

**TIPC-Monitoring Body
Resolution No. 2, Series of 2012.**

CFA Case No. 2528

**ADOPTING A TIPC-MONITORING BODY
RECOMMENDATION/ COURSE OF ACTION
ON THE ELEVEN (11) CASES OF ABDUCTION
PREVIOUSLY ENDORSED TO THE
COMMISSION ON HUMAN RIGHTS
PURSUANT TO RESOLUTION NO. 2-B, SERIES
OF 2011.**

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RESOLUTION

WHEREAS, on 20 January 2010, the National Tripartite Industrial Peace Council approved TIPC Resolution No. 1, series of 2010, constituting the National TIPC as the High Level Tripartite Monitoring Body on the Application of International Labor Standards, in particular ILO Convention on Freedom of Association and Protection on the Right to Organize (No. 87), that shall: (1) facilitate “out of the box solution” to long-standing CFA cases; (2) monitor and report progress on active CFA cases; and (3) facilitate gathering of relevant information on complaints and evaluate and recommend appropriate action/s.

WHEREAS, on 25 June 2010, TIPC Monitoring Body Resolution No. 1, series of 2010, classified ILO Convention No. 87 cases with allegation of extrajudicial killings, harassments, and abduction into **possibly labor-related** under ILO Convention No. 87 if the circumstances of the case would constitute an infringement of the exercise of freedom of association and the right to organize, and **possibly not labor-related cases** under ILO Convention NO. 87 if the circumstances of the case would not constitute an infringement of the exercise of freedom of association and the right to organize, based on the following criteria on the admissibility of cases/complaints:

- a) The alleged facts, if proved, would not constitute an infringement of the exercise of trade union rights; or
- b) That the allegations made are so basically or obviously political in character that it is undesirable to pursue the matter further; or
- c) That the allegations made are too vague to permit a consideration of the case on its merits; or
- d) That the complainant has not offered sufficient evidence to justify the allegations on the matter.

WHEREAS, on 24 May 2011, the TIPC-Monitoring Body issued TIPC-Monitoring Body Resolution No. 2a, Series of 2011, referring all the eleven (11) cases of abduction under ILO Case No. 2528, which are in various stages of investigation and/or prosecution, to the Commission on Human Rights (CHR) for a “final pass” of these long-pending cases;

WHEREAS, on 05 January 2012, the CHR submitted to the DOLE a report recommending the closure of the following cases:

NAME OF VICTIMS/ COMPANY/UNION	REGION	CLASSI- FICATION	STATUS WITH CHR	DATE OF INCIDENT	CHR RECOMMENDATION
1. Virgilio Calilap, et al. <i>KMU members</i>	III	Possibly labor- related under C87	Among the alleged victims, only Bernabe Mendiola failed to return home and remained missing. Mrs. Elena Mendiola personally reported the abduction to the police station and was persuaded by police probers to give her written statement, however, she did not sign it. She told investigators that she would return to file charges but she failed to do so for unknown reasons. The testimonies of Oscar Leuterio, Teresita Calilap, Vergel Calilap and Raymond Manalo are very vital on the resolution of this case, however, their present whereabouts are still to be ascertained. It is recommended to: 1) locate the whereabouts of Oscar Leuterio, Virgilio Calilap and Teresita Calilap and secure their sworn statements; 2) closely coordinate with TF Usig of Bulacan; and 3) grant financial assistance to Mrs. Elena Mendiola, the partner of the alleged victim. The case was archived¹ due to unavailability of witnesses.	04/17/06	For closure.
2. Ronald Intal <i>Victim was a charcoal maker at Hacienda Luisita ; KMU</i>	III	Possibly labor- related under C87	The case was archived due to unavailability of witnesses. Financial Assistance was granted to the common-law wife of the victim.	04/03/06	For closure.
3. Rogelio Concepcion <i>Solid Development Corp., Solid Development Corp. Workers Association/ KMU</i>	III	Possibly labor- related under C87	The case was archived due to unavailability of witnesses. Financial Assistance was granted to the family of the victim.	03/06/06	For closure.
4. Robin Solano & Reynante	III	Possibly not labor-	Due to the lack of witnesses that can directly identify the perpetrators of	02/01/06	For closure.

¹ A case is archived whenever there is a finding that the proceedings cannot continue for a valid cause. The proceeding is held in abeyance and in the meantime the records of the case are placed in the archive. The case however, is not dismissed or closed. It is merely kept within the jurisdiction of the forum (court, quasi-judicial body, or investigating agency) and whenever the archived case is ready for further proceedings, it will be reinstated or revived. Examples of a valid cause warranting the archiving of cases are: valid prejudicial question; incident in the case is elevated to and is pending resolution/decision for an indefinite period before a higher court; the accused appears to be suffering from an unsound mental condition; failure to acquire jurisdiction over the person of the accused or the defendant (Administrative Circular No. 7-A-92, 21 June 1993, Establishing The Guidelines In The Archiving Of Court Cases). In other government agencies, one of the justifiable causes is failure to obtain material evidence.

Archived cases with pending warrants of arrest are for further investigation by DOJ-Task Force 211 as tracker teams to serve the warrant were formed.

