



REPUBLIC OF THE PHILIPPINES
KAGAWARAN NG KALAKALAN AT INDUSTRIYA
(Department of Trade and Industry)
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DEPARTMENT ADMINISTRATIVE ORDER NO. 01
Series of 2000

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SUBJECT: FURTHER AMENDING MINISTRY ORDER NO. 69, SERIES OF 1983, AS AMENDED, TO INCLUDE REPUBLIC ACT NO. 8293 (INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES) IN THE ENUMERATION OF TRADE AND INDUSTRY LAWS THEREIN, AND FOR OTHER PURPOSES.

WHEREAS, Executive Order No. 913 (issued 1983) authorizes the Secretary of Trade and Industry to adjudicate, personally or by delegation, cases of violation of trade and industry laws;

WHEREAS, Republic Act No. 8293, a new law involving intellectual property rights, has yet to be included in the enumeration of trade and industry laws in Section 1 (d) of Ministry Order No. 69, Series of 1983, as amended;

NOW, THEREFORE, the following are hereby prescribed:

Section 1. Section 1 (d) of Ministry Order No. 69, Series of 1983, as amended, is hereby further amended by deleting Republic Act Nos. 165 and 166, both as amended, the same having been repealed by Republic Act No. 8293, from the list of the enumeration of "trade and industry laws", and including Republic Act No. 8293 therein.

Sec. 2. Henceforth, complaints for violation of Republic Act No. 8293 irrespective of the total amount of damages claimed therein, or even if no damages are claimed therein, may be filed with the proper DTI Offices and the latter shall administratively adjudicate (mediate, formally hear, decide or dismiss, as the case may be) the same under E.O. 913 and Ministry Order No. 69 as amended: *Provided, however*, that if the damages claimed in the complaint is in the total amount of Two Hundred Thousand Pesos (P200,000.00) or more, the complaint may be filed either with the said proper DTI Offices pursuant to E.O. 913 and Ministry Order No. 69 as amended, or with the Bureau of Legal Affairs, Intellectual Property Office, pursuant to Republic Act No. 8293 and its Implementing Rules and Regulations on Administrative Complaints and: *Provided further*, that the filing of the complaint in one venue precludes the filing of the same in the other.

MALACANANG
MANILA

EXECUTIVE ORDER NO. 913

STRENGTHENING THE RULE-MAKING AND ADJUDICATORY
POWERS OF THE MINISTER OF TRADE AND INDUSTRY
IN ORDER TO FURTHER PROTECT CONSUMERS.

WHEREAS, the broad and extensive functions and responsibilities of the Ministry of Trade and Industry as regards trade, industry, and investments are carried out through the rule-making and adjudicatory powers, among others;

WHEREAS, the rule-making and adjudicatory powers of the Minister of Trade and Industry are scattered in various laws pertaining to the defunct Ministry of Trade, to the defunct Ministry of Industry, and to government agencies in general;

WHEREAS, certain aspects of such rule-making and adjudicatory powers need urgent revision by restating and clarifying the legal provisions embodying them, in order to prevent confusion and remove doubts as to the nature and extent of such powers;

WHEREAS, the said laws provide for diverse, resource-draining, and time-consuming processes of adjudication and thus it is necessary that such processes be made uniform, economical and simple and that the penalties imposable be made commensurate with the offense;

WHEREAS, at the same time such rule-making and adjudicatory powers should be revitalized in order that the Minister of Trade and Industry can more effectively protect consumers and apply more swift and effective solutions and remedies to old and new problems related to trade and industry which now exist or may hereinafter exist specifically the recent activities which have assumed the proportions of economic sabotage, such as the hoarding, profiteering and price manipulation of prime and essential commodities during critical periods of price adjustments and other emergencies, the hoarding of cement which upsets the timetable of the construction industry and the government's infrastructure program, the dumping of substandard, imitated, hazardous and cheap goods in the country, the infringement of internationally-known trade-names and trademarks, the textile smuggling which undermines the garments and textile industry, and the unfair trade practices of business firms.

