

## J. Y. Interpretation No.40 (October 6, 1954) \*

**ISSUE:** May Taiwan Resources Bureau bring forth an administrative action under the Code of Administrative Procedure?

**RELEVANT LAWS:**

Article 1 of the Administrative Proceedings Act (行政訴訟法第一條); Article 32 of the Customs Smuggling Control Act (海關緝私條例第三十二條); Interpretation Yuan-je Tzu No. 2990 (司法院院解字第二九九〇號解釋).

**KEYWORDS:**

Administrative litigation (行政訴訟), petitioner (原告).\*\*

**HOLDING:** Article 1 of the Administrative Proceedings Act states, a national shall have the cause of bringing forth an administrative litigation for damages to his/her rights resulting from the Central or local government agency's unlawful action or disposition. Thus, only a national can serve as petitioner in an administrative litigation. In accordance with its organization rules, the Taiwan

**解釋文：**行政訴訟法第一條規定，人民因中央或地方官署之違法處分致損害其權利者，得依法定程序提起行政訴訟，是僅人民始得為行政訴訟之原告。臺灣省物資局依其組織規程係隸屬於臺灣省政府之官署，與本院院解字第二九九零號解釋所稱之鄉鎮自治機關不同，自不能類推適，用此項解釋。至海關緝私條例第三十二條對於提起行政訴訟之原告，並無特別規定，要非官署所

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\* Translated by Professor Andy Y. Sun.

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Bureau of Commodities is a bureaucratic office of the Taiwan Provincial Government, which is different from a county or town autocratic administration under Interpretation Yuan-je Tze No. 2990, and should not apply that Interpretation *mutatis mutandis*. Nor can a government agency rely upon Article 32 of the Customs Smuggling Control Act to bring forth an administrative litigation on the ground that it is silent on the qualification of a petitioner.

得引為提起行政訴訟之根據。