Special Agrarian Courts as may be necessary to cope with the number of agrarian cases in each province. In the designation, the Supreme Court shall give preference to the Regional Trial Courts which have been assigned to handle agrarian cases or whose presiding judges were former judges of the defunct Court of Agrarian Relations.

The Regional Trial Court (RTC) judges assigned to said courts shall exercise said special jurisdiction in addition to the regular jurisdiction of their respective courts.

The Special Agrarian Courts shall have the powers and prerogatives inherent in or belonging to the Regional Trial Courts.

SEC. 57. *Special Jurisdiction.* - The Special Agrarian Courts shall have original and exclusive jurisdiction over all petitions for the

determination of just compensation to landowners and the prosecution of all criminal offenses under this Act. The Rules of Court shall apply to all proceedings before the Special Agrarian Courts, unless modified by this Act.

The Special Agrarian Courts shall decide all appropriate cases under their special jurisdiction within thirty (30) days from submission of the case for decision.

SEC. 58. *Appointment of Commissioners.* - The Special Agrarian Courts, upon their own initiative or at the instance of any of the parties, may appoint one or more commissioners to examine, investigate and ascertain facts relevant to the dispute, including the valuation of properties, and to file a written report thereof with the court.

SEC. 59. *Orders of the Special Agrarian Courts.* - No order of the Special Agrarian Courts on any issue, question, matter or incident raised before them shall be elevated to the appellate courts until the hearing shall have been terminated and the case decided on the merits.

SEC. 60. *Appeals.* - An appeal may be taken from the decision of the Special Agrarian Courts by filing a petition for review with the Court of Appeals within fifteen (15) days from receipt of notice of the decision; otherwise, the decision shall become final.

An appeal from the decision of the Court of Appeals, or from any order, ruling or decision of DAR, as the case may be, shall be by a petition for review with the Supreme Court within a non-extendible period of fifteen (15) days from receipt of a copy of said decision.

SEC. 61. *Procedure on Review.* - Review by the Court of Appeals or the Supreme Court, as the case may be, shall be governed by the Rules of Court. The Court of Appeals, however, may require the parties to file simultaneous memoranda within a period of fifteen (15) days from notice, after which the case is deemed submitted for decision.

SEC. 62. *Preferential Attention in Courts.* - All courts in the Philippines, both trial and appellate, are hereby enjoined to give preferential attention to all cases arising from or in connection with the implementation of the provisions of this Act.

All cases pending in court arising from or in connection with the implementation of this Act shall continue to be heard, tried and decided into their finality, notwithstanding the expiration of the ten-year period mentioned in Section 5 hereof.

CHAPTER XIV

FINANCING

SEC. 63. *Funding Source.* - The initial amount needed to implement this Act for the period of ten (10) years upon approval hereof shall be funded from the Agrarian Reform fund created under Sections 20 and 21 of Executive Order No. 229.

Additional amounts are hereby authorized to be appropriated as and when needed to augment the Agrarian Reform Fund in order to fully implement the provisions of this Act.

Source of funding or appropriations shall include the following:

- a) Proceeds of the sales of the Assets Privatization Trust;
- b)* All receipts from assets recovered and from sales of ill-gotten wealth recovered through the Presidential Commission on Good Government;
- c) Proceeds of the disposition of the properties of the Government in foreign countries;
- d) Portion of amounts accruing to the Philippines from all sources of official foreign aid grants and concessional financing from all countries, to be used for the specific purposes of financing production credits, infrastructures, and other support services required by this Act.
- e) Other government funds not otherwise appropriated.

All funds appropriated, to implement the provisions of this Act shall be considered continuing appropriations during the period of its implementation.

SEC. 64. *Financial Intermediary for the CARP.* - The Land Bank of the Philippines shall be the financial intermediary for the CARP, and shall insure that the social justice objectives of the CARP shall enjoy a preference among its priorities.

CHAPTER XV

GENERAL PROVISIONS

SEC. 65. *Conversion of Lands.* - After the lapse of five (5) years from its award, when the land ceases to be economically feasible and sound for agricultural purposes, or the locality has become urbanized and the land will have a greater economic value for residential, commercial or industrial purposes, the DAR, upon application of the beneficiary or the landowner, with due notice to the affected parties, and subject to existing laws, may authorize the reclassification or conversion of the land and its disposition: Provided, That the beneficiary shall have fully paid his obligation.

SEC. 66. Exemptions from Taxes and Fees of Land Transfers. - Transactions under this Act involving a transfer of ownership, whether from natural or juridical persons, shall be exempted from taxes arising from capital gains. These transactions shall also be exempted from the payment of registration fees, and all other taxes and fees for the conveyance or transfer thereof: Provided, That all arrearages in real property taxes, without penalty or interest, shall be deductible from the compensation to which the owner may be entitled.

SEC. 67. Free Registration of Patents and Titles. - All Register of Deeds are hereby directed to register, free from payments of all fees and other charges, patents, titles and documents required for the implementation of the CARP.

SEC. 68. Immunity of Government Agencies from Undue Interference. - No injunction, restraining order, prohibition or mandamus shall be issued by the lower courts against the Department of Agrarian Reform (DAR), Department of Agriculture - (DA), the Department of Environment and Natural Resources (DENR), and the Department of Justice (DOJ) in their implementation of the program.

SEC. 69. Assistance of Other Government Entities. - The PARC, in the exercise of its functions, is hereby authorized to call upon the assistance and support of other government agencies, bureaus and officers, including government-owned or -controlled corporations.

SEC. 70. Disposition of Private Agricultural Lands. - The sale or disposition of agricultural lands retained by a landowner as a consequence of Section hereof shall be valid as long as the total landholdings that shall be owned by the transferee thereof inclusive of the land to be acquired shall not exceed the landholding ceilings provided for in this Act.

Any sale or disposition of agricultural lands after the effectivity of this Act found to be contrary to the provisions hereof shall be null and void.

Transferees of agricultural lands shall furnish the appropriate Register of Deeds and the BARC an affidavit attesting that his total landholdings as a result of the said acquisition do not exceed the landholding ceiling. The Register of Deeds shall not register the transfer of any agricultural land without the submission of this sworn statement together with proof of service of a copy thereof to the BARC.

SEC. 71. Bank Mortgages. - Banks and other financial institutions allowed by law to hold mortgage rights or security interests in agricultural lands to secure loans and other obligations of borrowers, may acquire title to these mortgaged properties, regardless of area, subject to existing laws on compulsory transfer of foreclosed assets and acquisition as prescribed under Section 16 of this Act.