	Valmocina Farm workers		related under C87	the crime, several theories were advanced, to wit: robbery, perpetrators were NPAs, the killing was due to grudge, and perpetrators are members of the military. However, the first three possible motives of the killing were ruled out based on the analysis of evidence gathered, leading to the possible involvement of the military in the said killing. While no direct evidence, testimonial or documentary, pointed to the military as the perpetrators, pieces of circumstantial evidence tend to show otherwise. Foregoing considered, coordination with Task Force Valmocina and Task Force Usig were made. Financial Assistance was granted to each of the family of the victims. The case was archived due to unavailability of witnesses.		
5.	Leopoldo Ancheta <i>No company; KMU</i>	III	Possibly labor-related under C87	Possible witnesses who were interviewed did not notice any untoward incidents at the time and date of the reported abduction. The Petition for Habeas Corpus filed by Carmen Ancheta, wife of Leopoldo Ancheta before the Court of Appeals, was dismissed on June 19, 2007 due to lack of evidence as per report of CHR Region 3 dated 16 September 2009. Financial Assistance will be granted to the family of the victim upon submission of COA required documents. The case was already closed and terminated.	06/24/06	For closure.
6.	Aurora Afable, Normelita Galon <i>Phil. Jeon Garments Inc., Phil. Jeon Garment, Cavite Export Processing Zone (CEPZ)</i>	IV-A	Possibly labor-related under C87	There were no complaints filed and no perpetrators were identified. Although Galon and Afable claim that they were injured during the incident wherein 10 unidentified men forced them in a pick-up and unloaded them on a vacant lot, no medical examination was made, thus, the claim cannot be validated and established through documentary proof. Although Phils-Jeon may be suspected of having a hand on the incident, no direct evidence whatsoever was found to link any of the officials thereto. Prosecution cannot be based on mere suspicion. The case was already closed and terminated.	08/06/07	For closure.
7.	Lourdes Rubrico a.k.a. "Nanay Ude" <i>Ugnayan ng mga Maralita sa Gawa at Adhika (UMAGA)</i>	IV-A	Possibly labor-related under C87	Not missing, victim filed a case at OMB-MOLEO. Respondents Sgt. Jimmy Santana and Jonathan were found liable for human rights violation specifically the right of complainant to liberty. The complaints filed against the	04/03/07	For closure.

			respondents are Arbitrary Detention, Kidnapping and Illegal detention and Violation of R.A. 7438. Aforesaid complaints are pending with the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Office (MOLEO). Verification with the Ombudsman disclosed that the case was docketed under OMB-P-C-070602, wherein the respondents were charged criminally and administratively. Accordingly, the said cases were already resolved but still subject to review by the concerned authorities. The case was already closed and terminated.			
8.	Perseus Geagoni <i>No info on company; NSFW</i>	VI	Possibly labor-related under C87	This case was motu-propio investigated by CHR Region 6 Bacolod Sub-Office but it took the office more than two years to investigate the case to no avail. No complaint was filed as there are no witnesses to the disappearance. The case was recommended to be archived for want of evidence.	12/05/05	For closure.
9.	Melvin Yares <i>No info on company; KAKABAS</i>	VII	Possibly labor-related under C87	CHR7 investigation of the alleged abduction remained inactive, with no new leads emerging, until a directive from CHR Chairperson Hon. Leila de Lima dated August 26, 2008 to conduct a follow-up investigation. Efforts were exhausted to trace the whereabouts of Melvin Yares to no avail. His alleged torture and injuries have not been established in the absence of any medical certificate. Hence, the case was already closed and terminated. CHR Region 7 resolved to close and terminate the investigation for lack of interest on the part of the complaining party and for lack of material evidence to prove that a human rights violation has been committed on Melvin Yares.	01/04/08	For closure.
10.	Rafael Tarroza <i>No info on company; NAFLU-KMU</i>	VIII	Possibly labor-related under C87	There were no cases filed with the CHR Office. The CHR Region 8 Office certified that as of 16 September 2009, no complaint was filed before the said office, nor there exists any reasonable ground to conduct a motu propio investigation.	01/08/06	For closure.
11.	Jaime Rosios <i>Yellow Bus Line Employees Union</i>	XII	Possibly labor-related under C87	The case was already closed and terminated. Despite thorough efforts exerted to unearth real facts about the reported disappearance of Jaime Rosios, no concrete information was established except the sketchy perception of "KIDNAP ME" event. Since the occurrence of the alleged abduction / disappearance up to the	08/11/07	For closure.

commencement of the investigation conducted by the CHR, no party-in-interest appeared to show support in the process. Investigator on the case recommended that the case be closed without prejudice to its reopening when tangible information and reliable witness will surface.

WHEREAS, despite the efforts of the CHR to thoroughly investigate the alleged abductions, the purported victims, witnesses or interested parties in the foregoing cases refused to cooperate compelling the CHR to terminate its investigation and even made the Commission to conclude in some specific cases² that there are no reasonable grounds to conduct investigations;

WHEREAS, in order to gather more facts in aid of the investigation conducted by the CHR, PNP-Task Force Usig and/or the Department of Justice, the Department of Labor and Employment requested upon the Kilusang Mayo Uno (KMU) as the complainant organization for a dialogue or meeting;

WHEREAS, getting the complainant organization to provide additional verifiable information or evidences on the cases through sectoral meetings or through other means convenient to them proved futile;³

WHEREAS, the TIPC-Monitoring Body, in order to come up with appropriate recommendations on the aforementioned cases of abduction, also took into account the information that has been gathered and reported by other competent agencies such as the Philippine National Police (PNP);

WHEREAS, in the case of **Melvin Yares**, the Secretariat of the Regional Tripartite Monitoring Body (RTMB)⁴ of Region VII has likewise exerted efforts to meet with the alleged victim to verify and gather more information last 08 October 2011;

WHEREAS, during the said meeting, Yares verbally manifested that he is no longer interested with the abduction case and that his abduction was not due to labor related issues, but because of his participation in anti-government protests particularly on the issues of urban poor, demolition and resettlement;

WHEREAS, in the case of **Robin Solano & Reynante Valmocina** docketed as CHR Case No. III-C-06-2751, the re-investigation report dated 26 March 2008 of CHR

² Cases of Melvin Yares, Rafael Tarroza and Jaime Rosios.

