

[ **PRESIDENTIAL DECREE NO. 992, September 02, 1976** ]

**CREATING THE NATIONAL FERTILIZER CORPORATION OF THE PHILIPPINES (FERTIPHIL), DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES**

**WHEREAS**, fertilizer is a key input to food production and the Philippines imports about 70% of its fertilizer requirements annually;

**WHEREAS**, it is essential to the national interest that we immediately expand Philippine fertilizer production capabilities in order to guarantee sufficient domestic production of this vital commodity;

**WHEREAS**, the development of our fertilizer industry can be effectively achieved through a strategy involving not only for the expansion of local production capabilities but also the establishment of joint ventures with other countries which have the raw material resources required for fertilizer production;

**WHEREAS**, undertakings of this nature involve massive investments exceeding the capabilities of the private business sector alone to finance, thus necessitating the establishment of a largely or wholly government-owned corporation;

**WHEREAS**, the proposed corporation, while continually striving to remain economically viable and profitable, should not lose sight of its primary role of providing farmers with vital inputs at reasonable prices to enable them to produce enough for the nation;

**NOW, THEREFORE, I, FERDINAND E. MARCOS**, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree, as part of the law of the land, the following:

**SECTION 1.** *Title of Decree.* — This Decree shall be known and cited as the "Charter of the National Fertilizer Corporation of the Philippines (FERTIPHIL)."

**SECTION 2.** *Creation, Name, Domicile and Term.* — There is hereby created a body corporate to be known as the National Fertilizer Corporation of the Philippines (FERTIPHIL), hereinafter referred to as the "Corporation," which shall primarily undertake and transact the corporate business relative to organic and inorganic fertilizers, agricultural chemicals and their by-products and derivatives, and for that purpose, the Corporation shall have capacity to sue and be sued.

The principal office of the Corporation shall be determined by its Board of Directors. It may establish such offices, agencies, subsidiaries branches of correspondents, within or outside the Philippines, as the exigencies of its business operations may require.

The term of existence of the Corporation shall be fifty (50) years, which shall be deemed renewed for a similar period, unless sooner dissolved by law.

**SECTION 3.** *Capitalization.* — The Corporation shall have an authorized capital stock of One Billion One Hundred Twenty Million Pesos (P1,120,000,000.00) divided into One Million One Hundred Twenty Thousand (1,120,000) shares of capital stock

with a par value of One Thousand Pesos (P1,000.00) each. The entire amount of such capital stock shall be open to subscription by the Republic of the Philippines but the Board of Directors, with the approval of the President of the Philippines may offer up to forty per centum (40%) of such authorized capital stock for subscription and payment by others, including domestic or foreign private or governmental institutions, corporations, associations or other entities; Provided, That the holding of the Republic of the Philippines in voting shares of stock shall in no event be less than sixty per centum (60%) of the voting shares of stock at any time outstanding; and, Provided, further, that the holdings of non-Philippine nationals in such voting shares shall in no event go beyond thirty per centum (30%) of the voting shares at any time outstanding.

Payment for the shares subscribed by the Republic of the Philippines shall be made from the General Fund as and when the same are needed for the operations of the Corporation, as determined by the Board of Directors of the Corporation with the approval of the President of the Philippines.

Within the limits of the authorized capital stock hereinabove stated, the shares of stock of the Corporation may be divided into such classes with such rights, voting powers, preferences and restrictions as may be determined by the Board of Directors. Until such time as the Board of Directors exercises the foregoing power, all the shares of capital stock of the Corporation shall be common shares with the same rights and privileges.

The voting power of all the shares of stock owned and controlled by the Republic of the Philippines shall be vested in the President of the Republic of the Philippines or in such person or persons as he may from time to time designate.

**SECTION 4. Purpose.** — The primary purpose of the Corporation is to ensure that there is an adequate and stable supply of fertilizer and agricultural chemicals at reasonable prices and for that purpose, it may engage in the manufacture, storage, distribution, transportation, purchase, sale importation and exportation of fertilizers and agricultural chemicals of all kinds.

