

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5208



Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

EXPLANATORY NOTE

In 1971, Republic Act No. 6260 imposed the first levy on coconut farmers. The levies collected from the coconut farmers, for which they were issued receipts to be converted into shares of stock, were primarily used to establish the Coconut Investment Fund (CIF). The CIF sought to provide adequate medium and capital investment in the coconut industry. Presidential Decree No. 232 created the Philippine Coconut Authority (PCA), which took over the collection of the coco levy.

By 1973, abnormal global market fluctuations for fats and oils prompted the issuance of Presidential Decree No. 276, which established a Coconut Consumers Stabilization Fund (CCSF). The CCSF which was funded by imposing an initial levy of P15.00 per 100 kilos of *copra resicada* or its equivalent on every first sale, shall be utilized to subsidize the sale of coconut-based products.

By April 1974, Presidential Decree No. 414 granted the PCA additional powers such as the authority to adjust the levy imposed. It also expanded the use of the CCSF for investment, research and development, and extension of services to the coconut industry.

A few months after the issuance of PD 414, Presidential Decree No. 582 created the Coconut Industry Development Fund (CIDF). The CIDF, unlike the CCSF, is a permanent fund, thereby making the collection of the coco levy permanent as well. The CIDF shall serve to finance the establishment, operation and maintenance of a hybrid coconut seed nut farm.

By July 1975, Presidential Decree No. 755 empowered PCA to acquire the United Coconut Planters Bank (UCPB) as a permanent solution to the perennial credit problems of the coconut industry. The said issuance also mandated that all CCSF collections to the UCPB shall be made interest free.

Presidential Decree No. 961, which codified all laws pertaining to the coconut industry; provided a number of amendments to prior laws and issuances. The CCSF levy, for instance, was passed on to the end users (Le. copra exporters and oil millers) from the coconut farmers. The Presidential Decree also declared that both CCSF and CIDF shall be owned by coconut farmers in their own private capacities. By virtue of the said legislation, UCPB was granted full authority to make investments using the CIDF and CCSF surplus. Presidential Decree No. 1468 also gave UCPB the sole right to administer the Coco Levy Funds. Such mandate led to the creation of the Coconut Industry Investment Fund (CIIF).

The levy, primarily intended to insulate the local coconut industry and its consumers from global market fluctuations for fats and oils, further expanded over time by virtue of succeeding presidential decrees to provide funding for a comprehensive development program to enable the industry to compete in the international market. Such funds were then transferred to the Coconut Industry Development Fund (CIDF) and the Coconut Industry Investment Fund (CIIF). The CIIF, for instance, was used to acquire the oil mills which now comprise the CIIF - Oil Mills Group (CIIF-OMG). The CCSF, along with the CIDF and the CIIF, constitute what is now known as the Coco Levy Funds.

Substantial collections have been accumulated from the imposition of the coco levy. By 1986, the Coco Levy Funds have amounted to as much as 9.7 Billion Pesos.

Almost forty years since its establishment, the Coco Levy Funds is now estimated to be worth One Hundred Billion Pesos (Php100,000,000,000.00) in aggregate market value, comprising various assets and entities such as the CIIF-OMG, including its 14 holding companies, as well as the UCPB, United Coconut Chemicals (Cocochem), United Coconut Planters International (UCPB), United Coconut Planters Assurance Corporation (Cocolife), and the shares of stocks in San Miguel Corporation (SMC) that are owned by the CIIF-OMG Companies.

To date, most if not all of the objectives for the creation of these funds have yet to be realized. Under sequestration by the Presidential Commission on Good Government (PCGG), the ownership of the assets acquired through the use of Coco Levy Funds remains in question. As a result, neither the coconut industry nor the public benefited from the Coco Levy Funds.