³ A total of three (3) communications were sent to KMU. The first was a letter invitation for a sectoral meeting dated 24 February 2010, followed by a request for information or indication of preference on how to consult them on the cases dated 5 March 2010, and the last, was the notice for information with a form dated 24 May 2010.

⁴ Pursuant to TIPC Resolution No. 3, Series of 2011, the Labor Secretary issued Administrative Order No. 263, Series of 2011, on 6 July 2011 directing all DOLE Regional Directors to create a Regional Tripartite Monitoring Body (RTMB) in their respective RTIPCs. The RTMB is tasked to monitor the investigation and prosecution of cases with allegation of trade union rights violation at the local level while at the same time, proactively attending to complaints of similar nature prior to its submission to the International Labour Organization (ILO).

Regional Office No. III, approved by CHR-III Regional Director Jasmine Navarro-Regino, shows that the alleged facts of said case would not constitute an infringement of the exercise of trade union rights and that the allegations made are so basically or obviously political in character;

WHEREAS, contrary to the report of CHR-NCR Office and PNP Task Force Usig that no case has been filed on the incident, PEZA reports submitted to DOLE indicated that strikers **Normelita Galon** and **Aurora Afable** went to the police station to report the incident on the day following the alleged abduction;

WHEREAS, verification with the Municipal Trial Court (MTC) in Rosario, Cavite reveals that one Normelito Galon (not Normelita) and Aurora Afable together with thirteen (13) others were respondents in Direct Assault cases filed by PEZA police led by P/Col Jose Joel Sarasua on 09 January 2009;

WHEREAS, in the case of **Perseus Geagoni**, PNP-Task Force Usig reported that prior to his disappearance, Geagoni was charged for rebellion docketed under CC# 1367 and that on 28 January 2006, a Warrant of Arrest was issued by the Regional Trial Court Branch 55 in connection with the charge against him;

WHEREAS, information from the Department of Justice on the **Geagoni** case is inconsistent with the report provided by PNP-Task Force Usig, as it shows that the case docketed as CC# 1367 is still ongoing with the presentation of the prosecution's witness and that Perseus Geagoni is the complainant rather than the respondent to the case;

WHEREAS, in the case of **Ronald Intal**, the PNP-Task Force Usig's investigation shows that the alleged victim is a charcoal-maker while DOLE information shows that there was no labor dispute to which the alleged victim was involved at the time of his disappearance;

WHEREAS, according to PNP-Task Force Usig, elements of the PNP invited Boying Sunga & Virgilio Sidene to act as witnesses to the alleged abduction, as both allegedly saw Intal being dragged into an L-300 van of unknown plate number and color, by a group of armed men believed to be "army soldiers". However, Sunga and Sidene refused to cooperate because of fear, as well as the issuance of the alleged victim's parents signifying their lack of interest to pursue the case;

WHEREAS, the investigation conducted by CHR Regional Office No. XII as reflected in its Memorandum dated 16 March 2009 submitted to the CHR Chairman shows a lead that **Jaime Rosios** was spotted in Zamboanga del Sur by the spare parts distributor of his employer company (Yellow Bus Corporation);

NOW THEREFORE, taking into consideration the foregoing facts, **BE IT RESOLVED AS IT IS HEREBY RESOLVED**, that the TIPC-Monitoring Body adopts the following courses of action:


- (1) recommend the closure of the case of **Robin Solano & Reynante Valmocina**, without prejudice to its reopening should new leads or evidence be available, pursuant to

Criteria (a) and (b) of the aforesaid TIPC-Monitoring Body Resolution No. 1, series of 2010;


- (2) recommend the closure of the case of **Ronald Intal**, without prejudice to its reopening should new leads or evidence be available, pursuant to **Criterion (a)** of TIPC-Monitoring Body Resolution No. 1, series of 2010;
- (3) recommend to the **PNP-Task Force Usig** to make a further investigation to determine the whereabouts of **Jaime Rosios**, taking into consideration the CHR report that he was spotted in Zamboanga del Sur;
- (4) direct the **Regional Tripartite Monitoring Body of Region VII** to provide the **Commission on Human Rights-Regional Office No. VII** and the **PNP-Task Force Usig** with the information gathered from the Body's investigation on the case of **Melvin Yares**;
- (5) refer the case of **Normelita Galon** and **Aurora Afable** to **PEZA, PNP-Task Force Usig** and **CHR** for validation and reconciliation of reports that may be used as factual evidence for the resolution of the case and, request for updates on the pending case before the Municipal Trial Court (MTC) of Rosario, Cavite against Normelito Galon (not Normelita) and Aurora Afable together with thirteen (13) others who were made respondents in Direct Assault cases filed by PEZA police led by P/Col Jose Joel Sarasua on 09 January 2009;
- (6) refer the case of **Perseus Geagoni** to the **PNP-Task Force Usig** and the **Department of Justice** to verify/validate the conflicting information earlier provided relative to the case docketed as CC# 1367 before the Regional Trial Court Branch 55;
- (7) refer the case of **Virgilio Calilap, et al.**, to the **PNP-Task Force Usig** to exert efforts in obtaining sworn statements from the alleged victims who have already resurfaced to establish a lead on the whereabouts of **Bernardo Mendiola**;
- (8) request the **Office of the Ombudsman** to provide the TIPC-Monitoring Body updates on the case involving **Lourdes Rubrico** docketed as OMB-P-C-070602 and expedite the resolution thereof in the event that the same is still pending;
- (9) recommend to the **PNP-Task Force Usig** the three (3) cases of abduction involving **Rogelio Concepcion, Leopoldo Ancheta, and Rafael Tarroza**, for further investigation; and
- (10) direct the respective **Regional Tripartite Monitoring Bodies** to continuously monitor the movement of the cases, gather more information and provide updates to the National TIPC Monitoring Body.

