

No. 19864

**UNITED STATES OF AMERICA
and
PHILIPPINES**

**Project Loan and Grant Agreement for non-conventional
energy development (with annexes). Signed at Manila
on 3 May 1978**

Authentic text: English.

Registered by the United States of America on 10 June 1981.

**ÉTATS-UNIS D'AMÉRIQUE
et
PHILIPPINES**

**Accord de prêt et de don relatif à un projet concernant
l'exploitation des sources d'énergie non classiques (avec
annexes). Signé à Manille le 3 mai 1978**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 10 juin 1981.

PROJECT LOAN AND GRANT AGREEMENT¹ BETWEEN THE
REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES
OF AMERICA FOR NON-CONVENTIONAL ENERGY DEVEL-
OPMENT

Dated: May 3, 1978

A.I.D. Loan Number 492-W-052
Project Number 492-0294

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Annex I—Description of Project

LOAN AND GRANT AGREEMENT dated May 3, 1978, between the
REPUBLIC OF THE PHILIPPINES (“Cooperating Country”) and the UNITED STATES
OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT
 (“A.I.D.”).

Article 1. THE AGREEMENT

The purpose of this Agreement is to set out the understandings of the parties
named above (“Parties”) with respect to the undertaking by the Cooperating

¹ Came into force on 3 May 1978 by signature.

² For the text of the annex, see p. 127 of this volume.

Country of the Project described herein, and with respect to the financing of the Project by the Parties.

Article 2. THE PROJECT

Section 2.1. DEFINITION OF PROJECT. The Project, which is further described in Annex I, will consist of nine research/demonstration/pilot subprojects to test the feasibility of exploiting nonconventional energy resources through direct and indirect solar conversion, biomass conversion, and small scale hydroelectric plants; participant training; technical assistance; and other related activities. Annex I, attached, amplifies the definition of the Project contained in this Section 2.1. Within the limits of the definition of the Project in this Section 2.1, elements of the amplified description stated in Annex I may be changed by written agreement of the authorized representatives of the Parties named in Section 9.2, without formal amendment of this Agreement. Annex I will identify those elements of the Project for which Grant financing will be employed, and those for which Loan financing will be employed.

Article 3. FINANCING

Section 3.1. THE GRANT; THE LOAN. To assist the Cooperating Country to meet the costs of carrying out the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees to grant the Cooperating Country under the terms of this agreement not to exceed One Million Five Hundred Fifty Thousand (\$1,550,000.00) United States ("U.S.") dollars ("Grant") and to lend the Cooperating Country under the terms of this agreement not to exceed Seven Million One Hundred Thousand U.S. dollars (\$7,100,000.00) ("Loan"). The aggregate amount of disbursements under the Loan is referred to as "Principal". The Loan and the Grant together are referred to as the "Assistance".

The Assistance may be used to finance foreign exchange costs, as defined in Section 7.1, and local currency costs, as defined in Section 7.2, of goods and services required for the Project.

Section 3.2. COOPERATING COUNTRY RESOURCES FOR THE PROJECT. (a) The Cooperating Country agrees to provide or cause to be provided for the Project all funds, in addition to the Assistance, and all other resources required to carry out the Project effectively and in a timely manner.

(b) The resources provided by the Cooperating Country for the Project will be not less than the equivalent of U.S. \$3,596,000.00 including costs borne on an "in-kind" basis.

Section 3.3. PROJECT ASSISTANCE COMPLETION DATE. (a) The "Project Assistance Completion Date" (PACD), which is April 30, 1983, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all services financed under the Assistance will have been performed and all goods financed under the Assistance will have been furnished for the Project as contemplated in this Agreement.

(b) Except as A.I.D. may otherwise agree in writing, A.I.D. will not issue or approve documentation which would authorize disbursement of the Assistance for services performed subsequent to the PACD or for goods furnished for the Project, as contemplated in this Agreement, subsequent to the PACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, are to be received by

A.I.D. or any bank described in Section 8.1 no later than nine (9) months following the PACD, or such other period as A.I.D. agrees to in writing. After such period, A.I.D., giving notice in writing to the Cooperating Country, may at any time or times reduce the amount of the Assistance by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received before the expiration of said period.

Article 4. LOAN TERMS

Section 4.1. INTEREST. The Cooperating Country will pay to A.I.D. interest which will accrue at the rate of two percent (2%) per annum for ten years following the date of the first disbursement of the Loan hereunder and at the rate of three percent (3%) per annum thereafter on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance will accrue from the date (as defined in Section 8.5) of each respective disbursement, and will be computed on the basis of a 365-day year. The first payment of interest will be due and payable no later than six (6) months after the first disbursement of the Loan hereunder, on a date to be specified by A.I.D.