With regard to the ownership issue of the Coco Levy Funds, a partial summary judgment of the Sandiganbayan on the *Republic v. COCOFED, et. al.* (Civil Case No. 0033-F) dated May 7, 2004, stated that:

"WHEREFORE, in view of the foregoing, we hold that:

"The Motion for Partial Summary Judgment (Re: Defendants CIIF Companies, 14 Holding Companies and Cocofed, et al.) filed by Plaintiffs hereby GRANTED. ACCORDINGLY, THE CIIF, NAMELY:

1. Southern Coconut Oil Mills (SOLCOM);
2. Cagayan de Oro Oil Co., Inc. (CAGOIL);
3. Iligan Coconut Industries, Inc. (ILICOCO);
4. San Pablo Manufacturing Corp. (SPMC);
5. Granexport Manufacturing Corp. (GRANEX); and
6. Legaspi Oil Co., Inc. (LEGOIL)

"AS WELL AS THE 14 HOLDING COMPANIES, NAMELY:

1. Soriano Shares, Inc.;
2. ACS Investors, Inc.;
3. Roxas Shares, Inc.;
4. Arc Investors, Inc.;
5. Toda Holdings, Inc.;
6. AP Holdings, Inc.;
7. Fernandez Holdings, Inc.;
8. SMC Officers Corps, Inc.;
9. Te Deum Resources, Inc.;
10. Anglo Ventures, Inc.;
11. Randy Allied Ventures, Inc.;
12. Rock Steel Resources, Inc.;
13. Valhalla Properties Ltd., Inc.; and
14. First Meridian Development, Inc.

"AND THE CIIF 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.

"The aforementioned Partial Summary Judgment is now deemed a separate appealable judgment which finally disposes of the ownership of the CIIF Block of SMC Shares, without prejudice to the continuation of proceedings with respect to the remaining claims particularly those pertaining to the Cojuangco, et al. block of SMC shares."

Furthermore, a Supreme Court decision on *Republic v. COCOFED-et. al.* provides that:

xxx

The Supreme Court, in its decision dated January 24, 2012, upheld the aforementioned partial summary judgment of the *Sandiganbayan*, declaring that the six (6) CIIF~OMG companies, their 14 holding firms, and the CIIF~OMG block of SMC shares as "owned by the Government to be used only for the benefit of all coconut farmers and for the development of the coconut industry". Hence, putting finality on the legal battles as to the ownership and nature of the Coco Levy Funds.

Despite such decisions by the Judiciary, the disposition of Coco Levy Funds remains unsettled. Therefore, a legislative action on the disposition of the Coco Levy Funds is warranted.

This measure mandates the Privatization and Management Office (PMO) to privatize all assets acquired through the use of the Coco Levy Funds. Upon privatization, the funds generated shall then be transferred to a Trust Fund to be known as the Coconut Farmers and Industry Fund, to be created under this proposed legislation. The use and disposition of the funds shall be tasked to the Coconut Farmers and Industry Fund Committee to be created by this bill. The Committee shall be led by the Director General of the National Economic and Development Authority (NEDA), and composed of government officials and industry representatives, including accredited coconut farmer organizations.

The Trust Fund shall be used to finance the immediate rehabilitation and development of the coconut and palm oil industry, under a Coconut Industry Rationalization Plan, to be implemented by the Committee. The Rationalization, Plan shall accelerate the development of the industry, to the utmost benefit of the coconut farmers throughout the country.

Most of the coconut farmers during the time the levies were exacted are already approaching their twilight years and there is an urgent need for government to fulfill its promise that they be the ultimate beneficiaries of such funds.

In view of the foregoing, the passage of this bill is earnestly sought.


ANGELINA "HELEN" D.L. TAN, M.D.
4th District, Quezon

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5208

Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

AN ACT

PROVIDING FOR THE DISPOSITION OF THE COCONUT LEVY ASSETS BY THE PRIVATIZATION AND MANAGEMENT OFFICE, ESTABLISHING THE COCONUT FARMERS AND INDUSTRY FUND, AND PROVIDING FOR THE MANAGEMENT, INVESTMENT, AND USE OF PROCEEDS OF SUCH ASSETS FOR AND IN BEHALF OF THE COCONUT FARMERS

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 Levy Assets Disposition and Utilization Act".

SEC. 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.