SEC. 72. Leases, Management, Grower or Service Contracts, Mortgages and other Claims. - Lands covered by this Act under lease, management, grower or service contracts, and the like shall be disposed of as follows:

(a) Lease, management, grower or service contracts covering private lands may continue under their original terms and conditions until the expiration of the same even if such land has, in the meantime, been transferred to qualified beneficiaries;

(b) Mortgages and other claims registered with the Register of Deeds will be assumed by the government up to an amount equivalent to the landowner's compensation value as provided in this Act.

SEC. 73. Prohibited Acts and Omissions. - The following are prohibited:

(a) The ownership or possession, for the purpose of circumventing the provisions of this Act, of agricultural lands in excess of the total retention limits or award ceilings by any person, natural or juridical, except those under collective ownership by farmer-beneficiaries;

(b) The forcible entry or illegal detainer by persons who are not qualified beneficiaries under this Act to avail themselves of the rights and benefits of the Agrarian Reform Program;

(c) The conversion by any non-agricultural use with intent to avoid the application of this Act to his landholdings and to dispossess his tenant farmers of the land tilled by them;

(d) The willful prevention or obstruction by any person, association or entity of the implementation of the CARP.

(e) The sale, transfer, conveyance or change of the nature of lands outside of urban centers and city limits either in whole or in part after the effectivity of this Act. The date of the registration of the deed of conveyance in the Register of Deeds with respect to titled lands and the date of the issuance of the tax declaration to the transferee of the property with respect to unregistered lands, as the case may be, shall be conclusive for the purpose of this Act.

(f) The sale, transfer or conveyance by a beneficiary of the right to use or any other usufructuary right over the land he acquired by virtue of being a beneficiary, in order to circumvent the provisions of this Act.

SEC. 74. Penalties. - Any person who knowingly or willfully violates the provisions of this Act shall be punished by imprisonment of not less than one (1) month to not more than three (3) years or a fine of not less than one thousand pesos (P1,000.00) and not more than fifteen thousand pesos (P15,000.00), or both, at the discretion of the court.

If the offender is a corporation or association, the officer responsible therefor shall be criminally liable.

SEC. 75. *Suppletory Application of Existing Legislation.* The provisions of Republic Act Number 3844 as amended, Presidential Decree Numbers 27 and 266 as amended, Executive Order Numbers 228 and 229, both Series of 1987; and other laws not inconsistent with this Act shall have suppletory effect.

SEC. 76. *Repealing Clause.* - Section 35 of Republic Act Number 3844, Presidential Decree Number 316, the last two paragraphs of Section 12 of Presidential Decree Number 946, Presidential Decree Number 1038, and all other laws, decrees, executive orders, rules and regulations, issuances or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 77. *Separability Clause.* - If, for any reason, any section or provision of this Act is declared null and void, no other section, provision, or part thereof shall be affected and the same shall remain in full force and effect.

SEC. 78. *Effectivity Clause.* - This Act shall take effect immediately after publication in at least two (2) national newspapers of general circulation.

APPROVED, June 10, 1988.

(SGD.) CORAZON C. AQUINO
President of the Philippines

SOON OFF THE PRESS!

Volume III, 1988 Edition, of the Commentaries and Jurisprudence on the Commercial Laws of the Philippines (on the Corporation Code, Banking Laws and Related Special Laws), by Aguedo F. Agbayani

TO FOLLOWED BY:

Commercial Law Reviewer, 1988 Edition by Aguedo F. Agbayani

Other books by Aguedo F. Agbayani:

Commentaries and Jurisprudence on the Commercial Laws of the Philippines:

Volume I (Negotiable Instruments), 1987 Edition
Volume II (Insurance), 1986 Edition
Volume IV (Transportation), 1987 Edition

Handbooks (for Commerce Students) on:

Negotiable Instruments
Partnerships & Private Corporations
Insurance (under revision)

ANNEX G
Gray Amendment Certification

CERTIFICATION PURSUANT TO UTILIZATION OF GRAY AMENDMENT ORGANIZATION

I, MALCOLM BUTLER, Director of the Agency for International Development in the Philippines, having taken into account the potential involvement of small and/or economically and socially disadvantaged enterprises, do hereby certify that in my judgment the technical assistance required under this program can best be procured through open competition. However, all other things being equal, preference will be given to firms which submit joint proposals with Gray Amendment-satisfying firms. Furthermore, for the scheduled external evaluation, joint efforts involving both local expertise and Gray Amendment-satisfying organizations are anticipated. My judgment is based on the recommendations of the Program and Mission Review Committees.

Malcolm Butler

MALCOLM BUTLER
Director, USAID/Philippines

FEB 01 1963

Date

ANNEX H
Executive Summary to the
Social Soundness Analysis

EXECUTIVE SUMMARY

1. The Philippines is a country faced with problems of massive poverty. About 35 percent and 26 percent of the rural and urban families, respectively, live below the poverty level, majority of these are in the agricultural sector. This is mainly due to inequitable access to productive resources and inequitable distribution of the fruits of production. There are about 5 million agricultural workers, of which majority were landless. They depend on agriculture for livelihood but their access to land, is only through seasonal employment.
2. CARP is estimated to cover 10.3 million hectares of land. Of these, 81.7 percent will be covered by land transfer and 18.3 percent will be under the ISF program. Phase I which is supposed to be done during the first four years (1988-1991) covers about 1.454 million hectares. Phase II also to be done within the first four years comprises the bulk (73.0%) of all lands covered by CARP. These are mostly public A and D lands currently under leased to private entities. The private lands in excess of the 50-hectare first cut-off size is estimated to be only about 470,500 hectares.
3. Based on PARC estimates, about 41 percent of the estimated 3.9 million FBs will have full access to and control of the lands they are working on within the first four years of CARP implementation. Of these, about 60 percent are covered under Phase II of the program. Most of these are within the Public A and D lands that will be distributed.
4. In general, there are four major tenure types: (a) the owner-cultivator; (b) leaseholder; (c) share-tenant; and, (d) farmworker. As a result of PD 27, a new tenure sub-class, amortizing owner, is created in rice and corn areas. More and more farmers seek work in one or two farms and a mixed-tenure type is emerging. Mixed-tenure seems to be the general direction of tenurial transformation.
5. The landless farm workers are the most disadvantaged among those tenure types. They are in the lowest rung of the rural social ladder. They are employed on