Section 4.2. REPAYMENT. The Cooperating Country will repay to A.I.D. the Principal within twenty (20) years from the date of the first disbursement of the Loan in twenty-one (21) approximately equal semi-annual installments of Principal and interest. The first installment of Principal will be payable nine and one-half (9½) years after the date on which the first interest payment is due in accordance with Section 4.1. A.I.D. will provide the Cooperating Country with an amortization scheduled in accordance with this Section after the final disbursement under the Loan.

Section 4.3. APPLICATION, CURRENCY, AND PLACE OF PAYMENT. All payments of interest and Principal hereunder will be made in U.S. dollars and will be applied first to the payment of interest due and then to the repayment of Principal. Except as A.I.D. may otherwise specify in writing, payments will be made to the Controller, Office of Financial Management, Agency for International Development, Washington, D.C. 20523, U.S.A., and will be deemed made when received by the Office of Financial Management.

Section 4.4. PREPAYMENT. Upon payment of all interest and any refunds then due, the Cooperating Country may prepay, without penalty, all or any part of the Principal. Unless A.I.D. otherwise agrees in writing, any such prepayment will be applied to the installments of Principal in the inverse order of their maturity.

Section 4.5. RENEGOTIATION OF TERMS. (a) The Cooperating Country and A.I.D. agree to negotiate, at such time or times as either may request, an acceleration of the repayment of the Loan in the event that there is any significant and continuing improvement in the internal and external economic and financial position and prospects of the Cooperating Country, which enable it to repay the Loan on a shorter schedule.

(b) Any request by either Party to the other to so negotiate will be made pursuant to Section 9.1, and will give the name and address of the person or persons who will represent the requesting Party in such negotiations.

(c) Within thirty (30) days after delivery of a request to negotiate, the requested Party will communicate to the other, pursuant to Section 9.1, the name

and address of the person or persons who will represent the requested Party in such negotiations.

(d) The representatives of the Parties will meet to carry on negotiations no later than thirty (30) days after delivery of the requested Party's communication under Sub-section (c). The negotiations will take place at a location mutually agreed upon by the representatives of the Parties, provided that, in the absence of mutual agreement, the negotiations will take place at the office of the Director-General of the National Economic and Development Authority in the Republic of the Philippines.

Section 4.6. TERMINATION ON FULL PAYMENT. Upon payment in full of the Principal and any accrued interest, this Agreement and all obligations of the Cooperating Country and A.I.D. relating to the Loan provisions of this Agreement will cease. However, with respect to any obligations arising out of the expenditure of Grant funds, this Agreement will remain in full force and effect.

Article 5. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 5.1. FIRST DISBURSEMENT. Prior to the first disbursement of the Assistance, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Cooperating Country will, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) An opinion of counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Cooperating Country and that it constitutes a valid and legally binding obligation of the Cooperating Country in accordance with all of its terms;
- (b) A statement of the names of the persons holding or acting in the office of the Cooperating Country specified in Section 9.2, and a specimen signature of each person specified in such statement; and
- (c) The evaluation program referred to in Section 6.1.

Section 5.2. ADDITIONAL DISBURSEMENT. Prior to disbursement of the Assistance, or the issuance by A.I.D. of documentation pursuant to which disbursement will be made, for construction of, or procurement of major equipment for, the dentro-thermal sub-project, the Cooperating Country will, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D. a final feasibility study and detailed design of the sub-project.

Section 5.3. NOTIFICATION. When A.I.D. has determined that the conditions precedent specified in Section 5.1 and 5.2 have been met, it will promptly notify the Cooperating Country.

Section 5.4. TERMINAL DATES FOR CONDITIONS PRECEDENT. a) If all of the conditions specified in Section 5.1 have not been met within 90 days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by written notice to the Cooperating Country.

(b) If all of the conditions specified in Section 5.2 have not been met within 270 days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may cancel the then undisbursed balance of

the Assistance, to the extent not irrevocably committed to third parties, and may terminate this Agreement by written notice to the Cooperating Country. In the event of such termination, the Cooperating Country will repay immediately the Principal then outstanding and any accrued interest; on receipt of such payments in full, this Agreement and all obligations of the Parties hereunder will terminate, except with respect to any obligations arising out of the expenditure of Grant funds.