I

Definition of Terms

SEC. 3. *Definition of Terms.* - The following terms shall mean:

(a) "CIIF" shall refer to the Coconut Industry Investment Fund created by virtue of Presidential Decree 1468;

(b) "CIIF - Oil Mills Group" shall refer to the CUF companies, namely, Southern Luzon Coconut Oil Mills; Cagayan de Oro Oil Co. Inc.; Iligan Coconut Industries, Inc.; San Pablo Manufacturing Corp.; Granexport Manufacturing Corp.; and Legaspi Oil Co, Inc.;

(c) "CIIF Holding Companies" shall refer to the fourteen (14) holding companies; namely:

- i. Anglo Ventures Corporation
- ii. ASC Investors, Inc.
- iii. ARC Investors, Inc.
- iv. AP Holdings, Inc.
- v. Fernandez Holdings, Inc.
- vi. First Meridian Development, Inc.
- vii. Randy Allied Ventures, Inc.
- viii. Rock Steel Resources, Inc.
- ix. Roxas Shares, Inc.
- x. San Miguel Officers Corp., Inc.
- xi. Soriano Shares, Inc.
- xii. Te Deum Resources, Inc.
- xiii. Toda Holdings, Inc.
- xiv. Valhalla Properties Limited, Inc.

(d) "CIIF SMC Block Shares" shall refer to the 753,848,312 preferred shares in San Miguel Corporation (SMC), representing 24% of the total outstanding capital stock of SMC;

(e) "Coconut Levy Assets" shall refer to any and all kinds of property, whether real or personal, tangible or intangible, wherever situated, which have been acquired through the Coconut Levy Funds as defined in this Section, as well as the fruits, or income therefrom, including those acquired in exchange or substitution thereof.

This shall include, among others, the following:

- i. The 72.2% shares of UCPB's outstanding capital stock;
- ii. The CIIF - Oil Mills Group;
- iii. The CIIF Holding Companies; and
- iv. The CIIF Block Shares;

(f) "Coconut Levy Funds" shall refer to various funds generated from levies, taxes, charges, and other fees exacted or imposed pursuant to or in connection with the sale of *copra rececada* 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 rececada* or its equivalent in other coconut products.

Specifically, the term shall refer to any or all of the following:

- i. The Coconut Investment Fund created under Republic Act No. 6260;
- ii. The Coconut Consumers Stabilization Fund created under Presidential Decree No. 276;
- iii. The Coconut Industry Development Fund created under Presidential Decree No. 582;
- iv. The Coconut Industry Stabilization Fund created under Presidential Decree No. 1841; and
- v. The Coconut Industry Investment Fund created under Presidential Decree No. 1468;

(g) "Coconut Farmers and Industry Development Plan" or "Plan" shall refer to the plan to be prepared for the development and rehabilitation of the coconut industry;

(h) "Committee" shall refer to the Coconut Farmers and Industry Fund Committee created under Section 11 of this Act;

(i) "GOP" shall mean the Government of the Philippines;

(j) "Investment Guidelines" shall refer to the investment management guidelines, rules, procedures, and policies to be formulated by the Committee, and as may be amended from time to time, which shall provide the parameters for investments of the Trust Income or any portion thereof, and shall include, among others, asset allocation, criteria for selection of fund managers, and required income from the fund, and other investment management threshold requirements;

(k) "PMO" shall refer to the Privatization and Management Office organized under Article III of Executive Order No. 323 (S. 2001);

(l) "PCA" shall refer to the Philippine Coconut Authority, created under Presidential Decree 232 (S. 1973) as amended by Presidential Decree 1468 (S. 1978);

(m) "PCGG" shall refer to the Presidential Commission on Good Government, created under Executive Order No. 1 (S. 1986);

(n) "President" shall refer to the President of the Republic of the Philippines;

(o) "Prohibited Investments" shall refer to any of the following: direct investments into companies, private placements and direct lending, derivatives (options, warrants), margin purchases, short sales, and investments in real estate;

(p) "Trust Fund" shall refer to the Coconut Farmers and Industry Fund created under Section 6 of this Act;

(q) "Trust Income" shall refer to the income, interest earnings, and other monetary benefits, realized by and accruing from the Trust Fund or any portion thereof; and

(r) "Trust Principal" shall refer to (i) the proceeds from the sale or redemption of the CIIF SMC Block Shares, (ii) any and all proceeds of privatization of the Coconut Levy Assets remitted thereto by the Privatization and Management Office, as provided under Section 8 of this Act, and (iii) proceeds of privatization of any or an properties or assets conveyed by any person, group or entity to the Committee, from time to time; as provided in Section 8 hereof.

