



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 179

PROVIDING THE ADMINISTRATIVE GUIDELINES FOR THE INVENTORY AND
PRIVATIZATION OF COCO LEVY ASSETS

WHEREAS, Presidential Decree (PD) No. 755 mandated the acquisition of a commercial bank for the benefit of coconut farmers (now the United Coconut Planters Bank, "UCPB") through the use of the Coconut Consumers Stabilization Fund (CCSF) and the distribution, for free, of the shares of stocks in UCPB to coconut farmers;

WHEREAS, pursuant to Section 9 of PD No. 1468, the Philippine Coconut Authority (PCA) was mandated to ascertain the amount of collections out of the CCSF and/or the Coconut Industry Development Fund (CIDF) which may be treated as surplus, and subsequently this ascertained surplus came to be known as the Coconut Industry Investment Fund (CIIF);

WHEREAS, UCPB was authorized under PD No. 1468 to utilize the CIIF in making investments in the form of shares of stocks in corporations organized for the purpose of engaging in the establishment and operation of industries and commercial activities and other allied business undertakings;

WHEREAS, pursuant to the foregoing mandate in respect of the CIIF and Letter of Instruction (LOI) No. 926 (s. 1979), UCPB acquired six (6) coconut oil mills corporations using the CIIF (collectively, the "CIIF Companies");

WHEREAS, the CIIF Companies thereafter acquired or organized fourteen (14) holding companies (collectively, the "CIIF Holding Companies");

WHEREAS, the CIIF Holding Companies later acquired shares of stock of San Miguel Corporation (SMC);

WHEREAS, the Supreme Court held, in *Philippine Coconut Producers Federation, Inc. (COCOFED), et al. v. Republic of the Philippines, et al.* (G.R. Nos. 177857-177858 and G.R. No. 178193), and *Republic of the Philippines v. Sandiganbayan, et. al.* (G.R. No. 118661), that:

- a. Coconut levy funds are in the nature of taxes;
- b. Coconut levy funds cannot be used to purchase shares of stocks to be given for free to private individuals, and thus the so-called Farmers' UCPB Shares covered by 64.98% of the UCPB shares of stock are owned by the Republic of the Philippines; and
- c. The CIIF Companies, the CIIF Holding Companies, and the Converted SMC Series 1 Preferred Shares, totaling 753,848,312 shares, together with all dividends, are owned by the Government, to be used only for the benefit of the coconut farmers and for the development of the coconut industry;

THE PRESIDENT OF THE PHILIPPINES



WHEREAS, PD No. 1234 requires that all income and collections for special funds authorized by law, including the Coco Levy Funds, shall be remitted to the Treasury in the General Fund of the State but shall be treated as Special Accounts in the General Fund and shall be released to the implementing agencies subject to the approval of the President;

WHEREAS, it is necessary to prescribe administrative guidelines for the treatment of the Coco Levy Assets and the deposit of any privatization proceeds in the Special Account in the General Fund for Coco Levies (Coco Levy SAGF) to ensure that the Coco Levy Funds and Coco Levy Assets will only be utilized for the benefit of the coconut farmers and the Philippine coconut industry;

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Republic of the Philippines, by virtue of the powers vested in me, do hereby order and direct:

Section 1. Reiteration of Policy. All Coco Levy Funds and Coco Levy Assets reconveyed to the Government, whether voluntarily or through lawful order from a competent court, and all proceeds of any privatization of the Coco Levy Assets, shall be used solely and exclusively for the benefit of all the coconut farmers and for the development of the coconut industry.

Any disposition and utilization shall be guided by the following objectives:

- a. Improving coconut farm productivity, developing coconut-based enterprises, and increasing the income of coconut farmers;
- b. Strengthening coconut farmers' organizations; and
- c. Attaining a balanced, equitable, integrated, and sustainable growth, rehabilitation and development of the coconut industry.

Section 2. Definition of Terms.

