PD-AAX-822

U N C L A S S I F I E D

AGENCY FOR INTERNATIONAL DEVELOPMENT

Washington, D. C. 20523

PROJECT PAPER

PHILIPPINES: Privatization Project
(492-0428)

May 8, 1988

U N C L A S S I F I E D

AGENCY FOR INTERNATIONAL DEVELOPMENT

PROJECT DATA SHEET

1. TRANSACTION CODE: A (A = Add, C = Change, D = Delete) — Amendment Number: ____

DOCUMENT CODE: 3

2. COUNTRY/ENTITY: Philippines

3. PROJECT NUMBER: 492-0428

4. BUREAU/OFFICE: ANE 04

5. PROJECT TITLE (maximum 40 characters): Privatization

6. PROJECT ASSISTANCE COMPLETION DATE (PACD): MM 12 DD 31 YY 92

7. ESTIMATED DATE OF OBLIGATION (Under 'B.' below, enter 1, 2, 3, or 4)

A. Initial FY 88 B. Quarter 3 C. Final FY 90

8. COSTS ($000 OR EQUIVALENT $1 =)

A. FUNDING SOURCE	FIRST FY 88			LIFE OF PROJECT		
	B. FX	C. L/C	D. Total	E. FX	F. L/C	G. Total
AID Appropriated Total	230	2,770	3,000	3,719	1,281	5,000
(Grant)	(230)	(2,770)	(3,000)	(3,719)	(1,281)	(5,000)
(Loan)	( )	( )	( )	( )	( )	( )
Other U.S. 1.						
Other U.S. 2.						
Host Country		1,560			4,780	4,780
Other Donor(s)						
TOTALS		4,330		3,719	6,061	9,780

9. SCHEDULE OF AID FUNDING ($000)

A. APPROPRIATION	B. PRIMARY PURPOSE CODE	C. PRIMARY TECH. CODE 1. Grant	C. PRIMARY TECH. CODE 2. Loan	D. OBLIGATIONS TO DATE 1. Grant	D. OBLIGATIONS TO DATE 2. Loan	E. AMOUNT APPROVED THIS ACTION 1. Grant	E. AMOUNT APPROVED THIS ACTION 2. Loan	F. LIFE OF PROJECT 1. Grant	F. LIFE OF PROJECT 2. Loan
(1) SDA	710	840				2,000		3,000	
(2) ARDN	269	150				1,000		2,000	
(3)									
(4)									
TOTALS						3,000		5,000	

10. SECONDARY TECHNICAL CODES (maximum 6 codes of 3 positions each)

11. SECONDARY PURPOSE CODE

12. SPECIAL CONCERNS CODES (maximum 7 codes of 4 positions each)

A. Code

B. Amount

13. PROJECT PURPOSE (maximum 480 characters)

To reinforce the GOP's privatization policy by supporting the GOP's divestiture of selected government owned and controlled corporations (GOCCs) and acquired assets, thereby improving the GOP's budget situation.

14. SCHEDULED EVALUATIONS

Interim MM YY | MM 10 YY 90 | Final MM 09 YY 92

15. SOURCE/ORIGIN OF GOODS AND SERVICES

[x] 000 [ ] 941 [ ] Local [ ] Other (Specify) ____

16. AMENDMENTS/NATURE OF CHANGE PROPOSED (This is page 1 of a ____ page PP Amendment.)

17. APPROVED BY

Signature: Frederick W. Schieck
Frederick W. Schieck

Title: Director, USAID/Philippines

Date Signed: MM 05 DD 08 YY 88

18. DATE DOCUMENT RECEIVED IN AID/W, OR FOR AID/W DOCUMENTS, DATE OF DISTRIBUTION

MM DD YY

AID 1330-4 (8-79)

PRIVATIZATION
492-0428

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ACRONYMS

ADB	-	Asian Development Bank
ADU	-	Asset Disposal Unit
AID	-	Agency for International Development
APT	-	Asset Privatization Trust
ARDN	-	Agriculture, Rural Development and Nutrition
CDSS	-	Country Development Strategy Statement
COP	-	Committee on Privatization
CP	-	Condition Precedent to Disbursement
DBM	-	Department of Budget and Management
DBP	-	Development Bank of the Philippines
DOF	-	Department of Finance
DTI	-	Department of Trade and Industry
GDP	-	Gross Domestic Product
GFI	-	Government Financial Institution
GNP	-	Gross National Product
GOCC	-	Government Owned and Controlled Corporation
GOP	-	Government of the Philippines
GSIS	-	Government Service Insurance System
GVA	-	Gross Value Added
ICOR	-	Incremental Capital-Output Ratio
IESC	-	International Executive Service Corps
IFC	-	International Finance Corporation
IQC	-	Indefinite Quantity Contract
NDC	-	National Development Company
NEDA	-	National Economic and Development Authority
OCD	-	Office of Capital Development
PIO/T	-	Project Implementation Order for Technical Services
PNB	-	Philippine National Bank
PNOC	-	Philippine National Oil Company
PRE	-	AID Private Enterprise Bureau
SDA	-	Selected Development Assistance
SSS	-	Social Security System
USAID	-	United States Agency for International Development

EXECUTIVE SUMMARY

The purpose of the Privatization Project is to reinforce the privatization policy of the Government of the Philippines (GOP) by supporting the GOP's divestiture of selected government owned and controlled corporations (GOCCs) and acquired assets, thereby improving the GOP's budget situation. The project supports the GOP's economic development goal of increased employment and income.

Project funding will total an estimated $9.78 million. AID will provide $5 million of bilateral Development Assistance (DA) funding or 51% of total project cost. The GOP will contribute an estimated $4.78 million or 49% of total project cost.

AID will assist the GOP with implementation of its program to privatize selected state-owned corporations and acquired assets through the recently established Asset Privatization Trust (APT) and Asset Disposal Units (ADUs) of parent GOP Departments/Agencies of the government owned and controlled corporations (GOCCs). AID-financed inputs will include: short- and long-term technical assistance in the the disciplines of investment banking, legal accounting and specialized engineering ($3.042 million); training and seminars ($0.030 million); policy studies ($0.535 million); and limited quantities of equipment ($0.470 million). Allowances are also provided for evaluation/audit ($0.250) and inflation and contingency ($0.673 million).

The principal GOP implementing agency will be the Department of Finance. However, the bulk of the AID assistance will be provided to the Asset Privatization Trust and the parent GOP Departments/Agencies of the GOCCs to carry out the GOP's Privatization Program.

The project will procure technical assistance for project activities through a combination of host country and AID direct contracts.

PROJECT AUTHORIZATION

Name of Country: Philippines

Name of Project: Privatization

Number of Project: 492-0428

1. Pursuant to the Sections 103 and 106 of the Foreign Assistance Act of 1961, as amended (the "FAA"), I hereby authorize the Privatization Project (the "Project") for the Republic of the Philippines (the "Cooperating Country") involving planned obligations of not to exceed $5,000,000 in grant funds over a five year period from the date of authorization, subject to the availability of funds in accordance with the A.I.D. OYB/allotment process, to help in financing foreign exchange and local currency costs for the Project. Of the authorized amount, $2,000,000 is authorized pursuant to Section 103 of the FAA and $3,000,000 is authorized pursuant to Section 106 of the FAA. The planned life of the Project is five years from the date of initial obligation.

2. The purpose of the Project is to reinforce the Government of the Philippines' (GOP) privatization policy by supporting the GOP's divestiture of selected government owned and controlled corporations (GOCC) and acquired assets thereby improving the GOP's budget situation.

3. The Project Agreement, which may be negotiated and executed by the officer(s) to whom such authority is delegated in accordance with A.I.D. regulations and Delegations of Authority, shall be subject to the following essential terms and covenants and major conditions, together with such other terms and conditions as A.I.D. may deem appropriate:

Commodities financed by A.I.D. under the Project shall have their source and origin in the Cooperating Country or in the United States, except as A.I.D. may otherwise agree in writing. Except for ocean shipping, the suppliers of commodities or services shall have the Cooperating Country or the United States as their place of nationality, except as A.I.D. may otherwise agree in writing. Ocean shipping financed by A.I.D. under the Project shall, except as A.I.D. may otherwise agree in writing, be financed only on flag vessels of the United States.

Signature: Frederick W. Schieck
Frederick W. Schieck
Director
USAID/Philippines

Date: May 8, 1988

Name	Initial	Date
ORAD:JRBrady	JRB	4-28-88
OCD:KEBrown	[illegible]	5/5/88
OPHN:WHJohnson	[illegible]	4-29-88
OFFPVC:BGeorge	[illegible]	4/29/88
OD/PE:PRDeuster	PRD	4/29/88
PRO:WTOliver	WTO	5/5/88
CO:BLEckersley	[illegible]	5/4/88
RLA:BMMiller		
OD:JSBlackton	[illegible]	5 May 88

I. THE PROBLEM CONTEXT

A. OVERVIEW

The purpose of the Privatization Project is to reinforce the privatization policy of the Government of the Philippines (GOP) by supporting the GOP's divestiture of selected government owned and controlled corporations (GOCCs) and acquired assets, thereby improving the GOP's budget situation. Project activities addressing this purpose support a major GOP thrust: to increase capital efficiency through the divestiture of non-performing assets and state-owned corporations. The GOP views this effort as important to increase the resources available for achieving the average annual growth of 6.8 percent for 1987-1992 projected by the Medium-Term Philippine Development Plan. The following sections provide background on investment efficiency and financing problems, the recent macroeconomic outlook and the GOP strategy.

1. Investment Efficiency and Financing

Past GOP policies and investment practices have left the country with major investment and debt challenges, including:

-- Net debt servicing, expected to average 40 percent of GOP expenditures, 30 percent of merchandise and service export earnings and 5 percent of Gross National Product (GNP) during 1987-1992.

-- Reduced GOP capability to provide basic services.

-- Reduced private sector capability to contract debt, and

-- Large numbers of public and private sector non-performing assets and ailing businesses.

These challenges have evolved from the cumulative effects of unsuccessful development strategies that reached crisis proportions in 1983. The 1983-1986 economic crisis ended the long period of debt-financed economic growth in the Philippines that began in the early 1970s. This growth effectively hid worsening structural imbalances in the economy due to two factors: an import substitution strategy that promoted inefficient, import-dependent and overly capital-intensive, urban-based industrial sector development; and government intervention in the goods and financial assets markets that created monopolistic structures and rent-seeking activities, largely benefiting the favored associates of former President and Mrs. Marcos.

By 1980 the country began to experience the financial crisis that reflected the non-viability of the major investments of the 1970s. Private and government financial institutions acquired private companies through foreclosure. Government corporations incurred increasing liabilities and deficits that in turn significantly increased the GOP's liabilities and deficit.

The 1983 economic crisis exacerbated these problems. Many private corporations went bankrupt. The GOP assumed a number of these companies under GOP debt guarantees, thus increasing the GOP's liabilities. The peso's significant depreciation further increased the peso burden of GOP foreign exchange-denominated loan liabilities. By the end of 1987, the country's external debt totaled $28.3 billion.

2. Recent Macroeconomic Trends and Forecasts

The economy began to recover by the third quarter of 1986. Real GNP increased by 2 percent during 1986, while gross domestic product (GDP) increased by 1.5 percent. The growth momentum continued through 1987: real GNP was 5.7 percent greater than the 1986 GNP level, while the real GDP rose by 5.1 percent. Significantly, investments, as measured by real gross domestic capital formation, continued to decline in 1986, but posted a real growth rate of almost 20 percent in 1987. In the area of production, agriculture showed major growth in 1986; during 1987, however, poor weather conditions affected growth. On the other hand, the industrial and service sectors became more robust in 1987.

Available projections of Philippine economic growth vary, but all indicate the vulnerability of future growth to investment efficiency and the availability of investment financing.

The 1987-1992 Medium-Term Philippine Development Plan targets average annual real GNP and real GDP growth rates at 6.8 percent and 6.9 percent, respectively. These target growth rates, which correspond to an implied incremental capital-output ratio (ICOR) of 2.8, appear optimistic.

In commenting on the above targets, Montes (1986) points out that the average ICOR for the 1962-1982 period was 4.0. Using a simple model with the savings rate approximating historical levels and with various external debt servicing scenarios, Montes demonstrates that at this historical ICOR level, real GDP growth would average 4.4 percent per year during the plan period with no debt rescheduling, and 5.6 percent per year with zero payments on rescheduled principal.

Unofficial forecasts prepared by Mariano and Constantino (1987) from the National Economic and Development Authority (NEDA) - Philippine Institute for Development Studies Annual Econometric Model, which is supply driven and therefore more reflective of structural adjustment processes, estimate average real growth for both GNP and GDP at 5.1 percent per year for the period 1987-1991. (Within this model, ICOR has a forecast average of 3.5 for the same period.)

3. GOP Development Strategy

The 1987-1992 Medium-Term Development Plan emphasizes greater private sector investment to increase income and employment. With the consistent implementation of its structural adjustment program and policy reforms, the GOP expects the economy to sustain respectable growth. A key objective of the structural adjustment program is to reduce the budget deficit burden and increase private sector efficiency through the privatization of public corporations and the divestiture of private assets acquired through foreclosure by government financial institutions (GFIs). The project will directly support this objective by providing assistance to the GOP to implement its Privatization Program, initiated in December 1986.

B. PRIVATIZATION

1. Public Enterprises and Acquired/Sequestered Assets

The GOP currently faces the divestiture of a large number of public enterprises, which were a result of the proliferation of public enterprises in the 1970s and the poor financial performance of many public enterprises and private companies, whose debt the GOP has financed through government financial institutions and guarantees. Included in the GOP divestiture plans are 390 acquired assets of government financial institutions, approximately 260 sequestered companies and 121 of the 296 GOCCs.

2. Impact on the Economy

Public corporations have generally performed poorly and have placed an increasingly heavy financial burden on the GOP. They are present in almost all sectors of the economy, with the largest number in the service sector, followed by the manufacturing and finance sectors. Their contribution to domestic production (current price gross value added [GVA]) grew by 18.6 percent per annum during the 1975-1984 period, compared with GNP growth of 20.9 percent. The government corporate sector's share of GDP increased from 1.9 percent in 1975 to 3.3 percent in 1983, dropping to 1.9 percent in 1984.

Government corporate involvement in the public utilities and financial sectors has been most prominent. Public enterprises accounted for 55.5 percent of the GVA of electricity, gas and water and 33.3 percent of the financial sector's GVA from 1975-1984.

In general, public corporations have contributed little to employment, less than 1.0 percent annually during the 1976-1984 period. Their contribution to investment has been more significant. The capital expenditures of 58 corporations represented 23.5 percent of gross domestic capital formation and 6.5 percent of GNP during the 1975-1984 period. However, most investment was financed from external sources.

Nor have public corporations used scarce resources efficiently. Both capital and total factor productivity have declined over time. Total factor productivity of government corporations was only 13 percent of the level of the economy as a whole in 1981. In addition, the average 1975-1984 rate of return (before transfer payments) on the assets of audited corporations was only 4.34 percent; the rate of return on equity, 2.92 percent. These rates of return were at least 10 percentage points below the average cost of funds during the 1975-1984 period.

The public corporations have also significantly increased the GOP deficit. From 1980-1986 the combined deficit of the 15 largest non-financial public corporations averaged 3.1 percent of GNP. Total deficits of all public corporations during the same period could have easily exceeded 5.0 percent of GNP. To finance their deficits, public corporations have relied heavily on foreign borrowings and national government support.

Finally, public corporations have increasingly drained GOP budget resources. Between 1975 and 1980, national government assistance to public corporations averaged 11 percent of total budget disbursements. In 1981, the budget share for public corporations reached 18 percent, exceeding for the first time the budget share for infrastructure. GOP transfers to public enterprises in 1986 amounted to about $1.4 billion, or 25 percent of total budget expenditures. In 1987, the GOP was able to reduce these transfers to $715 million or 12 percent of total expenditures. For 1988, the GOP expects to further reduce transfers to $500 million or 7 percent of planned expenditures. With the reduction in fund transfers to public corporations in recent years, the greater part of the present GOP budgetary burden consists not of fresh money transfers but of servicing debt associated with GOP-assumed liabilities from automatically guaranteed government corporate debt and from private sector debt with government corporate guarantees.

3. <u>GOP Public Corporate Sector Rationalization and Divestiture</u>

The Aquino administration has initiated a five-year program to rationalize the public corporate sector in order to reduce its debilitating effects on the economy. The program includes six alternative actions relative to public corporations: retention by the government; consolidation or merger with other corporations; regularization as government agencies; conversion to private corporations; dissolution or liquidation; and total or partial divestiture.

Steps taken to date to carry out the privatization program include the following:

-- Financial restructuring and rehabilitation of the major GFIs, i.e., the Development Bank of the Philippines (DBP) and the Philippine National Bank (PNB).

-- Creation of the Committee on Privatization (COP) and the Asset Privatization Trust (APT). The COP is a Cabinet-level committee tasked with establishing guidelines for privatization, identifying for the President those non-performing assets to be privatized, determining which assets will be transferred to the APT, and approving the sale and disposition of assets.

The APT will serve as a disposal unit, primarily for the acquired assets of PNB and DBP (with 390 accounts representing an aggregate loan exposure of more than $8 billion, and with an estimated market value of $1 billion), and for public corporations and/or their subsidiaries which can not undertake their own privatization efforts. Jurisdiction over the 260 sequestered private companies remains to be settled.

-- COP issuance of privatization guidelines for GOCCs and the non-performing assets (see Annex N).

-- COP review and recommendation to President Aquino of 121 public corporations to be privatized (see Annex O).

-- Presidential approval of 103 of the 121 GOCCs for immediate privatization (see Annex O).

-- Completion of privatization plans for the 86 firms approved for privatization, with COP approval of 56 individual plans.

-- Initiation of the disposal process. In 1987, the APT realized $217 million from net sales of non-performing assets. In addition, the GOP sold two GOCCs and shares of stock in some National Development Company (NDC) - managed GOCCs.

-- Inclusion of privatization under the GOP's Debt-Equity Conversion Program. (Recently, however, the APT Chief Executive Trustee requested either an improvement in the processing of applications or the revocation of this action, stating that the debt-equity conversion scheme is delaying the divestiture process.)

On the whole, the GOP appears to be making significant progress in its efforts to rationalize the government corporate sector. The present administration's commitment to enhance private sector participation in development efforts facilitates this task. The impetus for privatization has gained increased attention recently, not only because of the pressing need to reduce the budgetary burden, but because of the GOP's plan to use the privatization proceeds to finance the Comprehensive Agrarian Reform Program.

Despite the progress shown to date, various factors could constrain the completion of the privatization effort within the five-year time frame: the sheer size of the task, the range of requirements for financial and technical analyses, legal encumbrances, marketing requirements, ensuring consistency with GOP general policy initiatives (e.g., the possible substitution of private for public monopolies), and vacillation within some sectors of the GOP.

C. RELATIONSHIP TO CDSS AND AID POLICY

1. Relationship to CDSS

The project directly supports the FY 1988 Country Development Strategy Statement (CDSS) Supplement objective to support GOP policy reforms that permit and encourage the private sector to play its primary role in development -- namely, those directed at the privatization of acquired assets and selected public corporations.

2. Relationship to AID Policy

This project is in full compliance with the Agency policy guidance on privatization contained in the March 1985 Policy Paper on Private Enterprise Development, and is in accordance with the AID privatization objectives stated in AID Policy Determination No. 14 issued in June 1986. The project addresses the Agency's directive to engage the Philippine Government in discussions on privatization.

USAID expects to be involved in more than two privatization activities annually, primarily utilizing complete divestiture. However, some activities will involve the partial divestiture of assets.

In addition, USAID is engaged in one other privatization effort and a liquidation activity, outside the scope of this project, with the Department of Agriculture. The first involves the divestiture of National Food Authority operations that are peripheral to its primary function; the second, the liquidation of the Farm Systems Development Corporation parastatal.

The project also addresses two of AID's four pillars -- policy dialogue and private sector support.

Policy Dialogue. The project supports the policy dialogue agenda detailed in USAID's FY 1988 CDSS Supplement to (a) encourage and support the GOP in implementing, maintaining and managing policy actions for sustained near-term recovery and long-term development; and (b) reduce the government's role in the private sector and promote deregulation through the privatization of acquired assets and selected public corporations. The project will also provide a sharper focus to our policy dialogue with the GOP on fiscal responsibility.

Private Sector Support. This project directly supports the development and growth of the private sector. Its efforts are directed to increasing the productivity of the private sector and increasing the flow of private sector investment.

D. OTHER DONOR INVOLVEMENT

The International Bank for Reconstruction and Development (the World Bank), the Asian Development Bank (ADB) and the International Finance Corporation (IFC) have all been directly involved in promoting privatization in the Philippines. The World Bank has been vital in promoting privatization, conditioning its $300 million Economic Recovery Loan on reforms in government financial institutions, including the establishment of a mechanism for the privatization of acquired assets and the restructuring of DBP and PNB. In addition, the GOP and the World Bank have reached agreement on a $150 million Public Corporate Sector Rationalization Loan from the World Bank to support the privatization of selected government corporations and increase the operating efficiency of the remaining public corporations. The World Bank envisions a program loan to be released in several tranches, conditioned against progress in mutually agreed-upon benchmarks in the public corporate sector rationalization process.

The Japanese Export-Import Bank has provided a $300 million loan and the Overseas Economic Cooperation Fund has provided a $240 million loan in connection with the World Bank's Economic Recovery Loan. Loan disbursements are made following the World Bank's Economic Recovery Loan conditions.

ADB's involvement includes grant technical assistance for privatization-related studies. The ADB is financing a study, valued at $350,000, to determine the privatization strategy for Philippine Airlines. The ADB is also providing grant funding for advisory services and equipment for the Department of Finance's Government Corporate Affairs Office and the Government Corporate Monitoring and Coordinating Committee. The purpose of this assistance is to enable these entities to better monitor and evaluate the performance of the remaining government corporations.

IFC expects to increase its current assistance to buyers of privatized assets and enterprises. IFC has already substantially assisted with four disposals, assisting both buyer and seller. In addition to providing equity contributions, loans or guarantees, IFC's participation in the privatization efforts helps the process gain credibility and boosts potential investors' confidence.

II. PROJECT DESCRIPTION

A. PROJECT OBJECTIVE

The objective of the project is to contribute to the national economic development goal of increasing employment and income.

The Government of the Philippines recognizes the essential role of the private sector in the pursuit of economic development. This role includes investing in potentially productive government-held acquired assets and public corporations. The government also recognizes the necessity of lessening the drain on the national budget resulting from the maintenance and operation of such assets and corporations and the need for improving the efficient use of these assets.

Accordingly, the purpose of the project is to reinforce the GOP's privatization policy by supporting the GOP's divestiture of selected government owned and controlled corporations and acquired assets, thereby improving the GOP's budget situation.

The project's assistance to the government with the divestiture of private acquired assets and state-owned corporations should increase the firms' productivity and reduce related national budgetary expenditures.

The purpose of the project will have been achieved when:

-- The privatization of selected state-owned enterprises and acquired assets has been accomplished, and

-- An enhancement in the productivity of underutilized assets and an increase in productive capacity occur, with the placing back into service of idle and non-performing assets.

These conditions are expected to prevail by the end of the project.

B. PROJECT ELEMENTS

The Philippines' Privatization Program involves more than 350 acquired assets of government financial institutions, approximately 260 sequestered companies and more than 100 government owned and controlled corporations. The total book value of the GFI-acquired assets alone approximates $8 billion. In an attempt to deal with the enormous task of privatization rationally, the Asset Privatization Trust will initially concentrate its efforts on privatizing the acquired assets of the GFIs. These include PNB, DBP and possibly the Philippine Export and Foreign Loan Guarantee Corporation.

Coordinated through the Undersecretary of Finance, who is concurrently the Chairman of the COP's Technical Committee, the privatization of GOCCs will be undertaken by the parent GOP Departments/Agencies to the extent they are capable and willing to do so. Only in the event of a GOP Department/Agency refusal to comply with a GOP directive to privatize will the APT be called in.

The GOP's budget resources to execute its Privatization Program are meager. The World Bank has estimated that the APT alone could need as much as $10 million per year to effectively privatize the acquired assets under its conservation. While the APT and some GOP Departments/Agencies have very capable (but limited) staff, they are also underfunded. Other GOP Departments/Agencies have neither the staff nor the resources to acquire the services required to execute their respective privatization programs.

The sweeping objectives of the GOP's Privatization Program, sophistication of the market and the structural layout of the sectors to be privatized require the application of diverse and specialized disciplines. Given the financial and human resource constraints of the APT and the GOP Departments/Agencies, technical assistance in the preparation of information, appraisal of assets, design of sectoral strategic studies and execution of privatization/divestiture programs is required. Suppliers of these services include auditors, specialized engineering firms, management consultants, lawyers, and investment banks.

Key GOP officials, including the Chief Executive Trustee of the APT and the Undersecretary of Finance, have recognized this need and have stated their desire to obtain AID assistance. Therefore, this project will provide technical assistance and commodities to the APT, the Asset Disposal Units (ADUs) of parent GOP Departments/Agencies and the Secretariat of the Committee on Privatization, as described below. In addition, the project will finance selected policy studies on privatization issues.

1. <u>Asset Privatization Trust</u>

a. <u>Technical Assistance</u>

AID will finance short- and long-term expatriate and local specialized services and advisory consultancies in the following areas:

(1) <u>Information and Data Management</u>

The APT has inherited voluminous files on more than 300 companies, including the type of physical assets, technical specifications, company financial and operating records, employment data, and legal documents. A sound filing and retrieval system is needed for the APT to function more effectively. Technical assistance will be provided to the APT to catalogue, audit and store files and data. This will include training APT personnel in the use of computer hardware and relevant software applications and supplying short-term assistance for the one-time cataloging and audit turnover exercise.

(2) Valuation and Marketing Services

Advisory assistance will be provided to the APT on valuation and marketing, primarily for those entities requiring some level of foreign investment because of the large financial value of the assets involved, technology requirements, foreign interest, etc. Smaller enterprises may also be included. Assistance to be provided will include:

-- Valuation.

-- Prospectus preparation.

-- Identification of prospective investors.

-- Information dissemination.

-- Offering of securities or public share placement.

-- Investment proposal evaluation.

-- Bid development or negotiations with prospective investors.

-- Fairness statement or opinion.

This assistance will be provided through "umbrella" contracting arrangements with local firms specializing in the major substantive areas, or with an expatriate investment banking firm with expatriate and/or local subcontractors, as appropriate. Thus, a grouping of firms (i.e., agribusiness, services, industrial) will be available to provide services on an as-needed basis. Project assistance will utilize institutional rather than personal services to provide greater accountability.

(3) Operations Studies

AID will also finance expatriate and/or local consulting services for studies to guide the APT in decisions ranging from rehabilitation versus liquidation and spin-offs/mergers to best-use studies and corporate strategy development.

b. Commodities

AID assistance will be provided for the procurement of computer hardware and related office equipment to support the information and data management effort described above for the APT.

2. Government Owned and Controlled Corporations (GOCCs)

a. Technical Assistance

AID will assist the parent Departments/Agencies of GOCCs by providing short- and long-term expatriate and local specialized services and advisory consultancies for GOCC Asset Disposal Units and for the parent entities' execution of the Privatization Program. Plans include initial assistance to the following GOP entities:

-- Philippine National Oil Company (PNOC).

-- Department of Trade and Industry - National Development Company (DTI-NDC).

-- Presidential Management Staff.

-- Department of Agriculture.

-- Department of Tourism.

-- Department of Finance (DOF), and

-- Department of Transportation and Communications.

While NEDA is the GOP entity under which a number of the GOCCs fall, the entities actually responsible for disposition include the Development Bank of the Philippines, Philippine National Bank, Government Service Insurance System (GSIS), Social Security System (SSS) and the Asset Privatization Trust.

The project will also support the privatization of the management and operation of government corporations that provide public services. Services provided will be similar to those listed for APT and will include management planning, investment banking, accounting/auditing, legal, and specialized engineering services. In addition, where new ADUs are to be formed, AID will assist the parent Department/Agency to establish the ADU.

Activities financed under this project element will include but not necessarily be limited to the following:

-- Establishment of ADUs, including the development of guidelines for their operation and administration, scope of activities, and relationship to the COP, APT and DOF.

-- Refinement of privatization objectives.

-- Identification of impediments to privatization and development of privatization strategies, including project specific studies as necessary (e.g., divestiture versus liquidation).

-- Assistance with the turnover of accounting information files by the GOCCs to the ADU, including legal documents, financial and physical assets, employment data, and third-party creditor information.

-- Recommendation of appropriate information and data management systems, including both hardware and software.

-- Assessment of the demand for investment.

-- The conduct of financial analyses and/or capital restructuring.

-- Valuation.

-- Marketing assistance, including prospectus development, information dissemination, identification of prospective investors, offering of securities, investment proposal evaluation, bid development or negotiations or placement of public share offerings, and

-- Presentation of a formal opinion on the fairness of the terms of the sale.

In instances involving the privatization of sizeable assets, technology transfer issues, when foreign investment may be required, or when privatization of the management and operation of government corporations that perform public services is planned, an expatriate investment banking firm, with expatriate and/or local subcontractors as appropriate, will be procured to handle an appropriate grouping of involved firms (e.g., agribusiness, shipping, services). For less complex transactions, and as conditions warrant, either an expatriate or local firm or some mix of the two will be procured to provide the necessary services.

It is anticipated that a mix of expatriate and local consulting services will be required for the establishment of ADUs. Each ADU will be composed of a staff with financial analysis and sectoral specific expertise, preferably with no association with the GOCC, to prevent conflict-of-interest situations. The ADU staff members will come from either the public or private sector and will be managed by an individual reporting directly to the individual with ultimate decision making authority (i.e., Secretary or Undersecretary of a Department or an Agency head).

The major task of the ADU will be to design and implement an Action Plan and manage the overall privatization process. Each ADU will define its objectives, determine the extent to which financial restructuring measures are necessary, and develop and execute a marketing strategy.

In those instances where it does not make sense to establish an ADU, consulting services will be procured to develop and execute an appropriate privatization program.

b. Commodities

AID assistance will be provided for the procurement of computer hardware and related office equipment to support the information and data management requirements identified by the technical assistance staff for selected ADUs.

3. Committee on Privatization Secretariat

a. Training/Seminars

AID will finance in-country workshops and attendance at seminars abroad for selected officials directly involved in the activities of the COP. An example is the annual Harvard University Workshop on Public Enterprises Policy and Management in Developing Countries, which incorporates the topic of privatization.

b. Commodities

AID assistance will be provided for the procurement of computer hardware to support the COP's information and data management systems.

III. FINANCIAL PLAN

A. COST ESTIMATE AND FINANCIAL PLAN

The total cost of the project is estimated at $9.78 million. Project funds will be provided by AID and the participating GOP Departments/Agencies.

The estimated life of project costs by source of funds are summarized in Table III-A, Summary Cost Estimates and Financial Plan (All Years). Summary tables of Expenditure Projections by Fiscal Year and Expenditure Projections for AID Project Funds by Element and Fiscal Year are provided as Tables III-B and III-C, respectively. Detailed cost assumptions for Table III-A are provided in Annex F.

1. **USAID/Manila**

USAID/Manila will provide $5.0 million in Development Assistance grant funds from the 103-Agriculture, Rural Development and Nutrition (ARDN) account and the 106-Selected Development Assistance (SDA) account. Planned obligations are shown below.

