

EXECUTIVE ORDER NO. 494

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

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

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

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

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

WHEREAS, the Secretary of Justice, in Opinion No. 210, series of 1988, states that "the President may, in the implementation of the privatization program of the government, amend or repeal the charters of government-owned or controlled corporations pursuant to her delegated legislative

authority under Section 22 of Proclamation No. 50, which remains to be operative until it is amended, repealed or revoked by Congress (Sec. 3, Art. XVIII, Constitution);"

WHEREAS, the Secretary of Justice, in Opinion No. 43, Series of 1990, further states that the President may amend the charters of GOCCs which have been identified for privatization to effect mergers or consolidations pending final disposition of such GOCCs to the private sector "if such disposition action will enhance the implementation of the privatization program of the government; and, considering that privatization program aims to generate maximum cash recovery for the National Government, the "rehabilitation of GOCCs through merger or consolidation of certain GOCCs identified for privatization, to ensure maximum cash recovery for the government would certainly be in furtherance of the government's privatization program;" and

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

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

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

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

b. Conversion shall refer to a variant of the divestment process by which, for the purpose of privatization, a government-

owned or controlled corporation is dissolved but exclusive authority is granted to the management thereof to form a new and private corporation through registration with the Securities and Exchange Commission, with the same corporate name and essentially the same objectives, powers and functions but without government funding, except that existing assets of the dissolved corporation may be donated to the new corporation; and

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

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

- a. Metals Industry Research and Development Center;
- b. Fiber Industry Development Authority;
- c. National Post-Harvest Institute for Research and Extension; and
- d. Philippine Coconut Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Soreson S. Aquino

By the President:

Franklin M. Drilon
FRANKLIN M. DRILON
Executive Secretary

PHILIPPINE COCONUT AUTHORITY

Recent studies have shown that a bureau can attain, at less expense to the Government and with relatively the same degree of efficiency and effectiveness, the objectives for which the government-owned Philippine Coconut Authority has been created.

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

SECTION 1. Regularization. - The Philippine Coconut Authority (PCA) is hereby transformed into a new bureau in the Department of Agriculture to be known as the Bureau of Coconut Development and Inspection Service, hereinafter referred to as the Bureau. The Bureau shall continue to perform the powers and functions of the PCA, except those which are corporate in nature.

SEC. 2. Hiring of Experts. - The Bureau may engage the services of experts from the public or private sector, pursuant to existing laws, rules and regulations.

SEC. 3. Personnel and Organizational Policies. - Upon the regularization of the Philippine Coconut Authority, its officers and employees shall, in a holdover capacity, continue to perform their respective duties and responsibilities and receive their corresponding salaries and benefits unless in the meantime they are separated or retired from the service pursuant to existing laws, rules and regulations.

The Secretary of Agriculture shall submit the necessary organizational structure for the Bureau to the Department of Budget and Management within one hundred and twenty (120) days from the approval of this Executive Order: Provided, That incumbents of the PCA shall have priority for appointment to the same or comparable positions in the Bureau: provided, further, That the same incumbents shall have the option to be considered separated or to retire from the service whenever such option is available to them under existing laws, rules and regulations. Those incumbents of the PCA whose positions are not among the positions of the Bureau or who are not reappointed shall be deemed separated from the service. Those who are separated or retired from the service shall receive the benefits they may be entitled to under existing laws, rules and regulations.



SEC. 4. Periodic Performance Evaluation. - The Secretary of Agriculture shall formulate and enforce a system of appraising and evaluating periodically and objectively the performance of the Bureau.

SEC. 5. Transfer of Records and Others. - The records, equipment, facilities, choses in action, rights, other assets and personnel of the PCA are hereby transferred to the Bureau for the accomplishment of the objectives of this Executive Order and Annex "D" thereof. The appropriations and funds of the PCA, if any, shall revert to the General Fund after reserving the amount necessary to pay the benefits of those separated or retired from the service under Section 3 hereof: Provided, that if the appropriations and funds of the PCA are not sufficient to pay such benefits, the deficiency shall be satisfied from the savings of the Department of Agriculture. Its remaining assets, if any, shall be allocated to the appropriate units of the Government as the Office of the President shall determine or shall otherwise be disposed of in accordance with the Government Auditing Code of the Philippines and other pertinent laws, rules and regulations. Its liabilities, if any, shall be paid in accordance with the provisions of the Civil Code of the Philippines on the concurrence and preference of credits.

SEC. 6. Implementing Authority. - The Secretary of Agriculture shall promulgate such rules, regulations and other issuances as may be necessary to ensure the efficient and effective implementation of this Executive Order and Annex "D" thereof.

