

MALACAÑANG

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 313

RATIONALIZING THE USE OF THE COCONUT LEVY FUNDS BY CONSTITUTING A "FUND FOR ASSISTANCE TO COCONUT FARMERS" AS AN IRREVOCABLE TRUST FUND AND CREATING A COCONUT TRUST FUND COMMITTEE FOR THE MANAGEMENT THEREOF.

WHEREAS, several legislations were enacted imposing coconut levies intended to establish funds for the support and development of the coconut industry and for the benefit of coconut farmers;

WHEREAS, pursuant to said legislations, the United Coconut Planters Bank as the designated Administrator of the Coconut Levy Funds under the statutory provisions of Presidential Decree No. 755 and Presidential Decree No. 1468, invested a portion (hereinafter referred to as the Coconut Industry Investment Fund ["CIIF"] of the Coconut Consumers Stabilization Fund and the Coconut Industry Development Fund, not required to be utilized for the purposes for which said Funds were established, in shares of stock of various corporations, including San Miguel Corporation ("SMC");

WHEREAS, the shares of stock in the SMC acquired through the use of the CIIF (hereinafter referred to as the "CIIF SMC Shares") are registered in the names of various corporations (hereinafter referred to as the "CIIF Holding Companies") which are likewise owned and controlled by the CIIF;

WHEREAS, the CIIF Holding Companies have been sequestered by the Presidential Commission on Good Government ("PCGG") by virtue of Executive Order Nos. 1,2,14 and 14-A;

WHEREAS, by reason of the sequestration of businesses established and the assets and properties acquired through the use of the coconut levy funds, including the CIIF SMC Shares, such businesses, property and assets and the CIIF SMC Shares have not been utilized for the benefit of their intended beneficiaries;

Handwritten signature or initials.



businesses, property and assets and the CIIF SMC Shares have not been utilized for the benefit of their intended beneficiaries;

WHEREAS, the issue of the ownership of the coconut levy funds, as well as the businesses and assets established therewith, including the CIIF SMC Shares, is presently pending before the Sandiganbayan in Civil Case No. 0033, entitled "Republic of the Philippines vs. Eduardo Cojuangco, Jr., et al.";

WHEREAS, the Supreme Court had declared in G.R. No. 75713 that:

"The utilization and proper management of the coconut levy funds, raised as they were by the State's police and taxing powers, are certainly the concern of the Government. It cannot be denied that it was the welfare of the entire nation that provided the prime moving factor for the imposition of the levy. It cannot be denied that the coconut industry is one of the major industries supporting the national economy. It is, therefore, the State's concern to make it a strong and secure source not only of the livelihood of a significant segment of the population but also of export earnings the sustained growth of which is one of the imperatives of economic stability. The coconut levy funds are clearly affected with public interest." (Philippine Coconut Producers Federation Inc. (COCOFED), et al. vs. Presidential Commission on Good Government (PCGG), et al., G.R. No. 75713, October 2, 1989, 178 SCRA 236, 252-253);

WHEREAS, the Supreme Court, in a Resolution issued on December 13, 1994 in G.R. No. 96073, entitled "Republic vs. Sandiganbayan (First Division), et al." resolved "to DENY the Solicitor General's (a) Urgent Motion to Resolve Legal Question on the Character of the Coconut Levy Funds and to Declare as Unconstitutional Section 5, Article III of P.D. 1468 filed in behalf of the PCGG. Further, in its resolution of March 26, 1996 in the same case, the Supreme Court, in considering the motion for reconsideration filed by the Solicitor General, resolved "to DENY the Solicitor General's prayer to (a) declare the coconut levies collected pursuant to various issuances as public funds; (b) declare unconstitutional Section 5, Article III of P.D. 1468.";



PJEE Hologram #21301

WHEREAS, the delay in the resolution of the aforesaid issues relating to the nature and ownership of the CIIF Investments has been inimical to the coconut industry and the coconut farmers;

WHEREAS, to immediately address the problems besetting the coconut industry and alleviate the socio-economic well-being of the coconut farmers, the rationalization of the use and disposition of the coconut levy funds, including the CIIF SMC Shares, through the creation and establishment of a permanent trust fund to finance various programs of assistance to the coconut farmers and the coconut industry would effectively prevent further deterioration of the coconut industry and, at the same time, provide relief to the continuing hardships experienced by the coconut farmers;

NOW, THEREFORE, I, JOSEPH EJERCITO ESTRADA, President of the Republic of the Philippines, by virtue of the powers vested in me by law, hereby direct and order, as follows:

SECTION 1. *Creation of the Coconut Trust Fund.* There is hereby created an irrevocable trust fund, to be known as the Coconut Trust Fund (hereinafter referred to as the "Trust Fund"), which shall be capitalized, managed, utilized and accounted for in the manner hereinafter provided.