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 ordain:

W. d. L. G.



ARTICLE I
DEFINITION OF TERMS

SECTION 1. Definition of terms. - When used in this Executive Order, the term:

- a. "Minister" means the Minister of Trade and Industry.
- b. "Ministry" means the Ministry of Trade and Industry and/or any of its bureaus, offices, or attached agencies, or any other office, unit or committee by whatever name which is placed under or attached to the Ministry of Trade and Industry.
- c. "Trade and industry law" means any act, Batas Pambansa, Presidential Decree, General Order, Letter of Instructions, Executive Order, and other similar issuances, which regulate trade and industry activities, the violation of which subjects the offender to criminal or administrative penalties or civil liability, or does not subject the offender to any penalty, sanction, or liability at all, and which laws or issuances are subject to the implementation, administration, execution or enforcement of the Ministry.

ARTICLE II
RULE-MAKING POWER

SEC. 2. Implementing rules and regulations. - The Minister may promulgate rules and regulations to implement the provisions and intent of "trade and industry laws." This power shall extend to the implementation of the objectives, policies, international agreements, international grants, and the approved plans, projects, and activities of the Ministry.

SEC. 3. Publication and effectivity. - The rules and regulations promulgated by the Minister pursuant to this Executive Order shall be published in full text in at least two newspapers of general publication in the Philippines and shall take effect fifteen days after such publication; Provided, That emergency rules as determined by him may take effect on a date fixed by him; and Provided, further, That voluminous rules and regulations that will incur big publication expenses need not be published in full text but may be in the form of a notice in such newspapers, giving the gist of the rules and regulations, and with a statement as to how and where to secure copies of the full text thereof.

Should a particular set of rules and regulations be applicable only to a certain city, municipality, province, region or other locality, the Minister may limit the publication thereof to only one newspaper that generally circulates in that locality, which shall take effect as stated above, and if voluminous, the above provision may be followed.

Additional publications in the Official Gazette of any of the abovementioned rules and regulations shall be at the discretion of the Minister.


ARTICLE III
ADJUDICATORY POWER

SEC. 4. Arbitration, conciliation, and mediation systems and procedures. - The Minister may establish arbitration, conciliation, and mediation systems and procedures for the pacific settlement of any trade and industry related dispute selected by him, including such disputes where one of the parties is liable criminally under a "trade or industry law", in which case the compliance, payment or the satisfaction of the award prescribed by the Minister in the said systems and procedures shall be taken into account in any criminal prosecution and conviction in court. The Minister may also provide for compulsory arbitration of any trade and industry related dispute involving critical trade and industry activities, such as export activities.

SEC. 5. Formal investigation. - (a) Whenever the Minister has verified that violation/s of "Trade and Industry Laws" has/have been committed, he may motu proprio charge said violator/s, and thereafter proceed with a formal investigation, independent of the corresponding criminal or civil action for the said violation/s. The imposition of administrative penalties in the formal investigation is without prejudice to the imposition of penalties in the criminal action and/or judgement in the civil action, and vice versa, Provided, however, That in deciding the case the Minister or the judge, as the case may be, shall consider the decision of the other and impose further penalties, or consider the penalties imposed by the other as already sufficient, as his sense of justice dictates.

(b) The Minister may proceed to hear and determine the violation in the absence of any party who has been served with notice to appear in the hearing.

(c) The Minister shall use every and all reasonable means to ascertain the facts of the case speedily and objectively without regard to technicalities of law or procedure and strict rules of evidence prevailing in courts of law and equity. The Minister shall decide the case within thirty working days from the time the formal investigation was terminated.



(d) The Minister shall have the same power to punish direct and indirect contempts granted to superior courts under Rule 71 of the Rules of Court and the power to issue subpoena and subpoena duces tecum.

(e) When the "trade and industry law" violated provides for its own administrative procedure and penalties, including a procedure where a Board, Council, Authority, or Committee takes part as a body, the Minister shall have the option of selecting that procedure and penalties or the procedure and penalties provided in this Executive Order. If he opts for the latter, the approval of such Board, Council, Authority, or Committee of the Minister's decision shall not be necessary.

SEC. 6. Administrative penalties. - After formal investigation, the Minister may impose one or more of the following administrative penalties:

(a) The issuance of a cease and desist order.

(b) The acceptance of a voluntary assurance of compliance or discontinuance under such terms and conditions as may be imposed.


(c) The condemnation or seizure of products which are the subject of the offense.