- 2.1 *Coconut Levy* shall refer to the levies, taxes, enforced contributions, collections, assessments, or exactions imposed by the government pursuant to or in connection with the sale, delivery, or purchase of copra, copra resecada, or its equivalent in other coconut products, and collected for the most part from coconut farmers, planters, millers, refiners, processors, exporters, desiccators and other end-users of copra resecada or its equivalent in other coconut products, under, but not limited to, the following:
 - a. Republic Act (RA) No. 6260, otherwise known as the Coconut Investment Act;
 - b. PD No. 276 (s. 1973), entitled "Establishing a Coconut Consumers Stabilization Fund;"
 - c. PD No. 582 (s. 1974), entitled "Further Amending Presidential Decree No. 232, as amended;"
 - d. PD No. 961 (s. 1976), entitled "An Act to Codify the Laws Dealing with the Development of the Coconut and Other Oil Palm Industry and for other purposes;"
 - e. PD No. 1468 (s. 1978), entitled "Revising Presidential Decree No. 961;"
 - f. LOI No. 926 (s. 1979);



- g. PD No. 1841 (s. 1981), entitled "Prescribing a System of Financing the Socio-Economic and Developmental Program for the Benefit of the Coconut Farmers, and accordingly amending the laws thereon;" and
 - h. PD No. 1842 (s. 1982), entitled "Amending Certain Provisions of Presidential Decree No. 1841, and creating a Coconut Reserve Fund;"
- 2.2 *Coco Levy Funds* shall refer to all the funds created or sourced from the Coconut Levy, including, but not limited to, the Coconut Investment Fund ("CIF"), the CCSF, which was later renamed as the Coconut Industry Stabilization Fund, the CIDF, and the CIIF.
- 2.3 *Coco Levy Assets* shall refer to the money, assets or properties, whether real or personal, tangible or intangible, wherever situated, arising from or otherwise funded by or acquired through the use or by means of any of the Coconut Levies or the Coco Levy Funds, directly or indirectly, including but not limited to shares, rights, and interests, whether vested, contingent, expectant, choate or inchoate, and any and all fruits, income, interest, or profits derived from these assets including those acquired in exchange or substitution thereof.

Section 3. Inventory of the Coco Levy Assets. Within sixty (60) days from the effectivity of this Order, the Presidential Commission on Good Government ("PCGG") is hereby directed to:

- 3.1 With the assistance of the Office of the Solicitor General (OSG), submit a certified report to the Bureau of the Treasury (BTr), the Commission on Audit (COA) and the Office of the President, identifying and accounting for all known Coco Levy Assets. The Report shall indicate:
- a. Whether specific assets were surrendered to or sequestered by the PCGG;
 - b. The ownership structure of all corporations organized or acquired through the use, directly or indirectly, of the Coco Levy Funds, including their money, investments and assets, and all their subsidiaries and affiliates;
 - c. The investments in shares of stock of corporations, indicating the number of shares acquired through the use of Coco Levy Funds, the ownership structure, the business of such corporations and the subsidiaries and affiliates of such corporations;
 - d. The money, assets and investments (inclusive of any corporate interests) of the CIIF managed by UCPB;
 - e. The money, assets and investments of the CIIF Companies; and
 - f. The money, assets and investments of the CIIF Holding Companies.
- 3.2 Submit to the BTr for safekeeping, all stock certificates, certificates of title and other documentary proofs of title and ownership of the relevant Coco Levy Assets in its possession or, if not in its possession, procure the delivery of such documents to the BTr.

The completion of the inventory conducted under this Section shall not be a prerequisite to the implementation of the other provisions of this Order, such as, but not limited to, the privatization of relevant Coco Levy Assets as herein authorized.

Section 4. Transfer and Reconveyance of Coco Levy Assets to the Government.

Pursuant to the Decisions of the Supreme Court in *Philippine Coconut Producers Federation, Inc. (COCOFED), et al. v. Republic of the Philippines, et al.* (G.R. Nos. 177857-177858 and G.R. No. 178193), *Eduardo Cojuangco, Jr. v. Republic of the Philippines*, (G.R. No. 180705), *Republic v. Sandiganbayan* (G.R. No. 118661), *Republic of the Philippines v. COCOFED*, (G.R. Nos. 147062-64), the PCGG, the Bureau of Treasury ("BTr"), the Governance Commission for GOCCs ("GCG") and the OSG, the government representatives to the boards of sequestered or surrendered corporations, and any government agency having any Coco Levy Asset in their administration, authority, custody or control, shall perform or cause the performance of the following:

