

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

~~15TH~~ FIFTEENTH CONGRESS
Second Regular Session



HOUSE BILL NO. **5070**

Introduced by REPRESENTATIVE LORENZO R. TAÑADA III

EXPLANATORY NOTE

In 1973, then President Marcos issued Presidential Decree 276, imposing a levy of P15 per 100 kilograms of copra reserada or its equivalent in other coconut products on every first sale beginning August 20, 1973. The tax was supposed to contribute towards the Coconut Consumers Stabilization Fund, which was an intended subsidy for the domestic consumption of coconut-based commodities—ostensibly to cushion against an impending crisis brought about by exorbitant prices in the world market for fats and oils.

Over the succeeding decade since the levy's imposition, the charge was hiked to as much as P100 per 100 kilos of copra, depending upon prevailing export prices, to average around P60. This amount was shouldered by all the coconut farmers as their contributions, based on existing levy rates, were deducted from the price of their copra sales. Other presidential decrees soon followed amending PD 276, and eventually the primary purpose of the CCSF was transformed into a supposed "investment for coconut farmers." Thus began the long and harrowing odyssey of coconut farmers in attempting to reclaim the CCSF, now known as the Coco Levy Fund.

The Coco Levy has since been the subject of numerous court cases. A number of these court cases resulted into definitive conclusions by the Supreme Court and the Sandiganbayan, to wit:

The Supreme Court categorically stated in Presidential Commission on Good Government (PCGG) vs. Philippine Coconut Producers Federation, Inc. (COCOFED), G.R. Nos. 147062-64 December 14, 2001, pp.24-25, that:

"To avoid misunderstanding and confusion, this Court will even be more categorical and positive than its earlier pronouncements: the coconut levy funds are not only affected with public interest; they are in fact, prima facie public funds."

The Supreme Court further stated in the above quoted decision that:

6. Laws Governing Coconut Levies Recognize Their Public

Nature.

Finally and tellingly, the very laws governing the coconut levies recognize their public character. Thus, the third Whereas clause of PD No. 276 treats them as special funds for a specific public purpose. Furthermore, PD No. 711 transferred to the general funds of the State all existing special and fiduciary funds including the CCSF. On the other hand, PD No. 1234 specifically declared the CCSF as a special fund for a special purpose, which should be treated as a special account in the National Treasury.

On December 28, 2004, the Sandiganbayan passed a resolution denying the motion for reconsideration filed by Eduardo M. Cojuangco, Jr., et al last May 25, 2004 and the motion for reconsideration filed by COCOFED, et al. and Ballares et al. last May 26, 2004 on the graft court's decision last May 7, 2004 on the SMC shares of stock, further stating that:

"It is high time that the real beneficiaries of the coconut levy funds, the coconut farmers who contributed to it, and the entire coconut industry be given a chance to reap the benefits that are due them."

The Sandiganbayan previously decided on May 7, 2004 that:

"The CLIF Companies namely: Southern Luzon Coconut Oil Mills (SOLCOM); Cagayan de Oro Oil Co., Inc. (CAGOIL); Iligan Coconut Industries, Inc. (ILICOCO); San Pablo Manufacturing Corp. (SPMC); Granex Manufacturing Corp. (GRANEX); and Legaspi Oil Co., Inc. (LEGOIL), as well as the 14 Holding Companies, namely: Soriano Shares, Inc.; ASC Investors, Inc.; Roxas Shares, Inc.; Arc Investors, Inc.; Toda Holding, Inc.; AP Holdings, Inc.; Fernandez Holdings, Inc.; SMC Officers Corps, Inc.; Te Deum Resources, Inc.; Anglo Ventures, Inc.; Randy Allied Ventures, Inc.; Rock Steel Resources, Inc.; Valhalla Properties Ltd., Inc; and First Meridian Development, Inc., and the CLIF Block of San Miguel Corporation (SMC) shares of stock totaling 33,133,266 shares as of 1983, together with all dividends declared, paid and issued thereon as well as any increments thereto arising from, but not limited to, exercise of pre-emptive rights are declared owned by the government in trust for all the coconut farmers and ordered reconveyed to the government. (Republic of the Philippines vs. Cojuangco et al, Civil Case No. 0033-F, May 7, 2004)

The Sandiganbayan further clarified in the same ruling that:

"The UCPB shares of stock of the alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr. which form part of the 72.7% shares of the FUB/UCPB paid for by the PCA with public funds later charged to the coconut levy funds, particularly the CCSF, belong to the plaintiff Republic of the Philippines as their true and beneficial owner."