- seasonal basis, and they receive low wages (₱ 30.00/day). During off-seasons, they survive by borrowing cash or in kind from the landowner.
6. The production and sharing arrangements between the landowner and his tenants is generally in favor of the landowner. The tenant gets very low share of the produce (30-50%). He provides at least the labor inputs while the landowner provides the capital requirements of production.
 7. The landowner plays a significant role in this partnership. Although at times the tenant is oppressed, the landowner is almost always there to provide him and his family with their needs, particularly financial assistance. He is the biggest source of credit by the tenants/farmworkers.
 8. The landowner is most powerful in the community. He mostly controls the land and other resources in his community, through which he acquires economic and political power to control the people, particularly, his tenants and farmworkers. His span of control over his "people" is so great that in many cases, the people's freedom to decide for themselves, especially their right to vote, is compromised.
 9. Statistics on landownership are not validated but estimates show that about 10% of the landowners in the country own 90% of the land. Farmholdings are generally small. About 85% of all farms are below 5.0 hectares in size but farms 5.0 hectares and above cover about 48% of total agricultural lands.
 10. The 1980 Census of Agriculture show that 9.7 million hectares of land were devoted to various agricultural uses. Palay, corn, coconut and sugarcane were the major crops raised, accounting for 91.2% of total agricultural lands.
 11. CARP is a reform strategy that seeks to solve the centuries old problems of inequitable access to land and other productive resources and democratize wealth in the country. It aims to create progressive agrarian communities and speed up industrialization and economic development. CARP is not a perfect document, it is less than what farmers expected but it is crafted in

such a way that no group is totally alienated. Given the limitations of the law, steps can already be taken to improve the present situation.

12. With the implementation of CARP the patron-client relationship that developed between the landlord and the tenant/farmworker will be severed. The tenant will be left on his own to manage the farm, and the landlord is not likely to extend him any more support. The government should be able to take the place and extend the services that used to be provided by the LO to attain the goals of land reform. Failure to provide the necessary support services could cause FBs to sell or mortgage their acquired land and revert to the old tenancy structure or be totally displaced.
13. The severance of close ties between a benevolent LO and the farmer tenant could cause polarisation between these two groups and even lead to animosity of LO towards the FB.
14. While CARP is considered comprehensive in scope in that it covers all lands and seeks to benefit all the tenants and farmworkers, different groups of beneficiaries are entitled to different kinds of benefits at different periods of time. Tenants and regular farmworkers are entitled to land ownership, while other farmworkers are only entitled to improved wages. Tenants and farmworkers on lands greater than 50 hectares could get their benefits within the next four years, while others will have to wait for at least 6-10 years. This discrepancy in benefits could create further social stratification and a feeling of discrimination among those who stand to benefit less.
15. The inequitable distribution of access to resources was the root cause of insurgency. Government's failure in the past to improve the agrarian situation led people to seek support elsewhere. The continuing and worsening socioeconomic condition is being exploited by the insurgents to gain people's support.
16. People continue to press for change and improvement in the problematic agrarian situation. This could only be done with the transformation of the agrarian structure. Without CARP, people will pursue their own initiatives to take over "abandoned" lands by force. If this goes

on, it will be much more difficult for the government to correct the situation and restore law and order.

17. Agrarian reform is a program appropriate to address specific sociopolitical problems at a given point in time, and the present sociocultural and political situation in the country calls for a CARP. CARP is a socially sound program to pursue.

However, it is a difficult program to implement. A number of critical areas have to be given serious consideration in the implementation for the program to succeed.

- a. Attention should be given to the timely delivery of appropriate support services to the FBs for them to be able to make productive use of the land and realize the gains of land ownership. If extension services and credit assistance will not be provided, they will again be forced to sell/mortgage their lands to raise cash for their immediate basic needs or at least fail to pay their land amortizations and other financial obligation.
- b. Landowner's welfare should be given equal importance. They are still the powerful sectors of society and their dissatisfaction could adversely affect not only CARP but other development programs as well. Assistance in terms of identification of viable investment opportunities and timely compensation should be extended to them.
- c. Strong linkages and close coordination should be forged between all the government agencies involved in CARP implementation. As a central program of government, these agencies should be aligned to support CARP. Otherwise, DAR will not get the necessary assistance of DA (support services), DENR (surveys), LBP (assistance to LOs), that are critical to the success of CARP. While complementation and linkages are established at the national level, it still has to be strengthened at the local level.

- d. National policies should not run counter to the needs of CARP. Agricultural credit policies should take into account the needs of the FBs to be given special consideration. Most of these FBs do not have formal credit records and therefore, would not qualify for bank loans. If left to the mercy of informal moneylenders, the gains of landownership may not accrue to them but may be siphoned-off by the moneylenders. Given the present DA policy that government should not go into direct lending, FBs will not have access to their much need credit assistance. The current guarantee scheme is not accessible to them, if not discriminating against them.
- e. It is felt that the involvement of local government officials is practical to the implementation of CARP at the local level. However, given the existing landownership and political structure in the community, it is quite dangerous to give authority to the local officials as far as CARP programming is concerned, but they should be informed of the progress of the program and participate in planning.
- f. The relationship between GO and NGOs has to be improved and strengthened. Some NGOs have capabilities to assist DAR in CARP implementation. In places where such NGOs have a strong presence, their help should be tapped by DAR. Areas where NGOs can help are in the identification of landowners, areas to be covered by CARP and FBs. However, caution should be taken by the GO in relying heavily on NGOs as partners in program implementation. Moreover, the NGOs should assure the government their faithful support of the government program and limit its activities to that mandated by law.
- g. PARCCOM and BARC are new organizations created to assist in CARP implementation, by coordinating CARP related activities in their respective jurisdictions. However, there were no provisions for financial assistance to these organizations and the members are expected to work on a volunteer and part-time basis. The success of the program largely depends on these bodies,

particularly the BARC, given the great responsibility assigned to them by law. However, without financial support, the members cannot be expected to render the services that they are called to provide, and these organizations will fail to function effectively.

- h. The role of the BARC with existing local structures has to be rationalized to avoid conflicts due to overlapping of responsibilities, claims of territoriality and power struggle that could hinder the effectiveness of this organization.
- i. BARC is critical to CARP and the members should understand fully their responsibilities. However, many DAR fieldmen are organizing BARC just for the sake of reporting quantitative accomplishment. DAR should pay attention to this because BARCs that are not well organized may be used as a tool of groups against CARP and may not serve their purposes.
- j. It is essential to fully implement CARP now. Given the law is already in place, and that some sectors are threatened by CARP, government's indecisiveness to fully implement CARP may be exploited by both the left and right oppositionist to strengthen their positions and further worsened the strained political environment.
- k. DAR should work fast and show solid accomplishments soon, or else, land invasion by militant farmers and evasion by landowners would leave very little area for systematic land redistribution. Both groups are waiting for DAR to come up with result, on which they are going to base their reactions. Many landowners are willing to offer their land if there is an assurance that they will be compensated. The farmers, on the other hand, would want to see that DAR is concerned with their welfare, and will not be used by the landowners as instruments to further oppress the farmers.
- l. Efficiency in the government bureaucracy, particularly, DAR should be improved to ensure CARP a certain degree of success. There is a need

for skills development, value reorientation and full understanding and appreciation of CARP among all the government agencies involved in CARP implementation, particularly at the local level. They are in the front line, and they come in close contact with the people. They should be able to discuss the program with authority and project confidence in their ability to carry out the program. Their wavering stand will not give people any assurance that the government is sincere about the program.