**SECTION 5. Powers and Functions of the Corporation.** — The Corporation shall have the following powers and functions:

- a. To manufacture, store, distribute, transport, purchase, or sell all types of fertilizers and agricultural chemicals, their raw materials, by- products and derivatives;
- b. To purchase, own, hold, lease and dispose of all types of property, real, personal or mixed, essential for carrying out its functions;
- c. To enter into all types of contracts, with or without public bidding, with any person or entity, domestic or foreign, and with governments for its fertilizer operations including the acquisition by way of purchase, lease or rent or other deferred payment arrangements of equipment, finished products and/or raw materials and supplies, as well as for services connected therewith under such terms and conditions as it may deem proper and reasonable;
- d. To borrow, raise, or obtain funds to support or carry out its objects and purpose and/or to arrange financing or equipment credit or any kind of

financial or material assistance from private or governmental sources or from international public or private lending institutions and to secure any or all of the same, to the extent that may be required, by any lawful guaranty or counter-guaranty, by pledge, mortgage, or deed of trust, or by creating or suffering to exist a charge, lien, or encumbrance, and likewise by similar guarantees, pledges, mortgages, liens and other security arrangements to secure the performance by the Corporation or any obligation or liability it may undertake for itself or for other companies or enterprises in which it may be interested;

e. To engage in export and import of fertilizers and agricultural chemicals, as well as their raw materials, by-products, and derivatives;

f. To build, make, construct, maintain, purchase, sell, charter, deal in and with, own, lease, pledge, and otherwise dispose of all modes of transportation, together with all components, tools, machinery and appliances appurtenant thereto, as are utilized in the transport of fertilizers and agricultural chemicals, including their raw materials, by-products and derivatives, whether such transportation be by air, land or sea;

g. To promote, organize and re-organize whenever warranted, and to collaborate and associate in joint venture with any person, association, company or entity, whether domestic or foreign, in the fields of fertilizer and agricultural chemical production, marketing, procurement, shipping, financing and such other related businesses;

h. To provide technical, advisory, consultancy and management services in the field of fertilizer and agricultural chemical operations;

i. To undertake all the appropriate studies necessary to expand Philippine fertilizer and agricultural chemical production;

j. To apply for, register, purchase or otherwise acquire, or obtain a lien on or interest in any patent rights, licenses, designs, processes, trademarks, tradenames, distinctive marks, inventions and improvements thereof, and concessions which may appear likely to be advantageous or useful to the Corporation;

k. To use, exercise, or otherwise turn to account said property rights, and to enter into patent licensing, technical assistance, or other know-how and data or process feedback agreements, including the use of computers, as the case may be related to or necessary or appropriate to carry out the objectives and purposes of the Corporation;

l. Subject to existing regulations, and if deemed necessary, to establish and maintain such communication system, whether by radio, telegraph or any other manner, without the need of a separate franchise therefor;

m. To exercise the right of eminent domain, in order to attain the purposes for which the Corporation is created;

n. Subject to payment of the proper amount, to enter private lands for the purpose of conducting studies or exploitation of potential sources of raw materials for fertilizers and agricultural chemicals;

- o. To hold lands and acquire rights over mineral lands in excess of the areas permitted to private corporations, associations and persons by statute;
- p. To acquire by purchase, subscriptions, exchange, assignments, gift or otherwise, and to sell, assign, transfer, exchange, mortgage, pledge, and deal in and with, and otherwise, to enjoy and dispose of, any bonds, debentures, promissory notes, shares of capital stock and/or other securities and/or obligations created, negotiated or issued by any corporation, association, or other entity, foreign or domestic, and while the owner thereof, to exercise all the rights, power and privileges of ownership, including the right to receive, collect and dispose of; any and all dividends, interest and income derived therefrom and the right to vote on any shares of the capital stock, and upon any bonds, debentures and/or other securities, having voting power so owned;
- q. To invest and deal with the funds of the Corporation in such manner as may be deemed proper including the organization and incorporation of subsidiaries, in order not to make such funds idle and unproductive and to achieve their full utilization for the principal objects and purposes for which the Corporation has been organized;
- r. To pay for any property or rights or services obtained by the Corporation either in cash, shares, or other securities of the Corporation, or partly in cash and partly in shares or other securities, under such terms and conditions as its Board of Directors shall determine to be reasonable;
- s. To determine its organizational structure, including the number and salaries of its officers and employees;
- t. To adopt, amend and repeal its Code of By- Laws, rules and regulations governing the manner in which the general business of the Corporation may be exercised, including provisions for the formation of such committee or committees as the Board may deem necessary to facilitate its business;
- u. To receive any grant, subsidy, donation or contribution from any entity, whether private or governmental, private or public;
- v. To adopt, alter and use a corporate seal which shall be judicially noticed;
- w. To sue and be sued; and
- x. Generally, to do and perform any and all acts, and to exercise any and all powers as may be necessary to carry into effect the provisions of this Decree, or as may be essential to the proper conduct of its operations, or as may be conducive to the attainment of its corporate purposes and objectives.

**SECTION 6. Board of Directors.** — The powers and functions of the Corporation shall be vested in and exercised by a Board of Directors, hereinafter referred to as the "Board," which shall be composed of nine (9) members, to wit: