

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **5629**



Introduced by Rep. Josephine R. Sato, Rep. Kaka J. Bag-ao, Rep. Teddy Brawner Baguilat, Jr., Rep. Leni Gerona Robredo, Rep. Ibarra M. Gutierrez, Rep. Anthony M. Bravo, Rep. Cresente C. Paez, Rep. Vicente J. Alcala, Rep. Sitti Djalila A. Turabin-Hataman, Rep. Jim Hataman-Salliman, Rep. Sherwin N. Tugna, and Rep. Peter M. Unabia

EXPLANATORY NOTE

In 1973, then President Marcos issued Presidential Decree 276, imposing a levy of P15 per 100 kilograms of copra *resecada* 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 (CCSF) 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 the prevailing export prices averaging around P60. This amount was shouldered by all the coconut farmers as their contributions, based on existing levy rates, by deducting 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" with the creation of the Coconut Industry Investment Fund. Thus began the long and harrowing odyssey of coconut farmers in attempting to reclaim the CIIF, 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 finally 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 CIIF 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 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. (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.

On 24 January 2012, the Supreme Court finally decided on the public ownership of the coconut levy funds by declaring that the coconut levy funds are in the nature of taxes and can only be used for a public purpose¹, the dispositive portion in part reads:

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 Plaintiff is hereby **GRANTED. ACCORDINGLY, THE CIIF COMPANIES, NAMELY:**

1. Southern Luzon 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

¹ COCOFED vs. Republic, G.R. Nos. 177857-58, 24 January 2013

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 TO BE USED ONLY FOR THE BENEFIT OF ALL COCONUT FARMERS AND FOR THE DEVELOPMENT OF THE COCONUT INDUSTRY, AND ORDERED RECONVEYED TO THE GOVERNMENT.

THE COURT AFFIRMS THE RESOLUTIONS ISSUED BY THE SANDIGANBAYAN ON JUNE 5, 2007 IN CIVIL CASE NO. 0033-A AND ON MAY 11, 2007 IN CIVIL CASE NO. 0033-F, THAT THERE IS NO MORE NECESSITY OF FURTHER TRIAL WITH RESPECT TO THE ISSUE OF OWNERSHIP OF (1) THE SEQUESTERED UCPB SHARES, (2) THE CIIF BLOCK OF SMC SHARES, AND (3) THE CIIF COMPANIES. AS THEY HAVE FINALLY BEEN ADJUDICATED IN THE AFOREMENTIONED PARTIAL SUMMARY JUDGMENTS DATED JULY 11, 2003 AND MAY 7, 2004.

Then on 27 November 2013, the Supreme Court further declared that UCPB shares in the name of Eduardo Cojuangco, Jr. are owned by the Republic of the Philippines and are ordered reconveyed, the dispositive portion in part reads:

WHEREFORE, Part C of the appealed Partial Summary Judgment in Sandiganbayan Civil Case No. 0033-A is **AFFIRMED** with modification. As **MODIFIED**, the dispositive portion in Part C of the Sandiganbayan's Partial Summary Judgment in Civil Case No. 0033-A, shall read as follows:

C. Re: MOTION FOR PARTIAL SUMMARY JUDGMENT (RE: EDUARDO M. COJUANGCO, JR.) dated September 18, 2002 filed by Plaintiff.

3. The transfer by PCA to defendant Eduardo M. Cojuangco, Jr. of 14,400 shares of stock of FUB (later UCPB) from the "Option Shares" and the additional FUB shares subscribed and paid by PCA, consisting of

a. Fifteen Thousand Eight Hundred Eighty-Four (15,884) shares out of the authorized but unissued shares of the bank, subscribed and paid by PCA;

b. Sixty Four Thousand Nine Hundred Eighty (64,980) shares of the increased capital stock subscribed and paid by PCA; and

c. Stock dividends declared pursuant to paragraph 5 and paragraph 11 (iv)(d) of the PCA-Cojuangco Agreement dated May 25, 1975 or the so-called "Cojuangco-UCPB shares"

is declared unconstitutional, hence null and void.

4. The above-mentioned shares of stock of the FUB/UCPB transferred to defendant Cojuangco are hereby declared

conclusively owned by the Republic of the Philippines to be used only for the benefit of all coconut farmers and for the development of the coconut industry, and ordered reconveyed to the Government.

5. The UCPB shares of stock of the alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr. which form part of the 72.2% 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 owners.