- m. A certain degree of authority should be delegated to the lowest levels of CARP implementation. This will facilitate actions necessary to act on specific problems.

It is said that given the strength of the insurgency movement, this is not the opportune time for the government to implement CARP and alienate the landowners group. However, it should be understood and realized that the roots of insurgency problems, the inequitable access by a great majority of the people to productive resources, are the ones that CARP seeks to address and that maintaining the present structure will only worsen the situation. As Joma Sison, the Communist Party of the Philippines leader puts it, there will be no peace without a genuine and comprehensive agrarian reform program.

Now is the time to implement CARP. Farmers are now highly politicalized and are more willing to fight for their perceived rights. They also see an alternative source of support if the government fails to correct the present problematic agrarian situation.

There are two alternative steps that the government can take: (1) implement CARP fully and correct the social inequity and in the long run create a just and peaceful society; or (2) stall on CARP implementation and face the danger of revolution.

ANNEX I
PAIP and PAAD Approval Messages

SC 173

UNCLASSIFIED

STATE 249420/21

ACTION: (AID-6) INFO: AMB DCM AA ECCN/10

VZCZCMLC22Z
OC RUEHML
DE RUEHC #9420/01 190224Z
ZNR UUUUU ZZH
O 292241Z JUN 89
FM SECSTATE WASHDC
TO AMEMBASSY MANILA IMMEDIATE 8941
BT
UNCLAS SECTION 01 OF 03 STATE 209420

RECEIVED
29-JUN-89 TGR: 22:44
ORCNA: 031201 00
CHRG: AID
DIST: AID
ADD:

CALL ALT 2000102

ACTION COPY

AIDAC

E.O. 12356: N/A
TAGS:

SUBJECT: AGRARIAN REFORM (492-0431) PAIP REVIEW

Action Taken: _____
No action necessary: _____
Date: _____ Initials: _____

REF: MANILA 18138

1. SUMMARY: ANPAC CHAIRED BY AA/ANE MET ON JUNE 10 AND MADE FOLLOWING DECISIONS:

- (A) PAIP IS APPROVED,
- (B) PAAD SHOULD BE SUBMITTED FOR AID/W REVIEW,
- (C) REFTEL WILL BE USED AS BASIS FOR CONSULTATION WITH CONGRESS ON THRESHOLD DECISION FOR AGRARIAN REFORM PROGRAM EFFECTIVENESS; HOWEVER, DECISION ON EFFECTIVENESS DETERMINATION WILL NOT IMPLY APPROVAL OF ANY PARTICULAR INTERVENTIONS AID MAY UNDERTAKE IN SUPPORT OF THE EVOLVING CARP PROGRAM.
- (D) SECTOR PROGRAM APPROACH IS ACCEPTABLE AND PREFERABLE AS U.S. ASSISTANCE MECHANISM. U.S. PROGRAM WILL CONSTITUTE ONLY A SMALL PORTION OF MULTI-BILLION DOLLAR GOP AGRARIAN REFORM PROGRAM, AND IT WILL REQUIRE MEANINGFUL OBJECTIVES AND BENCHMARKS BASED ON ANALYSIS OF WHAT IS NEEDED TO OVERCOME CONSTRAINTS TO CARRY OUT SPECIFIC ASPECTS OF THE AGRARIAN REFORM PROGRAM,
- (E) A SPECIAL DOLLAR ACCOUNT IS APPROPRIATE FOR THIS FARMERED SECTOR PROGRAM BUT IS NOT A PRECEDENT FOR OTHER SECTOR PROGRAMS,
- (F) IF DELAY IN OBLIGATION BEYOND AUG. 31 SEEMS UNAVOIDABLE, WE WILL NEED YOUR EARLY ADVICE TO CONSULT WITH CONGRESS ON THIS ISSUE. IF GOP RESISTS ANY DELAY WE SHOULD ALSO BE APPRISED. END SUMMARY

| DIV ACTION | |
|------------|-------------------------------------|
| OD | <input checked="" type="checkbox"/> |
| E | <input type="checkbox"/> |
| FE | <input type="checkbox"/> |
| RLA | <input checked="" type="checkbox"/> |
| PO | <input checked="" type="checkbox"/> |
| TD | <input type="checkbox"/> |
| EO | <input type="checkbox"/> |
| PER | <input type="checkbox"/> |
| CSLH | <input type="checkbox"/> |
| LCN | <input type="checkbox"/> |
| GSU | <input type="checkbox"/> |
| TRV | <input type="checkbox"/> |
| CO | <input checked="" type="checkbox"/> |
| DRID | <input checked="" type="checkbox"/> |
| CCD | <input checked="" type="checkbox"/> |
| ORAL | <input checked="" type="checkbox"/> |
| OPHN | <input type="checkbox"/> |
| OFFREC | <input type="checkbox"/> |
| RIG/A | <input type="checkbox"/> |
| RIG/II | <input type="checkbox"/> |
| AR | <input type="checkbox"/> |
| DUE DATE | |
| 2-1-89 | |

2. SUBJECT PAIP WAS REVIEWED BY PRC ON MAY 18 WITH PARTICIPATION OF DEPUTY DIRECTOR JOHN BLACKTON, DAA/ANE TCM REESE AND MISSION DIRECTOR DESIGNATE MALCOLM EUTLER. ANPAC CHAIRED BY AA/ANE JULIA CHANG BLOCH ON JUNE 10 REVIEWED MAJOR ISSUES. ANPAC AGREED TO APPROVE THE PAIP, BUT BECAUSE OF CONGRESSIONAL INTEREST IN U.S. CONTROVERSY OF PROGRAM IN THE PHILIPPINES, AND BUREAU

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CONCERN THAT PRESSURE MAY BE EXERTED ON MISSION TO RAPIDLY OBLIGATE AND DISBURSE FUNDS, IT WAS DECIDED TO ASK MISSION TO SUBMIT PAAD TO AID/W FOR FINAL REVIEW AND AUTHORIZATION. THE FOLLOWING WERE THE MAJOR ISSUES AND CONCERNS DISCUSSED DURING THE ANPAC AND THE RESULTING DECISIONS.