(d) The forfeiture of the paraphernalia and all properties, real or personal, which have been used in the commission of the offense.

(e) The imposition of administrative fines in such amount as deemed reasonable by the Minister, which shall in no case be less than five hundred pesos nor more than one hundred fifty thousand pesos plus not more than one thousand pesos for each day of continuing violation. The fine imposed under this Section shall be regardless of the limits of the criminal fine fixed in the "trade and industry law" violated.

(f) The cancellation of any permit, license, authority, or registration which may have been granted by the Ministry, or the suspension of the validity thereof for such period of time as the Minister may deem reasonable which shall not however exceed one year.

(g) The withholding of any permit, license, authority, or registration which is being secured by the respondent from the Ministry.



- (h) The assessment of damages.
- (i) Censure.
- (j) Other analogous penalties or sanctions.

SEC. 7. Cease-and-desist order. - The cease-and-desist order referred to in the preceding Section shall specify the acts that the respondent shall cease and desist from and shall require him to submit a report of compliance therewith within a reasonable time which shall be fixed in the order.

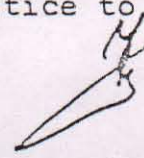
SEC. 8. Voluntary assurance of compliance or discontinuance. - The voluntary assurance of compliance or discontinuance may include one or more of the following:

- (a) An assurance to comply with the provisions of the "trade and industry law" violated.
- (b) An assurance to refrain from engaging in unlawful acts and practices or unfair or unethical trade practices subject of the formal investigation.
- (c) An assurance to recall, replace, repair, or refund the money value of defective products distributed in commerce.
- (d) An assurance to reimburse the complainant the expenses and the costs incurred in prosecuting the case in the Ministry.

The Minister may also require the respondent to submit periodic reports of compliance and file a bond to guarantee compliance with his undertaking.

SEC. 9. Seizure. - The products seized under Subsection (c), Section 6 of this Executive Order shall be disposed of in such manner as may be deemed appropriate by the Minister, such as by sale, donation to distressed local governments or to charitable or relief institutions, exportation, recycling into other products, or any combination thereof, under such guidelines as he may provide.

SEC. 10. Preliminary orders. - As soon as a formal charge is instituted by the Minister, and even prior to the commencement of the formal investigation, the Minister may, motu proprio or upon verified application by any person, issue a preliminary order requiring a person to refrain from a particular act or to perform a particular act, if the Minister is satisfied that the commission or continuance of the act complained of during the formal investigation of the non-performance thereof would probably work injustice to the complainant;



or that the respondent is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the complainant's rights respecting the subject of the formal investigation and tending to render the judgment ineffectual. The Minister shall provide by rules and regulations the other qualifications, restrictions, and procedure for the issuance of such preliminary orders.

SEC. 11. Preventive measures pending formal investigation. - Likewise, as soon as a formal change is instituted by the Minister, and even prior to the commencement of the formal investigation, the Minister may order one or more of the following for the purpose of preventing the disposition or tampering of evidence, the continuation of the acts being complained of, and the flight of the respondent, as the case may be:

(a) The seizure of the goods which are the subject of the said investigation or the padlocking of the warehouse, building, or structure where the said goods are contained or stored; or the withholding of such goods if for any reason the possession thereof has passed to the Ministry.

(b) The seizure of the paraphernalia, machines, vehicles and the like believed to have been used in the commission of the offense or the padlocking of the warehouse, building, or structure where the said paraphernalia are contained or stored; or the withholding of such paraphernalia, machines, vehicles and the like if for any reason the possession thereof has passed to the Ministry.


(c) The padlocking of the business establishment, warehouse, building, shop or any other structure which was used in the commission of the offense;

(d) The holding in port of any vessel or aircraft which has been used in the commission of the offense;

(e) The prevention of the departure from the Philippines of the respondent, regardless of citizenship; and

(f) Any other preventive measures which are deemed necessary by the Minister to achieve the purposes of this Section.

In the cases mentioned in Sections (d) and (e) of this Section, the Minister shall issue a copy of the order to the Philippine Coast Guard, Aviation Security Command, or Commission on Immigration and Deportation, as the case may be, and the latter upon receipt thereof shall without delay implement the order and submit a report of compliance to the Minister.