APPROVED this 25th day of January 2012, Occupational Safety and Health Center, Diliman, Quezon City, Philippines.

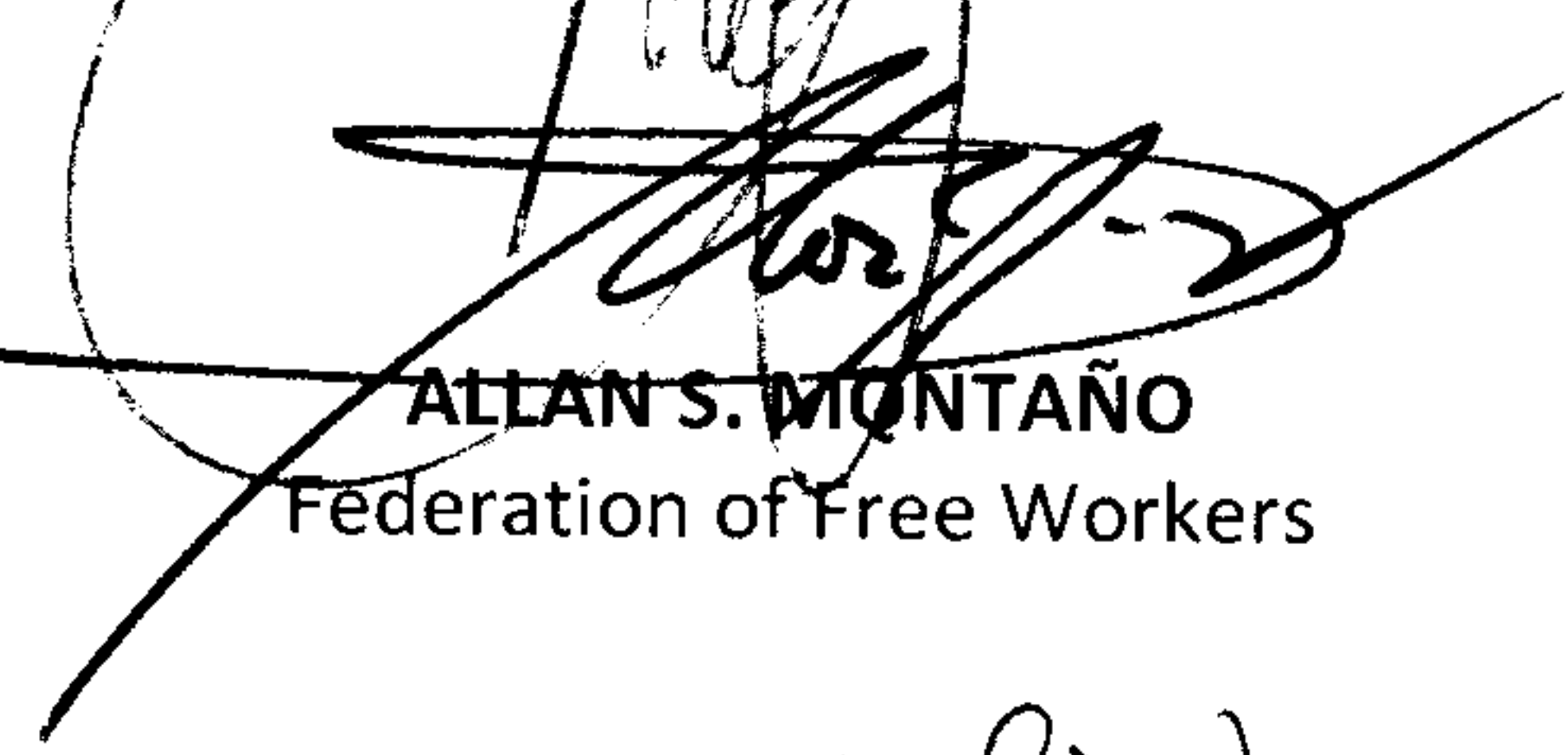
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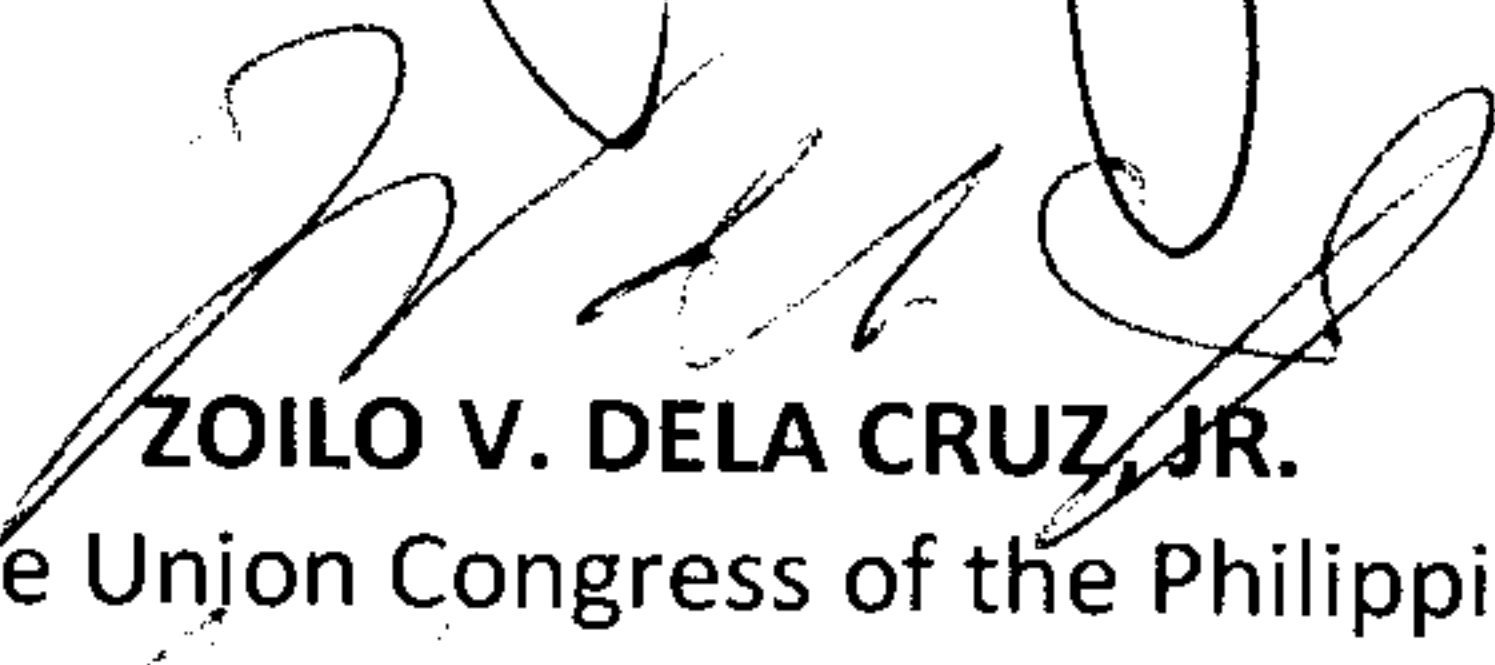

