

[OP EXECUTIVE ORDER NO. 481, May 01, 1998]

**DIRECTING THE USE, DISPOSITION, AND ADMINISTRATION OF
THE COCONUT LEVY FUNDS TO REHABILITATE THE COCONUT
INDUSTRY**

WHEREAS, the following laws established the coconut levy funds to support and advance the development of the coconut industry for the ultimate benefit of the coconut farmers:

1. The Coconut Investment Fund created under RA 6260 (effective June 19, 1971), which "shall be used exclusively to pay the subscription by the Philippine government for and in behalf of the coconut farmers to the capital stock of said Company (The Coconut Investment Company" [Sec. 8];
2. The Coconut Consumers Stabilization Fund created under PD 276 (effective August 20, 1973), which "shall be utilized to subsidize the sale of coconut-based products at prices set by the Price Control Council xxx" [Sec. 1(b)];
3. The Coconut Industry Development Fund created under PD 582 (effective November 14, 1974), which "shall be deposited with, and administered and utilized by, the Philippine National Bank through its subsidiary the National Investment and Development Corporation for the following purposes:
 - a. To finance the establishment, operation and maintenance of a hybrid coconut seednut farm xxx;
 - b) To purchase all the seednuts produced by the hybrid coconut seednut fund xxx;
 - c) To finance the establishment, operation and maintenance of extension services, model plantations and other activities as would ensure that the coconut farmers shall be informed of the proper methods of replanting their farms with the hybrid seednuts" [Sec. 2];
4. The Coconut Industry Stabilization Fund, created under PD 1841 (effective October 2, 1981), which shall be collected and used for several "socio-economic and developmental programs for the benefit of the coconut farmers, in particular, and the coconut industry, as a whole xxx" [Sec. 1].

WHEREAS, in the case of *Philippine Coconut Producers Federation, Inc. (COCOFED) v. PCGG* (GR No. 75713, 02 October 1989, 178 SCRA 236), the Supreme Court stated that certain agencies or enterprises "were organized and financed with revenue derived from coconut levies imposed under a succession of laws of the late dictatorship . . . with deposed President Ferdinand Marcos and his cronies as the suspected authors and chief beneficiaries of the resulting "coconut industry

monopoly".

WHEREAS, the Presidential Commission on Good Government (PCGG), pursuant to Executive Order Nos. 1, 2, and 14, sequestered the said enterprises organized and financed with the proceeds of the coconut levy;

WHEREAS, in the same COCOFED case, the Supreme Court ruled that:

"The coconut levy funds are clearly affected with public interest. Until it is demonstrated satisfactorily that they have legitimately become private funds, they must prima facie and by reason of the circumstances in which they were raised and accumulated be accounted subject to the measures prescribed in Executive Order Nos. 1, 2, and 14, to prevent their concealment, dissipation, etc., which measures include the sequestration and other orders of the PCGG complained of."

WHEREAS, the Supreme Court declared in the *Republic vs. Sandiganbayan* case (GR 96073, 16 February 1993, 240 SCRA 376) that:

"the coconut levy funds being 'clearly affected with public interest', it follows that the corporations formed and organized from those funds, and all assets acquired therefrom, should also be regarded as clearly affected with public interest."

WHEREAS, the Commission on Audit, relying upon the declaration of the Supreme Court in the *Republic vs. Sandiganbayan* case, opined on 15 January 1993 that the coconut levy funds are public funds and therefore subject to government audit;

WHEREAS, the Bureau of Internal Revenue, in an answer to a query by the Philippine Coconut Authority Administrator as to the character of the coconut levy funds, relied upon the same Supreme Court ruling and held that "the coconut levy is not a public trust fund for the benefit of the coconut farmers, but is in the nature of a tax and, therefore, are public funds that are subject to government administration and disposition";

WHEREAS, in the case of *Gaston vs. Republic Planters Bank* (L-77194, March 15, 1988, 158 SCRA 626) which involved the sugar levy funds, the Supreme Court laid down the principle that:

"The stabilization fees collected are in the nature of a TAX which is within the power of the State to impose for the promotion of the sugar industry. The collections made accrue to a special fund. xxx The tax collected is not a pure exercise of the taxing power. It is levied in the regulatory purpose, to provide means for the stabilization of the sugar industry. The levy is primarily in the exercise of the police power of the State."

WHEREAS, in the same case, the Supreme Court held that:

"The stabilization fees in question are levied by the State upon sugar millers, planters, and producers for a special purpose — that of 'financing the growth and development of the sugar industry and all its components, stabilization of the domestic market including the foreign market.' The fact that the State has taken possession of moneys pursuant to law is sufficient to constitute them as state funds, even