II

Audit of Coconut Levy Assets

SEC. 4. *Audit and Inventory of Coconut Levy Assets.* - Upon the effectivity of this Act, the Commission on Audit (COA), in coordination with the PCA and the PCGG, shall conduct a complete accounting and inventory of the Coconut Levy Assets. The audit shall determine and ascertain the amount, value, description and nature of such funds, properties, assets, records, choses in action, and other rights, claims, or causes of action pertaining thereto. Likewise, the COA shall conduct an audit of all investments, disbursements or expenditures arising from Coconut Levy Funds.

Within one hundred twenty (120) days from the effectivity of this Act, the COA shall submit to the Committee its audit report, together with a complete list of Coconut Levy Assets and their valuation, together with the empirical basis and the methodologies employed for the said valuation.

The Committee shall, within fifteen (15) days from its receipt of the audit report, publish the same in at least two (2) newspapers of national circulation.

Nothing herein shall be construed as preventing the PMO from procuring a third-party appraisal of any of the Coconut Levy Assets prior to or in the course of preparing the privatization or disposition plans for the said assets.

III

Establishment of the Coconut Farmers and Industry Fund, its Purposes, and Utilization

SEC. 5. *Creation of the Coconut Farmers and Industry Fund.* - There is hereby created an irrevocable trust fund to be known as the Coconut Farmers and Industry Fund, hereinafter referred to as the "Trust Fund," which shall be capitalized, managed, utilized and accounted for in the manner provided by this Act. The Trust Fund shall be perpetually maintained and the Trust Principal shall be preserved to ensure the full implementation and realization of the objectives identified and ought to be attained under this Act.

SEC. 6. *Purpose of the Trust Fund.* - The Trust Fund shall be established for the development of the coconut industry for the ultimate benefit of coconut farmers and farm workers. It shall be used to fund the implementation of programs and projects identified in the Plan, described under Section 18 of this Act.

SEC. 7. *Capitalization of the Trust Fund* - Any and all monies deposited with the United Coconut Planters Bank under the name of the CIIF pursuant to the provisions of Presidential Decree No. 1468, as amended, and any and all proceeds for the redemption or sale of the CIIF SMC Block Shares and all dividends accruing or have accrued thereto shall form part of the initial capital of the Trust Fund. The Trust Fund shall thereafter be augmented with all proceeds of privatization/disposition of the Coconut Levy Assets remitted thereto by the PMO in accordance with this Act, including any and all forms of income, interests, earnings, yields, or any monetary benefit which accrues to the Trust Fund pursuant to the investments made pursuant to Section 10 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 either for the use of the coconut industry, or for purposes of privatization, in which case, the proceeds of such privatization shall form part of the Trust Fund.

SEC. 8. *Management and Utilization of the Trust Fund and Trust Income.* - The Trust Fund shall be managed, allocated, used and disbursed only as provided and in accordance with this Act. The Trust Principal shall be preserved and maintained at all times and, for this purpose, shall be invested in

Republic of the Philippines bonds. Only the Trust Income may be used for the implementation of the Plan or for any or all purposes allowed under this Act.

A portion of the Trust Income shall be earmarked by the Committee for long-term investments, provided such investment shall only be made in global fixed income securities and highly liquid diversified equity-indexed funds with a view towards ensuring capital preservation, protection of principal and receiving inflation adjusted returns to meet the minimum required by the Committee. In no case shall the Trust Income or any portion thereof be invested in Prohibited Investments.

For purposes of the initial implementation of the Plan and its programs and projects, and to fund the allowable expenses under Sections 17 and 23 of this Act pending the accrual of or availability of the Trust Income; the Committee is hereby authorized to use a portion of the Trust Principal which shall in no case exceed ten percent (10%) of the amount constituting the initial capital of the Trust Fund as provided under Section 7 hereof. Other than as otherwise provided in this Section, only the Trust Income shall be used by the Committee for the purposes allowed under this Act, including any and all amount required or allocated for the implementation of the Plan. Allocation and utilization of the Trust Income by the Committee shall be based solely on the funding requirements established or provided under the Plan.