3. EFFECTIVENESS: ANPAC CONCLUDED THAT PRESIDENT ACUINO'S SIGNATURE ON THE CARP BILL IN CONJUNCTION WITH THE IMPLEMENTATION PROGRESS IN LAND REGISTRATION, LAND TRANSFERS AND COMPENSATION MECHANISM NOTED REFTEL ~~PROVIDE A PERSUASIVE BASIS FOR CONCLUDING THAT AN EFFECTIVE AGRARIAN REFORM PROGRAM, WITHIN THE MEANING OF THE RELEVANT PROVISION OF THE FY 08 CONTINUING RESOLUTION, HAS BEEN INITIATED. WE WILL PROCEED WITH CONSULTATIONS WITH CONGRESS ON THIS BASIS AND KEEP YOU INFORMED OF CONGRESSIONAL REACTIONS AND PROBLEMS, IF ANY, WHICH ACCEPTING QUOTE EFFECTIVENESS ENDQUOTE BASIS. ANY FURTHER INFORMATION RELEVANT TO THIS ISSUE WHICH MISSION IS ABLE TO IDENTIFY SHOULD BE COMMUNICATED TO AID/W.~~

4. PLEASE NOTE THAT EFFECTIVENESS DETERMINATION WILL NOT CONSTITUTE APPROVAL OF SPECIFIC PROGRAM ACTIVITY. THAT IS A SEPARATE (PAAD) CONCERN. TASK NOW IS TO ANALYZE CARP OBJECTIVELY, DETERMINE WHAT IS NEEDED TO HELP THE GOP PLANS FOR CARP TO EVOLVE OVER TIME AND, AT THE SAME TIME, TO DETERMINE HOW AID INTERVENTIONS CAN SUPPORT ASPECTS OF THIS PROCESS. THE MISSION'S PROGRAM OBJECTIVES, IMPLEMENTATION PLAN AND BENCHMARKS WILL NEED TO BE STRUCTURED ACCORDINGLY. PAAD SHOULD COVER THESE AREAS IN SOME DETAIL, SO THAT IT SUFFICIENTLY CLARIFIES THE ANALYTICAL BASIS FOR THE AID PROGRAM, ITS PURPOSE AND OBJECTIVES AND HOW IT WILL BE CARRIED OUT.

5. IT WAS ANTICIPATED THAT OVERALL PLAN FOR CARP WILL BE REVIEWED BY MISSION TO ENABLE YOU TO DETERMINE WHAT ELEMENTS ARE APPROPRIATE FOR OUR SUPPORT AND TO PROVIDE BASIS FOR PROGRAM BENCHMARKS. ANPAC AGREED THAT, AMONG OTHER THINGS, THE BENCHMARKS SHOULD BE MEASURABLE INDICATORS THAT CONSTRAINTS ARE BEING ADDRESSED AND REAL PROGRESS IS BEING MADE TOWARD PAAD PROGRAM OBJECTIVES. FOR THE EARLY STAGES OF THE PROGRAM IN PARTICULAR, WE URGE YOU TO CONSIDER NEED FOR INDICATORS DEALING WITH ESTABLISHMENT OF APPROPRIATE ENABLING REGULATIONS, ADMINISTRATIVE ARRANGEMENTS, STAFFING, TRAINING, AND DATA GATHERING/ANALYSIS ARRANGEMENTS IN ADDITION TO OTHER INDICATORS OF PROGRAM EFFECTIVENESS SUCH AS LAND TRANSFERS ISSUED, LAND REGISTERED, ETC.

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6. PERFORMANCE BENCHMARKS CAN BE BASED ON A MENU APPROACH THAT WOULD COVER A LARGER NUMBER OF BENCHMARKS THAN WILL BE REQUIRED TO INDICATE AN ADEQUATE LEVEL OF PROGRAM PERFORMANCE. FOR EXAMPLE, YOU MAY WISH TO HAVE A SERIES OF BENCHMARKS FOR A PARTICULAR TIME PERIOD BUT INDICATE THAT ONLY A PERCENTAGE MUST BE MET FOR MINIMUM ACCEPTABILITY. PAAD SHOULD ESTABLISH WHAT PERCENTAGE OF BENCHMARKS IN THE QUOTE MENU END QUOTE MUST BE MET TO JUSTIFY THE MINIMUM STANDARD FOR CONTINUED EFFECTIVENESS OF THE PROGRAM, AND INDICATE WHICH (IF ANY) OF THE TOTAL NUMBER OF BENCHMARKS ARE CORE OBJECTIVES THAT MUST BE MET FOR EFFECTIVENESS.

7. BUDGET SUPPORT AREAS: THE REVIEW RAISED THE QUESTION OF HOW TO DETERMINE THE BUDGET LINE ITEMS THAT WILL BE REIMBURSED AND HOW THE SOUNDNESS OF THESE AREAS WILL BE DETERMINED. DURING PRC, DEPUTY DIRECTOR BLACKTON ASSURED THE PARTICIPANTS THAT: (A) THE MISSION WILL SELECT LINE ITEMS FOR QUOTE NON-SENSITIVE END QUOTE PROGRAM COMPONENTS TO BE ASSOCIATED WITH OUR FUNDS SUCH AS ROADS AND CREDIT, AND THE AID PROGRAM WILL NOT REIMBURSE LAND ACQUISITION OR OTHER SENSITIVE COMPONENTS; (B) CARP ACTIVITIES ASSOCIATED WITH OUR FUNDS WILL BE CAREFULLY ASSESSED FOR ACCEPTABILITY AND SOUNDNESS BEFORE INCLUSION IN THE PROGRAM; (C) THE MISSION WILL ONLY REIMBURSE 70 PERCENT OF EXPENDITURES FOR EACH ELIGIBLE LINE ITEM; AND, (D) A QUOTE TRAP DOOR END QUOTE MECHANISM WILL BE BUILT INTO THE PROGRAM TO ALLOW TERMINATION OF ASSISTANCE IF THE PROGRAM BECOMES COMPROMISED OR OTHERWISE UNACCEPTABLE FOR AID ASSISTANCE.

8. BENEFICIARIES: WITH REGARD TO SELECTING AREAS FOR OUR SUPPORT, ADMINISTRATOR HAS RAISED PARTICULAR CONCERN THAT OUR PARTICIPATION IN AGRARIAN REFORM BE LINKED TO SMALL FARMER BENEFICIARIES. PAAD ANALYSIS SHOULD CLEARLY SHOW THAT COMPONENTS OF CARP THAT WE SUPPORT ARE TARGETTED ON THESE BENEFICIARIES. FOR EXAMPLE, IF AID PROGRAM SUPPORTS ROAD CONSTRUCTION, ANALYSIS SHOULD SHOW HOW CRITERIA FOR ROAD SELECTION IS WEIGHTED TOWARD SERVING FARMERS WHO RECEIVE LAND UNDER CARP. LIKEWISE FOR OUR SUPPORT OF AGRICULTURAL CREDIT, PAAD ANALYSIS SHOULD SHOW HOW CREDIT PROGRAM WILL ADDRESS THE NEEDS OF THE SMALL FARMER CARP BENEFICIARIES. OTHER COMPONENTS WE SUPPORT SHOULD ALSO BE SCREENED AND ANALYZED WITH ADMINISTRATOR'S CONCERN IN MIND.

