

[EXECUTIVE ORDER NO. 313, November 08, 2000]

**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;

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.";

WHEREAS, the delay in the resolution of the aforestated 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 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.

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,