SEC. 9. *Designation of Trustee Bank/s.* - Any law to the contrary notwithstanding, the Committee shall designate the reputable depository bank/s, which shall (i) manage, utilize and account for the Trust Fund in the manner and within the parameters set forth by the Committee, and (ii) exercise the tasks, functions and duties determined and established by the Committee. For the avoidance of doubt, the Committee shall not be limited to government depository banks but may designate private depository bank/s provided that said private bank/s are domestic banks whose long-term local currency rating is at least that of a GOP.

IV

The Coconut Farmers and Industry Fund Committee

SEC. 10. *Creation of the Coconut Farmers and Industry Fund Committee.* - There is hereby created the Coconut Farmers and Industry Fund Committee which shall be attached to the Office of the President.

The Committee shall have the following powers and functions:

- 1) Implement the Coconut Farmers and Industry Development Plan for the development of the coconut industry and the coconut farmers;
- 2) Identify the Coconut Levy Assets for disposition and arrange for the transfer to the National Government and/or to the Privatization and Management Office for privatization or disposition;
- 3) Formulate and amend from time to time the Investment Guidelines: *Provided*, That, no funds shall be invested in Prohibited Investments.
- 4) Designate the depository bank/s that will receive, hold, and administer the Trust Fund, or any portion thereof;
- 5) Make, approve, or disapprove, any and all disbursements or expenditures of the Trust Income or any portion thereof in accordance with this Act;
- 6) Appoint and procure fund managers in such number as it deems necessary to manage the investments of the Trust Fund;
- 7) Establish mandatory as well as indicative guidelines for the conservation, rehabilitation, and disposition of the Coconut Levy Assets by the PMO;
- 8) Approve or disapprove, subject to the availability of funds for such purpose, the rehabilitation of Coconut Levy Assets pending their disposition by the PMO with the approval of the Committee: *Provided*, That the budget for each rehabilitation project shall likewise be approved by the Committee;
- 9) Approve, or disapprove, on behalf of the National Government and without need of any further approval by, or other action from any other government institution or agency, the sale or disposition of the Coconut Levy Assets identified for disposition or privatization, in each case on terms and to

purchasers recommended by the PMO: *Provided*, That neither the Committee itself, nor any of its members, shall undertake the marketing of any such assets, participate in the negotiation for their sale, or make the sale itself, nor yet bring about any situation which may give rise to a conflict of interest;

10) Exercise on behalf of the National Government all rights and incidents of ownership with respect to such assets, including the right to vote, whether directly or through duly authorized nominees, shares of stock held in the name of the National Government;

11) Approve and revise, from time to time, the financial requirements of the PMO in relation to its functions set forth in this Act, including its annual budget for operations, conservation, management and disposition of the Coconut Levy Assets transferred and entrusted under its care;

12) Appoint, transfer, remove, and fix the remuneration of personnel of the Committee; and

13) Exercise such other incidental powers and functions as may be necessary to attain the objectives of this Act.

SEC. 11. *Composition.* - The Committee shall be composed of the Director-General of the National Economic and Development Authority as Chairman, the Secretary of Finance as Vice-Chairman, with the following as members: the Secretary of Justice, Secretary of Agriculture, the Secretary of the Governance Commission for GOCCs, Administrator of the Philippine Coconut Authority, Chairman of PCGG, the National Treasurer, two (2) representatives from the private sector who, shall have extensive experience and proven expertise in finance, banking and trust management, and six (6) representatives of duly accredited coconut farmers' organizations, one (1) of which shall come from the coconut women-farmers sector, and two (2) representatives from non-government organizations (NGOs) actively involved in rural development advocacy or in legal assistance service to small coconut farmers: *Provided*, That, the Chairman of PCGG and the National Treasurer shall be non-voting members.

The six (6) representatives from the coconut farmers' organizations shall be appointed by the President from the list of nominees submitted jointly by the PCA and the National Anti-Poverty Commission (NAPC), which nominees shall be chosen from private organizations of coconut farmers and NGOs, determined and accredited by the PCA under the criteria of having the largest membership of coconut farmers, pursuant to an accreditation process to be implemented by PCA under Section 26 of this Act. The two (2) representatives from the private sector and two (2) representatives from NGOs shall be appointed by the President upon recommendation of the Secretary of the Department of Finance and the Secretary of Agriculture respectively, who shall each serve for a term of one (1) year.

