

CONFORMED COPY

LOAN NUMBER 1367 PH

LOAN AGREEMENT
(Jalaur Irrigation Project)

between

REPUBLIC OF THE PHILIPPINES

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated February 14, 1977

LOAN AGREEMENT

AGREEMENT, dated February 14, 1977, between the REPUBLIC OF THE PHILIPPINES (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

ARTICLE I

General Conditions; Definitions

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated March 15, 1974, with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "NIA" means the National Irrigation Administration, an agency established by the Republic Act No. 3601 of the Borrower, as amended to the date of this Agreement;

(b) "Special Account" means the fund to be established pursuant to Section 3.01(b) of this Agreement; and

(c) "ha" means a hectare of land.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to fifteen million dollars (\$15,000,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and the Bank, for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Loan.

Section 2.03. Except as the Bank shall otherwise agree, contracts for the purchase of goods or for civil works to be financed out of the proceeds of the Loan, shall be procured in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.04. The Closing Date shall be December 31, 1982, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.05. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($3/4$ of 1%)

per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.06. The Borrower shall pay interest at the rate of eight and one-half per cent (8-1/2%) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.07. Interest and other charges shall be payable semi-annually on May 1 and November 1 in each year.

Section 2.08. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower shall carry out the Project through its NIA with due diligence and efficiency and in conformity with appropriate financial, administrative, engineering and agricultural practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the purpose.

(b) Without limitation to its obligations under paragraph (a) of this Section, the Borrower shall cause NIA to establish and maintain, under arrangements satisfactory to the Bank, a Special Account from which NIA may draw without restriction to meet expenditures in respect of the Project. The Borrower shall adjust and replenish the amount in the Special Account at monthly intervals to a level at least equivalent to the estimated amount of payments to be made for goods and civil works required for the Project, less the estimated amount of payments to be made directly by the Bank to suppliers or contractors for such goods and civil works during the next two months.

(c) For the purpose of coordinating agricultural support services for the carrying out of Part A of the Project, the Borrower shall establish and maintain in existence until at least the completion of the Project an Agricultural Development Coordinating Council in the province of Iloilo, whose organization, powers and responsibilities shall be satisfactory to the Bank.

Section 3.02. (a) The Borrower undertakes to insure, or make adequate provision for the insurance of, the imported goods to be financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

(b) Except as the Bank shall otherwise agree, all goods and services financed out of the proceeds of the Loan shall be used exclusively for the Project until its completion.

Section 3.03. (a) The Borrower shall cause NIA to furnish, to the Bank, promptly upon their preparation, the plans, specifications, reports, contract documents and work and procurement schedules for the Project, and any material modifications thereof or additions thereto, in such detail as the Bank shall reasonably request.

(b) The Borrower: (i) shall cause NIA to maintain, records adequate to record the progress of the Project (including the cost thereof) and to identify the goods and services financed out of the proceeds of the Loan, and to disclose the use thereof in the Project; (ii) shall enable the Bank's accredited representatives to visit the facilities and construction sites included in the Project and to examine the goods financed out of the proceeds of the Loan and any relevant records and documents; and (iii) shall furnish to the Bank all such information as the Bank shall reasonably request concerning the Project, the expenditure of the proceeds of the Loan and the goods and services financed out of such proceeds.

Section 3.04. (a) The Borrower shall grant or cause to be granted all water rights required to enable NIA to carry out and operate Part A of the Project and shall take such action as is required to ensure that no other water rights except for domestic use are granted which could adversely affect the water supply required for Part A of the Project.

(b) The borrower shall take or cause to be taken all such action as shall be necessary to acquire as and when needed all such land and rights in respect of land as shall be required for carrying out Part A of the Project.

Section 3.05. In order to assist NIA in carrying out Part A (4) of the Project, the borrower shall, if necessary, cause NIA to employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank.

ARTICLE IV

Other Covenants

Section 4.01. (a) It is the mutual intention of the Borrower and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets.

(b) To that end the Borrower: (i) represents that at the date of this Agreement no lien exists on any governmental assets as security for any external debt except as otherwise disclosed in writing by the Borrower to the Bank; and (ii) undertakes that, except as the Bank shall otherwise agree, if any such lien shall be created, it will ipso facto equally and ratably, and at no cost to the Bank, secure the payment of the principal of, and interest and other charges on, the Loan and in the creation of any such lien express provision will be made to that effect. The Borrower shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; and (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

(d) As used in this Section, the term "governmental assets" means assets of the Borrower or of any agency of the Borrower

including the Central Bank of the Philippines or any institution performing the functions of a central bank for the Borrower.

(e) The Borrower further undertakes that, within the limits of the laws in force in its territories, it will make the foregoing undertaking effective with respect to liens on the assets of its political subdivisions and their agencies, and to the extent that the Borrower is unable within the limits of the laws in force in its territories to make this undertaking effective, the Borrower will give to the Bank an equivalent lien satisfactory to the Bank.

Section 4.02. (a) The Borrower shall cause NIA to maintain separate records adequate to reflect in accordance with consistently maintained sound accounting practices its operations in respect of the Project.

(b) The Borrower shall cause NIA to: (i) have such accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank; (ii) furnish to the Bank as soon as available, but in any case not later than four months after the end of each such year, (A) certified copies of its financial statements for such year as so audited and (B) the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and (iii) furnish to the Bank such other information concerning such accounts and the audit thereof as the Bank shall from time to time reasonably request.

Section 4.03. (a) The Borrower shall cause the works and facilities included in Part A of the Project to be operated and maintained in accordance with sound agricultural, engineering and financial policies and practices, and shall make available sufficient funds to NIA for such purposes.

(b) Without limitation on its obligations under paragraph (a) of this Section, the Borrower undertakes to do, or, to the extent required, to cause NIA to do, the following:

- (i) to make adequate budgetary provision to operate and maintain the Project; and
- (ii) except as the Bank shall otherwise agree, to take all necessary action to ensure that charges for the use of irrigation water are levied and collected from the users of the Project and that such charges will provide NIA with revenues sufficient to cover all operating and maintenance costs of the Project, and, in addition, to provide for the recovery, within a reasonable period, on reasonable terms and conditions satisfactory to the Bank, of the monies invested in the Project, without impairing the users' incentives and capacity to pay. The Borrower shall consult with the Bank, annually, on the adequacy of water charges and collection thereof.

Section 4.04. The Borrower shall cause NIA to prepare, by October 31, 1978, a plan of action for improving the collection

of irrigation fees due to NIA and after reviewing such plan of action with the Bank will promptly proceed with its implementation.

ARTICLE V

Effective Date; Termination

Section 5.01. The date May 16, 1977, is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Secretary of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Secretary of Finance
Department of Finance
Manila, Phillipines

Cable address:

SECFINANCE
Manila

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

440098 (ITT)
248423 (RCA) or
64145 (WUI)

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

By /s/ Eduardo Z. Romualdez
Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Syed Shahid Husain
Regional Vice President
East Asia and Pacific

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

<u>Category</u>	<u>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Civil works		
(a) mobilization and construc- tion equipment for civil works contractors	2,000,000	100% of foreign expenditures
(b) other civil works	4,800,000	25%
(2) Equipment	6,400,000	
(a) directly imported equipment		100% of foreign expenditures
(b) locally manu- factured equipment		100% of ex-factory cost

<u>Category</u>	<u>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(c) imported equipment procured locally		65%
(3) Technical assistance	100,000	100%
(4) Unallocated	1,700,000	
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TOTAL	15,000,000	
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2. For the purposes of this Schedule the term "foreign expenditures" means expenditures in the currency of any country other than the Borrower and for goods or services supplied from the territory of any country other than the Borrower.

3. The disbursement percentages have been calculated in compliance with the policy of the Bank that no proceeds of the Loan shall be disbursed on account of payments for taxes levied by, or in the territory of, the Borrower on goods or services, or on the importation, manufacture, procurement or supply thereof; to that end, if the amount of any such taxes levied on or in respect of any item to be financed out of the proceeds of the Loan decreases or increases, the Bank may, by notice to the Borrower, increase or decrease the disbursement percentage then applicable to such item as required to be consistent with the aforementioned policy of the Bank.

4. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

5. Notwithstanding the allocation of an amount of the Loan or the disbursement percentages set forth in the table in paragraph 1 above, if the Bank has reasonably estimated that the amount of the Loan then allocated to any Category will be insufficient to finance the agreed percentage of all expenditures in that Category, the Bank may, by notice to the Borrower: (i) reallocate to such

Category, to the extent required to meet the estimated shortfall, proceeds of the Loan which are then allocated to another Category and which in the opinion of the Bank are not needed to meet other expenditures; and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the disbursement percentage then applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made.

6. If the Bank shall have reasonably determined that the procurement of any item in any Category is inconsistent with the procedures set forth or referred to in this Agreement, no expenditures for such item shall be financed out of the proceeds of the Loan and the Bank may, without in any way restricting or limiting any other right, power or remedy of the Bank under the Loan Agreement, by notice to the Borrower, cancel such amount of the Loan as, in the Bank's reasonable opinion, represents the amount of such expenditures which would otherwise have been eligible for financing out of the proceeds of the Loan.

SCHEDULE 2

Description of the Project

The Project consists of the following Parts:

Part A: Rehabilitation, upgrading and expansion of the Jalaur irrigation system.

- (1) The rehabilitation and upgrading of the existing irrigation and drainage systems of Jalaur, Suague, Santa Barbara and Aganan which serve an aggregate area of about 22,000 ha;
- (2) The construction of additional irrigation and drainage works to serve about 2,700 ha on the left bank of the Jalaur river;
- (3) The construction of a Project headquarters building and other facilities required for the operation and maintenance of the Project;
- (4) The provision of technical assistance, if required, for further studies on the expansion of the Project.

Part B: Equipment and vehicles:

The procurement of the equipment and vehicles required to carry out Part A of the Project.

Part C: Water management training:

The training of about 50 water management technologists in water management methods and the provision of facilities for such training.

* * * *

The Project is expected to be completed by June 30, 1982.

SCHEDULE 3

Amortization Schedule

<u>Date Payment Due</u>	<u>Payment of Principal (expressed in dollars)*</u>
On each November 1 and May 1 beginning November 1, 1981 through May 1, 1996	485,000
On November 1, 1996	450,000

* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

Premiums on Prepayment

The following percentages are specified as the premiums payable on repayment in advance of maturity of any portion of the principal amount of the Loan pursuant to Section 3.05 (b) of the General Conditions:

<u>Time of Prepayment</u>	<u>Premium</u>
Not more than three years before maturity	1.25%
More than three years but not more than six years before maturity	2.55%
More than six years but not more than eleven years before maturity	4.65%
More than eleven years but not more than sixteen years before maturity	6.80%
More than sixteen years but not more than eighteen years before maturity	7.65%
More than eighteen years before maturity	8.50%

SCHEDULE 4

Procurement

A. International Competitive Bidding

1. Except as provided in Part B hereof, contracts for the purchase of goods or for civil works shall be procured in accordance with procedures consistent with those set forth in Part A of the "Guidelines for Procurement under World Bank Loans and IDA Credits" published by the Bank in August 1975 (hereinafter called the Guidelines), on the basis of international competitive bidding.

B. Other Procurement Procedures

Notwithstanding the provisions set forth or referred to in Part A.1 of this Schedule:

- (i) civil works may be carried out either (A) by NIA under force account, or (B) by contracts awarded under the Borrower's normal procedures, provided that the aggregate cost of civil works carried out by force account shall not, without the prior consent of the Bank, exceed 40% of the total cost of all civil works in the Project; and
- (ii) any item of equipment, materials, supplies and vehicles not exceeding the equivalent of \$10,000 may

be awarded on a competitive basis consistent with the Borrower's normal procurement practices without international competitive bidding, provided that the aggregate expenditure for such items shall not exceed the equivalent of \$200,000.

C. Evaluation and Comparison of Bids for Goods; Preference for Domestic Manufacturers

1. For the purpose of evaluation and comparison of bids for the supply of goods: (i) bidders shall be required to state in their bid the c.i.f. (port of entry) price for imported goods, or the ex-factory price for domestically-manufactured goods; (ii) customs duties and other import taxes on imported goods, and sales and similar taxes on domestically-supplied goods, shall be excluded; and (iii) the cost to the Borrower of inland freight and other expenditures incidental to the delivery of goods to the place of their use or installation shall be included.