PLANNED YEARLY OBLIGATIONS
($000)

FUNCTIONAL ACCOUNT	FY 88	FY 89	FY 90	TOTAL
SDA	$2,000	$1,000	$ 0	$3,000
ARDN	1,000	75	925	2,000
TOTALS	$3,000	$1,075	$ 925	$5,000

2. GOP

The GOP's contribution to the project will primarily be in the form of administrative costs to support the Committee on Privatization, Asset Privatization Trust, GOCC Asset Disposal Units; administrative and logistical support to expatriate and local contractors; and travel support costs for seminars and training activities. The total GOP contribution to the project is estimated at $4.78 million.

TABLE III-A

SUMMARY COST ESTIMATES AND FINANCIAL PLAN (ALL YEARS)
(US $000)

ELEMENT	AID GRANT FX	AID GRANT LC	AID TOTAL	GOP LC	AID/GOP TOTAL
1. Technical Assistance (TA):					
a. Local Short-Term TA	$ 0	$ 260	$ 260	$ 0	$ 260
b. Local Long-Term TA	0	240	240	0	240
c. Expatriate Short-Term TA	723	0	723	0	723
d. Expatriate Long-Term TA	1,742	77	1,819	0	1,819
Sub-Totals, TA	$2,465	$ 577	$3,042	$ 0	$3,042
2. Equipment, Facilities and Staff for Privatization Units and COP Secretariat	300	170	470	4,000	4,470
3. Training/Seminars	20	10	30	0	30
4. Policy/Operational Studies	270	265	535	0	535
5. Evaluation and Audit*	200	50	250	0	250
Sub-Totals	$3,255	$1,072	$4,327	$4,000	$8,327
Inflation	163	105	268	392	660
Contingency	301	104	405	388	793
TOTALS	$3,719	$1,281	$5,000	$4,780	$9,780

* Includes $50,000 as provision for non-federal auditing services of government owned corporations.

TABLE III-B

PROJECTIONS OF EXPENDITURES BY FISCAL YEAR

(US $000)

FISCAL YEAR	AID GRANT	GOP	TOTAL
1988	$ 200	$1,560	$1,760
1989	2,117	1,220	3,337
1990	1,130	740	1,870
1991	525	240	765
1992	355	240	595
Inflation	268	392	660
Contingencies	405	388	793
TOTALS	$5,000	$4,780	$9,780

TABLE III-C

PROJECTION OF EXPENDITURES OF AID GRANT FUNDS BY FISCAL YEAR AND BY PROJECT ELEMENT

(US $000)

ELEMENT	FISCAL YEARS 88	89	90	91	92	TOTAL
1. Technical Assistance:						
a. Local Short-Term TA	$ 0	$ 130	$ 60	$ 40	$ 30	$ 260
b. Local Long-Term TA	0	150	50	20	20	240
c. Expatriate Short-Term TA	0	408	130	115	70	723
d. Expatriate Long-Term TA	0	934	505	295	85	1,819
Sub-Totals, TA	$ 0	$1,622	$ 745	$ 470	$ 205	$3,042
2. Equipment, Facilities and Staff for Privatization Units and COP Secretariat	200	120	150	0	0	470
3. Training/Seminars	0	25	5	0	0	30
4. Policy/Operational Studies	0	350	130	55	0	535
5. Evaluation and Audit	0	0	100	0	150	250
Sub-Totals	$200	$2,117	$1,130	$ 525	$ 355	$4,327
Inflation	10	137	70	30	21	268
Contingency	17	200	106	49	33	405
TOTALS	$227	$2,454	$1,306	$ 604	$ 409	$5,000

B. METHODS OF USAID FINANCING

The methods of USAID disbursement to be used may be classified as follows:

1. Direct Payments: USAID may make direct payments to suppliers or contractors for goods and/or services delivered.

2. Reimbursement: Under the reimbursement method of financing, the GOP implementing agency or contractor disburses its own funds and is then reimbursed by USAID upon submission of appropriate documentation.

3. Advance/Liquidation: The advance/liquidation method of financing will be used when appropriate. Liquidation will be based on actual costs. This method is designed to ensure that the entity receiving the advance will have adequate cash flow to carry out activities. The maximum cash advance that USAID can give is for a 90-day cash requirement, and is subject to the Controller's approval. The request must show the monthly breakdown by line item as approved in the Implementation Plan or Project Implementation Letter (PIL). The liquidation report must be treated as a separate report from the Request for Cash Advance. Liquidation of a previous cash advance is not necessary before USAID can grant an advance for the following quarter. However, USAID will not provide a third advance until the next-to-last cash advance has been liquidated.

C. METHODS OF IMPLEMENTATION AND FINANCING OF USAID FUNDS

Input	Implementation Method	Financing Method	Amount ($000)
1) Technical assistance	AID direct contract Host country contract	Direct payment Direct payment/ reimbursement	$3,042
2) Policy studies	AID direct contract Host country contract	Direct payment Direct payment/ reimbursement; Advance/ liquidation	535
3) Training/Seminars	AID direct contract Host country contract	Direct payment Direct payment/ reimbursement; Advance/ liquidation	30
4) Commodities	AID direct contract-PSA AID direct procurement Host country procurement	Direct payment Direct payment Direct payment/ reimbursement; Advance/ liquidation	470

Input	Implementation Method	Financing Method	Amount ($000)
5) Evaluation/Audit	AID direct contract	Direct payment	250
6) Inflation)	(Depending on inputs shown above)		268
7) Contingency)			405
		TOTAL USAID GRANT	$5,000

If the GOP implementing agency cannot advance the necessary funds for the USAID portion under the regular reimbursement method, USAID will be willing to consider the advance liquidation method, subject to USAID regulations.

D. FLOW OF FUNDS

1. GOP Implementing Agencies

Prior to the project's inclusion in the GOP's General Appropriations Act, the project will utilize the advance/liquidation method of financing.

Initially, the agencies' Work and Financial Plan is reviewed and approved by the Department of Budget and Management (DBM). Once approved, DBM will issue Advices of Allotment (AAs). The GOP agencies will submit copies of the AAs and an annual Implementation Plan to USAID. Upon USAID's approval of the Implementation Plan, the GOP may submit requests for cash advances to USAID or may finance an activity included in the Implementation Plan out of GOP funds and subsequently request reimbursement from USAID.

b. USAID (Local and Foreign Currency)

Once funds are obligated for the project, earmarking, commitment and disbursement will follow, depending on the project's pace of activity. Flow of USAID funds will be subject to standard rules and regulations, as indicated in Sections B and C above.

All foreign exchange costs under AID direct contracts or sub-project grants will be paid directly by USAID. At its option, USAID may make direct payments to suppliers/contractors under host country contracting or procurement actions, upon submission of the request to USAID by the implementing agencies.

IV. IMPLEMENTATION ARRANGEMENTS

A. IMPLEMENTING ENTITIES

AID and the National Economic and Development Authority will execute the Project Grant Agreement.

Primary oversight for the project will be the responsibility of the Department of Finance (DOF). The Secretary of Finance is the Chairman of the Committee on Privatization (COP), and an Undersecretary of Finance is Chairman of the COP's Technical Committee. Thus, the Office of the Undersecretary of Finance will coordinate USAID assistance to the APT and the Asset Disposal Units for the GOCCs.

B. CONTRACTING ARRANGEMENTS

Either AID direct or host country contracts will be used, the latter in accordance with procedures set forth in AID Handbook 11 and USAID Order No. 1401.2.1. The eligible source/origin countries for services procured with project funds are the U.S. and the Philippines.

1. Local Technical Services

Indefinite Quantity Contracts (IQCs) will be established by the COP Technical Committee for the local service needs of both the APT and the ADUs. At least four local firms will be qualified as IQCs for the privatization services presented in Section II-B of this Project Paper, and will be utilized on an as-needed basis.

Local firms to be qualified will include data management, management consulting and architectural and engineering firms. Either AID direct or host country contracting will be used for procuring these services.

USAID/Manila will approve the terms-of-reference, evaluation criteria, evaluation, selection of and contracts with each IQC for each category of services. The COP Technical Committee will issue work orders against the IQCs based on the submission by the APT or GOCC of a detailed scope-of-work and budget for services. USAID will also approve each scope-of-work/budget for services requested and the work order, including contractor's proposal, level-of-effort and cost, before its execution.

2. Short-Term Expatriate Services

Short-term expatriate services will be procured on an AID direct basis. Based on the nature of the services required, USAID will "buy into" an AID/Washington Private Enterprise (PRE) Bureau centrally-funded contract (Privatization, Financial Markets, or Private Enterprise Development Support) or will buy into an appropriate AID/Washington IQC and/or Science and Technology Bureau centrally-funded contract to procure the required services.

USAID will also utilize the services of the International Executive Service Corps (IESC) for specialized management or engineering services, using either a prime contract or subcontract basis, as appropriate (see Annex R).

3. Long-Term Expatriate Services

Expatriate services will be procured on an AID direct institutional contract basis for the long-term expatriate service needs of the APT and ADUs. These services will be utilized for privatization transactions involving a sectoral grouping of primarily large assets requiring solicitations of foreign investment and/or technology transfer requirements. These services will also be available for the smaller, less complex sectoral groupings of assets, if desired by the APT and ADUs. Services will be procured through a buy-in to the PRE Bureau-financed Center for Privatization contract or the three PRE Bureau centrally-funded contracts mentioned above. If the choice of firms made available by the PRE Bureau is not satisfactory to the APT or relevant ADU, AID Handbook 11 and USAID Order No. 1401.2.1 or Host Country Contracting procedures will be used to procure the requisite services. Wherever possible, IESC will be utilized on a prime or subcontractor basis to provide needed long-term services.

The services provided will include the full range of privatization requirements from valuation and prospectus preparation to issuance of the fairness statement or opinion and closing services. An investment banking firm will be the lead firm, with other specialized firms on both an expatriate and local basis participating as subcontractors.

C. TRAINING/SEMINARS

In-country workshops or participation in seminars abroad will be implemented by the Department of Finance pursuant to AID concurrence of annual training plans through Project Implementation Letters.

D. COMMODITY PROCUREMENT

The project will fund the acquisition of computer hardware and other related office equipment, and associated installation services, training, spare parts, etc. for the APT, selected ADUs and the COP Secretariat. Eligible source/origin countries for project-funded goods are the U.S. and the Philippines. A procurement services agent (PSA) will be utilized to procure commodities from the U.S., under an AID direct contract. However, consideration will be given to procuring U.S.-manufactured computer equipment from local firms, to ensure the availability of maintenance, spare parts and warranty service.

E. MONITORING

Monitoring progress under the project will be the responsibility of the Office of the Undersecretary of Finance. That office will submit quarterly progress reports to USAID, which will include the following:

1. The status of the privatization program including a listing of all companies approved for privatization; a listing of those already privatized with the price of the sale, method of privatization (e.g., auction) and entity responsible for privatization (e.g., APT); a listing of companies referred to the COP for approval of their sale, and whether referred to the COP by the APT or other entities; and a listing of those companies still with APT or other entities charged with their disposal and undergoing preparation for privatization.

2. A description of project-funded goods or services provided during the quarter, by beneficiary entity (e.g., APT), and showing a relationship to specific privatization actions.

3. A description of requirements for project assistance for the subsequent quarter.

4. A description of problems faced in the implementation of the privatization program.

F. USAID PROJECT MANAGEMENT

Project management will be the responsibility of the Office of Capital Development (OCD). The OCD Project Officer will spend approximately 30% of his/her time on the project. A Foreign Service National Project Assistant with investment banking expertise will spend approximately 75% of his/her time on the project. The OCD Project Officer will draw upon assistance from other members of the USAID Project Committee as needed, including the Office of the Program Economist, Controller, and the Regional Legal Advisor.

Progress reviews involving senior USAID management will be held quarterly. When necessary, these reviews will be followed by meetings involving senior USAID and implementing agency management, to discuss the status and rate of project implementation.

G. IMPLEMENTATION PLAN

The schedule of project implementation milestones follows.

FY 1988 Action	Date	Responsible Entity
-- Authorization of project	April 1988	USAID
-- Obligation of FY 88 funds	May 1988	USAID/NEDA
-- Submit initial list of GOCCs approved for privatization, identifying those to participate in the project	May 1988	DOF
-- Satisfaction of Initial Conditions Precedent (CPs)	July 1988	NEDA, DOF, DOJ
-- Submit 1988 Work Plans for GOCCs	Aug. 1988	DOF, GOCCs
-- Equipment procurement plans submitted for APT, selected GOCCs and COP	Aug. 1988	DOF, APT
-- Submit 1988 Training Plan	Aug. 1988	DOF
-- Equipment procured by Procurement Services Agent	Sept. 1988	USAID
-- Local TA IQCs executed	Sept. 1988	USAID/DOF
-- Expatriate TA PIO/Ts executed	Sept. 1988	DOF, USAID
FY 1989		
-- One-year Work Plans submitted by GOCCs for 1989	Dec. 1988	DOF, GOCCs
-- Annual Training Plan submitted	Dec. 1988	DOF
-- Technical assistance provided through work orders and AID direct contracts	Throughout 1989	DOF, APT, GOCCs, USAID
-- Equipment procurement plans submitted for selected GOCCs	Feb. 1989	DOF, GOCCs
-- Equipment for GOCCs procured by PSAs	March 1989	USAID
-- Equipment delivered, installed and training conducted at APT	March 1989	APT, USAID

FY 1989	Action	Date	Responsible Entity
--	Equipment delivered, installed and training conducted at GOCCs	Sept. 1989	GOCCs, USAID
FY 1990			
--	One-year Work Plans submitted by GOCCs for 1990	Dec. 1989	DOF, GOCCs
--	Annual Training Plan submitted	Dec. 1989	DOF
--	Technical assistance provided through work orders and AID direct contracts	Throughout FY 1990	GOCCs, USAID DOF, APT
FY 1991			
--	Project Mid-Term Evaluation and Audit	Oct. 1990	USAID/Consultants
--	One-year Work Plans submitted by GOCCs for 1991	Dec. 1990	DOF, GOCCs
--	Annual Training Plan submitted	Dec. 1990	DOF
--	Technical assistance provided through work orders and AID-direct contracts	Throughout FY 1991	DOF, APT, GOCCs, USAID
FY 1992			
--	One-year Work Plans submitted by GOCCs	Dec. 1991	DOF, GOCCs
--	Annual Training Plan submitted	Dec. 1991	DOF
--	Project close-out procedures initiated	March 1992	USAID, DOF, APT
--	Final Evaluation and Audit	Sept. 1992	USAID/Consultants
--	Technical assistance provided through work orders and AID-direct contracts	Throughout FY 1992	DOF, APT GOCCs, USAID
FY 1993			
--	Project Assistance Completion Date	Dec. 31,-1992	

V. EVALUATION PLAN AND AUDIT

The evaluation scheme, designed to help management identify constraints to implementation as well as to determine impact, calls for two assessments during the course of the project. One assessment is a process evaluation; the other, an impact evaluation.

A. PROCESS EVALUATION

The process evaluation is scheduled for October 1990. It will focus on performance of and implementation constraints in the privatization efforts. The evaluation will investigate whether the planned services and institutions are in place and performing as expected. It will look at the interactions among the institutions involved in implementation and assess the adequacy or inadequacy of the support provided. As a process evaluation, it will be designed to identify constraints to progress as a tool for improved project management. USAID staff and external consultants, including GOP personnel and private sector representatives, will conduct the evaluation.

B. IMPACT EVALUATION

The final evaluation will determine the direct and indirect effects of privatization on the intended beneficiaries. It will focus not only on determining the effects of the project but on providing management guidance to the agencies and institutions that will have responsibility for the project after the formal project end. Thus, the impact evaluation will also have a process component to determine constraints to implementation. External consultants as well as USAID staff will participate in the evaluation.

C. AUDIT

Primary responsibility for audits of AID-funded projects lies with the Regional Inspector General's Office (RIG). However, in the event that the RIG is unable to carry out the audit activities, an external auditing firm will be contracted for the purpose. Fifty thousand dollars ($50,000) is budgeted for non-federal audit services for the mid-point and final audit review. It is anticipated that these reviews will cover the financial and compliance aspects of the project.

VI. SUMMARIES OF PROJECT ANALYSES

A. ECONOMIC ANALYSIS

The economic analysis (Annex G) demonstrates the project's economic viability through analyzing the cost effectiveness and alternative economic rate of return for the 86 GOCCs with developed privatization plans. The project's approach, which uses a combination of expatriate and local technical services, is cost-effective. It allows the timely provision of assistance in the specialities required to enable the GOP to meet its self-imposed schedule for privatization.

The required minimum level of benefits needed to justify the project is easily achievable. The analysis considers the level of benefits in relation to possible improvements in gross value added (GVA) contributions, gross revenues, and income of the 86 GOCCs. Annual GVA contribution of the 86 GOCCs has to be only 0.89 percent higher than present in real terms over twenty years; 1985 gross revenues by 0.72 percent; or, 1985 net income (before transfer payments) by 3.3 percent.

The analysis also shows that the expected acceleration of the privatization process for the 86 GOCCs economically justifies the project's costs. If privatization results in a doubling of the 1984 return on assets (before transfer payments) from 2.82 percent to 5.64 percent, the required speeding-up effect to justify project costs is only 2.7 months.

B. FINANCIAL ANALYSIS

The financial analysis (Annex H) demonstrates that the GOP should be able to easily realize significant financial gains from the project. Proceeds from divestiture and/or budgetary savings are expected to far exceed the project's financial costs.

C. ADMINISTRATIVE ANALYSIS

The administrative analysis (Annex I) assesses the capability of the principal implementing agencies to implement the project. The Department of Finance (DOF) and the Asset Disposal Units will be the primary agents. The choice of DOF is examined and upheld, and the involvement of the Asset Disposal Units is justified both on the basis of institution-building and because of the critical role they play in the privatization process.

D. SOCIAL SOUNDNESS ANALYSIS

The project will work within a pre-existing GOP privatization policy framework. In addition, project support for the GOP's privatization program has a "macro" perspective with regard to the pool of assets to be privatized. As a result, the scope of certain project analyses, particularly those related to social aspects, is limited.

Two broad social issues are discussed in the analysis (Annex J): possible employment dislocation and the concern that the privatization process, given the Philippines' underdeveloped capital market, may not allow a wide distribution of ownership.

E. TECHNICAL ANALYSIS

The technical analysis (Annex K) presents the technical rationale for selecting the project's components and determining its approach. The GOP has stated its goal of reducing the burden of acquired assets and public corporations on the national budget and has demonstrated its political will to execute its privatization program to achieve this goal. In deliberating how AID could best be of assistance to the GOP in this area, a number of alternatives were considered, including the provision of:

-- Working capital credit to the private sector purchasers of the GOCCs and acquired assets.

-- Term credit facilities for the private sector purchase of GOCCs and acquired assets.

-- Technical assistance to the GOP in the execution of its Public Sector Corporate Rationalization Program, and

-- Technical assistance to the GOP in the execution of its Privatization Program.

Technical assistance to the GOP's Privatization Program was chosen as the most appropriate option. The elements of the Privatization project are based on the objectives of the GOP Privatization Program, the degree of sophistication of the Philippine market, and the structural layout of the sectors to be privatized.

VII. GRAY AMENDMENT ALERT

USAID has fully considered the potential involvement of small and/or economically and socially disadvantaged enterprises. It has determined that U.S. technical assistance required under the project will be provided through open competition, with special consideration given to firms submitting proposals which utilize the resources of small and/or disadvantaged firms. Some of the IQC firms required to update current feasibility studies may be Gray Amendment qualifying firms. In addition, for project evaluation and project-related commodity procurement, efforts will be made to award contracts to small and/or disadvantaged firms.

VIII. CONDITIONS PRECEDENT AND COVENANTS

The following are the conditions precedent and covenants AID intends to negotiate in the Project Agreement. Their substance is not expected to change during agreement negotiations.

A. CONDITIONS PRECEDENT TO FIRST DISBURSEMENT

Prior to the first disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made, the Grantee shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D.:

1. An opinion of counsel acceptable to A.I.D. that this Agreement has been duly authorized or ratified by, and executed on behalf of, the Grantee and that it constitutes a valid and legally binding obligation of the Grantee in accordance with its terms; and

2. A statement of the name of the person holding or acting in the office of the Grantee specified in Section 8.2, and of any additional representatives, together with a specimen signature of each person specified in such statement.

B. CONDITION PRECEDENT TO DISBURSEMENT FOR TECHNICAL ASSISTANCE FOR GOVERNMENT OWNED AND CONTROLLED CORPORATIONS (GOCCs)

Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for technical assistance for the privatization of a Government Owned and Controlled Corporation (GOCC), other than technical assistance in connection with the preparation of a work plan for the privatization of the GOCC, the Grantee shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., with respect to the GOCC for which such technical assistance will be provided, a one-year work plan for the GOCC, which shall include a specification of the technical assistance required by said GOCC to execute its privatization responsibilities under the work plan.

C. CONDITIONS PRECEDENT TO DISBURSEMENT FOR EQUIPMENT

Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for the procurement of equipment for APT, the Grantee's Committee on Privatization ("COP"), or for the Grantee's Department of Finance ("DOF") for use in connection with the privatization of a GOCC, the Grantee shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D.:

1. with respect to equipment to be procured outside of the Philippines, approval in writing by the duly authorized representative of DOF for the Project of an A.I.D. Project Implementation Order authorizing A.I.D. to procure under an A.I.D. direct contract financed under the Grant a procurement services agent to procure such equipment for purposes of the Project; and

2. with respect to equipment to be procured for APT, COP or for DOF for use in connection with the privatization of a GOCC, an equipment procurement plan for APT, COP or for the privatization of the GOCC, as the case may be, specifying the need, specifications and reasonable cost estimate for the equipment.

D. CONDITION PRECEDENT TO DISBURSEMENT FOR TRAINING AND SEMINARS

Prior to disbursement under the Grant, or to the issuance of documentation pursuant to which disbursement will be made for training activities to be implemented by the COP Secretariat or for the holding of or participation in seminars to be implemented by the COP Secretariat, the Grantee shall, 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 annual plan specifying the training activities and seminars to be undertaken and providing detailed cost estimates therefor.

E. COVENANTS

The General Covenants in the Project Grant Standard Provisions Annex as prescribed by AID Handbook 3 will be included in the Project Grant Agreement. In addition, the following covenants shall be included:

AID and the GOP agree to establish an evaluation program as an integral part of the project. Except as the parties may otherwise agree in writing, the program will include, during the implementation of the project and at one or more points thereafter:

1. Evaluation of progress toward attainment of the objectives of the project.

2. Identification and evaluation of problem areas or constraints which may inhibit such attainment.

3. Assessment of how such information may be used to help overcome such problems, and

4. Evaluation, to the degree feasible, of the overall development impact of the project.

PRIVATIZATION PROJECT

PROJECT NO. 492-0428

PROJECT PAPER

ANNEXES

.30

A. GOP REQUEST FOR ASSISTANCE AND SUPPORTING DOCUMENTS

ANNEX A

REPUBLIC OF THE PHILIPPINES
NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY
NEDA sa Pasig, Amber Avenue Pasig, Metro Manila

Cable Address: NEDAPHIL
P.O. Box 419, Greenhills
Tels. 673-50-31 to 50

09 February 1988

Mr. Frederick W. Schieck
Director
United States Agency for
International Development
Manila, Philippines

Dear Mr. Schieck:

The Philippine Government is in the process of divesting a significant number of public enterprises as well as acquired assets. This is being pursued with the end in view of reducing the budgetary burden of the public corporate sector, raising cash resources to finance priority programs, and affirming the primary role of the private sector in the development process.

It is in this regard that we would like to reactivate our request for a technical assistance grant to support the government's privatization program. The grant shall be primarily used to provide the necessary technical assistance and equipment to support the expeditious and efficient implementation of the said program by asset disposal entities and other agencies involved in the privatization program. This request however, is being made on the understanding that the package of assistance for privatization will no longer be linked with the capital markets component of the Financial Resource Mobilization Project (FRMP).

We hope that you accord our request your usual preferential attention.

Sincerely,

SOLITA COLLAS-MONSOD
Secretary of Socio-Economic Planning

VICENTE R. JAYME
Secretary of Finance

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B. PID APPROVAL MESSAGE AND
USAID RESPONSE

P UNCLASSIFIED STATE 059498 ANNEX B

ACTION: AID-8 INFO: CHG DCM AA ECON/12

VZCZCML0727 RECEIVED 06-MAR-88 TOR: 12:28
PP RUEHML CN: 22215
DE RUEHC #9498 0651224 MAR 7 11 14 AM '88 CHRG: AID
ZNR UUUUU ZZH DIST: AID
P 051221Z MAR 88 ADD:
FM SECSTATE WASHDC USAID/O&R
TO AMEMBASSY MANILA PRIORITY 3173
BT
UNCLAS STATE 059498

ACTION COPY

Action Taken: NOTED
No action necessary:
Date: 7/3 Inits:

AIDAC

E.O. 12356: N/A
TAGS: N/A
SUBJECT: PRIVATIZATION PROJECT (NO. 492-0377) - NEW PROJECT DESCRIPTION

1. PRIVATIZATION PROJECT NPD WAS REVIEWED DURING PROGRAM WEEK AND WAS APPROVED FOR PP DEVELOPMENT AND AUTHORIZATION IN THE FIELD. CONCERNS EXPRESSED DURING REVIEW PERTAINED TO GOP COMMITMENT AND WILLINGNESS TO ACCEPT US ASSISTANCE IN THIS SENSITIVE AREA, HOW TO OBTAIN POLICY AND REGULATORY REFORM RELATED TO PRIVATIZATION, HOW TO ASSURE COMPLEMENTARY CAPITAL MARKET DEVELOPMENT OCCURS GIVEN GOP REJECTION OF U.S. ASSISTANCE FOR THIS COMPONENT LAST YEAR, HOW TO BUILD A BASE FOR MORE EXTENSIVE A.I.D. EFFORTS IN THE PRIVATE SECTOR (ESPECIALLY TRADE AND INVESTMENT AREAS) FOR THE FUTURE, AND ABILITY OF MISSION TO DEAL WITH THIS AND ANY OTHER PRIVATE SECTOR INITIATIVES GIVEN MISSION STAFF COMPOSITION AND ORGANIZATIONAL STRUCTURE.

DIV	ACT	INF
OD		✓
E		
PE		
RLA		
PO		✓
?D		
EO		
PER		
CSD		
LCG		
CSO		
TRM		
CO		✓
DrID		
CCD	✓	
ORAL		
OPHN		
OFFSVC		
RIG/A		
RIG/II		
SP		
DUE DATE		
3-9-88		

2. WHILE ENDORSING MISSION'S INITIATIVE TO SUPPORT THE IMPORTANT PRIVATIZATION AREA, REVIEW NOTED GOP RELUCTANCE TO ENGAGE U.S. TECHNICAL ASSISTANCE IN THIS AREA PREVIOUSLY AND GOP REJECTION OF CAPITAL MARKETS ASSISTANCE WHICH WAS CONSIDERED BY MISSION AS AN IMPORTANT COMPLEMENT TO SUSTAINABLE PRIVATIZATION EFFORTS. GIVEN THAT THIS IS MISSION'S ONLY PRIVATE SECTOR INITIATIVE THIS YEAR, REVIEWERS EXPRESSED HOPE THAT GOP SUPPORTS THIS EFFORT AND THAT IT CAN BE QUICKLY GOTTEN UNDERWAY. INDEED, THERE WAS A CLEAR DESIRE EXPRESSED THAT ANALYSIS OF ADDITIONAL POSSIBILITIES IN THE PRIVATE SECTOR AREA SHOULD ALSO BE INITIATED TO ESTABLISH A BASIS FOR FURTHER EFFORTS PARTICULARLY IN THE ATTRACTIVE TRADE AND INVESTMENT SECTORS.

3. DIRECTOR SCHIECK NOTED MISSION'S INTEREST TO PURSUE CAPITAL MARKETS DEVELOPMENT IN THE FUTURE, AND RESOURCE PLANNING REPORT CONFIRMS PLANS TO ADDRESS CONSTRAINTS TO EQUITY CAPITAL AVAILABILITY FOR BUSINESS DEVELOPMENT NEEDS. WE URGE THAT INITIATIVES IN CAPITAL MARKETS AREA BE PURSUED TO HELP ESTABLISH A MORE SOLID BASE FOR PRIVATIZATION EFFORTS AS WELL AS A MORE RATIONAL BUSINESS FINANCING MIX GENERALLY.

4. TO ENGAGE THIS COMPLEX AREA MEANINGFULLY OVER THE MEDIUM TERM, IT APPEARS THAT DEDICATION OF ADDITIONAL STAFF WITH APPROPRIATE EXPERTISE WILL BE REQUIRED. IT IS CLEAR THAT MISSION WILL HAVE TO GIVE CAREFUL THOUGHT IN THIS REGARD TO NECESSARY STAFF AND ORGANIZATIONAL ARRANGEMENTS WITHIN THE MISSION. WE TRUST THE PP FOR THIS PROJECT WILL DISCUSS YOUR CURRENT THINKING IN THIS REGARD. SHULTZ

BT

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P UNCLASSIFIED STATE 069498

C. LOGFRAME

AID 1020-28 (1-73)

PROJECT DESIGN SUMMARY
LOGICAL FRAMEWORK

Project Title & Number: PRIVATIZATION (492-0428)

Life of Project:
From FY 88 to FY 92
Total U. S. Funding $5.0 Million
Date Prepared: April 11, 1988

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
Program or Sector Goal: The broader objective to which this project contributes: (A-1) To increase employment and incomes.	Measures of Goal Achievement: (A-2) Increased employment, higher incomes.	(A-3) GOP economic data.	Assumptions for achieving goal targets: (A-4) Enterprises will grow after privatization.
Project Purpose: (B-1) To reinforce the GOP's privatization policy by assisting the GOP in the process of divesting selected government owned and controlled corporations (GOCCs) and acquired assets, thereby improving the GOP's budget situation.	Conditions that will indicate purpose has been achieved: End-of-Project status. (B-2) 1. The privatization of selected, state-owned enterprises and acquired assets will have been accomplished. 2. An enhancement in the production of under-utilized assets and an increase in productive capacity will occur, with the placing back into service of idle and non-performing assets.	(B-3) - Interim and final evaluations. - GOP records, consultants' reports.	Assumptions for achieving purpose: (B-4) Political will to privatize.
Project Outputs: (C-1) 1. Selected state-owned corporations and acquired assets privatized with assistance provided under the project. 2. Effectively functioning disposal units privatizing government-acquired assets and state-owned corporations with personnel with the capacity to perform the essential tasks of valuation and financial packaging which are involved in privatization actions.	Magnitude of outputs: (C-2) 1. Approximately 20 corporations/assets. 2. 5 to 10 disposal units functioning.	(C-3) - GOP records. - Consultants' periodic reports.	Assumptions for achieving outputs: (C-4) Disposal units are established and GOP is willing to obtain technical assistance for them.
Project Inputs: (D-1) See inputs table below.	Implementation Target (Type and Quantity) (D-2) See inputs table below.	(D-3) - AID/GOP Project Agreement - T.A. Contracts - Commodity Procurement Contracts	Assumptions for providing inputs: (D-4) - GOP counterpart funding is made available at levels indicated. - Availability of D.A. funds from A.I.D.

