

LOAN AGREEMENT
(Countercyclical Support)

between

REPUBLIC OF THE PHILIPPINES

and

ASIAN DEVELOPMENT BANK

DATED 27 AUGUST 2009

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 27 August 2009 between the REPUBLIC OF THE PHILIPPINES (the Borrower) and ASIAN DEVELOPMENT BANK (ADB).

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 3 August 2009 (the Policy Letter), setting forth objectives, policies and actions forming the Borrower's countercyclical public expenditure program (the PHI-CPEP) as well as the short-term countercyclical measures to be undertaken as described in Schedule 1 to this Loan Agreement (the Support Program);

(B) the Borrower has applied to ADB for a loan under its Countercyclical Support Facility for the purposes of the Support Program; and

(C) ADB has, on the basis inter alia of the foregoing, agreed to make a loan to the Borrower from ADB's Countercyclical Support Facility upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001, are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications thereof (said Ordinary Operations Loan Regulations as so modified the Loan Regulations):

(a) Section 2.01(22) is deleted;

(b) The term "Fixed Spread" in Section 2.01(23) is deleted wherever it appears in this subsection and "2.0%" is substituted therefore;

(c) Section 2.01(49) is deleted and the following is substituted therefor:

(49) The term "Program" means the Support Program for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

(d) The term "Project" wherever it appears in the Loan Regulations shall be substituted by the term "Support Program";

(e) Section 2.01(51) is deleted and the following is substituted therefor:

(51) The term "Program Executing Agency" means the entity or entities responsible for the carrying out of the Support Program as specified in the Loan Agreement.

(f) The term "Project Executing Agency" wherever it appears in the Loan Regulations shall be substituted by the term "Program Executing Agency";

(g) Section 3.03 is deleted and the following is substituted therefor:

Section 3.03. **Commitment Charge.** The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(h) Section 3.06 is deleted and the following is substituted therefor:

Section 3.06. **Rebate.** Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(i) Section 3.07 is deleted and the following is substituted therefor:

Section 3.07. **Surcharge.** Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

- (j) Section 6.01(a) is deleted and the following is substituted therefor:

Section 6.01. Withdrawal from the Loan Account.

(a) Subject to any conditions or restrictions specified in the Loan Agreement, the Borrower shall be entitled to withdraw from the Loan Account such amounts as shall be required to meet payments for expenditures required for the Support Program and to be financed under the Loan Agreement.

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

(a) "BSP" means Bangko Sentral Ng Pilipinas of the Borrower and any successor thereto;

(b) "Counterpart Funds" means the Peso proceeds accruing to the Borrower and generated from the proceeds of the Loan under the Support Program and referred to in Schedules 1 and 5 to this Loan Agreement;

(c) "DBM" means the Department of Budget and Management of the Borrower and any successor thereto;

(d) "Deposit Account" means the account referred to in paragraph 4 of Schedule 3 to this Loan Agreement;

(e) "DOF" means the Department of Finance of the Borrower and any successor thereto;

(f) "Eligible Items" means the goods imported under the Support Program (except those specifically excluded pursuant to the Attachment to Schedule 3 to this Loan Agreement), the foreign exchange costs of which are eligible for financing out of the proceeds of the Loan;

(g) "NEDA" means the National Economic and Development Authority of the Borrower and any successor thereto;

(h) "Pesos" or the sign "P" means pesos in the currency of the Borrower;

(i) "Policy Letter" means the development policy letter referred to in Recital (A) of this Loan Agreement;

(j) "Program Executing Agency" means for the purposes and within the meaning of the Loan Regulations, DOF, which is responsible for the carrying out of the Support Program; and

(k) "Program Period" means the period from 1 February 2009 until 31 December 2010.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from its Countercyclical Support Facility funded from its ordinary capital resources an amount of five hundred million Dollars (\$500,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 2 years, and a grace period as defined in paragraph (c) of this Section.

(c) The term "grace period" as used in paragraph (b) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 2.00% as determined by Section 3.02 of the Loan Regulations.

Section 2.03. The Borrower shall pay to ADB a commitment charge of 0.75% per annum on the unwithdrawn amount of the Loan. Such charge shall accrue from a date sixty (60) days after the date of this Loan Agreement to the respective dates on which amounts shall be withdrawn from the Loan Account or shall be cancelled.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 February and 15 August in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management, subject to relevant market opportunities being made available to ADB:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan from a Floating Rate to a Fixed Rate, or vice versa; and

- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures for the Support Program in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan may be withdrawn from the Loan Account only for the purposes of financing foreign currency expenditures incurred for Eligible Items under the Support Program in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, all Eligible Items to be financed out of the proceeds of the Loan shall be produced in, and procured from, ADB's member countries in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, no withdrawals shall be made from the Loan Account in respect of expenditures for Eligible Items incurred more than one hundred eighty (180) days prior to the Effective Date.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2009 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause the Support Program to be carried out with due diligence and efficiency and in conformity with sound administrative, financial, public policy, social, and governance practices.