SEC. 2. *Purpose of the Fund.* The Fund shall be established for the purpose of financing programs of assistance for the benefit of the coconut farmers, the coconut industry, and other agri-related programs intended to maximize food productivity, develop business opportunities in the countryside, provide livelihood alternatives, and promote anti-poverty programs.

SEC. 3 *Capitalization of the Trust Fund.* The CIIF SMC Shares, consisting of approximately 27% of the outstanding capital stock of SMC, shall form the initial capital of the Trust Fund. For this purpose, the CIIF Holding Companies, acting through the Administrator of the coconut levy funds, shall convey the CIIF SMC Shares to the Trustee as provided in Section 4 hereof, under such terms and conditions not inconsistent with the Executive Order. The CIIF Holding Companies, acting through the Administrator of the coconut levy funds, shall sign, execute and deliver such documents, deeds or contract, not inconsistent with this Executive Order, as may be necessary or desirable to implement the provisions of this Executive Order. Nothing in this Executive Order shall be understood to prevent or prohibit any person, group or entity from conveying to the Trustee any other

W



PJEE Hologram #21302



additional properties and/or assets, which shall form part of the Trust Fund.

In order to insure the enduring character of the Fund, the principal thereof shall be maintained intact but may be augmented from time to time by grants, donations and other lawful transfers by public or private entity, the disposition of the income of which shall be governed by the terms and conditions hereinafter specified, as well as the rules and regulations promulgated by the Coconut Trust Fund Committee created pursuant to Section 6 hereof:

- (a) The Trust Fund shall be perpetually maintained and preserved to ensure the full implementation and realization of the objectives identified and sought to be attained under this Executive Order;
- (b) In the event that the Trust Fund (or any portion thereof, as the case may be) is subsequently sold, alienated or disposed of, the proceeds and revenues arising out of and realized from such sale, alienation or disposition:
 - (i) shall be, to the extent established by the Coconut Trust Fund Committee, used to settle in full any outstanding liability or obligation of the Trust Fund due in favor of creditors; and
 - (ii) after the settlement of obligations specified in the immediately preceding paragraph, the remaining balance of such proceeds and revenues shall automatically form part of the Trust Fund which remains under the exclusive management of the Coconut Trust Fund Committee;
- (c) Only the income, interest earnings, and monetary benefits realized by and accruing on the Trust Fund shall be used and disposed of by the Coconut Trust Fund Committee for such purposes and endeavors specified under the provision of this Executive Order (such income, interest earnings and monetary benefits shall be referred to as the "Trust Income").

The Trust Fund shall be managed and administered so as to maximize its earnings in a prudent manner consistent with its character as a perpetual trust.

✓



PJEE Hologram #21303



SEC. 4. *Designation of Trustee Bank.* The United Coconut Planters Bank (UCPB), through its Trust Department, is hereby designated as the Trustee Bank of the Trust Fund and shall: (i) manage, utilize and account for the Trust Fund in the manner hereinafter provided and (ii) exercise the tasks, functions and duties determined and established by the Coconut Trust Fund Committee created under the provisions of this Executive Order, to the extent allowed under applicable laws.

SEC. 5. *Extent of the Trust Fund.* The Trust Fund shall be composed of the following:

- (a) the CIIF SMC Shares consisting of approximately 27% of the outstanding capital stock of SMC; and
- (b) such other properties and/or assets, intended for the purposes herein stated, and conveyed or transferred to the Trustee in accordance with this Executive Order.