9. AGRICULTURAL CREDIT: THERE WAS PARTICULAR CONCERN IN PRC AND ANPAC EXPRESSED ON PROPOSED BUDGET SUPPORT FOR REIMBURSING EXPENDITURES FOR AGRICULTURAL CREDIT BECAUSE OF QUESTIONS ON THE POLICY AND INSTITUTIONAL ASPECTS OF THE AGRICULTURAL CREDIT ENVIRONMENT. BLACKTON ADVISED THE PRC THAT THE GOP INTENDS THAT CREDIT UNDER AGRARIAN REFORM WILL BE CONSISTENT WITH THE KEY ELEMENTS OF THE CREDIT REFORM POLICY FRAMEWORK AGREED TO UNDER AID'S RURAL FINANCIAL SERVICES PROJECT, MOST IMPORTANTLY, THE PROVISION OF CREDIT AT MARKET ORIENTED RATES ON A NON-SUBSIDIZED BASIS. HE INDICATED

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THAT THE MISSION WILL NEGOTIATE A COVENANT IN THE AGRARIAN REFORM AGREEMENT TO ASSURE SUCE CONSISTENCY. IN ADDITION TO THE COVENANT, IT WAS CONCLUDED THAT THE MISSION SHOULD COMPLETE SUFFICIENT ANALYSIS FOR THE PAAD TO ASSURE AN APPROPRIATE POLICY FRAMEWORK FOR THE CREDIT PROGRAM, THAT DEMAND FOR CREDIT WILL BE SUFFICIENT TO MAKE THIS A WORTHWHILE AREA FOR OUR SUPPORT, AND THAT THE INSTITUTIONAL BASE FOR THE CREDIT PROGRAM IS ADEQUATE AND WILL NOT BE DEGRADED (E.G. AS A RESULT OF POSSIBLE UNCOLLATERALIZED DEFAULTS) UNDER THE PROGRAM.

12. SALARIES: THERE WAS CONCERN THAT IF ANY AID FUNDS ARE ASSOCIATED WITH SALARIES FOR EXISTING AND/OR ADDITIONAL STAFF, MISSION SHOULD BE SURE THAT ANY INCREASES IN SALARY COSTS SUPPORTED BY THIS ASSISTANCE WILL BE SUSTAINABLE IN THE FUTURE OR THAT THESE COSTS REPRESENT TEMPORARY REQUIREMENTS THAT CAN BE TERMINATED WHENEVER APPROPRIATE OR NECESSARY. WE ASSUME THAT AID FUNDS WILL NOT BE USED TO REIMBURSE SALARY SUPPLEMENTS AS DESCRIBED IN HANDBOOK 1, PART VII AND THAT GUIDANCE ON RECURRENT COSTS IN HANDBOOK 1, PART III THEREFORE APPLIES.

11. MONITORING: DURING ANPAC THE SUBJECT OF MONITORING THE FACE AND QUALITY OF PROGRAM RESULTS WAS DISCUSSED IN THE CONTEXT OF IDENTIFYING MEASURABLE INDICATORS OF PERFORMANCE. ANPAC AGREED THAT THE PROGRAM NEEDS TO ASSURE REPORTED BENCHMARKS OF PROGRESS ARE VALID AND THAT EFFECTIVENESS OF THE PROGRAM IS MAINTAINED DURING OUR INVOLVEMENT. THIS SHOULD INCLUDE THE MONITORING OF IMPACT LEVEL CHANGES THAT ARE OCCURRING WITHIN THE RURAL SECTOR OF THE PHILIPPINES AS A RESULT OF THE PROGRAM. IN OUR VIEW THIS SYSTEM SHOULD INVOLVE FIELD VISITS TO VERIFY BENCHMARK REPORTS ON A SELECTIVE BASIS AND TO LOOK INTO IMPACTS. THE SYSTEM SHOULD ALSO COVER THE SPECIFIED COMPONENTS FUNDED BY BUDGET LINE ITEMS WE WILL

REIMBURSE (E.G. FOR THE CREDIT COMPONENT MEASURES OF LENDING LEVELS AND REPAYMENT RATES; FOR ROADS, MEASURES OF TOTAL ROADS BUILT AND PERIODIC SITE VISITS ON A SAMPLE BASIS) AND, ON A SAMPLING BASIS, SHOULD ALSO COVER THE PROGRAM AS A WHOLE. A SEPARATE COMMUNICATION OFFERING SUGGESTIONS ON HOW TO STRUCTURE A MONITORING APPROACH WILL BE FORTHCOMING. NONETHELESS, WE SUGGEST THAT THE ISSUE OF MONITORING BE ADDRESSED IN YOUR DISCUSSIONS WITH THE GOP, WITH A VIEW TO IDENTIFYING A DISCRETE PORTION OF THE PROGRAM RESOURCES TO BE SET ASIDE FOR THIS PURPOSE.

12. SEPARATE ACCOUNTS: THE PAIP PROPOSED USING SEPARATE ACCOUNTS FOR BOTH DOLLARS AND LOCAL CURRENCY AND A RELATED IMPLEMENTATION PROCEDURE IDENTICAL TO THAT REQUIRED FOR CASH TRANSFERS EVEN THOUGH THIS ASSISTANCE APPEARS TO FIT THE SECTOR SUPPORT CHARACTERIZATION. AFTER CAREFUL REVIEW, WE CONCUR IN THIS APPROACH ON THE GROUNDS THAT THIS PARTICULAR ASSISTANCE REFLECTS A CONGRESSIONAL EARMARK RATHER THAN AID-INITIATED, POLICY-LEVERAGED SECTOR ASSISTANCE. THE ASSISTANCE IS MANDATED BY THE LAW AS LONG AS THE AGRARIAN REFORM PROGRAM QUALIFIES AS AN QUOTE EFFECTIVE END QUOTE PROGRAM. AS SUCH, IT IS SIGNIFICANTLY DIFFERENT FROM AID'S NORMAL SECTOR PROGRAMS WHERE THE REQUIREMENT OF SEPARATE ACCOUNTS COULD EITHER DIMINISH AID'S DESIRED POLICY AGENDA OR ELIMINATE ANY MEANINGFUL AGENDA COMPLETELY. IN SHORT, WE CONCLUDE THAT THIS EARMARKED SECTOR PROGRAM IS SUI GENERIS AND THE USE OF SEPARATE ACCOUNTS HERE IS NOT A PRECEDENT FOR SEPARATE ACCOUNTS IN OTHER SECTOR ASSISTANCE CASES.