In January 2012, the Supreme Court ruled in favor of the government that a good portion of San Miguel Corporation shares was bought using the coconut levy funds which constitute public money with a caveat that the money should be used solely for the benefit of the farmers and the coconut industry. The ruling became final on September 4, 2012.

The Office of the Solicitor General then filed a motion for partial entry of judgment on October 14, 2014. It likewise filed a manifestation and supplemental motion for partial entry of judgment on October 20, 2014. Both motions addressed the court's September 4, 2012 resolution which affirmed the earlier ruling dated Jan. 24, 2012 which awarded the shares to the government.

It took the KILUS Magniniyog to march from Davao City to Malacanang, Congress and the Supreme Court in November 2014 to highlight the issue once more and bring the coconut farmers' pleas to the attention of the government. In response, the Supreme Court sitting *En Banc* voted unanimously on December 2014 granting the request of the Office of the Solicitor General to issue an entry of judgment of the abovementioned resolution. The decision stamped a final seal on the ruling that the shares bought using the coconut levy funds and registered in the names of the Coconut Industry Investment Fund (CIIF), dubbed "CIIF block" of SMC shares, are owned by the government and to be used exclusively for the benefit of the coconut farmers and the development of the coconut industry. The decision on the CIIF block of San Miguel Corporation shares, its subsequent conversion to preferred shares, and the redemption by SMC had placed over 71 billion pesos in the hands of government since October 2012.

Notwithstanding the Entry of Judgment issued by the High Court there has been no significant and actual gain by the coconut farmers and farm workers or the industry up to this day. The real benefit of the coconut farmers and the industry merely gets entangled in political debates instead of its long-overdue delivery to millions of impoverished coconut farmers.

The intendment of this bill may be summed up as follows: first, to enact a positive law for the disposition and management starting with the CIIF block of shares in San Miguel Corporation; and second, by taking concrete steps towards the attainment of the original purpose of the fund which was to provide the coconut farmers with much-needed assistance and strengthen the coconut industry against the vagaries of the export markets.

This legislative measure aims to promote the development of the coconut industry through direct benefits of the marginalized coconut farmers and farm workers via the creation of the Coconut Farmers Trust Fund. The bill likewise provides better policy alternatives to resolve the continuing hardships experienced by the farmers. The mechanism for the judicious management, use, and disposition of the coconut levy funds including the UCPB shares and CIIF

SMC shares as outlined in this bill serves to address with urgency the problems besetting the coconut industry, spur rural development, and alleviate the socio-economic well-being of the millions of impoverished coconut farmers.

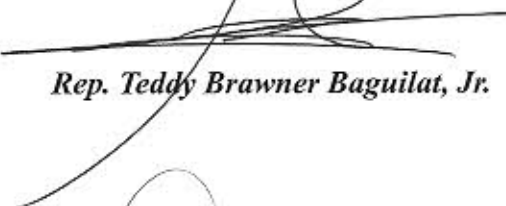
Passage of this measure is earnestly sought.



Rep. Josephine R. Sato



Rep. Kaka J. Bag-ao



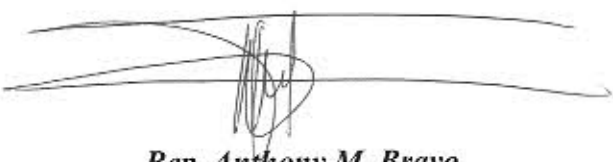
Rep. Teddy Brawner Baguilat, Jr.



Rep. Leni Gerona Robredo



Rep. Ibarra M. Gutierrez



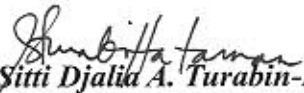
Rep. Anthony M. Bravo



Rep. Cresente C. Paez



Rep. Vicente J. Alcala



Rep. Sitti Djalila A. Turabin-Hataman



Rep. Jim Hataman-Salliman



Rep. Sherwin N. Tugna



Rep. Peter M. Unabia

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5629

Introduced by Rep. Josephine R. Sato, Rep. Kaka J. Bag-ao, Rep. Teddy Brawner Baguilat, Jr., Rep. Leni Gerona Robredo, Rep. Ibarra M. Gutierrez, Rep. Anthony M. Bravo, Rep. Cresente C. Paez, Rep. Vicente J. Alcala, Rep. Sitti Djalila A. Turabin-Hataman, Rep. Jim Hataman-Salliman, Rep. Sherwin N. Tugna, and Rep. Peter M. Unabia

AN ACT TO ADDRESS POVERTY IN THE COCONUT SECTOR BY ESTABLISHING THE COCONUT FARMERS' TRUST FUND, 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".