(b) In the carrying out of the Support Program, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall make available, promptly as needed, the funds, facilities, services, and other resources, which are required, in addition to the proceeds of the Loan, for the carrying out of the Support Program.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Support Program are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. (a) The Borrower shall maintain, or cause to be maintained, records and documents adequate to identify the Eligible Items financed out of the proceeds of the Loan and to indicate the progress of the Support Program.

(b) The Borrower shall enable ADB's representatives to inspect any relevant records and documents referred to in paragraph (a) of this Section.

Section 4.05. (a) As part of the reports and information referred to in Section 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB semiannually reports and such other information as ADB shall reasonably request concerning the implementation of the PHI-CPEP and/or the Support Program as set out in the Policy Letter.

(b) The reports furnished under (a) above shall be used at the completion of the Support Program to produce a comprehensive report on the overall impact of the PHI-CPEP operations described in the Policy Letter.

ARTICLE V

Effectiveness

Section 5.01. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Secretary of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Department of Finance
DOF Building
Roxas Boulevard
Manila, Philippines

Facsimile Numbers:

+63 2 523-9216
+63 2 521-9495

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

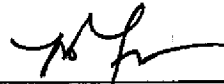
Facsimile Numbers:

+63 2 636-2444
+63 2 636-2388.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

By



MARGARITO B. TEVES
Authorized Representative

008488

ASIAN DEVELOPMENT BANK

By



HARUHIKO KURODA
President

SCHEDULE 1**Description of the Support Program**

1. The principal objectives of the PHI-CPEP and the Support Program are to provide a fiscal stimulus and protect the Borrower's spending and poverty alleviation programs and objectives, and to continue with its longer term development objectives. The PHI-CPEP is described in more detail in the Policy Letter.
2. The Support Program, which targets support for the short term measures of the PHI-CPEP, is being implemented during the period 1 February 2009 to 31 December 2010.
3. In support of the Support Program:
 - (a) the proceeds of the Loan shall be used to finance the foreign exchange costs of Eligible Items; and
 - (b) the Counterpart Funds shall be used to finance the local currency costs relating to the implementation of certain programs and other activities consistent with the objectives of the Support Program, pursuant to the provisions of paragraph 1 of Schedule 5 to this Loan Agreement.
4. The proceeds of the Loan are expected to be disbursed in a single tranche and utilized by 31 December 2009.

SCHEDULE 2

Amortization Schedule (Countercyclical Support)

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 Feb 2013	23.201183
15 Aug 2013	24.361242
15 Feb 2014	25.579304
15 Aug 2014	26.858271
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3**Withdrawal of Loan Proceeds**

1. Except as ADB may otherwise agree, the following provisions of this Schedule shall apply to the withdrawal of Loan proceeds from the Loan Account.

2. (a) Withdrawals from the Loan Account shall be made for the financing of the foreign exchange cost of Eligible Items.

(b) No withdrawals from the Loan Account shall be made in respect of any expenditures, which have been financed by credits from official international or bilateral aid agencies or any other loans or grants made by ADB.

3. (a) An application for withdrawal from the Loan Account shall be submitted to ADB by the Borrower and shall be in a form satisfactory to ADB.

(b) Such withdrawal application shall be accompanied by a certificate of the Borrower confirming that: (i) in case the proceeds of the Loan will finance imports already made, the value of Eligible Imports in the period concerned exceeded the amount of the requested withdrawal; or (ii) in case the proceeds of the Loan will finance items to be imported, the value of Eligible Imports in the immediately preceding one-year period was equal to or greater than the amount of the requested withdrawal plus all other amounts expected to be withdrawn from the Loan Account during the succeeding one-year period.

(c) For the purposes of this paragraph, the term "Eligible Imports" means the total imports of the Borrower during the relevant period minus the following imports during the same period:

- (i) imports from countries which are not members of ADB;
- (ii) imports for ineligible items specified in the Attachment to this Schedule; and
- (iii) imports financed from credits from official international or bilateral aid agencies or any other loans or grants made by ADB.

(d) The Borrower shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Borrower has certified the value of Eligible Imports in its withdrawal application.

4. (a) Prior to submitting the application to ADB for withdrawal from the Loan Account, the Borrower shall open or nominate an account (the Deposit Account) at BSP into which all withdrawals from the Loan Account shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with terms and conditions satisfactory to ADB.