Article 6. SPECIAL COVENANTS

Section 6.1. PROJECT EVALUATION. The Parties agree to establish an evaluation program as an integral part of the Project. Except as the Parties otherwise agree in writing, the program will include, during the implementation of the Project and at one or more points thereafter:

- (a) Evaluation of progress toward attainment of the objectives of the Project;
- (b) Identification and evaluation of problem areas or constraints which may inhibit such attainment;
- (c) Assessment of how such information may be used to help overcome such problems, in this or other project; and
- (d) Evaluation, to the degree feasible, of the overall development impact of the Project.

Section 6.2. TRAINING SERVICE AGREEMENT. The Cooperating Country covenants and agrees that each participant who undertakes long-term training under the Grant shall execute an agreement with the Cooperating Country to serve the sponsoring agency or institution for a period equal at least to the period of the length of training received.

Article 7. PROCUREMENT SOURCE

Section 7.1. FOREIGN EXCHANGE COSTS. (a) Disbursements of Loan funds pursuant to Section 8.1 will be used exclusively to finance the costs of goods and services required for the Project having their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods and services ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Standard Provisions Annex, Section C.1(b) with respect to marine insurance.

(b) Disbursements of Grant funds pursuant to Section 8.1 will be used exclusively to finance the costs of goods and services required for the Project having their source and origin in the United States (Code 000 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such services) ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Standard Provisions Annex, Section C.1(b) with respect to marine insurance.

Section 7.2. LOCAL CURRENCY COSTS. Disbursements pursuant to Section 8.2 will be used exclusively to finance the costs of goods and services required for the Project having their source and, except as A.I.D. may otherwise agree in writing, their origin in the Republic of the Philippines ("Local Currency Costs"). To the extent provided for under this Agreement, "Local Currency

Costs" may also include the provision of local currency resources required for the Project.

Article 8. DISBURSEMENTS

Section 8.1. DISBURSEMENT FOR FOREIGN EXCHANGE COSTS. After satisfaction of conditions precedent, the Cooperating Country may obtain disbursements of funds under the Loan or the Grant for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of this Agreement, by such of the following methods as may be mutually agreed upon:

- (1) By submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or (B) requests for A.I.D. to procure commodities or services in the Cooperating Country's behalf for the Project; or
- (2) By requesting A.I.D. to issue Letters of Commitment for specified amounts (A) to one or more U.S. banks, satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, under Letters of Credit or otherwise, for such goods or services, or, (B) directly to one or more contractors or suppliers, committing A.I.D. to pay such contractors or suppliers, through Letters of Credit or otherwise, for such goods or services.

Section 8.2. DISBURSEMENT FOR LOCAL CURRENCY COSTS. (a) After satisfaction of conditions precedent, the Cooperating Country may obtain disbursement of funds under the Loan or the Grant for Local Currency Costs required for the Project in accordance with the terms of this Agreement, by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, requests to finance such costs.

(b) The local currency needed for such disbursement hereunder may be obtained:

- (1) By acquisition by A.I.D. with U.S. dollars by purchase or from local currency already owned by the U.S. Government; or
- (2) By A.I.D. (A) requesting the Cooperating Country to make available the local currency for such costs, and (B) thereafter making available to the Cooperating Country through the opening or amendment by A.I.D. of Special Letters of Credit in favor of the Cooperating Country or its desinee, an amount of U.S. dollars equivalent to the amount of local currency made available by the Cooperating Country, which dollars will be utilized for procurement from the United States under appropriate procedures described in Project Implementation Letters.

The U.S. dollar equivalent of the local currency made available hereunder will be, in the case of subsection (b)(1) above, the amount of U.S. dollars required by A.I.D. to obtain the local currency, and in the case of subsection (b)(2) above, an amount calculated at the rate of exchange specified in the applicable Special Letter of Credit Implementation memorandum hereunder as of the date of the opening or amendment of the applicable Special Letter of Credit.

Section 8.3. OTHER FORMS OF DISBURSEMENT. Disbursements of the Loan or the Grant may also be made through such other means as the Parties may agree to in writing.

Section 8.4. RATE OF EXCHANGE. Except as may be more specifically provided under Section 8.2, if funds provided under the Loan or the Grant are introduced into the Republic of the Philippines by A.I.D. or any public or private agency for purposes of carrying out obligations of A.I.D. hereunder, the Cooperating Country will make such arrangements as may be necessary so that such funds may be converted into currency of the Republic of the Philippines at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the Republic of the Philippines.

Section 8.5. DATE OF DISBURSEMENT. Disbursements of the Assistance by A.I.D. will be deemed to occur (a) on the date on which A.I.D. makes a disbursement to the Cooperating Country or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment or Credit; (b) on the date on which A.I.D. disburses to the Cooperating Country or its designee local currency acquired in accordance with Section 8.2(b)(1); or (c) if local currency is obtained in accordance with Section 8.2(b)(2), on the date on which A.I.D. opens or amends the Special Letter of Credit there referred to.