Project Inputs (D-1) / Implementation Target (Type and Quantity) (D-2) ($000):

	AID GRANT	GOP	TOTAL
1. Technical assistance in: investment banking, accounting, specialized engineering areas.	3,042	0	3,042
2. Privatization unit equipment.	470	4,000	4,470
3. Training/Seminars.	30	0	30
4. Policy Studies.	535	0	535
5. Evaluation and Audit	250	0	250
6. Inflation and Contingencies	673	780	1,453
T O T A L	5,000	4,780	9,780

ANNEX C

D. STATUTORY CHECKLIST

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 1988 Continuing Resolution Sec. 526. 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). (This provision applies 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, 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 profits are laundered with the knowledge or complicity of the government), has the President in the March 1 International Narcotics Control Strategy Report (INSCR) determined and certified to the Congress (without

   The Philippines has not been defined as a "major illicit drug producing country" or a "major drug transit country."

Congressional enactment, within 30 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 (a) during the previous year the country has cooperated fully with the United States or taken adequate steps on its own to prevent illicit drugs produced or processed in or transported through such country from being transported into the United States, and to prevent and punish drug profit laundering in the country, or that (b) the vital national interests of the United States require the provision of such assistance?

3. Drug Act Sec. 2013. (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 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?

N/A. See (2) above.

4. FAA Sec. 620(c). If assistance is to a government, is the government liable as debtor or unconditional guarantor on any debt to a U.S. citizen for goods or services furnished or ordered where (a) such citizen has exhausted available legal remedies and (b) the debt is not denied or contested by such government? — 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 1988 Continuing Resolution Sec. 512. 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 directly to Angola, Cambodia, Cuba, Iraq, Libya, Vietnam, South Yemen, Iran or Syria? Will assistance be provided to Afghanistan without a certification? — No.

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? (b) If so, has any deduction required by the Fishermen's Protective Act been made?

(a) No.

(b) N/A

10. FAA Sec. 620(q); FY 1988 Continuing Resolution 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? (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 1988 Continuing Resolution appropriates funds?

(a) No.

(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 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.)

Yes.

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?

No.

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.)

Payments due for 1987 totaled $954,257, of which $792,360 was paid by December 31, 1987. The GOP is in arrears to the UN for $161,897. The AID Administrator has taken the arrear ages into account in the 2/1/88 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?

No.

15. FY 1988 Continuing Resolution Sec. 576. 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)?

No.

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.

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 ... ermits a special ... kistan.)

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 1988 Continuing Resolution Sec. 528. 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 1988 Continuing Resolution 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 1988 Continuing Resolution Sec. 543. 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.**

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 contempla[illegible]d assistance will directly benefit the n[illegible]edy? — No.

FY 1988 Continuing Resolution Sec. 538. 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 performace 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 — No.

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?

FY 1988 Continuing Resolution Sec. 549. Has this country met its drug eradication targets or otherwise taken significant steps to halt illicit drug production or trafficking? — The GOP has taken significant steps to halt illicit drug production and trafficking.

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5C(2) - PROJECT CHECKLIST

Listed below are statutory criteria applicable to projects. This section is divided into two parts. Part A includes criteria applicable to all projects. Part B applies to projects funded from specific sources only: B(1) applies to all projects funded with Development Assistance; B(2) applies to projects funded with Development Assistance loans; and B(3) applies to projects funded from ESF.

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

A. GENERAL CRITERIA FOR PROJECT

1. FY 1988 Continuing Resolution Sec. 523; FAA Sec. 634A. If money is sought to obligated for an activity not previously justified to Congress, or for an amount in excess of amount previously justified to Congress, has Congress been properly notified?

   Congressional Notification expired on April 2, 1988 without any objections from Congress.

2. FAA Sec. 611(a)(1). Prior to an obligation in excess of $500,000, will there be (a) engineering, financial or other plans necessary to carry out the assistance, and (b) a reasonably firm estimate of the cost to the U.S. of the assistance?

   (a) Yes. Financial plans are contained within the Project Paper.

   (b) Yes.

3. FAA Sec. 611(a)(2). If legislative action is required within recipient country, what is the basis for a reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance?

   N/A

4. FAA Sec. 611(b); FY 1988 Continuing Resolution Sec. 501. If project is for water or water-related land resource construction, have benefits and costs been computed to the extent practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, *et seq.*)? (See A.I.D. Handbook 3 for guidelines.)

N/A

5. FAA Sec. 611(e). If project is capital assistance (*e.g.*, construction), and total U.S. assistance for it will exceed $1 million, has Mission Director certified and Regional Assistant Administrator taken into consideration the country's capability to maintain and utilize the project effectively?

N/A

6. FAA Sec. 209. Is project susceptible to execution as part of regional or multilateral project? If so, why is project not so executed? Information and conclusion whether assistance will encourage regional development programs.

Elements of the project which are susceptible to regional execution are being coordinated with the PRE Bureau and the project will be coordinated with other multilateral donors.

7. FAA Sec. 601(a). Information and conclusions on whether projects 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.

By reducing the national budgetary burden of acquired assets and public enterprises on the GOP budget, and by improving the management and efficiency of these enterprises, the project will directly encourage efforts of the country to (a) increase the flow of international trade; (b) foster private initiative and competition; (c) discourage monopolistic practices; and (d) improve technical efficiency of industry, agriculture and commerce. (c) and (f) will only be indirectly affected.

8. FAA Sec. 601(b). Information and conclusions on how project 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).

The project will serve to encourage U.S. private trade and investment abroad. Private U.S. participation 'll be encouraged through the U.S. sourcing of technical assistance and through investment in assets to be divested.

9. FAA Secs. 612(b), 636(h). Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized in lieu of dollars.

Of the total project cost of 9.780 M GOP and private local currency contributions are expected to amount to 4.780.

10. FAA Sec. 612(d). Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?	No.
11. FY 1988 Continuing Resolution Sec. 521. If assistance is for the production of any commodity for export, is the commodity likely to be in surplus on world markets at the time the resulting productive capacity becomes operative, and is such assistance likely to cause substantial injury to U.S. producers of the same, similar or competing commodity?	No
12. FY 1988 Continuing Resolution Sec. 553. Will the assistance (except for programs in Caribbean Basin Initiative countries under U.S. Tariff Schedule "Section 807," which allows reduced tariffs on articles assembled abroad from U.S.-made components) be used directly to procure feasibility studies, prefeasibility studies, or project profiles of potential investment in, or to assist the establishment of facilities specifically designed for, the manufacture for export to the United States or to third country markets in direct competition with U.S. exports, of textiles, apparel, footwear, handbags, flat goods (such as wallets or coin purses worn on the person), work gloves or leather wearing apparel?	No assistance will be provided that will be subject to the provisions of this Section.
13. FAA Sec. 119(g)(4)-(6). Will the assistance (a) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity; (b) be provided under a long-term agreement in which the recipient country agrees to protect ecosystems or other wildlife habitats; (c) support efforts to identify and survey ecosystems in recipient countries worthy of protection; or (d) by any direct or indirect means significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas?	N/A

14. FAA 121(d). If a Sahel project, has a determination been made that the host government has an adequate system for accounting for and controlling receipt and expenditure of project funds (either dollars or local currency generated therefrom)?

N/A

15. FY 1988 Continuing Resolution. If assistance is to be made to a United States PVO (other than a cooperative development organization), does it obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government?

N/A

16. FY Continuing Resolution Sec. 541. If assistance is being made available to a PVO, has that organization provided upon timely request any document, file, or record necessary to the auditing requirements of A.I.D., and is the PVO registered with A.I.D.?

N/A

17. FY 1988 Continuing Resolution Sec. 514. If funds are being obligated under an appropriation account to which they were not appropriated, has prior approval of the Appropriations Committees of Congress been obtained?

N/A

18. FY Continuing Resolution Sec. 515. If deob/reob authority is sought to be exercised in the provision of assistance, are the funds being obligated for the same general purpose, and for countries within the same general region as originally obligated, and have the Appropriations Committees of both Houses of Congress been properly notified?

N/A

19. State Authorization Sec. 139 (as interpreted by conference report). Has confirmation of the date of signing of the project agreement, including the amount involved, been cabled to State L/T and A.I.D. LEG within 60 days of the agreement's entry into force with respect to the United States, and has the full text of the agreement been pouched to those same offices? (See Handbook 3, Appendix 6G for agreements covered by this provision).

This will be done.

B. FUNDING CRITERIA FOR PROJECT

1. Development Assistance Project Criteria

a. FY 1988 Continuing Resolution Sec. 552 (as interpreted by conference report). If assistance is for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training), are such activities (a) specifically and principally designed to increase agricultural exports by the host country to a country other than the United States, where the export would lead to direct competition in that third country with exports of a similar commodity grown or produced in the United States, and can the activities reasonably be expected to cause substantial injury to U.S. exporters of a similar agricultural commodity; or (b) in support of research that is intended primarily to benefit U.S. producers?

N/A

b. FAA Secs. 102(b), 111, 113, 281(a). Describe extent to which activity will (a) effectively involve the poor in development by extending access to economy at local level, increasing labor-intensive production and the use of appropriate technology, dispersing investment from cities to small towns and rural areas, and

(a) The resultant increase in the productivity of the enterprises being privatized should ultimately bring about economic expansion and dispersal.

(b) N/A.
(c) N/A.
(d) N/A.
(e) N/A.

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insuring wide participation of the poor in the benefits of development on a sustained basis, using appropriate U.S. institutions; (b) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward a 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.

c. FAA Secs. 103, 103A, 104, 105, 106, 120-21. Does the project fit the criteria for the source of funds (functional account) being used?

Yes. $3,000,000 of Section 103, corresponding to the rural and agricultural nature of many of the Philippine enterprises to be covered under this project. $2,000,000 of Section 106 for selected development activities.

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

Not directly.

e. FAA Secs. 110, 124(d). Will the recipient country provide at least 25 percent of the costs of the program, project, or activity with respect to which the assistance is to be furnished (or is the latter cost-sharing requirement being waived for a "relatively least developed" country)?

Counterpart contributions will account for approximately 49% of total project costs.

f. FAA Sec. 128(b). If the activity attempts to increase the institutional capabilities of private organizations or the government of the country, or if it attempts to stimulate scientific and technological research, has it been designed and will it be monitored to ensure that the ultimate beneficiaries are the poor majority?

The poor will be the ultimate beneficiaries of a better-functioning private enterprise system.

g.	FAA Sec. 281(b). Describe extent to which program 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 civil education and training in skills required for effective participation in governmental processes essential to self-government.	The project is directly responsive to the needs, desires and capacities of the Philippine people, and will utilize the country's intellectual resources by using local consulting firms.
h.	FY 1988 Continuing Resolution Sec. 538. Are any of the funds to be used for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions?	No.
	Are any of the funds to be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations?	No.
	Are any of the funds to be used 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
i.	FY 1988 Continuing Resolution. Is the assistance being made available to any organization or program which has been determined to support or participate in the management of a program of coercive abortion or involuntary sterilization?	No.
	If assistance is from the population functional account, are any of the funds to be made available to voluntary family planning projects which do not offer, either directly or through referral to or information about access to, a broad range of family planning methods and services?	N/A.

j. FAA Sec. 601(e). Will the project utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?

Yes.

k. FY 1988 Continuing Resolution. What portion of the funds will be available only for activities of economically and socially disadvantaged enterprises, historically black colleges and universities, colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically or socially disadvantaged (including women)?

No definite portion has been allotted. However, they will be utilized where deemed appropriate.

l. FAA Sec. 118(c). Does the assistance comply with the environmental procedures set forth in A.I.D. Regulation 16? Does the assistance place a high priority on conservation and sustainable management of tropical forests? Specifically, does the assistance, to the fullest extent feasible: (a) stress the importance of conserving and sustainably managing forest resources; (b) support activities which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and help countries identify and implement alternatives to colonizing forested areas; (c) support training programs, educational efforts, and the establishment or strengthening of institutions to improve forest management; (d) help end destructive slash-and-burn agriculture by supporting stable and productive farming practices; (e) help conserve forests which have not yet been degraded by helping to increase production on lands already cleared

Yes.

N/A

or degraded; (f) conserve forested watersheds and rehabilitate those which have been deforested; (g) support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing; (h) support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation; (i) conserve biological diversity in forest areas by supporting efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis, by making the establishment of protected areas a condition of support for activities involving forest clearance or degradation, and by helping to identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas; (j) seek to increase the awareness of U.S. government agencies and other donors of the immediate and long-term value of tropical forests; and (k)/utilize the resources and abilities of all relevant U.S. government agencies?

m. <u>FAA Sec. 118(c)(13)</u>. If the assistance will support a program or project significantly affecting tropical forests (including projects involving the planting of exotic plant species), will the program or project (a) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land, and (b)/take full account of the environmental impacts of the proposed activities on biological diversity? — N/A.

n. FAA Sec. 118(c)(14). Will assistance be used for (a) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems; or (b) actions which will significantly degrade national parks or similar protected areas which contain tropical forests, or introduce exotic plants or animals into such areas?

No.

o. FAA Sec. 118(c)(15). Will assistance be used for (a) activities which would result in the conversion of forest lands to the rearing of livestock; (b) the construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands; (c) the colonization of forest lands; or (d) the construction of dams or other water control structures which flood relatively undegraded forest lands, unless with respect to each such activity an environmental assessment indicates that the activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development?

No.

p. FY 1988 Continuing Resolution If assistance will come from the Sub-Saharan Africa DA account, is it (a) to be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant; (b) being provided in

N/A

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accordance with the policies contained in section 102 of the FAA; (c) being provided, when conistent with the objectives of such assistance, through African, United States and other PVOs that have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa; (d) being used to help overcome shorter-term constraints to long-term development, to promote reform of sectoral economic policies, to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities, to bring about appropriate sectoral restructuring of the Sub-Saharan African economies, to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development, and to take into account, in assisted policy reforms, the need to protect vulnerable groups; (e) being used to increase agricultural production in ways that protect and restore the natural resource base, especially food production, to maintain and improve basic transportation and communication networks, to maintain and restore the natural resource base in ways that increase agricultural production, to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care, to provide increased access to voluntary family planning services, to improve basic literacy and mathematics - especially to those outside the formal educational system and to improve primary education, and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas?

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E. GRAY AMENDMENT CERTIFICATION

ANNEX E

CERTIFICATION PURSUANT TO UTILIZATION OF GRAY AMENDMENT ORGANIZATION

I, FREDERICK W. SCHIECK, 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 should technical assistance be required from the U.S., every effort will be made to identify a small or disadvantaged firm to provide the assistance. It is planned that this will include a portion of the accounting and auditing services to be procured. Furthermore, for the scheduled external evaluations, joint efforts involving both local expertise and Gray Amendment-satisfying organizations are anticipated. My judgment is based on the recommendations of the Project and Mission Review Committees.

Frederick W. Schieck
FREDERICK W. SCHIECK
Director, USAID/Philippines

May 8, 1988
Date

F. COST ASSUMPTIONS

ANNEX F

COST ASSUMPTIONS

The following tables provide the cost assumptions used in the budget. Tables F-1 and F-2 provide information for local short- and long-term technical assistance. Tables F-3, F-4 and F-4a give figures for short- and long-term expatriate (and expatriate combined with local) technical assistance. Table F-5 presents cost figures for policy/operational studies.

TABLE F-1

LOCAL SHORT-TERM TECHNICAL ASSISTANCE

Category of Services	Burdened Fixed Daily Rate (₱)	Days in Person Months	Per Month Cost (₱)	Estimated Person-Month Level of Effort	Estimated Total Cost (₱)	U.S. Equivalent (at ₱20.50:$1)
Management Consulting, Accounting/ Auditing	₱4,000	22	₱88,000	51.25	₱4,510,000	$220,000
Specialized Engineering	1,800	22	39,600	20.5	811,800	39,600 rounded to $40,000
TOTAL				71.75	₱5,321,800	$259,600 rounded to $260,000

TABLE F-2

LOCAL LONG TERM TECHNICAL ASSISTANCE

Category of Services	Burdened Fixed Daily Rate (₱)	Days in Person Months	Person Month Cost (₱)	Estimated Person-Month Level of Effort	Estimated Total Cost (₱)	U.S. Equivalent (at ₱20.50:$1)
Investment, Banking, Management, Consultancy, Accounting/ Auditing	₱4,000	22	₱88,000	45.1	₱3,968,800	$193,600
Specialized Engineering	1,800	22.2	39,960	23.6	943,056	46,003
				68.7	₱4,911,856	$239,603
						rounded to
						$240,000

TABLE F-3

SHORT-TERM EXPATRIATE TECHNICAL ASSISTANCE

	U.S. ($)
Assume Average Burdened Fixed Monthly Rate $25,000 x 24 PM	$600,000
Travel	
International	
Assume 20 RT at $2,000/RT	$40,000
U.S.	
Assume 20 RT at $300/RT	6,000
Local	
Assume Public Transport at $300/MO x 18 PM	5,400
	$51,400
Per Diem	
Assume 20 1-day Int'l. Stopovers at $150/Stopover	$3,000
Assume 75% of time in the Philippines (75% x 24 PM) x 30 days at $80/day	43,200
Assume 1-day U.S. Trips at $75/Day x 20 Days	1,500
	$47,700
Miscellaneous Costs	
Cable/Telex/Telephone/Postage at $1,000/MO x 24 months, split between U.S. and Philippines	$24,000
	$723,100
	rounded to
	$723,000

TABLE F-4

LONG-TERM EXPATRIATE/LOCAL TECHNICAL ASSISTANCE

	U.S. ($)	and	Local (₱)	TOTAL ($)
Assume Average Burdened Fixed Monthly Rate $50,000 x 32 PM	$1,600,000		-	$1,600,000
Travel				
International				
Assume 25 RT at $2,000/RT	50,000		-	50,000
U.S.				
Assume 10 RT at $300/RT	3,000		-	3,000
Local				
Assume Public Transport at $300/MO x 18 PM	5,400		-	5,400
	$ 58,400		-	$ 58,400
Per Diem				
Assume 25 1-day Int'l. Stopovers at $150/Stopover	3,750			3,750
Assume 50% of time in the Philippines (50% x 36 PM) x 30 days at $80/day	43,200		-	43,200
Assume 1-day U.S. trips at $75/day x 10	750		-	750
	$ 47,700		-	$ 47,700
Miscellaneous Costs				
Cable/Telex/Telephone/Postage at $1,000/Mo x 36 months, split between U.S. and Philippines	36,000		-	36,000
Local Services	-		1,574,000*	77,000
Grand Total	$1,742,100		₱1,574,400	$1,819,100
			($ 76,780)	
	rounded to $1,742,000		rounded to ($ 77,000)	rounded to $1,819,000

*See Table F-4(a)

TABLE F-4(a)

LOCAL TECHNICAL ASSISTANCE - LONG TERM

Category of Services	Burdened Fixed Daily Rate (₱)	Days in Person Months	Person Month Cost (₱)	Estimated Person-Month Level of Effort	Estimated Total Cost (₱)	U.S. Equivalent (at P20.50:$1)
Investment, Banking, Management, Consultancy, Accounting/ Auditing	₱4,000	22	₱88,000	12.3	₱1,082,400	$52,800
Specialized Engineering	₱1,800	22	₱40,000	12.3	₱487,080	$23,760
					₱1,569,480	76,560
						rounded to
						$77,000

TABLE F-5

POLICY/OPERATIONAL STUDIES

	U.S. ($)	and	Local (₱)	TOTAL ($)
Assume four (4) policy/operational studies will be conducted by expatriate consulting firms with local consulting firms participating				
Assume Average Burdened Fixed Monthly Rate at $18,000 x 12 PM	$216,000		-	$216,000
Assume Average Burdened Fixed Mo. Rate at ₱88,000 x 24.7 PM	-		₱2,173,600	106,029
Travel				
International				
Assume 6 RT at $2,000 RT	12,000		-	12,000
Domestic				
Assume 4 RT at $300 RT	1,200		-	1,200
Per Diem				
Assume 6 1-day Int'l. stopovers at $150/stopover	900		-	900
Assume 12 PM x 30 days at $80/day	28,800		-	28,800
Assume 1-day U.S. Trips at $75/day x 4 days	300		-	300
Miscellaneous Costs				
Cable/Telex/Telephone/Postage at $1,000/Mo. x 12 months	12,000		-	12,000
Assume four (4) policy/operational studies will be performed by local consulting firms				
Assume Average Burdened Fixed Mo. Rate at P88,000 x 37 PM	-		3,256,000	158,829
	$271,200		₱5,429,600 ($ 264,858)	$536,058
	rounded to		rounded to	rounded to
	$270,000		($ 265,000)	$535,000

G. ECONOMIC ANALYSIS

ANNEX G

ECONOMIC ANALYSIS

The objective of this project is to assist the GOP in the implementation of its privatization program. This assistance is expected to a) speed up the privatization process and b) improve the efficiency of presently public corporations and/or nonperforming assets as private sector concerns. The financial proceeds of the divestiture process do not constitute direct economic benefits to society. However, proceeds of firm sales will enable the GOP to a) recoup part of government funds previously invested in the public corporations, and b) reduce the fiscal burden of financial support to public corporations. The first expected outcome, in accordance with GOP intentions, will enable the GOP to finance the planned Comprehensive Agrarian Reform Program (CARP) and possibly other GOP expenditures. The second outcome will allow the GOP to increase expenditures on basic services and other traditional government functions. (See also Annex H, Financial Analysis.)

This economic analysis will demonstrate the project's economic merits through: a) cost effectiveness, b) alternative economic rate of return analysis, and c) speeding up the privatization process.

A. Cost Effectiveness of Selected Approach

The proposed project approach is the provision of necessary financial and other technical advisory and other services as well as equipment. The approach taken is deemed appropriate for supporting privatization activities because of: a) the GOP's self-imposed schedule and the need to complete the task within the shortest time possible; b) the enormity and complexity of the process; c) the degree of sophistication of the corporate investment market and structural diversity of the sectors involved; and d) the general sufficiency and adaptability of the GOP personnel tasked with the effort for all but the more advanced and sophisticated financial, legal and other analytical necessities of the exercise.

Training either locally or abroad, and certainly long term training, is inappropriate because of the lack of time. Full utilization of expatriate services is equally inappropriate because of high costs, availability of highly skilled local personnel for many of the tasks, and the need to be intimately familiar with local laws and institutions in carrying out many of the duties. Contracting out most of the effort to domestic sources of financial services also would be inappropriate because of the need to have knowledge of international markets, buyers and financial sources and arrangements. Also GOP personnel politically need to be in a position to decide at various steps of divestiture and preclude possible conflicts of interests that could arise if third parties are given freer play in crucial decisions.

Clearly, there are added explicit and implicit costs in other possible alternatives in assisting the privatization effort. The approach taken is basically to let the GOP personnel accomplish their mandate and identify and request assistance where necessary and appropriate. While the proportion of total TA funds going for expatriate services in contrast with local services is planned to be high, this seems justified by a) the need to tap foreign resources for investment, b) the need to complement domestic expertise with foreign advisory and technical services that are not available locally, and c) the much higher cost of expatriate services.

B. Alternative Economic Rate of Return Analysis: Improvement in Corporate Incomes

While it is not possible to conduct a standard economic rate of return analysis because of lack of sufficient knowledge on the expected outcome, economic viability can be justified in terms of expected improvement in corporate incomes of divested firms.

The economic cost could exclude the GOP contribution since the GOP is already implementing its privatization program. However, in terms of economic worthwhileness of the activity (in contrast to obvious financial gains) for the GOP, the GOP contribution is included in the economic cost. Economic cost is computed from the financial cost estimates excluding inflation as follows:

	($000)
Financial FX Cost of Grant	3,556
FX Shadow Price Adjustment (20%)	711
Financial LC Cost of Grant	1,176
GOP LC Contribution	4,388
Total	$9,831

Given the above economic cost, the social discount rate in the Philippines is used to determine the required economic impact to justify the investment in this project. In order to do this, several simplifying assumptions are used: (1) project funds are disbursed immediately upon signing of the grant agreement; (2) economic return over a 20 year period will flow evenly for each dollar invested; (3) no new returns are attributed to the project after its completion; and (4) the privatized or divested enterprises will be more efficient and productive enterprises with private sector ownership and management.

Using the NEDA-estimated social discount rate of 15 percent (capital recovery factor for 20 years = .159761), the project must achieve an annual economic return valued at $1,570,610 at 1988 prices for twenty years. This means that the divested firms/nonperforming assets should experience an increase in income equivalent to at least a value of $1.571 million or ₱32.983 million (based on an average exchange rate of ₱21.00 = $1.00 for 1988) annually for twenty years as a result of the project. Otherwise, project funds should be invested in alternative activities.

The likelihood of the project's achieving the estimated level of required economic returns may be demonstrated in terms of the required increase (a) in contribution to gross value added, and (b) in aggregate gross revenues and net incomes of public corporations.

The analysis will concentrate on the public corporations approved for privatization. The nonperforming assets (NPAs) of the government financial institutions are excluded due to lack of readily available information. Also there is greater probability that the NPAs may be divested as NPAs per se and not as ongoing concerns. In cases of just transfer of ownership of debt instruments without impact on operations, there will be no direct economic benefits. The sequestered companies are also excluded because of the greater likelihood of legal impediments to their divestiture.

The GOP has approved to date for privatization 86 of the 121 public corporations or government-owned and controlled corporations (GOCCs) identified for privatization. Most of these 86 corporations belong to the following sectoral categories: agriculture, fishery and forestry; manufacturing; construction; and trade. Estimated aggregate 1988 gross value added (GVA) of public corporations in these sectors is ₱3,715 million in current prices.[1/] Given this estimate, the required benefits of ₱32.983 million imply only a 0.89 percent real increase in GVA per year of privatized corporations in the four sectors to justify the project's economic cost.

The 1984 GVA estimates correspond to the contributions of 89 GOCCs. Although the public corporations vary widely in size, a casual examination of size information on firms in the four sectors appear to indicate relatively less dispersion according to size. The very large GOCCs are in the

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1/ Estimated 1984 aggregate GVA of public corporations in the four sectors amounted to ₱2,574 million in current prices, representing 25 percent of total GVA of the public corporate sector and only 0.63 percent of total Philippine GVA for the four sectors in the same year. During 1984 to 1987, total Philippine GVA for the four sectors grew by 27.2 percent. Assuming for 1988 real GDP growth of 5.0 percent and an inflation rate of 8.5 percent and assuming further that the 1984 share of public corporations in total Philippine GVA for the four sectors is unchanged, the 1988 current price estimate of public corporations' GVA in the four sectors is ₱3,715 million.

electricity, transportation and financial sectors and they are not included in the list of firms approved for privatization. Assuming that privatization results in a GVA increase of say 10 percent (the average annual real GDP growth forecast for 1987-1992 is 5.1 percent), then only about 8 firms need to be privatized.

Alternative ways of determining likelihood of sufficient economic benefits in terms of improved GOCC productivity include comparing the level of required benefits to: (a) gross revenues and (b) net income of the 86 GOCCs approved by the GOP for privatization.2/ The required annual benefits of ₱32.983 million represents 0.72 percent of estimated gross revenues of the 86 corporations in 1985, i.e. ₱4,609 million. The project will be economically justifiable if aggregate gross revenues of these corporations increase by 0.72 percent. Since it appears reasonable to assume a relatively narrow range of size dispersion of the 86 corporations, a more optimistic scenario of a 10 percent increase in gross revenues or ₱460.9 million as a result of privatization requires that only about 7 of the 86 GOCCs need to be privatized. Because of increases in price levels between the two periods, converting the 1985 gross revenue values to 1988 levels would result in an even lower percentage, or fewer divestitures needed.

Given total 1985 assets of ₱35,700 million of the 86 corporations 3/ and an assumed average return on assets of 2.82 percent for 1984, the net

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2/ The Committee on Privatization (COP) technical staff provided the data for 1985 gross revenues and total assets of the 86 GOCCs.

3/ Standard financial ratio analysis requires that a two-year average of total assets be used as the denominator for return on assets. However, only 1985 information on total assets for the 86 firms is available. For nine of the 86 firms included in the country's top 1000 corporations for 1985 (which has information on both 1985 and 1984 total assets), the 1985 total assets of these firms did not change significantly from the 1984 levels. The average 1984-1985 total assets value for these nine firms is 98.7 percent of the 1985 level. The equivalent ratio for all the top 1000 corporations in 1985 is 98.2 percent. On the other hand, it would have been ideal also to use a total assets figure which represents the average 1987-1988 assets levels, and hence the assets data should have been projected. In effect, the use of the 1985 total assets figure assumes that the possible overstatement of net income of the 86 corporations arising from not using an average 1984-1985 total assets value offsets the understatement due to not updating the information.

income (before transfer payments) of the 86 corporations in 1985 is estimated at ₱1,007 million.4/ The required minimum benefits represent only 3.3 percent of this net income. If the 86 corporations are privatized and realize twice the 1984 return on assets, i.e., 5.64 percent, the incremental net income would be also ₱1,007 million.5/ The required annual economic benefits represent only 1.6 percent of the new total net income or also 3.3 percent of the increase in net income as a result of the increased return on assets. To achieve the required increase in net income, as a result of the increase in return on assets from 2.82 percent to 5.64 percent, only 3 corporations need to be privatized and experience such an increase.

4/ Amatong and Beltran (1987) estimated average return on assets for public corporations at 4.34 percent per year during 1975-1984. They define return on assets as the quotient of management profit and total assets. Management profit is defined as net income before income tax, grant, aid, subsidy and interest expense. The definition of management profit appears to approximate that of economic income since it ignores the effects of transfer payments although there is no adjustment for shadow prices. Amatong and Beltran also provide estimates of return on assets on a sectoral basis. Of relevance to the sectoral classification of the 86 public corporations identified for privatization are the following sectoral weighted average returns on assets in percent for 1975-1984: 2.35 for agricultural/trading/promotional; 2.60 for industrial and area development; and 0.63 for infrastructure/public utility. The simple average of these estimated returns on assets is 1.86 percent. The equivalent figure for 1984 only is 2.82 percent. The 1984 figure is assumed to correspond roughly to the average return (before transfer payments) on assets of the 86 firms identified for privatization.

5/ It should be noted that average return on assets in the usual financial sense (i.e., income is net of financial charges and taxes) was 2.28 percent in 1984, 2.1 percent during 1985 and 2.9 percent in 1986 for firms in the country's top 1,000 corporations in the four sectors of agriculture, fishery and forestry; manufacturing; construction; and trade. Admittedly, there is no one-to-one correspondence between the three data sources (Amatong and Beltran, top 1000 coporations, and COP) in terms of sectoral classification of the firms. For purposes of this analysis, it may be assumed that the return on assets value computed by Amatong and Beltran increased by at least 30 percent between 1984 and 1986, using the top 1000 corporations data. This translates into a return on assets for the 86 firms of 3.67 percent. However, it should be noted also that the economy was just recovering during 1986. Thus, under improved economic conditions, it seems reasonable to assume a long term annual rate of return on assets for the 86 corporations that is twice the 1984 level, i.e., 5.64 percent.

There has been some discussion in both the public and private sectors regarding the overvaluation of the assets of the public corporations. This is probably more true for the nonperforming assets. Nevertheless, overvaluation of the public corporation assets can not be dismissed easily. How much can the GOP reduce the value of the total assets of the 86 corporations, assuming a higher rate of return on assets, and still justify the project's economic cost? Given the required minimum annual benefits, the required increase in net income of the 86 corporations is ₱32.983 million. If the new rate of return on assets is 5.64 percent (versus an old unchanging rate of 2.82 percent), the total assets of the 86 corporations can be revalued to ₱1,170 million representing a decline in total assets value of 97 percent.