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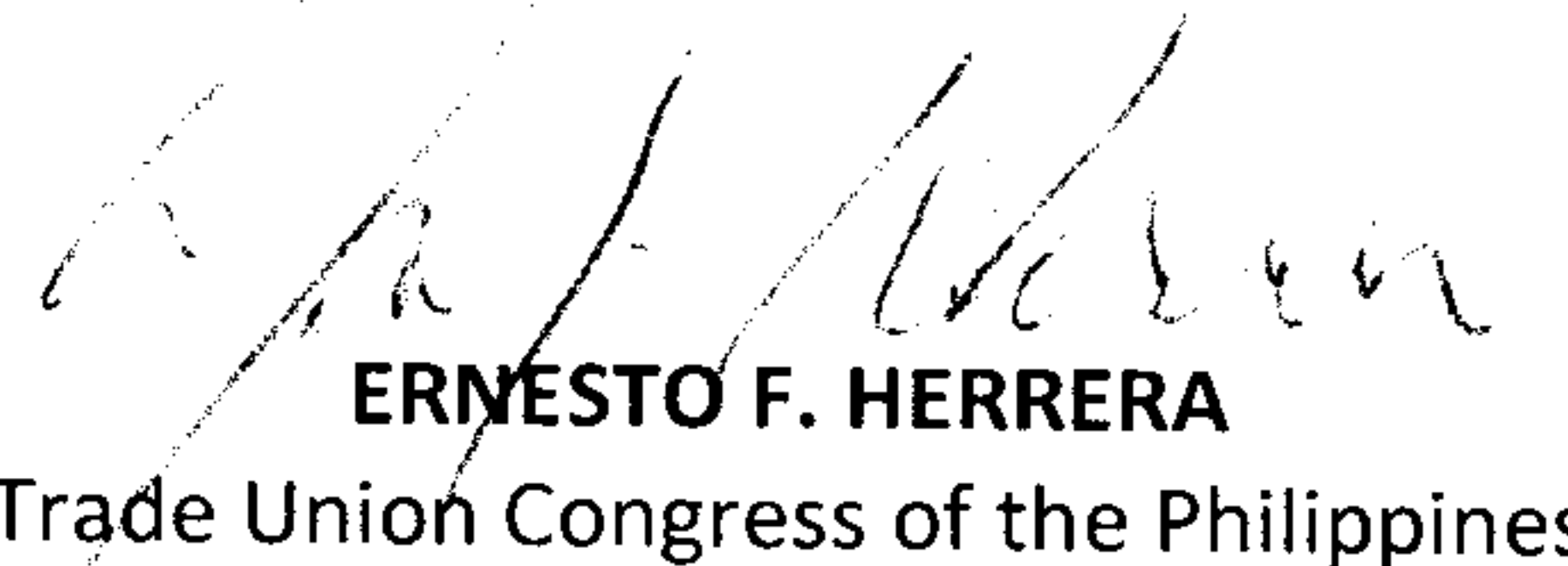