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 and eradicate poverty in order to attain a balanced, equitable, integrated and sustainable growth and development of the coconut industry.

Section 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 six (6) CIIF companies, namely, Southern Luzon Coconut Oil Mills; Cagayan de Oro Oil Co. Inc.; Iligan Coconut Industries, Inc.; San Pablo Manufacturing Corporation; Granexport Manufacturing Corporation; and Legaspi Oil Co, Inc.

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

Ventures Corporation; ASC Investors, Inc.; ARC Investors, Inc.; AP Holdings, Inc.; Fernandez Holdings, Inc.; First Meridian Development, Inc.; Randy Allied Ventures, Inc.; Rock Steel Resources, Inc.; Roxas Shares, Inc.; San Miguel Officers Corporation, Inc.; Soriano Shares, Inc.; Te Deum Resources, Inc.; Toda Holdings, Inc.; and Valhalla Properties Limited, Inc.

(d) "CIIF SMC Block Shares" shall refer to the 33,133,266 shares of stock in San Miguel Corporation ("SMC") sequestered by the PCGG in 1986 representing 31% of the then total outstanding capital stock of SMC.

(e) "Converted SMC Series 1 Preferred Shares" shall refer to that portion of the CIIF SMC Block Shares covering 753,848,312 preferred shares of stock in SMC.

(f) "Coconut Farmers" shall refer to one:

i. Farmer-owner of a coconut farm, which is not more than five (5) hectares, who:

- a. Tills the land (owner-cultivator), or
- b. Does not till the land, but have control and supervision over the cultivation of a farm which is not more than five hectares; and

ii. A non-owner of the coconut farm who is either a:

- a. Leaseholder or tenant who tills or supervises the cultivation of the farm, or
- b. Farm worker or laborer, whether seasonal or itinerant, engaged in the harvesting of the nuts and processing of copra as major means of livelihood.

(g) "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 or otherwise funded by means of the Coconut Levy Funds, as well as the fruits and income derived therefrom, including those acquired in exchange or substitution thereof.

This shall include, but shall not be limited to the following:

- i. the shares in UCPB determined to be owned by the Government;
- ii. the CIIF Oil Mills Group;
- iii. the CIIF Holding Companies; and
- iv. the Converted SMC Series 1 Preferred Shares.

(h) "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. This shall include the following:

- i. the Coconut Investment Fund ("CIF") under Republic Act No. 6260;
- ii. the Coconut Consumers Stabilization Fund ("CCSF"), later renamed as the Coconut Industry Stabilization Fund ("CISF"), under Presidential Decree No. 276, Presidential Decree No. 961, Presidential Decree No. 1468, Presidential Decree No. 1841, and Presidential Decree No. 1842;
- iii. the Coconut Industry Development Fund ("CIDF") under Presidential Decree No. 582, Presidential Decree No. 961, and Presidential Decree No. 1468;
- iv. the Coconut Industry Investment Fund ("CIIF") under Presidential Decree No. 961, Presidential Decree No. 1468, and Letters of Instruction No. 926; and
- v. the Coconut Reserve Fund ("CRF") under Presidential Decree No. 1468 and Presidential Decree No. 1842.

(i) "Committee" shall refer to the Coconut Farmers Trust Fund Committee created under Section 10 of this Act.

(j) "GCG" shall refer to the Governance Commission on Government-Owned and Controlled Corporations created under Republic Act No. 10149.

(k) "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.

(l) "PCA" shall refer to the Philippine Coconut Authority created under Presidential Decree No. 232 as amended by Presidential Decree No. 1468.

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

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

(o) "Roadmap" shall refer to the Coco Levy Roadmap to be prepared under Section 19 of this Act.

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

(q) "Trust Income" shall refer to the income or interest accruing to the Trust Fund.

(r) "Trust Principal" shall refer to (i) the initial Trust Principal composed of dividends declared, paid, or issued on the Converted SMC Series 1 Preferred Shares, the proceeds from the redemption of the Converted SMC Series 1 Preferred Shares, and all income or interest derived therefrom up to the date of the Entry of Judgment in Philippine Coconut Producers Federation, Inc. (COCOFED), et al. vs. Republic of the Philippines, et al. (G.R. Nos. 177857-177858 and G.R. No. 178193); (ii) any other cash Coconut Levy Asset including amounts deposited in UCPB as administrator of the CIIF; and (iii) proceeds from the privatization of any Coconut Levy Asset.

