

ESTABLISHING RULES AND REGULATIONS FOR A COPPER STABILIZATION FUND

EXECUTIVE ORDER NO. 759, January 07, 1982

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WHEREAS, copper prices are characterized historically by volatile fluctuations;

WHEREAS, in times of depressed copper prices, many local mining companies find themselves unable to meet even cash production costs and continue operations;

WHEREAS, it is in the national interest for the Government to provide assistance to local mining companies during periods of depressed copper prices because of the large amount of foreign exchange it earns and the substantial employment it generates;

WHEREAS, such assistance can be provided by a Copper Stabilization Fund which shall extend financing to local mining companies during periods of depressed copper prices;

WHEREAS, the Copper Stabilization Fund can be established with an initial contribution from the Government but should be maintained subsequently with contribution from the local mining companies themselves during periods of high copper prices;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, do hereby order the establishment of a Copper Stabilization Fund under the following Rules and Regulations:

RULE I

THE FUND

Section 1. There is hereby created a Copper Stabilization Fund (THE FUND) for the purpose of financing operating cash flow deficits of primary copper producers occasioned by depressed metal prices. The Fund shall be utilized only for the foregoing purpose and shall not be drawn upon to finance expansions, other capital investments, or replacement of existing debts.

Section 2. The Fund shall be established with an initial contribution from the National Government of TWO HUNDRED MILLION PESOS (P200 million). Primary copper producers shall also contribute to the Fund as provided in RULE V hereof.

Section 3. All transactions of the Fund shall be denominated in United States Dollars (US \$).

RULE II

BORROWING FROM THE FUND

Section 1. Primary copper producers shall be allowed to borrow from the Fund whenever they incur cash flow deficits due to a short fall between the cash cost applicable to a particular copper export shipment and the

proceeds from said shipment. "Cash Cost" is hereby defined as total operating cost, plus freight, insurance, smelting and refining charges, plus interest on short-term borrowings to finance working capital requirements, less by-product credits. Depletion and depreciation shall not be considered in determining cash cost. Such cost shall be computed in the manner shown in Annex "A" hereof and shall be certified under oath by the independent external auditor of the copper producer. Cash cost shall be recomputed periodically to reflect current costs, as may be decided by the Fund Administrator.

Section 2. The amount which may be borrowed shall be equivalent to the difference between the cash cost applicable to and the proceeds from, each copper export shipment, based on the estimated copper content of such shipment, as computed in the manner shown in Annex "B" hereof.

Section 3. Borrowings from the Fund shall be charged an interest rate of twelve percent (12%) per annum.

RULE III

REPAYMENTS

Section 1. Repayments of borrowings from the Fund shall be effected automatically with each shipment whenever the price of copper export shipments rise above the cash cost and shall continue until such time as all borrowings shall have been fully repaid. The amount to be repaid shall be equivalent to the excess of the proceeds from a particular copper export shipment over the cash cost applicable to the same, based on the estimated copper content of such shipment, as computed in the manner shown in Annex "C" hereof.

Section 2. Amounts repaid shall first be applied to accrued interest charges before any reduction of the principal amount borrowed.

Section 3. Copper producers borrowing from the Fund shall undertake:

- a) To repay their obligations to the Fund as herein provided before servicing their obligations to any of its other creditors, both as to principal and interest (except interest on short term borrowings for working capital requirements);
- b) To refrain from declaring dividends or otherwise distributing any profits for as long as their respective borrowings from the Fund remain outstanding.

RULE IV

CONTRACTUAL COMMITMENT

Section 1. Before any drawdown on the Fund may be made, the borrower shall execute a written contract, duly confirmed by its Board of Directors, agreeing to comply with these Rules and Regulations and to the terms and conditions of the borrowing as set by the Administrator of the Fund.

RULE V

CONTRIBUTIONS TO THE FUND

Section 1. As a condition precedent to borrowing from the Fund, copper producers shall commit to contribute to the Fund after their respective borrowings shall have been repaid. The amount to be contributed shall be equivalent to ten percent (10%) of the excess of the proceeds from a particular copper export shipment over the cash cost applicable to the same, based on the estimated copper content of such shipment, as computed in the

manner shown in Annex "D" hereof.

Section 2. Copper producers shall make the foregoing contributions for as long as they have no outstanding borrowings from the Fund and copper prices continue to be higher than their respective cash costs. However, the maximum amount which the copper producers shall be required to contribute shall not exceed the highest outstanding balance of the borrowings they previously obtained from the Fund.

Section 3. Contributions to the Fund shall likewise earn interest at twelve percent (12%) per annum. Interest earnings may be withdrawn quarterly.

Section 4. The principal amounts contributed shall be utilized to finance future requirements of the Fund, and shall therefore not be withdrawable, except by way of borrowings as provided in these Rules, in the event the respective copper producers again incur cash flow deficits due to depressed copper prices.

RULE VI

ADMINISTRATION OF THE FUND

Section 1. The Central Bank of the Philippines shall act as Administrator of the Fund, and as such, shall be authorized to issue implementing guidelines in connection with the operation and administration of the Fund.

Section 2. The Administrator may in its discretion assign any of the government banks as conduit institutions through which borrowings from the Fund shall be released and repayments and contributions made.

Section 3. Copper producers borrowing from the Fund shall be required to accept a nominee of the Administrator as Fund controller who shall insure compliance by the copper producers of the governing rules, regulations and guidelines of the Fund, and periodically review the cash production costs and other financial statements of the copper producers.

DONE in the City of Manila, this 7th day of January, in the Year of Our Lord, nineteen hundred and eighty-two.

(SGD.) FERDINAND E. MARCOS

President of the Philippines

By the President:

(SGD.) JOAQUIN T. VENUS, JR.

Deputy Presidential Executive Assistant

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