SEC. 6. *Creation of the Coconut Trust Fund Committee.* A Committee is hereby created to administer, manage and supervise the operations of the Trust Fund, chaired by the President with ten (10) members, as follows:

- (a) four (4) representatives from the government sector, two of whom shall be the Secretary of Agriculture and the Secretary of Agrarian Reform who shall act as Vice Chairmen;
- (b) four (4) representatives from coconut farmers' organizations, one of whom shall come from a list of nominees from the Philippine Coconut Producers Federation Inc. ("COCOFED");
- (c) a representative from the CIIF; and
- (d) a representative from a non-government organization (NGO) involved in agricultural and rural development.

All decisions of the Coconut Trust Fund Committee shall be determined by a majority vote of all the members.

The Coconut Trust Fund Committee shall perform the functions and duties set forth in Section 7 hereof, with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man acting in like capacity would exercise.



The members of the Coconut Trust Fund Committee shall be appointed by the President and shall hold office at his pleasure.

The Coconut Trust Fund Committee is authorized to hire administrative, technical and/or support staff as may be required to enable it to effectively perform its functions and responsibilities.

SEC. 7. *Functions and Responsibilities of the Committee.* The Coconut Trust Fund Committee shall have the following functions and responsibilities:

- (a) set the investment policy of the Trust Fund;
- (b) establish priorities for assistance giving preference to small coconut farmers and farmworkers which shall be reviewed periodically and revised as necessary in accordance with changing conditions;
- (c) receive, process and approve project proposals for financing by the Trust Fund;
- (d) decide on the use of the Trust Fund's income or net earnings including final action on applications for assistance, grants and/or loans;
- (e) avail of professional counsel and services by retaining an investment and financial manager, if desired;
- (f) formulate the rules and regulations governing the allocation, utilization and disbursement of the Fund; and
- (g) perform such other acts and things as may be necessary proper or conducive to attain the purposes of the Fund .

SEC. 8. *Non-impairment of Trust Fund.* In order to ensure its enduring character, it is hereby declared and ordered that the Trust Fund shall be operated strictly as a capital fund for investment and re-investment, and that it shall be maintained intact with only the Trust Income, being authorized to be utilized for financing programs of assistance as provided in Section 9 hereof.

SEC. 9 *Use and Disposition of the Trust Income.* The Coconut Trust Fund Committee, on an annual basis, shall determine and establish the amount comprising the Trust Income. After such determination, the Committee shall earmark, allocate and disburse the Trust Income for the following purposes, namely:



- (a) Not more than three percent (3%) of the Trust Income shall be used to defray the direct and validated costs and expenses incurred for the maintenance, administration and preservation of the Trust Fund, inclusive of the mandatory supervision fees and charges, if any, imposed by the Bangko Sentral ng Pilipinas;
- (b) Twenty percent (20%) of the Trust Income shall be allocated and disbursed to the Philippines Coconut Producers Federation, Inc. (COCOFED) under the relevant provisions of existing statutes, rules and regulations;
- (c) Thirty percent (30%) of the Trust Income shall be disbursed to other existing coconut farmers' organizations, associations and federations such as the Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan (PKSMMN), Coconut Industry Reform Movement (COIR), National Federation of Small Coconut Farmers Organizations (NFSCFO), Nagkakaisang Ugnayan ng Maliliit na Magsasaka at Manggagawa sa Niyugan (NIUGAN), and those which may be determined by the Coconut Trust Fund Committee, for the purpose of providing an immediate source of funds to finance socio-economic programs and endeavors for the benefit of their members consistent with the guidelines set forth in Section 10 hereof;
- (d) Thirty percent (30%) of the Trust Income shall be used to assist and fund agriculturally-related programs for the Government, as reasonably determined by the Trust Fund Committee, implemented for the purpose of: (i) maximizing food productivity in the agriculture areas of the country, (ii) enhancing the upliftment and well-being of the living conditions of farmers and agricultural workers, (iii) developing viable industries and business opportunities in the countryside, (iv) providing alternative means of livelihood to the direct dependents of agriculture businesses and enterprises, and (v) providing financial assistance and support to coconut farmers in times of economic hardship due to extremely low prices of copra and other coconut products, natural calamities, world market dislocation and similar occurrences, including financial support to the ERAP's Sagip Niyugan Program established under Executive Order No. 312 dated November 3, 2000; and



PJEE Hologram #21306



- (e) The remaining balance of the Trust Income shall revert to the Trust Fund.

The aforesaid releases and disbursements shall be in accordance with the rules and regulations formulated by the Coconut Trust Fund Committee.