The Sandiganbayan ruling on Civil Case No. 0033-A (Republic of the Philippines vs. Eduardo M. Cojuangco, Jr., et al.) dated July 11, 2003 stated that:

"The so-called 'Farmers' UCPB shares' covered by 64.98% of the UCPB shares of stock, which formed part of the 72.2% of the shares of stock of the former FUB and now of the UCPB, the entire consideration of which was charged by PCA to the CCSF, are hereby declared conclusively owned by the Plaintiff Republic of the Philippines."

Partial Summary Judgments in Civil Case Nos. 33-A, 33-B, and 33-F (27% CIIF-SMC shares) had found finality in the Sandiganbayan in 2007. However, until today there had been no significant and actual gain by the coconut farmers/farmworkers or the industry in general. With every change in the country's leadership the real benefit of coconut farmers and the industry mere gets entangled in political controversies.

This bill is intended to put a rest to the controversy once and for all, first, by enacting a positive law on the matter of the CIIF block of shares in the San Miguel Corporation widely accepted to have been obtained with the Coco Levy fund; and second, by taking concrete steps towards the attainment of the original purpose of the fund, which was provide coconut farmers with much-needed assistance and buttress the coconut industry against the vagaries of the export markets. To cite a 2004 Sandiganbayan decision on the matter, "It is high time that the real beneficiaries of the coconut levy funds, the coconut farmers who contributed to it, and the entire coconut industry be given a chance to reap the benefits that are due them."

This measure intends to make that time now, by creating the Coconut Farmers Trust Fund for the development of the coconut industry and the betterment of all Filipino coconut farmers. In order 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 UCPB shares and CIIF SMC shares, through the creation 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.


LORENZO R. TAÑADA III
Representative
4th District, Quezon

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HOUSE OF REPRESENTATIVES
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HOUSE BILL NO. 5070

Introduced by REPRESENTATIVE LORENZO R. TAÑADA III

AN ACT
ESTABLISHING THE COCONUT FARMERS' TRUST FUND
TO PROVIDE ADEQUATE FINANCIAL PROTECTION
TO THE COCONUT INDUSTRY AND ITS WORKERS,
PROVIDING FOR THE MANAGEMENT THEREOF,
AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section 1. *Short Title.* This act shall be known as the "Coconut Farmers' Trust Fund Act of 2011".

Section 2. *Declaration of Policy.* It is hereby declared the policy of the State to consolidate the benefits due to coconut farmers, especially the poor and marginalized, under various statutes and to expedite the delivery thereof in order to attain a balanced, equitable, integrated and sustainable growth and development of the coconut industry.

Section 3. *Constitution of the Coconut Farmers Trust Fund.* Pursuant to the provisions of the Presidential Decrees and other issuances creating the coconut levy trust fund and in line with the decisions of the courts affirming the trust character of the fund, there is hereby constituted an irrevocable trust fund, to be known as the Coconut Farmers Trust Fund (herein referred to as the "Trust Fund"), which shall be capitalized, managed, utilized and accounted for in the manner hereinafter provided.

Section 4. *Purpose of the Trust Fund.* The Fund shall be established for the development of the coconut industry for the ultimate benefit of the small coconut farmers and farm workers. Its purpose shall include the financing of programs or assistance for the benefit of the coconut farmers, for increased productivity of the coconut industry, and for development of coconut-based enterprises and promotion of

anti-poverty programs.

Section 5. Capitalization of the Trust Fund. The 27 percent CIIF SMC Shares and all other available funds shall form the initial capital of the Trust Fund. For this purpose, the CIIF shall convey the aforesaid CIIF SMC Shares to the Trust Fund Committee as provided in Section 6 hereof, under such terms and conditions not inconsistent with this Act. The CIIF shall assign, execute and deliver such documents, deed or contract not inconsistent with this Act, as may be necessary or desirable to implement the provisions of this Act.

Nothing in this Act shall be understood to prevent or prohibit any person, group or entity from conveying to the Committee other properties and/or additional assets which shall form part of the Trust Fund.

In order to insure the enduring character of the Fund, the principal thereof shall be augmented from time to time by grants, donations and other lawful transfers by public or private entities, the disposition of the income from which shall be governed by the terms and conditions hereinafter specified, as well as the rules and regulations promulgated by the Committee pursuant to Section 7 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 ;
- (b) In the event any property or asset of the Trust Fund (or any portion hereof, 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 dispositions, shall form part of the Trust Fund;
- (c) Only the income, interest, earnings and monetary benefit realized by and accruing on the Trust Fund shall be used and disposed of by the Committee for such purposes and endeavors specific under the provision of this .