Section 4. *Audit and Inventory of Coconut Levy Assets.* Upon the effectivity of this Act, the Commission on Audit, in coordination with the PCA, the PCGG, and the Office of the Solicitor General, shall conduct an inventory and accounting of the Coconut Levy Assets as well as the investments, disbursements, and expenditures relating to the Coconut Levy Funds.

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

Within fifteen (15) days from receipt of the report, the Committee shall 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 prior to or in the course of preparing the privatization or disposition plans for the Coconut Levy Assets.

1
2 **Section 5. Reconveyance of Coconut Levy Assets.** Immediately upon the effectivity of this Act,
3 the PCGG, the government representatives to the boards of sequestered / surrendered
4 corporations, and any government agency or person having any Coconut Levy Asset in its
5 administration, authority, custody or control, shall perform or cause the performance of the
6 following:

- 7 a) reconvey title to the Republic of the Philippines over the Coconut Levy Assets;
8
9 b) deliver all stock certificates and other evidence of ownership to the Bureau of
10 Treasury for safekeeping; and
11
12 c) deposit all cash Coconut Levy Assets in the Trust Fund.
13

14 For the avoidance of doubt, any provision of law to the contrary notwithstanding, the
15 Bureau of Treasury and the UCPB shall directly remit the initial Trust Principal to the Trust Fund.
16

17 **Section 6. Creation of the Coconut Farmers Trust Fund.** There is hereby created a trust fund to
18 be known as the Coconut Farmers Trust Fund. The Trust Fund shall consist of the Trust Principal
19 and the Trust Income. No portion of the Trust Fund shall accrue to the general fund of the
20 National Government. Nothing in this Act shall be understood to prohibit any person from
21 conveying to the Committee other assets for the use of the coconut industry.
22

23 **Section 7. Purpose of the Trust Fund.** The Trust Fund is exclusively for the development of the
24 coconut industry for the ultimate benefit of coconut farmers as embodied in the Roadmap.
25

26 **Section 8. Management and Utilization of the Trust Fund.** The Trust Fund shall be available
27 and may be utilized only for the purpose for which it was created and upon authorization of the
28 Committee and subject to the following conditions:
29

- 30 a) The Trust Principal shall be preserved at all times and only the Trust Income may
31 be used: Provided, That an aggregate amount not exceeding five percent (5%) of
32 the initial Trust Principal may be used during the first two years following the
33 effectivity of this Act.
34
35 b) Funds shall be disbursed only on the basis of the program, activity or project and

1 funding requirements.

2 c) Funds may also be disbursed to pay for (i) the expenses of the Committee for the
3 administration, monitoring, evaluation, information services, and other necessary
4 activities for the effective performance of its functions under this Act, and (ii)
5 reimbursements to the PMO for reasonable expenses actually, directly, and
6 exclusively incurred in connection with the privatization. Such administrative
7 expenses shall not exceed Thirty Million Pesos (P30,000,000.00) for the initial
8 year and, for the succeeding years, three percent (3%) of the Trust Income
9 accruing during the immediately preceding year. If the expenses in any year are
10 less than the maximum amount permissible, the difference shall not be availed of
11 as additional expenses in the following years.

12
13 d) No funds shall be utilized to pay for the salary of PMO personnel.
14

15 **Section 9. Designation of the Bureau of Treasury as Depository of the Trust Fund.** The Trust
16 Fund shall be deposited in the Bureau of Treasury. The Bureau of Treasury shall disburse and
17 account for the Trust Fund in the manner provided by the Committee and shall perform such
18 duties as may be determined by the Committee.
19

20 **Section 10. The Coconut Farmers Trust Fund Committee.** A Coconut Farmers Trust Fund
21 Committee is hereby created under the Office of the President for the management and
22 administration of the trust fund and the disposition and the utilization of the earnings and incomes
23 thereof for the development of the coconut industry and ultimate benefit of the small coconut
24 farmers and farm workers.
25

26 The Coconut Farmers Trust Fund Committee (herein referred to as the "Committee")
27 shall be composed of the following:
28

- 29 (a) Five (5) representatives from the government, who shall be the Secretary of
30 Agriculture, Secretary of Finance, Secretary of the National Anti-Poverty
31 Commission, Director General of the National Economic and Development Authority,
32 and Administrator of the Philippine Coconut Authority;
33 (b) Five (5) representatives from coconut farmers' organizations which have considerable
34 experience and reputable track record; and,
35 (c) One (1) representative from a civil society organization with focus on uplifting the

small coconut farmers and the industry, and which have considerable experience and reputable track record in building community-based coconut enterprises;

The nominees of the coconut farmers' organizations and the civil society organizations shall be validated and shortlisted by the Philippine Coconut Authority in consultation with the National Anti-Poverty Commission.