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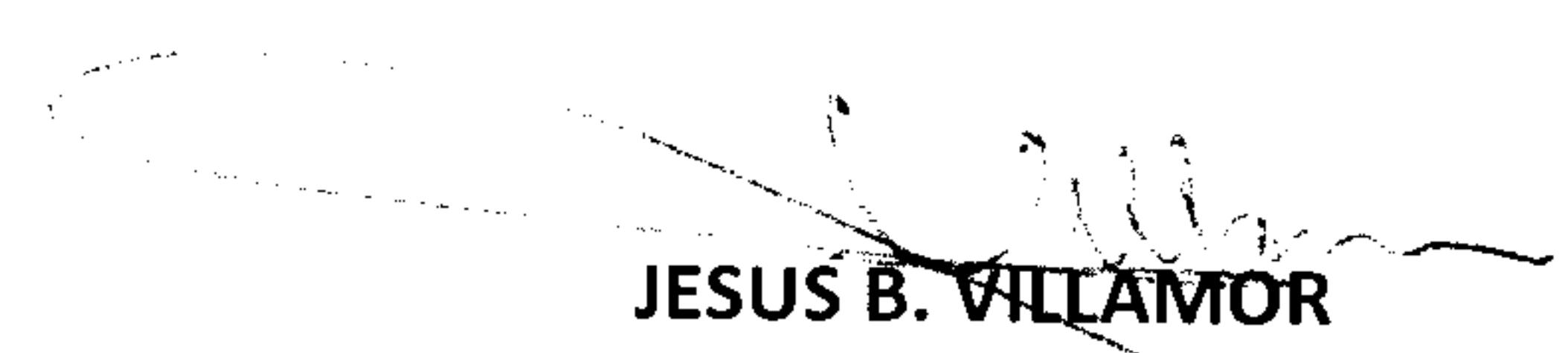

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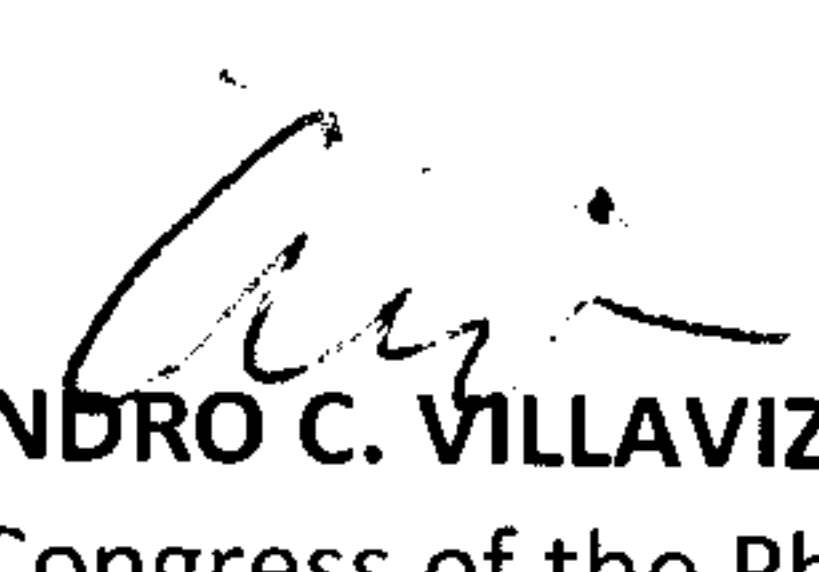

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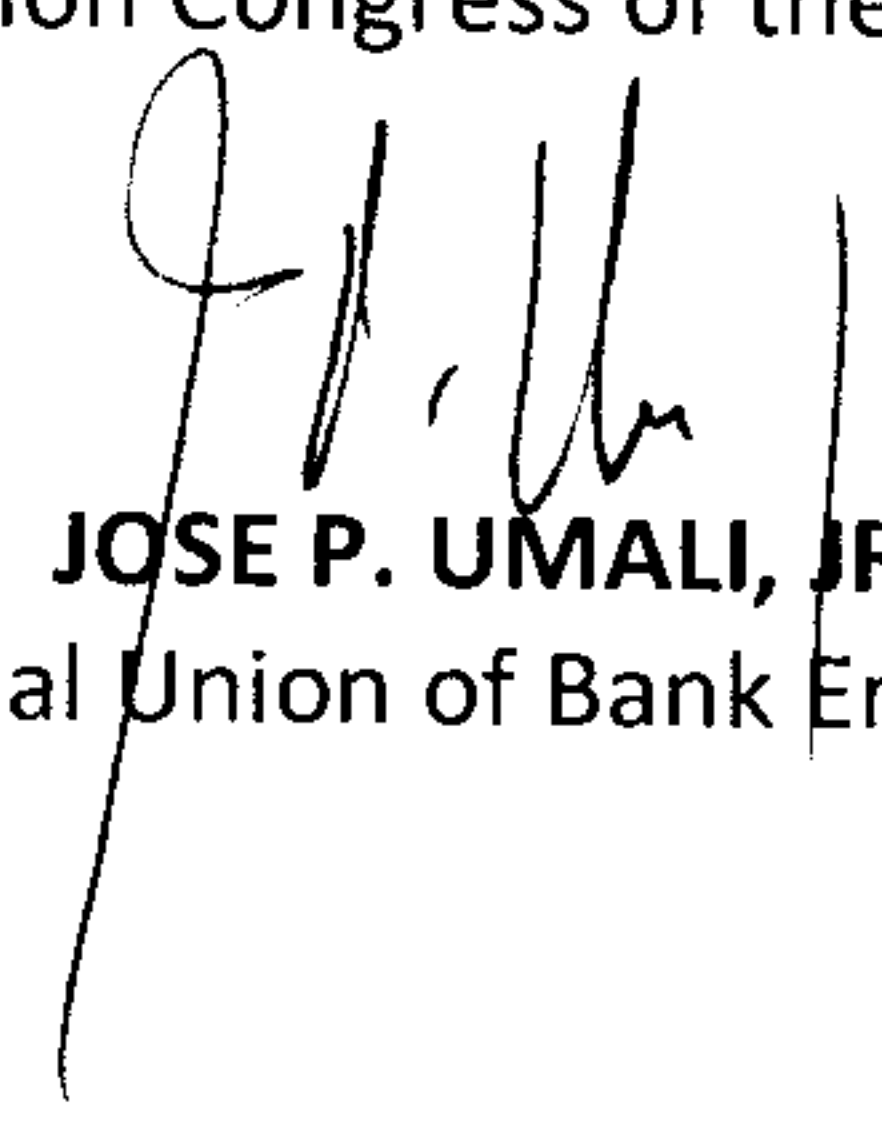