C. Alternative Economic Rate of Return Analysis: Required Speeding Up Effect

According to the GOP, it needs $10 million to complete the privatization effort in five years, hence the need for the project to supplement the GOP's own resources in order to achieve the privatization goal. Suppose, however, that the GOP is able to complete the divestiture process without the additional assistance, but such assistance would speed up the process. Would USAID resources of $5.443 million be justified in terms of speeding up privatization? Alternatively, in the context of the 86 corporations approved by the GOP for privatization, what would be the required speeding up effect of the USAID contributions, if the GOP would otherwise by itself complete the divestiture anyway?

As a simplifying assumption, say the GOP without assistance would divest all 86 corporations simultaneously after the end of a five year period beginning in 1988, i.e., by 1993. Assuming further that as a result of the privatization, the 86 corporations experience a doubling of return on assets, i.e., from 2.82 percent to 5.64 percent. As mentioned above, the increase in annual aggregate net income of the 86 corporations would be ₱1,007 million. Given the economic cost of USAID resources of $5.443 million and given the future value of this amount after five years (using a 15 percent annual compounding rate) of $10.948 million or ₱230 million, the required speeding up effect to privatize the 86 corporations would be only 2.7 months. Or, alternatively, the speeding up effect would be 12 months for 20 corporations. However, the assumed increase in return on assets and no revaluation of assets may be too optimistic. The required speeding up effect is presented below for progressively lower increases in the return on assets, assuming no revaluation of assets.

Return on Assets (%) New	Return on Assets (%) 1984 Average Rate	Increase in Annual Net Income (million pesos)	Required Speeding Up Effect (months)
5	2.82	778	3.5
4	2.82	421	6.6
3.5	2.82	243	11.4
3.46	2.82	230	12.0

The effects of assets revaluation to lower levels in relation to the speeding up required is shown below also assuming a new return on assets of 5.64 percent (or an additional 2.82 percent over the 1984 average of 2.82 percent).

Assets Revalued at Various Proportions of 1985 Levels (%)	Increase in Annual Net Income (million pesos)	Required Speeding Up Effect (months)
90	906	3.0
80	805	3.4
60	604	4.6
50	503	5.5
23	230	12.0

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H. FINANCIAL ANALYSIS

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FINANCIAL ANALYSIS

The most important financial consideration for the Privatization Project is to achieve maximum effectiveness of the GOP's Privatization Program in order to help alleviate the GOP's enormous and continuing fiscal burden. However, the project may be analyzed also as a purely financial proposition for the GOP.

The GOP has set aside $4.780 million to finance the five-year divestiture program. It will also receive an A.I.D. grant of $5 million through this project. The total amount of $9.780 million theoretically may be used by the GOP for some other program, i.e., its opportunity cost is not zero.

First to be considered is the case where there are no net flows between the corporations and the government, i.e., the government neither subsidizes nor receives revenues from the corporations. In this case, for the project to be financially desirable, the GOP must be able to realize financial proceeds from privatization at least equivalent to the financial cost of the investment plus earnings that the GOP may derive if the cost of the project were invested in some interest-bearing financial instrument. If the GOP is able to place the $9.780 million in a time deposit or in Philippine treasury bills at a 15 percent rate of interest for five years, then the future value of the investment would be $19.671 million or ₱413 million in five years. Total asset value of the 86 GOCCs approved for privatization amounted to ₱35,700 million as of 1985. Hence, to break even, the GOP would need to and should be able to easily sell the GOCCs for 1.16 percent of their 1985 asset book value, or sell one average GOCC for 99 percent of the book value of its assets.

In cases where the government is receiving net revenues from the GOCCs, the received sales must cover both privatization costs and the discounted value of future earnings minus outstanding liabilities. However, as a whole this case does not apply to the GOCCs in the Philippines, although a few individual firms are net earners, after allowing for all financial costs.

In the last case, where the government is a net provider of resources to the GOCCs, such as the situation in the Philippines, the government will gain financially if the resulting reduction in the outflow to the firms exceeds the privatization costs. To break even under present circumstances, divestiture would need only to result in a one time 3.9 percent reduction in the 1988 budgetary support level for government corporations of ₱10.5 billion or a 0.7 percent annual reduction over 10 years (also assuming a 15 percent discount rate). In this case, any proceeds from divestiture and/or savings beyond privatization costs represent pure financial gain for the GOP.

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I. ADMINISTRATIVE ANALYSIS

ANNEX I

ADMINISTRATIVE ANALYSIS

AID assistance to the Government of the Philippines' Privatization Program will be to the Secretariat of the Committee on Privatization (COP), the Asset Privatization Trust (APT) and the parent Departments/Agencies of the government owned and controlled corporations (GOCCs). As described in the Project Paper, assistance will be in the form of technical assistance to the privatization process and for the procurement of computer hardware. In addition, funding will be provided for workshop/seminar attendance of selected GOP officials involved in COP activities.

A. Committee on Privatization

The Committee on Privatization was formally established under Presidential Proclamation No. 50, executed in December 1986. Under this Proclamation, all privatization actions fall within the purview of the Committee on Privatization, which is responsible not only for approving the sale of government-held assets, but for guiding, monitoring and reviewing the entire privatization program. The Chairman of the COP, which has Cabinet-level status, is the Secretary of Finance.

The mission of the COP's Technical Committee is to review all proposed privatization transactions and to recommend approval or disapproval to the COP. The Technical Committee provides essential coordination among the parent Departments/Agencies that control the GOCCs to be privatized, thus, it is the key project implementation agency.

The Undersecretary of Finance chairs the COP's Technical Committee, whose other members are from the Departments of Trade and Industry (DTI), Budget and Management (DBM), Justice (DOJ), and the National Economic and Development Authority (NEDA).

The Office of the Undersecretary of Finance has been functioning as the Secretariat for the COP's Technical Committee. The Secretariat includes nine professional staff and one full-time secretary, although future year funding for 12 professional and 4 clerical staff is expected to be approved.

B. Asset Privatization Trust

Like the COP, the Asset Privatization Trust was established under Presidential Proclamation No. 50 in December 1986. It became functional in January 1987 with the appointment of its five Trustees by President Aquino. The APT is responsible for the disposition of two types of assets: non-performing assets (in the form of either financial or physical assets) turned over to the Government by DBP and PNB, and government owned and controlled corporations (GOCCs) assigned to the APT by the Committee on Privatization. The initial task assigned to the APT was the take-over and disposition of 399 non-performing assets. No GOCCs were assigned to the APT until August 1987.

As of December 31, 1987, ten GOCCs had been assigned to the APT for privatization, including the Philippine Cotton Corporation, the Philippine Amanah Bank and Associated Bank. (A list of GOCCs assigned to the APT can be found in Section F of Annex P.)

The APT presently has a staff of fifty. The yearly operating budget of ₱38.7 million includes ₱6.9 million for staff salaries and ₱4.1 million for capital expenses, i.e., purchase of computer equipment, office furniture and vehicles.

The APT is organized into four functional teams, each headed by an Associate Executive Trustee, who reports to the APT's Chief Executive Trustee. Three teams work with the marketing of transferred assets; the fourth is responsible for legal/government agencies. All four teams utilize central marketing support and administrative/custodianship services. (The APT organizational chart can be found in Section A of Annex P.)

As of December 31, 1987, the APT had completed the full sale of 39 non-performing assets and partial sales of an additional ten non-performing assets. (The government financial institutions, PNB and DBP, were responsible for the full and partial sales of an additional 31 non-performing assets.) Net recoveries (gross sales proceeds minus costs) from the APT-disposed non-performing assets, as of December 31, 1987, amounted to ₱3,213,464,000.

C. Asset Disposal Units/Entities Privatizing GOCCs

As of March 1988, a total of 103 government owned or controlled corporations (GOCCs) had been identified for privatization, with an additional 18 GOCCs awaiting approval for privatization (see Annex O for a complete listing). Five government departments, NEDA and the Office of the President control the GOCCs, which include subsidiaries and sub-subsidiaries as well as their parent corporations. Approximately one-fourth of the GOCCs to be privatized are agriculture-based.

In some cases, the parent agency of a GOCC will dispose of the GOCC directly. This is expected to be the case with the smaller GOCCs. Otherwise, asset disposal units (ADUs) will be established within the parent Departments/Agencies of the GOCCs to be privatized, and will be independent of the management of the entities to be privatized. This independence is critical in order to forestall possible interference with the privatization process by those in management who may have vested interests in the continuation of the present management.

Large GOCCs may require their own ADU, while several smaller, less complex GOCCs may share the services of a single sector-oriented ADU based in the parent Department/Agency.

Large ADUs are expected to be those of the National Development Company (NDC), the Philippine National Oil Company (PNOC) and the Presidential Management Staff. Although not all ADUs have been set up, the ADU of the National Development Company is an example of a large ADU currently in operation. Among the NDC companies slated for privatization are the NACIDA Raw Materials Corporation, Guthrie Estates, Inc., Guthrie Plantations, Inc. and NDC Plantations, Inc.

In 1987, the disposal unit of the NDC employed 37 staff, seconded from other NDC operations. Personnel costs for the ADU were ₱500,000 (excluding salaries budgeted from other NDC operations), and advisory services amounting to ₱21 million, for a total operating cost of ₱21.5 million in 1987.

D. Implementing Agency

Because of the large number of entities involved, it is essential that implementation of the project be the responsibility of a single agency, which will coordinate project activities, serve as a central monitor, and serve as a point of contact for USAID. This would include serving as the authorizing entity for AID contracting and procurement actions. Such an arrangement would make possible the procurement of a variety of services for both the APT and the ADUs under general "umbrella" contracts.

Because of its central role as Secretariat to the COP's Technical Committee, which is responsible for recommending to the COP that it approve or disapprove all privatization transactions, including those managed by the APT, and which coordinates privatization activities among the GOCCs' parent Department/Agencies, the Office of the Undersecretary for Privatization of the Department of Finance is the logical choice as implementing agency for the AID-financed Privatization Project.

J. SOCIAL SOUNDNESS ANALYSIS

ANNEX J

SOCIAL SOUNDNESS ANALYSIS

The project will be working within a pre-existing GOP privatization policy framework. In addition, project support for the GOP's Privatization Program has a "macro" perspective with regard to the pool of assets to be privatized. As a result, this limits the scope for certain aspects of project analyses, particularly those related to social aspects. In identifying broad social issues which may affect implementation, two basic concerns exist. They are only briefly discussed below since these concerns can only be fully addressed by implementors, as the potential impact transcends the framework of the project.

Issue No. 1: Employment Dislocation

Privatization of existing government corporations and disposal of acquired assets inevitably leads to some employment dislocation. Prospective buyers of firms which are for sale will presumably fine tune their operations, and in many cases this will entail some retrenchment of currently employed manpower.

To date, we are not aware of any comprehensive assessment of the magnitude of this problem, nor are we aware of studies of the number and kinds of employees affected. There probably is no concerted effort to assess and identify alternatives or options for dislocated employees. Although the Philippines has existing labor laws which are concerned with employee welfare, and although prospective buyers of privatized government corporations and acquired assets have the ultimate responsibility for what happens to these firms' employees, nonetheless, we are flagging this issue for project implementors to consider.

Issue No. 2: Spread effects or diffusion of benefits

Presumably, the project's main beneficiaries are the GOP and the eventual buyers of the assets which are for sale. The GOP benefits because it divests itself of firms which have served more as financial burdens than assets; because the government re-coups part of the investments which otherwise would have been considered lost; and because the government improves its image among international investors and donor agencies which view commitment to privatization as a must for development.

The buyers benefit because they are able to purchase established business concerns, even though some are currently non-performing. However, aside from these major buyers, does the process allow for a wider distribution of ownership? Can small investors participate? Do small investors have similar alternatives available to large investors or are they effectively excluded from privatization activities because these are generally conducted through public bidding and negotiated sales? Will the benefit of becoming part-owner of such firms be limited only to a selected few?

K. TECHNICAL ANALYSIS

ANNEX K

TECHNICAL ANALYSIS

This analysis will focus on the technical rationale for selecting each of the project's components and their elements. It will discuss why the appproaches discussed in Section II of this Project Paper were undertaken relative to the present situation in the Philippines.

Section I of the PP provides the setting for the project and section I-D discusses the roles of other donors. To summarize, the Medium Term Philippine Development Plan (MTPDP) delineates the GOP's economic growth objectives and strategies for achieving those objectives. The GOP's objectives are directed principally toward the:

-- Alleviation of poverty.
-- Generation of more productive employment.
-- Promotion of equity and social justice, and
-- Attainment of sustainable economic growth.

The MTPDP envisions a strong private sector as the engine of growth with private investment expected to outpace that of government, and for government to play its proper role in the economy of providing public services only, not competing with the private sector.

To achieve these objectives the GOP must achieve the following goals:

-- Reduce its budget deficit burden caused by public corporations and the acquired assets of government financial institutions; and

-- Maximize the production and net added values from the revitalization of existing companies and the employment of stocks of assets already installed in the Philippine economy which, at present, are underutilized or idle.

As discussed in Section I.B.3, the GOP has formulated public corporate sector rationalization and privatization programs as strategies to reach its goals and ultimately its objectives. Elements of the public corporate sector rationalization program include rationalizing the GFIs (e.g., PNB/DBP), and increasing the operating efficiency of selected GOCCs through planning and performance evaluations and consolidations/mergers. The GOP's Privatization Program involves the partial or total divestiture of GOCCs, the dissolution or liquidation of GOCCs, and the total divestiture of the acquired assets of GFIs. The GOP has not expressed an interest in "contracting out" or "partial privatization" techniques.

The GOP has demonstrated its political will to execute its rationalization and privatization programs. Under its rationalization program, the financial restructuring and rehabilitation of the major DFI's, including PNB and DBP, are underway, and a special unit--the Government Corporate Monitoring and Coordinating Committee--has been organized to design and implement a system of public corporate planning and performance monitoring and evaluation. Under its Privatization Program (also discussed in Section I.B.3), the COP and APT have been established and staffed; operating guidelines for both have been developed and executed; assets have been transferred from PNB and DBP to the APT, with some having already been bid out and sold; the parent companies of selected GOCCs have themselves established Asset Disposal Units (ADUs); and the President of the Philippines has approved a partial list of GOCCs to be privatized.

In deliberating on how AID could best be of assistance to the GOP in achieving its very laudable objectives and goals, a number of alternatives were considered, including providing:

-- Working capital credit to complement the term credit requirements of investors.

-- Term credit facilities for the private sector purchase of assets.

-- Capital for direct investment on a quasi-equity or subordinated debt basis in selected acquired assets and/or GOUs to be privatized.

-- Technical assistance to the GOP in the execution of its "Rationalization Program," and

-- Technical assistance to the GOP in the execution of its "Privatization Program."

The provisions of working and/or term capital facilities or investment capital are not viable options for A.I.D. The commercial banking system in the Philippines is presently highly liquid and short term working capital resources are available. The past easy provision and use of term debt resources from GFIs is one of the reasons why there is a need for a Privatization Program now. Accordingly, this alternative is out of the question. As for investment capital, there is no need for AID or any other donor to play a catalytic role here. Equity investment capital is readily available from both domestic and foreign sources to take advantage of the GOP's Privatization Program. This is the principal reason why the stock market is on a bull run. Investors are looking for investment grade securities, but they are not available in the current environment. A number of private foreign and domestic investment funds have already appeared on the horizon (i.e., First Philippine Capital Fund), and the GOP's Debt/Equity Swap Program provides further equity investment incentives. In addition, considering the level of resources required to purchase privatizable assets, estimated to be in the neighborhood of $1-2 billion, USAID current OYB of $13 million would not put an appreciable dent in this requirement. In short, to provide the funding necessary to adequately finance the short to long-term financing needs of investors, even if it was needed, would be beyond the capacity of USAID.

It is AID's policy not to undertake activities which would strengthen the efficiency of GOCCs, particularly where they are in competition with the private sector. As such, AID is not in a position to provide technical assistance for the GOP's "Rationalization Program." The World Bank has under consideration technical assistance to the GOP for this effort under its proposed Government Corporation Rationalization Loan, now in the appraisal stage.

However, as discussed in Section II.B.1, there is a tremendous need to assist both the APT and ADUs of selected GOCCs to execute their partial/complete divestiture plans within the five-year life span of the program, particularly in light of the inadequate resources to carry out their respective privatization programs, but also, and understandably so, because of their lack of experience in this area. This identified need is the basis of the Mission's Privatization Plan (see Annex L).

As presented in the AID-financed First Boston Memorandum on Privatization, the work programs or actual operating stages involved in the privatization process are extremely important to achieving privatization targets and goals. The GOP has taken the recommendations of First Boston and provided for the following in its Privatization Program through Proclamation No. 50:

-- A clear legal framework.
-- Centralized decision making power, and
-- An overall privatization unit with detailed operating guidelines.

With this accomplished, and although the APT and selected GOCCs have initiated the privatization process, the services that can be provided by expatriate and local consultant and to be funded by the project are critical to the timely completion of their tasks.

The nature of any privatization program requires the application of diverse and specialized disciplines. The objectives of the Philippine Privatization Program, the degree of sophistication of the Philippine market and the structural layout of the sectors to be privatized, as well as the desire not to "reinvent the wheel," make it advisable to contract the services of various specialty firms. Since the ultimate price that investors might be willing to pay for any enterprise is normally a function of the accuracy of available information, ensuring the quality of information is a top priority. To this end, firms with specialty backgrounds in the preparation of information, in the appraisal of assets, in the conduct of sectoral strategic studies and in the execution of divestiture programs, must be looked upon as providers of needed services.

Auditors: The supply of accurate and updated financial information is a key requirement in any type of divestiture process. To this end, the participation of an outside accounting firm in the audit of historical as well as current financial performance is needed. Similarly, in cases where financial restructuring is being considered, accounting firms are best qualified to perform the task. If attracting foreign investors is one of the objectives, having financial statements be endorsed by one of the "Big Eight" U.S. accounting firms and their associates here in the Philippines would become a priority.

Technical Advisors/Specialty Engineering Firms: In order to obtain a thorough understanding about the real value of a company, alternative valuation methodologies should be utilized. Among these, replacement cost and liquidation value are parameters that only experts in the specific field would be able to provide. Thus, the involvement of technical/specialty engineering firms is necessary.

Investment Banks: The participation of an investment bank has a two-fold objective: (1) as financial advisor to the government, in working together with the privatization unit (in this case the APT and/or ADUs of GOCCs) in the sale of smaller enterprises; and (2) as financial intermediary for the sale of larger enterprises. The investment bank is able to provide the technical assistance normally associated with the sale, merger and acquisition of companies and can thus define and execute marketing strategies tailored to the specific characteristics of each enterprise.

Management Consultants: Strategic studies on the sectors to be privatized should be conducted by management consulting firms. The objective of their work is normally geared to identifying entry barriers in government-controlled sectors with a view to designing policy measures to encourage private investment. The scope of these measures will also involve, but not be limited to, specific pricing recommendations, labor and management issues, etc.

Other governments, including Great Britain, Spain, Costa Rica and Jamaica, have recognized the effectiveness of utilizing outside advisors to provide professional assistance in the expeditious privatization of assets and have used them quite effectively in executing their privatization efforts. The experience gained by advisors to those governments is certainly applicable here in the Philippines.

The Privatization Project corresponds to these requirements and will provide these services to the APT and ADUs of GOCCs, and will provide for the professional, timely and efficient disposal of GOCCs and acquired assets.

To maintain momentum, it is now more important than ever to have these specialized services placed as quickly as possible to keep the privatization process moving and alive. The technical assistance and equipment in support of the APTs and selected GOCCs' information and data management needs will put into place file and retrieval systems that will allow their staffs to be more efficient and, in turn, more productive. By using donor financed outside consulting assistance in their legal, valuation and marketing efforts, the APT and ADUs of GOCCs can more effectively utilize their scarce resources and lean staffs to manage the privatization process. Because this assistance is experienced in the privatization process, as mentioned above, the wheel is not reinvented and the GOP will certainly realize a greater return on the assets being sold than if these services were not in place.

The technical assistance to the GOCCs in the establishment of independent ADUs, the refinement of their privatization objectives the identification of impediments to privatization and the development of privatization strategies will provide order to what is now a chaotic state of privatization implementation. In addition, this assistance will help to keep privatization objectives focused and on track with the government-wide privatization objectives and will ensure against special interests, turf protectors, and hidden agendas always evident in the privatization process.

The approach taken in the Privatization Project will assist the GOP to achieve its privatization goals.

L. USAID's PRIVATIZATION PLAN

ANNEX L

MISSION PRIVATIZATION PLAN

A. The Problem

The movement of the Philippines from a generally private sector oriented economy toward a mixed economy with a growing and inefficient public corporate sector gained impetus as long as fifteen years ago. During the 1970s neither the donors nor the international financial community gave due attention to the trend toward ever greater public sector domination of industry and large scale service sector businesses such as airlines and banking. However, the subsequent emergence of "crony-capitalism"--private monopolies leveraged with public funds--caught the attention and interest of the world financial community and signalled how much structural change had taken place in the business sector of the Philippines. As the complex architecture of crony capitalism was gradually revealed during the waning years of the Marcos administration, the full extent of the government's ownership and involvement in industry and business became increasingly clear.

The government owned the only airline, banks, steel mills, cement corporations, mining corporations, shipping lines, oil corporations, refineries, urban bus companies and trucking firms. On top of this mass of chartered public business, the government's domination of financial and capital markets, and the liberal use of sovereign guarantees to shore up private credits, had given the Philippine government enormous exposure to the nominally private businesses operated by the cronies. When the weaknesses in the financial structure of the Philippines were dramatically exposed during the crisis of confidence which followed the assassination of Benigno Aquino in 1983, the reality of this massive government exposure to private firms became clear. Over the next three years an increasing number of crony and other firms failed to meet their debt obligations. Many owners walked away from their companies with little regret having made their profits in the mobilization and procurement phases of projects, leveraged with public funds. Others skillfully stripped their assets undetected by the inexperienced and often unconcerned public sector bankers who held their paper.

As the defaults to the government banks cascaded, with single company defaults triggering the collapse of holding companies and corporate shells to which many of the government loans had been extended, the size of the public sector portfolio grew apace. Today, the public sector, chartered and acquired, eats a quarter of the national budget. President Aquino and her economic cabinet officers have given high priority to divestiture and privatization. This priority has been underscored by the donors. The IBRD has required divestiture and restructuring plans for public financial corporations and for non-financial (industrial and service) companies as a condition for program loans. USAID has tied food aid to privatization conditions in the agricultural and food processing areas. These efforts have been relatively well-received by the economic technocrats of the GOP who share the donors' sense of urgency in stanching the budgetary bleeding of the public corporate accounts and in restoring leadership to the private sector in most industrial and corporate activity.

Before examining the specifics of privatization in the Philippines it is useful to consider the overall financial magnitude of the issue. The GOP's budget deficit for 1986 was an estimated $1.4 billion, or around 4.7 percent of GNP, caused in large part by government expenditures in the form of subsidies, net lending and equity contributions to chartered public corporations, and debt servicing for the three largest government financial institutions. In 1986, GOP equity contributions and net lending to public enterprises amounted to 27.7 billion pesos, or 26 percent of total budgetary expenditures. Outlays to the government financial institutions absorbed 58 percent of this assistance. To reduce this burden and to reverse the statist policies of the previous administration, the present administration must divest itself of three classes of assets:

1. <u>Chartered Public Corporations (Non-Financial)</u>: The previous Administration pursued interventionist policies which led to the establishment of inefficient and heavily subsidized parastatals, most in direct competition with the private sector. The formation of public sector companies expanded rapidly in the 1970s and early 1980s, quadrupling from 65 in 1970 to 264 in 1986. A core of 14 very large chartered corporations constitute about half of total public corporation assets, and 74 smaller corporations and 174 wholly-owned subsidiaries make up the remainder. These entities range from the Philippine National Oil Company (PNOC) and Philippine Airlines to a variety of corporate subsidiaries in transport, trade and manufacturing. In terms of gross value added (GVA), this sector grew faster than the economy between 1975 and 1984, growing by 24.6 percent per annum compared to 14.1 percent for Gross Domestic Product (GDP). However, the contribution of this sector to total employment has been very insignificant. In 1984, employment in public enterprises accounted for less than one percent of total employment.

2. <u>Chartered Public Corporations (Financial)</u>: Policies of the previous government perpetuated an over-reliance in the economy on bank borrowing to finance medium- to long-term capital requirements. The volatility of the Philippine economy over the past five years caused many companies to default on their loans to the government financial institutions, which then acquired assets through the conversion of loans to equity. In most instances the financial obligation to the banks exceeds the value of the assets. To avoid decapitalizing the government financial institutions the government has had to provide them with massive financial support from the budget. There is an urgent need for the government to relieve itself of this financial burden, and to eventually divest itself of financial institutions such as the Development Bank of the Philippines (DBP), Philippine National Bank (PNB), the Land Bank (LB), the Philippine Export and Foreign Loan Guarantee Corp. (PEFLGC), and numerous insurance and special purpose financial firms because of their drain on the budget.

Both DBP and PNB have undergone financial restructuring as part of the conditionality attached by the IBRD to its Economic Recovery Program Loan (see Section C.1). On an obligation basis, net lending to DBP is expected to decrease from 7.6 billion pesos ($371 M) in 1986 to a projected 5.7 billion pesos ($278 M) in 1987. Net lending and equity investments for PNB are projected to drop from 11.0 billion pesos ($537 M) in 1986 to 2.8 billion pesos ($137 M) in 1987.

3. Acquired Assets: Government financial institutions acquired hundreds of assets in the form of private companies that defaulted on their loans. The case for divesting these assets has been evident to the domestic and international financial community for many years. The previous IMF Stand-by Agreement with the GOP sought to force a measure of financial discipline on DBP and PNB. The key economic team members in the new Administration's Cabinet know that privatization is imperative and have arrived at a mechanism to undertake this task, as discussed in Section B below.

B. GOP Approach to Privatization: After several ad hoc attempts to privatize individual entities, the Aquino administration issued Proclamations 50 and 50-A in December 1986, formally launching a program for the expeditious disposition and privatization of certain government corporations and/or assets thereof. Proclamation No. 50 created the Committee on Privatization (COP) and the Asset Privatization Trust (APT) and 50-A, issued shortly thereafter, refined the requirements of the original Proclamation (to the satisfaction of the IBRD). The COP is a Cabinet-level committee tasked with identifying for the President those non-performing assets and government corporations to be privatized, determining which assets will be transferred to the APT, establishing guidelines for privatization, and approving the sale and disposition of assets. The APT was created to serve as the disposal unit in the process, with five full-time trustees from the private sector. The APT will focus primarily on the acquired assets of PNB and DBP and the government-owned corporations or parastatals. Operating guidelines for the APT have been finalized and issued. These guidelines address: the transfer of non-performing assets to the Trust; priorities for asset disposal; policies on conservation, rehabilitation, restructuring, mergers and other reorganizations; the choice of markets for disposition; valuation; sales methods; sale to previous owners; and operations and administration. The guidelines for the disposal of government corporations have also been issued.

C. Other Donor Plans

1. The World Bank (IBRD): The IBRD has been a vital force in promoting privatization in the Philippines. It conditioned its $310 million Economic Recovery Loan on reforms in the government financial institutions, including the establishment of a mechanism for the privatization of acquired assets and the restructuring of the DBP and PNB. In addition, the IBRD and the GOP have reached agreement on a $150 million Public Corporate Sector Rationalization loan, to privatize selected non-financial government corporations and increase the operating efficiency of the remaining public corporations. The IBRD is requiring Philippine government agreement on the structure and implementation of the rationalization effort as a precondition to both the Public Corporate Sector Loan and the second tranche of the Economic Recovery Loan.

2. International Finance Corporation (IFC) has committed $12.5 million to the First Philippine Capital Fund for the purpose of converting part of the Philippines' foreign debt into equity investments. This Fund will likely be a contributor to the privatization process through the purchase of investment in the acquired and distressed assets of the GFIs. The IFC might also provide general technical assistance to the APT as required by the GOP. In the GOP execution of specific privatization deals, IFC may provide specialized technical assistance to potential buyers.

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3. Asian Development Bank (ADB): The ADB has no plans for significant near-term involvement in privatization, but is providing grant technical assistance for privatization-related studies. However, the ADB has made a $500,000 equity infusion to Planters Development Bank and is negotiating opening a $10 million window for direct lending to private corporations without requiring a government guarantee.

D. The Mission Approach to Privatization: The Mission envisions its major contribution to the privatization process to be assisting the GOP to develop its privatization strategy and implementation framework. The Mission's approach adheres to the principle that the process of privatization generally and divestiture specifically is a market process which must be implemented by private sector entities qualified to do so, i.e., private investment/merchant banks, accounting and consulting engineering firms, lawyers, etc. This approach sets us apart from the multilateral development banks (MDBs) who have indicated a willingness to provide financial and technical resources to review, classify and selectively rehabilitate assets before their disposal or leverage the sale itself.

E. Specific Actions: The initial thrust of the Mission's privatization plan has been to act as a catalyst to focus the GOP's policy makers on the need to divest the government of non-performing and public corporate assets in an expeditious but orderly manner. The Mission has identified short- and long-term targets of opportunity for assisting the privatization process in the Philippines, as presented below.

1. Short-Term

Accomplishments to Date

a) Studies: Initially, the Mission funded several studies on the public corporate sector in the Philippines, which were used by the IBRD in its appraisals for the economic recovery and public corporate sector loans. Subsequently, the Mission used the PRE Bureau contract with the Center for Privatization for a key study performed by the First Boston Corporation entitled "Recommendations on the Privatization Program for the Republic of the Philippines." This study provided significant input to the GOP's decision not to undertake a massive physical and financial rehabilitation of assets prior to their sale because costs incurred would probably not be recovered. The study furthermore stressed the importance of centralization, simplicity, flexibility and speed for the GOP to succeed in privatization.

b) Privatization Conference: An international conference called "Philippine Opportunities for Entrepreneurs and Investors (PHOENIX)," focusing on the divestiture of government corporations, was held in December 1986. The Conference was hosted by the Presidential Commission on Government Reorganization (PCGR) and involved key GOP officials in a presentation of investment policies and opportunities. This conference represented the launching of the GOP's privatization program and the first in a series of marketing activities to generate interest in the assets being privatized by the GOP. The Mission deemed this an excellent opportunity for AID to be publicly associated with GOP privatization efforts and received the assistance of the PRE Bureau to financially support this conference. AA/PRE Neal Peden

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attended the conference and was featured as a speaker, and PRE recruited and financed several individuals skilled in asset evaluation techniques who led and participated in a panel discussion on this topic.

c) National Food Authority (NFA): Since the Mission's development thrust is agriculture and rural development, special emphasis is being given by the Mission to the privatization of government agribusiness and agri-marketing firms such as the National Food Authority (NFA) and the commodity marketing firms such as the Philippine Cotton (PCC), Dairy (PDC) and Tobacco (PTC) Corporations. The former Minister of Agriculture formally requested advisory services to establish a framework for the divestiture of the NFA. A review of the NFA non-grain business operations was made, their commercial viability assessed, net worth and fair prices ranges were established and an action plan for divestment developed and recommended. The study's recommendations have been well received by the new Secretary of Agriculture.

2. Long-Term

a. Privatization Project (492-0428)

The purpose of this planned FY 1988 project is to reduce the burden of the acquired assets and public corporations on the national budget.

