

**MALACANANG
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 cornerstone 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 government 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 institute 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 now 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 innerent as substantive financial operations:

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

ARTICLE 1. 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.

SECTION 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 the government institutions, including shares of stock in corporations, obtained by such government institutions, 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 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 herein.

ARTICLE II. COMMITTEE ON PRIVATIZATION

SECTION 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 suspended by another body by the President.

SECTION 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.

SECTION 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 asset 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 assets, 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 or, 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 asset, whether by the Trust or any other government institutions;
- (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 asset 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, share of stock held in the name of the National Government, and which have not been transferred to the Trust;
- (7) To issue necessary guideline 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.

SECTION 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.

SECTION 7. FUNDING. The amount of Ten Million Pesos to cover the 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.

SECTION 8. LEGAL COUNSEL. The Minister of Justice shall be the ex-officio adviser to the Committee.

ARTICLE III. ASSET PRIVATIZATION TRUST

SECTION 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 asset 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.

SECTION 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 involve 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.

SECTION 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 (90,000,000) chargeable against the One Hundred Million Pesos (100,000,000) appropriation intended for the Asset Disposition Trust under Presidential Degree 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) Amount 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 fund 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 of 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.

SECTION 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.

SECTION 13. *RESENTIBILITY OF TRUST FUNCTIONS.* The rationalization of the government corporate sector is deemed to be a critical concern of the government; and the trust in undertaking the tasks of divestment and privatization must give due and pragmatic regard to the preference 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.

SECTION 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.

SECTION 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 all on the board

of directors or otherwise participate in the direct management of corporations constituting assets transferred to the Trust.

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

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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 deemed 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.

SECTION 21. *LEGAL COUNSEL.* The Minister of Justice shall be the ex-officio legal adviser to the Trust.

ARTICLE IV. OPERATIONAL PROVISIONS

SECTION 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 within five years from date 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.

SECTION 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 instruments 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 asset 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 guidelines issued by the Committee.

Nothing in this Proclamation shall:

- (1) Affect the rights of the National Government to pursue the enforcement of any claim of a government institution 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 of the Trust shall see to it that such rights are not impaired.

SECTION 24. DEED 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 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 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.

SECTION 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 networkths, after due adjustments 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 trusteeed corporations shall be fixed at five (5), the provisions of their respective charters or articles of incorporations to the contrary notwithstanding: Provided, that thus sub-section 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 trusteeed corporations.

- (3) The chairman and members of the board of directors or Trustees and the presidents or chief executive officers of the trustee 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 trustee 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 trustee 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 trustee corporations through the Corporation Code to undergo reorganization, 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.

SECTION 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 an obligation by any third party involved.

SECTION 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, 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.

SECTION 28. TRUST SUCCESSION TO POWER 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 function 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 foresaid ministries, shall also be transferred to the Trust to form its Operating Funds as specified in Section II of this Proclamation.

From the date of the transfer of a government corporations to the Trust, all the requests for budgetary outlays from the General Fund by such corporations shall be subject to the prior approval by the Trust.

SECTION 29. INTERIM RESPONSIBILITY FOR TRANSFERRED ASSETS. During the period prior to receipts 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 institution 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.

SECTION 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.

SECTION 31. IMMUNITY AND INDEMNITY PROVISIONS 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 or 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 staff 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 proceedings, 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 staff 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.

SECTION 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 corporation 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 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 902-A.

SECTION 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 purpose 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, commission and other reimbursable expenses of the

Trust as approved by the Committee, where the disposition was undertaken by or through the Trust.

SECTION 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 asset 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 acquirer 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 enjoyed 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.

SECTION 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 trusted. For purpose of insuring related to the assets with which they official 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 trusted 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 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.

SECTION 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 appropriate, subject to the availability of funds in the National Treasury.

SECTION 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 of 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 purchaser thereof, the consideration received therefor and the agreed terms of payment.

ARTICLE V. MISCELLANEOUS PROVISIONS

SECTION 38. SEPARABILITY CLAUSE. Any portion or provision of this Proclamation that 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 Proclamation.

SECTION 39. REPEALING CLAUSE. This Proclamation supersedes Presidential Decree 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.

SECTION 40. EFFECTIVITY. This Proclamation shall take effect immediately.

Manila, December 8, 1986.

(Sgd.) **CORAZON C. AQUINO**
President

By the President:

(Sgd.) **JOKER 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 assets, 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 member of the board of directors or trustees and the president or chief executive officers of the trustee 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 or 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.

(Sgd) **CORAZON C. AQUINO**
President

By the President:

(Sgd) **JOKER P. ARROYO**
Acting Executive Secretary