The representatives from the coconut farmers' organizations shall serve for a term of three years. Of those first appointed, two (2) representatives shall serve for three (3) years, two (2) representatives shall serve for two (2) years, and the other two (2) representatives shall serve for one (1) year.

Any appointment to fill the vacancy in the Committee arising from the, removal, retirement or resignation shall be made only for the unexpired term.

SEC 12. *Executive Director of the Committee.* - The President, upon recommendation of the Committee, shall appoint an Executive Director who shall have the following powers and functions:

a) Execute, administer and implement the plans and programs approved or promulgated by the Committee;

b) Submit for the consideration of the Committee such plans and programs deemed necessary to carry out the provisions and purposes of this Act;

c) Direct and supervise officials, employees, representatives and agents for the Committee;

d) Prepare an annual report on the activities of the Committee at the close of each fiscal year and to submit a copy thereof to the President and Congress;

e) Keep and maintain official records and reports of the proceedings of the Committee,

f) Administer oaths in all matters falling within the jurisdiction of the Committee; and

g) Exercise such other duties as may be vested by the Committee that are consistent with the provisions of this Act.

SEC. 13. *Meetings.* The Committee shall meet as frequently as may be necessary and expedient to discharge its responsibilities: *Provided*, That it shall meet at least once a month. The presence of at least a majority of the members of the Committee shall constitute a quorum, and the concurrence of a majority of the members present at a meeting at which a quorum exists shall be adequate for any decision by the Committee: *Provided*, That, where the matter involves the approval of (i) any disposition or privatization proposal involving more than Five Hundred Million Pesos (Php500,000,000.00), (ii) any proposed investment involving more than One Hundred Million Pesos (Php100,000,000.00), and (iii) the utilization of the Trust Income in amounts exceeding One Hundred Million Pesos (Php100,000,000.00), the approval of at least a majority of all voting members of the Committee shall be required.

SEC. 14. *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.

SEC. 15. *Accounting and Auditing.* The Committee shall maintain appropriate records and accounts of all investments, income, 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.

SEC. 16. *Legal Counsel.* - The Secretary of Justice shall be the *ex officio* adviser to the Committee on legal matters.

SEC. 17. *Funding.* - For the initial year, the amount of Thirty Million Pesos (Php 30,000,000.00), to cover expenses of the Committee in connection with the discharge of its responsibilities under this Act, is hereby authorized to be charged against the initial capital of the Trust Fund in accordance with Section 8 of this Act. Subsequent annual expenses of the Committee shall be charged against the Trust Income: *Provided*, That not more than three percent (3%) of the Trust Income shall be used for administrative expenses.

V

Coconut Farmers and Industry Development Plan

SEC. 18. *Preparation of the Coconut Farmers and Industry Development Plan.* - The heads of the Department of Agriculture, National Economic and Development Authority, Department of Agrarian Reform, Department of Trade and Industry, Department of Science and Technology, Department of Energy, Department of Public Works and Highways, Department of the Interior and Local Government, National Anti-Poverty Commission, Presidential Commission on Good Government, are herein constituted as an *ad-hoc* committee with the Director-General of the National Economic and Development Authority as Chairman. The *ad-hoc* committee, in consultation with representatives of the coconut industry, including accredited coconut farmers' organizations, shall jointly prepare a rationalization and development plan for the coconut industry which shall be known as the "Coconut Farmers and Industry Development Plan.

The Plan shall include, among others, a national program for coconut productivity, replanting, rehabilitation, scientific and medical research, integrated downstream processing, and market promotion. It shall explicitly provide for appropriate programs or services that directly benefit small coconut farmers and farm workers, such as but not limited to the following:

- a) medical and health;
- b) life insurance;
- c) pension;
- d) livelihood; and
- e) educational scholarships and technical education and skills development for deserving students

coming from families of coconut farmers, or beneficiaries of the Coconut Levy Funds;

In the formulation of the Plan, the Committee shall be guided by the following objectives:

- a) poverty alleviation and social equity;
- b) sustainable and increased productivity of small coconut farmers;
- c) full-scale rehabilitation of the coconut industry and promotion of coconut-based farm systems;
- d) modernization of the coconut industry towards global competitiveness; and
- e) protection of small coconut farmers and farm workers from unfair competition.