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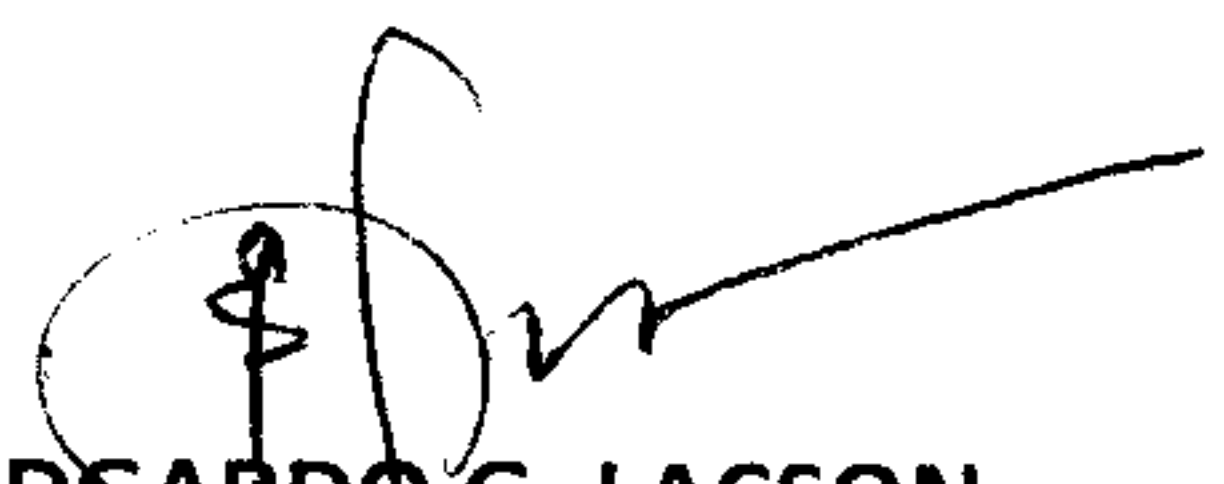

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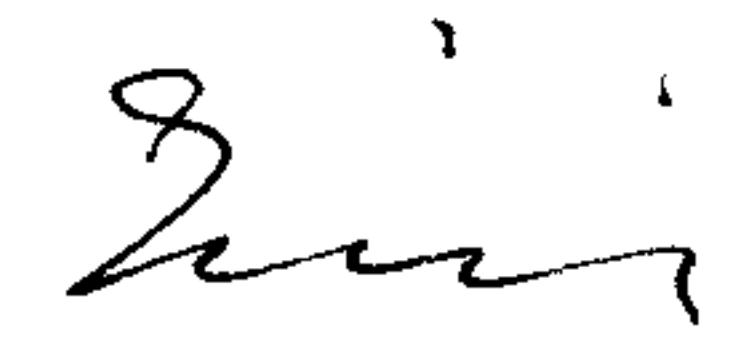
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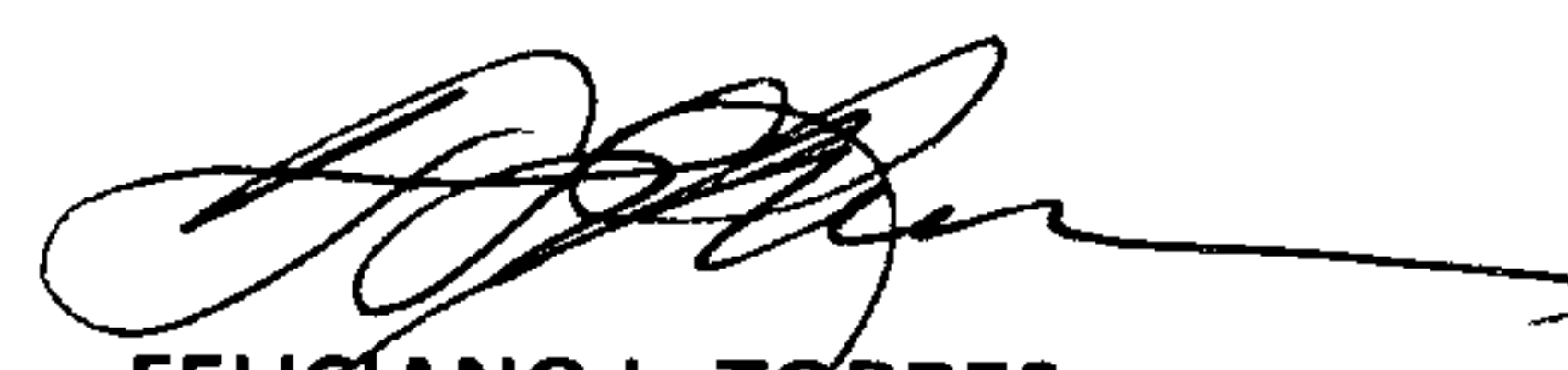