The Chair and the members of the Committee shall be appointed by the President. The term of the government representatives in the Committee is co-terminus with their respective terms in office while the rest of the members of the Committee shall each hold a term of one (1) year, unless sooner removed for cause. Any of such representatives shall continue to hold office until the successor is appointed. Any appointment to fill a vacancy in the Committee shall be only for the unexpired term.

Section 11. *Ex Officio Alternates.* The *ex officio* members of the Committee may designate their respective alternates who shall be the officials next-in-rank to them and their acts shall be considered the acts of their principals.

Section 12. *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) Coordinate and monitor the implementation of the Roadmap;
- b) Approve any disbursement out of the Trust Fund;
- c) Formulate the Investment Guidelines including the prohibited investments;
- d) Appoint a fund manager, if necessary, to handle the investment of the Trust Principal;
- e) Identify the Coconut Levy Assets that will be privatized, retained, or abolished and submit its recommendation to the President;
- f) Approve the marketing and disposition program for the Coconut Levy Assets approved for privatization;
- g) Authorize the sale and other mode of privatization of Coconut Levy Assets approved for privatization;
- h) Authorize the rehabilitation of Coconut Levy Assets approved for privatization pending actual disposition;
- i) Submit to the President reports and recommendations in connection with its functions

under this Act;

j) Appoint, transfer, suspend or otherwise remove for cause personnel of the Committee and fix their remuneration in accordance with the Salary Standardization Law; and

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

Section 13. *Meetings of the Committee.* The Committee shall meet at least once a month, or as often as deemed necessary by the Chairperson. 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, the approval of at least a majority of all members of the Committee shall be required in cases involving the approval of (i) any disbursement of funds involving more than Fifty Million Pesos (P50,000,000.00), (ii) any proposed privatization involving more than Five Hundred Million Pesos (P500,000,000.00), and (iii) any proposed investment involving more than One Hundred Million Pesos (P100,000,000.00).

In case of unavailability of the Chairman, the Chairman may designate the Vice Chairman to convene the Committee and chair the meeting on behalf of the Chairman.

Section 14. *Obligations of the Members of the Committee.* The members of the Committee shall act with due care, diligence, skill, and good faith in all its dealings with the Trust Fund and the Coconut Levy Assets. They shall avoid conflicts of interest and declare before the Committee an interest they may have in any particular matter.

Where a member of Committee receives any profit or benefit by virtue of the office, including, but not limited to, acquiring shares in corporations that form part of the Coconut Levy Assets, using the Coconut Levy Assets for one's benefit, receiving commission on contracts from the Coconut Levy Assets, or taking advantage of corporate opportunities involving the Coconut Levy Assets, all such profits or benefits shall be returned to the Trust Fund, without prejudice to any administrative, civil or criminal action against such member. This provision shall be applicable notwithstanding the fact that such member of the Committee risked one's own funds in the venture.

Section 15. *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) Administer the implementation of the plans, activities, and programs approved in accordance with the provisions of this Act;
- b) Direct and supervise officials, employees, representatives and agents for the Committee;
- c) Prepare an annual report on the activities of the Committee at the close of each fiscal year and submit a copy thereof to the President and Congress;
- d) Maintain official records and reports of the proceedings of the Committee;
- e) Administer oaths in all matters falling within the jurisdiction of the Committee; and
- f) Exercise such other duties as may be vested by the Committee that are consistent with the provisions of this Act.

Section 16. *Cooperation with the Committee.* The Committee may call upon any department, bureau, office, agency and instrumentality of the Government, including government-owned and controlled corporations, for such assistance as it may need in the pursuit of the purposes of the Trust Fund and in the discharge of its powers and functions, including the implementation of the Roadmap.

Section 17. *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.

The Trust Fund shall be audited annually by the Commission on Audit.