- 4.1 Within sixty (60) days from the effectivity of this Order, reconvey and transfer title to the Republic of the Philippines over the Coco Levy Assets, including but not limited to the following:
 - a. the shares of stock in UCPB determined to be owned by the Government;
 - b. the shares of stock in the CIIF Companies and the CIIF Holding Companies;
 - c. the Five Million Five Hundred Thousand (5,500,000) SMC shares paid by SMC and UCPB to and registered in the name of PCGG as arbitration fee on or about 22 March 1999 ("PCGG SMC Shares").
- 4.2 Within sixty (60) days from the effectivity of this Order, deposit money and funds constituting the Coconut Levy or accruing from the Coco Levy Assets, in the Coco Levy SAGF with the BTr pursuant to PD No. 1234, including, but not limited to, the following:
 - a. With respect of the Converted SMC Series 1 Preferred Shares:
 - i. All dividends declared, paid or issued after 17 September 2009;
 - ii. The proceeds from the redemption on 5 October 2012; and
 - iii. Income, interest, or profits derived from these assets;
 - b. With respect to the PCGG SMC Shares:
 - i. All dividends declared, paid or issued since 22 March 1990;
- 4.3 Take any and all steps, and perform any and all acts necessary to implement the Supreme Court decisions, and other lawful orders of the courts, as may be ordered from time to time by the President.

Any and all other Coco Levy Assets that are or shall hereinafter be determined by final judgment to be owned by the Government, together with any and all fruits or income derived therefrom, including those acquired in exchange or substitution thereof, shall likewise be conveyed to or deposited in favor of the Government, and in accordance with this Section.

Section 5. Privatization of Coco Levy Assets. Pursuant to the national policy on the efficient and transparent privatization of government assets (including Government-Owned or -Controlled Corporations) which are unnecessary or inappropriate for the government sector to maintain:

- 5.1 The GCG, in consultation with the Department of Finance (DOF), the Office of the Presidential Assistant for Food Security and Agricultural Modernization (OPAFSAM) and the Philippine Coconut Authority (PCA), shall determine whether it is to the best interest of the Government to privatize any non-cash Coco Levy Asset / GOCC and shall recommend to the President the privatization and the mode of divestment,

taking into account the need to generate maximum cash recovery and the implications of such divestment on the coconut industry.

- 5.2 The Privatization and Management Office (PMO) shall be the disposition entity for all non-cash Coco Levy Assets which have been approved for divestment by the President and shall expeditiously sell, alienate or dispose of the same upon securing the prior approval of the Privatization Council in consultation with the OPAFSAM and the PCA, pursuant to relevant laws, orders, rules, and regulations.

In the discharge of this additional mandate, and subject to the provisions of Section 6 hereof, the PMO is hereby empowered to implement the actual marketing/disposition program for the non-cash Coco Levy Assets, to execute and deliver, on behalf of the Government, the deeds of sale, contracts and other instruments as may be necessary or appropriate to convey title to such assets, to take possession of and conserve the non-cash Coco Levy Assets transferred to it, and to engage external expertise as may be necessary in the fulfillment of its tasks under this Order. Any sale and other mode of privatization shall not be considered final unless approved by the Privatization Council, in consultation with the OPAFSAM and the PCA.

The PMO shall, within three (3) months from the closure of its books at the end of each fiscal year, submit a comprehensive annual report to the President, through the Privatization Council, on the status of its privatization efforts and its disposition program for the non-cash Coco Levy Assets, which report shall include a description of the assets privatized and disposed of, the purchasers, the consideration received, and the agreed terms of payment.

Section 6. Proceeds from Privatization of Coco Levy Assets. All proceeds and receipts or revenues arising out of or in connection with the privatization of the Coco Levy Assets pursuant to the preceding Section shall be deposited in the Coco Levy SAGF, after deducting reasonable expenses actually, directly, and exclusively incurred by the PMO in connection with such privatization as may be approved by the Privatization Council in consultation with the OPAFSAM and the PCA.

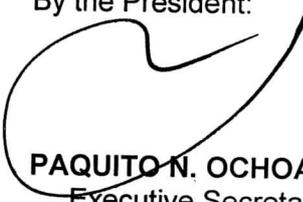
Section 7. Separability. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 8. Repeal. All other orders, rules, regulations and issuances or parts thereof which are inconsistent with this Order are hereby repealed or modified accordingly.

Section 9. Effectivity. This Order shall take effect immediately upon its publication in a newspaper of general circulation.

DONE, in the City of Manila, this 18th day of March, in the year of our Lord Two Thousand and Fifteen.

By the President:


PAQUITO N. OCHOA, JR.
Executive Secretary