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 fund.

Section 6. 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, including all accrued cash and stock dividends; and
- (b) Such other properties and/or assets intended for the purpose herein

stated, and conveyed or transferred to the Committee emanating from all coco levy recovered assets.

Section 7. Designation of Trustee Bank/s. The Committee shall designate reputable depository bank/s of the Trust Fund, which shall:

- (i) Manage, utilize and account for the Trust Fund or a portion thereof in the manner hereinafter provided by the Committee, and
- (ii) Exercise the tasks, functions and duties determined and established by the Committee created under the provisions of this Act, to the extent allowed under applicable laws.

Section 8. The Coconut Farmers Trust Fund Committee. A Coconut Farmers Trust Fund Committee is hereby created for the administration of the trust fund and the disposition and the utilization of the earnings and incomes thereof for the rehabilitation and development of the coconut industry and for the ultimate benefit of the small coconut farmers and farm workers.

The Coconut Farmers Trust Fund Committee (herein referred to as the "Committee") shall be composed of the President of the Philippines sitting as its chairperson, and twelve (12) other members, as follows:

- (a) Two (2) representatives from the government, who shall be the Secretary of Agriculture and the Secretary of Finance;
- (b) Three (3) representatives from the finance and banking sector, who must have extensive experience and proven expertise in finance, banking and trust management;
- (c) Five (5) representatives from coconut farmers' organizations; and,
- (d) Two (2) representatives from the CIIF group;

The members of the Committee shall be appointed by the President and shall serve for a term of three (3) years.

All trustees, with the exception of the Chairperson, shall serve for maximum of two consecutive terms of office.

Section 9. Functions and Responsibilities of the Committee. To ensure that the benefits and gains arising out of the Trust Fund directly redound to, and are received by, the small coconut farmers and farm workers, the Committee shall:

- a) decide on the disposition, utilization and allocation of the said funds and assets for the foregoing special purpose;
- b) set the investment policy of the Trust Fund in consideration of all

existing coconut industry development studies and plans; provided that this will not be inconsistent with the following objectives:

- i. poverty alleviation and social equity;
 - ii. increase in the productivity of small coconut farmers through sustainable means;
 - iii. full scale rehabilitation of the coconut industry and promotion of coconut-based farm systems;
 - iv. modernization of the coconut industry towards global competitiveness;
 - v. protection of small coconut farmers and farm workers from unfair competition; and,
 - vi. medical and/or health and life insurance services for small coconut farmers and farm workers.
- c) establish priorities for the preferential assistance to small coconut farmers and farm workers, which shall be reviewed periodically and revised as necessary in accordance with changing conditions;
- d) formulate the rules and regulations governing the allocation, utilization and disbursements of the Fund;
- e) formulate the Implementing Rules and Guidelines of this Act; and,
- f) perform such other acts and things as may be necessary, proper or conducive to attain the purposes of the Fund.

Section 10. *Use and Disposition of the Trust Income.* The Committee, on an annual basis, shall determine and establish an amount comprising the Trust Income. After such determination, the Committee shall determine the utilization of the Trust Income.

Section 11. *Cooperation with the Committee.* The Committee may call upon any department, bureau, office, agency and 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 purpose and objectives of the Trust Fund, and in the discharge of its functions and responsibilities.

Section 12. *Meetings of the Committee.* The Committee shall meet at least once a month, or as often as deemed necessary by the Chairperson.

Section 13. *Accounting.* The 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 Trust Fund shall be audited annually by the Commission on Audit.

Section 14. *Implementation.* The Presidential Commission on Good Government, the Office of the Solicitor General and other appropriate government instrumentalities are hereby directed to take all the necessary steps to implement the purpose and objectives of this Act.

Section 13. *Repealing Clause.* This Act repeals Executive Order Number 312 dated 3 November 2000, and Executive Order Number 313 dated 8 November 2000 respectively. All laws, Presidential Decrees, ordinances, rules and regulations inconsistent herewith are hereby revoked, amended, revised and superseded accordingly.

Section 14. *Effectivity.* his Act shall take effect after fifteen (15) days following its complete publication in at least two (2) national newspapers of general circulation.

Approved,