Article 9. MISCELLANEOUS

Section 9.1. COMMUNICATIONS. Except as expressly provided in Section 4.3, any notice, request, document or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such Party at the following address:

To the Cooperating Country:

Mail Address:

National Economic and Development Authority
P.O. Box 1116
Manila, Philippines

Alternate address for cables:
NEDAPHIL

To A.I.D.:

Mail Address:

United States Agency for International Development
c/o The American Embassy
Manila, Philippines

Alternate address for cables:
USAID/AMEMB Manila

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

Section 9.2. REPRESENTATIVES. For all purposes relevant to this Agreement, the Cooperating Country will be represented by the individual holding or acting in the office of the Director-General, National Economic and Development Authority and A.I.D. will be represented by the individual holding or acting in the office of the Director, United States A.I.D. Mission to the Philippines,

each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1 to revise elements of the amplified description in Annex I. The names of the representatives of the Cooperating Country, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

Section 9.3. STANDARD PROVISIONS ANNEX. A “Combined Loan and Grant Standard Provisions Annex” (Annex II)¹ is attached to and forms part of this Agreement.

IN WITNESS WHEREOF, the Cooperating Country and the United States of America, each acting through its duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

Republic of the Philippines:

United States of America:

By: [Signed]

By: [Signed]

MANUEL S. ALBA

PETER M. CODY

Title: Acting Director-General, National Economic and Development Authority

Title: Director, U.S. Agency for International Development

ANNEX I

DESCRIPTION OF PROJECT

The \$7.1 million A.I.D. loan will be utilized to finance the foreign exchange costs and a portion of the local currency costs of carrying out nine individual subprojects designed to exploit non-conventional, renewable energy resources. Subprojects will focus on direct and indirect solar conversion and small-scale hydropower. Specific subprojects to be undertaken and the U.S. and Cooperating Country contributions to each activity are summarized in the table below:

Table A

PROJECT FINANCING (\$000)

<i>Subproject</i>	<i>U.S.</i>	<i>GOP</i>	<i>Total</i>	<i>FX</i>
1. Solar dryers	\$ 591	\$ 180	\$ 771	\$ 528
2. Solar refrigeration	351	67	418	226
3. Photovoltaics	132	68	200	113
4. Waste-fired thermal plant	244	80	324	187
5. Pyrolysis	186	56	242	99
6. Mini-hydro power	542	181	723	472
7. Micro-hydro power	474	171	645	347

¹ For the text of the annex, see p. 127 of this volume.

<i>Subproject</i>	<i>U.S.</i>	<i>GOP</i>	<i>Total</i>	<i>FX</i>
8. Wind energy	280	93	374	228
9. Dendro-thermal plant and energy plantation	2,847	1,620	4,466	2,586
Sub-totals	\$5,647	\$2,516	\$ 8,163	\$4,786
Contingencies (10%)	565	252	817	479
Cost escalation	888	378	1,266	719
TOTAL	\$7,100	\$3,146	\$10,246	\$5,984

The \$1.55 million grant will be utilized to finance: long and short term participant training and technical assistance; procurement of books, basic research equipment, and other research literature; a survey to determine energy use demands and resources in rural areas of the Philippines; and the dissemination of information through seminars and workshops. U.S. and Cooperating Country contributions to each activity are summarized below:

Table B

PROJECT FINANCING
(\$000)

<i>Item</i>	<i>AID</i>	<i>GOP</i>	<i>Total</i>	<i>FX</i>
Project coordinator	202	40	242	170
Short-term consultants	336	60	396	280
Participant training	279	84	363	279
Energy survey	120	60	180	100
Solar/wind monitoring equipment	140	56	196	110
Public information/seminars	156	60	216	40
Sub-totals	1,233	360	1,593	979
Inflation 15%	185	54	239	147
Contingencies	132	36	168	98
TOTALS	1,550	450	2,000	1,224

Adjustments of A.I.D. funding levels for individual line items of both loan and grant financed activities of up to 20% is permitted without amendment of Annex I, so long as the total A.I.D. financing in Table A or B is not increased.

The Bureau of Energy Development (BED) of the Department of Energy will be the executing agency for the Cooperating Country. BED will select implementing agencies for individual subprojects. These will likely include BED; other Government agencies such as the National Electrification Administration (NEA), the National Power Corporation (NPC) and the National Irrigation Administration; the University of the Philippines, and other local institutions.