The project's approach will be to assist the government to divest itself of state-owned corporations and acquired assets. The newly created Asset Privatization Trust and other governmental disposal units will require assistance in evaluation, finance packaging, identification of foreign investors and marketing. The project will provide technical assistance in the form of investment banking, accounting, marketing, and technical services for the following activities: a) evaluation; b) financial packaging; c) preparation of prospectus; d) presentation of formal opinions on the "fairness" of the terms of the sale; e) identification of potential direct and portfolio investors, particularly direct foreign investors for the larger entities to be privatized; f) assistance in negotiations with prospective investors; and g) issuing shares of state-owned companies in the public securities exchanges.

b. The Accelerated Agricultural Production (AAP) Project

The Mission plans to assist the GOP to undertake privatization activities related to agriculture through the Market Development Component of the AAP project, signed in August 1986. Follow-on privatization activities for NFA, PCC and PDC further to those described above may be financed. In addition, the Mission plans to furnish assistance in setting-up an asset disposal unit for the Department of Agriculture.

c. Venture Capital

In the area of venture capital, PRE has agreed to work with the Mission in identifying an appropriate USAID intervention. We realize that the U.S. approach to venture capital cannot be applied here at this time because of structural economic weaknesses, i.e. a weak capital market. Therefore, we will be identifying innovative approaches to venture capital development and usage that will probably be tied to a transfer of technology. We will also use our work on venture capital to strengthen the capital markets.

3. Resource Allocation

a. The Privatization Project

A funding level of $5 milllion is proposed. This activity is not new; it comprises one of the two major components of the Mission's Financial Resources Mobilization Project, authorized in AID/W in 1987, which did not go forward because negotiations with the GOP broke down over the capital market development component. Project activities are not expected to get underway until late FY 1988 to allow for completion of a new Project Paper, negotiation of the Project Agreement and the meeting of Conditions Precedent to Disbursement. The project-supported privatization activities would be undertaken over a five-year timeframe, FY 1988-1992.

b. The Accelerated Agricultural Production (AAP) Project

$700,000 has been budgeted to support privatization under AAP. The PACD is December 31, 1991; however, the privatization activities the project will support are likely to be completed in FY 1988 or 1989.

c. Venture Capital

Resource allocation for this possible future activity has not yet been determined. This area may be addressed in a FY 1988 or 1989 project.

M. PROCLAMATION NO. 50 AND 50-A

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ANNEX M

MALACAÑANG
Manila

PROCLAMATION NO. 50

PROCLAIMING AND LAUNCHING A PROGRAM FOR THE EXPEDITIOUS DISPOSITION AND PRIVATIZATION OF CERTAIN GOVERNMENT CORPORATIONS AND/OR THE ASSETS THEREOF, AND CREATING THE COMMITTEE ON PRIVATIZATION AND THE ASSET PRIVATIZATION TRUST

RECALLING that the reorganization of the government is mandated expressly in Article II, Section 1(a), and Article III of the Freedom Constitution;

HAVING IN MIND that, pursuant to Executive Order No. 5 (1986), there is a need to effect the necessary and proper changes in the organizational and functional structures of the government, its agencies and instrumentalities, in order to promote efficiency and effectiveness in the delivery of public services;

TAKING INTO ACCOUNT that the government considers imperative the formal launching of a program for the rationalization of the government corporate sector calculated to create and sustain a legal, socio-political and economic environment conducive to the cultivation of a high degree of dynamism and performance motivation among government-owned or controlled corporations under a regime of relative autonomy, flexibility, viability and continuing accountability to the people in their operations;

CONSIDERING that the government has decided to adopt, as the twin cornerstones of the program, the following parallel imperatives for the attainment of national policy:

(a) The judicious use of the corporate form of organization in the creation of government bodies for the production and distribution of economic goods and services to the public, and the need to rationalize and monitor the operations of government corporations to help bring about improved performance, assure more efficient use of resources and in general to re-orient their activities and priorities in a manner consistent with national objectives, to the end that the private sector is given primacy and the government assumes a supplemental role, in entrepreneurial endeavors under a climate of fair competition; and

(b) Reducing the number of government corporations which has proliferated to unmanageable proportions; circumscribing the areas of economic activities within which government corporations may operate; and aiming to achieve these goals through the privatization of a good number of government corporations, and the disposition and liquidation of the non-relevant and non-performing assets of retained corporations as the logical first step to their rehabilitation.

TAKING NOTE that there has already been created, in pursuit of the first imperative, an inter-ministerial body called the Government Corporate Monitoring Committee under Executive Order No. 936 issued on February 29, 1984, and reconstituted into the Government Corporate Monitoring and Coordinating Committee under Memorandum Circular No. 10 dated May 19, 1986;

REALIZING that it is now necessary to constitute the inter-ministerial body to pursue the second imperative, the latter to function as the counterpart of the above-mentioned Government Corporate Monitoring and Coordinating Committee in the implementation of the remedial aspect of the program for the rationalization of the government corporate sector under the integrative control and direction of the President of the Philippines;

CONVINCED that it is necessary, expedient and advantageous to centralize the disposition and privatization process in a public trust entity which shall on its own and, where necessary, by engaging the services of qualified professionals, institutions, syndicates, and consortia of institutions in the private sector, whether domestic or foreign, undertake the dispositive aspect of the program for the Rationalization of the Public Corporate Sector;

COGNIZANT that the transfer and prompt disposition of the larger non-performing assets of certain government financial institutions are central to the rehabilitation of these institutions and the economic recovery program, and that in the execution of this task it is essential to devolve such responsibility upon a specialized entity external to the government financial institutions themselves so that the latter will not be distracted and their energies diverted from the vital concerns of inherent and substantive financial operations;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:

ARTICLE I. STATEMENT OF POLICY AND DEFINITION OF TERMS

SECTION 1. Statement of Policy. It shall be the policy of the State to promote privatization through an orderly, coordinated and efficient program for the prompt disposition of the large number of non-performing assets of the government financial institutions, and certain government-owned or controlled corporations which have been found unnecessary or inappropriate for the government sector to maintain.

SEC. 2. Definition of Terms. As used in this Proclamation and unless the context otherwise requires, the term:

(1) Assets shall include (i) receivables and other obligations due to government institutions under credit, lease, indemnity and other agreements together with all collateral security and other rights (including but not limited to rights in relation to shares of stock in corporations such as voting rights as well as rights to appoint directors of corporations or otherwise engage in the management thereof) granted to such institutions by contract or operation of law to secure or enforce the right of payment of such obligations; (ii) real and personal property of any kind owned or held by government institutions, including shares of stock in corporations, obtained by such government institutions, whether directly or indirectly, through foreclosure or other means, in settlement of such obligations; (iii) shares of stock and other investments held by government institutions; and (iv) the government institutions themselves, whether as parent or subsidiary corporations.

(2) Government Institutions shall refer to government-owned or controlled corporations, financial or otherwise, whether organized by special charter as in the case of a parent corporation, or under general law as in the case of a subsidiary corporation.

(3) Committee shall refer to the Committee on Privatization constituted under this Proclamation.

(4) Asset disposition entity shall refer to any government agency, including government banks, specifically designated or contracted by the Committee to perform the disposition of assets.

(5) President shall mean the President of the Republic of the Philippines.

(6) Trust shall mean the Asset Privatization Trust created under Sec. 9 hereof.

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ARTICLE II. COMMITTEE ON PRIVATIZATION

SEC. 3. Committee on Privatization. There is hereby constituted a Committee on Privatization to be composed of the Minister of Finance as Chairman, with the Minister of Trade and Industry, the Director General of the National Economic and Development Authority, the Minister of Budget and Management, and the Minister in charge of the Presidential Commission on Government Reorganization, as members. Whenever any member of the Committee is unable to attend a particular meeting, he may designate any of his immediate subordinates with the rank of Deputy Minister or its equivalent to attend in his stead.

The Committee shall exist for a term of five years counted from the effectivity date of this Proclamation unless sooner terminated or superseded by another body by the President.

SEC. 4. Responsibilities and Objectives. It shall be the duty and responsibility of the Committee to use the powers granted to it under this Proclamation to achieve the objectives of (a) divesting to the private sector in the soonest possible time through the appropriate disposition entities, those assets with viable and productive potential as going concerns, taking into account where appropriate the implications of such transfers on sectoral productive capacities and market limitations, and (b) disposing of such other assets as may be transferred to it, generating the maximum cash recovery for the National Government in the process. These objectives are to be pursued within the context of furthering the national economic recovery through a strengthened and revitalized private enterprise system.

SEC. 5. Powers and functions. The Committee shall have the following powers and functions:

(1) To identify to the President of the Philippines, and arrange for transfer to the National Government and/or to the Trust and the subsequent divestment to the private sector of (a) such non-performing assets as may be identified by the Committee, and approved by the President, for transfer from the government banks for disposal by the Trust or the government banks, and (b) such government corporations, whether parent or subsidiary, and/or such of their asets, as may have been recommended by the Committee for disposition, and approved by the President: Provided, that no such identification, recommendation or approval shall be necessary where a parent corporation decides on its own to divest of, in whole or in part, or liquidate a subsidiary corporation organized under the Corporation Code; Provided, further, that any such independent disposition shall be undertaken with the prior approval of the Committee and in accordance with the general disposition guidelines as the Committee may provide; Provided, finally, that in every case the sale or disposition shall be approved by the Committee with respect to the buyer and price only;

(2) To determine which of such assets shall be transferred to the Trust or referred to other government institutions, whether financial or otherwise, for disposition and, pending disposition, for conservation and management;

(3) To establish mandatory as well as indicative guidelines for the conservation, rehabilitation and disposition of such assets, whether by the Trust or any other government institution;

(4) To approve or disapprove, on behalf of the National Government and without need of any further approval or other action from any other government institution or agency, the sale or disposition of such assets, in each case on terms and to purchasers recommended by the Trust or the government institution, as the case may be, to whom the disposition of such assets may have been delegated; Provided that, the Committee shall not itself undertake the marketing of any such assets, or participate in the negotiation of their sale;

(5) In its discretion, to approve or disapprove, subject to the availability of funds for such purpose, the rehabilitation of assets pending disposition by the Trust or any other government agency authorized by the Committee, or the Trust with the approval of the Committee; Provided that, the budget for each rehabilitation project shall be likewise subject to prior approval by the Committee;

(6) To exercise on behalf of the National Government rights of ownership with respect to such assets, including the right to vote, whether directly or through duly authorized nominees, shares of stock held in the name of the National Government, and which have not been transferred to the Trust;

(7) To issue necessary guidelines to all government agencies to govern ongoing negotiations on the disposal of government corporate assets;

(8) To approve the organization and financial requirements of the Trust, including its annual budgets for operations, conservation, and the administration of assets entrusted under its care;

(9) To monitor and review as necessary from time to time the entire privatization and divestment program, including those which are being undertaken by parent government corporations, and the status of its implementation; and

(10) To appoint, transfer, remove, and fix the remuneration of personnel of the Committee; provided that the Committee shall hire its own personnel only if deemed absolutely necessary for the discharge of its responsibilities and, as far as practicable, it shall avail itself of the services of the personnel seconded or detailed from other government offices.

SEC. 6. Meetings. The Committee shall meet as frequently as is necessary to discharge its responsibilities, Provided, that it shall meet at least once every month. The presence of a majority of the members of the Committee shall constitute a quorum, and the concurrence of a majority of the members present at a meeting at which a quorum exists shall be adequate for any decision by the Committee; Provided that, where the matter involves the approval of any disposition or rehabilitation proposal, the unanimity of the entire Committee shall be necessary.

The Committee shall act on any recommendation for disposition submitted to it not later than thirty (30) days from date of receipt thereof, failing which such recommendation shall be deemed approved.

SEC. 7. Funding. The amount of Ten Million Pesos to cover expenses of the Committee in connection with the discharge of its responsibilities under this Proclamation, is hereby authorized, said amount to be charged against the One Hundred Million Pesos (P100,000,000) appropriation intended for the capitalization for the Asset Disposition Trust under Presidential Decree No. 2030.

SEC. 8. Legal Counsel. The Minister of Justice shall be the ex oficio legal adviser to the Committee.

ARTICLE III. ASSET PRIVATIZATION TRUST

SEC. 9. Creation. There is hereby created a public trust to be known as the Asset Privatization Trust, hereinafter referred to as the Trust, which shall, for the benefit of the National Government, take title to and possession of, conserve, provisionally manage and dispose of assets as defined in Section 2 herein which have been identified for privatization or disposition and transferred to the Trust for the purpose, pursuant to Section 23 of this Proclamation.

SEC. 10. Purposes and Objectives, Domicile, Term of Existence. The principal purpose of the Trust shall be to effect or cause to be effected, directly or through other external agencies, the disposition within the shortest possible period of assets transferred to the Trust for the purpose.

The Trust in its divestment program should seek in the soonest time possible, to restore existing physical facilities involved into viable and productive operations under private sector management and ownership, and thus to contribute towards national economic recovery within the context of a private enterprise system. Within the context of this major purpose, the Trust is expected to generate maximum cash recovery for the National Government.

The Trust shall have its principal place of business in Metropolitan Manila.

The Trust shall exist for a period of five years from the date of this Proclamation, and all assets held by it, all moneys and other property belonging to it, and all its liabilities outstanding upon the expiration of such period shall revert to and be assumed by the National Government.

SEC. 11. Sourcing and Application of Funds by the Trust. The capital and working funds of the Trust shall consist of:

(1) The amount of Ninety Million Pesos (P90,000,000) chargeable against the One Hundred Million Pesos (P100,000,000) appropriation intended for the Asset Disposition Trust under Presidential Decree No. 2030, which shall be used for capital acquisitions approved by the Committee, and to cover administrative expenses, including those for the hiring of appraisers, as may be necessary for its effective and efficient operations; as well as to advance for expenses of securing, conserving, and maintaining assets, and where necessary, operating the asset prior to its disposal;

(2) Amounts authorized under Section 34 of this Proclamation to be excised from the proceeds of disposition and retained by the Trust, as agreed upon with the Committee;

(3) Subsequent annual appropriations under the General Appropriations Act, as well as funds which may be authorized by the President in accordance with law from unused or available balances in the General Appropriations Act;

(4) External funding assistance, whether in the form of loans, grants or otherwise; which the Trust with the approval of the Committee may source or obtain from appropriate institutions, domestic or foreign, bilateral or multilateral, government or private, such as the International Bank for Reconstruction and Development, Asian Development Bank, United Nations Development Program, and commercial banks and investment houses; and

(5) Where necessary and subject to the prior approval of the Committee, service fees levied on the trusteed assets in such amounts as may be appropriate and reasonable.

SEC. 12. Powers. The Trust shall, in the discharge of its responsibilities, have the following powers:

(1) To formulate and, after approval by the Committee, implement a program for the disposition of assets transferred to it under this Proclamation, such program to be completed within a period of five years from the date of the issuance of this Proclamation;

(2) Subject to its having received the prior written approval of the Committee to sell such asset at a price and on terms of payment and to a party disclosed to the Committee, to sell each asset referred to it by the Committee to such party and on such terms as in its discretion are in the best interest of the National Government, and for such purpose to execute and deliver, on behalf and in the name of the National Government, such deeds of sale, contracts and other instruments as may be necessary or appropriate to convey title to such assets;

(3) To take title to and possession of and to take such steps as may be necessary to conserve assets transferred to it by the Committee, including, without limitation, to oversee the management and operation of corporations or other businesses constituting such assets, and to file suits and institute proceedings on behalf of and in the name of National Government for the recovery and protection of such assets;

(4) Subject to the prior approval of the Committee, to undertake the rehabilitation of such assets in instances where such rehabilitation is necessary to conserve the value of such assets or permit their sale.

(5) To engage such external expertise as may be necessary for it to fulfill its task;

(6) To lease or own real and personal property to the extent required or entailed by its functions; to borrow money and incur such liabilities as may be reasonably necessary to permit it to carry out the responsibilities imposed upon it under this Proclamation; to receive and collect interest, rent and other income from the corporations and assets held by it and to exercise in behalf of the National Government and to the extent authorized by the Committee, in respect of such corporations and assets, all rights, powers and privileges of ownership including the ability to compromise and release claims or settle liabilities, and otherwise to do and perform any and all acts that may be necessary or proper to carry out the purposes of this Proclamation: Provided, however, that any borrowing by the Trust shall be subject to the prior approval by the majority vote of the members of the Committee;

(7) To adopt its internal rules and regulations, to adopt, alter and use a seal which shall be judicially noticed; to enter into contracts; to sue and be sued; and

(8) To submit periodic reports to the Committee on the status of the disposition program under its responsibility, and such other reports as may be required by the Committee.

SEC. 13. Essentiality of Trust Functions. The rationalization of the government corporate sector is deemed to be a critical concern of government; and the Trust in undertaking the tasks of divestment and privatization must give due and pragmatic regard to the preferences and motivations of the market for investible private capital both in the Philippines and overseas, act with dispatch on all problems and opportunities which may come before it to the end that the objectives of the Trust are completed within the five-year period mandated in Section 10 hereof. Accordingly, the Trust shall be and is hereby accorded the widest latitude of flexibility and autonomy in its operations, particularly in the areas of accounting, auditing, procurement, contracting, asset management and disposition, and personnel, subject however to the provisions of this Proclamation.

SEC. 14. Trustees. The powers and functions of the Trust shall be exercised collegially by a group of Trustees which shall be composed of a Chief Executive Trustee and four other Associate Executive Trustees;

All of the Trustees shall be appointed by the President, upon recommendation of the Committee. The Trustees shall serve on a full-time basis for a term of up to five years, but in no case longer than the term of existence of the Trust, or unless sooner relieved by the President.

SEC. 15. Qualifications. No person shall be appointed a Trustee unless he is of good moral character, of unquestionable integrity and responsibility and of recognized business competence. No director, officer, consultant or stockholder of corporations constituting or having an interest in assets held by the Trust may be appointed Trustee. Except as may be considered necessary to achieve the objectives of this Proclamation, the Chief Executive Trustee and the Associate Executive Trustees shall not sit on the board of directors or otherwise participate in the direct management of corporations constituting assets transferred to the Trust.

SEC. 16. Removal. The President of the Philippines may remove any Trustee for acts that are fraudulent, unlawful or manifestly opposed to the purpose of this Proclamation or if the member ceases to be qualified to become a Trustee under Section 14 of this Proclamation.

SEC. 17. Vacancies. Any vacancy created by the death, resignation or removal of any Trustee shall be filled by the appointment by the President of the Philippines of a new member, who shall serve for the unexpired portion of the term of the previous member.

SEC. 18. Meetings, Quorum. The Trustees shall meet as frequently as is necessary to discharge its responsibilities, but shall meet at least every two weeks. The presence of a majority of the Trustees shall constitute a quorum, and the concurrence of a majority of the Trustees present at a meeting at which a quorum exists shall be adequate for any decision by the Trust; Provided that, where the matter involves a proposal for disposition or rehabilitation of any asset, the unanimity of all the Trustees shall be necessary.

SEC. 19. Compensation. The basic compensation and other emoluments of the Chief Executive Trustee and his other benefits shall be negotiated between himself and the Committee. The emoluments of the Associate Executive Trustee shall be fixed by the Chief Executive Trustee with the approval of the Committee. In both instances, it shall have the approval of the President.

In view of the limited life of the Trust and the nature of its functions, the pay scales of the Trustees and other officers and employees of the Trust shall be exempt from the standardized salary scale and position classification prescribed by the Office of Compensation and Position Classification and the eligibility and other requirements of the Civil Service Commission.

All directors' fees and other income accruing to a Trustee, officer, or employee of the Trust, resulting from his membership on the board of any of the corporations under the administration or control of the

Trust shall accrue to the Trust, without prejudice to the Trust providing supplemental remuneration to other than Trustees for such additional responsibilities entailed by such membership.

SEC. 20. Exercise of Authority. In the exercise of the authority granted to it under this Proclamation, the Trustees shall:

(1) Issue such internal rules and regulations as the Trustees may deem necessary or convenient for the proper discharge of the functions of the Trust;

(2) Enter into management and such other contracts as may be appropriate; and

(3) Develop its own staffing requirements, and for this purpose, appoint, remove and fix the remuneration of personnel of the Trust; provided that as far as practicable it should rely largely on secondment from government entities undertaking related functions, and on qualified external expertise in an advisory capacity and on a contractual basis.

SEC. 21. Legal Counsel. The Minister of Justice shall be the ex-oficio legal advisor to the Trust.

ARTICLE [illegible]. OPERATIONAL PROVISIONS

SEC. 22. Transfer of Assets. The Committee shall:

(1) Arrange for the transfer to, and eventual disposition by, the National Government of certain non-performing assets of government financial institutions, as may be determined under terms mutually acceptable to all the parties concerned, and

(2) Arrange for the disposition of certain government-owned or controlled corporations which have been approved for divestment by the President of the Philippines; Provided, that the matter of appropriate valuation procedures for such transfers of assets shall be determined by the Committee.

The terms of transfer of assets may include appropriate arrangements for the consideration thereof, including but not limited to the assumption by the National Government of such liabilities of the government financial institutions and/or other government corporations, whether real or contingent.

The National Government, through the President, is hereby authorized to assume the obligations of government institutions including those due to the National Government on terms and to the extent determined by the President, on the recommendation of the Minister of Finance, to be warranted by the transfer of assets from such institutions pursuant to this Proclamation.

The President is likewise authorized, in the implementation of the program of privatization of certain government corporations created under special law, whether parent or subsidiary, to amend the corporate charters thereof so as to terminate their corporate existence; Provided, that such specially chartered corporations shall be specifically identified and approved for divestment, dissolution, consolidation, merger or regularization into a regular line agency within six months from date of issuance of this Proclamation, and Provided, further, that this authority to terminate the corporate existence of such corporations created under special law shall be exercised within five years from date of this Proclamation and in no case beyond the lifetime of the Committee or the Trust.

SEC. 23. Mechanics of Transfer of Assets. As soon as practicable, but not later than six months from the date of the issuance of this Proclamation, the President, acting through the Committee on Privatization, shall identify such assets of government institutions as appropriate for privatization and divestment in an appropriate instrument describing such assets or identifying the loan or other transactions giving rise to the receivables, obligations and other property constituting assets to be transferred.

The Committee shall, from the list of assets deemed appropriate for divestment, identify assets to be transferred to the Trust or to be referred to the government institutions in an appropriate instrument, which upon execution by the Committee shall constitute as the operative act of transfer or referral of the assets described therein, and the Trust or the government institution may thereupon proceed with the divestment in accordance with the provisions of this Proclamation and the guidelines issued by the Committee.

Nothing in this Proclamation shall:

(1) Affect the right of the National Government to pursue the enforcement of any claim of a government institutions in respect of or in relation to any asset transferred hereunder;

(2) In relation to any debt hereby assigned and transferred to the National Government of which a government institution is the original creditor, give rise to any novation or requirement to obtain the consent of the debtor; and

(3) In relation to any share of stock or any interest therein, give rise to any claim by any other stockholder for enforcement of rights of pre-emption or of first refusal or other similar rights, the provision of any law to the contrary notwithstanding.

Where the contractual rights of creditors of any of the government institutions involved may be affected by the exercise of the Committee or the Trust of the powers granted herein, the Committee or the Trust shall see to it that such rights are not impaired.

SEC. 24. Deeds of Assignment. Each government institution from which assets are to be transferred pursuant to this Proclamation shall and is hereby directed to execute, promptly and in no event later than thirty days after the issuance by the President of the relevant instrument referred to in Section 23 hereof, a deed of assignment in favor of the National Government, which shall, in annexes thereto, describe, account by account, the nature and extent of such assets and to deliver to the Committee such agreements, instruments, records and other papers in respect of such assets as may be deemed by the Committee to be reasonably necessary or appropriate. Each such deed of assignment shall constitute the Minister of Finance in representation of the National Government as attorney-in-fact of the government institution empowered to take such action and do such things as may be necessary or desirable to consolidate and perfect the title of the National Government to such assets, exercising for the purpose, any and all such rights and privileges, appertaining to the transferor-government institution, pursuant to the provisions of applicable law or contract.

A copy of such deed of assignment, together with excerpts from its annexes describing particular property to be transferred, duly certified to be true by the appropriate official before a notary public or other official authorized by law to administer oaths, shall provide sufficient basis to registers of deeds, transfer agents of corporations and other persons authorized to issue certificates of titles, shares of stock and other evidence of title to issue new certificates, shares of stock or other instruments evidencing title to the assets so described to and in the name of the National Government or its duly authorized agent.

The transfer of any asset of government institutions directly to the national government as mandated herein shall be for the purpose of disposition, liquidation and/or privatization only, any import in the covering deed of assignment to the contrary notwithstanding. Such transfer, therefore, shall not operate to revert such assets automatically to the general fund or the national patrimony, and shall not require specific enabling legislation to authorize their subsequent disposition, but shall remain as duly appropriated public properties earmarked for assignment, transfer or conveyance under the signature of the Minister of Finance or his duly authorized representative, who is hereby authorized for this purpose, to any disposition entity approved by the Committee pursuant to the provisions of this Proclamation.

SEC. 25. Reorganization of Trusteed Corporations. In order to align the organizational and manning structures of parent government-owned or controlled corporations as well as corporations established through the Corporation Code which are transferred to the Trust, with the centralization of the exercise by the government of its ownership role over such corporations through the Trust, this Proclamation proclaims and mandates that:

(1) As of the effective transfer of title over such corporations to the Trust, non-stock parent government-owned or controlled corporations transferred to the Trust may, if affirmed by the Committee, be converted into stock corporations and their various charters are hereby expressly amended for this purpose; each such corporations to have their respective networths, after due adjustment pursuant to Section 13 hereof, divided into common shares of stock at par values as determined by the Trust;

(2) Except as may be otherwise determined by the Trust, the number and composition of the different boards of directors, or trustees of trusteed corporation shall be fixed at five (5), the provisions of their respective charters or articles of incorporations to the contrary notwithstanding; Provided, that this subsection shall not apply to government corporations with minority private shareholders; and Provided, further, that the board membership seats and officership positions, as well as the incumbents thereof, may continue until such time as the Trust shall have decided on each of the trusteed corporations.

(3) The chairman and members of the board of directors or Trustees and the presidents or chief executive officers of the trusteed corporations shall be appointed: (a) in the case of parent corporations, by the Committee; and (b) in the case of subsidiary or affiliate corporations, by the Trust. In both instances, it shall have the approval of the President.

(4) The Trust may require any one or more of the trusted corporations to adopt and implement cost-reduction measures to enhance the viability, and therefore the disposability of such corporations, to potential buyers; and such measures may include personnel retrenchment plans;

(5) The Trust may direct any one or all of its trusteed corporations to submit to it within realistically fixed time-tables, such reports and other information as the Trust may require in the exercise of its ownership and dispositive roles over such corporations; and

(6) The Trust may cause trusteed corporations organized through the Corporation Code to undergo reorganizations, mergers, consolidations, spin-offs and other corporate acts of similar nature as the Trust may deem necessary or desirable to hasten disposition or privatization, provided that such major corporate acts shall conform with the provisions of the Corporation Code where applicable, and shall in any case have the prior approval of the Committee.

SEC. 26. Committee to Determine Transfer Value. The Committee is hereby vested with full and complete powers and prerogatives to determine the values, other terms and conditions, at which government corporate assets and liabilities shall be transferred and conveyed to the Trust pursuant to the mandate of this Proclamation; Provided, that, any valuation approved by the Committee for purposes of the transfer to the Trust shall not be deemed as a condonation of any obligation by any third party involved.

SEC. 27. Automatic Termination of Employer-Employee Relations. Upon the sale or other disposition of the ownership and/or controlling interest of the government in a corporation held by the Trust, or all or substantially all of the assets of such corporation, the employer-employee relations between the government and the officers and other personnel of such corporations shall terminate by operation of law. None of such officers or employees shall retain any vested right to future employment in the privatized or disposed corporation, and the new owners or controlling interest holders thereof shall have full and absolute discretion to retain or dismiss said officers and employees and to hire the replacement or replacements of any one or all of them as the pleasure and confidence of such owners or controlling interest holders may dictate.

Nothing in this section shall, however, be construed to deprive said officers and employees of their vested entitlements in accrued or due compensation and other benefits incident to their employment or attaching to termination under applicable employment contracts, collective bargaining agreements, and applicable legislation.

SEC. 28. Trust Succession to Powers and Functions of Attaching Ministries. The powers and functions of the relevant ministries over corporations respectively attached to them under the Integrated Reorganization Plan insofar as these powers and functions pertain to corporations transferred to the Trust, shall devolve upon and shall be exercised by the Trust over such transferred corporations. The unexpended balance of appropriations if any, earmarked for the support of the operations of the transferred corporations remaining in the control of the aforesaid ministries, shall also be transferred to the Trust to form part of its Operating Funds as specified in Section 11 of this Proclamation. From the date of the transfer of a government corporation to the Trust, all the requests for budgetary outlays from the General Fund by such corporation shall be subject to the prior approval by the Trust.

SEC. 29. Interim Responsibility for Transferred Assets. During the period prior to receipt by a government institution of notice from the National Government through the Committee that arrangements for the management of assets transferred from such government institution under this Proclamation have become effective, such government institutions shall be responsible for administering such assets for and on behalf of the National Government under such terms and conditions as may be agreed upon by the National Government and the government institution.

SEC. 30. Incontestability. The determination by and decision of the Committee that the terms on which an asset is to be sold or otherwise disposed of are consistent with the objectives in this Proclamation and in the best interest of the National Government shall be conclusive. The validity of any sale or disposition concluded by the National Government acting through the Trust its authorized agent or entity under this Proclamation shall, except for fraud, breach or material misrepresentation on the part of the purchaser, be incontestable and be binding and enforceable against the National Government and all third parties.

SEC. 31. Immunity and Indemnity Provision for Committee Members and Trustees.

(1) No civil action shall lie against the Committee and/or the Trust and no civil or criminal action shall prosper against a member of the Committee or a Trustee in its or his discharge of the tasks and functions contemplated by this Proclamation, unless: (a) the act or omission complained of clearly relates to a mandatory provision of this Proclamation the performance of which is expressly devolved or delegated to the concerned defendant as a ministerial duty rather than a discretionary or judgmental function, and (b) the act or omission is attended by fraud, bad faith; gross negligence; or violations of the provisions of the Anti-Graft Law;

(2) In the event that any member of the Committee, or a Trustee, or any member of their respective staffs during or after his incumbency, is called upon to defend his actions, related to the performance or non-performance of an act, or the execution of a transaction contemplated by this Proclamation, before any administrative, judicial or legislative proceeding; the government shall provide him with counsel without cost, or shoulder and pay the cost of a counsel of his choice, as well as other costs of litigation for which he may be held liable; Provided, that where the civil or criminal action is based on (a) and (b) of the preceding paragraph, and the member of the Committee or Trustee or of their respective staffs is found guilty of the acts complained of, such member shall be fully liable to and reimburse the Government for all sums advanced by the Government in accordance with the provisions of this Section to cover cost of counsel and other costs of litigation.

SEC. 32. Receivership. Without prejudice to any other remedy or course of action available to the Trust, the Securities and Exchange Commission shall, in addition to the jurisdiction and powers conferred on it by Presidential Decree No. 902-A, upon petition filed ex-parte by the Trust, appoint a receiver nominated by the Trust to take over the management and custody of the properties of a corporation referred to the Trust or whose obligations have been referred to the Trust under this Proclamation, or which holds assets subject to liens in favor of the Trust, in cases where such equity, obligations or liens have been referred by the Trust to external agencies for conservation and disposition and there is imminent danger of dissipation, loss, wastage, or destruction of assets or other properties or paralization of the business operations of such corporations which may be prejudicial to the interest of its stockholders, creditors, the general public or the National Government or where the appointment of a receiver has been stipulated by the parties to be a real or chattel mortgage or other agreement as an aid to foreclosure thereof. Such receiver shall have all powers of a regular receiver under the provisions of the Rules of Court and of a management board or body under Section 6 (d) of Presidential Decree No. 902-A.

