

[EXECUTIVE ORDER NO. 494, December 06, 1991]

**REORGANIZING CERTAIN GOVERNMENT-OWNED OR
CONTROLLED CORPORATIONS AND FOR OTHER PURPOSES**

WHEREAS, consistent with the Government's Corporate Rationalization Program and upon the recommendation of the Department of Budget and Management pursuant to its mandate under Executive Order No. 5, series of 1986, and Executive Order No. 165, series of 1987, the reorganization of the following government-owned or controlled corporations should be effected: (1) the Metals Industry Research and Development Center; (2) the Fiber Industry Development Authority; (3) the National Post-Harvest Institute for Research and Extension; (4) the Philippine Coconut Authority; (5) the Music Promotion Foundation of the Philippines; and (6) the National Social Action Council;

WHEREAS, Section 48 of the General Provisions, Republic Act No. 7078, otherwise known as the General Appropriations Act of FY 1991, provides the following:

"Sealing Down and Phase-Out of Activities of Agencies within the Executive Branch.
– The heads of departments, bureaus, offices and agencies are hereby directed to identify their respective activities which are no longer essential in the delivery of public services and which may be scaled down, phased-out or abolished, subject to civil service rules and regulations. Said activities shall be reported to the Office of the President through the Department of Budget and Management and to the Chairman, Committee on Appropriations of the House of Representatives and the Chairman, Committee of Finance of the Senate. Actual scaling down, phase-out or abolition of the activities shall be elected pursuant to circulars or orders issued for the purpose by the Office of the President.

"Savings generated by departments, bureaus, offices and agencies on the abolition, phase-out or scaling down of unnecessary activities may be used by the departments, bureaus, offices and agencies concerned for the augmentation of their respective programs, projects and activities."

WHEREAS, the Secretary of Justice, in Opinion No. 210, series of 1988, states that "the President may, in the implementation of the privatization program of the government, amend or repeal the charters of government-owned or controlled corporations pursuant to her delegated legislative authority under Section 22 of Proclamation No. 50, which remains to be operative until it is amended, repealed or revoked by Congress (Sec. 3, Art. XVIII, Constitution);"

WHEREAS, the Secretary of Justice, in Opinion No. 43, Series of 1990, further states that the President may amend the charters of GOCCs which have been identified for privatization to effect mergers or consolidations pending final disposition of such GOCCs to the private sector "if such disposition action will enhance the

implementation of the privatization program of the government; and, considering that privatization program aims to generate maximum cash recovery for the National Government, the "rehabilitation of GOCCs through merger or consolidation of certain GOCCs identified for privatization, to ensure maximum cash recovery for the government would certainly be in furtherance of the government's privatization program;" and

WHEREAS, the Secretary of Justice, in the same opinion, also states that "[I]n the case of GOCCs which are recommended for regularization into regular line agencies, xxx the President may likewise amend the charters of such GOCCs so as to terminate their corporate existence. Such disposition action is also deemed consistent with the government's privatization of certain GOCCs into regular line agencies would give effect to the government's policy to accord primacy to the private sector in entrepreneurial endeavors and relegate the government to a secondary role."

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Definition of Terms. – For purposes of this Executive Order:

a. Regularization shall refer to the process by which a government-owned or controlled corporation is transformed into (1) a regular government agency with essentially the same objectives, powers and functions, except those which are corporate in nature, and is attached to a department in the Executive Branch; or (2) a unit which is integral to an existing agency or executive department and with essentially the same objectives, powers and functions, except those which are corporate in nature;

b. Conversion shall refer to a variant of the divestment process by which, for the purpose of privatization, a government-owned or controlled corporation is dissolved but exclusive authority is granted to be the management thereof to form a new and private corporation through registration with the Securities and Exchange Commission, with the same corporate name and essentially the same objectives, powers and functions but without government funding, except that existing assets of the dissolved corporation may be donated to the new corporation; and

c. Consolidation refers to the process by which a government-owned or controlled corporation loses its legal personality and its objectives, powers and functions, assets, liabilities as well as necessary personnel are integrated into another government-owned or controlled corporation.

SEC. 2. Regularization. – The following government-owned or controlled corporations are hereby regularized:

a. Metals Industry Research and Development Center;

b. Fiber Industry Development Authority;

c. National Post-Harvest Institute for Research and Extension; and

d. Philippine Coconut Authority.

SEC. 3. Incomes of Regularized Corporations. – Except for donations, grants, legacies, devises and similar acquisitions, incomes of government-owned or controlled corporations which are regularized, regardless of the manner of acquisition and in whatever form, whether as profits, fees, charges, penalties or otherwise, shall form part of the General Fund. After regularization, the operations of the regularized corporations shall be funded under the annual General Appropriations Act.

SEC. 4. Consolidation. – The Music Promotion Foundation of the Philippines is hereby consolidated with the Cultural Center of the Philippines.

SEC. 5. Conversion. – The National Social Action Council is hereby made subject to conversion.

SEC. 6. Details of Disposition Actions. – The details of the dispositive actions of regularization, consolidation and conversion as provided in the preceding sections are prescribed in Annexes "A" to "F" attached hereto. These annexes shall form integral parts of this Executive Order.