The Plan shall set the directions and policies for the rehabilitation and development of the coconut industry, including the identification of Coconut Levy Assets that need to be retained by the National Government in order to support said rehabilitation and development. The Plan shall provide an indicative funding requirement or allocation for the implementation of any and all of the programs and projects included therein, which funding or allocation shall be itemized or broken down on a project-to-project basis: *Provided, That*, (i) for projects which are recurring, or to be implemented on a regular basis, the allocation shall indicate the annual fund that may be required to implement said project; and (ii) for projects that are to be implemented or concluded within a period of time, the allocation shall indicate the total fund that may be required for the implementation of the whole project, itemized according to the phases or stages of said project.

The Plan shall be submitted to the President for approval, subject to Section 29 of this Act. Immediately upon the approval of the President, the same shall be submitted to the Committee for implementation of the disbursements from the Trust Income, or to the extent allowed under Section 8, from the Trust Principal, of the amount required for the implementation of the Plan. Any and all amendments to the Plan shall be with the prior approval of the President.

VI

Privatization of the Coconut Levy Assets

SEC. 19. *Privatization of the Coconut Levy Assets.* - The Committee shall determine the Coconut Levy Assets, identified by the COA pursuant to Section 4, which need to be privatized and which should be retained by the National Government to support the coconut farmers and the development of the coconut industry. All Coconut Levy Assets identified by the Committee for privatization shall be transferred to the Privatization and Management Office according to Section 20 hereof. Coconut Levy Assets identified by the Committee for retention and use of the National Government shall be transferred to the appropriate government agency that will use, manage or otherwise take custody of the said assets.

SEC. 20. *Additional Mandate of the Privatization and Management Office (PMO).* - In addition to its powers, duties and functions under Executive Order No. 323 dated December 6, 2000, the PMO, shall, for and in behalf of the National Government, take title to and possession of, conserve, provisionally manage, and dispose of the Coco Levy Assets which have been identified for privatization and disposition.

In the discharge of its mandate, the PMO is hereby empowered to implement the marketing and disposition program of the Coco Levy Assets; to execute and deliver, on behalf of the National Government, deeds of sale, contracts, trust instruments, and other legally operative documents as may be necessary or appropriate to convey title to, take possession of, and conserve, such assets; to engage external expertise as may be necessary in the fulfillment of its tasks under this Act; to adopt internal rules and regulations in relation to the marketing and disposition of the Coconut Levy Assets; and to submit periodic reports to the Committee on the status of the disposition program. Any and all sales and other modes of privatization or disposition shall not be considered final unless and until approved by the Committee.

SEC. 21. *Powers of the Privatization and Management Office.* - The PMO is hereby accorded discretionary powers with regard to the preparation of the privatization plans and policies of the Coconut Levy Assets transferred to it. The PMO is empowered to enter into sales through public bidding, negotiated sale, lease, or any form of divestment or transmission of rights over the Coconut Levy Assets, including a partnership with the private sector in the management or operation of these Coconut Levy Assets prior to actual sale or disposition.

In case of corporations transferred to the PMO, pursuant to the implementation of the privatization program for the Coconut Levy Assets, the PMO is empowered to dissolve, consolidate, or merge said corporations, subject to the provisions of Section 31 of Republic Act 10149.

Prior to the implementation of any privatization plan, the PMO shall have the following powers:

- (i) require anyone or more of the subject corporations to adopt and implement cost-reduction measures to enhance the viability, and therefore the disposability of such corporations, to potential buyers, including measures requiring personnel retrenchment plans or other forms of corporate downsizing;
- (ii) direct anyone or all of the subject corporations to submit to the PMO, within fixed time-tables, such reports and information as the PMO may require in the exercise of its ownership, administrative, and disposition over such corporations or their assets; and
- (iii) cause the subject corporations to undergo rehabilitation, merger, consolidation, spin-off, or other corporate acts of reformatory nature as it may deem necessary or desirable to expedite the disposition and privatization under this Act. In all such cases, no corporate measure shall be implemented without the approval of the Committee.