SEC. 33. *Proceeds from Sales of Assets.* All proceeds from the sale or other disposition of assets net of fees, commissions and other reimbursable expenses of the Trust shall form part of the General Fund of the National Government and be remitted to the National Treasury immediately upon receipt of such proceeds: Provided, however, that the Trust shall be entitled to retain, upon approval by the Committee, such portion of the proceeds as may be necessary to maintain a revolving fund to be utilized for the payment of fees and reimbursable expenses and meeting the costs and expenses incurred by the Trust in the conservation and disposition of the assets held by it, or otherwise in the performance of its responsibilities under this Proclamation, including such amounts as may be required to service borrowings incurred by the Trust pursuant to the authority and for the purposes provided in this Proclamation.

In respect of the proceeds from the sale or other disposition of corporate subsidiaries of parent government corporations, such proceeds shall accrue to the parent corporation. The proceeds shall be net of fees, commissions and other reimbursable expenses of the Trust as approved by the Committee, where the disposition was undertaken by or through the Trust.

SEC. 34. *Exemption from Taxes, Fees, and Other Charges.* The provisions of any law to the contrary notwithstanding, the Trust as well as the corporations and assets held by it, shall be exempt from all taxes, fees, charges, imposts, and assessments arising from or occasioned by the passing of title over such corporations or assets from the government institutions to the Trust and/or from the Trust to a private acquisitor or buyer imposed by the National Government or any subdivision thereof including but not limited to stock transfer taxes, capital gains taxes, documentary stamps, registration fees and the like: Provided, that in case the said government institutions acquired the said assets by foreclosure, the non-payment of similar taxes, fees, charges, imposts, and assessments shall not be a bar to the consolidation of title in the foreclosing institutions and the subsequent passing of title to the Trust or the corporations held by the Trust.

The sale or transfer of such corporations or assets shall not be enjoined or hindered by the existence of any liens by way of taxes, charges or other assessments in favor of the government at the time of sale or transfer: Provided, that the proceeds from such sale or transfer shall be subject to a tax lien and first be applied to satisfy such obligations secured by said liens.

SEC. 35. *Audit.* Generally accepted accounting principles shall be observed in the recording of the transactions of the Committee and the Trust, of the corporations trusted to the National Government or to the Trust, or of transactions related to assets similarly trusteed. For the purpose of insuring the regularity and integrity of financial transactions of aforementioned entities, and of transactions related to the assets with which they officially deal, and to facilitate the disposition of assets to private entities, such entities and assets may be audited as follows:

(1) The Committee and the Trust shall be subject to audit by the Commission on Audit; Provided, however, that consonant with the flexibility criterion mandated on its operations under the provisions of Section 13 of this Proclamation, the Trust at its discretion and option may utilize the services of reputable private auditors if authorized by the Commission on Audit.

(2) The non-performing assets of government financial institutions trusteed to the National Government directly or through the Trust for disposition or privatization may continue to be subject to audit by private auditors; and

(3) Government-owned or controlled corporations approved for disposition and transferred to the National Government directly or through the Trust shall continue to be audited by the Commission on Audit for as long as they have not yet been disposed of; and, if considered necessary by the Trust for facilitating the divestment thereof to prospective private sector buyers, may also be audited by private auditors.

SEC. 36. Such sum or sums as may be necessary for the transfer of assets and liabilities, including liabilities of government financial institutions due the National Government, to the National Government as well as servicing thereof are hereby appropriated subject to the availability of funds in the National Treasury.

SEC. 37. *Reporting Requirements.* The Committee shall at least on a semi-annual basis submit to the President of the Philippines and to the legislative body a report on the status of its asset disposition program, which report shall include a description of the individual assets disposed of, the purchasers thereof, the consideration received therefor and the agreed terms of payment.

The Trust shall report on a quarterly basis its performance and financial condition to the Committee; and within three (3) months from the closure of books at the end of each fiscal year, submit a comprehensive annual report through the Committee, to the President and to the legislative body on the status of the privatization efforts and its asset disposition program, which report shall include a description of the individual corporations privatized and assets disposed of, the purchasers thereof, the consideration received therefor and the agreed terms of payment.

ARTICLE V. MISCELLANEOUS PROVISIONS

SEC. 38. *Separability Clause.* Any portion or provision of this Proclamation may be declared unconstitutional shall not have the effect of nullifying the other provisions thereof; provided, however, that such remaining portions can still stand and be given effect in their entirety to accomplish the objectives of this Proclmation.

SEC. 39. *Repealing Clause.* This Proclamation supersedes Presidential Decrees Nos. 2012 and 2030. All laws and decrees and all other executive orders, rules and regulations, or parts thereof, inconsistent with any of the provisions of this Proclamation are hereby repealed or modified accordingly.

SEC. 40. *Effectivity.* This Proclamation shall take effect immediately.

Manila, December 8, 1986.

Corazon C. Aquino

CORAZON C. AQUINO
President of the Philippines

By the President:

JOKER P. ARROYO
Executive Secretary

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 50-A

MODIFYING PROCLAMATION NO. 50

The following sections in Proclamation No. 50 are hereby modified to read as follows:

Section 18 shall hereafter read as follows:

"SEC. 18. Meetings, Quorum. The Trustees shall meet as frequently as is necessary to discharge its responsibilities, but shall meet at least every two weeks. The presence of a majority of the Trustees shall constitute a quorum, and the concurrence of a majority of the Trustees present at a meeting at which a quorum exists shall be adequate for any decision by the Trust; Provided that, where the matter involves a proposal for disposition or rehabilitation of any asset, the concurrence of at least four (4) Trustees shall be necessary."

Section 25(3) thereof shall hereafter read as follows:

SEC. 25(3). The Chairman and members of the board of directors or Trustees and the presidents or chief executive officers of the trusteed corporations shall be appointed: (a) in the case of the parent corporations, by the Committee; and (b) in the case of subsidiary or affiliate corporations, by the Trust. In both instances, any such appointments shall be subject to the confirmation of, or change by, the President. However, pending such confirmation or change, the appointees of the COP or the Trust may assume office and discharge the responsibilities thereof until such time as the President disapproves or recalls the appointment and appoints a replacement."

Section 31 is restored but shall read as follows:

"SEC. 31. No Injunctions. No court or administrative agency shall issue any restraining order or injunction against the Trust in connection with the acquisition, sale or disposition of assets transferred to it pursuant to this Proclamation. Nor shall such order or injunction be issued against any purchaser of assets sold by the Trust to prevent such purchaser from taking possession of any asset purchased by him."

Done in the City of Manila, this 15th day of December in the year of Our Lord, nineteen hundred and eighty-six.

Corazon C. Aquino

By the President:

JOKER P. ARROYO
Acting Executive Secretary

N. OPERATING GUIDELINES FOR ASSET PRIVATIZATION TRUST

ANNEX N

COMMITTEE ON PRIVATIZATION

Proposed Operating Guidelines for Asset Privatization Trust

1. As provided under Proclamation No. 50 creating the Committee on Privatization and the Asset Privatization Trust, hereinafter referred to as the Committee and the Trust, the principal purpose of the Trust shall be to effect or cause to be effected, directly or through other external agencies, the disposition within the shortest possible period of assets transferred to the Trust. The Trust in its divestment program should seek, in the soonest time possible, to restore the existing physical facilities involved into viable and productive operations, under private sector management and ownership, and thus to contribute towards national economic recovery within the context of a private enterprise system. Within the context of this major purpose, the Trust is expected to generate maximum cash recovery for the National Government.

The Trust shall discharge its responsibility and perform its functions in accordance with the following guidelines which are hereby being established by the Committee pursuant to its authority under Sec. 5 (3) of the Proclamation.

2. For purposes of these guidelines, assets shall include (i) receivables and other obligations due to government institutions under credit, lease, indemnity and other agreements together with all collateral security and other rights (including but not limited to rights in relation to shares of stock in corporations such as voting rights as well as rights to appoint directors of corporations or otherwise engage in the management thereof) granted to such institutions by contract or operation of law to secure or enforce the right of payment of such obligations; (ii) real and personal property of any kind owned or held by government institutions, including shares of stock in corporations, obtained by such government institutions, whether directly or indirectly, through foreclosure or other means, in settlement of such obligations; (iii) shares of stock and other investments held by government institutions; (iv) the government institutions themselves, whether as parent or subsidiary corporations; and (v) such other items as may subsequently be identified by the Committee.

I. GENERAL PROCEDURES OF THE COMMITTEE

3. The Committee, initially, will be receiving assets for disposition from three major sources. These sources of assets are as follows:

(1) Development Bank of the Philippines;

(2) Philippine National Bank including those of its own and those from NIDC, its wholly-owned subsidiary; and

(3) Parent government-owned or controlled corporations, that is, those created by special charter or of their subsidiaries, as may be determined and recommended by the Committee and approved by the President.

Assets from DBP and PNB shall consist of those non-performing assets, including loan accounts identified and recommended by the Committee and approved by the President for transfer from these banks to the National Government.

4. As soon as feasible, the Committee shall identify, by itself or with the assistance of the Trust and/or other disposition entities, preferrably even on a prospective basis, the most appropriate entity to undertake the ultimate disposition of any asset transferred to it, as well as the interim conservation and in extreme cases the rehabilitation, as may be necessary, of the asset. These entities to undertake disposition may include the following:

(1) The Trust, in those cases where the Committee has considered that the asset can be disposed of on a productive entity basis, whether actual or potential, or where the disposition of a parent government corporation is involved;

(2) The government financial institution from which the non-performing assets were transferred, namely, Development Bank of the Philippines and Philippine National Bank, for those assets which the Committee has determined as not suitable for disposition as a productive facility, and which therefore should be disposed of as physical assets and in much the same manner as other acquired assets of the bank; or

(3) The parent government corporation concerned, in those cases where it has itself decided on the divestment of its own corporate subsidiary, where it would wish to undertaken the disposition itself, and where the selection of the parent corporation as the disposition entity has been decided upon by the Committee.

5. Where the Committee has decided on a disposition entity other than the Trust, the Committee may nevertheless assign to the Trust the task of monitoring and coordinating the disposition activities of those other entities. In any case, the Trust shall at all times be kept informed by all other disposition entities of their respective disposition activities.

B. GUIDELINES ON THE TRANSFER PROCESS

Under these overall principles, objectives, and purposes, the following initial guidelines will be observed by the Asset Privatization Trust, hereinafter referred to as the Trust, in the conduct of its disposition and divestment activities:

6. Transfer of Non-Performing Assets to the Trust

Assets may include (a) those evidenced by ownership of shares, whether all, or a majority of, or even a minority of the shares outstanding, or (b) the physical assets themselves, such as real estate, improvements, physical facilities, or equipment. Assets may be further classified into (a) those over which the transferor government financial institution has acquired ownership, and (b) those which are being held by the government financial institution as security for loans, whether past due or current.

The Committee shall refer these non-performing assets to the Trust, which shall examine and evaluate these assets to determine which of these non-peforming assets can be disposed of directly by the Trust, or by other disposition entities which may or may not be under the direction and responsibility of the Trust.

The Trust shall submit to the Committee the results of its findings, including a recommendation on which of the assets the Trust feels (a) should be entrusted to the Trust, and (b) can be best disposed of by the government financial institutions themselves as gauged by the Trust, because among other reasons they are not enterprises with a viability potential, or negotiations for their disposition are in an advanced stage. Furthermore, the Trust may entrust the custodianship of assets assigned to it by the Committee to the government financial institutions who shall in such cases, be, in effect, custodian-trustees of the Trust.

7. Determination by the Trust of the Priorities for Disposal

Within the overall context of rendering productive once more idle or underutilized assets, the Trust, as a general rule, shall give

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priority to situations that would yield the maximum cash recovery in the shortest possible time; however, priority attention may also be considered under certain existing circumstances, such as where (1) the cost of conservation and/or maintenance of an asset is great, (2) the rate of deterioration of plant and equipment is rapid, (3) rehabilitation by new owners could immediately generate employment or have strong linkages with other industries, or (4) locational considerations apply, as in certain projects which may be the sole employment sources in their respective locales.

C. GUIDELINES ON THE MANAGEMENT OF TRUSTEED ASSETS

8. Policies on Conservation.

The Trust may continue or initiate, as the case may be appropriate steps to conserve the physical assets entrusted to its care.

In the cases of productive facilities which are not being operated, such steps shall be limited to preserving the assets from further deteroriation or loss, providing the necessary security and maintenance services in the process.

In those cases where the facilities are being operated, the Trust shall ensure that the net cash operations resulting therefrom shall be adequate to cover its requirements; where such operations will result in a negative net cash position, the prior permission of the Committee shall be obtained.

9. Policies on Rehabilitation

As a general rule, the rehabilitation of assets prior to disposition should be avoided. In exceptional cases, however, physical rehabilitation, including financial restructuring, could be considered if an asset or company is judged to be marketable but rehabilitation is required for (1) sheer physical conservation of assets where shutdown or mothball costs may approximate costs of operation; or (2) preservation of factor inputs such as technical skills or maintaining necessary-to-the-enterprise contractual relations such as franchises, supply contracts. Again, in general, assets entrusted to the Trust should not incur additional government exposure for rehabilitation.

10. <u>Policies on Restructuring, Mergers and Other Reorganizations</u>.

As an additional option, the Trust could undertake business reorganizations such as spin-offs, mergers, and the like, if judged to be useful, and deemed essential to enhance marketability.

D. GUIDELINES ON THE DISPOSITION OF ASSETS

11. <u>Choice of Markets for Disposition</u>

Where the realizable price is equal, preference should be given to: (a) buyers who intend to rehabilitate an asset for productive utilization within the country, (b) buyers who are nationals or, in the case of corporations, the majority shareholdings of which are owned by nationals.

In developing the disposition strategy for each asset, due consideration will be given to the availment of public securities markets, employee stock ownership plans, debt/equity swap plans and other possible sources of capital.

Foreign equity participation in enterprises which will continue to be operated domestically shall be in accordance with existing rules and regulations governing foreign investments, the specific policies for which may vary, depending upon the particular sector.

12. <u>Valuation.</u>

Standard formulae shall be used in order to establish a range of values, including appraised value, replication cost, capitalized earnings approach, and other accepted methods; in any case, the valuation methodology should be suited to the characteristics of the particular asset being sold. Serious efforts shall be made to establish the realistic economic value of assets, especially those which appear to be overpriced acquisitions or overdesigned plant investments. The valuation processes are critical for the establishment of realistic floor prices, since the rule would be to sell via bidding procedures. Where the bidding procedure does not provide the basis for determining a fair floor bid price, a mechanism to determine a fair floor bid price or a fair target bid price shall be worked out by the Trust and approved by the Committee.

13. Sales Methods

(1) Bidding. The use of sealed bids should be followed, with negotiated offers being resorted to if bidding should prove unsatisfactory, impractical, or inappropriate under the individual circumstances. Cash bids would be given preference, and all bids must have a posted bond from an acceptable financial institution. In any case, the bidding rules and procedures to be followed for the disposition of any particular asset should be publicized and made known well in advance for the guidance of prospective bidders.

(2) No Portfolio Position. As a rule, the Trust should not take a new portfolio position by selling on installment basis since this would impose the burden of multi-year account monitoring, lead to the possibility of subsequent foreclosure, or extend beyond the life of the Trust.

For sales on an installment or deferred payment basis, the Trust should require a covering guarantee from acceptable financial institutions. Such a guarantee would further and establish the bankability of the transaction, and would allow the Trust to discount the receivable paper without recourse.

(3) Use of Brokers. Whenever appropriate, brokers may be used, provided that terms and conditions of their engagement are clearly set forth in advance by the Trust.

(4) Where deemed appropriate to protect continuing operations and financial well being of assets to be sold, the Trust may require potential investors in or buyers of any particular asset/corporation to provide reasonable information concerning their financial, managerial, industrial and/or other credentials. The Trust will consider such information in qualifying bidders.

14. Sale to Old Owners

Sales of acquired assets to previous owners is discouraged, but not prohibited. Where there are at least three bidders for an asset, previous owners should not be qualified for bidding. Where previous owners are qualified because of the lack of sufficient (i.e., three) bidders, or due to some compelling justification which APT should make known to the Committee, they should be so identified and information provided on any outstanding unsettled claim of the bank against such previous owner. The recommendation for the approval of sales report submitted by the Trust to the Committee should state whether the asset being disposed of is a physical asset or a financial asset and in either case, the Trust shall inform the Committee of the implication of the proposed disposition to an old owner on the outstanding unsettled claim of the bank of such owner, more particularly, if the sale price will not cover the entire unsettled claim, as well as its recommendation on the concommitant action to be taken under the circumstances.

E. GUIDELINES ON OPERATIONS AND ADMINISTRATION

15. As provided for in the Proclamation, the Trust shall be provided the greatest flexibility in its operations. The necessity for prior Committee approval and review would be initially limited to the following:

(1) General programs, priorities, and criteria.

(a) The general program of disposition, inclusive of assets to be disposed of by the Trust, the sectoral or other basis of priorities of attention, and tentative timetable for disposition. A preliminary program should be submitted on or before March 31, 1987 and the detailed program on or before May 31, 1987, without prejudice to the submission of subsequent adjustments as may be warranted.

(b) The organizational, financial and operational requirements of the Trust, including its budgetary proposals, for its administration, its operations, its disposition programs, and its conservation and rehabilitation requirements. A preliminary draft should be submitted on or before March 31, 1987 and the detailed program on or before May 31, 1987, without prejudice to the submission of subsequent adjustments as may be warranted.

(c) Guidelines subsequent proposed by the Trust for its internal use which may deviate from the general principles embodied herein.

(d) Borrowing funds or contracting loans from whatever source, or availing of assistance from official bilateral or multilateral sources.

(e) The retention of any proceeds arising from the sale, or where necessary the lease or management of assets earmarked for disposition.

(2) Individual disposition of assets.

(a) A recommendation/position on any specific asset approved for disposition, as to whether the disposition is to be undertaken by the Trust or by other entities, and if by the Trust itself, whether directly or through the utilization of other disposition entities.

(b) Any recommendation for the rehabilitation of an asset, or the continuation of operations of an asset on a negative cash flow basis, which will in either case entail a guarantee by, or commitment or exposure of, additional National Government resources.

(c) Any recommendation to sell or transfer an asset submitted by the Trust to the Committee shall include information on (1) the buyer, (2) the price and other terms of the sale and (3) where the selection procedure had deviated from that previously approved by the Committee, the modifications in the procedure employed. Prior approval of the sale by the Committee as to buyer and price is required before the sale can be consumated, provided that in the absence of advice to the Trust by the Committee after the lapse of 30 days from the date a sales recommendation is received by the Committee of the disapproval by the latter of a recommended sale, the Trust is authorized to proceed with the recommended sale.

(3) For proposed actions of the Trust other than those covered in Section 15 (1) (c) above, for which prior approval of the Committee is required and where no other government agencies or entities are involved, Committee action on the request should be undertaken not later than 30 days after receipt of the Trust proposal, and the results forwarded by the Committee to the Trust within another 10 days. In the absence of notification from the Committee to the Trust after the expiration of the above period, the Trust can assume that the proposal has been appproved.

16. It is expected that, in the process of keeping permanent staff levels at a minimum, the Trust will have to rely to some extent on external advisors, consultants, and other expertise to fulfill its mandate. While the Trust has the discretion to determine the scope and nature of required external expertise, the Committee shall be notified of all such engagements, without the need for Committee approval or in any way impairing the right or authority of the Trust to undertake such engagements pursuant to existing law.

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O. LIST OF GOCCs TO BE PRIVATIZED

ANNEX O

LIST OF 121 GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS
Reviewed for Privatization
As of March 31, 1988

A. Approved for Privatization

Corporation	Area of Activity
1. Batangas Land Co., Inc.	Land ownership
2. First Chicago Leasing & Equipment Credit Corp.	lease financing
3. GY Real Estate, Inc.	Land ownership
4. Inter-Island Gas Service, Inc.	LPG marketing
5. International Corporation Bank, Inc.	Commercial banking
6. Kamavan Realty	Land ownership
7. Manila Gas Corporation	Production/distribution of piped gas
8. Mindanao Textile Corp.	Garment manufacturing
9. Naboco Realty Corp.	Land ownership
10. National Precision Cutting Tools, Inc.	Production of high-quality industrial tools
11. National Shipping Corp. of the Philippines	Cargo shipping
12. Negros Occidental Copperfield Mines, Inc.	Copper mining
13. Pagkakaisa Gas Storage Corp.	Gas transportation
14. Pinagkaisa Realty Corp.	Land ownership
15. Ustonii, Inc.	Machinery/equipment distribution and servicing
16. Beta Electric Corp.	Electrical products and Equip't manufacturing
17. NDC-Nacida Raw Materials Corp.	Procurement of raw materials for Nacida-registered enterprises
18. National Chemical Carriers, Inc.	Shipping agent, manning and crewing services
19. National Marine Corp.	Overseas cargo shipping
20. National Shipways Corp.	Ship repair and maintenance work
21. National Stevedoring & Lighterage Corp.	Stevedoring, lighterage and port management opns
22. National Trucking & forwarding Corp.	Trucking, freight forwarding and warehousing
23. Phil. Phosphate & Fertilizer Corp.	Fertilizer production
24. Phil. Pyrite Corp.	production of pyrite concentrates
25. Semirara Coal Corp.	Coal mining
26. Tacoma Bay Shipping Co.	Ship-owning and leasing opns
27. The Energy Corp.	Management of stock investments
28. Phil. Plate Mills Co., Inc.	Manufacture of steel plates
29. Bislig Coal Corp.	Coal mining
30. Filoil Industrial Estates	Land ownership
31. Filoil Refinery Corp.	Oil refining
32. Malangas Coal Corp.	Coal mining
33. PNOC Coal Corp.	Coal mining
34. Energy Supply Base, Inc.	Supply base opns
35. PNOC Marine Corp.	Shipbuilding and repair
36. Commercial Bank of Manila	Commercial banking
37. Meat Packing Corp. of the Philippines	Meat processing/canning
38. Hotel Enterprises of the Philippines, Inc.	Hotel ownership/management
39. Basin Dredging and Development Corp.	Dredging and reclamation
40. Eastern Visayas Agricultural Projects, Inc.	Swine/poultry/farming
41. The Manila Hotel Corp.	Hotel operation and management
42. Maunlad Savings and Loan Asso., Inc.	Savings and loan association
43. Shoe Technology Corp.	Footwear manufacturing
44. Integrated Feed Mills Corp.	Feed production
45. Marawi Resort Hotel	Hotel operation
46. Monte Maria Poultry Farms, Inc.	Poultry farm operation
47. Agro-Livestock Commercial Development Corp.	Swine and goat breeding, manufacture of dairy products
48. Builder's Brick, Inc.	Brick production
49. Carmona Woodworking Industries, Inc.	Sawmilling/services
50. Davao Agri-Business Development Co., Inc.	Tree farming
51. Davao Equipment Mfg. Corp.	Metal casting, foundry and fabrication
52. Food Terminal, Inc.	Food trading, processing, storage, real estate mgt.
53. Furniture Mfg. Corp.	Wood furnishing, interior decoration
54. INCA Coffee Estate Corp.	Coffee plantation
55. Kaunlaran Food Corp.	Dehydrated fruit processing and marketing
56. Mountain Springs Development Corp.	Swine raising
57. Northern Foods, Inc.	Tomato paste production
58. Phil. Fruit & Vegetable Industries, Inc. ...	Tomato paste production
59. Phil. Genetics, Inc.	Cattle breed upgrading and dispersal
60. Ridge Resort & Convention Center, Inc.	Resort and convention facility management
61. San Carlos Fruit Corp.	Fruit puree production
62. Woodkoal, Inc.	Fuel briquette production
63. Woodwaste Utilization & Development Corp.	Construction materials production from logging wastes
64. ZNAC Rubber Estate Corp.	Rubber tree plantation
65. Mindeva Coco-Coir Industries, Inc.	Production of coco-coir fiber products
66. Mindeva Refrigeration Industries Inc.	Ice production/cold storage
67. Panson Prawn Development Corp.	Prawn fry and larvae raising
68. Primary Foods, Inc.	Manufacture and sale of food products
69. Prime Center Trade International System, Inc.	Trading activities
70. Phividec Panay Agro-Industrial Corp.	Plantation farming/fertilizer production and trading
71. National Sugar Refinery	Sugar refinery management
72. Republic Transport & Shipyard Corp.	Sugar terminal and shipyard operations
73. Asia Goodwill Fishing Corp.	Deep sea fishing
74. Gasifier Equipment Manufacturing Corp.	Gasifier equipment and farm machinery, fabrication
75. Phil. Dairy Corp.	Development of dairy industry and milk/dairy products production
76. Leyte Park Hotels, Inc.	Hotel operation
77. Metro-Manila Transit Corp.	Passenger bus operation and leasing
78. Asia Industries, Inc.	Machinery/equip't distribution
79. Manila Properties Corp.	Land Development (reclamation areas)
80. Dicolinacis Sugar Development Corp.	Sugar milling
81. Phil. Shipyard & Engineering Corp.	Ship repair and fabrication of steel product
82. Pilipinas Bank	Commercial banking servs
83. APO Production Unit, Inc.	Printing servs
84. Phil. Cotton Corp.	Cotton farming
85. Phil. Amanah Bank	Commercial banking
86. Associated Bank	Commercial banking servs.
87. Phil. Airlines, Inc.	Commercial air transport
88. Century Holding Corp.	Bank holding company
89. Century Bank	Commercial banking
90. PNB Venture Capital Corp.	Venture capital company
91. Coco-Chemical Philippines, Inc.	Coconut oil milling
92. NIDC Oil Mills, Inc.	Coconut oil milling
93. Bancom Insurance Brokers, Inc.	Insurance brokerage
94. Union Bank	Commercial Banking servs
95. Barcelon, Roxas Securities, Inc.	Stock brokerage
96. Quedan Guarantee Fund Board	Grains guarantee services
97. Luzon Integrated Services	Security services
98. NDC-Guthrie Estates, Inc.	Palm oil plantation
99. NDC-Guthrie Plantations, Inc.	Palm oil plantation/processing
100. Phil. Associated Smelting & Refining Corp.	Copper smelting and refining
101. NDC Plantations, Inc.	Agro-Forestry plantation
102. National Steel Corp.	Steel production
103. Refractories Corp. of the Philippines	Production of basic refractories

B. Awaiting Approval for Privatization

Corporation	Area of Activity
1. PNB International Finance Ltd.	Deposit taking company
2. National Realty Development Corp.	Real Estate management
3. National Warehousing Corp.	Warehousing
4. National Service Corp.	Manpower services
5. Phil. Exchange Co., Inc.	Insurance agency
6. Phil. National Lines	Ship refining
7. Bataan Refinery Corp.	Oil refining
8. Petro TBA Corp.	Marketing of automotive accessories
9. Petron Tankers Corp.	International oil tanker opns
10. Petrophil Corp.	Marketing of petroleum products
11. Petrophil Tankers Corp.	International oil tanker opns
12. PNOC Crude Oil Tankers, Inc.	International oil tanker opns
13. Energy Development Corp.	Geothermal energy exploration and development
14. Energy Drilling, Inc.	Geothermal/oil drilling servs
15. PNOC Oil Carriers, Inc.	International oil tanker opns
16. PNOC Shipping & Transport Corp.	Domestic oil tankering
17. PNOC Tankers Corp.	International oil tanker opns
18. National Coal Authority	Blending/stockpiling of coal (abolished)

P. ASSET PRIVATIZATION TRUST
ANNUAL REPORT FOR YEAR ENDING
31 DECEMBER 1987

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ANNEX P

ASSET PRIVATIZATION TRUST
(APT)
YEAR-END REPORT
FOR YEAR ENDING 31 DECEMBER 1987

ASSET PRIVATIZATION TRUST
10th Floor, BA-Lepanto Building
8747 Paseo de Roxas, Makati, Metro Manila
P.O. Box (1704), MCPO, Makati, Metro Manila
Philippines

MEMORANDUM OF APT's BOARD OF TRUSTEES (BOT)

The Government's Privatization Program

The policy foundation of the Philippines' Privatization Program, in common with almost all countries that have adopted such programs, is that the government has no business to be in business.

The announced objectives of privatization are to:

1. Reduce financial costs to the government, where government enterprises are being operated at a loss - and any enterprise whose ROE is below the government's funding cost is really operating at a loss.

2. Permit government to concentrate on governing.

3. Generally, to achieve higher levels of efficiency: in resource use, in services rendered to the public, etc.

4. Avoid market distortions resulting from government enterprises operating with advantages (no-cost-attributed funding; tax exemptions; special infra-structure support; lower cost manpower; etc.) in competition with similar activity private enterprises.

Beyond privatization of government owned or controlled business assets, the government has declared its intention to reduce government intervention in private sector commercial activities in order to:

1. Avoid market distortions from favoring or disfavoring specific enterprises or specific sectors.

2. Avoid graft and corruption - almost inevitable when inadequately paid bureaucrats are assigned to man favor-dispensing agencies or check-points.

3. Avoid developing a dependancy-on-favored-treatment behavior in the private sector, resulting in resources being committed to uneconomic activities whose financial success is wholly dependant on government provided support or protection - necessarily at the cost of the people in general and the customers in particular.

TELEPHONE NO. 815-9201 to 05 o TELEX NO: 45525 APTRST PM
FAX: (632) 819-3329 o CABLE ADDRESS: APTRUST MANILA

The Asset Privatization Trust

The government actually initiated its privatization actions even before Proclamation 50 (and 50-A), constituting the Cabinet level Committee on Privatization (COP) and creating the Asset Privatization Trust (APT), was signed on 8 December 1986.

Prior to the above date, the government agencies in charge of government owned and controlled corporations (GOCCs) were authorized to commence privatizing the GOCCs, and the DBP and PNB were authorized to privatize (really dispose) the non-performing assets (NPAs) they had transferred to the National Government (NG) to enable them to be "born again" banks. The program was directly overseen by the President's Office until 8 December 1986, when this responsibility was given to the COP.

The APT was constituted on 9 January 1987, when President Corazon C. Aquino inducted the following:

As Chief Executive Trustee:

David B. SyCip

As Associate Executive Trustees:

Johnny M. Araneta
Ramon T. Garcia
Manuel Q. Lim, Jr.
Rainerio O. Reyes, who served until 15 March 1987, when he was appointed Secretary of Transportation and Communications by the President. He was replaced by:
Leopoldo P. de Guzman, who was inducted into APT on 8 April 1987.

APT's Task

The initial task assigned to APT was to take over, as the NG's trustee, and to then dispose, the 399 NPAs with a total booked exposure of about P108 billion, and with contingent exposures totalling about P33.8 billion, which the DBP and PNB had transferred to the NG on 30 June 1986 (actually, some 30 NPAs had been disposed of by the DBP and PNB, in whole or in part, under the interim arrangements cited above). No GOCCs were assigned to APT until August 1987, and as of 31 December 1987, only 10 GOCCs had been assigned to APT for privatization (listed in Appendix F).

APT's first few months were spent in sizing up the task, organizing to carry out its task, and getting underway.

Appended to this report are the following Appendices:

- A – APT's Basic Organization
- B – Flowsheet For Handling "NPAs"
- C – "Doing Business With The APT" (a hand-out to prospective buyers)
- D – General Bidding Procedures and Rules.
- E – Rules and Procedures concerning Registered Bidder Enlisters (RBEs)

Documentary audits to ensure conveyability of acquired assets (acquired by DBP and PNB thru foreclosure of NPAs' mortgaged assets) and enforceability of financial claims (for NPAs still in financial form assets – i.e. still in the form of financial claims on debtors) took weeks, and loose ends are still being pursued. Inadequate or faulty documentation is a serious problem.