SEC. 7. Notice or Consent Requirement. – If any reorganizational change authorized in this Executive Order or in any of the Annexes attached hereto is of such substance or materiality as to prejudice third persons with rights recognized by law or contract such that notice to or consent of creditors is required to be made or obtained pursuant to any agreement entered into with any of such creditors, such notice or consent requirement shall be complied with prior to the implementation of such reorganizational change.

SEC. 8. Separability. – If for any reason any section or provision of this Executive Order or of its Annexes is declared unconstitutional or invalid, the remainder of this Executive Order and its Annexes shall not be affected as long as such remaining sections or provisions can still subsist and be given effect in their entirety.

SEC. 9. Repeal. – The following laws, presidential decrees and executive issuances are hereby repealed or modified accordingly:

a. Republic Act Nos. 4724 and 6428, Executive Order No. 602, series of 1980, and Presidential Decree No. 1765, series of 1981, concerning the Metals Industry Research and Development Center;

b. Section 8 of Executive Order No. 709, series of 1981, concerning the Fiber Industry Development Authority;

c. Presidential Decree No. 1380, series of 1978, and Letter of Implementation No. 123, series of 1980, and Letter of Instructions No. 1142, series of 1982, concerning the National Post-Harvest Institute for Research and Extension;

d. Presidential Decree No. 232, series of 1973, and Presidential Decree No. 961, series of 1976, and Article II of Presidential Decree No. 1468, series of 1978, concerning the Philippine Coconut Authority;

e. Executive Order No. 182-A, series of 1969, and Presidential Decree No. 294, series of 1974, concerning the National Social Action Council; and

f. Republic Act No. 1370, except Section 3 thereof, concerning the Music Promotion Foundation.

All other laws, rules, regulations and other issuances or parts thereof contrary to or inconsistent herewith are likewise hereby repealed or modified accordingly.

SEC. 10. Effectivity. – This Executive Order shall take effect immediately after fifteen (15) days following its publication in a national newspaper of general circulation or in the *Official Gazette*.

DONE in the City of Manila, this 6th day of December in the year of Our Lord, nineteen hundred and ninety-one.

(Sgd.) CORAZON C. AQUINO
President of the Philippines

By the President:

(Sgd.) FRANKLIN M. DRILON
Executive Secretary

ANNEX "A"

METALS INDUSTRY RESEARCH AND DEVELOPMENT CENTER

The Metals Research and Development Center was created as a government-owned corporation under Republic Act No. 4724, as amended by Republic Act No. 6428, to provide the public and private sectors with professional management and technical expertise on such vital activities as training of engineers and technicians, information exchange, trade accreditation service, quality control and testing of metal products, research and business economics advisory program.

Pursuant to the Government's Corporate Rationalization Program, the following are hereby directed:

SECTION 1. Regularization. – The Metals Industry Research and Development Center, hereinafter referred to as the Center, is hereby transformed into a regular government agency which shall be attached to the Department of Science and Technology pursuant to Administrative Order No. 59, series of 1988. The Center shall continue to perform the powers and functions of the Metals Industry Research and Development Center, except those which are corporate in nature.

SEC. 2. Objectives. – The Center shall provide the public and private sectors with professional management and technical expertise on the following:

- a. Training of engineers and technicians;
- b. Information exchange;

- c. Trade accreditation services;
- d. Quality control and testing of metal products; and
- e. Research and business economics advisory services.

SEC. 3. Governing Council; Powers and Functions. – The responsibility of accomplishing the objectives and the exercise of the authority granted in the preceding section shall be vested in the Governing Council. The said Council shall have the following powers and functions:

- a. Formulate such policies, plans and programs and promulgate such procedures, rules and regulations as may be necessary for the effective operations of the Center;
- b. Receive, administer, dispose of and disburse the funds of the Center pursuant to pertinent laws, rules and regulations;
- c. Receive in trust legacies, gifts and donations of whatever kind given to the Center;
- d. Appoint the technical and administrative personnel of the Center and fix their compensation, terms of office, and other conditions of employment;
- e. Create donor positions which shall accommodate exceptionally qualified remetallurgy from both government and private sectors and visiting research search engineers or scientist in scientists;
- f. Enter into contracts for and on behalf of the Center; and
- g. Exercise such other powers and functions as may be necessary to carry out the provisions of this Executive Order and Annex“A” thereof.

SEC. 4. Composition of the Governing Council. The Governing Council shall be composed of the following:

- a. The Secretary of Science and Technology or his duly authorized representative, as ex-officio chairman; and
- b. A representative each–in ex-officio capacity–from the Departments of Trade and Industry, Agriculture, and Environment and Natural Resources; National Economic and Development Authority; Board of Investments; and the Center, as members; and
- c. A representative each from the metals, engineering, and allied industries–to be appointed by the Secretary of Science and Technology–as members.

SEC. 5. Executive Director. – The Center shall have an Executive Director who shall be appointed by the Governing Council upon the recommendation of the Chairman. The Executive Director shall have the following duties and responsibilities:

- a. Plan, program, direct, supervise and coordinate all the activities of the Center;