SEC. 10. *Guidelines for Trustee Decisions.* In arriving at decisions on project applications for financial assistance, grants, loans or other forms of financing from the Trust Fund, the Coconut Trust Fund Committee shall be guided by the following considerations:

- (a) the project's relations and impact to the development and improvement of the coconut industry in relation to the government's agriculturally-related programs, food productivity, livelihood and anti-poverty programs;
- (b) the amounts of funds requested for the project as consistent with the fund assistance to as many institutions and/or associations as possible; and
- (c) an assessment of the institution's or association's past and current efforts to improve the quality of life of the coconut farmers and the development of the coconut industry and agriculture in the Philippines.

SEC. 11. *Cooperation with the Committee.* The Coconut Trust Fund Committee may call upon any department, bureau, office, agency or instrumentality of the Government of the Republic of the Philippines, including government-owned and controlled corporations, for such assistance as it may desire and need in pursuit of the purposes and objectives of the Trust Fund in the discharge of its functions and responsibilities.

SEC. 12. *Meetings and Annual Report and Compensation.* The Coconut Trust Fund Committee shall meet at such time as may be determined by the Chairman and shall render to the President an annual report of its activities. The members of the Coconut Trust Fund Committee shall receive such compensation, allowances and per diems as may be approved by the President of the Philippines.

SEC. 13. *Accounting.* The Coconut Trust Fund Committee shall maintain appropriate records and accounts of all investments, receipts, disbursements and other transactions relating to the management, administration and disposition of the Trust Fund and Trust Income.



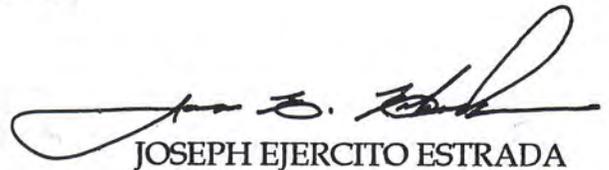
The Fund shall be audited annually or as often as necessary by an external auditor designated by the Committee. The Committee may also request the Commission on Audit to conduct an audit of the Fund.

SEC. 14. *Implementation.* The Presidential Commission on Good Government, the Office of the Solicitor General and other appropriate government instrumentality are hereby directed to exclude the 27% CIIF SMC shares from Civil Case No. 0033 entitled "Republic of the Philippines vs. Eduardo Cojuangco Jr et al." pending before the Sandiganbayan, lift the sequestration over such shares, and take all the necessary steps to implement the purposes and objectives of this Executive Order.

SEC. 15. *Repealing Clause.* This Order repeals Executive Order Nos. 481 and 277 dated May 1, 1998 and September 24, 1995, respectively.

SEC. 16. *Effectivity Clause.* This Order shall take effect immediately.

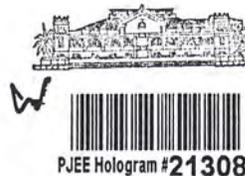
DONE in the City of Manila, this 8th day of Nov. in the year of Our Lord, Two Thousand.


JOSEPH EJERCITO ESTRADA

By the President:



RONALDO B. ZAMORA
Executive Secretary



Pursuant to the provisions of existing laws and Executive Order No. 313, TITLED, "RATIONALIZING THE USE OF THE COCONUT LEVY FUNDS BY CONSTITUTING A FUND FOR ASSISTANCE TO COCONUT FARMERS AS AN IRREVOCABLE TRUST FUND AND CREATING A COCONUT TRUST FUND COMMITTEE FOR THE MANAGEMENT THEREOF" the following are hereby appointed to the Coconut Trust Fund Committee:

Government

DAR Sec. Horacio R. Morales Jr.	-	Vice-Chair
DA Sec. Edgardo J. Angara	-	Vice-Chair
DOF Sec. Jose T. Pardo	-	Member
PCGG Chairman Magdangal Elma	-	Member

Coconut Farmers

Mr. Romulo C. Tapayan	-	Member
Mr. Nonito Clemente Sr.	-	Member
Dr. Rolando Bongbong	-	Member
Manuel V. Del Rosario	-	Member

CIIF

Mr. Jeronimo U. Kilayko	-	Member
-------------------------	---	--------

NGO

Romulo dela Rosa	-	Member
------------------	---	--------