Getting Underway

The first pre-bidding meeting was held on 07 May 1987 (all biddings are preceded by pre-bidding meetings to clarify bidding rules). As of 31 December 1987 46 biddings had been conducted.

A summary of recoveries from the NPAs as of 31 December 1987 is in Appendix G, and an accounting of receipts is in Appendix H, with the detailed information in the print-outs under Appendix I.

Problems and Recommendations

A major problem in the disposal of the NPAs is that only about 100 out of the 399 NPAs have been transformed into acquired physical assets thru foreclosure by the DBP and PNB – i.e. most of the NPAs are not in normally conveyable form. Even among the 100 acquired assets, several of the "big ticket" assets remain tied up in litigation, and are therefore still not readily conveyable.

In an effort to dispose of financial form assets (FFAs) without being held up by extended – and sometimes, seemingly indefinite – litigation, APT has devised several disposal modes:

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1. Persuading the debtor to agree to an uncontested foreclosure and to waive redemption rights in exchange for non-enforcement of deficiency claims vs. personal guarantees (where FNB and DBP recoveries have been almost nil anyway), and a 5% preference in the bidding for the foreclosed asset (or a 5% share in the winning bid price - initially approved by COP but later scrapped by COP).

2. Direct Debt Buy-Outs (DDBOs) by the debtors under standard DDBO formulas of universal application (to preserve transparency, there are no tailored-to-fit formulas, and no case-to-case applications of any formulas). Only two DDBO formulas have so far been accepted by the COP as a basis for determining a DDBO price. APT is continuing in its efforts to gain acceptance of other DDBO formulas based on bottom-line realities (of what is realistically recoverable).

3. On 25 January 1988, APT is launching the bidding-out of FFAs under an arrangement where up to 50% of the winning bid price is placed in an escrow account for the winning bidder to draw on to cover his recovery expenses and the costs borne until foreclosure is effected, or until loan is paid off to the winning bidder's satisfaction (APT having finally obtained COP's agreement to consider disposals by this mode).

4. If all the other disposal modes fail, APT is recommending that the FFAs be returned to the DBP or FNB (depending on who had transferred them to the NG) either at a realistically discounted price (discounted from the transfer price they had charged the NG) or under a "for collection" agency agreement. APT was not set up as a loans collection agency, while DBP and FNB maintain fully staffed loans collection departments (this is, after all, an integral part of their business as banks).

Failing the above, APT would have to go to Court to enforce creditor rights passed on to the NG by the DBP and FNB, and this could take years under our present judicial system (if the experience of DBP and FNB is any gauge), and APT's 5-year life, under Proclamation 50, ends on 07 December 1991 - or, at the latest, on 08 January 1992).

Appendix K contains a listing of APT's recommendations to speed up the privatization program.

Conclusion

APT is grateful to President Corazon C. Aquino for her several public expressions of confidence in APT, and the President has APT's unqualified pledge to live up to its motto "Cum Integretate Facere" (To Accomplish With Integrity), symbolized by its crest: the diamond to symbolize integrity, and the cutting of the Gordian knot by Alexander the Great to symbolize a "can do and will do" spirit.

APT also wishes to record its appreciation of the loyal and dedicated service rendered by its staff, many recruited from the private sector to serve at lower-than-private sector compensation rates, and with no "make-ups" in drawings from companies temporarily placed in APT's custody pending their disposal.

Finally, APT's trustees want to thank the President for the opportunity to assist her - in a very modest measure - in her efforts to achieve economic recovery, and beyond recovery, to achieve steady economic growth. By causing idled production facilities to be profitably employed, or by enabling inefficiently used facilities to be more efficiently used, APT is helping to provide gainful employment opportunities for both people and capital.

Chief Executive Trustee

David B. SyCip

Associate Executive Trustees

Johnny M. Araneta

Ramon T. Garcia

Leopoldo P. de Guzman

Manuel Q. Lim, Jr.

DS:hmc
17 January 88

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A P P E N D I C E S

A - APT's Basic Organization

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H - Accounting OF Receipts

I - APT's Operating Expenses

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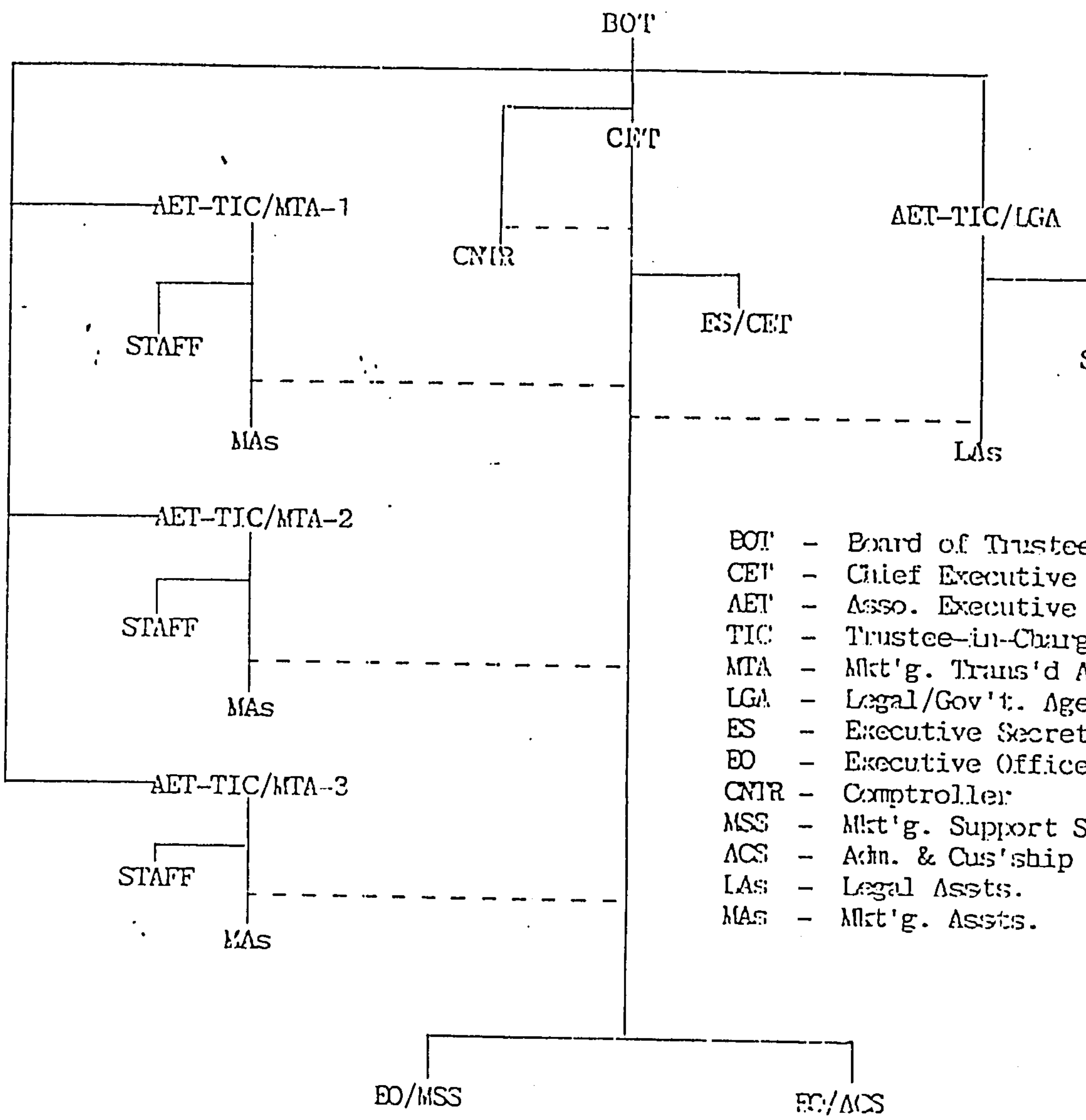
APT BASIC ORGANIZATION



BOT - Board of Trustees
CET - Chief Executive Trustee
AET - Asso. Executive Trustee
TIC - Trustee-in-Charge
MTA - Mkt'g. Trans'd Assets
LGA - Legal/Gov't. Agencies
ES - Executive Secretary
EO - Executive Officer
CNTR - Comptroller
MSS - Mkt'g. Support Services
ACS - Adm. & Cus'ship Services
LAs - Legal Assts.
MAs - Mkt'g. Assts.

———————— Administrative Responsibility

- - - - - - - - Working Relationships:

Job Requests
Task Collaboration

B

ASSET PRIVATIZATION TRUST

FLOWSHEET FOR HANDLING "NPAs" & TRUSTEE OVERSEEING OPERATION

DOCUMENTARY AUDIT

ACCEPTANCE OF ASSET BY APT (EO/MSS)

Left branch:

CATALOGUE ASSETS (EO/MSS) GCs & ASCs

ASSIGN AET - TIC FOR MARKETING (BOT)

CHECK CARDED PROSPECTS SEEK ADDITIONAL PROSPECTS (AET/TIC)

PACKAGE ASSETS, DRAW UP PROPOSED ASBRs & ASBF (AET/TIC)

APPROVAL OF PROPOSED ASBRs & ASBF (BOT)

SET PRE-BIDDING MEETING (AET/TIC)

POST AD 1 ANNOUNCING PRE-BID MEETING (EO/MSS).

PRE-BIDDING MEETING (AET/TIC)

MODIFYING ASBRs & ASBF AS NECESSARY: SET BIDDING DATE, SITE (AET/TIC)

APPROVAL OF FINAL ASBRs & ASBF (BOT)

POST AD 2 ANNOUNCING BIDDING DATE, SITE (EO/MSS)

BIDDING (AET/TIC)

REPORT ON RESULTS OF BIDDING (AET/TIC)

DECISION ON WINNING BID RECOMMENDATION (BOT)

REPORT & RECOMMENDATION TO COP (AET/H/LGA)

APPROVAL OR DISSAPROVAL OF RECOMMENDATION (COP)

- DISAPPROVAL
  - DECISION ON WHAT TO DO NEXT (BOT)
- APPROVAL
  - AET/TIC ADVISED (AET/H/LGA)
    - NOTIFY BID AWARDEE (AET/TIC)
      - COLLECT BALANCE OF BID PRICE (AET/TIC)
    - PREPARE CONVEYANCE DOCUMENTS (AET/H/LGA)
    - WRAP-UP SALE (AET/TIC)

Middle branch:

REMOVE LEGAL IMPEDIMENTS IF ANY (AET/H/LGA) → CHECK CARDED PROSPECTS

Right branch:

EFFECT CUSTODIANSHIP ARRANGEMENTS (EO/ACS) (w/GFI or w/OTHERS)

MONITOR SATISFACTORINESS & COSTS; EFFECT CHANGES AS NECESSARY (EO/ACS)

OVERSEE ORDERLY TRANSFER TO BUYER WHEN SOLD (AET/H/LGA)

WIND-UP ACCOUNTS (PAY-OFF SENIOR-TO-GFI CLAIMS, ETC.) (EO/ACS)

CLOSURE REPORT (EO/ACS)

CET	Chief Executive Trustee
AET/TIC	Associate Executive Trustee / Trustee-in-Charge
AET/H/LGA	Associate Executive Trustee / Head, Legal & Government Affairs
BOT	Board of Trustees
EO/MSS	Executive Officer, Marketing Support Services
EO/ACS	Executive Officer, Administrative Custodianship Services
ASBRs	Asset Specific Bidding Rules
ASBF	Asset Specific Bidding Form

C

ASSET PRIVATIZATION TRUST
10th Floor, BA-Lepanto Building
8747 Paseo de Roxas, Makati, Metro Manila
P.O. Box (1704), MCPO, Makati, Metro Manila
Philippines

DOING BUSINESS WITH THE ASSET PRIVATIZATION TRUST

1. The Government's Privatization Program
2. The Asset Privatization Trust
3. Kinds Of Assets Offered For Sale
4. Obtaining Information On Assets
5. Manner Of Sale Of Assets
6. Pricing Basis For Assets
7. Payment Terms
8. Business Opportunities In The Privatization Program
9. APT's Seal And Slogan

<u>Note:</u> Policies and procedures described in this booklet are those in effect as of 13 April 1987, and the APT reserves the right to amend or change them as it sees fit without prior notice. In particular, specific Bidding Rules are issued for each bidding.

TELEPHONE NO. 816-9201 to 05 o TELEX NO. 45525 APTRST PM
FAX (632) 819 3329 o CABLE ADDRESS APTRUST MANILA

1. The Government's Privatization Program

The program aims at a divestment by the government of all business-related assets not deemed essential to the operation of the government.

2. The Asset Privatization Trust (APT)

The APT was created under Presidential Proclamation 50, signed 9 December 1986. The APT is the government agency which, acting as Trustee of the National Government (NG), is tasked with selling the assets marked for privatization.

The Committee on Privatization (COP), a Cabinet-level committee headed by the Secretary of Finance, decides on what assets the APT is to be tasked with selling, and COP approval is required for all asset sales, whether recommended by APT of any other government agency (government agencies administering government-owned or controlled corporations - GOCCs - have been undetaking their own privatization actions, and may continue to do so until such time as COP may decide to assign the task to APT).

3. Kinds Of Assets Offered For Sale

There are two basic groups of assets:

3.1 The so-called Non-Performing Assets (NPAs) turned over to the NG by the Government Financial Institutions (GFIs), mainly the DBP (Development Bank of the Philippines) and the PNB (Philippine National Bank).

3.1.1 Assets in Financial Asset Form would be assets consisting of:

a) Promissory Notes and other financial claims vs a borrower-enterprise backed by mortgages on physical assets (generally whole plants), guarantees (JSS, surety bonds), etc.

b) Shares in debtor (or other) enterprises: common, preferred, participating preferred, etc.

c) Lease agreements, with or without

purchase option.

d) Installment sale contracts.

e) Restructured loans.

etc.

3.1.2 Assets in Physical Asset Form would be assets acquired by the GFIs (or APT for the NG) thru foreclosure or dacion en pago. These assets mostly consist of whole plants (production facilities).

3.2 The GOCCs - these are corporations which were either originally set up by the government or were, for one reason or another, taken over by the government from private sector owners.

GOCCs will generally be sold as going concerns - i.e. as corporations, but sales of the physical assets of GOCCs, as well as clean balance sheet sales (where selected assets are balanced against selected liabilities) will be considered when appropriate.

4. Obtaining Information On Assets

APT will issue General Catalogs (GCs) in volumes listing 20 to 30 assets. GCs will describe the assets in brief but sufficient detail to inform prospective buyers of what the asset is/consists of.

Interested parties may request Asset Specific Catalogs (ASCs) which describe an asset in fuller detail.

Since assets offered are used assets, prospective buyers will want to examine the assets before entering their bids.

GCs will be sent to all parties who registered with the APT their desire to receive them. ASCs will be sent to those who specifically request particular ones. A small charge to cover costs will be charged for both the GCs and the ASCs.

5. Manner Of Sale Of Assets

Assets will generally be sold thru bidding (negotiated sales will be the exception).

Three forms of bidding will be employed:

5.1 Open Price Bidding

5.2 Target Price Bidding

5.3 Base Price Bidding

The general bidding rules for each kind of bidding are detailed in the GCs. There will be specific bidding rules for each bidding.

6. Price Basis For Assets

The determination of what is an acceptable price for any particular asset will primarily be based on what the earning capability of the asset is - i.e. it will be along the P/E (price to earning) concept.

7. Payment Terms

Preferred payment is full cash payment. However, term payment will be accepted if payments are guaranteed by a bank acceptable to the Government.

8. Business Opportunities In The Privatization Program

8.1 For entrepreneurs - a chance to quickly launch an enterprise, without the long lead time required to start an enterprise from scratch, thus saving the carrying costs of work-in-progress (unavoidable in setting up a new production facility). There is also the advantage of quick market entry. And, finally, the capital equipment costs will probably be significantly lower.

8.2 For owner-debtors - a chance to bail themselves out at a substantial discount if they purchase the financial assets pertaining to their respective enterprises. Literally becoming a Born-Again Enterprise.

8.3 For investors - a chance to invest in new enterprises built around assets acquired from APT or in existing enterprises by cooperating with owner-debtors who may require equity or quasi-equity capital to buy-off their debt burden.

8.4 For banks, expecially Universal Banks, and other financial institutions - a chance to finance new enterprises or bail-outs, or to package and underwrite investments in new or revived enterprises.

8.5 For brokers - a chance to earn commissions by bringing APT bidders. Commissions will be paid to brokers bringing in winning bidders, and "consolation commissions" will be paid to brokers who bring in the second and third highest bidders under certain conditions.

APT's Seal And Slogan

The diamond stands for integrity. APT's selling procedures will be completely transparent.

The cutting of the Gordian Knot is to express APT's "can do, will do" determination: to untangle complex situations, to cut-thru red tape.

The above is expressed in the Latin slogan "Cum Integritate Facere", meaning: To Accomplish With Integrity.

With the cooperation of all who do business with APT, the task of privatizing the governments assets will be accomplished as expeditiously as possible and with integrity.

Get on the mailing list of APT's
Business Opportunities-loaded
General Catalogs. Mailed to you at cost:
(Effective for GC IV and on)

For Pickup at APT's office	₱30
Postpaid Metro Manila	₱40
Postpaid Airmail other Philippine points ...	₱50
Postpaid Airmail to ASEAN countries	US$5
Postpaid Airmail to US, Europe, and Canada .	US$7

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Tel. Nos. 815-9201 to 05 o Telex No. 45525 APTRST PM

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GENERAL BIDDING PROCEDURES AND RULES

(As amended 26 October 1987)

Note: Asset Specific Bidding Rules (ASBRs), issued for each bidding, will govern where the specific bidding rules differ from General Bidding Rules.

1. *Kinds Of Bidding*

   1.1 Open Price Bidding (OPB)

   1.2 Indicative Price Bidding (IPB)

   1.3 Target Price Bidding (TPB)

   1.4 Base Price Bidding (BPB)

   As a general rule, bids will have a clear bottom-line judgment figure. With rare exceptions, it will be a full cash payment figure (to be paid within a specific number of days after an award is made). Term payments, if entertained, will be converted to present cash value at an interest rate specified in relation to the rate prevailing at time of bidding.

2. *Assets To Be Offered For Bidding*

   2.1 Financial Form Assets (FFAs): PNs and other debt instruments (backed by mortgages, guarantees, etc.) with all the original rights to enforce collection.

   2.2 Securities (Shares of stock, convertible-to-common stock debt instruments, etc.).

   2.3 Physical Form Assets.

3. *Information To Be Made Available To Bidders*

   3.1 General Catalogues (GCs) listing all the assets offered for sale, with brief descriptions of assets. To be issued in numbered Volumes (as not all assets are expected to be ready for listing at the same time; also, earlier listed assets could be re-described as additional information is uncovered). All assets will carry a master GC number: GC 001/up. There will be a nominal charge for GCs to cover costs.

   3.2 Asset Specific Catalogues (ASCs) containing fuller but essentially bare factual information (e.g. brief history, capacity specifications, etc.) to be charged for to cover costs. ASCs will contain bidder qualification rules, where applicable.

   3.3 If available, Viability Study on Asset (VSA), made in-house or by an independent industrial consultant, containing estimates or rehab/re-equip costs, ROA projections, etc. VSA will disclaim responsibility for Errors and Omissions (it is presented on an honest best effort basis, and bidders are expected to independently verify and cross-check data, as well as to undertake their own viability studies). The VSA, if available, is offered merely as an aid to pricing determinations. To be charged for to cover costs, including the cost of the study (fees paid, etc.) pro-rated into estimated number of copies to be issued.

4. *General Bidding Rules Applicable To All Kinds of Bidding*

4.1 Bids will be received sealed and delivered at the designated time by persons authorized to submit improved bids in the event open auction bids are called (see 4.3). As a general rule, bids will begin to be opened 15 minutes after the appointed time to give bidders delayed by traffic etc. time to call in to request a delay for valid reasons (APT will be the sole judge of the validity of the reason). No bids will be accepted the moment the first sealed bid is opened. Bids will be opened in the presence of all bidders who have a right to examine all bids opened.

4.2 APT reserves the right to reject any and all bids.

4.3 In case of closely clustered bids, defined as where one or more bids are within a pre-specified percent of the top bid, the opening of the sealed bids will be immediately followed by an open auction in which all bidders who had submitted sealed bids which are within a specified percent of the top bid may participate (hence, a representative of the bidder who is authorized to improve on the submitted SEALED bid should be present at the bids' opening).

4.4 All bids must be accompanied by a deposit in cash or a certified bank manager's check amounting to 10% of the bid amount (acceptance of other payment instruments have to be pre-cleared with APT). The deposit is to be enclosed in the sealed envelope or handed over to the APT officer conducting the bidding before the bidder's bid is opened. No bid will be opened (i.e. accepted as in contention) unless the required deposit is handed over at point-of-opening of the bid. In the event an open auction bidding follows the opening of the sealed bids, the winning bidder must send the additional 10% cover before 5:00 pm of the following working day.

4.5 Winning bidders have to complete payment of the balance in the time specified on the bid forms. Failure to do so will mean cancellation of the award and forfeiture of his 10% deposit. In such an event, the ATP may declare the next highest bidder the winner or may call for new bids. In the event of an award based on the open auction bidding, the award will not be made until the additional 10% cover is received by the APT.

4.6 The deposits of losing bidders will be returned to them as soon as the high bid has been determined. However, the next highest bidder may elect to leave his deposit with APT, provided that his bid is within 10% of the highest bid, if he wishes to automatically succeed the highest bid, should the highest bidder default after notification of his having been awarded the bid. The deposit of the highest bidder will be retained until the award decision is made. If the decision is favorable, the deposit will be credited towards the purchase price; if the decision is unfavorable, the deposit will be returned in full. Award decisions normally are made in 20 to a maximum of 40 days from bidding date.

4.7 Pending approval of bid award by the COP, the highest bidder will be entitled to "oversight security" of the assets bidded on if desired.

5. *Open Price Bidding (OPB)*

5.1 No APT suggested/proposed price will be posted. Therefore, all bids will be tabulated.

6. *Indicative Price Bidding (IPB)*

6.1 An indicative price is a ball-park figure, and APT supplies such a figure purely to define the ball-park. All submitted bids will be tabulated and considered in contention. As a general rule, APT will recommend to COP the acceptance of a high bid that is at or over the indicative price, although APT is not obliged to do so if the results of the bidding suggest the desirability of a rebid.

7. *Target Price Bidding (TPB)*

7.1 A target price is a COP pre-approved acceptable price. All submitted bids will be tabulated and considered in contention. A high bid that is equal to or higher than target price will not be rejected because of price insufficiency.

8. *Base Price Bidding (BPB)*

8.1 A base price will be specified and no bids below the base price will be considered.

8.2 The base price will either be APT-set or will be set under a two-stage bidding procedure as outlined below:

8.2.1 Prospective bidders will be qualified: they have to show that they have reasonable competence to estimate asset's price-at-which-viable value.

8.2.2 Qualified Prospective Bidders (QPBs) will be invited to submit Base Bid Price Proposals (BBPPs) under the following rules:

a. All BBPPs have to be submitted sealed, at a given time on a given date. Enough time will be given to QPBs – from announcement date to submission date – to enable them to make a thorough asset valuation study. During the above period, all QPBs will have equal access to all records in APT's possession bearing on the asset, as well as equal free access to the physical assets, where the QPBs may perform, at their own expense, any reasonable examinations and tests.

b. BBPPs will be received in sealed envelopes at the designated time. BBPPs must be accompanied by a 10% (of the BBPP) deposit in cash or a certified bank manager's check (acceptance of other payment instruments have to be pre-cleared with APT). The deposit is to be enclosed in the sealed envelope or handed over to the APT officer conducting the bidding before the bidder's bid is opened.

c. The QPB submitting the highest BBPP will be required to turn over to the APT officer in charge of the bidding the QPB's study notes supporting the BBPP, so that a prima facie price justification can be made. If the BBP is judged by the APT to be justified, the BBPP will be accepted, and it will be posted as the BBP for the Winner Determination Bid (WDB) that will follow. APT reserves the right to reject any and all BBPPs. The turned-over study notes becomes the property of the APT.

d. The QPB whose BBPP is accepted as the BBP will be given a specified preference — in percentage of his bid or in pesos — over any and all bidders in the WDB that follows (the preference will be added to actual bid in the WDB for evaluation purposes). The preference will be announced in the bidding rules.

e. The deposits of all QPBs, except that of the QPB whose BBPP is accepted as the basis for the WDB, will be returned. The retained deposit will be credited against the deposit required for the WDB; the deposit will be forfeited if the QPB fails to submit a bid that is not less than the BBP in the WDB round.

8.3 With a base price set either by the APT or by the above procedure, the WDB will be held under the following rules:

8.3.1 Bidders who did not qualify as QPBs for the BBP bid, if such bidding had preceded the WDB, may participate in the WDB.

8.3.2 No bid that is less than the BBP will be considered.

8.3.3 For purposes of determining the highest bid, the bid of the QPB whose BBPP was used as the BBP will be increased by the amount of preference given to him (thus, if the preference is 2%, his bid will be multiplied by 1.02 for comparison purposes; or if the preference is ₱500,000, this amount will be added to his bid for comparison purposes).

9. *Setting Up Biddings*

9.1 Pre-bidding meetings will be scheduled to enable prospective bidders to study the proposed Asset Specific Bidding Rules (ASBRs) and to seek clarifications, as well as to enable them to propose amendments to the proposed ASBRs. Post-bidding requests for ASBRs amendments cannot be entertained. Pre-bidding meetings will be announced thru published notices in at least three major newspapers. Notices will also be mailed to registered prospective bidders whenever possible. Notices will provide GC level of information and the GC no.

9.2 Bidding date and hour will be set at the pre-bidding meeting.

9.3 Shortly after the pre-bidding meeting, the bidding date and hour will be announced in at least three major newspapers, and intending bidders will be invited to pick up the finalized ASBRs and the official Asset Specific Bidding Form (ASBF). There is no charge for the ASBRs and ASBF.

9.4 Parties who missed the pre-bidding meeting may participate in the bidding.

9.5 Where a bidding date is reset (generally set-back, but there would be extraordinary circumstances that makes it desirable to set-forward), the reset date will be announced in the same newspapers that carried the bidding announcement ad.

10. *General Conditions*

10.1 The APT reserves the right to reject any or all bids, to call-off a bidding prior to acceptance of the bids, and to call for a new bid under amended rules.

10.2 All APT-approved transactions require the final approval of the Committee on Privatization (COP).

10.3 APT reserves the right to change any of the above rules as it sees fit. Asset Specific Bidding Rules (ASBRs) will be issued for each bidding, and these will govern where they differ from the General Bidding Rules.

10.4 APT further reserves the right to amend the ASBRs anytime prior to the submission of the sealed bids. If the amendments are of a nature that will affect the bids, APT will entertain requests to reschedule the bidding.

10.5 Where a winning bidder is unable to complete payment of the bid price because of delayed approval of his "debt-to-equity conversion" application at the Central Bank, an extension of up to 60 days will be granted provided that he show proof that such an application has been filed, and provided further that interest at 12% p.a. rate will be charged from the 16th day after notification of award to the date payment is completed. The granting of the extension does not release the winning bidder from the obligation to consumate the transaction – an obligation that is secured by his 10% deposit.

10.6 Registration fees and other documentation costs are to be borne by the winning bidders.

E

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APT/RBE Memo 87-01

26 June 1987

M E M O R A N D U M

To: ALL APT REGISTERED BIDDER ENLISTER APPLICANTS

Re: A S S T A T E D .

1. Thank you for attending one of our Briefing Sessions or, thru your inquiries, indicating an interest in registering with APT as a "broker".

2. We have just concluded the 7th Briefing Session, and we are pleased to send to you the firmed-up POLICIES AND RULES CONCERNING THE AVAILMENT OF "REGISTERED BIDDER ENLISTERS" (RBEs) SERVICES FOR THE SALE OF ASSETS THAT APT IS TASKED WITH SELLING , reflecting suggestions and observations made at the Briefing Sessions.

3. It was emphasized - and APT recognizes - that APT's "brokers" do not fall into any government-licensable broker category. Therefore, to avoid misunderstanding APT will describe its "brokers" as Registered Bidder Enlisters (RBEs).

4. The "commission" paid to RBEs who enlist winning bidders will be designated as "success fee". It is, however, subject to the 10% withholding tax.

5. At the suggestion of several participants, APT has agreed to give "standing" to the following protection-of-bidder-registration measure:

   An RBE can elect to protect his RBE Bidder Registration Request (RBE/BRR) from challenge or from being over-ridden by a bidder-authorized RBE/BRR by having his/her RBE/BRR acknowledged by an authorized officer of the bidding company. RBE/BRR forms will, therefore, include the following box:

Optional:

Registration Authorized By:	
Signature:	
Position :	
Company :	

RBE/BRRs protected by bidder-signed authorizations cannot be discredited unless the bidder certifies that the authorizing person in the challenged RBE/BRR had no authority to sign the authorization.

6. An RBE/BRR that is not protected by the above measure is, however, recognized by APT, and can only be over-ridden by a bidder-authorized RBE/BRR and a written advice to the APT from the bidder that the RBE who submitted the prior RBE/BRR had never sought to enlist the bidder's participation in the bidding the bidder is registered for.

7. RBEs are reminded that RBE/BRRs must be for specific assets that APT is offering for sale, and that bidder registration should be made on APT's RBE/BRR forms (which are provided free-of-charge).

8. RBEs are further reminded to personally bring to the APT office their RBE/BRRs or to have them brought by a trusted messenger, so that they may witness the registration of the bidder or be shown that the bidder sought to be registered has already been registered (either directly or by another RBE). In the event that an RBE wishes to challenge a prior registration by another RBE, he/she should be guided by the provisions under paragraph 5.

9. RBEs were also advised that a Performance Record is kept for each RBE to discourage random listing of prospective bidders (who do not even show up for biddings).

10. Thank you again for your interest in assisting APT in its task, and we look forward to receiving your RBE Registration Form at an early date. (For those who had signed the draft form, we will appreciate your signing and returning the firmed-up form).

DAVID SYCIP
Chief Executive Trustee

DS:hmc
WT:21 June 87

Encl. a/s

ASSET PRIVATIZATION TRUST (APT)

RBE Registration Form

POLICIES AND RULES CONCERNING THE AVAILMENT OF "REGISTERED BIDDER ENLISTERS" (RBEs) SERVICES FOR THE SALE OF ASSETS THAT APT IS TASKED WITH SELLING

1. Objectives in the availment of Registered Bidder Enlisters (RBEs) services:

   1.1 To broaden participation in biddings of assets to ensure realizing optimum prices.

   1.2 To avail of the services of qualified RBEs who would be expected to exert earnest efforts to enlist bidders. Casual, "on-chance" enlisting is not welcome.

   1.3 To fairly and reasonably reward RBEs who enlist winning - or near-win - bidders.

   1.4 To avoid disadvantaging non-RBE enlisted (i.e. direct) bidders.

   1.5 To avoid exposing bona-fide RBEs to commission chiseling.

2. Considerations and aspects:

   2.1 Rules will seek to prevent:

      2.1.1 Bidder-interposed enlisters designed to lower effective bid price via success fee rebates.

      2.1.2 Hitch-a-free-ride enlisting by casual agents.

      2.1.3 Buck-shot registrations of "prospective bidders" by cover-all-bases-but-secure-none kind of agents.

   2.2 Success fee schedules will take cognizance of:

      2.2.1 Relatively minor role of RBEs in enlisting bidders as vs. the role of most "brokers" in effecting private treaty or negotiated sales.