2. Goods manufactured in the Republic of the Philippines may be granted a margin of preference in accordance with, and subject to, the following provisions:

(a) All bidding documents for the procurement of goods shall clearly indicate any preference which will be granted, the information required to establish the eligibility of a bid for such preference and the following methods and stages that will be followed in the evaluation and comparison of bids.

(b) After evaluation, responsive bids will be classified in one of the following three groups:

- (1) Group A: bids offering goods manufactured in the Republic of the Philippines if the bidder shall have established to the satisfaction of the Borrower and the Bank that the manufacturing cost of such goods includes a value added in the Republic of the Philippines equal to at least 20% of the ex-factory bid price of such goods.
- (2) Group B: all other bids offering goods manufactured in the Republic of the Philippines.
- (3) Group C: bids offering any other goods.

(c) All evaluated bids in each group shall be first compared among themselves, excluding any customs duties and other import taxes on goods to be imported and any sales or similar taxes on goods to be supplied domestically, to determine the lowest evaluated bid of each group. Such lowest evaluated bids shall then be compared with each other, and if, as a result of this comparison, a bid from group A or group B is the lowest, it shall be selected for the award.

(d) If, as a result of the comparison under paragraph (c) above, the lowest bid is a bid from group C, all group C bids shall be further compared with the lowest evaluated bid from group A after adding to the c.i.f. bid price of the imported

goods offered in each group C bid, for the purpose of this further comparison only, an amount equal to (i) the amount of customs duties and other import taxes which a non-exempt importer would have to pay for the importation of the goods offered in such group C bid; or (ii) 15% of the c.i.f. bid price of such goods if said customs duties and taxes exceed 15% of such price. If the group A bid in such further comparison is the lowest, it shall be selected for the award; if not, the bid from group C which as a result of the comparison under paragraph (c) is the lowest evaluated bid shall be selected.

D. Review of Procurement Decisions by the Bank

1. With respect to all contracts for civil works estimated to cost the equivalent of \$200,000 or more and all contracts for equipment and vehicles estimated to cost the equivalent of \$100,000 or more:

(a) Review of prequalification. If bidders are required to prequalify, the Borrower shall, before qualification is invited, inform the Bank in detail of the procedure to be followed, and shall introduce such modifications in said procedure as the Bank shall reasonably request. The list of prequalified bidders, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for prequalification shall be furnished by the Borrower to the Bank for its comments before the applicants are notified of the Borrower's decision, and the Borrower shall make such additions to, deletions from, or modifications in, the said list as the Bank shall reasonably request.

(b) Review of invitations to bid and of proposed awards and final contracts:

(1) Before bids are invited, the Borrower shall furnish to the Bank, for its comments, the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedures to be followed for the bidding, and shall make such modifications in the said documents or procedures as the Bank shall reasonably request. Any further modification to the bidding documents shall require the Bank's concurrence before it is issued to the prospective bidders.

(2) After bids have been received and evaluated, the Borrower shall, before a final decision on the award is made, inform the Bank of the name of the bidder to which it intends to award the contract and shall furnish to the Bank, in sufficient time for its review, a detailed report on the evaluation and comparison of the bids received, and such other information as the Bank shall reasonably request. The Bank shall, if it determines that the intended award would be inconsistent with the Guidelines or this Schedule, promptly inform the Borrower and state the reasons for such determination.

(3) The terms and conditions of the contract shall not, without the Bank's concurrence, materially differ from those on which bids were asked or prequalification invited.

(4) Two conformed copies of the contract shall be furnished to the Bank promptly after its execution and prior to the submis-

sion to the Bank of the first application for withdrawal of funds from the Loan Account in respect of such contract.

2. With respect to each contract to be financed out of the proceeds of the Loan and not governed by the preceding paragraph, the Borrower shall furnish to the Bank, promptly after its execution and prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of such contract, two conformed copies of such contract, together with the analysis of the respective bids, recommendations for award and such other information as the Bank shall reasonably request. The Bank shall, if it determines that the award of the contract was not consistent with the Guidelines or this Schedule, promptly inform the Borrower and state the reasons for such determination.