Section 18. *Legal Counsel.* The Secretary of Justice shall be the *ex officio* adviser to the Committee on legal matters.

Section 19. *Preparation of the Coco Levy Roadmap.* An *ad hoc* committee is hereby created to be composed of the heads of the Department of Agriculture, Department of Agrarian Reform, Department of Energy, Department of the Interior and Local Government, Department of Public Works and Highways, Department of Science and Technology, Department of Trade and Industry, National Anti-Poverty Commission, National Economic and Development Authority, and PCGG, with the Director-General of the National Economic and Development Authority as Chairman.

1 The *ad-hoc* committee, in consultation with coconut farmers and representatives of the
2 coconut industry, shall indicate in an integrated coconut industry strategy map the policies for
3 the development and rehabilitation of the coconut industry and shall prepare a five-year plan
4 of programs, activities and projects which shall be funded out of the Trust Fund and which
5 shall be known as the Coco Levy Roadmap.

6
7 In the formulation of the Roadmap, the *ad hoc* committee shall be guided by the
8 following objectives:

9
10 (1) increased income of coconut farmers and increased coconut productivity including
11 intercropping and livestock-raising;

12
13 (2) promoting coconut-based enterprises including integrated processing of coconut
14 products and downstream products; and

15
16 (3) coconut farmers organization and development.

17
18 The coco levy Roadmap shall provide an indicative funding requirement or allocation for
19 the implementation of all programs, activities, and projects included therein, which funding or
20 allocation shall be itemized or broken down on a project-to-project basis: Provided, That, (i) for
21 projects which are recurring, or to be implemented on a regular basis, the allocation shall indicate
22 the annual fund that may be required to implement said project; and (ii) for projects that are to be
23 implemented or completed over a period of time, the allocation shall indicate the total fund that
24 may be required for the implementation of the whole project, itemized according to the phases of
25 said project.

26
27 **Section 20. Approval of the Coco Levy Roadmap.** Within sixty (60) days from the effectivity of
28 this Act, the Roadmap shall be submitted to the President, through the Committee, for approval.
29 Immediately upon approval, the Roadmap shall be returned to the Committee for the
30 disbursement of funds in accordance with the provisions of this Act. Any amendment to the
31 Roadmap shall likewise be submitted to the President, through the Committee, for approval.

32
33 If the President has any objection to the Roadmap or any amendment thereto, the President
34 shall notify the Committee within thirty (30) days from receipt; otherwise, the Roadmap or the
35 amendment shall be deemed approved.

1 **Section 21. *Privatization of Coconut Levy Assets.*** The Committee shall determine the Coconut
2 Levy Assets that should be privatized. For this purpose, the Committee shall be guided by any of
3 the following standards:

- 4
- 5 a) The functions or purposes for which the entity was created are no longer relevant to the
6 State or no longer consistent with the national development policy of the State;
 - 7 b) The functions or purposes of the entity duplicate or unnecessarily overlap with functions,
8 programs, activities or projects already provided by an agency;
 - 9 c) The entity is not producing the desired outcomes, or is no longer achieving the objectives
10 and purposes for which it was originally designed and implemented, or is not cost
11 efficient and does not generate the level of social, physical and economic returns vis-à-vis
12 the resource inputs;
 - 13 d) The entity is dormant or non-operational;
 - 14 e) The entity is involved in an activity best carried out by the private sector; and
 - 15 f) The function, purpose or nature of operations of any group of entities requires
16 consolidation under a holding company.
- 17

18 The Committee shall submit its recommendation to the President for approval. The
19 Committee shall also arrange for the transfer to the PMO of the Coconut Levy Assets approved
20 for privatization, unless the President, upon recommendation of the Committee, designates
21 another agency to preserve such Coconut Levy Assets pending privatization.

22

23 **Section 22. *Additional Mandate of the Privatization and Management Office (PMO).*** In
24 addition to the powers and responsibilities of the PMO under Executive Order No. 323 (S. 2000),
25 the PMO shall be the disposition entity for the Coconut Levy Assets that have been approved for
26 privatization.

27

28 The PMO shall be authorized to (i) formulate and implement the marketing and
29 disposition program after securing prior approval of the Committee; (ii) take possession of and
30 preserve such assets on behalf of the National Government; (iii) execute and deliver, on behalf of
31 the National Government, such contracts and documents as may be necessary to convey title to
32 and take possession of such assets; (iv) engage external advisors as may be necessary in fulfilling
33 its tasks; and (v) adopt internal rules and regulations.