13. DONOR COORDINATION: THE EXPECTED MAJOR ROLE OF OTHER DONORS IN CARF MAKES DONOR COORDINATION AN IMPORTANT CONCERN. SPECIFICALLY, THE PAAD WILL NEED TO MAKE CLEAR THAT THERE IS ADEQUATE ABSORPTIVE CAPACITY IN THE AGRARIAN REFORM BUDGET FOR PROPOSED RESOURCES AND PROVIDE ASSURANCE THAT U.S. FUNDS WILL NOT REIMBURSE GOVERNMENT EXPENDITURES MADE BY OTHER DONORS. AN ADEQUATE DONOR COORDINATION MECHANISM SHOULD BE IN PLACE EARLY IN THE PROGRAM AND THERE SHOULD BE CLEAR EVIDENCE VERIFYING THAT GOP AND OTHER DONORS ARE INDEED SUPPLYING, OR WILL SUPPLY, A SUBSTANTIAL MAJORITY OF THE RESOURCES FOR THE PROGRAM, AS REQUIRED BY CONGRESS FOR OUR PARTICIPATION. ALSO, IT WAS VIEWED AS HIGHLY DESIRABLE IF DONORS OTHER THAN THE U.S. CONTRIBUTE TO THE SPECIAL AGRARIAN REFORM FUND (SARF) TO ENSURE ITS MULTILATERAL NATURE AND FUTURE FINANCIAL SUSTAINABILITY.

14. TRAP DOOR ISSUE: IT WAS AGREED THAT A MECHANISM FOR RAPID TERMINATION OF ASSISTANCE IS NEEDED IN THE EVENT THAT THE PROGRAM GOES AWRY, AND THIS SHOULD BE BUILT INTO THE PROGRAM AND COVERED IN PAAD. AN IMPORTANT CONSIDERATION IN THE DESIGN OF SUCH A MECHANISM IN BLACKTON'S VIEW WAS WHETHER ANY FUNDS FOR AGRARIAN REFORM MIGHT BE DIRECTED TO OTHER ACTIVITIES IN THE PHILIPPINES WITHOUT DEOBLIGATING THE RESOURCES. THE MISSION IS ENCOURAGED TO EXPLORE THE POSSIBILITIES FOR.

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THIS, BUT MISSION MUST BE MINDFUL THAT CONGRESS DID
EARMARK THESE FUNDS QUOTE ONLY FOR THE PHILIPPINES TO
ASSIST IN THE IMPLEMENTATION OF AGRARIAN REFORM. END
QUOTE CONGRESSIONAL CONSULTATIONS WOULD THEREFORE BE
NECESSARY IF LATER CIRCUMSTANCES WERE TO PRECIPITATE
REALLOCATION OF RESCURCES, AND WE QUESTION WHETHER ANY
OTHER USE OF THESE FUNDS WILL BE POSSIBLE. WEITERHEAD
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ACTION: AID-6 INFO: AMB DCM AA ECON/10 SF

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E.O. 12356: N/A

TAGS:

SUBJECT: AGRARIAN REFORM SUPPORT PROGRAM PAAD (492-2431) ANPAC REVIEW

ACTION COORDINATOR

1. SUMMARY. BASED ON ANPAC REVIEW OF SUBJECT PAAD CHAIRED BY DAA/AME REESE ON FEBRUARY 22, 1989, BUREAU APPROVES MISSION REQUEST FOR DELEGATION TO AUTHORIZE DOLS 57 MILLION AGRARIAN REFORM SUPPORT PROGRAM (ARSP) IN THE FIELD. BUREAU OBSERVED THAT THE PAAD PROVIDED AN APPROPRIATE AND WELL DESIGNED BASIS FOR SUPPORT FOR THE IMPLEMENTATION OF THE INITIAL PHASE OF THE CARP. THE MISSION IS CONGRATULATED FOR DEVELOPING AN INTELLIGENT AND MEASURABLE APPROACH TO A VERY DIFFICULT UNDERTAKING.

Action taken: YAN

Action necessary: 2/28

Init: [Signature]

ANPAC DISCUSSION CENTERED ON ONE PRIMARY ISSUE -- MONITORING AND ACCOUNTABILITY RESPONSIBILITIES AND NEED TO INCLUDE IN THE PAAD A FULLER ANALYSIS OF THE POLITICAL AND, A CREDIBLE ANALYSIS OF THE ECONOMIC AND FINANCIAL RISKS INVOLVED IN THE UNDERTAKING OF THE PROGRAM AND THE REASONS FOR GOING AHEAD WITH THE ARSP DESPITE THESE RISKS. FURTHER ANPAC ISSUE DISCUSSION FOLLOWS. END SUMMARY.

2. MISSION DIRECTOR BUTLER BEGAN ANPAC WITH A BRIEF ILLUSTRATION THAT DEMONSTRATED HOW THE MISSION'S AGRARIAN REFORM SUPPORT PROGRAM (ARSP) IS A SMALL PIECE OF A MUCH LARGER PIE (CARP). BUTLER FURTHER ELABORATED ON THE MISSION'S APPROACH TO AGRARIAN REFORM WHICH HE BEST SUMMED UP AS ONE THAT: (A) ACKNOWLEDGES RISKS (POLITICAL, ECONOMIC, FINANCIAL); (B) DOES NOT GUARANTEE SUCCESS OF AGRARIAN REFORM EFFORTS (BUTLER STATED THAT "SUCCESS" OF CARP WILL LIVE OR DIE ON GOP POLITICAL COMMITMENT); (C) IS DISCRETE AND SHORT TERM SINCE ONLY SELECTED PHASE 1 ACTIVITIES WILL BE FINANCED AND; (D) HAS GOOD POTENTIAL FOR SUCCESS IN THAT THE ACTIVITIES THE MISSION HAS CHOSEN TO SUPPORT WILL MAKE A VALUABLE CONTRIBUTION, INDEPENDENT OF THE DEGREE OF SUCCESS OF THE OVERALL PROGRAM.

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BUTLER INDICATED THAT THE MISSION ELECTED TO SUPPORT BUT NOT TO BECOME INVOLVED IN SHAPING THE OVERALL PHILIPPINE AGRARIAN REFORM PROGRAM BECAUSE OF THE MANY KNOWN RISKS.

AND BECAUSE A.I.D. EXPERIENCE WITH PREVIOUS LAND REFORM EFFORTS HAS NOT BEEN PARTICULARLY SUCCESSFUL AND INDICATES THAT SUCH PROGRAMS CAN ONLY SUCCEED IF THE PRIME IMPETUS IS CLEARLY FROM THE HOST GOVERNMENT.