Schedule 3

(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with consistently maintained sound accounting principles. Upon ADB's request, the Borrower shall have the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with appropriate auditing standards. Promptly after their preparation but in any event not later than six (6) months after the date of ADB's request, certified copies of such audited accounts and records shall be furnished to ADB, all in the English language.

(c) Throughout the Program Period, the Borrower shall submit trade statistics and any other information as ADB may require from time to time to assess the Borrower's compliance with the formula for determining Eligible Imports.

List of Ineligible Items

1. No Loan proceeds will be used to finance the following:
- (i) expenditures for goods included in the following groups or sub-groups of the United Nations Standard International Trade Classification, Revision 3 (SITC, Rev. 3) or any successor groups or sub-groups under future revisions to the SITC, as designated by ADB by notice to the Borrower:

Table A12: Ineligible Items

Chapter	Heading	Description of Items
112		Alcoholic beverages
121		Tobacco, unmanufactured; tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitute)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof, fuel elements (cartridges), nonirradiated for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum-group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, nonmonetary (excluding gold ore and concentrates)

Source: United Nations.

- (ii) expenditures in the currency of the Borrower or of goods supplied from the territory of the Borrower;
- (iii) expenditures for goods supplied under a contract that any national or international financing institution or agency will have financed or has agreed to finance, including any contract financed under any loan or grant from the ADB;
- (iv) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
- (v) expenditures for narcotics; and
- (vi) expenditures for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party; and
- (vii) expenditures on account of any payment prohibited by the Borrower in compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

SCHEDULE 4

Procurement

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraph of this Schedule shall apply in the procurement of Eligible Items to be financed out of the proceeds of the Loan.

2. (a) Except as provided in paragraph 2(b) below, each contract for Eligible Items shall be awarded on the basis of either the purchaser's normal commercial procurement practices, in the case of procurement by the private sector, or the Borrower's prescribed procurement procedures, in the case of procurement by the public sector, having due regard for the principles of economy and efficiency.

(b) Each supply contract for Eligible Items, which are commonly traded commodities, shall be awarded on the basis of procedures appropriate to the trade and acceptable to ADB.

SCHEDULE 5

Support Program Implementation and Other Matters

Counterpart Funds

1. The Borrower shall ensure that the Counterpart Funds are used to finance the local currency costs relating to the implementation of the Support Program and other activities consistent with the objectives of the PHI-CPEP.

Support Program Management

2. DOF shall be the Program Executing Agency responsible for Support Program implementation activities, reporting to ADB, administering and disbursing the Loan proceeds, and maintaining accounts.

3. The Borrower's Development Policy Support Program coordinating committee (the Committee) chaired by the undersecretary of DOF and comprising officials from DOF, DBM, and NEDA shall be responsible for coordinating the implementation of the PHI-CPEP. The Committee shall meet semiannually to monitor progress and oversee the implementation of the Support Program and the PHI-CPEP, and provide necessary guidance and direction to the DOF and DBM and relevant line agencies of the Borrower involved in the PHI-CPEP. ADB and other donor partners may be invited to participate in the Committee's meetings as an observer.

Policy Dialogue

4. The Borrower shall:

(a) keep ADB informed of, and the Borrower and ADB shall from time to time exchange views on, sector issues, policy reforms and additional reforms during the Program Period that may be considered necessary or desirable under the PHI-CPEP, including the progress made in carrying out actions set out in the Policy Letter;

(b) promptly discuss with ADB problems and constraints encountered during implementation of the PHI-CPEP, including the Support Program and appropriate measures to overcome or mitigate such problems and constraints; and

(c) keep ADB informed of policy discussions with other multilateral or bilateral agencies that have implications for implementation of the PHI-CPEP, including the Support Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower shall take ADB's views into consideration before finalizing and implementing any such proposals.

Monitoring and Evaluation

5. The Borrower shall ensure that reporting on progress of the PHI-CPEP, including the Support Program during the Program Period through periodic meetings is made by the DBM and relevant line agencies of the Borrower to DOF which will in turn, report to ADB. DOF will, as needed, hold consultative meetings with the private sector and development partner community to solicit their feedback on emerging regulations and the impact of implementing the PHI-CPEP, including the Support Program.

6. The Committee and ADB shall jointly conduct semiannual reviews of the macroeconomic and fiscal conditions of the Borrower's economy and assess the impact and evaluate the benefits of actions under the PHI-CPEP on the real economy and the social sector, in accordance with ADB's Performance Management System. DOF shall be responsible for maintaining all monitoring data and evaluating benefits of the PHI-CPEP. Within five months after the Program Period, the Borrower shall cause the DOF and Implementing Agencies to submit a program completion report to ADB that assesses the extent of progress and the impact of actions under the PHI-CPEP, including the Support Program.