      2.2.2 Assets offered for sale are generally "big price" items, many running into hundreds of millions of pesos.

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2.2.3 Desirability of encouraging RBEs who enlist near-win bidders.

3. Rules governing availment of RBE services:

3.1 APT will only deal with APT's RBEs.

3.2 Only persons or business organizations whose business activities relate to - or can plausibly relate to - enlisting bidders for the kinds of assets APT is tasked with selling will be accredited as RBEs.

3.3 APT has the right to cancel the accreditation of an RBE who is unable to enlist bidders to at least 5 biddings out of the 100 biddings scheduled after the RBE's accreditation date.

3.4 Unless specifically waived by the APT prior to a bidding, because of special circumstances, only RBEs will be entitled to receive success fees.

3.5 Success fees will not be paid to any RBE until at least two bidders enlisted by the RBE have, in separate biddings, submitted bids that were at least within 20% of the highest bids. Success fees payable on winning bids will be held in escrow until the above condition is met. (The object of this rule is to discourage casual "brokering", and to prevent practices listed under 2.1 above).

3.6 RBEs have to obtain APT's acknowledgement of RBE-enlisted bidders on APT's RBE's Bidder Registration Request Form (RBE/BRR) in order to be entitled to success fees payable on bids submitted by bidders enlisted by them. RBE/BRRs are to be filed by RBEs and acknowledged by APT for specific assets only (by GC No. or by asset name if no GC number has been assigned yet). APT will check all RBE/BRRs vs. its master card file to ensure that the prospective bidders have not been previously registered, either directly by APT or by another RBE. RBE/BRRs covering requests to register bidders not already registered will be promptly registered in the presence of the RBE or his/her representative (so RBE/BRRs should be <u>personally</u> presented to APT's person-in-charge of such registration).

3.7 In accepting accreditation as an RBE, the RBE has to sign a copy of these Policies and Rules to signify the full understanding and conformity with the rules herein listed.

4. Success Fee schedule:

4.1 Success Fee Base

on:	Success Fees - % (1) Winning Bidder	2nd Highest Bidder (2)	3rd Highest Bidder (3)
1st ₱50,000,000	1.00	0.10	0.05
Amount over ₱50,000,000 up to ₱100,000,000	0.80	0.08	0.04
Amount over ₱100,000,000 up to ₱150,000,000	0.60	0.06	0.03
Amount over ₱150,000,000 up to ₱200,000,000	0.40	0.04	0.02
Amount over ₱200,000,000	0.20	0.02	0.01

(1) All success fees are payable only after COP has approved winning bid. Actual pay-outs will, however, be subject to 3.5 above.
(2) Provided within 3% of winning bid.
(3) Provided within 6% of winning bid.

4.2 APT reserves the right to amend the above success fee schedule, as well as to set specific success fee rates for special situations (e.g. private treaty sales). RBEs will be advised of the above prior to their application to any bidding or special situation sales.

I/We acknowledge that we fully understand and accept without reservation the above rules governing the availment of my/our services as an APT Registered Bidder Enlister (RBE).

Signature: ____________________

Printed Name/Position: ____________________

Name of Organization: ____________________

For APT Use:

Date Registered as RBE: ____________________

Registered By: ____________________

ASSET PRIVATIZATION TRUST
10th Floor, BA-Lepanto Building
8747 Paseo de Roxas, Makati, Metro Manila
P.O. Box 1704, MCPO, Makati, Metro Manila
Philippines

0426

RBE/BRR

RBE's BIDDER REGISTRATION REQUEST
(Please accomplish in triplicate)

For RBE's Use:

1. Bidder registration requested for GC No. ______
   or Asset Name ______

2. Bidder ______
   Address ______ Tel. No. ______

3. RBE ______ RBE No. ______
   Address ______ Tel. No. ______

RBE's Signature ______

Optional:

Registration Authorized By:

Signature : ______

Position : ______

Company: ______

FOR APT USE: (Acted on copies: 1 to APT File; 1 to RBE; 1 to Bidder)

RBE/BRR Received: Date ______ Hour ______

APT official will sign after appropriate advice:

- Prospective bidder already registered; RBE's bidder registration request denied ______
- Prospective bidder's registration by RBE acknowledged by APT: ______

Acted on: Date ______ Hour ______

A P T COPY

TELEPHONE NO. 815-9201 to 05 • TELEX NO: 45525 APTRST PM
FAX: (632) 819-3329 • CABLE ADDRESS: APTRUST MANILA

- 140

ASSET PRIVATIZATION TRUST
10th Floor, BA-Lepanto Building
8747 Paseo de Roxas, Makati, Metro Manila
P.O. Box 1704, MCPO, Makati, Metro Manila
Philippines

RBE/BRR

RBE's BIDDER REGISTRATION REQUEST
(Please accomplish in triplicate)

For RBE's Use:

1. Bidder registration requested for GC No. ____________________
   or Asset Name ____________________
2. Bidder ____________________
   Address ____________________ Tel. No. ____________
3. RBE ____________________ RBE No. ________
   Address ____________________ Tel. No. ____________

RBE's Signature ____________________

Optional:

Registration Authorized By:

Signature ____________________

Position ____________________

Company ____________________

FOR APT USE: (Acted on copies: 1 to APT File; 1 to RBE; 1 to Bidder)

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Acted on: Date ____________ Hour ____________

R B E COPY

ASSET PRIVATIZATION TRUST
10th Floor, BA-Lepanto Building
8747 Paseo de Roxas, Makati, Metro Manila
P.O. Box 1704, MCPO, Makati, Metro Manila
Philippines

RBE/BRR

RBE's BIDDER REGISTRATION REQUEST
(Please accomplish in triplicate)

For RBE's Use:

1. Bidder registration requested for GC No. ______________________
   or Asset Name ______________________

2. Bidder ______________________
   Address ______________________ Tel. No. __________

3. RBE ______________________ RBE No. ______
   Address ______________________ Tel. No. __________

RBE's Signature ______________________

Optional:

Registration Authorized By:

Signature : ______________________

Position : ______________________

Company: ______________________

FOR APT USE: (Acted on copies: 1 to APT File; 1 to RBE; 1 to Bidder)

RBE/BRR Received: Date ______________ Hour ______________
APT official will sign after appropriate advice:

- Prospective bidder already registered; RBE's bidder registration request denied ______________
- Prospective bidder's registration by RBE acknowledged by APT: ______________

Acted on: Date ______________________ Hour ______________

BIDDER COPY

TELEPHONE NO. 815-9201 to 05 • TELEX NO: 45525 APTRST PM
FAX: (632) 819-3329 • CABLE ADDRESS: APTRUST MANILA

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GOCCs (Gov nment Owned and Controlled Corporations)
Assigned to APT for Privatization as of 31 December 1987

GOCC #

01	Apo Production Unit*
02	Asia Goodwill Fishing Corporation
03	Philippine Cotton Corporation*
04	Phivedec Panay Agro Industrial Corporation
05	Philippine Shipyard & Engineering Corporation*
06	Philippine Amanah Bank*
07	Associated Bank*
08	Bicolandia Sugar Development Corporation*
09	Basin Dredging & Development Corporation
10	Eastern Visayas Agricultural Projects

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* Also included in list of non-performing assets (NPAs)

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" 6 "

SUMMARY OF RECOVERIES from NPAs (Non-Performing Assets)
TRANSFERRED to NG (National Government)
by DBP and PNB on 30 JUNE '86, as of 31 DECEMBER '87

RECOVERY MODE	NO. OF NPAs	GROSS RECOVERY 1	SELLING COSTS 2	LIENS PAID-OFF 3	NET RECOVERY 4: 1-(2+3)	TOTAL EXPOSURE 5	NR vs. TE +/(-)
I. APT-Conducted Bidding							
Full Sale	20	P 2,002,037,000	P 2,875,000	P 241,813,000	P 1,757,349,000	P 4,479,759,000	P 2,722,411,000
Partial Sale	8	159,664,000	808,000	39,000	158,017,000	3,937,430,000	Not closed
II. API-effected DOBO							
Full Sale	19	P 1,292,608,000	P 104,000	P –	P 1,292,504,000	P 1,416,041,000	(P 123,537
Partial Sale	2	4,819,000	25,000	–	4,794,000	62,450,000	Not closed
III. GFI-effected Sales							
Full Sale	17	P 660,002,000	1,402,000	12,455,000	646,145,000	2,549,043,000	(P 1,902,898,000
Partial Sale	14	23,439,000	–	–	21,358,000	2,661,248,000	Not closed
IV. GFI Retrievals							
	4	P 188,699,000	–	–	188,699,000	167,547,000	21,152,000
V. Collections vs. Retained Transferred Assets							
		P 268,174,000	–	–	268,174,000	–	–
VI. Lease Fees							
	3	P 8,190,000	–	–	8,190,000	–	–
VII. Interest Earned on Floats							
	–	P 2,898,000	–	–	2,898,000	–	–
TOTAL		P 4,610,530,000	5,214,000	254,307,000	4,348,928,000	5,279,568,000	(Not closed

FOOTNOTES

1. Gross Recovery is gross sales proceeds before costs. For deposit-secured DDBOs based on TE (Total Exposure) plus 12% p.a. interest from 30 June 86 to DDBO date, final settlement price will be higher than amount provisionally "booked".

2. Selling costs cover advertising, legal fees, transformation to conveyable form costs (e.g. foreclosure costs), commissions (if any - most sales are free of commissions).

3. Liens paid-off are those superior to those of secured creditor: unpaid taxes, customs duties; labor claims. Also, utility bills (which if not paid off would not enable buyer to have reconnections effected). Also, in this item are claims of co-mortgagees.

4. Net recovery is Item 1 less (Items 2 + 3).

5. Total exposure is TE of GFI: Transfer Price (TP) charged by GFI on 30 June 86 plus contingent exposure on guarantees extended by GFI on unmatured debt.

6. Net Recovery (NR) vs. TE is Item 4 less Item 5. This is measure of loss NG has to absorb in enabling PNB and DBP to be "born again" banks. PNB and DBP had estimated that vs. a TP of about P108 billion plus contingent exposure of about P33.8 billion, they had expected a gross recovery of only P23.8 billion as likely.

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ACCOUNTING OF RECEIPTS
Anticipated and Received from Disposal of NPAs Transferred to NG by DBP and PNB On 30 June 1986, as of 31 December 1987

RECOVERY MODE	NET RECOVERIES (Anticipated & Received) (000) (1)	Actually Received Vs. Net Recoveries (000) (2)	Placed in Escrow (000) (3)	Remitted to NG (000) (4)	In Float (000) (5)
APT-conducted Biddings	P 1,916,166	P 1,219,013	P 683,961	P 535,042	P 10
APT-effected DOBOs	1,297,298	132,109	0	132,109	0
GFI-effected Sales	667,503	151,992	0	151,902 !	90
GFI Retrievals	188,699	146,465	0	146,466 !	0
Collection vs Retained NPAs	268,174	268,174	0	268,174	0
Lease Fees	8,190	8,190	0	8,190	0
Interest Earned	2,898	2,898	0	2,898	0
TOTAL	P 4,348,928	P 1,928,842	P 683,961	P 1,244,781	P 100

! For GFI-handled disposals (including retrievals), GFIs are to directly account for receipts earlier than certain cut-off dates (i.e., DBP, 1 October 1987 and PNB, 1 January 1987).
Please see accompanying footnotes.

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FOOTNOTES

1. Net Recoveries (anticipated and received) cover all Deposit-Secured-COP-Approved disposals. Also included in this column are collections vs. retained NPAs (retained under COP decision approving GFI-initiated restructuring of loans); Lease fees from assets under lease pending disposal; and interest on floats. Actual recoveries on unconsummated DDBOs based on Transfer Price plus interest to DDBO date will be higher than recorded, as interest accrual is continuing.

2. Actually Received:

   o For APT handled disposals amounts shown were received by APT. Difference from Net Recoveries is due to lag time between bid award or DDBO approval and payment of balance. Lag time mostly due to time required to obtain Central Bank approval for Debt-to-Equity conversion sourced funding, but for two big DDBOs totalling over =700 million, consummation has been held up by PCGG's sequestration of assets mortgaged to secure the debts.

   o For GFI-handled (including retrievals) disposals, GFIs are to directly account for proceeds earlier than certain cut-off dates (DBP-October 1, 1987 / PNB-January 1, 1987).

3. Receipts placed in escrow due to impediments to unconditional conveyance of title to buyer due to unsettled litigation or claims, or, in the case of UPSUMCO, due to insistence of local Registrar of Deeds that title cannot be transferred until redemption period runs out, inspite of written waiver of redemption rights executed by former debtor-owner.
   For UPSUMCO, whole purchase price of P 500 MM includes not yet charged and undisbursed acquisition and selling costs.

4. Remitted to National Government (NG)

   o For APT handled disposals (or receipts from other sources paid to APT), figures are as actually remitted as of 31 December 1987.

   o For GFI handled disposals (or collections effected by GFIs and not remitted to APT), it is assumed that GFIs have remitted amounts in full to the NG in the absence of advice to APT to the contrary.

5. In Float - amounts will be remitted to NG as soon as accounts are firmly closed.

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APT's OPERATING EXPENSES 9 January to 31 December 1987

1. Staff compensation (including allowances that are part of compensation package)		3,008,080.64
2. Purchases of -		
a) Office equipment		759,534.04
b) Furniture & fixtures		8,370.00
c) Transportation equipment		520,000.00
3. Office supplies (Expendable supplies)		312,870.95
4. Catalogues printing costs	213,798.00	
Recovery from sales	(251,339.95)	
Net cost		(37,541.95)
5. Entertainment expenses (directly charged E & R expenses (i.e. not part of "allowances"), staff parties		24,697.55
6. External contractual services and professional fees not directly charged to specific asset sales		71,683.52
7. General advertising expenses not directly charged to specific asset sales (e.g. Ads on GCs, RBE briefings, etc.)		303,215.09
8. Rental (from 16 February to 31 December 1987)		998,185.02
		5,969,094.86

Note: Legal & Audit fees that are related to specific assets are charged to direct selling costs. Also, advertising related to particular assets; appraisal costs; etc. are charged to direct selling costs.

NPAs CUSTODIANSHIP COSTS

	TAXES	INSURANCE	SECURITY	UTILITIES	MAINTENANCE	ASSETS ACQUIRED	LITIGATION EXPENSES	GEN. ADM. OTHERS	T O T A L
Custodianship Costs - PNB - TAD									
July - December 1986	6,861,600	399,700	2,281,240	15,240	1,5[illegible]0	-	243,670	14,718,050	24,521,210
January - December 1987	4,549,453	2,093,878	6,160,491	2,034,938	1,366,7[illegible]2	205,617	117,746	18,960,136	35,488,981
S U B T O T A L	11,411,053	2,493,578	8,441,731	2,050,178	1,368,2[illegible]2	205,617	361,616	33,678,186	60,010,191
Custodianship Costs - DBP - RMG									
July - December 1986	36,892,149	39,519,214	27,453,336	277,902	-	13,949,821	1,174,259	17,326,195	136,592,676
January - December 1987	7,967,565	105,237,354	27,918,658	678,409	10,795,7[illegible]9	13,201,613	6,365,155	27,071,041	199,236,314
S U B T O T A L	44,859,714	144,756,568	55,371,994	956,311	10,795,7[illegible]9	27,151,434	7,539,414	44,398,036	335,829,190
T O T A L	56,270,767	147,250,146	63,813,725	3,006,489	12,163,9[illegible]1	27,357,051	7,901,030	78,076,222	395,839,381

	ENGINEERING CONSULTANCY FEES	INSURANCE CONSULTANCY FEES	TOTAL
Custodianship Costs - APT			
January - December 1987	24,608	100,000	124,608

TOTAL CUSTODIANSHIP COSTS (APT-DBP-PNB) 395,963,989

K

RECOMMENDATIONS TO SPEED UP THE PRIVATIZATION PROGRAM

I For The Non-Performing Assets (NPAs) Transferred To The National Government/APT By DBP And PNB.

1. There is need for more bottom-line realism in the evaluation of NPA disposal recommendations. The focus should be on what is realistically recoverable - not on the book loss measured against bloated booked exposures. What has been lost is lost; what is recoverable may be lost if the NPAs are not expeditiously disposed of.

2. More Direct Debt Buy-Out (DDBO) formulas which are bottom-line-realistic and fair, and which lend themselves to universal application (to preserve transparency) should be approved for use.

3. If possible, a special Court should be designated to try collection cases - a Court that understands business aspects and is decision-oriented. Collection cases can drag on for years, and about 250 of the NPAs are still in the form of financial claims vs. debtors.

4. Unless PCGG can quickly obtain title to the NPAs they had sequestered (with an appraised value of about P2.7 billion) it should return the NPAs to APT for disposal before values erode further.

5. Philsucor's exposures to sugar mills has to be settled. It is blocking disposal of sugar mills-related NPAs. The estimated recoveries here run into billions of pesos.

6. If APT is unable to sell financial form assets as such, arrangements should be made to return such assets to PNB and DBP - either at a big discount or on a "for collection" basis - since they have large collection departments, which APT does not have (APT was set up to dispose, of - to sell - assets, not to be a debt collection agency). Assets turned over to APT for disposal should be readily conveyable; unfortunately, they are not - even foreclosed assets (physical form assets) are often not readily conveyable because of continuing - and unsettled - litigation.

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II For GOCCs

1. There is need for firm action at the very top. Following the President's announcements in November that she was ordering GOCCs to be assigned to APT to sell, APT received many inquiries for the big ticket assets. To date, however, not a single one has been assigned to APT (the 10 GOCCs assigned to APT to sell are almost all troubled ones with minimal or negative book values).

2. Clear parameters should be provided to APT for each GOCC it is assigned to sell. If there are social or other considerations, these should be clearly spelled out at the start: not introduced piece-meal as divestment process starts.

III For Sequestered Assets

1. Top-level prodding would seem needed to obtain compliance with the intent of Administrative Order 43. So far, no assets have been turned over to APT for disposal.

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Q. DEPARTMENT OF AGRICULTURE PRIVATIZATION PROGRAM
SCOPE OF WORK FOR TECHNICAL SERVICES

ANNEX Q

DEPARTMENT OF AGRICULTURE PRIVATIZATION PROGRAM
SCOPE OF WORK FOR TECHNICAL SERVICES

BACKGROUND

The Department of Agriculture (DA) has requested USAID assistance in developing privatizaton strategies for several of its attached agencies and their subsidiary operations. The DA has recently established an Asset Disposal Unit (ADU) which would be responsible for divestiture of those corporations or subsidiary operations which can more effectively be undertaken by the private sector. USAID will initially provide financing to the DA for technical assistance in three areas: (1) development of divestiture strategies for the Philippine Dairy Corporation (PDC) and Philippine Cotton Corporation (PCC) and conduct preliminary asset valuations of both corporations, (2) development and refinement of operating guidelines for the DA's ADU, and (3) development of a detailed operational divestiture plan for NFA as follow-up to the divestiture study of the National Food Authority (NFA). The consulting team will work directly with the Office of the Undersecretary for Attached Agencies and the newly created Asset Disposal Unit of the DA. The specific scope of work follows:

A. Divestiture Strategies for PDC and PCC

1. Review of key aspects of existing business operations of PDC and PCC including status of current staffing and management operations, validity of business plan, relevance of marketing strategy, details of financial situation including P and L, cash flow, debt/equity ratios, regulatory tax and licensing matters. Key issues include the organic structure, organization and management and contribution of each component to the overall corporate objectives. Above information together with additional material will be utilized in making determination of overall commercial viability of the corporation, how it relates to other government entities, e.g. subsidies, debts with government banks, etc.

2. Estimates and calculations will be made of net worth, based upon realistic assessment of market factors rather than historical acquisitions costs, both tangible and intangible assets will be incorporated in these estimates, as well as the relevant factors affecting their profitability levels as indicated above.

3. Based upon the foregoing, a "fair price" range will be established for each of the firms, based upon a reasonable assessment of what a going market price would be for the enterprise. This would serve as a general guide and expectation of what the DA could expect from placement of the the enterprise on the market, given assumptions about prospective buyers, various formulations and "packaging" of the transactions, etc. also competitive factors and conditions in each of the relevant affected sectors. Following the sale, events such as elimination of government subsidies needs to be factored in to the calculations.

4. An asset valuation would be conducted to ascertain the break-up value of each enterprise including those cases where continuing or prospective commercial viability of the enterprise would be questionable. That valuation would utilize commonly accepted valuation techniques and approaches, customary accounting practices, realistic appraisals of existing market conditions, possibly including consideration of liquidation in certain cases.

5. Drawing upon all of the above listed activities as well as the particular knowledge and expertise of the consultants will be the design and formulation of a do-able action plan for divestiture of PDC and PCC, that would provide to DA decision makers relevant information and available courses of action to decide upon and carry out a successful divestiture program. The action plan should explicitly consider the viability of proposals put forward by the PDC and PCC.

6. In addition to the forementioned tasks, the consultants will carry out an analysis of the competitiveness of the Philippine cotton industry. The purpose of this exercise is to (1) assess the impact of current trade, regulatory and subsidy policies on the cotton industry and on the overall Philippine economy; and (2) determine which, if any aspects of the cotton industry enjoy an international comparative advantage. This will require a quantitative analysis of the cost and benefits of current protection levels as well as an assessment of future viability of various segments of the cotton industry given projected world price trends (1987-1997) and current GOP policies of trade liberalization and rural income growth.

B. Operating Guidelines for the DA's Asset Disposal Unit (ADU)

1. Develop recommendations for operation and administration of the ADU including scope of activities, relationship to Asset Privatization Trust (APT) and Committee on Privatization (COP), and Department of Finance.

2. Assist ADU in developing operating guidelines for transfer of assets to ADU and for disposition/transfer of liabilities associated with corporate assets to the National Government.

3. Assist ADU in developing operating guidelines for management and disposal of assets to be divested including; establishing criteria for prioritizing assets for sale, procedures for conservation of assets, desirability of the financial restructuring of assets prior to disposition, and evaluation of restructuring, mergers and other forms of reorganization of functions.

Identify alternative modes for the ADU to access and utilize technical and administrative support services in carrying out its functions, including:

- performing sectoral/industry analyses, as necessary;

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- reviewing existing business operation to determine overall commercial viability of concern and its components;
- performing project-specific studies as necessary (e.g., rehabilitation vs. liquidation);
- estimating net worth of concern and its components, based on realistic assessment of market factors;
- conducting asset valuation of each component of the concern to determine break-up value;
- establishing a fair price for the concern and its components;
- assisting with turnover of accounting information, files, documents to ADU, including information on physical assets, employment data and third-party creditor information;
- recommending appropriate information and data management systems, including both hardware and software;
- preparing sales materials, including prospectus, photos, maps, surveys, financial information, to be made available to prospective buyers; develop advertising and brochures;
- aggressive marketing of the concern, including preparation of a potential buyers list;
- preparation of sales memoranda;
- bid development;
- business statements in reference to offers received;
- investment banking services when necessary in case of world-wide sale of concern;
- development of clear action plan for disposal, including time frame for completion of process, action priorities and responsible persons/agencies;
- conduct training sessions as necessary for ADU support staff controllers, internal auditors, security/custodian services, labor relations.

C. <u>Follow-on Work for NFA/FTI Divestiture Program</u>

In the context of (B) above, evaluate alternative courses of action on outstanding issues in the transfer and divestiture of the NFA subsidiary operations. This assessment will build on divestiture studies conducted by AYC and NFA last year.

Personnel Requirements

Full-time Consultants	6 p.m.
AgriBusiness/Business Management Analyst	2 p.m.
Privatization (General)	2 p.m.
Asset Valuation Specialist	2 p.m.
Part-time Consultants	3.5 p.m.
RP Privatization Consultant	1 p.m.
NFA/FTI Specialist	1 p.m.
Cotton Industry Specialist/ International Economist	1 p.m.
Local Dairy Industry Specialist	0.5 p.m.
TOTAL	9.5 p.m.

R. IESC PRIVATIZAITON PROPOSAL

International Executive Service Corps

ANNEX R

Doña Narcisa Building: Room 412, 8751 Paseo de Roxas, Makati, Metro Manila

A Proposal

for

A PRIVATIZATION PLANNING AND TECHNICAL ASSISTANCE PROGRAM

to

Philippine Government Organizations

by

The International Executive Service Corps

The International Executive Service Corps is a private, not-for-profit organization established in 1965. Its objective is to transfer technology from the United States to private companies and government entities in countries with developing economies. And this is accomplished by recently retired American business men and women on assignments of approximately three months. There is now a well developed system operating which includes 10,000 experienced Advisors available who represent virtually all areas of business and industry in the United States.

October 1986

Central P. O. Box 165, Makati, Metro Manila 3117 • Telephone: 816 34 29, 816 20 86 • Telex: 22274 IES PH

CONTENTS

Summary

Introduction
- Definition
- Philippine Situation
- Aim
- Contents

Typical Problems and Pitfalls
- Vendor
- Buyer

Basic Program
- Initiation
- Divestment Cycle
- Interim
- Installation

IESC Assistance Role
- Organization
- Source of Information
- Technical Assistance

Conclusion

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SUMMARY

The International Executive Service Corps has on its roster of experts over 10,000 recently retired American business men and women who represent virtually all fields of business and industry in the United States. These Advisors volunteer their services.

In the Philippines today it is estimated that there are from 150 to 300 government owned or operated enterprises which the Presidential Commission for Government Reorganization has designated for abolishment, retention, merger, conversion as well as sale to the private sector either in the country or abroad.

The process of privatization or divestment of state enterprises to private owners is a complex one involving a number of stages and phases before, during and after sale. And the process is full of risks to the government as well as to the buyer.

This proposal presents a source of assistance to managers of government organizations with divestment responsibilities by which they can successfully transfer assets of high value to new owners and then insure the new entities growth and development which will then contribute to the national economy.

IESC is uniquely capable of assisting the Philippine government in the divestment process because of its pool of managerial and technical skills as well as network of contacts with all industries in the USA. And the cost is minimal because the Advisors volunteer their services.

INTRODUCTION

Privatization can be perceived very simply as the divestiture of government assets to the private sector. But actually privatization is a process which involves a wide range of techniques to transfer functions, in whole or in part, from government supported enterprises to the private sector under conditions where marketing forces can govern the operating policies and results of the enterprise. Indeed privatization is not one thing but many things requiring many different managerial and technical specialties.

The new Philippine government recently decided to privatize (divest itself of state-controlled enterprises) and open up restrictive policies in one step. And there are now estimated to be approximately 150 enterprises to be privatized by the Development Bank of the Philippines-Philippine National Bank, the National Development Company and the Ministry of Human Settlements as well as other entities.

IESC proposes to assist the Government of the Philippines by offering managerial and technical assistance in the process of privatization which involves many and different technical specialties.

This proposal is presented in three parts:

1. A description of the Typical Problems and Pitfalls of privatization indicating some of the many risks involved
2. The Basic Program in terms of stages and objectives
3. The IESC Role of potential assistance in the various stages of the process.

TYPICAL PROBLEMS AND PITFALLS

An effective divestiture of a government enterprise's assets is a complex business activity and difficult for both the government and the purchasing organization because the process presents a wide range of obstacles to planning which delays risk taking decisions. Any purchase presents problems of planning, organizing, analyzing, evaluating and negotiating for both parties. And the perception of risks to both parties should be minimized.

Vendor. The sellor will be interested in getting a fair amount for assets of the enterprise, transferring these assets in a smooth way, then seeing that the enterprise becomes a contributor to the national economy and the people. Even after a smooth divestment, the government should be concerned about the ability of the private sector to effectively manage the acquired resources. So provision for economical, part time, technical assistance in areas such as accounting, marketing, management, financial reporting could ensure the economic viability of the acquired organization.

Buyer. The buyer perceives risks in at least the following areas before, during and after a sale:

1. Lack of well functioning local markets and stable long term demand
2. Inadequacies of physical infrastructure to support industry growth and operation
3. Availability of debt or equity resources
4. Insufficiency of managerial and entrepreneural skills
5. Inability to develop and utilize effective business information
6. Qualities and capabilities of the labor force
7. Ability to manage technology changes and improvement on an ongoing basis.

Indeed the orientation of the private sector may well be different from the practices of the government enterprise. So the acquirer of a state enterprise faces not only a difficult external environment but the problem of trying to purchase, reorganize and operate assets that could well be presently structured and staffed differently than it should as a private enterprise.

In brief, the many potential risks to both the sellor and the buyer of a government enterprise are many and varied but these should be minimized by the availability of knowledgeable, objective and credible experts during the whole process.

BASIC PROGRAM

There is a basic program for the divestment of any government enterprise which will generally go through four stages each of which will have a particular focus of attention and its own general objectives.

Initiation - is the first stage which focuses on the preparation of a Basic Plan for divestment. And its main objectives are to establish organizational linkages, study and gather pertinent data, and prepare a basic business plan including the scheduling of technical visits by needed experts. This should take approximately three months.

Divestment Cycle - is the second stage which consists of contacting, evaluating and negotiating with clients. The focus of attention is the client (s). The main objectives are to prepare offering materials, make a detailed business plan, analyze opportunities/needs, negotiate, etc. While relations with any client may take 2 to 3 or more months the whole process of talking to a number of potential buyers could take two or more years.

Interim - stage that is between talks to different buyers is focused on data gathering and evaluation as well as the preparation for new negotiations. In effect the whole divestment process is a cyclical one. With each potential client new factors and critical issues will be identified, lead to modifications and adaptations to individual offerers. The key to succesful negotiation should be the ability to bring together the selling and purchasing organizations in a constructive and cooperative negotiating process.

Installation - is the fourth stage. And this will focus on the development of the new enterprise. Phases might include re-organization and take over, operation and evaluation with modifications. The main objective here is to provide technical assistance to the new management.

The entire process for an individual enterprise could take from 2 to 5 years.

IESC ASSISTANCE ROLE

An essential need of the entire privatization process is managerial and technical assistance which should be well organized and functionally specific for maximum effectiveness.

Organization. At IESC-USA there will be both an Executive Group and Working Group for implementing each divestment program. The Executive Group will consist of a Manager for planning and a Supervisor for coordinating Volunteer Executives in the field and Recruiters. In the Philippines there will be a Planning Team and two or three Technical Teams of the industry and firm, finance, production, marketing, etc. experts.

Specific Functions - of IESC personnel in the field would vary according to the development stages and be either in the (USA) or the Philippines:

Stage	IESC Executives	Functions
A. Initiation	Planning Team	Evaluate existing enterprise Prepare offering documents Develop basic business plan
B. Divestment Cycle	Technical Team	Research on potential clients Short list clients Evaluate clients Adapt client plans Facilitate negotiations
C. Interim	(Coordinator)	Develop transfer of assets plan Provide industry specific data Recruit technical assistants
D. Installation	(Project Director)	Provide new technicians as needed Develop reorganization plan, new markets, training programs, etc.

IESC would assist the government divestment team, then source appropriate Advisors in any and all fields needed for the divestment of an individual enterprise.

CONCLUSION

Privatization is a multi-faceted and complex process, now of great financial significance to the economic rehabilitation of the Philippines, which requires many and varied talents to make each divestmen a success.

While foreign managerial and technical experience will not be needed for each and all Philippine government divestments it is strongly felt that such expertise would be advantageous and cost beneficial in most cases.

The advantages of IESC assistance are many: a vast pool of American expertise in virtually every field of business and industry; the ready acceptability of the Advisors; their objectivity and hence credibility to both the seller and the buyer; and, the cost beneficial nature.