

Feeling singled out? You may not be alone

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The Philippine Supreme Court struck down a 2003 Bureau of Customs memorandum for unduly classifying wheat as food or feed based on the importer, port of discharge or country of origin. The Court failed to find any justification in the case of *Commissioner of Customs and the District Collector of the Port of Subic vs. Hypermix Feeds Corporation*,¹ why the Bureau made such distinctions.

The *Hypermix Feeds* case comes closely after the Court voided the Aquino administration's Executive Order No. 1 in *Biragao vs. Philippine Truth Commission of 2010*² case, also for violating the Equal Protection Clause.

The Equal Protection Clause provides that no person or class of persons shall be deprived of the same protection of laws enjoyed by other persons or other classes in the same place in like circumstances. The guarantee of the equal protection of laws is maintained if there is a reasonable classification. For a classification to be reasonable, it must be shown that (1) it rests on substantial distinctions; (2) it is germane to the purpose of the law; (3) it is not limited to existing conditions only; and (4) it applies equally to all members of the same class.

In the *Hypermix Feeds* case, Hypermix filed a declaratory relief petition after the Bureau issued Customs Memorandum Order No. 27-2003 which classified wheat for tariff purposes based on (a) importer or consignee; (b) port of discharged; or (c) country of origin. Hypermix alleged that the Equal Protection Clause was violated when the regulation treated non-flour millers differently from flour millers for no reason at all. The Court said the regulation forecloses the possibility that other corporations that are excluded from the list import food grade wheat; at the same time, it creates an assumption that those who meet the criteria do not import feed grade wheat. In the first case, importers are unnecessarily burdened to prove the classification of their wheat imports; while in the second, the State carries that burden.

In *Biragao*, the government issued EO No. 1 to create an investigating body that would determine whether the Arroyo administration committed graft and corruption. The Court, in applying the Equal Protection Clause, found the purpose of creating the Truth Commission too arbitrary and discriminatory. The current government should also look into the actions of other administrations, according to the Court. (*February 29, 2012*)

¹ G.R. No. 179579, February 1, 2012.

² G.R. No. 192935 December 7, 2010.