34

35

1 **Section 23. Powers of the Privatization and Management Office.** The PMO is empowered to
2 enter into sales through public bidding, negotiated sale, lease, or any form of divestment or
3 transmission of rights over the Coconut Levy Assets. Any such transaction shall not be final
4 unless approved by the Committee: Provided, That no Coconut Levy Asset shall revert to
5 previous owners or their nominees or be sold to individuals who, as determined by final judgment
6 of a court of law, have mismanaged or diverted such assets.

7
8 Prior to the implementation of any privatization plan, the PMO shall have the following
9 powers in relation to corporations transferred to the PMO as provided in Section 22 of this Act:

10
11 (1) Require any of the subject corporations to adopt and implement cost-reduction
12 measures to enhance the viability, and therefore the disposability of such
13 corporations, to potential buyers, including measures requiring personnel
14 retrenchment plans or other forms of corporate downsizing;

15
16 (2) Direct any of the subject corporations to submit such reports and information as the
17 PMO may require in the exercise of its functions under this Act; and

18
19 (3) Cause the subject corporations to undergo rehabilitation, merger, consolidation, spin-
20 off, or other corporate acts of reformatory nature as it may deem necessary or
21 desirable to expedite the privatization under this Act: Provided, That no corporate
22 measure shall be implemented without the approval of the Committee.

23
24 **Section 24. Remittance of Proceeds of Privatization.** All proceeds or receipts from the sale of
25 Coconut Levy Assets shall be remitted to the Trust Fund.

26
27 **Section 25. Reporting Requirements.** The Committee shall, on a semi-annual basis, submit to the
28 President and Congress a report on the status of privatization program, including a description of
29 the individual assets disposed of, the purchasers, the consideration received, and the terms of
30 payment.

31
32 The PMO shall, within three (3) months following the closure of books at the end of each
33 fiscal year, submit a comprehensive annual report duly approved or endorsed by the Committee,
34 to the President and Congress on the status of its privatization efforts and its disposition program
35 for the Coconut Levy Assets, which shall include the items described in the immediately

preceding paragraph.

Section 26. Retention and Dissolution of Coconut Levy Assets. The Committee shall identify the Coconut Levy Assets that should be retained by the National Government and/or reorganized or abolished, guided by the same standards mentioned in Section 21 of this Act. The Committee shall submit its recommendation to the President for approval.

Coconut Levy Assets that have been approved for retention shall be transferred to such agency as may be designated by the President.

The GCG shall implement the dissolution of those Coconut Levy Assets that have been approved for abolition.

Section. 27. Allowable Investments. The Committee shall manage the Trust Principal with the skill, care, prudence, and diligence necessary under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would exercise in the conduct of an enterprise of a like character and with similar aims. Pursuant thereto, and in line with the basic principles of safety, growth, and liquidity, the Trust Principal shall only be invested in any or all of the following:

- a) Bonds, securities, promissory notes or other evidence of indebtedness of the Government of the Philippines, or in bonds, securities, promissory notes and other evidence of indebtedness to which full faith, credit and unconditional guarantee of the Republic of the Philippines is pledged;
- b) Bonds, securities, promissory notes or other evidence of indebtedness of government financial institutions or government corporations with acceptable credit or guarantee: Provided, That such investments shall be subject to a ceiling to be fixed by the Committee in the implementing rules and regulations; and
- c) Deposits and loans to or securities in any domestic bank doing business in the Philippines and in good standing with the Bangko Sentral ng Pilipinas: Provided, That in the case of such deposits, this shall not exceed at any time the unimpaired capital and surplus or total private deposits of the depository bank, whichever is smaller; Provided, further, That said bank shall first have been designated as a depository for this purpose by the Monetary

Board of the Bangko Sentral ng Pilipinas; Provided, finally, That such investments shall be subject to a ceiling to be fixed by the Committee in the implementing rules and regulations.

Section 28. *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: Provided, That Section 2, Article IV of EO 323 (utilization of funds) and Section 3, Article IV of EO 323 (sale of small local investors) shall not be applicable.

Section 29. *Implementing Rules and Regulations.* Within thirty (30) 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.

Section 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.

Section 31. *Repealing Clause.* All laws, Presidential Decrees, ordinances, rules and regulations inconsistent herewith are hereby revoked, amended, revised and superseded accordingly.

Section 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,