IN ENDING HIS OPENING REMARKS, BUTLER INDICATED THAT DURING CONGRESSIONAL CONSULTATIONS HE HAD BRIEFED KEY AND INTERESTED STAFF AND MEMBERS ON THE ARSP AND CARP.

3. MONITORING AND ACCOUNTABILITY - FOLLOWING BUTLER'S OPENING REMARKS, ANPAC PROCEEDED TO DISCUSS PROGRAM MONITORING AND ACCOUNTABILITY CONCERNS. THE DISCUSSION CENTERED ON FEASIBILITY OF THE LARGER CARP AND THE EXTENT TO WHICH THE MISSION MIGHT BE HELD ACCOUNTABLE FOR THE LONG RUN SUCCESS AND/OR FAILURE OF THE TOTAL 30P AGRARIAN REFORM EFFORT. BUTLER MADE IT CLEAR THAT A.I.D. IS NOT IN A POSITION TO ASSURE LONG TERM SUCCESS AND THE STATUTORILY REQUIRED DETERMINATION THAT AN EFFECTIVE PROGRAM WAS INITIATED AS OF 8/31/88 DID NOT INVOLVE A PREDICTION OF ULTIMATE ECONOMIC OUTCOMES. WE ARE ACCOUNTABLE, HOWEVER, FOR OUR EFFORTS UNDER THE RELATIVELY SHORT TERM AND MODEST ARSP.

THE ANPAC CONCLUDED THE MISSION'S APPROACH OUTLINED IN THE PAAD, NAMELY SECTOR ASSISTANCE WITH QUANTIFIABLE PHYSICAL AND FINANCIAL PERFORMANCE INDICATORS, IS APPROPRIATE. HOWEVER, THEY ALSO RECOMMENDED THAT THE PAAD ELABORATE ON RISKS INVOLVED IN UNDERTAKING THE

PROGRAM AS WELL AS THE RATIONALE FOR PROCEEDING DESPITE THESE RISKS (I.E., MORE FULLY ANALYZE THE ECONOMIC DOWNSIDE RISKS AS WELL AS POLITICAL RISKS INVOLVED IN THE UNDERTAKING OF THE PROGRAM AND THE REASONS FOR GOING AHEAD WITH THE ARSP DESPITE THESE RISKS.)

WHILE REALIZING THAT WE SHOULD NOT BE DRAWN INTO THE LARGER CARP, THE ANPAC ALSO RECOMMENDS THAT AS PART OF ITS MONITORING FUNCTION, THE MISSION SHOULD BE AWARE OF THE GENERAL PROGRESS OF THE 30P PROGRAM (CARP) AS WELL AS THE SPECIFICS OF THE ARSP. ANF/DP/E HAS DISCUSSED METHODS FOR MONITORING THIS PROGRAM WITH BUTLER AND IS PREPARED TO ASSIST FURTHER DURING A MARCH TDY.

4. THE "TRAP DOOR" MECHANISM - THE ANPAC APPROVED THE MISSION'S INTENT TO CONSIDER A "TRAP DOOR" TO COVER TERMINATION OR MAJOR REVISION OF THE ARSP. HOWEVER, THE ANPAC DECIDED THAT THE OPTIONS FOR PROGRAM CHANGES OR FUND REUSE OUTLINED IN THE PAAD COULD NOT BE APPROVED AT THIS TIME BECAUSE OF POTENTIALLY SERIOUS POLITICAL RAMIFICATIONS AND, AS DESCRIBED, NOT ALL THE OPTIONS CLEARLY FALL WITHIN THE STATUTORY REQUIREMENTS.

THEREFORE, THE MISSION IS REQUESTED TO NOTIFY AID/W IF/WHEN THE TRAP DOOR IS CONSIDERED SO THAT WE MAY BE BROUGHT INTO THE DECISION PROCESS ON APPROPRIATE OPTIONS ONCE THE DECISION TO REVISE OR HALT ASSISTANCE HAS BEEN MADE. ANPAC ALSO CONFIRMED THAT MINOR REVISIONS IN THE PROJECT MAY FOLLOW STANDARD PROJECT AMENDMENT PROCESS WITHOUT RESORTING TO THE "TRAP DOOR".

5. OTHER ISSUES/CONCERNS THE MISSION IS REQUESTED TO ADDRESS THE FOLLOWING WHEN FINALIZING THE PAAD.

5A. THE PAAD SHOULD REFLECT AN APPROPRIATE CHANGE IN THE RELEVANT STATUTORY CHECKLIST ITEM TO CLARIFY THAT THE MISSION HAS PROPOSED A SECTOR ASSISTANCE GRANT, NOT A CASH TRANSFER AS STATED.

5B. THE PAAD SHOULD CLARIFY THAT IN ADDITION TO PHYSICAL INDICATORS AND FINANCIAL REPORTING, EVALUATION OF PROGRAM SHOULD INCLUDE ASSESSMENT OF QUALITATIVE INDICATORS OF CARP PROGRESS.

5C. THE PAAD SHOULD CLARIFY THE DISTINCTION BETWEEN PRIMARY AND SECONDARY AGRARIAN REFORM BENEFICIARIES. THE BUREAU UNDERSTOOD THAT PRIMARY BENEFICIARIES (MAJORITY SMALL FARMERS) WOULD CONSIST OF THOSE WHO RECEIVED EMANCIPATION PATENTS. SECONDARY BENEFICIARIES MIGHT INCLUDE ANY OTHER INDIVIDUALS WHO BENEFIT AS A RESULT OF INTERVENTIONS FUNDED BY THE CARP.

5D. THE BUREAU ENVIRONMENTAL COORDINATOR, AWE/PD/ENV, CONCURRED IN THE CATEGORICAL EXCLUSION AS PROVIDED IN ANNEX D, INITIAL ENVIRONMENTAL EXAMINATION. HOWEVER, THE MISSION IS REMINDED THAT, IN FUTURE, ALL SUCH RECOMMENDATIONS MUST BE REVIEWED BY THE BUREAU ENVIRONMENTAL COORDINATOR. THIS AUTHORITY CAN NOT BE DELEGATED TO THE FIELD.

ALSO, THE ANPAC RECOMMENDED THAT THE MISSION SHOULD INCLUDE THE MISSION ENVIRONMENTAL OFFICER AS PART OF THE PROGRAM IMPLEMENTATION COMMITTEE IN ORDER TO ASSESS THE POSSIBLE NEEDS FOR ENVIRONMENTAL REVIEWS AND TO ASSIST THE DEAR IN CONDUCTING THEM. ARMACOST

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