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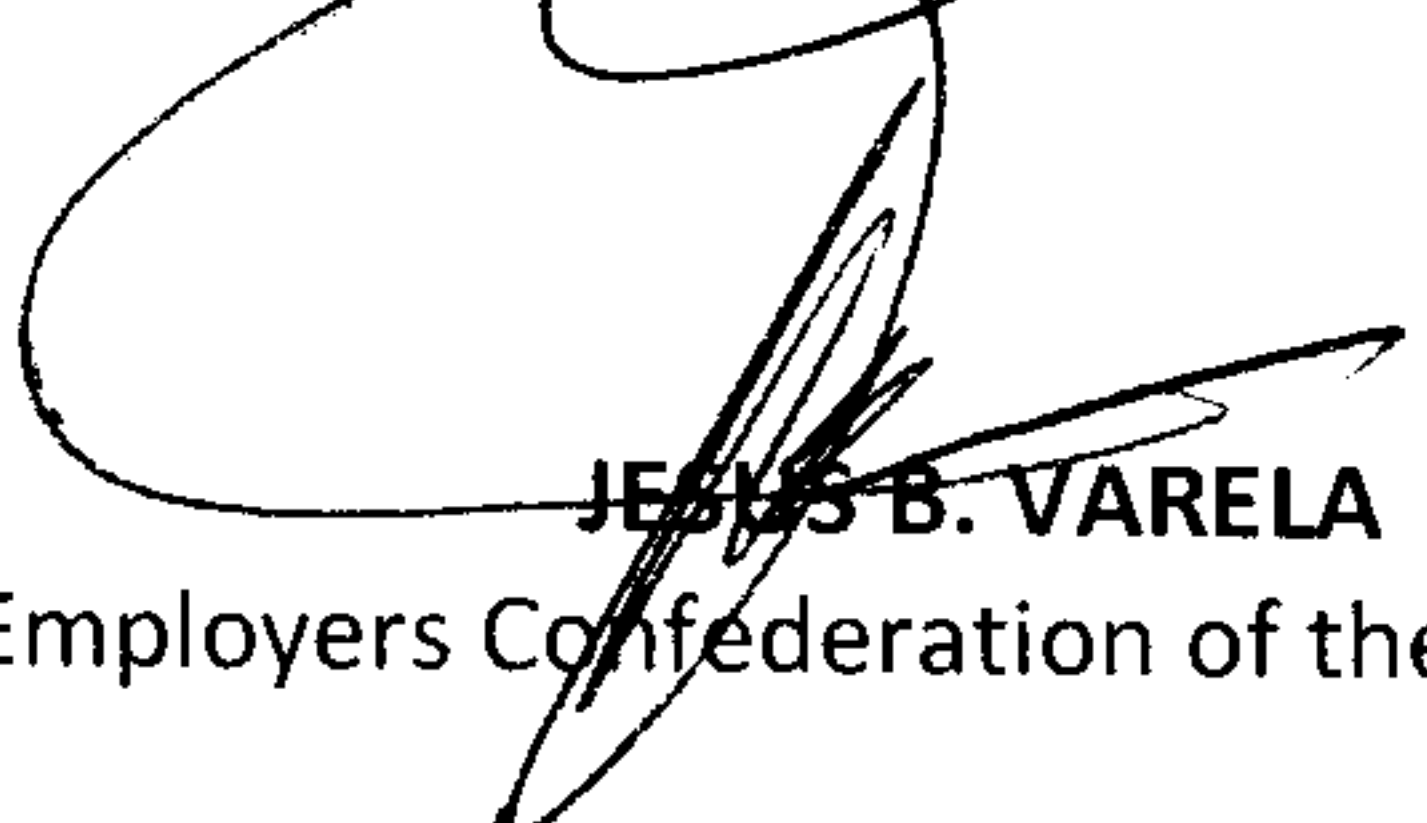

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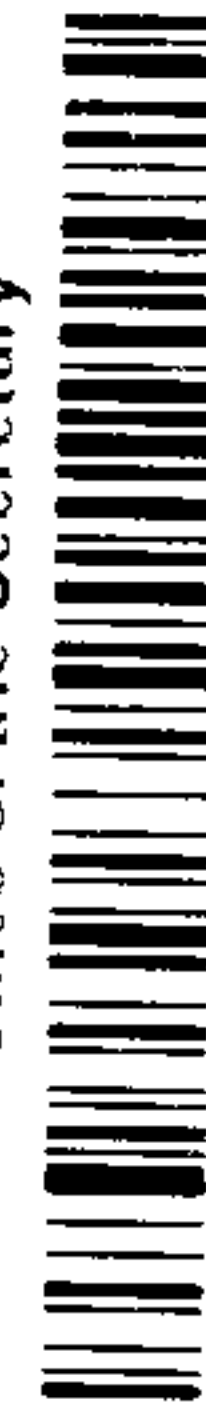
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