

13854

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 631

AMENDING EXECUTIVE ORDER NO. 339, WHICH MANDATED THE RATIONALIZATION OF THE OPERATIONS AND ORGANIZATION OF THE SUGAR REGULATORY ADMINISTRATION (SRA), BY DECLARING THAT THE SRA IS A GOVERNMENT-OWNED AND CONTROLLED CORPORATION

WHEREAS, Republic Act (RA) No. 632 dated June 6, 1951 created the Sugar Regulatory Administration (SRA) as a government agency that needs to pursue institutional reforms to address inconsistencies and redundancies in its present setup considering the current situation of the sugar industry and the sustainability of its operations;

WHEREAS, Executive Order (EO) No. 339 dated July 29, 2004 mandated the rationalization of the operations and organization of the SRA and treated SRA as neither a government-owned and controlled corporation nor a subsidiary, but an administrative agency pursuant to the ruling of the Supreme Court in the case of Republic of the Philippines vs. Court of Appeals dated August 5, 1991;

WHEREAS, EO No. 339 (2004), in Section 2, Paragraph 1, provides a guideline that in the implementation of its rationalization, the SRA shall operate and adopt the organizational structure of a regular agency of the national Government, consistent with existing jurisprudence that the SRA is neither a government-owned or controlled corporation (GOCC) nor a subsidiary but an administrative body;

WHEREAS, Section 2 of EO No. 292, otherwise known as the Administrative Code of 1987, defines a GOCC as "*any agency organized as stock or non-stock corporation, vested with functions relating to public needs whether government or proprietary in nature, and owned by the Government directly or through its instrumentalities either wholly, or, where application as in the case of stock corporations, to the extent of at least fifty-one (51) percent of its capital stock: Provided, That government owned or controlled corporations may be further categorized by the Department of Budget, the Civil Service Commission and the Commission on Audit for purposes of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.*"

WHEREAS, the SRA falls within the definition of a GOCC under the Administrative Code of 1987 since (1) its powers and functions as provided in EO



No. 18 (1986) relate to public needs, (2) it is endowed with corporate personality and vested with corporate powers, and (3) its predecessors, namely, the Philippine Sugar Institute and the Philippine Sugar Commission, created under RA No. 632, and Presidential Decree No. 388, respectively, were likewise endowed with corporate personality and vested with corporate powers;

WHEREAS, the Department of Justice (DOJ), in its Opinion No. 80 (2006), stated that the Charter of the SRA (EO No. 18, 1986) is a special law and recognized the existing jurisprudence holding that the SRA is a GOCC;

WHEREAS, the SRA is a GOCC when the "Charter Test" is applied: (1) it is created by a special law (E.O. No. 18); (2) it acquires juridical personality based exclusively on said law; and (3) it is endowed by its charter with a corporate form of governance;

WHEREAS, the Implementing Rules and Regulations of the Office of the Government Corporate Counsel (February 28, 2006), in its Declaration of Policy, specifically paragraph 2 of Rule 2, defines GOCC as "*a corporation organized as a stock or non-stock corporation vested with functions relating to public needs, whether governmental or proprietary in nature, and owned by the National Government directly or through its instrumentalities either wholly or, where applicable as in the case of stock corporations, to the extent of at least fifty-one percent (51%) of its capital stock. This term shall also include subsidiaries, offsprings, acquired asset corporations, and other government entities of which the OGCC is the principal law office;*"

WHEREAS, consistent with the powers, features and the provisions of the charter of the SRA, the rationalization effort for the SRA must be consistent with its character as a GOCC;

WHEREAS, it is necessary and desirable to amend EO No. 339 to reflect SRA's true nature and status as a GOCC in its rationalization.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. Section 2 paragraph 1 of E.O No. 339 dated July 2004, is hereby amended to read as follows:

- "1. *The SRA shall operate and adopt the organizational structure of a government-owned and controlled corporation consistent with the prevailing jurisprudence; and"*



PGMA Hologram # 40990



Section 2. Repealing Clause. All other executive orders, proclamations, issuances, rules and regulations or parts therefore which are inconsistent with the provisions of this Executive Order, are hereby repealed, amended or modified accordingly.

Section 3. Effectivity. This Executive Order shall take effect fifteen (15) days after its publication in a national newspaper of general circulation.

DONE in the City of Manila, this 9th day of July, in the year of Our Lord, Two Thousand and Seven.

By authority of the President:

Gloria M. Arroyo



Eduardo R. Ermita

EDUARDO R. ERMITA
Executive Secretary



PMA Hologram # 40991