SEC. 12. Execution of decisions. The Minister may deputize the Integrated National Police, the National Bureau of Investigation, the National Intelligence and Security Authority, or any other law enforcement or investigative agency of the government, or any branch or service of the Armed Forces of the Philippines, or any public officer, private person, or public or private entity, in the enforcement of any of his decisions or orders.

SEC. 13. Finality of Order. - The decision of the Minister shall become final and executory fifteen days after the receipt of a copy thereof by the party adversely affected, unless within that period an administrative appeal to the President or judicial review, if proper, has been perfected. One motion for reconsideration may be filed, which shall suspend the running of the said period.

ARTICLE IV OTHER AUTHORIZATIONS AND PROVISIONS

SEC. 14. Power to implement any "trade and industry law" which is silent as to the implementing authority. - The Minister has the authority to implement by rules and regulations among others, any "trade and industry law" which is silent as to the government agency that shall implement it.

SEC. 15. Authority for other agencies to deputize the Ministry to perform some functions. - All government bureaus, offices, or agencies, including local governments and government-owned or controlled corporations, including their subsidiaries, are hereby authorized to deputize the Ministry upon the latter's request, to perform some of their functions which are related to trade and industry. The deputations shall take effect only after the Memorandum of Agreement thereon has been approved by the President of the Philippines, unless there is an emergency necessitating immediate action, in which event a report thereon shall be immediately submitted to the President after such assumption, for his information.

SEC. 16. Delegation of powers. - The Minister may delegate, preferably in writing, any of his powers under this Executive Order to any officer or employee under his control or supervision, and the acts of the delegatee which are within the limits of the delegations order shall have the same effect as when they are personally done by the Minister.

SEC. 17. Prescriptive period. - The prescriptive period for instituting the formal investigation of any violation covered by this Executive Order shall be three years.

SEC. 18. Implementing rules and regulations. - The Minister shall promulgate rules and regulations to implement this Executive Order which shall take effect as provided under Section 2 hereof.

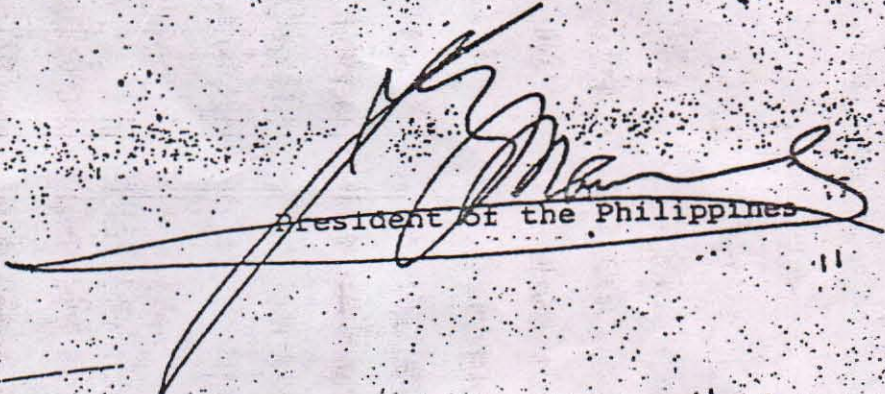
SEC. 19. Separability clause. - In the event any provision of this Executive Order or the application of such provision to any person or circumstance is declared invalid, the remainder of this Executive Order shall not be affected by such declaration.

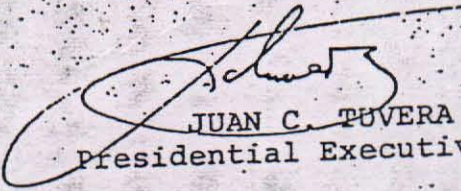
SEC. 20. Repealing clause. - All laws, Decrees, Instructions, Executive Orders, rules or regulations, and other similar issuances inconsistent herewith are hereby repealed or amended accordingly.

SEC. 21. Effectivity. - This Executive Order shall take effect upon its publications in a newspaper of general circulation in the Philippines.

DONE in the City of Manila, this 7th day of October, in the year of Our Lord, Nineteen Hundred and Eighty-Three.

By the President:


President of the Philippines


JUAN C. TAVERA
Presidential Executive Assistant

u. P. Davila