SEC. 22. *Committee to Determine Transfer Value.* - The Committee is hereby vested with full and complete powers and prerogatives to determine transfer values and related valuations at which the Coconut Levy Assets shall be transferred and conveyed to the PMO pursuant to the mandate of this Act and upon reasonable consultation with the COA or a third-party appraiser: *Provided, That* any valuation approved by the Committee for purposes of the transfer to the PMO shall not be deemed a condonation, waiver, or extinguishment of any obligation by any third party whose vested rights may be impaired by such transfer.

SEC. 23. *Reimbursement and Retention.* - In order to fulfill its additional mandate under this Act, the PMO shall be reimbursed for actual reasonable expenses incurred in the management and disposition of the Coconut Levy Assets. Likewise, it shall be allowed to retain commissions, due diligence fees and proceeds from the sale of assets according to asset bidding rules, information memoranda and similar documents, as well as a portion or percentage of proceeds from disposition efforts, all not to exceed ten percent (10%), to be approved by the Committee. Such amount shall be utilized for the payment of fees and reimbursable expenses and of the costs and expenses incurred by the PMO in the performance of its responsibilities under this Act.

SEC. 24. *Remittance of Proceeds of Privatization.* - All proceeds or receipts from the sale of Coconut Levy Assets, except portions thereof for reimbursable custodianship and operational expenses, or such amount approved by the Committee to be retained by the PMO under Section 22, shall be remitted to the Trust Fund.

SEC. 25. *Reporting Requirements.* - The Committee shall, on a semi-annual basis, submit to the President and to Congress a report on the status of disposition of the Coconut Levy Assets, which shall include, among others, a description of the individual assets disposed of, their purchasers thereof, the consideration received therefor, and the agreed terms of payment.

The PMO shall, within three (3) months following the closure of books at the end of each fiscal year, submit a comprehensive annual report duly approved or endorsed by the Committee, to the President and Congress on the status of its privatization efforts and its disposition program for the Coconut Levy Assets, which shall include the items described in the immediately preceding paragraph.

VII

Miscellaneous

SEC. 26. *Accreditation of Coconut Farmers.* - Within thirty (30) days following the date of effectivity of this Act, the PCA, in coordination with NAPC, shall formulate and implement an accreditation program for coconut farmers' organizations in order to determine the legitimate coconut farmers' organizations from which nominees may be drawn for purposes of comprising the requisite seats in the Committee pursuant to Section 11 of this Act. The PCA shall, after determining the six (6) coconut farmers organizations having the largest membership of coconut farmers in accordance with this accreditation process, shall submit to the President the list of nominees to be appointed as coconut farmers' representatives in the Committee.

SEC. 27. *Applicability of Republic Act No. 10149 and Executive Order 323.* - In case of doubt in the interpretation of the provisions of this Act, the provisions of Republic Act No. 10149 otherwise known as the "GOCC Governance Act of 2011" and Executive Order 323 or "Constituting an Inter-Agency Privatization Council (PC) and Creating A Privatization and Management Office (PMO) Under The Department of Finance For The Continuing Privatization of Government Assets and Corporations" shall apply suppletorily.

SEC. 28. *Implementing Rules and Regulations.* - Within ninety (90) days from the date of effectivity of this Act, the Committee, in consultation with the PMO, shall formulate the rules and regulations for the proper implementation of this Act.

SEC. 29. *Congressional Oversight.* - The Congressional Oversight Committee on Agricultural and Fisheries Modernization (COCAFAM) shall exercise oversight on the implementation of this Act. The COCAFAM shall have the following functions:

- a) Monitor and ensure the proper implementation of this Act;
- b) Assess and endorse the draft Coconut Farmers and Industry Development Plan for the President's approval and ensure its proper implementation;
- c) Monitor and review the performance of the Committee and the PMO; and
- d) Perform such other functions as may be necessary.

SEC. 30. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

SEC. 31. *Repealing Clause.* - All laws, executive and administrative order, rules and regulations inconsistent with the foregoing provisions are hereby amended accordingly. Executive Order No. 277, s. of 1995, Executive Order No. 481, s. of 1998, Executive Order No. 482, s. of 1998 and Executive Order No. 313, s. of 2000 are hereby repealed.

SEC. 32. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,