



INS system: a step forward in handling Market Surveillance Agency enforcement activities

Thao Nguyen and Duc Duong

IPMAX Law Firm

28 March 2022



VIETNAM

Legal updates: case law analysis and intelligence

- The INS system of the General Directorate of Market Surveillance is now officially effective
- Information concerning the different steps of a seizure or inspection will be uploaded directly onto the system
- The new system will help monitor repeated violations more effectively

The Administrative Violations Handling System ('INS') of Vietnam's General Directorate of Market Surveillance ('MSA') is now being officially applied after two years of testing and implementing. The MSA is an organisation directly under the Ministry of Industry and Trade, with the MSA at the national level and MSA teams under the Departments of Market Surveillance at the provincial level. Among its duties, the MSA is responsible for organising enforcement actions to prevent, combat and handle acts of smuggling, producing and trading in fakes, and acts of IP infringement.

The application of the INS system is considered as a revolution in the handling of the MSA's activities. The INS System officially became effective on 1 February 2022.

Previously, when inspecting an administrative violation at the premises of suspected infringers, the MSA inspection team had to bring several documents, including the decision of inspection, the minutes of the inspection and appendixes, the list of seized goods, the minutes of the seizure, and the minutes of the administrative violation. Therefore, it took a long time for the MSA officials to record these documents by hand, and there could be missing and incorrect information due to the manual process. This sometimes led to the inconsistent processing of information following an enforcement action.

However, with the new INS system, officials need only bring a laptop with them. All details of an inspection will be recorded into the computer at the time of the inspection process.

The advantages of the new system are as follows:

- Information concerning the different steps of the seizure or inspection will be uploaded directly onto the system through the relevant digital forms. This will help minimise the risk of making mistakes or missing steps required by law; this, in turn, will reduce the risk of the MSA's decisions being challenged, or of the MSA being sued by infringers for not following the relevant procedures.
- The new system will help the MSA to monitor enforcement actions more actively. In particular, the general director of the national MSA will be aware of all inspection cases, violations, and infringing individuals and organisations at the national level. The MSA directors at the provincial level will also be able to review cases in their areas. At the district level, the team leaders will be able to better control inspections. Therefore, the activities of MSA officials will always be supervised, and mistakes or shortcomings in the whole process may be detected, resolved or improved.
- The INS system will also be an effective tool for monitoring repeated violations. The MSA may easily identify repeated infringements by organisations and individuals, as information on the infringements will be updated on the system. Accordingly, stricter sanctions and remedies may be applied to organisations and individuals committing repeated infringements.

Although it may take some time to see how the new INS system will work in practice, it is apparent that it will deliver positive changes and greatly help enforcement officials to handle cases more effectively.

Thao Nguyen

Author

thaohn@ipmax.vn

IPMAX Law Firm

Duc Duong

Author

dduong@ipmax.vn

IPMax Law Firm

Copyright © Law Business Research Company Number: 03281866 VAT: GB 160 7529 10